Agenda

Minnetonka City Council

Regular Meeting, Monday, August 31, 2015

6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Acomb-Wiersum-Bergstedt-Wagner-Ellingson-Allendorf-Schneider
4. Approval of Agenda
5. Approval of Minutes: August 17, 2015 regular meeting
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases:
   A. Bids for Wells 16A and 16B
      Recommendation: Award contract to Rice Lake Construction Group (4 votes)
   B. Authorize execution of solar garden subscriber contracts
      Recommendation: Approve contracts (4 votes)
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Resolutions pertaining to levying the 2015 Special Assessments
    B. Amendment to the conservation easement for 1906 Linner Woods Court
    C. Resolution approving the final plat of APPLEWOOD POINTE OF MINNETONKA
    D. Amendment of the On-sale liquor license for Redstone American Grill, Inc., 12401 Wayzata Boulevard

Minnetonka City Council meetings are broadcast live on channel 16.
Replays of this meeting can be seen during the following days and times: Mondays, 6:30 pm, Wednesdays, 6:30 pm,
Fridays, 12:00 pm, Saturdays, 12:00 pm. The city’s website also offers video streaming of the council meeting.
For more information, please call 952.939.8200 or visit eminnetonka.com
E. Resolution ordering the abatement of nuisance conditions existing at 3348 Plymouth Road

11. Consent Agenda - Items Requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings:
   A. On-sale liquor licenses for Kona Sushi, Inc. (Kona Grill), 12401 Wayzata Boulevard
      Recommendation: Continue the public hearing and grant the licenses (5 votes)
   B. On-sale liquor licenses for Nordstrom, Inc. (Nordstrom Ruscello)
      Recommendation: Continue the public hearing and grant the licenses (5 votes)
   C. On-sale liquor licenses for Three Amigos Minnetonka, L.L.C. (Salsa A La Salsa)
      Recommendation: Continue the public hearing to September 14, 2015 (5 votes)

14. Other Business:
   A. Items regarding private fire hydrants
      1. Ordinance regarding private fire hydrants
      2. Resolution adopting council policy 12.9 regarding maintenance of fire protection water supplies
      Recommendation: Adopt the following (4 votes):
         1. Ordinance regarding private fire hydrants
         2. Resolution adopting council policy 12.9 regarding maintenance of fire protection water supplies

15. Appointments and Reappointment: None

16. Adjournment
Minutes
Minnetonka City Council
Monday, August 17, 2015

1. Call to Order

Schneider called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Dick Allendorf, Patty Acomb, Brad Wiersum, Tim Bergstedt, Tony Wagner, and Terry Schneider were present. Bob Ellingson was excused.

4. Approval of Agenda

Wagner moved, Wiersum seconded a motion to accept the agenda, as presented. All voted “yes.” Motion carried.

5. Approval of Minutes: July 13, 2015 and July 27, 2015 meetings

Bergstedt moved, Allendorf seconded a motion to approve the July 13, 2015 minutes. Allendorf, Acomb, Bergstedt, Wagner and Schneider voted “yes.” Wiersum abstained. Motion carried.

Bergstedt moved, Allendorf seconded a motion to approve the July 27, 2015 minutes. Allendorf, Acomb, Wiersum, Bergstedt, and Schneider voted “yes.” Wagner abstained. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on the schedule for upcoming council meetings.

Wagner noted an upcoming meeting hosted by the Minnesota Department of Transportation on closing the 16th Street access and the pending reconstruction of Highway 169 in the fall of 2016.
8. **Citizens Wishing to Discuss Matters not on the Agenda**

   Jason Gadd, co-chair of the Southwest Twin Cities Beyond the Yellow Ribbon Coalition gave an update on the coalition’s activities.

9. **Bids and Purchases:** None

10. **Consent Agenda – Items Requiring a Majority Vote:**

    A. **Resolution amending Hennepin County residential recycling grant agreement**

    Wagner asked that the item be pulled from the consent agenda. He said he was very supportive of the item but given the focus on organics recycling, he asked staff to provide more information.

    Public Works Director Brian Wagstrom gave a staff report.

    Wagner noted his family had about two large bags of organics versus one bag of garbage per week. He said separating the two wasn’t very difficult. There was no separate container necessary. All the bags go into the regular garbage container.

    Wiersum asked if there were parts of the country that had done a better job with organics recycling so the city could benefit from the best practices from other areas. He said education was critical because of the lack of clarity over what should go in what waste stream. Wagstrom said it was more effective to use positive enticement rather than a punitive approach.

    Schneider said a question he had about the use of weight goals was if the city was effective in getting residents to purchase products with less packaging, there would be a reduction in the waste generated and the goals would not be achieved. Wagstrom said the goals were pounds recycled or taken out of the waste stream per household. As more is taken out, the poundage increases. He said at a certain point the county would recognize the concern Schneider raised and would work with the state to also recognize the issue.

    Wagner moved, Wiersum seconded a motion to adopt resolution 2015-064. All voted “yes.” Motion carried.
B. Resolution approving a conditional use permit for an educational institution at St. Paul Lutheran Church, 13207 Lake Street Extension

Allendorf moved, Acomb seconded a motion to adopt resolution 2015-062. All voted “yes.” Motion carried.

C. Resolution approving a conditional use permit and minor amendment to the West Ridge Market master development plan for an outdoor patio for a new restaurant, Salsa a la Salsa at 11390 Wayzata Boulevard

Allendorf moved, Acomb seconded a motion to adopt resolution 2015-063 approving the request. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance regarding private fire hydrants

Barone gave the staff report.

Allendorf said if a fee was assessed and not paid, the fee would go against the property itself. He asked what happened if the property belonged to multiple owners. City Attorney Corrine Heine said the situation Allendorf raised would be included in the policy. The fee would be set by agreement. If the hydrant was located on a common area owned by a townhome association, the association would receive the bill and it would be their responsibility to levy each of the unit owners for their share. The assessment would go on the common area property and the association would be responsible for payment. The city would never have to deal with the individual unit owners. Allendorf asked what would happen if the association did not pay the fee. Heine said it would then go on to the property taxes.

Schneider said there were issues that had to be worked through, but it was prudent for the city to take ownership of the private hydrants.

Bergstedt commended staff for bringing the item before the council because it was an under the radar issue. The city had done a great job inspecting public hydrants but there was not a policy to allow the same inspection of private hydrants. He said public safety would be greatly enhanced.
Wiersum said the way the policy was written made it attractive for owners of private hydrants to turn them over to the city. In his view this was exactly what the policy should do.

Wiersum moved, Bergstedt seconded a motion to introduce the ordinance regarding private fire hydrants. All voted “yes.” Motion carried.

13. Public Hearings:

A. On-sale licenses for Kona Sushi, inc. (Kona Grill), 12401 Wayzata Boulevard

Barone gave the staff report.

Acomb moved, Allendorf seconded a motion to continue the public hearing to August 31, 2015. All voted “yes.” Motion carried.

B. On-sale wine and on-sale 3.2 percent malt beverage liquor license for Cheers Pablo Twenty Three Holdings LLC (Cheers Pablo), 13207 Ridgedale Drive

Barone gave the staff report. Schneider opened the public hearing at 7:03 p.m. No one spoke.

Wiersum moved, Acomb seconded a motion to continue the public hearing to September 14, 2015. All voted “yes.” Motion carried.

C. Off-sale liquor license for Target Corporation, 4848 County Road 101

Community Development Director Julie Wischnack gave the staff report.

Wiersum asked if there was anything about the liquor store, other than it being in a Target that would make it unique. Brittany Kasson, executive team leader at the Target Superstore, said given the store’s size, staff would have to be particularly careful about what was being put on the shelves. This would mean being really localized and catering to Minnetonka. Wiersum noted the store would be different compared to other Target locations but asked if there would be a difference compared with other liquor stores in Minnetonka. Kasson said the size would be the biggest distinction. She said it was likely there would be more shelf space per square foot for craft beers than other stores in the city.

Schneider closed the public hearing at 7:08 p.m.
Wiersum said he supported the liquor policy. He likely was the most outspoken council member and he thought the city had plenty of liquor stores. Given his view of the policy he was not going to support Target’s application for a liquor license. The Highway 7/County Road 101 area was adequately served from a liquor store perspective. MGM was less than 200 feet away from Target. Tonka Bottle Shop and the Wine Shop were within two miles of the proposed location as was Team Liquors in Shorewood. The area was not void of liquor stores. He didn’t see anything unique about the proposed liquor store and it was not part of a village center that was underserved. He said it was generally understood that increased access to any commodity likely increased use of that commodity. He quoted a provision in the liquor license policy that states, “An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city.” He said any benefit of supporting the application was outweighed by the negatives associated with increasing access to liquor in the community.

Allendorf said a lot of time was spent looking at the liquor policy and wordsmithing the 2010 policy to allow the council to look at any application against the policy to determine if it met the policy. He noted one of the words pointed out during the discussion was “or.” The provisions state “offers a distinctive specialty service” or “is a complementary part of a business that would add positively to the experience of living and working in the city,” or “was part of a village center that is not currently served.” He noted it wasn’t “and” but it was “or.” He saw the application for a 2,800 square foot liquor store to be a convenience in an 180,000 square foot store. Therefore it was a complementary part of the business. Aside from the policy, he noted Target already had a 3.2 liquor license and to go to a full liquor license was not a huge jump. He said he would be hard pressed to see any other application come in that more closely fit the policy.

Acomb said she wasn’t on the council for the 2010 policy discussion. She said what she thought the council wanted to come out with during the recent discussion to modify the policy was flexibility in the policy. The council wanted flexibility to approve licenses that they felt were appropriate and also deny an application even if the city did not have 12 approved licenses. She thought the city was adequately served with the current number of liquor stores. She believed an increase in the number of liquor outlets influenced underage substance use and other public safety issues. She said because she didn’t feel the village center was underserved, and because she didn’t feel the application was for something unique enough, she couldn’t vote to approve it.
Bergstedt said he agreed with Allendorf’s comments. The policy had been worked on quite a bit and it allowed for flexibility in evaluating liquor license applications. He said Target’s proposal would provide a complementary use within an existing establishment. Target held a malt beverage liquor license since 2002 and there were no violations. If it were a new free standing store, he might look at it differently. He thought the store could enhance the experience for customers with busy lives. To have a small store within a larger store was an enhancement. He noted that people might think that if this Target store got a liquor license that the other location in the city might then also get a license. State law only allows one license per license holder in a city. He said because the policy states that 12 was the number of licenses that was generally adequate to serve the city and currently there were only 11 approved licenses, and because Target had no violations with their current malt beverage liquor license, he would be supportive of granting this license.

Wagner said even with the great amount of time discussing the policy, he felt the dialogue had been worthwhile and had been a good public policy discussion. The policy likely would have to be looked at every three to four years as the council changes. He tended to be more aligned with Allendorf and Bergstedt’s position. He felt there was an element of convenience that was not distinct but tied to the policy. He also thought it was relevant there was an existing 3.2 license even though that license did not allow the sale of hard liquor. He said he balanced that with liking a consistency in the message. The item required five votes for approval, and given the discussion, with Ellingson’s absence, the vote appeared to be 2-2, so he was going to vote against granting the license.

Schneider said he was pretty liberal in his belief that liquor establishments should be market driven. There was a point the character of the community would be changed by approving another one or two liquor stores but he felt the city was a long way away from that. The struggle he had with the Target concept was not about the number of stores in the city, but about the idea of fairness. He looked at the proposed store as being strictly about convenience. He would have generally been supportive if the council had decided to allocate in the policy a certain number of licenses for accessory type establishments that were small in size and were for convenience for customers, and made this available to stores like Cub or Whole Foods. It was decided not to go that route. While the wording included “or” there was different weights to different parts of the policy. For him the convenience or accessory part didn’t carry a lot of weight because the council did not formally adopt that as a position. He didn’t see this application as matching that provision. He said the main reason to control the number of licenses was to ensure there were not underage drinking violations. Target had a great record with not having
any violations. The overall concept of how many small stores the city should have or could support and where the line should be drawn about giving it to one business but not giving it to an almost identical operation because of the number of licenses, made him lean toward deciding this was not the right time for this type of a license. He said he could go either way but since it looked like there were not enough votes for approval he, like Wagner, was likely to vote against granting the license.

Allendorf moved, Bergstedt seconded a motion to grant the license. Allendorf and Bergstedt voted “yes.” Acomb, Wiersum, Wagner, and Schneider voted “no.” Motion failed.

14. Other Business:

A. Resolution for the Cartway Lane/Ridgedale Drive project

Barone introduced the item. She said staff had been working on the proposal for quite a few months. The Highland Bank discussions brought concerns about traffic flow and congestion in this area to a head. There was quite a bit of work done with the Ridgehaven Mall property to come up with a configuration that would allow a flow through. There was consensus and agreement to put this proposal forward. Over the past few months there were several neighborhood meetings and meetings with the businesses in the area. The Ridgehaven Mall property manager had now indicated concerns with the proposal. She said staff now was asking for more time to address concerns and come back at the September 14 meeting with a proposal for the council to review.

City Engineer Will Manchester gave the staff report.

Wagner said he appreciated the decision on the recommendation was being delayed because he felt the neighborhood should have been fully notified about something as impactful, and that a recommended action was being made. He said it was extremely important to get things right and there was a lot of concern in the neighborhood about connectivity and there was no perfect solution. It wasn’t just the connectivity with how to improve the movements in the area but it was also about assessing the connectivity in the walkability study and hearing the neighbors’ concerns and the business concerns about being cutoff. He strongly encouraged everyone be notified when a vote was scheduled as historically had been done. He also suggested that the maps that are used be broadened to include the other Ridgedale access point. This would provide an understanding of the other options. His biggest concern looking at the right in to the Byerlys area was that there would be the same choke point with people trying to take a left into the Ridge Square properties.
Kurt Stenson, property manager for Cushman & Wakefield/NorthMarq, the managing agent for Ridgehaven Mall, said when he first looked at the options and met with city staff, he agreed with the recommended plan. He later met with his asset manager from Investco and city staff and looked at three options. The asset manager indicated interest in improvements, but wanted to be notified about the recommended plan. Stenson said he did not see the recommended plan until the August 3 neighborhood meeting. After discussion with the owner, the owner said he was not in favor of the recommended option. It seemed like they were the only property owner giving up land for the concept and that was a negative factor. It also seemed like there was a city street dropping into the Byerlys’ parking lot that would increase the confusion. There already was a parking issue and they would lose an additional 74-75 parking spaces. He said there was an outlet used for piling snow in the winter. The proposal would make the outlet difficult to sell in the future. Stenson said he would be glad to work with the city to develop alternatives understanding there was not a perfect plan but that something needed to be done.

Sonja Piper, traffic engineer with Westwood Professional Services, said her company was a contractor for Ridge Square North and Ridge Square South to provide opinions on the plan. She said the primary source of congestion was the traffic wanting to access I394 and the options presented would not solve that problem but simply shift the congestion to another location. She suggested a full access intersection at Ridgehaven and that further study was needed. One concern raised was the grades in the area but she noted this was not like Duluth and she felt a reasonable engineered solution could be achieved to solve some of the problems. The required storage length for vehicles at the intersection would need to be addressed, but with proper signal timing and coordination between the intersections, as currently was being done on all the traffic signals in the area, the queue impacts could be lessened.

John Dietrich, Target Corporation, said the company was one of the two properties owners in the Ridgehaven area and they had not had much contact with city staff. He said it was disappointing to see the same concepts that came out in March being presented now indicating there was no progress on the recommended concepts. Target does not support the recommended changes shown in concept #3. Frontage roads were designed to be connecting routes, connecting businesses. The design was for the peak hour and one does not design infrastructure for peak hour events but rather the design should be designed for appropriate scenarios. The area is busy but even with the recent Highland Bank traffic studies, the information indicated traffic was acceptable at all of the intersections. He said he was interested in a solution that provided better management
during the peak hour, with peak hour being during the Christmas season. The proposed design assumed consumption of private property. Public facilitation of traffic should be within the public realm. He said Target wanted to continue to be part of the process and felt the best option was a no build option at this point until another solution came forward.

Norman Abramson, an attorney with Gray, Plant, Mooty, said he was representing Ridge Square North and Ridge Square South. The owners of the malls had been in operation for over 20 years. They understood and appreciated the efforts to reduce traffic congestion during the holiday season but they opposed the plan. The tenants were concerned the changes would lead to a more confusing and disjointed travel experience for their customers. The tenants believe cutting off the ability to make a left turn on Cartway Lane and the connectivity of Ridgedale Drive would cause the loss of visibility and accessibility with their customer base. In speaking with several of the residents who live behind the malls, they also share the concerns about the ability to get to the stores. He said the concern was strong enough to hire a traffic engineer at his client’s own expense to see if there were alternatives to preserve the connectivity and address the traffic congestion.

Audra Johnson, 13419 Larkin Drive, said she applauded the city for trying to make lemonade out of lemons. It appeared the city had been studying the area for nearly 40 years with nothing being done until now when things were at a fever pitch. Taking a little more time to get things right was not a big deal. She lives behind Ridge Square North and was very concerned about the viability of the buildings and the tenants. She loved the little shopping plazas as it spoke volumes that the city was not overly developed. The area was more critical as more development is done, and that Highland Bank would be a total disaster. If the area gets redeveloped even further it would make things even more difficult. She said traffic congestion was a daily problem. The area was not only busy during the holidays but was busy during other times as well.

Wiersum said he felt taking more time was the right decision. There was no design that people felt figured things out and it was likely that would never happen because the area was very challenging. Looking at alternatives and listening to the business community for solutions was a good idea. Everyone had a vested interested and to come up with a solution would require everyone to get a little and give a little. The solution had to be fair, valued the existing businesses, and worked for the neighborhood. The proposals had some benefits but he also thought the no build option should be one of the considerations. The last thing he wanted was to spend a lot of money and not have improvements. The
fairness issue had to be looked at so there were not winners and losers with whatever solution was picked.

Schneider said he fully agreed with Wagner that the area being looked at needed to be broadened because the other intersection could be just as problematic as Cartway Lane. To make anything work it had to be in addition to the existing right-of-way. Brainstorming with all the businesses and their consultants might lead to bits and pieces that needed to be molded together. He wouldn’t discount the ability to do some exiting on the current entrance off of Plymouth Road. If there were one signal in the area that worked really well for all the movements it may improve the flow.

Acomb said when the council first heard ideas for a fix it was mainly in response to the residents’ concerns. There was enthusiasm that things could be improved. Now the council was hearing from the businesses that the proposed solutions were not making things better but was making it more challenging. She suggested sitting down with a combination of businesses and residents.

Wagner said the process was iterative and now the business community was engaged. He said it would be helpful to quantify staff’s information about why moving everything to the south to Plymouth Road didn’t make sense. It meant the city would have to buy expensive right-of-way. Quantifying the hindrances engineering staff and consultants have identified would be beneficial to the dialogue. Context was important. He thought the walkability study should be tied into the process.

Wiersum said going forward it would be helpful to clearly identify all the streets on the drawings. There were different levels of knowledge of the area.

Barone said staff would go back and work on solutions. A lot of time an effort had been spent on traffic studies and she wasn’t sure how much deeper staff could delve into a solution. She wasn’t optimistic that the item could be brought back for the September 14 meeting. The longer the city spent on trying to find a solution and the more process involved, she cautioned that 2016 was not a realistic construction timeframe. The end of the construction was really important. November was the goal to prevent going into the holiday season.

Schneider said he didn’t think finding a solution to be considered at the September 14 meeting was doable. He said what he heard during the discussion was that the issues were of the magnitude that it would be a 2017 project.
Wischnack said there were coordination issues with Highland Bank that had to be worked on as well. There were sidewalk tie-ins that were construction related.

Bergstedt said the area had been challenging for years and years. Last year during the Highland Bank discussions the council heard from residents and some businesses about the issues. Council worked to get the improvements done more quickly with the hope that solutions could be found that everyone coalesced around. He said when he saw the recommended solution and then heard from some residents and a lot of businesses about their myriad of concerns, he felt the last thing that should done was do something quickly that would either move the problem to another area or potentially make things worse. He hoped the no build option was not the one finally decided upon but at least now the problem was understandable. He agreed taking some time to find the long term solution was a good decision. As the focus was on traffic issues he hoped other features like connectivity, walkability, bikeability were also discussed.

Allendorf agreed that not rushing into a decision was a good idea. He would like additional facts as other alternatives were looked at. What he heard was Byerlys did not want to give up anything especially parking spaces. Target did not want to give up anything and wanted a no build. Ridge Square North and Ridge Square South wanted some say over what happened with other people’s property because of connectivity. The residents want the whole area to be easier to traverse through. Any solution meant a party had to concede something. He said he would benefit in seeing a list of what the parties would have to give up and who had to compromise for what with any solution. It would take a lot of compromise to come up with a good solution.

Schneider said he believed there had to be a plan B that wasn’t necessarily a no build but a delayed build and what could be accomplished particularly with the walkability.

15. Appointments and Reappointments: None

16. Adjournment

Schneider read the recognition for departing planning commissioner Jim Rettew who was unable to attend the meeting.

Wiersum moved, Bergstedt seconded a motion to adjourn the meeting at 8:23 p.m. All voted “yes.” Motion carried.
Respectfully submitted,

David E. Maeda
City Clerk
City Council Agenda Item #9A  
Meeting of August 31, 2015

Brief Description:  Bids for Wells 16A and 16B

Recommended Action:  Award contract to Rice Lake Construction Group

Background

In 2001, two new wells were approved by the Department of Natural Resources and they ultimately provided water to water treatment plant #16 that was subsequently constructed north of city hall. These wells were combined with wells 10A&B to provide water to the new water treatment plant.

The ground water wells, drilled approximately 450 feet in depth, were designed with the pump and motor placed at the bottom of the well pipe column. After a couple of years of operation, both wells developed problems that caused the 200-horsepower pumps to fail on multiple occasions. A variety of solutions were tried without success. These repeated failures were extremely expensive and removed the well from service for as long as two months. During hot and dry summers these equipment failures put a large strain on other wells causing excessive run times and the ability of the system to meet demand was barely met.

As part of the 2014 Utility Sustainability Study, this problem was studied and the consultant engineer recommended that the wells be re-fit with vertical turbine pumps where the pumps and motors are located at ground-level in a small climate-controlled building located on top of the well. As is usual with any larger capital program, the timing and order of specific projects are often recalendared to reflect needs as the projects are fully developed and refined. The costs of this project are covered as part of Water-System Sustainability Improvements in the adopted Capital Improvement Program for both 2015 and 2016 and are funded in the Utility Fund.

The project is scheduled to begin after Labor Day and must be completed by June of 2016 in order to meet next summer’s water demand.

On August 18th bids were received for the conversion of wells 16A & 16B. The bids are tabulated as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rice Lake Construction Group</td>
<td>$756,200.00</td>
</tr>
<tr>
<td>Gridor Construction, Inc.</td>
<td>$944,500.00</td>
</tr>
<tr>
<td>Municipal Builders, Inc.</td>
<td>$968,200.00</td>
</tr>
<tr>
<td>Maertens-Brenny Construction Co.</td>
<td>$1,042,350.00</td>
</tr>
<tr>
<td>Engineer's estimate</td>
<td>$659,000.00</td>
</tr>
</tbody>
</table>
The project was bid with two alternates or additions to a base bid. The first alternate is for a new directionally bored control conduit from each well to water treatment plant #16. There are control conduit currently; however, if the conduits are blocked and cannot accommodate the wiring, a new conduit will need to be installed. The cost for this work is $50,200.00 and may not be needed.

The second alternate is for an upgraded roofing system for the well houses. The base bid provided for a single-ply membrane roof and the alternate provides for a bituminous built-up roof which has greater longevity and cost $7,200.00. This is an expense that will save the city money in the future.

**Recommendation**

Based on the recommendation of the consultant engineer and the references of the low-bidder, staff recommends that:

- The contract for this project, including the base bid and both alternates, be awarded to Rice Lake Construction Group in the amount of $756,200.00.


Submitted Through:
- Geralyn Barone, City Manager
- Merrill King, Finance Director

Originated by:
- Brian Wagstrom, Public Works Director
City Council Agenda Item #9B  
Meeting of August 31, 2015

**Brief Description:** Authorize execution of solar garden subscriber contracts

**Recommended Action:** Approve the contracts

**Background**

At the March 16, 2015, city council study session, staff presented information regarding a proposal received from TruNorth Solar, a solar garden provider, to contract for energy credits from community solar gardens that they were developing in Minnesota. The council showed interest and had a number of questions and asked staff to gather more information about options available to the city.

On May 11, 2015, the city’s energy consultant, Energy Management Solutions (EMS), presented a comprehensive primer on solar gardens and the results of a vetting that had been completed on companies that were developing solar gardens in Minnesota. The report looked at each company’s financial strength, past experience and performance, subscriber contract provisions and status of land secured for garden development.

EMS described the process for participating in the Solar Garden program, which is as follows:

- The city acts as a subscriber and contracts with a solar garden vendor to participate in the program, and the vendor builds and owns the solar garden.
- Electricity is produced by the solar garden, which flows into the Xcel Energy power grid.
- Xcel Energy provides the city a credit each month based on actual electricity produced from the solar garden.

Depending on contract provisions between the city and the provider, savings in electrical costs result from the energy produced by the solar garden. A credit appears on the city’s Xcel Energy bill as a reduction in payment due to Xcel. The city then pays the provider based on the provisions of the negotiated contract.

Financial savings for the city are realized in one of four ways based on the provider contract:

- Fixed Discount: $ per kWh discount
- Percent of Xcel Credit: percent of the credit
- Fixed Rate: flat rate $ per kWh
- Initial Rate with Escalator: flat rate with annual escalator
EMS indicated that execution of a contract would be the next step in the process if the council wanted to move ahead with companies that would provide the most advantageous financial incentive and long term performance success for the city. At the time of the study session, a decision by the Minnesota Public Utilities Commission (PUC) about solar garden size was forthcoming and the decision would have a significant impact on contract provisions and subsequent energy savings for the city.

**Public Utilities Commission Decision**

At the end of May, the PUC made a determination about the maximum number of 1-MW solar gardens that could be installed at a single site. Developers were hoping for 10+ gardens per site while Xcel Energy was advocating for one garden per site. The PUC approved a maximum size of five gardens per site. The decision forced solar companies to re-evaluate and re-write subscriber contracts, which generally decreased the amount of available energy savings for subscribers.

The decision has allowed the city to move forward with contract negotiations for the city’s energy needs. Contract provisions seemingly change daily and solar garden subscribeship is almost closed due to lack of available space.

**Subscriber Contracts**

Currently, the city of Minnetonka consumes approximately 15.7 million kilowatt-hours (or 15,700 MW) of electrical energy per year. With the introduction of this technology in Minnesota, the city has the opportunity to secure as much of this energy through solar garden subscriptions as possible. Contracts have been negotiated with three providers: Innovative Power Systems, SolarStone and TruNorth Solar.

Because this is an emerging and highly competitive market, each of the providers considers the contract terms to be proprietary trade secrets. Accordingly, the contracts will be given to the council in a separate confidential memo. Each contract has been reviewed and approved by the city attorney.

The three contracts allow the city to diversify its gardens with three developers and different payment types.

The first type of payment will be a flat rate payment. This rate stays constant for the term of the contract. The contract term is 25 years. Xcel Energy will pay the city a credit on the electric invoice. The flat rate that the city has to pay the developer is less than the initial credit provided by Xcel. As Xcel’s energy rates continue to increase, so does the Xcel credit. As the Xcel credit increases, the city continues to pay the developers the same initial flat rate. As a result, the revenue received by the city also increases. This is best shown in Table 1 below:
Table 1

Example of Flat Rate Solar Garden (Estimated Numbers Only)

<table>
<thead>
<tr>
<th>Year</th>
<th>Energy Usage kWh (a)</th>
<th>Xcel Credit $/kWh (b)</th>
<th>Developer Flat Rate $/kWh (c)</th>
<th>Rate Savings $/kWh [b-c]=(d)</th>
<th>Mtka Savings (a)x(d)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1,000,000</td>
<td>$ 0.1190</td>
<td>$ 0.1100</td>
<td>$ 0.0090</td>
<td>$ 9,000.00</td>
</tr>
<tr>
<td>2</td>
<td>1,000,000</td>
<td>$ 0.1226</td>
<td>$ 0.1100</td>
<td>$ 0.0126</td>
<td>$ 12,570.00</td>
</tr>
<tr>
<td>3</td>
<td>1,000,000</td>
<td>$ 0.1262</td>
<td>$ 0.1100</td>
<td>$ 0.0162</td>
<td>$ 16,247.10</td>
</tr>
</tbody>
</table>

The second type of payment is percentage of the credits. This type of contract pays the solar developers for a percentage of the Xcel credit. This contract also lasts for 25 years but fixes the credits received by the city. Table 2 bests illustrates this type of contract.

Table 2

Example of Percentage of Credit Solar Garden (Estimated Numbers Only)

<table>
<thead>
<tr>
<th>Year</th>
<th>Energy Usage kWh (a)</th>
<th>Xcel Credit $/kWh (b)</th>
<th>Percentage of Credit to Mtka (c)</th>
<th>Mtka Savings (a)x(b)x(c)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1,000,000</td>
<td>$ 0.1190</td>
<td>12%</td>
<td>$ 14,280.00</td>
</tr>
<tr>
<td>2</td>
<td>1,000,000</td>
<td>$ 0.1226</td>
<td>12%</td>
<td>$ 14,708.40</td>
</tr>
<tr>
<td>3</td>
<td>1,000,000</td>
<td>$ 0.1262</td>
<td>12%</td>
<td>$ 15,149.65</td>
</tr>
</tbody>
</table>

Based on the specific provisions of the three contracts, it is anticipated that the city will save approximately $15 million on electrical energy costs over the next 25 years, as summarized in Table 3.

Table 3

Summary of Solar Garden Subscriptions

<table>
<thead>
<tr>
<th></th>
<th>Energy Usage kWh</th>
<th>Flat Rate $</th>
<th>Percentage $</th>
<th>Total $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td>15,000,000</td>
<td>$ 75,000</td>
<td>$ 130,000</td>
<td>$ 205,000</td>
</tr>
<tr>
<td>Cum. Total 25 Yrs</td>
<td>15,000,000</td>
<td>$ 11,000,000</td>
<td>$ 4,000,000</td>
<td>$ 15,000,000</td>
</tr>
</tbody>
</table>

Time Frame

There are a limited number of gardens available that can be built before the end of 2016 which is the state-imposed deadline for tax credits for the developers. The gardens available have already changed substantially from last week to this week. The developers have agreed to hold this space for the city of Minnetonka until August 31. If the city does not enter into contracts by that date, the solar gardens will be sold to other subscribers.
Recommendation

Staff recommends that the city council authorize the mayor and city manager to execute solar garden provider contracts with Innovative Power Systems, Solar Stone and TruNorth Solar, subject to approval of the final language by the city manager and city attorney.

Submitted through:
   Geralyn Barone, City Manager
   Corrine Heine, City Attorney
   Merrill King, Finance Director

Originated by:
   Brian Wagstrom, Director of Public Works
Solar*Rewards® Community®
Minnesota Subscriber FAQs

How can I subscribe to a community solar garden?
In order to be a subscriber to the Minnesota Solar*Rewards Community (S*RC) program, you must be an Xcel Energy electric retail customer in Minnesota. The location of the customer premise associated with the account receiving the bill credit must be in the county where the solar garden is located, or in an adjacent county. You can decide which garden you are interested in and contact one of the many Garden Operators developing solar gardens in Minnesota.

Requirements are largely defined in Minn. Statute §216B.1641.

Subscriber Requirements
The following rules apply to all Solar*Rewards Community subscribers:
- A subscriber must be an electric retail customer of Xcel Energy
- Subscriptions must not exceed 120% of your average annual electric energy usage
- Subscriptions must not exceed 40% of a single garden
- Subscribers will be provided a monthly credit on their bill. The credit will be determined on a dollars per kilowatt-hours produced ($/kWh) basis by Xcel Energy.

Am I eligible to receive a bill credit? What type of credit is available?
Xcel Energy customers subscribing to a solar garden are eligible for a solar energy bill credit.

Bill credit rates can be found in our Section 9 Tariff.

The “Standard Bill Credit” is the applicable retail rate in effect at the time of energy generation. The “Enhanced Bill Credit” is the sum of the applicable Standard Bill Credit and the Commission-approved Renewable Energy Credit (REC) pricing. A Solar*Rewards Community garden electing to sell its RECs (via the Enhanced Bill Credit) to the Company for subscribed energy, shall be at the Commission-approved REC price in place on the date the garden’s application is considered by the Company to be complete.

How is the credit amount determined?
Each month, the solar production from a community solar garden is recorded in kilowatt-hours (kWh). The production amount is then allocated, based on each customer’s subscription size. The customer’s bill credit is calculated by multiplying the number of kWh by the bill credit rate ($/kWh). Detailed information on the calculation of the bill credit can be found in the published Tariff on our website.

Bill credits are applied to the final billed amount, after all electric charges, adjustments, riders, taxes and fees are added in. Therefore the credits will have no impact on the taxable amount owed by the subscriber.

When are credits posted?

Updated 03/18/2015
On the ninth of every month, each subscriber’s share of energy production from the community solar garden is posted to his/her account as a bill credit. Because customers are on different billing cycles, the timing for when each subscriber will see their credit depends on the day their meter is read.

If a subscriber’s billing cycle (three-day, meter-reading window):

- **Is before the ninth of the month:** the bill will reflect Solar*Rewards Community credits with a one-month lag time/delay. (For example, a September bill will show credits from July.)
- **Is after the ninth of the month:** the bill will reflect Solar*Rewards Community credits for the previous month. (For example, the September bill will show credits from August.)
- **Contains the ninth of the month:** the Solar*Rewards Community bill credit reflected may be from the previous month, or may have a one-month lag. For this small subset of subscribers, bill credits will not be reflected on their bills each and every month; some bills may include two months’ worth of bill credits, while some bills may not show any credits.

Xcel Energy is not able change customers’ billing cycles. However, if a customer is on a meter-reading cycle that results in a bill generating on or near the ninth of the month, we have the ability to delay the creation of that bill, in order to ensure that the customer will only see one credit applied to each bill cycle. If you would like to discuss this option, please send us an email at srcmn@xcelenergy.com. While the credits are reflected differently based on the timing for each customer’s bill, please remember that the Solar*Rewards Community bill credits will be posted regularly to customer accounts on the ninth of each month.

**How does the 120% rule apply to customers?**
Subscriptions must not exceed 120% of your average annual electric energy usage.
If there is less than four months of consumption history, the new home calculator can be used to generate an estimate.

<table>
<thead>
<tr>
<th>Square Feet Range (sq. ft.)</th>
<th>120% Rule Equivalent (kWh)</th>
<th>Allow PV System Size (kW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 – 1,000</td>
<td>5,311</td>
<td>4.13</td>
</tr>
<tr>
<td>1,001 – 1,500</td>
<td>7,318</td>
<td>5.69</td>
</tr>
<tr>
<td>1,501 – 2,000</td>
<td>10,215</td>
<td>7.94</td>
</tr>
<tr>
<td>2,001 – 2,500</td>
<td>11,018</td>
<td>8.57</td>
</tr>
<tr>
<td>2,501 – 3,000</td>
<td>12,978</td>
<td>10.09</td>
</tr>
<tr>
<td>3,001 – 3,500</td>
<td>15,618</td>
<td>12.14</td>
</tr>
<tr>
<td>3,501 – 4,000</td>
<td>14,830</td>
<td>11.53</td>
</tr>
<tr>
<td>4,001 – 4,500</td>
<td>17,887</td>
<td>13.91</td>
</tr>
</tbody>
</table>

For properties that are over 4,500 square feet, without consumption history, please submit an energy audit (HERS Rating or similar) or load calculations for the property. Please submit all system sizing paperwork to srcmn@xcelenergy.com.

We use the National Renewable Energy Laboratory’s (NREL) PVWatts® calculator to convert a subscriber’s allocation in kW to annual output in kWh. That number is then checked against the customer’s historic usage or the home usage estimator for compliance with the 120% rule. NREL’s PVWatts calculator can be found on their website.

Updated 03/18/2015
**How does the 40% allocation requirement work?**

Minn. Statute §216B.1641 defines a subscriber as “a retail customer of a utility who owns one or more subscriptions of a solar garden facility interconnected with that utility.” A retail customer is a separate person or corporation and is the legal name of the party as defined by state law and existing Xcel Energy tariffs.

Further, **affiliates of a legal entity** will be treated as the same person or entity for the purposes of subscription with the exception of government entities. Political subdivisions of a government entity or public agency can be considered separate retail customers of the utility as defined by Minn. Stat. §216B.02, Subd. 2. If a governmental agency composed of sufficient political subdivisions or agencies has a different account, each political subdivision or agency may have a 40% interest in a single garden.

To provide some context as to whether or not you may be at risk for allocating more than the legislated 40% threshold, we’ve provided the below questions to help identify possible cases. If you answer “yes” to one or more of the below questions and intend to subscribe to 40% or more of any solar garden, we suggest you contact the S*RC team at srcmn@xcelenergy.com. We’ll contact you within seven calendar days to help resolve your questions.

- Do you have more than one physical location to which subscriptions can be attributed?
- Do you have more than one account?
- Does the premise address on your bill differ from the billing address?
- Are you one of many accounts for the same type of business?
- Do you have political subdivisions and do you have separate financials per subdivision?

For further clarity, we’ve put together the following questions and answers about this topic:

- **How do I know whether or not I have multiple accounts under one legal entity?**
  
  There are a couple of ways you can determine whether or not you have multiple accounts that would be combined for the purposes of the 40% requirement. First, if your bill is sent to an alternative address (versus your location) and you receive multiple bills, it is likely that you have several accounts associated with one legal entity.

- **What is meant by “affiliates are considered the same entity”?**
  
  State statute provides guidance with the definitions of “person” and “corporation”, which are as follows:

  “Person” means a natural person, a partnership, or two or more persons having a joint or common interest, and a corporation as hereinbefore defined.  
  (As noted in Minn. Stat. §216B.02, Subd.3)

  “Corporation” means a private corporation, a public corporation, a municipality, an association, a cooperative whether incorporated or not, a joint stock association, a business trust, or any political subdivision or agency. (As noted in Minn. Stat. §216B.02, Subd. 2.)

  Therefore, as defined by statute for our S*RC Community Program, a “person” includes corporations associations or partnerships having a “joint or common interest”. Xcel Energy does not have insight into specific customer legal structures, but if your company and another company are affiliated businesses, then together these two businesses can only own up to a 40% interest in one garden.

*Updated 03/18/2015*
• As a government agency, I have different political subdivisions. Can I have a 40% interest in one garden per political subdivision?
The likely answer is yes. Government entities have specific statutes that define them differently than regular “corporations”. Some cities have different political subdivisions and have legal entities such as City X Fire Department and City X Libraries. Each subdivision can have a 40% interest. In order to determine if you are a political subdivision or agency, we provide guidance in the linked document.

• How can I determine if there is a “joint or common” interest between two legal entities?
  o If you can accurately state “yes” to all of the following, then there is no “joint or common” interest and each legal entity would be its own subscriber. You can confirm:
    o There is no partnership or joint venture between them?
    o They have not united together for the same purpose?
    o There is no common owner between them?
    o They are not part of the same corporate family – not affiliates, corporate subunits, nor otherwise related companies?
    o They are independent companies?

• Do different legal names and Federal Tax ID number constitute a different subscriber?
  Not necessarily. Having a different legal name and/or a different Federal Tax ID does not by itself show that these are not the same subscriber.

• As an elementary school, our bills are paid by the district. Who is the “retail customer”?
  Generally speaking, elementary schools and high schools in the same district are considered one legal entity and therefore together could not have more than a 40% interest in one garden.

**What should I do if I still have questions?**
Most customers should have very little difficulty determining their eligibility. But if you are unsure of your legal structure, we recommend you discuss this option with your legal representative and then contact srcmn@xcelenergy.com to help determine your eligibility for Solar*Rewards Community.
City Council Agenda Item #10A
Meeting of August 31, 2015

Brief Description: Resolutions pertaining to levying the 2015 Special Assessments

Recommended Action: Adopt the resolutions

Background

As part of the process of levying special assessments, Minnesota statutes require the city council to adopt resolutions that: 1) indicate the cost of the improvements; 2) order the preparation of special assessment rolls; and 3) set the date for the public hearing to consider the proposed special assessments. Attached are a series of resolutions regarding nuisance abatements, diseased tree removals and city court fines that are proposed to be specially assessed in 2015. Each of these resolutions is associated with a separate category of improvements and each category is outlined below.

The assessments are structured on the basis of cost variances and market rates. The finance director has determined that the interest rates for the 2015 nuisance and tree special assessments will be as noted below. These interest rates are benchmarked to the current Aaa municipal bond rate. The term and interest rate for each assessment is as follows:

<table>
<thead>
<tr>
<th>Nuisance and Tree Term and Interest Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment Amount</td>
</tr>
<tr>
<td>&lt;$1,000</td>
</tr>
<tr>
<td>$1,000-2,999</td>
</tr>
<tr>
<td>$3,000-5,000</td>
</tr>
<tr>
<td>&gt;$5,000</td>
</tr>
</tbody>
</table>

The process for special assessment includes numerous communications with parcel owners and opportunities for prepayments of the assessments. Prior to determining the property must be assessed, division staff associated with the specific type of assessment have notified or worked with the property owners regarding the associated work financed by the city. After determination of assessment, staff sends a notice of hearing to each property owner and publishes the notice in the newspaper in late August. After the public hearing in September, property owners are given thirty (30) days to prepay assessments or partial assessments without an interest charge. After this first prepayment deadline, property owners are given up to forty-six (46) additional days to pay the full amount with interest until required certification to the county on November 30.
• **Privately Installed Sewer and Water Improvement Projects.** No projects to be assessed this year.

• **Nuisance Abatement Projects.** There are 46 nuisance abatement projects (including diseased tree removals) in which the city has incurred costs totaling $81,969.14. One of the projects was completed through the use of a Nuisance Abatement Agreement signed by the property owner for extensive work that was needed on the property at 2895 Ella La. It is proposed that the projects be specially assessed for the full cost of the abatement. These projects are proposed to be specially assessed in accordance with Minnesota statutes and city council policies regarding the levying of these nuisance abatement projects. The amounts proposed to be specially assessed are as follows:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-425</td>
<td>3327</td>
<td>Shores Blvd</td>
<td>17-117-22-24-0069</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-429</td>
<td>16834</td>
<td>Excelsior Blvd</td>
<td>32-117-22-21-0061</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-445</td>
<td>5114</td>
<td>Clear Spring Rd</td>
<td>29-117-22-32-0037</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-447</td>
<td>10604</td>
<td>Crestridge Dr</td>
<td>01-117-22-31-0012</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-448</td>
<td>14222</td>
<td>Bellevue Dr</td>
<td>27-117-22-32-0014</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-452</td>
<td>12916</td>
<td>Shady Dale Rd</td>
<td>22-117-22-44-0009</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-453</td>
<td>810</td>
<td>Sunset Dr S</td>
<td>03-117-22-14-0023</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-457</td>
<td>3105</td>
<td>Shores Blvd</td>
<td>17-117-22-21-0004</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-458</td>
<td>4261</td>
<td>Woodhill Rd</td>
<td>22-117-22-32-0001</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-459</td>
<td>4815</td>
<td>Ridge Rd</td>
<td>30-117-22-23-0104</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-439</td>
<td>15309</td>
<td>Skyview Rd</td>
<td>21-117-22-24-0044</td>
<td>$268.33</td>
</tr>
<tr>
<td>N-444</td>
<td>4600</td>
<td>Fairhills Rd W</td>
<td>28-117-22-22-0019</td>
<td>$268.33</td>
</tr>
<tr>
<td>N-446</td>
<td>12202</td>
<td>Pioneer Rd</td>
<td>26-117-22-21-0066</td>
<td>$368.33</td>
</tr>
<tr>
<td>N-451</td>
<td>114</td>
<td>Xenium La S</td>
<td>03-117-22-12-0060</td>
<td>$392.76</td>
</tr>
<tr>
<td>N-443</td>
<td>1503</td>
<td>Linner Rd</td>
<td>04-117-22-42-0023</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-454</td>
<td>3520</td>
<td>Meadow La</td>
<td>17-117-22-31-0018</td>
<td>$436.65</td>
</tr>
<tr>
<td>N-456</td>
<td>16624</td>
<td>Elm Dr</td>
<td>29-117-22-42-0011</td>
<td>$739.64</td>
</tr>
<tr>
<td>N-424</td>
<td>2908</td>
<td>Plymouth Rd</td>
<td>15-117-22-11-0020</td>
<td>$804.98</td>
</tr>
</tbody>
</table>

Subtotal $5,398.97
### 2015 Nuisance Abatements – Project No. 4894 (3-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-450</td>
<td>16906</td>
<td>Minnetonka Blvd</td>
<td>17-117-22-24-0032</td>
<td>$1,412.58</td>
</tr>
<tr>
<td>N-432</td>
<td>4826</td>
<td>Royal Oaks Dr</td>
<td>27-117-22-14-0069</td>
<td>$1,536.65</td>
</tr>
<tr>
<td>N-455</td>
<td>5117</td>
<td>Beacon Hill Rd</td>
<td>28-117-22-41-0050</td>
<td>$2,904.98</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong> $5,854.21</td>
</tr>
</tbody>
</table>

### 2015 Nuisance Abatements – Project No. 4894 (5-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-438</td>
<td>11806</td>
<td>Cedar Lake Rd</td>
<td>11-117-22-43-0015</td>
<td>$3,141.63</td>
</tr>
<tr>
<td>N-434</td>
<td>12525</td>
<td>Ridgemount Ave W</td>
<td>02-117-22-22-0014</td>
<td>$3,619.19</td>
</tr>
<tr>
<td>N-428</td>
<td>3320</td>
<td>Chippewa Rd</td>
<td>13-117-22-13-0081</td>
<td>$4,880.91</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong> $11,641.73</td>
</tr>
</tbody>
</table>

### 2015 Nuisance Abatements – Project No. 4894 (10-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-430</td>
<td>5109</td>
<td>Baker Rd</td>
<td>27-117-22-41-0039</td>
<td>$6,528.16</td>
</tr>
<tr>
<td>N-442</td>
<td>2895</td>
<td>Ella La</td>
<td>11-117-22-33-0069</td>
<td>$15,090.60</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>Subtotal</strong> $21,618.76</td>
</tr>
</tbody>
</table>
### 2015 Diseased Tree Removal – Project No. 4902 (1-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-32</td>
<td>3516</td>
<td>Arbor La</td>
<td>14-117-22-31-0033</td>
<td>$65.47</td>
</tr>
<tr>
<td>T-2</td>
<td>3704</td>
<td>Cardinal Rd</td>
<td>15-117-22-33-0049</td>
<td>$83.32</td>
</tr>
<tr>
<td>T-55</td>
<td>14723</td>
<td>Oakways Ct</td>
<td>04-117-22-41-0038</td>
<td>$95.22</td>
</tr>
<tr>
<td>T-28</td>
<td>1908</td>
<td>Welland Ave</td>
<td>01-117-22-34-0024</td>
<td>$130.95</td>
</tr>
<tr>
<td>T-36</td>
<td>4714</td>
<td>Fairhills Rd E</td>
<td>28-117-22-22-0025</td>
<td>$154.75</td>
</tr>
<tr>
<td>T-57</td>
<td>18521</td>
<td>Beaverwood Rd</td>
<td>30-117-22-24-0034</td>
<td>$249.97</td>
</tr>
<tr>
<td>T-54</td>
<td>16700</td>
<td>Picha La</td>
<td>32-117-22-42-0029</td>
<td>$327.37</td>
</tr>
<tr>
<td>T-49</td>
<td>4835</td>
<td>Deerwood Dr</td>
<td>27-117-22-13-0030</td>
<td>$392.76</td>
</tr>
<tr>
<td>T-26</td>
<td>14618</td>
<td>Oakwood Rd</td>
<td>21-117-22-14-0004</td>
<td>$630.91</td>
</tr>
<tr>
<td>T-30</td>
<td>3600</td>
<td>Druid La</td>
<td>17-117-22-31-0069</td>
<td>$534.38</td>
</tr>
</tbody>
</table>

Subtotal: $2,665.10

### 2015 Diseased Tree Removal – Project No. 4902 (3-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-13</td>
<td>11321</td>
<td>Friar La</td>
<td>14-117-22-41-0026</td>
<td>$1,190.42</td>
</tr>
<tr>
<td>T-39</td>
<td>3907</td>
<td>Victoria St</td>
<td>21-117-22-21-0009</td>
<td>$1,473.14</td>
</tr>
<tr>
<td>T-67</td>
<td>12814</td>
<td>Excelsior Blvd</td>
<td>27-117-22-11-0021</td>
<td>$2,019.94</td>
</tr>
<tr>
<td>T-73</td>
<td>2216</td>
<td>Black Oak Dr</td>
<td>11-117-22-12-0034</td>
<td>$2,872.80</td>
</tr>
</tbody>
</table>

Subtotal: $7,556.30
## 2015 Diseased Tree Removal – Project No. 4902 (5-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-48</td>
<td>n/a</td>
<td>Baker Rd &amp; Brenwood Tr</td>
<td>22-117-22-43-0002</td>
<td>$3,142.13</td>
</tr>
<tr>
<td>T-52</td>
<td>16436</td>
<td>Eagle Ridge Dr</td>
<td>20-117-22-42-0059</td>
<td>$3,321.68</td>
</tr>
<tr>
<td>T-72</td>
<td>n/a</td>
<td>Hwy 7 &amp; Shady Oak Rd</td>
<td>23-117-22-13-0067</td>
<td>$4,152.10</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Subtotal</td>
<td>$13,859.03</td>
</tr>
</tbody>
</table>

## 2015 Diseased Tree Removal – Project No. 4902 (10-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-71</td>
<td>2901</td>
<td>Oak Lea Ter</td>
<td>16-117-22-11-0029</td>
<td>$5,631.94</td>
</tr>
<tr>
<td>T-69</td>
<td>4866</td>
<td>Hamilton Rd</td>
<td>28-117-22-23-0050</td>
<td>$7,743.10</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Subtotal</td>
<td>$13,375.04</td>
</tr>
</tbody>
</table>

- **City Court Fines.** Listed below are the city court fines imposed in 2015 that are proposed to be specially assessed over a one-year term, bearing an interest rate of 10 percent. This assessment is categorized as city court fines. The interest is calculated from October 1, 2015 to December 31, 2016. Hennepin County charges an additional administrative fee prior to the final certification. The following is the proposed parcel to be assessed:

## 2015 City Court Fines – Project No. 1020 (1-year term)

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1020</td>
<td>1010</td>
<td>Hillside La W</td>
<td>12-117-22-12-0042</td>
<td>$1,200.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Total</td>
<td>$1,200.00</td>
</tr>
</tbody>
</table>
Recommendation

Adopt the following attached resolutions:

1) Resolution declaring costs for Project No. 4894 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

2) Resolution declaring costs for Project No. 4894 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

3) Resolution declaring costs for Project No. 4894 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

4) Resolution declaring costs for Project No. 4894 (10-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

5) Resolution declaring costs for diseased tree removal - Project No. 4902 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

6) Resolution declaring costs for diseased tree removal - Project No. 4902 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

7) Resolution declaring costs for diseased tree removal - Project No. 4902 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

8) Resolution declaring costs for diseased tree removal - Project No. 4902 (10-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.

9) Resolution declaring costs for 2015 city court fines, Project No. 1020 (1-year), ordering the preparation of special assessment roll, and scheduling a public hearing.
Submitted through:
   Geralyn Barone, City Manager
   Perry Vetter, Assistant City Manager
   Merrill King, Finance Director
   Colin Schmidt, City Assessor
   John Weinand, Environmental Health Supervisor
   Emily Ball, City Forester

Originated by:
   Denise Ostlund, Assessment Specialist
Resolution No. 2015-

Resolution declaring costs for Project No. 4894 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2015 over a one-year time period bearing an interest rate of 2.28 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a one-year term bearing an interest rate of 2.28 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-425</td>
<td>3327</td>
<td>Shores Blvd</td>
<td>17-117-22-24-0069</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-429</td>
<td>16834</td>
<td>Excelsior Blvd</td>
<td>32-117-22-21-0061</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-445</td>
<td>5114</td>
<td>Clear Spring Rd</td>
<td>29-117-22-32-0037</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-447</td>
<td>10604</td>
<td>Crestridge Dr</td>
<td>01-117-22-31-0012</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-448</td>
<td>14222</td>
<td>Bellevue Dr</td>
<td>27-117-22-32-0014</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-452</td>
<td>12916</td>
<td>Shady Dale Rd</td>
<td>22-117-22-44-0009</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-453</td>
<td>810</td>
<td>Sunset Dr S</td>
<td>03-117-22-14-0023</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-457</td>
<td>3105</td>
<td>Shores Blvd</td>
<td>17-117-22-21-0004</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-458</td>
<td>4261</td>
<td>Woodhill Rd</td>
<td>22-117-22-32-0001</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-459</td>
<td>4815</td>
<td>Ridge Rd</td>
<td>30-117-22-23-0104</td>
<td>$168.33</td>
</tr>
<tr>
<td>N-439</td>
<td>15309</td>
<td>Skyview Rd</td>
<td>21-117-22-24-0044</td>
<td>$268.33</td>
</tr>
<tr>
<td>N-444</td>
<td>4600</td>
<td>Fairhills Rd W</td>
<td>28-117-22-22-0019</td>
<td>$268.33</td>
</tr>
</tbody>
</table>
2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.

2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:  
Seconded by:  
Voted in favor of:  
Voted against:  
Abstained:  
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

__________________________________
David E. Maeda, City Clerk
Resolution No. 2015-

Resolution declaring costs for Project No. 4894 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2015 over a three-year time period bearing an interest rate of 2.87 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a three-year term bearing an interest rate of 2.87 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-450</td>
<td>16906</td>
<td>Minnetonka Blvd</td>
<td>17-117-22-24-0032</td>
<td>$1,412.58</td>
</tr>
<tr>
<td>N-432</td>
<td>4826</td>
<td>Royal Oaks Dr</td>
<td>27-117-22-14-0069</td>
<td>$1,536.65</td>
</tr>
<tr>
<td>N-455</td>
<td>5117</td>
<td>Beacon Hill Rd</td>
<td>28-117-22-41-0050</td>
<td>$2,904.98</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Subtotal</td>
<td>$5,854.21</td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

Terry Schneider, Mayor

Attest:

________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:  
Seconded by:  
Voted in favor of:  
Voted against:  
Abstained:  
Absent:  
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

________________________
David E. Maeda, City Clerk
Resolution No. 2015-

Resolution declaring costs for Project No. 4894 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2015 over a five-year time period bearing an interest rate of 3.27 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a five-year term bearing an interest rate of 3.27 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-438</td>
<td>11806</td>
<td>Cedar Lake Rd</td>
<td>11-117-22-43-0015</td>
<td>$3,141.63</td>
</tr>
<tr>
<td>N-434</td>
<td>12525</td>
<td>Ridgemount Ave W</td>
<td>02-117-22-22-0014</td>
<td>$3,619.19</td>
</tr>
<tr>
<td>N-428</td>
<td>3320</td>
<td>Chippewa Rd</td>
<td>13-117-22-13-0081</td>
<td>$4,880.91</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Subtotal</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$11,641.73</td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

__________________________________________
Terry Schneider, Mayor

Attest:

__________________________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: 
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

__________________________________________
David E. Maeda, City Clerk
Resolution No. 2015-
Resolution declaring costs for Project No. 4894 (10-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2015 over a ten-year time period bearing an interest rate of 4.20 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a ten-year term bearing an interest rate of 4.20 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-430</td>
<td>5109</td>
<td>Baker Rd</td>
<td>27-117-22-41-0039</td>
<td>$6,528.16</td>
</tr>
<tr>
<td>N-442</td>
<td>2895</td>
<td>Ella La</td>
<td>11-117-22-33-0069</td>
<td>$15,090.60</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Subtotal</td>
<td>$21,618.76</td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

David E. Maeda, City Clerk
Resolution No. 2015-

Resolution declaring costs for diseased tree removal – Project No. 4902 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2015 over a one-year time period bearing an interest rate of 2.28 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a one-year term bearing an interest rate of 2.28 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-32</td>
<td>3516</td>
<td>Arbor La</td>
<td>14-117-22-31-0033</td>
<td>$65.47</td>
</tr>
<tr>
<td>T-2</td>
<td>3704</td>
<td>Cardinal Rd</td>
<td>15-117-22-33-0049</td>
<td>$83.32</td>
</tr>
<tr>
<td>T-55</td>
<td>14723</td>
<td>Oakways Ct</td>
<td>04-117-22-41-0038</td>
<td>$95.22</td>
</tr>
<tr>
<td>T-28</td>
<td>1908</td>
<td>Welland Ave</td>
<td>01-117-22-34-0024</td>
<td>$130.95</td>
</tr>
<tr>
<td>T-36</td>
<td>4714</td>
<td>Fairhills Rd E</td>
<td>28-117-22-22-0025</td>
<td>$154.75</td>
</tr>
<tr>
<td>T-57</td>
<td>18521</td>
<td>Beaverwood Rd</td>
<td>30-117-22-24-0034</td>
<td>$249.97</td>
</tr>
<tr>
<td>T-54</td>
<td>16700</td>
<td>Picha La</td>
<td>32-117-22-42-0029</td>
<td>$327.37</td>
</tr>
<tr>
<td>T-49</td>
<td>4835</td>
<td>Deerwood Dr</td>
<td>27-117-22-13-0030</td>
<td>$392.76</td>
</tr>
<tr>
<td>T-26</td>
<td>14618</td>
<td>Oakwood Rd</td>
<td>21-117-22-14-0004</td>
<td>$630.91</td>
</tr>
<tr>
<td>T-30</td>
<td>3600</td>
<td>Druid La</td>
<td>17-117-22-31-0069</td>
<td>$534.38</td>
</tr>
</tbody>
</table>

Subtotal $2,665.10
2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.

2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

________________________________________
Terry Schneider, Mayor

Attest:

________________________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

________________________________________
David E. Maeda, City Clerk
Resolution No. 2015-

Resolution declaring costs for diseased tree removal – Project No. 4902 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2015 over a three-year time period bearing an interest rate of 2.87 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a three-year term bearing an interest rate of 2.87 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-13</td>
<td>11321</td>
<td>Friar La</td>
<td>14-117-22-41-0026</td>
<td>$1,190.42</td>
</tr>
<tr>
<td>T-39</td>
<td>3907</td>
<td>Victoria St</td>
<td>21-117-22-21-0009</td>
<td>$1,473.14</td>
</tr>
<tr>
<td>T-67</td>
<td>12814</td>
<td>Excelsior Blvd</td>
<td>27-117-22-11-0021</td>
<td>$2,019.94</td>
</tr>
<tr>
<td>T-73</td>
<td>2216</td>
<td>Black Oak Dr</td>
<td>11-117-22-12-0034</td>
<td>$2,872.80</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Subtotal</td>
<td>$7,556.30</td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

________________________________________
Terry Schneider, Mayor

Attest:

________________________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

________________________________________
David E. Maeda, City Clerk
Resolution No. 2015-

Resolution declaring costs for diseased tree removal – Project No. 4902 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2015 over a five-year time period bearing an interest rate of 3.27 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a five-year term bearing an interest rate of 3.27 percent:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-48</td>
<td>n/a</td>
<td>Baker Rd &amp; Brenwood Tr</td>
<td>22-117-22-43-0002</td>
<td>$3,142.13</td>
</tr>
<tr>
<td>T-52</td>
<td>16436</td>
<td>Eagle Ridge Dr</td>
<td>20-117-22-42-0059</td>
<td>$3,321.68</td>
</tr>
<tr>
<td>T-72</td>
<td>n/a</td>
<td>Hwy 7 &amp; Shady Oak Rd</td>
<td>23-117-22-13-0067</td>
<td>$4,152.10</td>
</tr>
</tbody>
</table>

Subtotal: $13,859.03

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

David E. Maeda, City Clerk
Resolution No. 2015-

Resolution declaring costs for diseased tree removal – Project No. 4902 (10-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. State law allows the city to make improvements to abate nuisances and allows the city to assess those improvement costs against the benefitting properties.

1.02. City code section 845.045 provides the method by which the city may abate public nuisances. The abatement may take place through an agreement with the property owner, by order of the enforcing officer, or by order of the city council.

1.03. Listed below are the nuisance abatement improvement projects that are proposed to be specially assessed in 2015 over a ten-year time period bearing an interest rate of 4.20 percent. These improvements are categorized as general nuisance abatements or as diseased tree removals.

Section 2. Council Action.

2.01. The costs for the following nuisance abatement improvement projects are proposed to be specially assessed over a ten-year term bearing an interest rate of 4.20 percent:

<table>
<thead>
<tr>
<th>2015 Diseased Tree Removal – Project No. 4902 (10-year term)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project No.</strong></td>
</tr>
<tr>
<td>T-71</td>
</tr>
<tr>
<td>T-69</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.
2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At this public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.

2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with state law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

David E. Maeda, City Clerk
Resolution No. 2015-
Resolution declaring costs for 2015 city court fines, Project No. 1020 (1-year), ordering the preparation of special assessment roll, and scheduling a public hearing

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The city charter section 8.03 and city code section 1310.050 allow the city to impose civil penalties for violations of city code and to assess those penalties against the properties that were the location of activities that resulted in the penalties.

1.02. City code section 1310.050 provides the method by which civil penalties may be collected in those cases where a penalty has been imposed and is not paid within the time specified.

1.03. Listed below are the city court fines imposed in 2015 that are proposed to be specially assessed over a one-year time period bearing an interest rate of 10 percent. These assessments are categorized as city court fines.

Section 2. Council Action.

2.01. The costs for the following city court fines are proposed to be specially assessed:

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Street No.</th>
<th>Street Name</th>
<th>PID</th>
<th>Assessment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1020</td>
<td>1010</td>
<td>Hillside La W</td>
<td>12-117-22-12-0042</td>
<td>$1,200.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Total</td>
<td>$1,200.00</td>
</tr>
</tbody>
</table>

2.02. The city clerk is directed to calculate the special assessment rolls to show the proper amount to be specially assessed against each designated property. The city clerk is also directed to keep a copy of the proposed special assessment rolls in the clerk’s office for public inspection.

2.03. A public hearing will be held on September 28, 2015, in the council chambers of the City of Minnetonka at 6:30 p.m. to consider the proposed special assessments. At the public hearing, all persons owning affected property will be given an opportunity to be heard with reference to the special assessments.
2.04. The city clerk is directed to publish notice of the public hearing one time in the official newspaper at least two weeks prior to the hearing and to mail notice of the public hearing to the owner of each parcel described in the assessment rolls, in accordance with applicable law.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

________________________
Terry Schneider, Mayor

Attest:

________________________
David E. Maeda, City Clerk

**Action on this resolution:**

- Motion for adoption:
- Seconded by:
- Voted in favor of:
- Voted against:
- Abstained:
- Absent:
- Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on August 31, 2015.

________________________
David E. Maeda, City Clerk
City Council Agenda Item #10B  
Meeting of August 31, 2015

Brief Description: Amendment to the conservation easement for 1906 Linner Woods Court

Recommended Action: Approve the amendment

Background

On May 23, 2005 the city council approved the final plat for Linner Woods 2nd Addition and conservation easements were dedicated over portions of the property for the benefit of the city dated May 31, 2005, filed August 8, 2005. Please refer to the attached document.

The property owner is requesting an addendum to the agreement to correct an encroachment which consist of a large permanent play structure with retaining walls.

In November 2009, the applicant purchased the lot at 1906 Linner Woods Court with intent to build a home with Keith Waters & Associates. They were attracted to the lot because of the wooded character and the knowledge that a conservation easement was in place that would protect the woods from any further construction.

Before purchasing the lot they asked their builder if there would be enough room outside of the conservation easement to have a play area for their children and were assured that there would be enough room.

As they completed plans for the house, their builder provided a copy of the plans with some potential areas for a trampoline and a play set. The play set was close to, but outside of the conservation easement area.

Over the past few years they removed a fair amount of buckthorn and lost about 7 large trees to storms, and planted 10 new trees in their place. When they lost several large trees in the summer of 2013 they installed the play set in the area that they perceived to be outside of the conservation easement area. The play set is a large Crown Outback set (similar to Rainbow brand) which they installed with extensive edging, rubber mulch, and a small retaining wall to protect the trees in the easement area.

When their neighbors’ lot at 1912 Linner Woods Court was surveyed in December 2013, they realized that the information they received about their property boundary was incorrect. They needed to move a few of their newly planted trees, their irrigation system and their cable line off of the newly surveyed neighbor’s property. At that time they presumed that the conservation easement information may also be incorrect.
During the winter of 2014 while inspecting erosion control fencing for the new home construction at 1912 Linner Woods Court, city staff discovered the encroachment into the conservation easement.

Staff has been working with the applicant over the last year to try to achieve a compromise that allows the play set to remain and to “swap” the land area for a new conservation easement area. Please refer to the attached graphic for the proposed “swap” of conservation easement area.

Staff believes that the property owners are well intentioned and truthful about the past events relating to this encroachment and they are now trying to correct the problem. The compromise would provide greater benefit and meet the councils’ intent of requiring the easement as part of the Linner Woods 2nd Addition plat for three reasons:

1. It allows the city to retain the same size of conservation easement that is requested to be removed;

2. It allows existing large trees to be placed in the “new” easement area (the trees in the existing easement have been removed due to storm damage); and

3. The property owners have begun and are willing to continue to restore the woodland character of their lot. Restoration was not required as part of the original easement requirement.

If approved the landowner is required to survey the new easement and file the amended agreement with the county. Please refer to the attached agreement.

**Recommendation**

Approve the amendment.

Submitted through:
- Geralyn Barone, City Manager
- Brian Wagstrom, Public Works Director
- Corrine Heine, City Attorney

Originated by:
- Jo Colleran, Natural Resources Manager
THIS INDENTURE, is made 31st, day of May, 2005, by and between CoPar Development, LLC, a Minnesota Limited Liability Company ("Grantor"), and the CITY OF MINNETONKA, a Minnesota municipal corporation ("grantee").

A. Grantor is the owner of certain real property located in the City of Minnetonka, County of Hennepin, State of Minnesota, legally described on attached Exhibit A (the "property").

B. On May 23, 2005, the City Council of the City of Minnetonka granted Grantor's application for Linner Woods Final Plat for the Property.

C. As a condition of the approval, the City required Grantor to dedicate a conservation easement over a portion of the Property, legally described on attached Exhibit B (the "Easement Property") and depicted on attached Exhibit C.

NOW THEREFORE, in consideration of the City's approval and in satisfaction of the condition imposed, Grantor hereby grants and conveys unto the Grantee a conservation easement over, under and across the Easement Property. The terms of this easement are as follows:

1. Except as permitted by this paragraph, no action of any kind shall be undertaken to change or disturb the landscaping, open spaces, wetlands, and vegetation existing as of this date. No structures may be built, no grading may be done, no improvements of any kind may be made, and no earthen material may be removed from or placed on the Easement Property. The Easement Property shall remain in all respects undisturbed, except that Grantor may clear any debris including dead vegetation from the Easement Property, may remove invasive non-native vegetation such as European buckthorn, and may engage in other environmental management practices approved by Grantee.

2. Grantee may enter upon the Easement Property for the purposes of inspection and enforcement of this easement and may take whatever actions are necessary to restore the Easement Property to its undisturbed nature. Further, Grantee may enforce the terms of this easement by any proceeding in law or in equity to restrain violation, to compel compliance, or to recover damages, including attorneys' fees and costs of the enforcement actions. Grantor shall not be liable for the actions of any third party, other than its employees, agents or contractors, which may violate the
terms of this easement, unless Grantor, its employees, agents or contractors had actual knowledge of
the violation and failed to take reasonable action to stop the violation.

3. Failure to enforce any provision of this easement upon a violation of it shall not be
deemed a waiver of the right to do so as to that or any subsequent violation.

4. Invalidation of any of the terms of this easement shall in no way affect any of the
other terms, which shall remain in full force and effect.

5. This easement does not convey a right to the public use of the Easement Property nor
does it convey any right of possession in the Easement Property to the public or the Grantee. Access
by the Grantee to the Easement Property shall be limited to access necessary for purposes of
inspection and enforcement as specified in paragraph 2 above. Grantee shall not be entitled to share
in any award or other compensation given in connection with a condemnation or negotiated
acquisition of all or any part of the Easement Property by any authority having the power of eminent
domain. Grantee hereby waives any right it may have to such an award or compensation.

6. Acceptance of this easement by the Grantee and the recording of this document shall
constitute the Grantee's consent to be bound by its terms.

7. This easement shall run with the Easement Property and be binding on the Grantor, its
successors and assigns, and inure to the benefit of the Grantee, its successors and assigns.

IN WITNESS WHEREOF, Grantor has executed this indenture on the date first written
above.

By: ____________________________
   Its: President

STATE OF MINNESOTA

COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this 31st day of May, 2005, by
Thomas D. Hansen, the President of CoPar Development, LLC, a Minnesota Limited Liability
Company, on behalf of the Company.

DRAFTED BY:
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345
952-939-8200

Notary Public

JULIE ANN MURPHY
Notary Public
State of Minnesota
My Commission Expires
January 31, 2010
Exhibit A

Property Description

Lots 1, 2, 3, 4, 5 and 6 Linner Woods 2nd Addition
Exhibit B

Conservation Easement

An easement for conservation purposes over, under and across the north 40 feet of Lot 3, Block 1, Linner Woods 2nd Addition, according to the recorded plat thereof, Hennepin County, Minnesota

And

An easement for conservation purposes over, under and across that part of Lot 4, Block 1, Linner Woods 2nd Addition, according to the recorded plat thereof, Hennepin County, Minnesota, lying north westerly of the following described line:

Beginning at a point on the east line of said lot distant 40 feet south of the northeast corner of said lot; thence southwesterly to a point on the southwesterly line of said lot distant 125.00 feet southeasterly of the northwest corner of said lot and said line there terminating.

And

An easement for conservation purposes over, under and across that part of Lot 5, Block 1, Linner Woods 2nd Addition, according to the recorded plat thereof, Hennepin County, Minnesota, lying northwesterly of the following described line:

Beginning at a point on the northeasterly line of said lot distant 125.00 feet southeasterly of the northeast corner of said lot; thence southwesterly to a point on the southwesterly line of said lot distant 224.00 feet easterly of the southwest corner of said lot and said line there terminating.

And

An easement for conservation purposes over, under and across the west 215 feet of Lot 6, Block 1, Linner Woods 2nd Addition, according to the recorded plat thereof, Hennepin County, Minnesota.
LINNER WOODS 2ND ADDITION
CONSERVATION EASEMENT EXHIBIT

Conservation Easement
An easement for conservation purposes over, under and across the north 40 feet of Lot 2, Block 1, Linner Woods 2nd Addition, according to the recorded plat thereof, Hennepin County, Minnesota.

And
An easement for conservation purposes over, under and across the north 40 feet of Lot 2, Block 1, Linner Woods 2nd Addition, according to the recorded plat thereof, Hennepin County, Minnesota, lying northwesterly of the following described line:
Beginning at a point on the east line of said lot distant 40 feet south of the northeast corner of said lot; thence southwesterly to a point on the southwesterly line of said lot distant 125.00 feet southeasterly of the northwest corner of said lot and said line there terminating.

And
An easement for conservation purposes over, under and across the north 40 feet of Lot 2, Block 1, Linner Woods 2nd Addition, according to the recorded plat thereof, Hennepin County, Minnesota, lying northwesterly of the following described line:
Beginning at a point on the northwesterly line of said lot distant 125.00 feet southeasterly of the northeast corner of said lot; thence southwesterly to a point on the southwesterly line of said lot distant 225.00 feet southeasterly of the southwest corner of said lot and said line there terminating.

And
An easement for conservation purposes over, under and across the west 215 feet of Lot 6, Block 1, Linner Woods 2nd Addition, according to the recorded plat thereof, Hennepin County, Minnesota.
ADDENDUM # 1 TO CONSERVATION EASEMENT

THIS ADDENDUM TO CONSERVATION EASEMENT is entered into this ____ day of ___________________, 2015 by Bryan Nelson and Janice Sinclair, husband and wife (“Owners”) and the City of Minnetonka, a municipal corporation under the laws of the State of Minnesota (“the City”), and consented to by ______________________, mortgagee.

RECITALS:

A. Owners are the owners of the following described property located in Hennepin County, Minnesota:

Lot 5, Block 1, Linner Woods 2nd Addition

(“the Property”).

B. The Property is subject to a Conservation Easement for the benefit of the City dated May 31, 2005, filed August 8, 2005, and recorded in the office of the Registrar of Titles, Hennepin County, Minnesota as Document No. 4145428 (“the Conservation Easement”).

C. Owners have requested that the area covered by the Conservation Easement be changed to a small degree. The City is willing to do so in this case because the size of the area is generally the same as the current area and the natural resources will be restored and protected by the Conservation Easement.

Therefore, the parties agree that the Conservation Easement is amended to change the legal description of the Conservation Easement Area to read as shown on attached Exhibit A.

The configuration of the revised Conservation Easement Area is shown on attached Exhibit B.

All of the terms and conditions of the Conservation Easement shall continue to apply to the Conservation Easement Area, as described and amended in this addendum.
IN WITNESS WHEREOF, the parties have executed this indenture on the date first written above.

[Signature pages follow]
The foregoing instrument was acknowledged before me on ________________, by Bryan Nelson and Janice Sinclair, husband and wife.

Notary Public
SIGNATURE PAGE AND ACKNOWLEDGMENT
OF CITY OF MINNETONKA

CITY OF MINNETONKA

By ____________________________
   Its Mayor

And: ____________________________
   Its City Manager

STATE OF MINNESOTA )
   ) SS
COUNTY OF _________)

The foregoing instrument was acknowledged before me this ___ day of ____________,
_____, by Terry Schneider and Geralyn Barone, the Mayor and City Manager respectively of
the City of Minnetonka, on behalf of the corporation.

____________________________________
Notary Public
SIGNATURE PAGE AND ACKNOWLEDGMENT
OF MORTGAGEE

____________________________________
(mortgagee)

By: _____________________________

Its: _____________________________

STATE OF ____________
COUNTY OF ____________

SS

The foregoing instrument was acknowledged before me on ____________________________,
by ____________________________, the ____________________________
of ____________________________, on behalf of the corporation.

____________________________________
Notary Public

Drafted by:

City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345
952-939-8200
LEGAL DESCRIPTION:
Lot 5, Block 1, LINNER WOODS 2ND ADDITION, Hennepin County, Minnesota.
Address: 1906 Linner Woods Court

BENCHMARK:
TOP NUT OF HYDRANT AT CORNER OF LOTS 4 & 5, BLOCK 1 AND LINNER WOODS COURT HAS AN ELEVATION OF 1002.81 FEET N.G.V.D.

LEGEND:
- 934.0 EXISTING ELEVATION
- 934.0 PROPOSED ELEVATION
- DIRECTION OF DRAINAGE
- UGW UNDERGROUND WATER
- LFE LOWER FLOOR ELEVATION
- TC TOP OF CURB
- ORIGINAL PLAT MONUMENT FOUND
- IRON MONUMENT SET NO. 18425
- TRANSFORMER
- TELEPHONE BOX
- CABLE TV BOX
- FIRE HYDRANT
- WATER VALVE
- SANITARY MANHOLE
- SILT FENCE
- TREE PROTECTION FENCE

NOTES:
1. BUILDING DIMENSIONS SHOWN ARE TO OUTSIDE FOUNDATION WALL. ALL DIMENSIONS AND LOCATIONS ARE TO BE VERIFIED IN THE FIELD WITH THE ARCHITECTURAL PLANS.

PROPOSED ELEVATIONS:
TOP OF MAIN FOUNDATION = 1000.79
GARAGE FLOOR = 1001.19
LOWER FLOOR ELEVATION = 999.07
REAR = 990.4

LOT AREA:
LOT AREA = 60,911 SQ. FT. OR 1.398 ACRES
IMPERVIOUS AREA = 3,817 SQ. FT (6.3%)
BUILDING FOOTPRINT AREA = 2,631 SQ. FT.

04/30/10: REVISED PER CLIENT

Scale: 1" = 40'

Design File: 100024

Checked By: DE

Certificate of Survey
MINNETONKA, MINNESOTA

Nelson-Sinclair Residence

Alliant Engineering, Inc.
233 Piven Ave. South, Suite 300
Minneapolis, MN 55404
Phone (612) 758-3080
Fax (612) 753-3099
In November 2009, we became very interested in purchasing the lot at 1906 Linner Woods Court with intent to build a home with Keith Waters & Associates (KWA). We were attracted to the lot largely because of the lovely woods and the knowledge that a conservation easement was in place that would protect the trees and woods and prevent any additional construction other than our potential house and possibly one at the other remaining lot at 1912 Linner Woods Ct.

Before making an offer on the lot, Keith Waters contacted the City of Minnetonka at our request to determine whether we’d be able to have a small area of leveled backyard close to the rear of our house, as well as enough room to potentially place a play set further down the yard in the future. At the time, it was difficult to walk through the lot with plenty of buckthorn, shrubs, and tree branches, but with Keith’s drawings, we were assured we would be able to have a fair-sized area for our girls to play and place a trampoline and play set in the future. As you will know, Keith Waters & Associates went bankrupt at the end of 2013. We now understand KWA had a high priority to try to build some homes during this time, and likely wanted to encourage the impression of a bigger size of usable backyard as we were considering whether to make an offer on the lot.

As we completed plans for the house, we were provided a copy of the plans with some positions marked for where we could place a trampoline close to the house, and where a play set could go close to the edge of conservation easement line. KWA also discussed with us that we could remove any trees that fall down in storms or become diseased, as well as buckthorn and other invasive plant species. We have removed a fair amount of buckthorn and have lost about 7 trees to storms in the last 2-3 years, and have planted 10 new ones in their place.

When we lost several large trees in the summer of 2013 during the June storms, we had to have the fallen trees cleared and put in a play set at that time. In December of 2013, we learned we were given misinformation on the exact location of the lot line with our new neighbors’ lot at 1912, when we discovered that a few of the new trees we planted were actually on their lot (also evident when we had our lawn sprinkler and cable line severed due to this situation as well). So, we realized that since we were not accurately informed of the border between the two houses, the information we received on our back yard area was not accurate either.

We do not want to place blame solely on our builder, as in hindsight we realize we could have requested a survey rather than taking their word, however we are now in a situation for which we would like to find and offer a solution which will hopefully be favorable to the city as well as for our established landscaping.

Our play set is a large Crown Outback set (similar to Rainbow brand) which we had installed with extensive edging, rubber mulch, and a small retaining wall placed at one edge to protect the trees to the rear of the play set (where we thought the conservation
It has been a very nice neighborhood play set, with all the surrounding houses making use of it, to the effect of having a small park area at their disposal. We were quite surprised to learn the play set location was actually within the conservation easement when the City of Minnetonka Natural Resources Specialists informed us of the concern in the summer of 2014.

It is our hope and intent to live in our house until we retire, so it is very much in our interest to make amends for our error. Since we have very little additional yard space without a slope, it would be very difficult to have our play set moved (not to mention very costly), so we are requesting an amendment to our current conservation easement to allow the play set to stay in place, and instead we would be willing to place some areas of our back yard INTO a conservation easement area in place for that upon which we have encroached with the play set. In other words, offering a “swap” of a similar square footage of areas of our yard currently outside of the conservation easement to be placed into the conservation easement.

We have attached some drawings and photos of our lot, indicating the areas of our lot we would place into a conservation easement area, with plans to plant additional shrubs and undergrowth plants (such as serviceberry, dogwood, honeysuckle, lady fern, wild geranium, columbine, and others as recommend by Minnetonka’s Dept of Natural Resources and restoration landscapers) for the restoration of the woods, sub canopy, and shrub and ground layers.

We would plan to plant these “replacement areas” as soon as possible (spring and summer 2015), as well as create a long-term plan to help improve our lot’s conservation easement area over the next 20 years to remove the buckthorn and restore the natural forestation there as well, anticipating and expecting that the costs to us will exceed the costs of the play set and installation.

We hope that this meets with the approval of the City of Minnetonka, and we look forward to working closely with the Department of Natural Resources to bring our forest restoration project to successful fruition.

Sincerely,
Bryan Nelson & Janice Sinclair
Homeowners, 1906 Linner Woods Court, Minnetonka.
City Council Agenda Item #10C
Meeting of August 31, 2015

Brief Description
Resolution approving the final plat of APPLEWOOD POINTE OF MINNETONKA

Recommendation
Adopt the resolution approving the final plat

Background
On January 26, 2015, the city council approved various items associated with Applewood Pointe of Minnetonka; one of these approvals was a preliminary plat. Though a plat is not technically required to facilitate construction of the senior cooperative building, platting the property would simplify legal descriptions and dedication of easements. The final plat would be known as APPLEWOOD POINTE OF MINNETONKA.

Request
At this time United Properties is requesting approval of the APPLEWOOD POINTE OF MINNETONKA final plat. All of the conditions required for final plat approval have been met. (A1–A2.)

Staff Recommendation
Adopt the resolution on pages A3–A5, which approves the APPLEWOOD POINTE OF MINNETONKA final plat received August 25, 2015. Approval is subject to the following conditions:

1. Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and

2. Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

Submitted through:
Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Originated by:
Susan Thomas, AICP, Principal Planner
Location Map
Project: Applewood Pointe
Applicant: Alex Hall, United Properties
Address: 12201 Minnetonka Blvd.
(00007.14a)
Resolution No. 2015-

Resolution approving the final plat of
APPLEWOOD POINTE OF MINNETONKA

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 United Properties has requested final plat approval of APPLEWOOD POINTE OF MINNETONKA.

1.02 The property to be included in the plat is legally described on EXHIBIT A of this resolution.

1.03 On January 26, 2015, the city council approved the APPLEWOOD POINTE OF MINNETONKA preliminary plat.

1.04 All of the conditions required for final plat approval have been met.

Section 2. Council Action.

2.01 The city council approves the final plat of APPLEWOOD POINTE OF MINNETONKA. Approval is subject to the following conditions:

1. Compliance with all preliminary plat conditions.

2. Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

Terry Schneider, Mayor
ATTEST:

_________________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 31, 2015.

_________________________________
David E. Maeda, City Clerk
EXHIBIT A

All that part of the East 1/2 of the West 1/2 of Section 14, Township 117 North, Range 22 West of the 5th Principal Meridian, lying Southerly of County Road No. 5 and Northeasterly of the right-of-way of the Minneapolis and St. Louis Railway Company and West of a line drawn parallel with and 489 feet at right angles West of the North and South center line of said Section 14, EXCEPT that part of the above described tract described as follows:

Beginning at the intersection of the West line of the Southeast 1/4 of the Northwest 1/4 of said Section 14 with the Northerly right-of-way line of the Minneapolis and St. Louis Railway Company, thence North along said West line to the South line of County Road No. 5; thence North 77 degrees 49 minutes East 57.72 feet along the Southerly line of said road; thence Easterly along the Southerly line of said road on a tangential curve to the right with a radius of 2,831.65 feet, a distance of 92.28 feet; thence South parallel with the West line of the Southeast 1/4 of the Northwest 1/4 of said Section 14 to the Northerly right-of-way of the Minneapolis and St. Louis Railway Company; thence Westerly along said railroad right-of-way line to the point of beginning, Hennepin County, Minnesota.
City Council Agenda Item #10D  
Meeting of August 31, 2015

**Brief Description**  
Amendment of the on-sale liquor license for Redstone American Grill, Inc., 12401 Wayzata Boulevard

**Recommendation**  
Approve the amendment

**Background**

Redstone American Grill is proposing to operate a restaurant within Ridgedale mall; the existing Redstone restaurant located on the south side of Ridgedale Drive would be relocated to the proposed site. The applicant is requesting an amendment to their license for the relocation of the restaurant to Ridgedale mall.

**Business Ownership & Operations**

There are no changes in the business ownership of Redstone American Grill, Inc. or the operation of the restaurant. The amended license will include the outdoor seating area in the licensed premise area. (See pages A1-A2.)

**Recommendation**

Staff recommends that the city council approve the request for an amendment to the liquor license to relocate Redstone American Grill to Ridgedale Mall.

Submitted through:

- Geralyn Barone, City Manager
- Julie Wischnack, AICP, Community Development Director

Originated by:

- Kathy Leervig, Community Development Coordinator
NORTH ELEVATION

NOREAST VIEW - NIGHT

NOREAST VIEW - DAY

NORTHWEST VIEW

EAST VIEW

EXISTING MALL FINISHES
EXISTING MALL ENTRANCE

1'-8" X 1'-8" DARK FINISHED METAL MEDALLIONS - BACK-LIT

NATURAL BOULDERS FOR PATIO ENCLOSURE

3/16" = 1'-0"

BACK-LIT SIGNAGE
BLACK METAL STANDING SEAM ROOFING AND FASCIA

EXISTING MALL FINISHES
NORDSTROM'S FACADE
PRE-FINISHED ALUMINUM STOREFRONT SYSTEM
5' X 5' DARK FINISHED METAL MEDALLION
CAST STONE PANELS WITH INTEGRAL BANDING AND REVEALS
PRE-FINISHED METAL PANEL WITH 2" RELIEF
PRE-FINISHED STEEL PERGOLA
NATURAL STONE VENEER
BLACK BURNISHED CONCRETE BLOCK

1080, 2nd Floor
Ridgedale Center
12401 Wayzata Boulevard
Minnetonka, MN 55305

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.
City Council Agenda Item #10E
Meeting of August 31, 2015

**Brief Description**
Resolution ordering the abatement of nuisance conditions existing at 3348 Plymouth Road

**Recommendation**
Adopt the resolution

**Background**

As described in the attached resolution, the property at 3348 Plymouth Road has been found to be in violation of the diseased tree portion of the city’s nuisance ordinance based on recent inspections by the natural resource staff (Minnetonka City Code, Section 840.020). The violation is the presence of two elm trees dying of Dutch elm disease in the back yard; a 38-inch diameter tree and a 34-inch diameter tree (photos attached). The property owner has been provided four violation notices and has had ample time to bring the property into compliance (summary table attached).

A final re-inspection will be conducted on August 31, 2015. If the property is brought into compliance, it will be recommended that it be removed from the council agenda.

The resolution describes findings and orders the abatement of the condition noted above. If the resolution is adopted, staff will arrange for abating the nuisance. The city has received three quotes including tax in the amounts of $7,991.99, $5,900.13 and $5,821.81. The lowest bid was from SavaTree, and as provided by the City Code, the property owner will become liable for these costs. If the fees are not paid, the costs will be recommended for special assessment against the property. The actual cost of the abatement, staff costs and a five percent administrative fee will be assessed against the property over a ten-year period.

**Recommendation**

Staff recommends the council adopt the enclosed resolution ordering the abatement of the nuisance condition.

Submitted through:
Geralyn Barone, City Manager
Brian Wagstrom, Public Works Director

Originated by:
Jo Colleran, Natural Resources Manager
Emily Ball, City Forester
Resolution No. 2015-

Resolution ordering the abatement of nuisance conditions at 3348 Plymouth Road

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The natural resources division/public works department and/or their contractor representative have inspected the following property, on the dates listed:

<table>
<thead>
<tr>
<th>Property</th>
<th>Inspection Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3348 Plymouth Road</td>
<td>July 1, 2015</td>
</tr>
<tr>
<td></td>
<td>August 4, 2015</td>
</tr>
<tr>
<td></td>
<td>August 12, 2015</td>
</tr>
</tbody>
</table>

1.02 Nuisance conditions were observed on this property at the first inspection of July 1, 2015, an initial Ordinance Violation Notice was left on the door, and sent via mail. On August 4, 2015, the property was inspected again, and another Ordinance Violation Notice was left on the door. A fourth Ordinance Violation Notice was mailed via regular mail and certified mail on August 25, 2015 which included the quote from a contractor and the hearing date.

1.03 A written report has been filed detailing the findings of the inspections and these findings have been conveyed to the city council.

Section 2. Findings.

2.01. The city council finds and declares the property listed above to be in violation of Ordinance 840.020 and constitutes a public nuisance due to the presence of two elm trees dying of Dutch elm disease; the first tree is 38-inches in diameter and the second tree is 34-inches in diameter. The property owner had 30 days to abate the nuisance, the required removal date was July 31, 2015.

2.02. It is in the public’s best interest to have these nuisance conditions abated.

Section 3. Council Action.

3.01. The city manager is hereby authorized to abate the Nuisance Conditions on the property listed above using city personnel and equipment or by private contract.

3.02. The cost of abatement shall be recorded and become the personal responsibility of the owner of record. If unpaid, the clerk shall list such costs for the city council to consider as a special assessment pursuant to
Ordinance 845.045.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 31, 2015.

_________________________
Terry Schneider, Mayor

Attest:

_________________________
David E. Maeda, City Clerk

**Action on this resolution:**

Motion for adoption:  
Seconded by:  
Voted in favor of:  
Voted against:  
Abstained:  
Absent:  
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly meeting held on August 31, 2015.

_________________________
David E. Maeda, City Clerk
Property: 3348 Plymouth Road

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
<th>Ordinance Violation Notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2015</td>
<td>First Inspection, spoke with a resident on site regarding tree</td>
<td>Notice left with resident on site</td>
</tr>
<tr>
<td>July 2, 2015</td>
<td></td>
<td>Notice sent by mail</td>
</tr>
<tr>
<td>July 31, 2015</td>
<td>Date tree was required to be removed by property owner to be compliant with city code. Property owners have 30 days from first date of inspection.</td>
<td></td>
</tr>
<tr>
<td>August 4, 2015</td>
<td>Second Inspection</td>
<td>Notice left on door</td>
</tr>
<tr>
<td>August 4, 2015</td>
<td>City requested quote from contractor (YTS)</td>
<td></td>
</tr>
<tr>
<td>August 5, 2015</td>
<td>Quote and photos provided by contractor YTS $7,991.99 with tax</td>
<td></td>
</tr>
<tr>
<td>August 12, 2015</td>
<td>Quote provided by contractor Shadywood Tree Experts $5,900.13 with tax</td>
<td></td>
</tr>
<tr>
<td>August 12, 2015</td>
<td>Quote provided by contractor SavaTree $5,821.81 with tax</td>
<td></td>
</tr>
<tr>
<td>August 21, 2015</td>
<td>Third Inspection and photos provided by SavaTree</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contacted property owner by cell phone and email (listed on contractor bid form) to encourage nuisance abatement contract and compliance to avoid hearing on August 31, 2015. Sent copies of all quotes via email. Property owner stated he was working on quotes and would call back with scheduled date.</td>
<td></td>
</tr>
<tr>
<td>August 25, 2015</td>
<td>Notice sent by regular and certified mail to property owner with price quote and hearing date included.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No further communication has been documented by the property owner regarding his plans to remove the tree.</td>
<td></td>
</tr>
</tbody>
</table>
Diseased elms located at 3348 Plymouth Road
City Council Agenda Item #13A  
Meeting of August 31, 2015

**Brief Description**  
On-sale liquor licenses for Kona Sushi, Inc. (Kona Grill),  
12401 Wayzata Boulevard

**Recommendation**  
Continue the public hearing and grant the licenses

**Background**

The city has received an application from Kona Sushi, Inc. (Kona Grill) for on-sale and Sunday on-sale intoxicating liquor licenses for use at a restaurant located in Ridgedale at 12401 Wayzata Blvd. (See page A1-A2).

The application was introduced to the council on June 22 and the final action on this request was scheduled for the July 27 council meeting, but there was a delay in receiving information back from the FBI on the fingerprint cards of one of the owners. The fingerprint cards were not legible and we requested that the applicant submit new fingerprints as part of the background check. The police department requested an extension for more time to complete the background check.

**Business Ownership**

Kona Sushi, Inc. is owned by Kona Restaurant Holdings, Inc. which is owned by Kona Grill, Inc. Kona Grill, Inc. is a publicly traded company. The officers of Kona Sushi, Inc. are Berke Bakay and Christi Hing. Kona Grill, Inc. currently owns and operates 32 restaurants in 19 states and Puerto Rico. Kona Grill, Inc. will be expanding their business with a target of 20% unit growth annually over the next several years. Typically, restaurants are located in high-activity areas such as retail centers, shopping malls, and near commercial office space and residential housing to attract customers throughout the day.

**Business Operations**

Kona Grill is proposing to open a full-service restaurant and bar. The hours of operation are as follows:

<table>
<thead>
<tr>
<th>Day</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sunday</td>
<td>11 am – 9 pm</td>
</tr>
<tr>
<td>Monday – Thursday</td>
<td>11 am – 10 pm</td>
</tr>
<tr>
<td>Friday and Saturday</td>
<td>11 am – 12:00 am</td>
</tr>
</tbody>
</table>

The applicant is proposing seating for 277 with customers. The restaurant will include an enclosed patio for year round use. (See pages A3-A5). Kona Grill anticipates that they will hire and train approximately 80-90 employees.
Kona Grill is projecting the food to liquor ratio as 75% food and 25% alcohol based on other locations.

Kona Grill is committed to serving alcohol responsibly. Managers and staff must take all reasonable steps to prevent underage drinking, overconsumption and to prevent guests from driving under the influence. Kona Grill requires all managers, servers and bartenders to successfully pass ServSafe’s Primary Alcohol Course and Exam in the first week of training. (See pages A6-A11).

Kona Grill is in the process of hiring the general manager of the Ridgedale location. Staff will work with Kona Grill to ensure all managers complete the police background check as required by city ordinance and that they meet the metro-area residency requirements of the city’s liquor ordinance.

**Applicant Information**

Application information and license fees have been submitted. The police department’s report is complete and will be forwarded to the council separately.

**Recommendation**

Staff recommends that the city council continue the public hearing from August 17 and grant the licenses.

Submitted through:

Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Originated by:

Kathy Leervig, Community Development Coordinator
Location Map

Project: Kona Grill

Address: 12401 Wayzata Blvd #1068

This map is for illustrative purposes only.
Kona Grill, Inc.

Kona Grill, Inc. currently owns and operates 32 polished casual restaurants in 19 states and Puerto Rico. Our high-volume polished casual restaurants feature a diverse selection of flavorful American food, internationally influenced appetizers and entrees and an extensive selection of award-winning sushi. Our menu items are prepared from scratch at each restaurant location and incorporate over 40 signature sauces and dressings, creating memorable flavor profiles that appeal to a diverse group of customers. Our diverse menu is complemented by a full service bar offering a broad assortment of wines, specialty cocktails, and beers.

Our restaurants seat an average of 294 customers and are comprised of multiple dining areas that incorporate modern design elements to create an upscale ambiance that reinforces our high standards of food and service. Our main dining area, full-service bar, indoor/outdoor patio, and sushi bar provide a choice of atmospheres and a variety of environments designed to attract new customers and encourage repeat visits from regular customers. We locate our restaurants in high-activity areas such as retail centers, shopping malls, urban entertainment districts, and lifestyle centers that are situated near commercial office space and residential housing to attract customers throughout the day.

We believe that the portability of our concept has been successfully demonstrated in a variety of markets across the United States (U.S.). We plan to grow organically through unit expansion, with a target of 20% unit growth annually over the next several years by strategically expanding the Kona Grill concept in both new and existing markets. Furthermore, given the broad appeal of our concept across the U.S. and the increased demand for polished casual dining concepts overseas, we believe there is a significant opportunity to expand our concept in Latin America, the Middle East and beyond over the long term.
This conceptual design is based upon a preliminary review of entitlement requirements and on unverified and possibly incomplete site and/or building information, and is intended merely to assist in exploring how the project might be developed.
DRAWING INDEX

A0.0 TITLE SHEET
A0.1-A0.2 EXTERIOR RENDERINGS
A1.1 EXIST SITE AND UTILITIES PLAN
A1.2 FLOOR PLAN
A1.3 REFLECTED CEILING PLAN
A2.1-A2.2 EXTERIOR ELEVATIONS
A2.3-A2.16 INTERIOR ELEVATIONS
A6.1-6.3 FINISH SCHEDULE

PROJECT INFO

STORE: KONA - RIDGEDALE
SCOPE: TENANT IMPROVEMENT OF EXISTING SPACE WITHIN A MALL INCLUDES ADDITION OF 1,800 SF EXTERIOR ENCLOSED PATIO.

CODE ANALYSIS

CODE: 2012 IBC
CONSTRUCTION TYPE: TYPE III B
OCCUPANCY: A-2 (RESTAURANT)
FIRE PROTECTION: FULLY SPRINKLERED

AREA CALCULATION

<table>
<thead>
<tr>
<th></th>
<th>SF</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>DINING/BAR</td>
<td>3,651</td>
<td>53</td>
</tr>
<tr>
<td>KITCHEN/BAR</td>
<td>2,500</td>
<td>36</td>
</tr>
<tr>
<td>PUBLIC AREAS</td>
<td>746</td>
<td>11</td>
</tr>
<tr>
<td>NET INTERIOR AREA</td>
<td>6,897</td>
<td>100</td>
</tr>
<tr>
<td>ENCLOSED PATIO</td>
<td>1,875</td>
<td></td>
</tr>
<tr>
<td>TOTAL GROSS AREA</td>
<td>9,064</td>
<td></td>
</tr>
</tbody>
</table>

SEATING CAPACITY

<table>
<thead>
<tr>
<th></th>
<th>TABLES</th>
<th>SEATS</th>
</tr>
</thead>
<tbody>
<tr>
<td>DINING</td>
<td>30</td>
<td>124</td>
</tr>
<tr>
<td>BAR AREA</td>
<td>4</td>
<td>31</td>
</tr>
<tr>
<td>SUSHI</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>LOUNGE</td>
<td>4</td>
<td>13</td>
</tr>
<tr>
<td>TOTAL INTERIOR</td>
<td>37</td>
<td>179</td>
</tr>
<tr>
<td>PATIO DINING</td>
<td>14</td>
<td>56</td>
</tr>
<tr>
<td>PATIO BAR AREA</td>
<td>6</td>
<td>31</td>
</tr>
<tr>
<td>LOUNGE</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>TOTAL EXTERIOR</td>
<td>20</td>
<td>98</td>
</tr>
<tr>
<td>TOTAL</td>
<td>277</td>
<td></td>
</tr>
</tbody>
</table>

ISSUE DATES

<table>
<thead>
<tr>
<th>DATE</th>
<th>ISSUE</th>
<th>OWNER / LANDLORD REVIEW</th>
</tr>
</thead>
<tbody>
<tr>
<td>DD-1.5</td>
<td>3-6-2015</td>
<td>-</td>
</tr>
</tbody>
</table>

PROPOSED KONA GRILL

#1068 RIDGEDALE DR.
Alcohol Awareness

Kona Grill is committed to serving alcohol responsibly. Managers and staff must take all reasonable steps to prevent underage drinking, alcohol overconsumption and to prevent our guests from driving while under the influence of alcohol.

Kona Grill requires all managers, servers and bartenders to successfully pass ServSafe’s Primary Alcohol Course and Exam in their first week of training.

THE LAW

The legal drinking age is 21 in all states. Each state has a specified time after which alcoholic beverages may not be consumed. Please check with your manager for your states legal alcohol serving times.

Third party liability or Dram Shop laws read; the server of alcohol and the restaurant establishment are held liable when a guest consumes alcohol, leaves the premises and then causes injury or death to himself or someone else.

Whenever a guest is drinking too quickly or too much, the server or bartender must notify the manager. Co-workers can incur both civil and criminal liability for serving alcohol to a person who is intoxicated. Co-workers can also be terminated for serving alcohol to a minor and may be subject to a fine by the local liquor control board. Kona Grill will not serve alcohol to anyone, including Co-workers, after closing hours.

IDENTIFICATION REQUEST OR “CARDING”

Request a valid identification of anyone ordering an alcoholic beverage that appears to be under 36 years of age. Notify a manager if you have a problem with this request. Acceptable forms include:
- Valid Driver’s License (US and Canada)
- Valid Military Identification Card
- Valid In-State Identification Card
- Passport

ADDITIONAL IDENTIFICATIONS ACCEPTED BY STATE

Arizona
- Mexican Voter Registration Card (must include photo and DOB)

Colorado
- Mexican Driver’s License
- Alien Registration Card
- A valid employment card w/ photo and DOB issued by Immigration & Naturalization Service

Connecticut, Maryland, Nebraska, New Jersey, Texas
- Alien Registration Card

** All ID’s MUST NOT be expired **

If you suspect a problem or discrepancy with the identification offered, get a manager immediately.
Alcohol Consumption Policy

Proper identification is required by all persons ordering alcoholic beverages. Five types of valid identification are accepted by Kona Grill: 1) Driver’s license (US and Canada), 2) a military ID card, 3) a passport, 4) in-state ID card, or 5) Mexican Voter Registration Card (photo and DOB). All accepted identification must have a photo. All ID’s must NOT be expired. If a guest presents an ID with any discrepancy or without a photo, notify a manager before serving alcohol.

You can only serve one drink to any one person for his/her own consumption at any one time. A second serving may be allowed only after the first serving has been substantially disposed of or consumed.

Servers may be held responsible under Dram Shop Laws for damages incurred by intoxicated guests. Dram shop Law; basically meaning if you serve someone and they do out and hurt someone then you can be held responsible as the third party. To protect yourself from this liability, you must make a reasonable effort to prevent a guest from becoming intoxicated.

Whenever a guest is drinking too quickly or too much, the server or bartender must notify the manager. Co-workers can incur both civil and criminal liability for serving alcohol to a person who is intoxicated. Co-workers can also be terminated for serving alcohol to a minor and may be subject to a fine by the local liquor control board. Kona Grill will not serve alcohol to anyone, including Co-workers, after closing hours.

Furthermore, once a guest is cut off they have 30 minutes to leave the premises.

2 Sake Bombers per person Max.!!!!

Monitoring Your Guest

Service, Responsibility and Liability

By law, servers and managers have the right and responsibility to refuse service of alcohol to any person who appears to be intoxicated, who is under the legal drinking age, or who is a known, habitual alcoholic.

If someone enters your station visibly intoxicated, you are obligated to try and prevent that individual from driving away. If he/she insists on leaving, notify the manager so he/she or she can notify the police. Also, offer a sober alternative (taxi) in the presence of a witness, and document it immediately.

Points to Remember
• Guests who consume alcohol until they become intoxicated, guests who are allowed to drive away drunk, and minors who are served alcohol are considered to be a danger to themselves and others.
• Intoxicated guests must not be served alcohol and they must not be allowed to drive away drunk.

• If a guest you serve becomes intoxicated and has an accident and injures himself/herself or someone else, you may be responsible under criminal and civil law.

• If you serve a guest while he/she is intoxicated, you could be guilty of a criminal or civil violation. You could become a convicted felon.

• You could be financially responsible under common law or state legislation. The victim or the family of the victim could sue you, the owner, the establishment, or all three. This is called third party liability.

• Policies and procedures not only help prevent incidents, but also help establish a defense against criminal action or civil liability.

• Responsible beverage service need not mean lower check averages and tips for the servers. Suggestive selling and promoting food really works.

• To serve alcohol responsibly, you have to monitor the guests which involves three things:
  1. Being aware of how much alcohol the guest has consumed.
  2. Rating the guest throughout his or her stay.
  3. Communication with your co-workers.

**Counting and Timing**

Keep track of the timing and number of drinks you have served each guest. Different drinks contain different amounts of alcohol. Count drinks served with one-half ounce of alcohol as one drink. Count drinks served with more alcohol as a drink and a half.

• 1 ¼ ounces of 80 proof liquor, 4 ounces of wine and 12 ounces of beer (even if it is a lite beer) contain the same amount of alcohol.

• Martini’s and some specialty drinks, like a Long Island Ice Tea, contain more alcohol.

• Your body can eliminate only ONE DRINK PER HOUR. Once in the blood, alcohol is carried to the liver where it is broken down and passed from the body. The liver can process only one drink per hour. If a person consumes more than one drink per hour, the amount of alcohol in those extra drinks backs up and remains in the bloodstream. It begins to affect the brain and the guest’s behavior.

• When the stomach is digesting food, it closes the valve leading to the small intestine and holds any alcohol with the food. Slowing the rate that alcohol is absorbed into the blood.
Foods that are fatty or high in protein take more time to digest, and therefore slows down the alcohol absorption even more.

How Alcohol Affects the Body

Alcohol affects people differently. Different variables are: body size, body type and gender, but it works in the body the same way for everyone.

- B.A.C. means Blood Alcohol Concentration and refers to how much alcohol is in the blood.
- The best ways to slow down the rate at which alcohol is absorbed in the bloodstream are to moderate the amount of alcohol consumed and to get the guest to eat food while drinking.
- How much alcohol is in the blood and in the brain, and how quickly it arrives three depends on several things: body size, body type and gender.

Body Size

A larger, heavier person will show fewer effects from alcohol than a smaller or lighter person.

Body Type

Given the same amount of alcohol, a muscular individual will have a lower blood alcohol concentration than a person with a large amount of body fat.

Gender

Women tend to absorb alcohol at a faster rate than men because they are usually smaller than men and have less water in their bodies. Water dilutes alcohol in the body.

Low-Risk Guests

Appearance to be in good health, under no heavy stress or other emotional condition, with a normal appetite, and with some experience in drinking alcoholic beverages.

High-Risk Guests

Appearance of being tired, tense, irritated or emotionally upset, have not eaten or are dieting, are novice drinkers, are ill or on medication.
Kona Grill's system for rating a guest's alcohol consumption is based on your average, everyday traffic light. The colors green, yellow and red are codes used to communicate with your co-workers the condition of a guest. Observe changes in a guest's behavior by initiating conversation. This will help you determine their level: green, yellow or red.

**Green**
Some indicators of a guest at the GREEN level are that they are relaxed, comfortable, may be talkative, happy. They can be served whatever they order. Suggest food to a green guest and keep track of the number of drinks they consume.

**Yellow**
Some indicators of a guest at the YELLOW level are that they are more talkative and somewhat louder... or quieter, relaxed inhibitions, overly friendly or giddy. In later yellow stages, their judgment may become impaired. They may increase the rate at which they drink and buy drinks for others, even total strangers. When they near the red, they might become argumentative, use foul language freely, and then their reactions start to slow down as they become uncoordinated.

- Notify the bartender and manager if you have someone in the yellow. It does not do any good if a guest is cut off and can still get drinks at the bar. Slow down the service of alcohol and go with food and non-alcoholic beverages. It is your job to notify the manager when a guest is in the yellow, before you have a problem.

**Red**
Some indicators of a guest at the RED level are that they may have a glassy-eyed look. Their movements may appear slow and uncoordinated. They may spill a drink, drop things, stumble or fall. They may lose their train of thought, make irrational statements or become hostile – even violent.

- Stop serving the guest alcohol and notify the manager. The manager on duty is the person who will cut off service to any guest who is visibly intoxicated. We do not want the guest to drive. If the guest gets into an accident and injures him or herself or someone else, you could be responsible. Let the manager handle the situation.

- Managers have been trained for certain situations and will know the best steps to take. They will remove a guest's drink if you believe they are intoxicated, enlist any sober friends who are present with an intoxicated person to drive, or will call a friend or a taxi for any visibly intoxicated guest. If an intoxicated guest refuses help or insists upon driving, the manager will call the police.

- It is a myth that a lot of coffee will sober up an intoxicated individual. Coffee, food or cold showers will not “sober up” an intoxicated individual. The only thing that works is time.
Minors

Of the 25,000 people a year killed on our highways in alcohol-related deaths each year, almost half are between the ages of 16 and 24, many of those minors. Minors who attempt to get served alcohol illegally may appear nervous, have no eye contact, and look young.

Verify Information—Check Expiration Date and Date of Birth

- Borrowed ID is the most common means used by minors to obtain alcohol. Nine times out of ten, the minor uses an expired ID.
- Check the expiration date first. Concentrate on the date of birth since that is the area most likely to have been altered. Know the year that a person would have to be born in to be of legal drinking age today.
- When presented with an out-of-state license, ask for a second piece of identification.

Look for Alterations

- Get your hands on the ID and really look at it to detect an altered ID. You may be able to feel a raided surface, an extra layer of laminate, or detect poor graphics.
- Look at the picture and the description, and compare it to the person before you. Make sure the photo has the correct background color and the person is standing at the correct angle.
- Make sure the type style and border are consistent with legitimate IDs.
- Make sure the ID number has the correct number of digits and begins with the correct letter on number. Refer to the current ID book in the office if you have any concerns or are unfamiliar with a certain state license.

If You Have a Guest That Turns Out to be Underage

Don’t be judgmental. Be tactful and diplomatic, telling them politely but firmly that you will not be able to serve them any alcohol. Suggest a non-alcoholic beverage. Be diligent with watching the table to ensure that a minor does not obtain an alcoholic beverage from someone else. By law, you have the right and the responsibility to refuse alcohol to anyone who appears to be intoxicated or under the legal drinking age. There is no defense, legally or otherwise, if you serve alcohol to a minor and that minor is arrested or causes an accident. You could be arrested and the restaurant could lose its liquor license.

- Co-workers are not allowed to sit at the bar to eat or drink in uniform at any time.
- If you are found serving a minor you will be terminated immediately. NO EXCEPTIONS—THIS IS A ZERO TOLLERACE POLICY.
City Council Agenda Item #13B
Meeting of August 31, 2015

**Brief Description**
On-sale liquor licenses for Nordstrom, Inc. (Nordstrom Ruscello)

**Recommendation**
Continue the public hearing and grant the licenses

**Background**

The city has received an application from Nordstrom, Inc. (Nordstrom Ruscello), at 12401 Wayzata Boulevard. Nordstrom, Inc. is requesting on-sale and Sunday on-sale intoxicating liquor licenses for a new restaurant within the Nordstrom store located at Ridgedale.

**Business Ownership**

Nordstrom, Inc. is a specialty retailer established in 1901 and currently has 304 stores in 38 states and Canada. Nordstrom, Inc. is a publicly traded company on the NYSE.

**Business Operations**

Ruscello is a full-service restaurant featuring Mediterranean and Italian-inspired cuisine. The restaurant will occupy approximately 3,200 square feet with seating for 135 guests. (See page A1). The restaurant will be open for lunch and dinner with the following hours:

<table>
<thead>
<tr>
<th>Dining Hours</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday - Thursday</td>
<td>10:00 am – 8:00 pm</td>
</tr>
<tr>
<td>Friday and Saturday</td>
<td>10:00 am – 9:00 pm</td>
</tr>
<tr>
<td>Sunday</td>
<td>11:00 am – 7:00 pm</td>
</tr>
</tbody>
</table>

Ruscello anticipates that they will hire and train 50 employees. Bartenders and servers will participate in an internal training program which includes responsible alcohol service and age verification. In addition, staff is required to take an online certification through the Beverage Alcohol Sellers and Servers Education and Training (BASSET) program. The program is an educational and training tool for servers of alcoholic beverages to serve responsibly and stay within the law. The BASSET Certification Program serves as a preventive measure to discourage over consumption and keep drunk drivers off the roads which will be inclusive of alcohol awareness and serving policies and procedures. Projected food to liquor ratio will be 90% food and 10% alcohol. Karen Ingram has been hired as the general manager and has submitted her application for the police background check as required by city ordinance.
Applicant Information

Application information and license fees have been submitted. The police department’s investigation is complete and will be forwarded to the council separately.

Recommendation

Staff recommends that the city council continue the public hearing from July 27, 2015 and grant the licenses.

Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director

Originated by:
   Kathy Leervig, Community Development Coordinator
### SEATING LEGEND

<table>
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<tr>
<th>SEATING UNIT</th>
<th>NUMBER OF UNITS</th>
<th>PERSONS PER UNIT</th>
<th>TOTAL PERSONS</th>
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</thead>
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<tr>
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<td>3</td>
<td>4</td>
<td>12</td>
</tr>
<tr>
<td>4 TOP - 3'-6&quot; X 4'-0&quot;</td>
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<td>4</td>
<td>64</td>
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<tr>
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<td>2</td>
<td>12</td>
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<tr>
<td>STOOL - 2'-6&quot; X 3'-0&quot;</td>
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<tr>
<td>ADA</td>
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</tr>
</tbody>
</table>

TOTAL SEATING: 135
City Council Agenda Item #13C
Meeting of August 31, 2015

Brief Description  On-sale liquor licenses for Three Amigos Minnetonka, L.L.C. (Salsa A La Salsa)

Recommendation  Continue the public hearing to September 14, 2015

Background

The city has received an application from Three Amigos Minnetonka, L.L.C. at 11390 Wayzata Boulevard. Three Amigos Minnetonka, L.L.C. is requesting an on-sale and Sunday on-sale intoxicating liquor licenses for a new Mexican restaurant, Salsa A La Salsa. The site was previously occupied by Romano’s Macaroni Grill, but has been vacant since March 2015.

The application was introduced to the council on July 27 and the final action on this request was scheduled for the August 31 council meeting, but the police department requested an extension for more time to complete the background check.

Recommendation

Staff recommends that the city council continue the public hearing to September 14, 2015.

Submitted through:
  Geralyn Barone, City Manager
  Julie Wischnack, AICP, Community Development Director

Originated by:
  Kathy Leervig, Community Development Coordinator
City Council Agenda Item #14A  
Meeting of August 31, 2015

Brief Description:  Items regarding private fire hydrants
1. Ordinance regarding private fire hydrants
2. Resolution adopting council policy 12.9 regarding maintenance of fire protection water supplies

Recommended Action:  Adopt the following:

1) Ordinance regarding private fire hydrants
2) Resolution adopting council policy 12.9 regarding maintenance of fire protection water supplies

Background

City staff estimates there are approximately 577 privately owned fire hydrants in the city, which represents approximately 16% of all hydrants. In the interest of public safety, the city needs to take steps to ensure that fire hydrants are properly maintained and in operating order. At its April 27, 2015 study session, the council provided favorable feedback to staff’s proposal that the city require property owners to inspect and maintain their private hydrants, but provide an option for transferring ownership or inspection responsibilities to the city.

The program proposed by staff has two aspects: (1) an ordinance that requires the owners of private fire hydrants to inspect, maintain and repair the hydrants; and (2) a council policy that would authorize the city manager to (a) approve agreements accepting the transfer of ownership of private hydrants to the city and (b) if ownership of the hydrant is not transferred, approve agreements for the city to perform the required inspections for a fee.

The ordinance was introduced at the August 17, 2015 city council meeting. The ordinance and policy are presented to the council together, because the items are closely related. However, the ordinance does not depend upon adoption of the policy, and the city council may choose to adopt the ordinance without approving the policy.

Ordinance

The purpose of the ordinance is to ensure that all private fire hydrants in the city are properly inspected, maintained, and ready for emergency use by city fire equipment. The ordinance requires that private hydrants (1) must have hose and pumper connections that can be used by the city’s fire safety equipment, (2) must be annually inspected and the inspection reported to the city fire marshal, and (3) must be repaired as needed within a time frame to be specified by the fire marshal.
Policy

The proposed policy addresses four situations: (1) owners who want to transfer ownership of private fire hydrants to the city; (2) owners who want the city to perform the annual inspections; (3) owners who do not transfer ownership and do not hire the city to perform inspections; and (4) new developments with private fire hydrants.

City staff expects that some owners of private fire hydrant facilities may be unaware that they own or are responsible for the hydrants. Under the policy, the council delegates authority to the city manager to accept public ownership of private fire hydrants, in those instances where public maintenance, repair and replacement of the systems is physically feasible and economically practical. In those instances, the city will require the owner to grant a permanent utility easement to the city and to convey the facilities to the city. The city would accept ownership only of the hydrant itself and the related piping from the hydrant gate valve to the hydrant. (A-9 to A-13)

The policy also authorizes the city manager to enter into agreements for the city to provide inspection services on a contracted basis, for those owners who retain ownership of their hydrants. A form of agreement is attached. (A-14 to A-16)

All other owners of private hydrants will be required to inspect and maintain the hydrants as required by the ordinance.

Finally, the policy provides that, in future developments or redevelopments, if the council approves private fire hydrant facilities, an instrument must be recorded in property records. The instrument is intended to put future owners on notice of their obligations for inspection, maintenance, repair and replacement of the facilities.

Assessments

The ordinance and the policy both anticipate that the city may need to make repairs to a hydrant and to assess the cost of repairs to the property. At the August 17 council meeting, a concern was raised about the city’s ability to collect assessments from townhome or condominium properties, for hydrants located within those developments. Bills for those repairs will be submitted to the homeowner association for payment. If the association does not pay the bill, state law provides that the assessment must be levied against all the units. E.g., in a 10-unit development, one tenth of the bill will be assessed against each unit.
Recommendation

Adopt the following:

3) Ordinance regarding private fire hydrants
4) Resolution adopting council policy 12.9 regarding maintenance of fire protection water supplies

Submitted through:
   Geralyn Barone, City Manager
   Brian Wagstrom, Public Works Director
   John Vance, Fire Chief

Originated by:
   Corrine Heine, City Attorney
Ordinance No. 2015-

An Ordinance amending chapter 9 of the Minnetonka City Code; adding a new section 955; relating to fire protection water supplies

The City of Minnetonka Ordains:

Section 1. Chapter 9 of the Minnetonka City Code is amended by adding a new section to read as follows:

Section 955: FIRE PROTECTION WATER SUPPLIES.

955.005. Authority; purpose and intent.

Section 508 of the state fire code requires inspection, testing and maintenance of fire protection water supplies which include water lines and fire hydrant systems. The fire code requires fire hydrant systems to be subject to periodic tests, maintained in an operative condition at all times and repaired where defective. Additions, repairs, alterations and servicing must comply with approved standards. Section 101 of the state fire code authorizes the city to adopt rules to implement the fire code.

955.010. Hydrant Requirements.

City fire hydrants are equipped with national hose thread (NHT) according to the NFPA 1963 “Standard for Fire Hose Connections.” City fire hydrants have two 2½" NHT connections and either one 4½-inch NHT pumper connection or one 5-inch Storz pumper connection. All private hydrants must have hose and pumper connections that match those of city fire hydrants. Private hydrants that do not comply with the 4½-inch NHT pumper connection must be equipped with an adapter to convert that connection to a 5-inch Storz connection.

955.015. Inspection; Reporting.

1. The owner of a private hydrant that is directly or indirectly connected to the municipal water system must have the hydrant inspected at least annually by a company licensed in the state of Minnesota to complete fire protection inspections. The inspection must include testing of the operation and flow of the hydrant. The inspection must disclose the type of thread on the hydrant’s hose and pumper connections and whether an adapter or Storz converter is present.

2. The hydrant owner is responsible for providing an inspection report to the
955.020. Private Water Line and Hydrant Repairs.

1. If an inspection indicates that repairs are required to a private hydrant or water line, the owner of the hydrant or water line must provide the fire marshal with a copy of the inspection report within 5 business days after receipt. Based on the nature of the repairs to be made, weather conditions, and the functionality, if any, of the fire hydrant and water line, the fire marshal will determine a reasonable time period for making the repairs and will order the owner to make the repairs at the owner’s cost within that time period.

2. The owner must have the water line or hydrant repaired by a licensed fire protection company, licensed plumbing contractor or licensed pipe laying contractor within the specified time period. Within five (5) business days after the repair is completed, the owner must provide the fire marshal with a copy of a post-repair inspection report, prepared by a company licensed in the state of Minnesota to complete fire protection inspections. If repairs are not made within the time period set forth by the fire marshal in the notification, the city will make the necessary repairs and bill the cost to the owner. Bills that remain unpaid may be certified for collection with taxes similar to other unpaid water utility charges.

3. The property owner may sign a waiver and petition the city for the repairs. The city will contract for the repairs and assess the property in accordance with the city’s assessment policy.

Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective January 1, 2016.

Adopted by the city council of the City of Minnetonka, Minnesota, on **.

Terry Schneider, Mayor
Attest:

David E. Maeda, City Clerk

**

Action on this Ordinance:

Date of introduction:  August 17, 2015
Date of adoption:  **
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on **

David E. Maeda, City Clerk
Resolution No. 2015-

Resolution adopting council policy 12.9 regarding maintenance of fire protection water supplies

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The state fire code requires periodic inspection, testing and maintenance of fire protection water supplies, including fire hydrant systems.

1.02. A number of the fire hydrants in the city are privately owned and maintained.

1.03. It is in the public interest to ensure that privately owned fire hydrants are adequately inspected and maintained. In some instances, that goal may be best achieved by transferring ownership to the city or by offering city inspection services at a reasonable fee.

1.04. The council desires to authorize the city manager to accept public ownership of private fire hydrants and related facilities when it is feasible and practical to do so and to enter into agreements to provide inspection services for private fire hydrants.

Section 2. Council Action.

2.01. The city council hereby adopts council policy 12.9 regarding maintenance of fire protection water supplies.

Adopted by the City Council of the City of Minnetonka, Minnesota, on .

_________________________________________
Terry Schneider, Mayor

Attest:

_________________________________________
David E. Maeda, City Clerk
Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on .

________________________________________
David E. Maeda, City Clerk
Policy Number 12.9
Maintenance of Fire Protection Water Supplies

Purpose of Policy: This policy establishes a procedure and standards for the city to accept ownership of private fire hydrants and related facilities and to undertake maintenance on hydrants that remain in private ownership.

Introduction
The protection of private and public property from fire incidents is of vital importance to the city. Section 508 of the state fire code requires periodic inspection, testing and maintenance of fire protection water supplies, including fire hydrant systems. Although most fire hydrants in the city are publicly owned and maintained, some fire hydrant systems are privately owned and maintained. The public has an interest in ensuring that all fire hydrant systems in the city are properly maintained, for purposes of fire hazard insurance ratings and for purposes of protecting public and private property from fire. The city has adopted an ordinance that requires annual inspection of private fire hydrants.

This policy establishes standards for the city manager to accept ownership and maintenance of private fire hydrant systems and related facilities. The policy also authorizes the city manager to enter into fire hydrant maintenance agreements for systems that are not suitable for public ownership.

Accepting ownership of private facilities
The city council has determined that it is in the public’s interest that fire protection water supply systems in residential areas be in public ownership, to the extent that public maintenance, repair and replacement of the systems is physically feasible and economically practical. Private hydrants on commercial properties may be acceptable, provided that the hydrants are adequately maintained. An owner of a private fire hydrant and related facilities who wishes to transfer ownership of the facilities to the city may make a written request to the city manager. The city manager will refer the request to the public works director and fire chief for review and recommendation.

The public works director and fire chief or their designees will review the conditions of the facilities, including age, location, public access, connections to public and private water supply systems, and any other information they deem relevant. Upon completion of their review, the public works director and fire chief will report to the city manager their determination as to whether public maintenance, repair and replacement is physically feasible and economically practical, and their recommendations regarding necessary public easements. If the city manager deems the report to be favorable, the city manager is authorized to enter into an agreement on behalf of the city that includes the conveyance of the facilities and any necessary easements, subject to conditions as the city manager deems appropriate based on the
circumstances. The city manager must report to the city council on at least an annual basis regarding facilities transferred to the city.

**Agreements for public inspection of private facilities**
For all privately owned hydrants and related facilities that are not transferred to the city, the city manager is authorized to enter into an agreement with the owner(s) of the facilities to provide for public inspection of the facilities. The agreement must provide that the owner of the facilities will pay the city a fee for each inspection (as determined by the city manager). The agreement must also permit the city to assess any delinquent fees against the owner’s property in the same manner as delinquent utility bills. The owner of the facilities is responsible for completing all required repairs to the facilities, in compliance with city ordinance.

**Privately owned and inspected facilities**
Any owner of a private hydrant that does not enter into an agreement with the city for public inspection of that facility, or for transfer of that facility to city ownership, must provide annual proof of inspection and operability, in compliance with city ordinance.

**New developments**
In new developments or redevelopments, the council will approve private fire suppression water services only when it deems it appropriate, based on the specifics of the development. Council approval will include a requirement that an instrument be recorded in the property records that identifies the private facilities and provides for the ongoing inspection, maintenance, repair and replacement of the facilities.

Adopted by Resolution No. 2015-XXXX
Council Meeting of _____________, 2015
EASEMENT AGREEMENT

THIS EASEMENT is given on the ________ day of _______________________, 20__, by [Name(s)], [marital status or type of entity], [Grantor/Grantors], to the City of Minnetonka, a Minnesota municipal corporation, Grantee, in accordance with the following:

1. **Ownership.** [Grantor is][Grantors are] the fee [owner/owners] of real property legally described on attached Exhibit “A” (“Property”).

2. **Grant of Easement.** For valuable consideration, receipt of which is acknowledged by [Grantor, Grantor grants and conveys][Grantors, Grantors grant and convey] to Grantee, its successors and assigns, a permanent easement for fire protection water service purposes over, under, across, upon and through a portion of the Property, as described on the attached Exhibit “B” (“Easement Area) and depicted on the attached Exhibit “C”.

3. **Scope of Easement Rights.** The permanent easement includes the right of the Grantee, its contractors, employees, agents and assigns to operate, maintain, inspect, alter, repair and replace within the described easement area a fire hydrant for fire protection purposes and related public facilities or improvements and the right, but not the obligation, to cut, trim, or remove from the easement area trees, shrubs, or other vegetation that in the Grantee’s judgment unreasonably interfere with the easement rights acquired or with the facilities constructed or installed therein. The grant of easement includes the transfer of ownership of the existing fire hydrant and related piping, from the hydrant to the hydrant gate valve.

4. **Duration.** The easement is perpetual in duration.

5. **Warranty.** [Grantor warrants][Grantors warrant] that [it/he/she is the owner][they are the owners] of a fee simple interest in the Property, that [it/he/she has][they have] the right to grant the easement conveyed by this instrument, and that the Property is free and clear of any lien, encumbrance, easement, restriction, covenant or condition of any type that would be subject to forfeiture provisions, except those encumbrances, easements, restrictions, covenants or conditions filed for record in the office of the Hennepin County [Recorder/Registrar of Titles].

6. **Easement Runs with Land.** The Easement granted by this instrument runs with the land and is binding on the [Grantor/Grantors] and [its/his/her/their] [heirs, (only use for individual grantors, not business entities)] successors and assigns.
Signature block for owner/owners

[acknowledgment for owner]

THIS INSTRUMENT DRAFTED BY:

City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

<table>
<thead>
<tr>
<th>For City use only:</th>
</tr>
</thead>
<tbody>
<tr>
<td>PID: ______________</td>
</tr>
<tr>
<td>Torrens/Abstract Property</td>
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<tr>
<td>Hydrant ____________</td>
</tr>
</tbody>
</table>
EXHIBIT A

Legal Description of Property
EXHIBIT B

Legal Description of Easement Area
EXHIBIT C

Easement Sketch
Hydrant gate valve
AGREEMENT FOR INSPECTION OF
PRIVATELY OWNED FIRE HYDRANT

This Agreement is made as of ____________, 20__ by and between the City of Minnetonka, a Minnesota municipal corporation (“City”), 14600 Minnetonka Boulevard, Minnetonka, Minnesota and [Name(s)], [marital status or type of entity],[address] (“Owner,” whether one or more).

Recitals

A. Owner is the owner of the real property located at [address], legally described as follows (the “Property”):

[Legal description of property]

B. Owner also owns certain private utilities and fire protection water supplies, including [number] [fire hydrant or fire hydrants] (the “Facilities,” whether one or more.) The approximate location(s) of the Facilities are depicted on the attached Exhibit A. As defined in this Agreement, the Facilities include each fire hydrant identified on Exhibit A and the related piping from the hydrant gate valve to each hydrant.

C. Section 508 of the Minnesota State Fire Code and Section 955 of the Minnetonka City Code require periodic inspection, testing and maintenance of fire hydrants. City Council Policy No. 12.9 authorizes the city to undertake inspection of privately owned hydrants by agreement with the owner. This Agreement is made pursuant to that policy.

Terms

1. License to enter. Owner grants a license to the City, its employees, agents and contractors, to enter onto the Property at reasonable times for the purpose of carrying out the City’s obligations under this Agreement. This license terminates automatically upon termination of this Agreement as provided in paragraph 6 below.

2. Inspection. City agrees to inspect the Facilities at least once per year, in compliance with Minnetonka City Code Section 955. Within five business days after the inspection, City will furnish Owner with a copy of the inspection report, which the code requires to be made on a form provided by the City.

3. Fees. Owner agrees to pay the City the sum of $_________ as a fee for the annual inspection. Owner agrees to pay the fee within 30 days of billing by City. Owner acknowledges that the fees provided in this Agreement are a service to the Property and that the City may assess the unpaid balance of Owner’s account against the Property as provided by section 705.015 of the Minnetonka City Code. Any assessment levied will be payable in a single annual installment. Termination of this Agreement will not affect the
City’s right to recover fees and costs for services performed prior to termination of this Agreement.

4. **Owner’s Maintenance Obligations.** Owner is responsible for all maintenance and repair of its fire protection water supplies, including the Facilities. Owner agrees to maintain and repair the Facilities as required by City Code Section 955 or to petition for the City to perform those repairs and assess the costs against Owner’s property. Owner is responsible for keeping the Facilities free of obstructions that would impede access in the event of a fire.

5. **Acknowledgement of Right to Use.** Owner acknowledges that the Facilities are intended for fire protection. Notwithstanding any provision of this Agreement, City at all times has the right to use the Facilities for emergency fire suppression purposes. This paragraph survives the termination of this Agreement.

6. **Termination.** This Agreement will remain in force until terminated as provided in this paragraph. Either party may terminate this Agreement by providing 30 days’ advance written notice to the other. This Agreement will terminate when Owner no longer owns the Property. Owner agrees to promptly provide at least 10 days’ advance written notice to City of any expected change in ownership, whether due to voluntary sale or transfer or involuntary transfer, such as by bankruptcy, foreclosure or tax forfeiture.

7. **Notices and Communications.** Owner and City each agree to provide the other with email and telephone contact information and to update the information as necessary. Notice of any special assessment proceeding will be provided to the taxpayer of record for the Property, according to the records maintained by the Hennepin County Recorder and according to the procedures required by city code. Notices given under paragraph 6 must be provided by first class mail at the following addresses, which the parties may change by providing a similar notice:

Owner: 

City: City of Minnetonka  
Public Works Director

CITY OF MINNETONKA

By, Its City Manager
Signature block for owner(s)

Don’t forget to attach Exhibit A, drawing
Addendum
Minnetonka City Council
August 31, 2015 Regular Meeting

10E. Resolution ordering the abatement of nuisance conditions existing at
3348 Plymouth Road

Attached is a memo from the city forester indicating the property owner has
scheduled an appointment to have the two diseased trees removed. Staff
requests the item be postponed until the September 28 council meeting to allow
time for inspection of the property in mid-September. If the trees are removed,
the item will not require further council action.
ITEM #10 – Resolution ordering the abatement of nuisance conditions existing at 3348 Plymouth Road

An email was received this morning from the property owner Mark Sorebo following distribution of the packet. He contracted Shadywood Tree Experts over the weekend and requested this item be removed from the agenda.

After receiving the email, I called Shadywood Tree Experts and confirmed their bid has been accepted by the property owner with work scheduled on September 14th, 2015 at 8:30 a.m. The tree removals should be completed by about 3:30 p.m. the same day. As a result, staff would like to request that the item is postponed until the September 28th, 2015 meeting. Staff plans to schedule a final inspection of the property, and if the work is completed on September 14th as planned, the item would be resolved and would not need to be presented at the September 28th meeting.

I have communicated to the property owner via email that the item could not be pulled from the agenda this evening, but that staff would request the postponement since he has scheduled the work.