Agenda
Minnetonka City Council
Regular Meeting, Monday, December 18, 2017
6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Bergstedt-Wagner-Ellingson-Allendorf-Acomb-Wiersum-Schneider
4. Approval of Agenda
5. Approval of Minutes: None
6. Special Matters:
   A. Recognition of Mayor Terry Schneider
   B. Recognition of City Councilmember Dick Allendorf
   C. 2018 budget and levies – public information
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Ordinance authorizing sale of land for boundary line adjustment of 17125 and 17001 Excelsior Blvd.
    B. Resolution Establishing Polling Places for the 2018 State Primary and General Election
    C. Resolution ordering the abatement of nuisance conditions existing at 11505 Lakeview Lane West
    D. Resolution approving agreement for donation to the city of vacant land on Martha Lane

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 p.m., Wednesdays, 6:30 p.m., Fridays, 12 p.m., Saturdays, 12 p.m. The city’s website also offers video streaming of the council meeting.
For more information, please call 952.939.8200 or visit minnetonka.com
E. Resolution approving preliminary and final plat of WILLISTON ACRES 3rd ADDITION, a two-lot subdivision at 14819 Margaret Place

F. City manager performance pay

G. Labor agreement between the city of Minnetonka and International Union of Operating Engineers, Local No. 49

11. Consent Agenda - Items Requiring Five Votes:

   A. Applications for renewed precious metal and secondhand dealer licenses for 2018

   B. Resolution accepting gifts, donations and sponsorships given to the city during 2017

12. Introduction of Ordinances: None

13. Public Hearings:

   A. Resolutions regarding utility related items:

      1) Municipal water and sanitary sewer rates;
      2) Municipal water and sanitary sewer connection fees;
      3) Recycling fee; and
      4) Stormwater rates.

      Recommendation: Hold the public hearing and adopt the resolutions (4 votes)

14. Other Business:

   A. Resolution calling a public hearing on the issuance of multifamily revenue bonds for Dominium, 11001 Bren Rd E

      Recommendation: Adopt the resolution (4 votes)

   B. Resolution approving a conditional use permit for an 8-resident licensed residential care facility at 5022 Baker Road

      Recommendation: Adopt the resolution approving the request (4 votes)

15. Appointments and Reappointments: None

16. Adjournment
City Council Agenda Item #6A
Meeting of December 18, 2017

Brief Description: Recognition of Mayor Terry Schneider

Recommended Action: Recognize Terry Schneider

Background

It is the practice of the city council to recognize the contributions of those that benefit the city.

Terry Schneider

Terry Schneider was elected seven times to the Minnetonka City Council, serving five terms as the Council At Large representative from 1992 to 2008, when he was appointed Mayor. Terry was twice elected as Mayor, in 2009 and 2013. Schneider first began serving the city of Minnetonka in 1977 on the city’s park board and soon made his way to the city’s planning commission in 1981.

Mayor Schneider has made many contributions to Minnetonka and the surrounding area over the course of his career. He has been instrumental in preserving Minnetonka’s natural environment, and has worked tirelessly to find new recreational opportunities for the city. With Schneider’s encouragement, the Minnetonka City Council amended its ordinances to allow for smaller lots in an effort to provide more life-cycle housing options. Many development proposals were touched by Mayor Schneider’s creative solutions, resulting in improved developments.

Aside from his mayoral role, Mayor Schneider is or has served as a member of the following organizations: Municipal Legislative Commission, West Hennepin Area Mayors Group, League of Minnesota Cities Board of Directors, Metro Cities, Metropolitan Council Transportation Advisory Board, West Hennepin Affordable Housing Land Trust (now Homes within Reach), National League of Cities Community and Economic Development Policy Committee, Sensible Land Use Coalition and many others.

On June 15, 2017, Mayor Schneider was awarded the League of Minnesota Cities C.C. Ludwig Award for elected officials at the 2017 League of Minnesota Cities Annual Conference. The C.C. Ludwig Award was established in 1962 in honor of a former League executive director. It is considered to be the League’s highest honor for elected city officials. The award recognizes city officials who possess vision, statesmanship and unwavering commitment to the public good.
Terry’s innate ability to bring people together to allow respectful and inclusive public discourse about a variety of topics with a variety of opinions is nothing short of amazing. He is a quiet leader, with a decisive attitude to make this community better than when he started.

On behalf of the residents of Minnetonka, the city council expresses its sincere appreciation for Terry’s outstanding contributions and years of service to the community.

Recommendation
Recognize Mayor Terry Schneider

Submitted through:
    Geralyn Barone, City Manager

Originated by:
    Perry Vetter, Assistant City Manager
City Council Agenda Item #6B  
Meeting of December 18, 2017

**Brief Description:** Recognition of City Council Member Dick Allendorf

**Recommended Action:** Recognize Dick Allendorf

**Background**

It is the practice of the city council to recognize the contributions of those that benefit the city.

**Dick Allendorf**

Dick Allendorf was elected six times to the Minnetonka City Council, serving as the Ward 1 representative from 1992 until 2003 and the At Large Seat A from 2006 to the present. Dick previously served a term on the Minnetonka Planning Commission from 2004 to 2005, and from 1985 to 1991 he was a member of the Hopkins School Board. In recent years, Dick represented the city on the Southwest Cable Commission and the I-494 Commission.

During Council Member Allendorf’s tenure his experience in commercial real estate prepared him to ask the tough questions about development, use of city financing and making sure every application had presented facts. His advice, suggestions and discussion often led to a much better outcome for whatever decision was being made. Listed below are just some of the major projects that Councilmember Allendorf affected during his time on the council:

- Super Target (101)
- Waterstone Apartments
- Minnetonka Crossings
- ICA Food Shelf
- United Health Group – multiple expansions
- Opus Headquarters
- BMW
- Syngenta
- Glen Lake redevelopment (The Glenn, Zvago, Oaks)
- Williston Center acquisition and remodel
- Whole Foods
- Ridgedale expansion and remodel
- Hampton Inn
- Minnetonka Medical Building
- Home 2
- Highland Bank redevelopment
• Eagle Ridge Academy

Council Member Allendorf was a supporter of public works projects and advocated for the construction of the new public works facility, water treatment plant #16, Williston water tower, the mill and overlay street revitalization program and the park renewal and open space preservation bonding projects to name a few. Dick always required project justification and supported those projects that warranted the expenditure of public dollars.

Council Member Allendorf was truly a steward of the community’s financial resources, always vigilant about justifying the need for levy increases and advocating for understandable explanations for the taxpayers. He was instrumental in the creation of the city’s budget stabilization reserve policy and closely accounting for dollars above the reserve target.

We will always appreciate this councilmember’s candor, his witty observations and his general ability to just “tell it like it is”.

On behalf of the residents of Minnetonka, the city council expresses its sincere appreciation for Dick’s outstanding contributions and years of service to the community.

**Recommendation**
Recognize Council Member Dick Allendorf.

Submitted through:
  Geralyn Barone, City Manager

Originated by:
  Perry Vetter, Assistant City Manager
  Brian Wagstrom, Public Works Director
  Julie Wischnack, AICP Community Development Director
City Council Agenda Item #6C
Meeting of December 18, 2017

Brief Description: 2018 budget and levies – public information

Recommended Action: Provide information to the public

The city of Minnetonka follows an open, public process to review and adopt its annual budget and property taxes. Each year, council reviews preliminary budget proposals in August and November at study sessions that are open to the public, and adopts a preliminary levy in September where the council opens the floor to feedback. Proposed budget and tax information is regularly published in the *Minnetonka Memo* and on the city’s website, where a direct link and phone number are provided for comments, which are then presented to the council during its deliberations.

In November, Hennepin County mailed individual preliminary tax notices to all property owners. The notices announced the council’s December 4 meeting for public discussion, and on December 4, the council opened the floor for public input and adopted the final 2018 budget and tax levies.

Because no one was present in the audience at the December 4 meeting to comment on the city’s 2018 budget and levies, the city council deferred the public information presentation of the agenda item until its December 18 meeting. Therefore, this evening staff will present details regarding the city’s finances for 2018 to ensure the community has the opportunity to better understand the council’s budget and levy decisions for next year. All materials regarding the city’s budget and levies, including the budget documents for 2018 and prior years, continue to be available on the city’s website.

Recommendation

Provide information to the public, which will be recorded and available for playback on the city’s website.

Originated by:
- Geralyn Barone, City Manager
- Merrill King, Finance Director
2018 Budget & Levy
Strategic Objectives

✓ Ensure position of fiscal responsibility

✓ Preserve standards of excellence

✓ Encourage innovative & creative thinking
2018 City Budget & Levy

✓ Levy increase of only 3.6%

✓ City taxes on median value home ($332,800 in 2018) will increase around $4 per year

✓ 1.9% general fund operating budget increase
Public Works is largest share of expenses due to capital investment in streets and utilities.
2018 General Fund Budget

Reflects community’s top priorities of public safety and streets.
Public Safety

✓ 9-1-1 dispatching moved to Hennepin County and 3.4 positions added to backfill non-county duties

✓ One of two school liaison police officers at District 287 eliminated at their request

✓ Fire service consultant report to address deployment structures and objectives of POC firefighter service
Streets & Utilities

- 3rd year of water & sewer infrastructure replacement program - Woodhill Road
- Opus area bridge replacement project
- Solar garden savings realized
Parks & Recreation

✓ Park and trail planner position will manage research, plan development, grants and public education

✓ City to hire seasonal employees for both Hopkins and Minnetonka under current joint agreement

✓ Williston Center continues to thrive, meeting its costs and depreciation.
Natural Resources

- NR staff to increase by 0.75 FTE for permitting, site/erosion control – no additional cost
- Recycling program support – composting
- EAB pre-arrival work continues
Development

✓ Additional hours for PT tech position – customer service desk
✓ HRA levy increase from $175,000 to $250,000 to support city’s strategic housing goals
✓ Third and final year of funding for 2040 Comprehensive Plan
Other Costs

- Information Technology staff position to address increased complexity, including public safety systems
- Records specialist position to fulfill legal mandate for public information and data requests
- Financial analyst position to coordinate capital program
2018 Revenue – All Sources

Property Taxes 43%
User Fees & Charges 32%
Bond Proceeds 12%
Other Income 4%
Intergov’tal 5%
Licenses & Permits 4%

Property taxes and fees support most services.
## 2018 Levy

### Property Taxes (000's)

<table>
<thead>
<tr>
<th>Description</th>
<th>2017</th>
<th>2018</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>City taxes, current svc's</td>
<td>$35,658</td>
<td>$37,069</td>
<td>3.8%</td>
</tr>
<tr>
<td>Hennepin Co. dispatch</td>
<td>(713)</td>
<td>(1.9)%</td>
<td></td>
</tr>
<tr>
<td>Budget reductions/savings</td>
<td>(349)</td>
<td>(0.9)%</td>
<td></td>
</tr>
<tr>
<td>New needs, initiatives</td>
<td>532</td>
<td>1.4%</td>
<td></td>
</tr>
<tr>
<td>Capital program incr</td>
<td>421</td>
<td>1.2%</td>
<td></td>
</tr>
<tr>
<td><strong>Total City Levy</strong></td>
<td>$35,658</td>
<td>$36,963</td>
<td>3.6%</td>
</tr>
<tr>
<td>Park Bond Refer incr</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ridgedale tax decr</td>
<td>(61)</td>
<td>(0.2)%</td>
<td></td>
</tr>
<tr>
<td><strong>Total City Levy</strong></td>
<td>$35,658</td>
<td>$36,963</td>
<td>3.6%</td>
</tr>
</tbody>
</table>

### EDA HRA Levy

<table>
<thead>
<tr>
<th>Description</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>EDA HRA Levy</td>
<td>$175</td>
<td>$250</td>
</tr>
</tbody>
</table>
Property Taxes

City is $\sim \frac{1}{4}$ of total property tax bill.
2018 Budget & Tax Levy

- Levy increase of 3.6% results in $4 per year more in city taxes for median value home

- Responsibly balances reasonable costs with ensuring quality of services

- Consistent with city’s traditional stewardship for long-term fiscal strength
  - Aaa bond rating
  - GFOA Excellence Award
  - Third Fiscally Healthiest MN City by MCFE
City Council Agenda Item #10A
Meeting of December 18, 2017

Brief Description: Ordinance authorizing sale of land for boundary line adjustment of 17125 and 17001 Excelsior Blvd.

Recommended Action: Adopt the ordinance

Background

The driveway of the property at 17001 Excelsior Boulevard encroaches onto city-owned property at 17125 Excelsior (Fire Station #4). The encroachment dates back several decades.

City staff negotiated an agreement to convey a 13-foot strip of the city’s property to the owners of 17001 Excelsior Boulevard. The strip of land is screened from the fire station by a stand of trees, and its sale has no impact on the fire station property from either a visual or usage standpoint. The purchase price of $9,415 is based on the land value, as determined for property tax purposes, for the 17001 Excelsior Boulevard property.

The sale is contingent upon administrative approval of the lot division and combination, which will be approved after the council authorizes the sale. The attached sketch shows the approximate area to be conveyed.

The ordinance was introduced on December 4, 2017. The purchase agreement and ordinance have been revised to reflect the final legal description as determined by survey and the revised closing deadline. The closing on the sale is tentatively scheduled for January 25, 2018, after the ordinance is effective.

Recommendation

Adopt the ordinance.

Submitted through:
   Geralyn Barone, City Manager
   John Vance, Fire Chief
   Julie Wischnack, Community Development Director

Originated by:
   Corrine Heine, City Attorney
   Ashley Cauley, Senior Planner
PURCHASE AGREEMENT

This Purchase Agreement is made as of December __, 2017, by and between the City of Minnetonka ("Seller"), and Charles Fletcher and Mary B. Fletcher ("Buyers").

Recitals

A. Buyers are the fee owners of real property at 17001 Excelsior Boulevard in Minnetonka, Hennepin County, Minnesota (the “Buyers’ Property”), legally described as:

That part of the North Half of the Northeast Quarter of the Northwest Quarter of Section 32, Township 117, Range 22 as described as follows: Commencing at the intersection of the South line of said North Half of the Northeast Quarter of the Northwest Quarter and a line drawn parallel with and 16.5 feet Northwesterly from a line drawn from a point in the South line of said North Half of the Northeast Quarter of the Northwest Quarter distant 762 feet West of the Southeast corner of said North Half of the Northeast Quarter of the Northwest Quarter to a point in the center line of Excelsior Road distant 586 feet Westerly measured along said center line of said road from its intersection with the East line of the said Northeast Quarter of the Northwest Quarter; thence Northeasterly along said parallel line 284.4 feet to the center line of said Excelsior Road; thence Northwesterly along said center line of said road a distance of 160 feet; thence Southwesterly a distance of 343.7 feet to a point in the South line of said North Half of the Northeast Quarter of the Northwest Quarter distant 180 feet West of the point of beginning; thence East 180 feet to the point of beginning.

B. City is the owner of real property at 17125 Excelsior Boulevard in Minnetonka, Hennepin County (the “City Property”), legally described as:

That part of the North ½ of the Northeast Quarter of the Northwest Quarter of Section 32, Township 117, Range 22 described as follows: Commencing at the intersection of the South line of said North ½ and a line drawn parallel with and 16.5 feet Northwesterly from a line drawn from a point in the South line of said North ½ distant 762 feet West of the Southeast corner of said North ½ to a point in the center line of Excelsior Road distant 586 feet Westerly, measured along said center line of said road from its intersection with the East line of said Northeast Quarter of Northwest Quarter; thence Northeasterly along said parallel line 284.4 feet to the center line of said Excelsior Road; thence Northwesterly along said center line of said road a distance of 160 feet to the actual point of beginning of the tract to be described; thence Southwesterly a distance of 343.7 feet to a point in the South line of said North ½ distant 180 West of the initial point of commencement; thence West along said South line of said North ½ to the Southwest corner of said North ½; thence North along the West line of said North ½ to the Northwest corner of said North ½; thence East along the North line of said North ½ to the Northeast corner of said North1/2; thence South along the East line of said North ½ a distance of 490.2 feet more or less to the South line of Excelsior Boulevard; thence West along the Southerly line of said Excelsior Boulevard to a point therein 110 feet West, measured
at right angles from the East line of said North ½; thence north to a point in the center line of said Excelsior Boulevard distant 110 feet, measured along said center line, from the East line of said North ½; thence Northwesterly along the center line of said Excelsior Boulevard to the actual point of beginning, except that part thereof lying Northerly of Excelsior Boulevard, and except the West 231 feet thereof as measured along the South line and parallel with the West line of the above described tract.

C. Buyers’ driveway encroaches onto the City Property, along the northerly and southeasterly property lines of the City Property. The parties have agreed to adjust the boundary lines of their respective properties to resolve the boundary line issue.

Terms

1. **Subject Property.** Seller agrees to sell and Buyers agree to buy the following described portion of the City Property (the “Subject Property”), consisting of approximately 3,880 square feet, according to the terms and conditions of this Purchase Agreement:

   That part of the North ½ of the Northeast Quarter of the Northwest Quarter of Section 32, Township 117, Range 22 described as follows: Commencing at the intersection of the South line of said North ½ and a line drawn parallel with and 16.5 feet Northwesterly from a line drawn from a point in the South line of said North ½ distant 762 feet West of the Southeast corner of said North ½ to a point in the center line of Excelsior Boulevard distant 586 feet Westerly, measured along said center line of said road from its intersection with the East line of said Northeast Quarter of Northwest Quarter; thence Northeasterly along said parallel line 284.4 feet to the center line of said Excelsior Boulevard; thence Northwesterly along said center line of said road a distance of 160 feet to the actual point of beginning of the tract to be described; thence Southwesterly a distance of 343.7 feet, more or less, to a point in the South line of said North ½ a distance 180 West of the initial point of commencement (said last-described line being “Line A”); thence West along said South line of said North ½ a distance of 16.01 feet to the intersection with a line drawn parallel with and 13 feet northwesterly of the aforementioned “Line A” to the center line of Excelsior Boulevard; thence Southeasterly along the centerline of said Excelsior Boulevard to the point of beginning.

2. **Purchase Price.** The purchase price for the Subject Property is $9,415.00, payable at Closing.

3. **Title Issues:**

   a. **Marketability of Title.** The City makes no warranty regarding the condition of title to the Subject Property. Buyers are responsible for investigating the status of title and determining whether the condition of title is acceptable to them.

   b. **Deed Delivered at Closing.** Seller agrees to convey the title to the Subject Property by quit claim deed in form acceptable to Buyer’s title company. Buyer will be responsible for paying the cost of recording the deed and state deed tax.

4. **Contingencies.** The sale contemplated by this Agreement is contingent upon the following,
neither of which may be waived by either party.

a. **Lot Division.** The sale contemplated by this Agreement requires an administrative lot division under Minnetonka city ordinances. Seller agrees to waive the application fee for the administrative lot division. Buyers are responsible for all other costs in connection with obtaining the administrative lot division, including the cost of obtaining the required survey. This contingency must be satisfied prior to the Closing Date.

b. **City Council Approval.** This Agreement is conditioned upon passage of an ordinance authorizing the sale contemplated by this Agreement, by the Minnetonka City Council. This contingency must be satisfied within 30 days after Buyers’ execution of this Agreement.

5. **Closing Date.** The closing of the sale of Subject Property must take place on or before January 31, 2018, at a date, time and location as may be mutually agreed upon by the Seller and Buyers.

6. **Seller’s Representations and Adjustments.** Seller represents that:

   a. The Subject Property is tax exempt, and no proration of property taxes is necessary.
   b. There are no pending or special assessments against the Subject Property.

7. **Buyers’ Representation.** Buyers represent and warrant that they will file documents with Hennepin County as necessary to combine the Subject Property with the Buyers’ Property as a single tax parcel.

8. **Broker’s Fees.** The parties represent that they have not retained a real estate broker to represent them in the sale and purchase of the Subject Property. Each party agrees to indemnify the other for any and all claims for brokers commissions or finder's fees in connection with negotiations for the sale or purchase of the Subject Property arising out of any alleged agreement, commitment or negotiation by the indemnifying party.

9. **Entire Agreement; Amendments.** This Purchase Agreement constitutes the entire agreement between the parties and no other agreement prior to this Purchase Agreement or contemporaneous herewith will be effective except as expressly set forth or incorporated herein. Any purported amendment will not be effective unless it is set forth in writing and executed by both parties or their respective successors or assigns.

10. **Binding Effect.** This Purchase Agreement is binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns. All representations and warranties made in this agreement are intended to survive closing and will not be merged in the deed.

11. **Notice.** Any notice, demand, request or other communication which may or must be given to Seller by Buyers or to Buyers by Seller will be deemed to have been given or served on the date the same is deposited in the United States mail, registered or certified, postage prepaid and addressed as
follows:

a. If to Seller:  
   City Attorney  
   City of Minnetonka  
   14600 Minnetonka Boulevard  
   Minnetonka, MN  55345

b. If to Buyer:  
   Charles and Mary Fletcher  
   17001 Excelsior Boulevard  
   Minnetonka, MN  55345

12. **Specific Performance.** This Purchase Agreement may be specifically enforced by the Buyers and/or the Seller, provided that any action for specific enforcement is brought by October 1, 2018.

IN WITNESS WHEREOF, the undersigned have executed this agreement as of the date written above.

BUYERS:


Charles Fletcher

Mary B. Fletcher

SELLER:

City Of Minnetonka

By: ______________________________
   Terry Schneider, Its Mayor

And: ______________________________
   Geralyn Barone, Its City Manager
Ordinance No. 2017-

An Ordinance authorizing the sale of land for a boundary line adjustment of 17125 Excelsior Boulevard and 17001 Excelsior Boulevard

The City of Minnetonka Ordains:

Section 1. Findings and Purpose.

1.01 The city of Minnetonka owns real property located at 17125 Excelsior Boulevard.

1.02 The driveway of the property at 17001 Excelsior Boulevard encroaches onto the city-owned property. The encroachment dates back several decades.

1.03 The city council deems it appropriate to adjust the property boundaries by conveying a 13-foot strip of the city property to the owners of the adjacent property. The property to be conveyed is legally described in the attached Exhibit A.

1.04 The city staff has negotiated a purchase agreement with the adjacent owners.

Section 2. Authorization.

2.01 The city council approves the conveyance of the property described in Exhibit A, in accordance with the purchase agreement.

2.02 The mayor and city manager are authorized and directed to execute the purchase agreement and all documents necessary to complete the conveyance, including documents that extend or modify time deadlines in the purchase agreement.

Section 3. This ordinance is effective 30 days after publication.

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: 
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

The stricken language is deleted; the underlined language is inserted.
EXHIBIT A

Legal Description of Land to Be Conveyed

That part of the North ½ of the Northeast Quarter of the Northwest Quarter of Section 32, Township 117, Range 22 described as follows: Commencing at the intersection of the South line of said North ½ and a line drawn parallel with and 16.5 feet Northwesterly from a line drawn from a point in the South line of said North ½ distant 762 feet West of the Southeast corner of said North ½ to a point in the center line of Excelsior Boulevard distant 586 feet Westerly, measured along said center line of said road from its intersection with the East line of said Northeast Quarter of Northwest Quarter; thence Northeasterly along said parallel line 284.4 feet to the center line of said Excelsior Boulevard; thence Northwesterly along said center line of said road a distance of 160 feet to the actual point of beginning of the tract to be described; thence Southwesterly a distance of 343.7 feet, more or less, to a point in the South line of said North ½ distant 180 West of the initial point of commencement (said last-described line being “Line A”); thence West along said South line of said North ½ a distance of 16.01 feet to the intersection with a line drawn parallel with and 13 feet northwesterly of the aforementioned “Line A” to the center line of Excelsior Boulevard; thence Southeasterly along the centerline of said Excelsior Boulevard to the point of beginning.
Brief Description: Resolution establishing polling places for the 2018 State Primary and General Election

Recommended Action: Adopt the resolution

Background:

A law passed by the 2017 Minnesota Legislature requires that by December 31 of each year, the city council designate by resolution or ordinance the polling place locations for the following year’s elections.

Minnetonka has 23 polling places. The only change in 2018 will be moving the polling place for Ward 2 Precinct D back to the Hennepin County Ridgedale Library. In 2017 the polling location was moved next door to the Ridgedale YMCA due to the reconstruction of the library. The YMCA agreed to serve as a polling place until the library was reopened. The new law provides that if a polling place becomes unavailable, the location can be changed by resolution of the council. If the library is not available for the August 18, 2018 State Primary, staff will look for an alternate location.

Recommendation:

Attached is a resolution designating the city’s polling places for 2018.

Submitted through: Geralyn Barone, City Manager
                Perry Vetter, Assistant City Manager

Originated by: David Maeda, City Clerk
Resolution No. 2017-

Resolution establishing polling place locations for the 2018 State Primary and State General Election

BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. The 2017 Minnesota State Legislature passed a new law (M.S. 204B.16 subd. 1) that requires each year the city council adopt a resolution establishing the polling place locations for the following year’s elections.

1.02. Minnetonka has 23 polling places. The only change from 2017 will be moving the location for voters in Ward 2 Precinct D from the Ridgedale YMCA back to the Hennepin County Ridgedale Library. The polling place was temporarily changed due to construction closing the library in 2017.

Section 2. Council Action.

2.01. The Minnetonka City Council hereby designates the following as the city’s polling place locations in 2018:

<table>
<thead>
<tr>
<th>Ward/Precinct</th>
<th>Polling Place</th>
</tr>
</thead>
<tbody>
<tr>
<td>1A</td>
<td>Immaculate Heart of Mary Catholic Church 13505 Excelsior Boulevard</td>
</tr>
<tr>
<td>1B</td>
<td>Old Apostolic Lutheran Church 5617 Rowland Road</td>
</tr>
<tr>
<td>1C</td>
<td>Cross of Glory Baptist Church 4600 Shady Oak Road</td>
</tr>
<tr>
<td>1D</td>
<td>Bet Shalom Congregation 13613 Orchard Rd</td>
</tr>
<tr>
<td>1E</td>
<td>St. Paul’s Lutheran Church 13207 Lake Street Ext.</td>
</tr>
<tr>
<td>1F</td>
<td>Minnetonka Community Center 14600 Minnetonka Blvd</td>
</tr>
<tr>
<td>2A</td>
<td>Minnetonka Community Center 14600 Minnetonka Blvd</td>
</tr>
<tr>
<td>2B</td>
<td>St. David’s Episcopal Church 13000 St. David’s Road</td>
</tr>
<tr>
<td>2C</td>
<td>Oak Knoll Lutheran Church 600 Hopkins Crossroad</td>
</tr>
<tr>
<td>2D</td>
<td>Hennepin County Ridgedale Library 12601 Ridgedale Drive</td>
</tr>
<tr>
<td>2E</td>
<td>Lindbergh Center 2400 Lindbergh Drive</td>
</tr>
<tr>
<td>3A</td>
<td>Ridgepoine 12600 Marion Ln W</td>
</tr>
<tr>
<td>3B</td>
<td>Brookdale Minnetonka Carlson Parkway 500 Carlson Parkway</td>
</tr>
<tr>
<td>3C</td>
<td>Minnetonka Community Center 14600 Minnetonka Blvd</td>
</tr>
<tr>
<td>3D</td>
<td>St. Luke’s Presbyterian Church 3121 Groveland School Road</td>
</tr>
</tbody>
</table>
Adopted by the City Council of the City of Minnetonka, Minnesota, on December 18, 2017

Terry Schneider, Mayor

ATTEST:

David 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 December 18, 2017.

David Maeda, City Clerk
City Council Agenda Item #10C  
Meeting of December 18, 2017

Brief Description  
Resolution ordering the abatement of nuisance conditions existing at 11505 Lakeview Lane West

Recommendation  
Adopt the resolution

Background

As described in the attached resolution, the property at 11505 Lakeview Lane West 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 oak trees dying of oak wilt disease in the back yard: a 36-inch diameter tree and a 29.5-inch diameter tree. The property owner has been provided four written violation notices and one verbal communication at the time of the original inspection and has had ample time to bring the property into compliance (summary table attached).

A final re-inspection will be conducted on December 18, 2017. 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 a quote from its contractor in the amount of $5,107.44 and as provided by the City Code, the property owner will become liable for the cost which includes tax. If the fees are not paid, the costs will be recommended for special assessment against the property.

Due to the timing of this abatement action, the costs will be assessed next year, in 2018, with first payment due with the owner’s property taxes beginning 2019. The special assessment will include the cost to abate the nuisance, tax, administrative fees as well as interest. These costs 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
  Hannibal Hayes, City Forester
Resolution No. 2017-

Resolution ordering the abatement of nuisance conditions at 11505 Lakeview Lane West

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>11505 Lakeview Lane West</td>
<td>August 21, 2017</td>
</tr>
<tr>
<td></td>
<td>November 3, 2017</td>
</tr>
<tr>
<td></td>
<td>November 12, 2017</td>
</tr>
</tbody>
</table>

1.02 Nuisance conditions were observed on this property at the first inspection of August 21, 2017, and the initial Ordinance Violation Notice was left with the property owner. On August 28, 2017, an Ordinance Violation Notice was mailed directly to the property. On November 3, 2017, the property was inspected again and another Ordinance Violation Notice was left on site. A fourth Ordinance Violation Notice was mailed via regular mail and certified mail on November 20, 2017, which included the quote amount from the 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 oak trees dying of oak wilt disease; the first tree is 36-inches in diameter and the second tree is 29.5-inches in diameter.

The property owner has had 119 days to abate the nuisance. The trees were first identified as being infected with oak wilt on August 21, 2017 and the required removal date was November 1, 2017.

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 December 18, 2017.

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 December 18, 2017.

David E. Maeda, City Clerk
<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
<th>Ordinance Violation Notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 21, 2017</td>
<td>Initial inspection, staff marked two infected oak trees.</td>
<td>Spoke with the owner and left the paperwork with them.</td>
</tr>
<tr>
<td>August 28, 2017</td>
<td></td>
<td>Notice relating to the trees was mailed to the property owner.</td>
</tr>
<tr>
<td>November 1, 2017</td>
<td>Date trees were required to be removed by the property owner to be compliant with city code. Property owners have until November 1st to remove red oak trees infected with oak wilt.</td>
<td></td>
</tr>
<tr>
<td>November 3, 2017</td>
<td>Second inspection, trees still standing</td>
<td>Third notice left at the door for the property owner.</td>
</tr>
<tr>
<td>November 7, 2017</td>
<td>City requested quote from contractor (S&amp;S).</td>
<td></td>
</tr>
<tr>
<td>November 13, 2017</td>
<td>Quote and photos provided by contractor S&amp;S $4,750 excluding tax.</td>
<td></td>
</tr>
<tr>
<td>November 20, 2017</td>
<td>Staff obtained phone number and attempted to call the owner, the voice mailbox was full.</td>
<td>Fourth notice sent by regular and certified mail to property owner with price quote and hearing date included. Total amount including tax is $5,107.44.</td>
</tr>
<tr>
<td>November 22, 2017</td>
<td>Staff received the signed certified letter receipt.</td>
<td></td>
</tr>
</tbody>
</table>
Diseased oak trees located at 11505 Lakeview Lane West
Brief Description: Resolution approving agreement for donation to the city of vacant land on Martha Lane

Recommended Action: Adopt the resolution

Background

Richard Wood is the owner of a vacant tract of land on the east side of Martha Lane, located between 3332 and 3433 Martha Lane. The property has been in Mr. Wood’s family for many years. Mr. Wood approached city staff about donating the land to the city.

The property has the following characteristics:

- Size: 1.35 acres
- Zoning: R-1
- Property taxes: The estimated market value of the property is $3,000. Taxes in 2017 were $52.94.
- Current land use: The property is vacant, undeveloped land. Due to floodplain and wetlands, the site is unbuildable. The property is encumbered by a public utility easement over the south 30 feet, in which the city has water and sanitary sewer lines. It appears that members of the public use the easement area as a walking path, and the path cuts north-south through the rear of the property, across the private property to the north and onto the city-owned property to the northeast. During a site inspection, natural resources staff saw the path being used in that manner.
- Location: The property is located on Martha Lane. It borders other city-owned properties to the east and northeast. It is bordered on the north and south by single-family residential properties.

Public works and engineering staff members agree that the property could be used for stormwater purposes in the future, whenever Martha Lane is reconstructed. The city staff does not propose to maintain the walking path or include it in the city’s trail system. Like most of the undeveloped properties that the city owns, the property would not be actively maintained. Any use by members of the public would be at their risk, although the city staff would remove hazardous trees when identified.

The city attorney has prepared a donation agreement for the council’s consideration. The agreement is contingent upon examination of title. Under the agreement, the donors warrant that they are not aware of hazardous substances, wells or septic systems on the property. If the transaction closes in 2017, the property will not be
removed from the tax rolls until 2019, and the city will be responsible for payment of 2018 real estate taxes.

**Recommendation**

Adopt the resolution.

Submitted through:
- Geralyn Barone, City Manager
- Will Manchester, City Engineer
- Brian Wagstrom, Public Works Director

Originated by:
- Corrine Heine, City Attorney
DONATION AGREEMENT

THIS AGREEMENT is made and entered into as of December 18, 2017, by and between Richard Joseph Wood and Carmen Wood, married to each other (“Donors”), and the City of Minnetonka, a Minnesota municipal corporation (“City”).

RECITALS

A. Richard Joseph Wood is the fee owner of certain real property in the city of Minnetonka, County of Hennepin, State of Minnesota, legally described as follows:

   The North 206.9 feet of that part of the Northwest ¼ of the Southwest ¼ of Section 16, Township 117, Range 22, Hennepin County, Minnesota, lying West of a line running from a point in the North line of said Northwest ¼ of the Southwest ¼ distant 954.8 feet East from the northwest corner thereof to a point in the South line of said Northwest ¼ of Southwest ¼ distant 937.4 feet East from the southwest corner thereof, and lying East of Town Road No. T 217.

   (the “Property”)

B. Carmen Wood has a marital interest in the Property.

C. Donors desire to donate, and the City desires to accept the donation of, the Property, subject to the terms and conditions of this Agreement.

AGREEMENT

In consideration of the mutual covenants made below and other good and valuable consideration, the parties agree as follows:

1. Offer and Acceptance. Donors agree to convey fee simple title to the City as a donation. The City agrees to accept the donation of the Property, subject to the terms and conditions of this Agreement.

2. Title Matters. The City shall, at its sole expense, obtain a commitment for an owner's policy of title insurance, (“Commitment”) or, if the property is registered, a registered property abstract (“RPA”) from the title company of its choice. The City shall be allowed until December 26, 2017 to obtain the Commitment and to make any objections to marketability of title, which must be made in writing or deemed waived. Donors shall have until Closing, which shall be December 29, 2017, to make title marketable. Upon correction of title, the parties shall perform this Agreement according to its terms. If the Donors fail to make title marketable by Closing, the City may terminate this Agreement without any liability on its part.

3. Conditions to Closing. The closing of the transaction contemplated by this Agreement and the obligation of the Donors to donate the Property and of the City to accept the Property shall be subject to the following conditions:
3.1 The City reviewing and approving title to the Property pursuant to Section 2 of this Agreement.

3.2. The City having determined on or before the Closing Date that it is satisfied, based upon the results of, and matters disclosed by, any environmental or soil investigations or testing of the Property, that there are no environmental, soil, or other conditions that would interfere with the City’s use of the Property.

The above contingencies are for the sole benefit of the City, and the City shall have the right to waive those contingencies by giving written notice to Donors or proceeding to Closing. If the contingencies set forth in this Section have not been satisfied by the Closing Date, the City may terminate this Agreement without any liability on its part by giving written notice to Donors on or before the Closing Date.

4. Environmental and Soil Investigations. The City and its agents shall have the right, at their sole option and risk, to enter the Property for the purposes of testing soils, surveying, and undertaking such other work and inspections as it deems appropriate to determine the suitability of the Property for uses by the City. If the City investigates or tests the Property pursuant to this Section, the City shall pay all costs and expenses of such investigations and testing and shall hold Donors harmless from all damages and liabilities arising out of the City’s activities.

5. Real Estate Taxes. On or before the Closing Date, Donors will pay all real estate taxes attributable to the Property and payable in 2017 or prior years. The City will be responsible to pay real estate taxes, if any, payable in 2018 and subsequent years.

6. Special Assessments. There are no levied or pending assessments against the Property.

7. Closing.

7.1. The closing shall take place on December 29, 2017 at Minnetonka City Hall, 14600 Minnetonka Blvd., Minnetonka, MN 55345 unless otherwise agreed to by the parties in writing (“Closing Date”).

7.2. On the Closing Date, Donors shall deliver to the City possession of the Property, and shall execute and deliver to the City:

a) A duly executed general warranty deed conveying marketable title to the Property to the City, subject only to title matters expressly waived by City.

b) A duly executed affidavit of seller;

c) Well Disclosure Certification delivered with this Agreement, if required, or, if there is no well on the Property, the general warranty
deed must include the following statement: “Sellers certify that the Sellers do not know of any wells on the described real property.”

d) An affidavit of non-foreign identity; and

e) Such other documents as may be required by the City’s title examiner or title insurance company.

7.3. The City shall pay at closing: the state deed tax; all recording fees and charges relating to the transaction; title insurance premium, if any; and title company closing fee if any.

8. Personal Property Not Included. There is no personal property included in this donation. Donors shall remove all personal property, if any, from the Property prior to closing. Any personal property that remains on the Property after the closing shall be deemed to have been abandoned and shall become the exclusive property of the City.

9. Covenants, Representations and Warranties of Donors. Donors hereby warrant and represent to the City that, as of the date hereof, each of the following is true and accurate to the best of Donors’ knowledge:

9.1. Donors shall take no actions to encumber title to the Property after the date of this Agreement.

9.2. Donors have the full right and authority to convey the Property to the City as provided in this Agreement.

9.3. Donors warrant that they have not used the Property for the storage of hazardous substances or petroleum products. Donors represent and warrant that they have not received notice and have no knowledge of any condition that may exist on the Property that may support a claim or cause of action under (a) the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601-9657, as amended, or any similar state law or local ordinance; (b) the Resource Conversation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq.; (c) the Federal Water Pollution Control Act, 33 U. S.C. § 1251 et seq.; (d) the Clean Air Act, 42 U.S.C § 7401, et seq.; (e) the Clean Water Act 33 U.S.C. § 1251 et seq.; (f) the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.; (g) the Safe Drinking Water Act, 42 U.S.C. 300(1) et seq.; (h) the Minnesota Environmental Response and Liability Act, Minn. Stat. § 155B; (i) the Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. § 115C; (j) all rules or regulations promulgated under any of the foregoing; (k) any amendments of the foregoing; or (l) any other federal, state, county, municipal, local or other statute, law, ordinance or regulation.

9.4. Donors warrant that there is a right of access to the Property from a public right of way.
9.5. Donors warrant that, prior to the Closing Date, payment in full will have been made for all labor, materials, machinery, fixtures or tools furnished within the 120 days immediately preceding the Closing Date in connection with construction, alteration or repair of any structure on or improvement to the Property.

9.6. To Donors’ knowledge, there are no underground storage tanks located on the Property, and there are no septic systems located on the Property.

Donors agrees that each of the foregoing representations and warranties shall be deemed restated by Donors effective as of Closing, and shall survive closing for a period of twelve (12) months. In the event that any representation or warranty was or is incorrect or breached when made, Donors shall be liable to the City for any actual damages of the City arising out of the representation or warranty.

10. Miscellaneous

10.1 This agreement represents the complete and final agreement of the parties and supersedes any prior oral or written understanding. This agreement may be amended only by a writing executed by both parties. This agreement shall be binding on the parties hereto, their successors and assigns.

10.2 The City and Donors represent and warrant that the recitals contained in this Agreement are true and accurate.

10.3 All notices required by this Agreement shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To the Donor: Richard and Carmen Wood
2660 Lakewood Lane
Mound, MN 55364

To the City: City of Minnetonka
Attn: City Manager
14600 Minnetonka Blvd.
Minnetonka, MN 55345

10.4 This contract shall be governed by the laws of the State of Minnesota, without regard to choice of law provisions.

10.5 Well Disclosure:

☐ Sellers certify that the Sellers do not know of any wells on the described real property.

OR
☐ A completed Well Disclosure Certificate accompanies this Donation Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF MINNETONKA

By: ____________________                              DONORS:

                     Mayor                              Richard Joseph Wood
By: ____________________                              ____________________
                     City Manager                           Carmen Wood
Resolution No. 2017-___

Resolution approving agreement for donation to the city
of vacant land on Martha Lane

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

Section 1.  Background.

1.01. Richard Wood is the owner of vacant, undevelopable property on Martha Lane, PID 16-117-22-32-0007 (unaddressed). Mr. Wood has offered to donate the property to the city.

1.02. The Engineering Department as determined that the city could use the property for stormwater improvements in connection with future reconstruction of Martha Lane, whenever that should occur.

1.03. The city attorney has prepared a donation agreement to address the terms and conditions for the city accepting the donation.

Section 2.  Council Action.

2.01. The city council hereby approves the donation agreement for the property.

2.02. The mayor and city manager are hereby authorized and directed to execute the donation agreement and all other instruments necessary to complete the transaction contemplated by the purchase agreement.

2.03. The city manager is authorized to waive contingencies or to terminate the donation agreement, as the city manager determines to be in the best interests of the city.
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 October 24, 2016.

__________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #10E
Meeting of December 18, 2017

Brief Description
Resolution approving preliminary and final plat of WILLISTON ACRES 3rd ADDITION, a two-lot subdivision at 14819 Margaret Place

Recommendation
Adopt the resolution approving the preliminary and final plats

Proposal
Lake West Development, LLC is proposing to divide the existing 1.2-acre subject property into two, single-family lots. The existing home would remain. However, the existing garage would be removed and a new garage constructed on the west side of the home. A new home would be constructed east of the existing home.

Planning Commission Hearing
The planning commission considered the request on November 30, 2017. Staff recommended approval of the proposal noting that it would meet all minimum standards of both the subdivision and tree protection ordinances. The staff report, various plans and documents describing the project are attached. Though a public hearing was opened, no comments were received.

Planning Commission Recommendation
On a 7-0 vote, the commission recommended that the city council approve the preliminary and final plats. Meeting minutes are attached.

Staff Recommendation
Adopt the resolution approving the preliminary and final plat of WILLISTON ACRES 3rd ADDITION, a two-lot subdivision at 14819 Margaret Place.

Through: Geralyn Barone, City Manager
        Julie Wischnack, AICP, Community Development Director
        Loren Gordon, AICP, City Planner

Originator: Susan Thomas, AICP, Assistant City Planner
Brief Description Preliminary and final plat of WILLISTON ACRES 3rd ADDITION, a two-lot subdivision at 14819 Margaret Place

Recommendation Recommend the city council adopt the resolution approving the preliminary and final plats

Introduction

The roughly 1.2-acre subject property is located on the south side of Margaret Place, just west of Williston Road. The highest point property is situated in the southeast corner of the lot; grade falls downward from this point to the north and west. The property contains 17 high priority trees – of primarily oak, spruce, and walnut species – and a single-family home.

Proposal

Lake West Development, LLC is proposing to divide the property into two, single-family lots. The existing home would remain. However, the existing garage would be removed and a new garage constructed on the west side of the home. A new home would be constructed east of the existing home.

Staff Analysis

A land use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions associated with the applicant’s request and staff’s findings.

- Would the proposal meet minimum subdivision standards?

Yes. The subdivision ordinance outlines minimum area and dimensional standards for single-family residential lots. As submitted, the subdivision would meet all minimum standards. However, in reviewing the submittal, staff noticed that an area of Margaret Place lies outside of the dedicated public right-of-way. To resolve this issue, additional right-of-way must be dedicated. With this dedication, a slight shift of the proposed common lot line would ensure that the two-lot subdivision would meet minimum ordinance standards. (See the “Required Changes” exhibit.)
Subject: WILLISTON ACRES 3RD ADDITION, 14819 Margaret Place

<table>
<thead>
<tr>
<th></th>
<th>Area</th>
<th>Lot Width</th>
<th>Lot Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Buildable</td>
<td>Right-of-Way</td>
</tr>
<tr>
<td>Required</td>
<td>22,000 sq.ft.</td>
<td>3,500 sq.ft.</td>
<td>80 ft</td>
</tr>
<tr>
<td>Lot 1</td>
<td>27,560 sq.ft.</td>
<td>12,105 sq.ft.</td>
<td>150 ft</td>
</tr>
<tr>
<td>Lot 2</td>
<td>22,230 sq.ft.</td>
<td>10,680 sq.ft.</td>
<td>110 ft</td>
</tr>
</tbody>
</table>

* numbers exclude existing and required ROW easement
** all numbers rounded to nearest 5 sq.ft.

- **Would the proposal meet the tree ordinance?**

  Yes. Based on the submitted grading plans, four of the site’s 17 high-priority trees would be removed or significantly impacted. This 24 percent removal/impact would be allowed under the tree protection ordinance.

**Staff Recommendation**

Recommend the city council adopt the resolution approving the preliminary and final plat of WILLISTON ACRES 3rd ADDITION, a two-lot subdivision at 14819 Margaret Place

Originator: Susan Thomas, AICP, Assistant City Planner
Through: Loren Gordon, AICP, City Planner
Supporting Information

**Surrounding Land Uses**

<table>
<thead>
<tr>
<th>North</th>
<th>townhomes and industrial building</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>single-family homes</td>
</tr>
<tr>
<td>East</td>
<td>single-family homes</td>
</tr>
<tr>
<td>West</td>
<td>single-family homes</td>
</tr>
</tbody>
</table>

**Planning**

- Guide Plan designation: low-density residential
- Zoning: R-1

**Grading**

As is required for all preliminary plat applications, the applicant has submitted a general grading plan. Specific grading plans would be submitted and reviewed in conjunction with any building permit applications.

To accommodate a new home, the general grading plan suggests construction of a one to three foot retaining wall in the southeast corner of the new lot; commensurate excavation/removal of soil would occur northwest of the wall. To accommodate a new garage on the westerly lot, the general grading plan suggests roughly two feet of fill directly west of the existing home.

**Tree Removal**

By city code, no more than 35% of a property’s high priority trees may be removed to accommodate subdivision. A tree is considered removed if: (1) it is physically removed; (2) 30% or more of the trunk circumference is injured; (3) 30% or more of the crown is trimmed; (4) an oak is trimmed between April 1st and July 15th; or (5) the following percentage of the critical root zone is compacted, cut, filled or paved – 30 percent of the critical root zone for all species, except 40 percent for ash, elm, poplar species, silver maple and boxelder.

The subject property contains 17 high priority trees, 16 significant trees, and 5 trees that are not regulated due to their size or health. Based on the submitted plans:

<table>
<thead>
<tr>
<th></th>
<th>Total Number</th>
<th>Removed</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Priority</td>
<td>17 trees</td>
<td>4 removed or 24%</td>
</tr>
<tr>
<td>Significant</td>
<td>16 trees</td>
<td>4 trees or 25%</td>
</tr>
</tbody>
</table>

**Tree Mitigation**

By city code, tree mitigation is required for certain trees removed/impact. Based on the submitted plans, the required mitigation would be 62 to 80 inches, equating to 31 to 40, 2-inch
trees. Specific mitigation amounts would be determined during review of specific building permit applications.

**Stormwater**

The proposal does not trigger the city’s stormwater management rule.

**Utilities**

There is an existing sanitary sewer pipe extending east from the Margaret Place cul-de-sac manhole. City records indicate that this pipe is a 6-inch, private service pipe. The utility plan submitted by the applicant incorrectly identifies this pipe as an 8-inch, public sanitary main.

The submitted plan illustrates that the sanitary service for proposed Lot 2 would connect to the existing pipe. However, the city will not allow connection of a private service to a private service. As a condition of approval, the 8-inch sanitary main must be extended to the east. Private services must then be connected to this extended main.

**Motion Options**

The planning commission has three options:

1) Concur with the staff recommendation. In this case, a motion should be made recommending the city council adopt the resolution approving the preliminary and final plats.

2) Disagree with staff recommendation. In this case, a motion should be made recommending the city council deny the plats. This motion must include findings for denial.

3) Table the request. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

**Neighborhood Comments**

The city sent notices to 39 area property owners and received no comments to date.

**Deadline for Decision**

February 5, 2018
SITE INFORMATION

PARCEL AREA = 1.16 AC
MAX DISTURBED (PROJECTED) = 39 AC
EXISTING LOT IMPERVIOUS AREA = 0.47 AC
PROPOSED LOT IMPERVIOUS AREA = 0.0 AC

LEGEND:

- DECIDUOUS TREE - REMOVAL
- CONIFEROUS TREE - REMOVAL
- DECIDUOUS TREE - PROTECTED
- CONIFEROUS TREE - PROTECTED
- RETAINING WALL
- DETAIL IDENTIFICATION NO. / SHEET
- PROPOSED IMPERVIOUS

CONSTRUCTION LIMITS

GRADING & STORMWATER MANAGEMENT NOTES:

1. The utilities have not been located for this plan. Contractor is responsible for contacting State Deep Surf and ensuring utilities are located prior to digging.
2. Topsoil from grading areas shall be stripped, salvaged and stockpiled; subcut below final grade and replace salvaged topsoil to a minimum depth of 6".
3. Unless noted otherwise, all proposed contours indicate finished grades.
4. Rain garden infiltration capacity to be verified through geotechnical borings. Bottoms shall be tilled to a depth of 12" after installation to mitigate compaction.
5. Stormwater basins shall be protected from sediment during construction activities. If basins are graded earlier in sequence, then bottom shall be left 2" above final grade, with top 2" removed upon vegetation establishment.
6. Retaining walls shall be left 2" above final grade, with top 2" removed upon vegetation establishment.
7. All grading and erosion control shall adhere to City requirements.
8. Protect and preserve trees as indicated in Tree Preservation Plan.

SEDIMENT CONTROL & TURF RESTORATION NOTES:

1. Contractor is responsible for keeping sediment from leaving the property, including vehicle tracking. Should incident occur, contractor shall clean up as required within 24 hours of discovery.
2. Install preassembled or machine-sliced silt fence around any soil stockpiles that will be present for more than 7 days.
3. Topsoil from grading areas shall be stripped, salvaged and stockpiled; subcut below final grade and replace salvaged topsoil to a minimum depth of 6".
4. Sediment control devices shall not redirect runoff to neighboring properties or back water up onto said properties.
5. Devices shall be inspected weekly and all metal parts dried, and maintained as necessary to keep the intended functional condition.
6. Accumulated sediment shall be removed from sediment control devices when 4 of 6 of device height has been reached.
7. After rough grading is completed, and topsoil replaced, areas shall be seeded and hydromulched (or sodded) within 7 days.
8. Perimeter sediment controls shall remain in place until vegetation is growing / established in all disturbed areas.

WEST RAIN GARDEN
- TOP AREA = 220 FT²
- DEPTH = 1.0 FT
- VOL = 154 FT³

EAST RAIN GARDEN
- TOP AREA = 245 FT²
- DEPTH = 1.0 FT
- VOL = 174 FT³

LEGEND:

- RIPRAP CL II W/ FABRIC
- RIPRAP POND OVERFLOW / CHUTE
- SERVICE PAVEMENT
- EXISTING PAVEMENT
- PROPOSED PAVEMENT
- DRAINAGE DIRECTION
- EXISTING CONTOUR
- PROPOSED CONTOUR
- DECIDUOUS TREE - REMOVAL
- CONIFEROUS TREE - REMOVAL
- DECIDUOUS TREE - PROTECTED
- CONIFEROUS TREE - PROTECTED
- DETAIL IDENTIFICATION NO. / SHEET
- PROPOSED IMPERVIOUS

PAVEMENT REMOVAL

OWNER: TITLE:

MINNETONKA, MN 55345

15400 HIGHWAY 7

LAKE WEST DEVELOPMENT CO., LLC.
0.47 AC
0.19 AC
0.27 AC
0.28 AC
1.18 AC

GRADING PLAN

WILLISTON ACRES 3RD ADDITION
MINNETONKA, MN

15400 HIGHWAY 7
MINNETONKA, MN 55345

C01
Tree Preservation Notes:
1. Contractor shall identify and maintain construction limits as indicated on plan. Install silt fencing or tree protection fencing as needed to ensure no construction traffic or activity occurs outside the denoted limits.
2. Where pavement is to be removed, care shall be taken to ensure that demolition and removal activities do not harm underlying roots that may be present.

Significant Trees:

High Priority Trees:

= HIGH PRIORITY TREE

Location: Minnetonka, MN

Date: 8/11/2017

File Loc: D:\CivilMethods\7. Projects\0330_Williston Acres 3rd Addition\08_DRAWINGS AND SPECIFICATIONS\CAD\0330bse.dwg
Calvert moved, second by Powers, to adopt the resolution approving final site and building plan review with a setback variance for gymnasium, classroom, office, and storage additions at Clear Spring Elementary School at 5701 County Road 101.

Calvert, Knight, O’Connell, Powers, Schack, Sewell, and Kirk voted yes. Motion carried.

B. Preliminary and final plats of Williston Acres Third Addition, a two-lot subdivision at 14819 Margaret Place.

Chair Kirk introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Calvert visited the site and took pictures of the magnificent trees. Thomas identified which trees would be removed on the general grading plan.

Perry Ryan, of Lakewest Development, applicant, stated that he was available for questions. He stated that Thomas and Gordon have done a good job on the report. The proposal would be below the threshold required in regard to tree preservation.

Powers agreed with Calvert’s request to save as many of the large oak trees as possible. Subdividing the lot into two lots would be appropriate.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Powers moved, second by O’Connell, to recommend that the city council adopt the resolution approving the preliminary and final plat of Williston Acres Third Addition, a two-lot subdivision at 14819 Margaret Place.

Calvert, Knight, O’Connell, Powers, Schack, Sewell, and Kirk voted yes. Motion carried.

This item is tentatively scheduled to be reviewed by the city council on December 18, 2017.

C. Conditional use permit for a seven-to-twelve-resident, licensed-residential care facility at 5022 Baker Road.
Resolution No. 2017-

Resolution approving the preliminary and final plat of WILLISTON ACRES 3rd ADDITION at 14819 Margaret Place

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

Section 1. Background.

1.01 Lake West Development, LLC. has requested approval of preliminary and final plats of WILLISTON ACRES 3rd ADDITION, a two-lot residential subdivision, at 14819 Margaret Place

1.02 The property is legally described as:

Lots 11 and 12, including adjoining vacated alley, subject to road, Williston Park Acres, Hennepin County, Minnesota

1.03 On November 30, 2017, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the preliminary and final plats.

Section 2. General Standards.

2.01 City Code §400.030 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 With a slight shift of the proposed property line, which is a condition of this resolution, the preliminary plat would meet the design standards as outlined in City Code §400.030.

4.01 The above-described preliminary and final plats are hereby approved, subject to the following conditions:

1. Prior to release of the final plat for recording, submit the following:
   a) A revised final plat drawing that clearly illustrates the following:
      1) All existing easements, including those described by Document No. 4750938 and 9625170.
      2) Dedication of additional right-of-way adjacent to the south side of Margaret Place. The required dedication is generally illustrated in an exhibit to the November 30, 2017 staff report. The right-of-way must cover the existing road encroachment, plus a 6-foot wide boulevard.
      3) A 5-foot shift of the proposed common property line to ensure minimum lot area is met. The required shift is generally illustrated in an exhibit to the November 30, 2017 staff report.
      4) A minimum 10-foot wide drainage and utility easement adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.
   b) Title evidence that is current within thirty days before release of the final plat.
   c) An electronic CAD file of the plat in microstation or DXF.
   d) Two sets of mylars for city signatures.
   e) Park dedication fee of $5000.

2. Prior to issuance of a building permit
   a) Submit the following:
      1) A revised utility plan. The plans must illustrate:
         a. Extension of the 8-inch public sanitary sewer main to the east from the cul-de-sac manhole. The extension must be along the north side of the existing watermain in accordance with Minnesota Department of Health requirements.
b. Removal of existing 6-inch private sanitary sewer service to Lot 1 and reconfiguration of the service to provide a perpendicular connection to the extended main.

c. Connection of Lot 2 to the new sanitary main.

d. The water service on Lot 2 shifted to the west in order to save tree 840.

e. Minimum 1.5 inch water service to Lot 2.

2) A Sanitary Sewer Extension permit from Minnesota Pollution Control Agency or documentation from the agency that such permit is not required.

3) A right-of-way permit application for work within the public right-of-way.

4) A driveway permit.

5) A final grading and tree preservation plan. The plan must:


b. Not impact more than 30% of the critical root zones of the following trees:

- Lot 1 - Trees 826, 853, 855, 862, 863, 864, and 865
- Lot 2 - Trees 840, 842, A (848 as tagged in the field but not recorded on the inventory), 849, 850, and 851.

c. Show sewer and water services to minimize impact to any significant or high-priority trees. No trees may be removed for installation of services.

Note: no tree removal or grading may begin until a building permit is issued.

6) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the sole discretion of staff, mitigation may be decreased.
7) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to extend the sanitary main and patch Margaret Place. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letter of credit or cash escrow until: (1) as-built drawings have been submitted; and (2) the city engineer has accepted, in writing, the sanitary sewer extension and street repair.

8) Erosion control cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:

- The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and

- If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

9) All required hook-up fees.

b) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.

b) Hold a preconstruction meeting for extension of the sanitary sewer main.

3. A half-width patch of Margaret Place, at a minimum, is required for the length of the sanitary sewer construction. If the construction requires road disturbance to cross the centerline, then a full-width patch is required.

4. All lots and structures within the plat are subject to all the R-1 zoning standards.

5. This approval will be void on December 18, 2018, if: (1) a final plat is not recorded; and (2) the city council has not received and approved a written application for a time extension.
Adopted by the City Council of the City of Minnetonka, Minnesota, on December 18, 2017.

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 December 18, 2017.

David E. Maeda, City Clerk
City Council Agenda Item #10F  
Meeting of December 18, 2017

**Brief Description:** City manager performance pay

**Recommended Action:** Approve the 2017 city manager performance pay

**Background**

The employment contract for the city manager allows participation in the city’s merit performance management program. The merit program applies to most other city employees and the city manager is eligible to receive up to 1% of her annual base pay based on city council evaluation of her performance. The city council provided feedback on the city's shared values and leadership and management competencies.

The percentage of lump sum merit pay is related to the percentage results of the performance evaluation. The city manager’s 2017 performance feedback score was 90% out of 100%. Therefore, I am recommending the city manager receive performance pay in the amount of $1,445.74.

**Recommendation**

Approve a lump sum merit pay amount of $1,445.74.

Respectfully submitted,

Terry Schneider  
Mayor
City Council Agenda Item #10G  
Meeting of December 18, 2017

Brief Description: Labor agreement between the city of Minnetonka and International Union of Operating Engineers, Local No. 49

Recommended Action: Approve the agreement

Background

Staff has negotiated a labor agreement with the International Union of Operating Engineers (IUOE) Local No. 49, AFL-CIO, which represents the city’s public works staff. City staff and Local 49 representatives have reached agreement on a three-year contract for 2018 – 2020, the union employees have ratified it, and the city council is requested to approve it. Major changes to the existing labor agreement are described below, and more specifically all amendments can be found in the attached agreement.

Article XIV – Preshift Premium

When an employee is called into work prior to their regularly scheduled time a preshift premium is applied to their hourly wage. In 2018, the premium remains the same at $7.00 per hour and increases $1.00 per hour beginning in 2019, resulting in $8.00 per preshift hour in 2019. The qualifications of when this premium is applied as additional compensation have been removed, to better reflect the city’s commitment to maintain a work-life balance for employees paged in during off hours in the tasks of winter ice rink maintenance, street sweeping and hydrant flushing.

Article XXVI – Insurance

The city’s contribution to the employee’s monthly cafeteria benefits program increased in 2018 from $925 to $970 dollars for those electing single coverage; $1,050 to $1,100 for those electing Employee plus Spouse; $1,050 to $1,205 for Employee plus Child(ren) coverage; and $1,150 to $1,250 for Family Coverage. The health insurance portion of the contract remains open for negotiating 2019 and 2020 contributions.

Appendix A – Wages

In 2018, 2019 and 2020, the base wage increase is 1.5%. As part of the city’s MERIT program, a market analysis is conducted annually. If rates are found to be lower than the market comparison group, employees receive a market adjustment. In 2018, the market adjustment is 3.56%, for a total wage increase of 5.06%.
Skills based pay provisions and rates remain the same, with an emphasis on recertification of core skills and new emergency management training. Several housekeeping changes are made to the MERIT program to clarify eligibility and to the wage appendix A to clarify the requirements for step changes for qualified utility operators and qualified mechanic/welder positions.

The one-time incentive program for achieving a credited Public Works certification from North Hennepin increases from $500 to $750 with the city covering 90% of the program cost in accordance with the existing tuition reimbursement program. Minor housekeeping changes are made within the contract to update references to gender and the implementation of technology.

**Recommendation**

The city council is requested to approve the 2018 – 2020 labor agreement between the city of Minnetonka and the International Union of Operating Engineers, Local No. 49, AFL-CIO. This agreement allows the city to maintain a competitive salary and benefit package, as well as keep benefits standardized across employee groups.

Submitted through:
   Geralyn Barone, City Manager

Originated by:
   Perry Vetter, Assistant City Manager
LABOR AGREEMENT BETWEEN THE
CITY OF MINNETONKA AND
INTERNATIONAL UNION OF OPERATING ENGINEERS (IUOE)
LOCAL NO. 49, AFL-CIO

20158 – 201720

Effective December 15, 2017 – December 24, 2020
LABOR AGREEMENT BETWEEN
THE CITY OF MINNETONKA AND
INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL NO. 49, AFL-CIO

ARTICLE I - PURPOSE OF AGREEMENT

This Agreement is entered into between the City of Minnetonka, hereinafter called the Employer, and Local No. 49, International Union of Operating Engineers, AFL-CIO, hereinafter called the Union.

The intent and purpose of this Agreement is to:

1.1 Establish certain hours, wages, and other conditions of employment;

1.2 Establish procedures for the resolution of disputes concerning this Agreement's interpretation and/or application;

1.3 Specify the full and complete understanding of the parties; and

1.4 Place in written form the parties' agreement upon terms and conditions of employment for the duration of this Agreement.

The Employer and the Union, through this Agreement, continue their dedication to the highest quality of public service. Both parties recognize this Agreement as a pledge of this dedication.

ARTICLE II – RECOGNITION

The Employer recognizes the Union as the exclusive representative for all employees in the job classifications listed below who are public employees within the meaning of Minnesota Statute 179A.03, Subdivision 14, excluding supervisory, confidential, and all other employees.
ARTICLE III - DEFINITIONS

3.1 Union: The International Union of Operating Engineers, Local No. 49, AFL-CIO.

3.2 Employer: The individual municipality designated by this Agreement.

3.3 Union Member: A member of the International Union of Operating Engineers, Local No. 49, AFL-CIO.

3.4 Employee: A member of the exclusively recognized bargaining unit.

3.5 Base Pay Rate: The employee's hourly pay rate exclusive of longevity or any other special allowance.

3.6 Seniority: Length of continuous service in any of the job classifications covered by ARTICLE II, RECOGNITION. Employees who are promoted from a job classification covered by this Agreement and return to a job classification covered by this Agreement shall have their seniority calculated on their length of service under this Agreement for purposes of promotion, transfer, and lay off, and total length of service with the Employer for other benefits under this Agreement.

3.7 Severance Pay: Payment made to an employee upon honorable termination of employment.

3.8 Overtime: Work performed at the express authorization of the Employer in excess of either eight (8) hours within a twenty-four (24) hour period (except for shift changes) or more than forty (40) hours within a seven (7) day period.

3.9 Call Back: Return of an employee to a specified work site to perform assigned duties at the express authorization of the Employer at a time other than an assigned shift. An extension of or early report to an assigned shift is not a call back.
ARTICLE IV - UNION SECURITY

In recognition of the Union as the exclusive representative, the Employer shall:

4.1 Deduct each payroll period an amount sufficient to provide the payment of dues established by the Union from the wages of all employees authorizing in writing such deduction, and

4.2 Remit such deduction to the appropriate designated officer of the Union.

4.3 The Union may designate certain employees from the bargaining unit to act as stewards and shall inform the Employer in writing of such choice.

4.4 The Union agrees to indemnify and hold the Employer harmless against any and all claims, suits, orders, or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this Article.

ARTICLE V - EMPLOYER SECURITY

The Union agrees that during the life of this Agreement it will not cause, encourage, participate in or support any strike, slow down, other interruption of or interference with the normal functions of the Employer.

ARTICLE VI - EMPLOYER AUTHORITY

6.1. The Employer retains the full and unrestricted right to operate and manage all manpower, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct and determine the number of personnel; to establish work schedules; and to perform any inherent managerial function not specifically limited by this Agreement.
6.2. Any term and condition of employment not specifically established or modified by this Agreement shall remain solely within the discretion of the Employer to modify, establish, or eliminate.

ARTICLE VII - EMPLOYEE RIGHTS - GRIEVANCE PROCEDURE

7.1 Definition of Grievance - A grievance is defined as a dispute or disagreement as to the interpretation or application of the specific terms and conditions of this Agreement.

7.2 Union Representative - The Employer will recognize representatives designated by the Union as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article. The Union shall notify the Employer in writing of the names of such Union representatives and of their successors when so designated.

7.3 Processing of a Grievance - It is recognized and accepted by the Union and the Employer that the processing of grievances as hereinafter provided is limited by the job duties and responsibilities of the employees and shall therefore be accomplished during normal working hours only when consistent with such Employee duties and responsibilities. The aggrieved employee and the Union Representative shall be allowed a reasonable amount of time without loss in pay when a grievance is investigated and presented to the Employer during normal working hours provided the employee and the Union Representative have notified and received the approval of the designated supervisor who has determined that such absence is reasonable and would not be detrimental to the work programs of the Employer.

7.4 Procedure - Grievances, as defined by Section 7.1, shall be resolved in conformance with the following procedure:
Step 1. An employee claiming a violation concerning the interpretation or application of this Agreement shall, within twenty-one (21) calendar days after such alleged violation has occurred, present such grievance to the employee's supervisor as designated by the Employer. The Employer designated representative will discuss and give an answer to such Step 1 grievance within ten (10) calendar days after receipt. A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Agreement allegedly violated, and the remedy requested and shall be appealed to Step 2 within ten (10) calendar days after the Employer designated representative's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered waived.

Step 2. If appealed, the written grievance shall be presented by the Union and discussed with the Employer designated Step 2 representative. The Employer designated representative shall give the Union the Employer's Step 2 answer in writing within ten (10) calendar days after receipt of such Step 2 grievance. A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the Employer designated representative's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the Union within ten (10) calendar days shall be considered waived.

Step 3. If appealed, the written grievance shall be presented by the Union and discussed with the Employer designated Step 3 representative.
The Employer designated representative shall give the Union the Employer's answer in writing within ten (10) calendar days after receipt of such Step 3 grievance. A grievance not resolved in Step 3 may be appealed to Step 4 within ten (10) calendar days following the Employer designated representative's final answer in Step 3. Any grievance not appealed in writing to Step 4 by the Union within ten (10) calendar days shall be considered waived.

Step 4. A grievance unresolved in Step 3 and appealed in Step 4 shall be submitted to the Minnesota Bureau of Mediation Services. A grievance not resolved in Step 4 may be appealed to Step 5 within ten (10) calendar days following the Employer's final answer in Step 4. Any grievance not appealed in writing to Step 5 by the Union within ten (10) calendar days shall be considered waived.

Step 5. A grievance unresolved in Step 4 and appealed in Step 5 shall be submitted to arbitration subject to the provisions of the Public Employment Labor Relations Act of 1971, as amended. The selection of an arbitrator shall be made in accordance with the "Rules Governing the Arbitration of Grievances" as established by the Public Employment Relations Board.

7.5 Arbitrator's Authority

A. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the terms and conditions of this Agreement. The arbitrator shall consider and decide only the specific issues submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.
B. The arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules, or regulations having the force and effect of law. The arbitrator's decision shall be submitted in writing within thirty (30) days following the close of the hearing or the submission of briefs by the parties, whichever be later, unless the parties agree to an extension. The decision shall be binding on both the Employer and the Union and shall be based solely on the arbitrator's interpretation or application of the express terms of this Agreement and to the facts of the grievance presented.

C. The fees and expenses for the arbitrator's services and proceedings shall be borne equally by the Employer and the Union provided that each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. If both parties desire a verbatim record of the proceedings, the cost shall be shared equally.

7.6 Waiver - If a grievance is not presented within the time limits set forth above, it shall be considered "waived". If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the Employer's last answer. If the Employer does not answer a grievance or an appeal thereof within the specified time limits, the Union may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the Employer and the Union.

7.7 Choice of Remedy – If the grievance involves the suspension, demotion, or discharge of an employee who has completed the required probationary period, and
if, as a result of the Employer response in Step 4, the grievance remains unresolved, and if the grievance may be pursued in another forum such as: Civil Service, Veteran's Preference, Fair Employment, or Data Practices, then the aggrieved employee shall indicate in writing which procedure is to be utilized, Step 5 of ARTICLE VII or another forum, and shall sign a statement to the effect that the choice of any other forum precludes the aggrieved employee from making a subsequent appeal through Step 5 of ARTICLE VII.

ARTICLE VIII - SAVINGS CLAUSE

This Agreement is subject to the laws of the United States, the State of Minnesota, and the City of Minnetonka. In the event any provision of this Agreement shall be held to be contrary to law by a court of competent jurisdiction from whose judgment or decree no appeal has been taken within the time provided, such provision shall be voided. To the extent a provision of the contract is declared to the contrary to law by a court of final jurisdiction or administrative ruling or is in violation of legislation or administrative regulations, said provision shall be void and of no effect. All other provisions of this Agreement shall continue in full force and effect. The voided provision may be renegotiated at the request of either party.

ARTICLE IX - WORK SCHEDULES

9.1 The sole authority for establishing work schedules is the Employer. The normal work day for an employee shall be eight (8) hours. The normal work week shall be forty (40) hours Monday through Friday.

9.2 Service to the public may require the establishment of regular shifts for some
employees on a daily, weekly, seasonal, or annual basis other than the normal 7:00 a.m. to 3:30 p.m. day. The Employer will give 48 hours advance notice to the employees affected by the establishment of work days different from the employee’s normal eight (8) hour work day.

9.3 In the event that work is required because of unusual circumstances such as, but not limited to, fire, flood, snow, sleet, or breakdown of municipal equipment or facilities, no advance notice need be given. It is not required that an employee working other than the normal work day be scheduled to work more than eight (8) hours; however, each employee has an obligation to work overtime or call backs if requested unless unusual circumstances prevent the employee from so working.

9.4 Service to the public may require the establishment of regular work weeks that schedule work on Saturdays and/or Sundays.

ARTICLE X - WAGES

10.1. During the term of this Agreement, the Employer shall pay to members of the bargaining unit wages in accordance with salary schedule attached as Exhibit A.

ARTICLE XI - OVERTIME PAY

11.1 Hours worked in excess of eight (8) hours within a twenty-four (24) hour period, except for shift changes, or more than forty (40) hours within a seven (7) day period, will be compensated for at one and one-half (1 1/2) times the employee’s regular base pay rate.

11.2 Overtime will be distributed as equally as practicable.

11.3 Overtime refused by employees will for record purposes under ARTICLE 11.2 be
considered as unpaid overtime worked.

11.4 For the purpose of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.

**ARTICLE XII - COMPENSATORY TIME**

Non-exempt employees under the Fair Labor Standards Act shall be eligible for compensatory time in accordance with that act, subject to the following conditions:

12.1 Employees shall choose whether they want to have overtime pay or compensatory time by the end of the pay period in which it was earned.

12.2 No employee shall carry more than 40 hours accumulated compensatory time past the closest pay period ending date prior to November 15 of each year, except as permitted by the Employer. All accumulated compensatory time over 40 hours will be paid to the employee no later than the first paycheck dated on or after November 15 of each year.

12.3 The scheduling of compensatory time shall be at the reasonable discretion of the department director.

12.4 Cash payment for accumulated compensatory time may be taken at the employee’s option, with approval of the department director.

12.5 The Employer or department director may prohibit the use of compensatory time.

**ARTICLE XIII - CALL BACK**

An employee called in for work at a time other than the employee’s normal scheduled shift will be compensated for a minimum of three (3) hours’ pay at one and one-half (1 1/2) times the employee’s base pay rate. Any call outs received during the three-hour time block are
considered a continuation of the original call out and will be compensated as such.

ARTICLE XIV - PRESHIFT PREMIUM

14.1 Employees who are called to work prior to the starting time of the shift regularly assigned shall be compensated at a preshift premium of $5.00 per hour ($6.00 per hour beginning in 2016; $7.00 per hour beginning in 2017; $8.00 per hour beginning in 2019) for the preshift hours worked.

14.2 Preshift premium pay will be paid to employees for hours worked prior to the starting time of the shift regularly assigned while engaged in regularly scheduled ice rink maintenance, street sweeping or flushing. To be eligible for this preshift premium pay an employee must work a full eight (8) hour day. If an employee uses leave they are exempt from premium pay.

ARTICLE XV – HOLIDAYS

Regular full-time employees shall be provided twelve (12) paid holidays as follows:

- New Year's Day: January 1
- Martin Luther King’s Birthday: Third Monday in January
- President’s Day: Third Monday in February
- Memorial Day: Last Monday in May
- Independence Day: July 4
- Labor Day: First Monday in September
- Veteran's Day: November 11
- Thanksgiving Day: Fourth Thursday in November
- Day after Thanksgiving: The day after Thanksgiving
- Christmas Day: December 25
- Two (2) Floating Holiday’s: Two days shall be known as “floating holidays” and may be taken as holidays at the election of the employee with Employer approval, on any day throughout the fiscal year in which granted,
or be lost.

15.1 When New Year's Day, January 1; or Independence Day, July 4; or Christmas Day, December 25; falls on Sunday, the following day shall be a holiday, and provided, when New Year's Day, January 1; or Independence Day; July 4; or Christmas Day, December 25; falls on Saturday, the preceding day shall be a holiday.

15.2 Holidays will be administered in accordance with the posted Public Works Policy.

ARTICLE XVI - VACATION

16.1 a. Regular full-time employees hired prior to January 1, 1998 shall be eligible for earned vacation leave on the following basis:

   From the beginning of continuous employment through the fifth (5th) year of continuous employment, each regular full-time employee shall earn vacation at the rate of five-sixths (5/6) of a day per month or ten (10) working days per year. From the sixth (6th) year and on through the fifteenth (15th) year of continuous employment, each employee shall earn vacation at the rate of one and one-fourth (1-1/4) days per month or fifteen (15) working days per year. From the sixteenth (16th) year and on through the twentieth (20th) year, each employee shall earn vacation at the rate of twenty (20) working days per year. From the twenty-first (21st) year on, each employee shall earn twenty-five (25) days.

b. Regular full-time employees hired after January 1, 1998 shall be eligible for earned vacation leave on the following basis:

   From the beginning of continuous employment through the fifth (5th) year of continuous employment, each regular full-time employee shall earn vacation
at the rate of five-sixths (5/6) of a day per month or ten (10) working days per
year. From the sixth (6th) year through the tenth (10th) year of continuous
employment, each employee shall earn vacation at the rate of one and one-
fourth (1 1/4) days per month or fifteen (15) working days per year.
During each of the following years of continuous employment, each
employee shall earn vacation at the rates as specified:

- 11th year: one and one-third (1 1/3) days per month or sixteen (16)
  working days per year.
- 12th year: one and four-tenths (1 4/10) days per month or seventeen (17)
  working days per year.
- 13th year: one and one-half (1 1/2) days per month or eighteen (18)
  working days per year.
- 14th year: one and six-tenths (1 6/10) days per month or nineteen (19)
  working days per year.
- From the fifteenth (15th) year of continuous service and on, each
  employee shall earn one and two-thirds (1 2/3) days per month or twenty
  (20) working days per year.

16.2 Accrual. Employees may accrue vacation leave not to exceed the following based
on the employee’s rate of vacation earned.

<table>
<thead>
<tr>
<th>Rate of vacation earned</th>
<th>Maximum hours of accrued vacation leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>80 hours per year</td>
<td>200 hours</td>
</tr>
<tr>
<td>120 hours per year</td>
<td>225 hours</td>
</tr>
<tr>
<td>128-160 hours per year</td>
<td>250 hours</td>
</tr>
<tr>
<td>200 hours per year</td>
<td>275 hours</td>
</tr>
</tbody>
</table>

16.3 Vacation leave may be taken after approval by the Department Director.

16.4 Any employee leaving the municipal service in good standing after giving proper
notice of such termination of employment shall be compensated for vacation leave accrued and unused to the date of separation. Proper notice shall mean, "Written notice of at least fourteen (14) days prior to date of termination."

16.5. Waiving Vacation Prohibited. As vacation leave is granted to employees for a period of recreation, no employee shall be permitted to waive such leave for the purpose of receiving double pay.

ARTICLE XVII - SEVERANCE PAY

17. To be eligible for severance pay, employees must be regular employees on the date of termination, and have a total of 10 years of continuous service as a regular employee. Severance pay is granted to eligible employees when they leave the municipal service in good standing for one of the following reasons:

A. Elimination of their classification or position by the city.
B. Separation from city employment when the employee is eligible, based on age and/or service requirements, for an annuity from the Public Employees Retirement Association whether or not the employee starts receiving those benefits.
C. Mandatory retirement or termination of employment due to health reasons, service-connected injury, illness or death. A letter from a physician is required to indicate an employee’s inability to perform essential functions of the job.

17.2 Employees are entitled to severance pay equal to the greater of:

A. Four weeks of appropriate pay plus one additional week of appropriate pay for each year of service beyond 10 years, not to exceed a total of 13 weeks appropriate pay at their basic rate of pay,
or

B. One-third of the employee's accumulated sick leave at the appropriate pay rate.

17.3 Employees eligible for severance pay in accordance with Section 17.1 who submit a written notice of separation from City employment at least three months prior to that separation and who do not revoke it will receive the amount of severance pay pursuant to the policy plus an additional ten percent of that amount.

ARTICLE XVIII - UNIFORMS

In accordance with policies developed at the sole discretion of the Employer, the Employer will provide uniforms for Union members.

ARTICLE XIX - LEGAL DEFENSE

19.1 Employees involved in litigation because of negligence, ignorance of laws, nonobservance of laws, or as a result of employee judgmental decision may not receive legal defense by the municipality.

19.2 Any employee who is charged with a traffic violation, ordinance violation or criminal offense arising from acts performed within the scope of the employee's employment, when such act is performed in good faith and under direct order of the employee's supervisor, shall be reimbursed for reasonable attorney's fees and court costs actually incurred by such employee in defending against such charge.

ARTICLE XX - RIGHT OF SUBCONTRACT

Nothing in this Agreement shall prohibit or restrict the right of the Employer from
subcontracting work performed by employees covered by this Agreement.

ARTICLE XXI - DISCIPLINE

21.1 The Employer will discipline employees only for just cause.

21.2 An employee(s) will not be required to participate in an investigatory interview by the Employer where the information gained from the interview could lead to the discipline of the employee(s) unless the employees is given the opportunity to have a third party present at the interview to act as witness for the employee(s).

ARTICLE XXII - SENIORITY

22.1 Seniority will be the determining criterion for transfers, promotions and layoffs only when all job relevant qualification factors are equal.

22.2 Seniority will be the determining criterion for recall when the job relevant qualification factors are equal. Recall rights under this provision will continue for twenty-four (24) months after lay off. Recalled employees shall have ten (10) working days after notification of recall by registered mail at the employee's last known address to report to work or forfeit all recall rights.

ARTICLE XXIII - PROBATIONARY PERIOD

23.1 All newly hired or rehired employees will serve a twelve (12) month probationary period.

23.2 All employees will serve a twelve (12) month probationary period in any job classification in which the employee has not served a probationary period.

23.3 At any time during the probationary period a newly hired or rehired employee may
be terminated at the sole discretion of the Employer.

23.4 At any time during the probationary period a promoted or reassigned employee may be demoted or reassigned to the employee's previous position at the sole discretion of the Employer.

ARTICLE XXIV - SAFETY

The Employer and the Union agree to jointly promote safe and healthful working conditions, to cooperate in safety matters and to encourage employees to work in a safe manner.

ARTICLE XXV - JOB POSTING

25.1 The Employer and the Union agree that regular job vacancies within the designated bargaining unit shall be filled based on the concept of promotion from within provided that applicants:

A. Have the necessary qualifications to meet the standards of the job vacancy; and

B. Have the ability to perform the duties and responsibilities of the job vacancy.

25.2 Employees filling a higher job class based on the provisions of this ARTICLE shall be subject to the conditions of ARTICLE XXIII (PROBATIONARY PERIOD).

25.3 The Employer has the right of final decision in the selection of employees to fill posted jobs based on qualifications, abilities, and experience.

25.4 Job vacancies within the designated bargaining unit will be posted for five (5) working days so that members of the bargaining unit can be considered for such
ARTICLE XXVI - INSURANCE

26.1 For each benefit-earning employee electing health insurance coverage through the employer-sponsored cafeteria benefits program, the employer’s contribution toward that employee’s benefits program is $830 per month in plan year 2015. For each benefit-earning employee electing health insurance coverage through the employer-sponsored cafeteria benefits program, the employer’s monthly contribution toward that employee’s benefits program is $970 for those electing Single Coverage; $1,100 for Employee plus Spouse; $1,205 for Employee plus Child(ren) Coverage; or $1,250 for Family Coverage in plan year 2018.

26.2 Each benefit-earning employee electing health insurance coverage through the employer-sponsored cafeteria benefits program and who participates in the employer-sponsored health initiative program receives $100 per month. Each benefit-earning employee who opts out of the Employer sponsored cafeteria benefits program who participates in the employer-sponsored health initiative program receives $50 per month in plan year 2015 2018. Insurance is open for negotiations in 2016 2019 and 2017 2020.

26.3 The Employer agrees to pay the full cost of a $35,000 life insurance policy for each regular full-time employee.

26.4 The Employer will provide employees with Long Term Disability insurance provided that a sufficient number of employees enroll to meet the insurer’s eligibility requirements. The cost of the insurance will be paid through deductions in each employee’s accrued sick leave account of hours of time sufficient to provide for the payment of premiums.
26.5 In the event the health insurance provisions of this Agreement fail to meet the requirements of the Affordable Care Act and its related regulations or cause the Employer to be subject to a penalty, tax or fine, the Union and the Employer will meet immediately to bargain over alternative provisions.

ARTICLE XXVII - RETIREE HEALTH SAVINGS PLAN

Employees who qualify to receive severance pay upon retiring from the City, as defined by the Personnel Policy, must place 100% of their severance pay and unused vacation pay in their individual Retiree Health Savings Plan accounts at the time of retirement.

ARTICLE XXVIII - WAIVER

28.1 Any and all prior agreements, resolutions, practices, policies, rules and regulations regarding terms and conditions of employment, to the extent inconsistent with provisions of this Agreement, are hereby superseded.

28.2 The parties mutually acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any terms or conditions of employment not removed by law from bargaining. All agreements and understandings arrived at by the parties are set forth in writing in this Agreement for the stipulated duration of this Agreement. The Employer and the Union each voluntarily and unqualifiedly waives the right to meet and negotiate regarding any and all terms and conditions of employment referred to or covered in this Agreement or with respect to any term or condition of employment not specifically referred to or covered by this Agreement, even though such terms or conditions may not have been within the knowledge or
contemplation of either or both parties at the time this contract was negotiated or executed.

ARTICLE XXIX - DURATION

This Agreement shall be effective as of December 14, 2014 and shall remain in full force and effect through December 24, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this __________ day of ________, ______.

International Union of Operating Engineers, Local No. 49, AFL-CIO:

_____________________________________ Business Agent
_____________________________________ Business Manager
_____________________________________ Union Steward
_____________________________________ Union Steward
_____________________________________ Union Steward
_____________________________________ Union Steward

City of Minnetonka:

_____________________________________ Terry Schneider, Mayor
_____________________________________ Geralyn Barone, City Manager
The following positions will be in effect from the last payroll period for 2014 through the last payroll period in 2017.

<table>
<thead>
<tr>
<th>Position</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Employee Support Worker (PESW)</td>
<td>Automotive Support Worker</td>
</tr>
<tr>
<td>Public Service Worker I (PSW I)</td>
<td>Building Maintenance Custodian Utility Locator</td>
</tr>
<tr>
<td>Public Service Worker II (PSW II)</td>
<td>Lead Building Maintenance Custodian Park Maintenance Worker Street Maintenance Worker Water &amp; Sewer Maintenance Worker Building Maintenance Technician Automotive Service Worker</td>
</tr>
<tr>
<td>Public Service Worker III (PSW III)</td>
<td>Senior Building Maintenance Technician</td>
</tr>
<tr>
<td>Public Service Worker IV (PSW IV)</td>
<td>Automotive Mechanic Welder/Fabricator</td>
</tr>
<tr>
<td>Public Service Worker V (PSW V)</td>
<td>Senior Water &amp; Sewer Maintenance Worker</td>
</tr>
<tr>
<td>Out of Class Positions</td>
<td>Acting Foreman Field Training Worker Crew Leader Building Foreman</td>
</tr>
</tbody>
</table>

The following wage schedule will be in effect from the last payroll period for 2014 through the last payroll period in 2017.

2. The following wage schedule will be in effect from the last payroll period for 2014 through the last payroll period in 2017.
<table>
<thead>
<tr>
<th>POSITION</th>
<th>ELIGIBLE</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>PESW</td>
<td>Automotive Support Worker</td>
<td>$16.37</td>
<td>$16.53</td>
<td>$16.78</td>
</tr>
</tbody>
</table>

| PSW-I    | Step 1 - Start | 18.02 | 18.20 | 18.47 |
|          | Step 2 - 6 months | 19.06 | 19.25 | 19.54 |
|          | Step 3 - 18 months | 20.12 | 20.32 | 20.62 |
|          | Step 4 - 30 months | 21.18 | 21.39 | 21.71 |
|          | SBP hourly differential | -0.95 | -1.20 | -1.20 |

| PSW-II   | Step 1 - Start | 22.34 | 22.56 | 22.90 |
|          | Step 2 - 6 months | 23.65 | 23.89 | 24.25 |
|          | Step 3 - 18 months | 25.00 | 25.25 | 25.63 |
|          | Step 4 - 30 months | 26.31 | 26.57 | 26.97 |
|          | SBP hourly differential | -0.95 | -1.20 | -1.20 |

| PSW-III  | Step 1 - Start | 26.94 | 27.21 | 27.62 |
|          | Step 2 - 6 months | 27.40 | 27.67 | 28.09 |
|          | SBP hourly differential | -0.95 | -1.20 | -1.20 |

| PSW-IV   | Step 1 - Start | 23.95 | 24.19 | 24.55 |
|          | Step 2 - 6 months | 25.35 | 25.60 | 25.98 |
|          | Step 3 - 18 months | 26.79 | 27.06 | 27.47 |
|          | Step 4 - 30 months | 28.17 | 28.45 | 28.88 |
|          | SBP hourly differential | -0.95 | -1.20 | -1.20 |

| PSW-V    | Step 1 - Start | 28.12 | 28.40 | 28.83 |
|          | Step 2 - 6 months | 28.82 | 29.11 | 29.55 |
|          | Step 3 - conditional | 29.42 | 29.74 | 30.16 |
|          | SBP hourly differential | 0.75 | -1.00 | -1.00 |

For 2016, the top 2015 base pay rate for Minnetonka Public Service Workers will be multiplied by the negotiated base pay increase. Using 2015 League of Minnesota Cities salary data for the listed below, the average weighted mean of these cities (excluding Minnetonka) will be multiplied by the negotiated base pay increase for 2016. These two rates will be compared, and the higher of the two will be the 2016 top pay rate for Minnetonka.

This same process will be repeated using 2016 data to determine if there is a 2017 market adjustment.

Minnesota cities included in the comparison are Brooklyn Park, Burnsville, Eagan, Eden Prairie, Edina, Lakeville, Maple Grove, Plymouth, St. Louis Park and Woodbury.
2. The following wage schedule will be in effect from the first payroll period for 2018 through the last payroll period in 2020.

<table>
<thead>
<tr>
<th>POSITION</th>
<th>ELIGIBLE</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>PESW</td>
<td>Automotive Service Worker</td>
<td>$18.02</td>
<td>$18.29</td>
<td>$18.56</td>
</tr>
<tr>
<td>PSW I</td>
<td>Step 1 - Start</td>
<td>19.65</td>
<td>19.94</td>
<td>20.24</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>20.78</td>
<td>21.09</td>
<td>21.41</td>
</tr>
<tr>
<td></td>
<td>Step 3 - 18 months</td>
<td>21.95</td>
<td>22.28</td>
<td>22.61</td>
</tr>
<tr>
<td></td>
<td>Step 4 - 30 months</td>
<td>23.10</td>
<td>23.45</td>
<td>23.80</td>
</tr>
<tr>
<td></td>
<td>Qualified Utility Only</td>
<td>24.36</td>
<td>24.73</td>
<td>25.10</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>PSW II</td>
<td>Step 1 - Start</td>
<td>24.36</td>
<td>24.73</td>
<td>25.10</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>25.79</td>
<td>26.18</td>
<td>26.57</td>
</tr>
<tr>
<td></td>
<td>Step 3 - 18 months</td>
<td>27.26</td>
<td>27.67</td>
<td>28.09</td>
</tr>
<tr>
<td></td>
<td>Step 4 - 30 months</td>
<td>28.69</td>
<td>29.12</td>
<td>29.56</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>PSW III</td>
<td>Step 1 - Start</td>
<td>29.39</td>
<td>29.83</td>
<td>30.28</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>29.88</td>
<td>30.33</td>
<td>30.78</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>PSW IV</td>
<td>Step 1 - Start</td>
<td>26.12</td>
<td>26.51</td>
<td>26.91</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>27.64</td>
<td>28.05</td>
<td>28.47</td>
</tr>
<tr>
<td></td>
<td>Step 3 - 18 months</td>
<td>29.21</td>
<td>29.65</td>
<td>30.09</td>
</tr>
<tr>
<td></td>
<td>Step 4 - 30 months</td>
<td>30.72</td>
<td>31.18</td>
<td>31.65</td>
</tr>
<tr>
<td></td>
<td>Qualified Mechanic/Welder Only</td>
<td>31.40</td>
<td>31.87</td>
<td>32.35</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>PSW V</td>
<td>Step 1 - Start</td>
<td>30.67</td>
<td>31.13</td>
<td>31.60</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>31.43</td>
<td>31.90</td>
<td>32.38</td>
</tr>
<tr>
<td></td>
<td>Step 3 - conditional</td>
<td>32.07</td>
<td>32.55</td>
<td>33.04</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
</tr>
</tbody>
</table>

For 2019, the top 2018 pay rates (excluding Skills Based Pay) for Minnetonka Public Service Workers will be multiplied by the negotiated base pay increase. Using 2018 League of Minnesota Cities salary data for the cities listed below, the average weighted mean of these cities will be multiplied by the negotiated base pay increase for 2019. These two rates will be compared, and the higher of the two will be the 2019 top pay rates for Minnetonka.

This same process will be repeated using 2019 data to determine if there is a 2020 market adjustment.
Minnesota cities included in the comparison are Brooklyn Park, Burnsville, Eagan, Eden Prairie, Edina, Lakeville, Maple Grove, Plymouth, St. Louis Park and Woodbury.

3. The minimum requirements for each of the steps in the wage schedule are as follows:
   Progression from the starting salary through the top step of each classification based on actual months of service, demonstrated skill levels, and satisfactory performance.

4. Additional requirements:
   A. Water and Sewer Maintenance Worker (PSW II):
      Employees must possess a Class D Operator's License.
   B. Senior Building Maintenance Technician (PSW III):
      1. To be placed in Step 1 of the PSW III position, employees in this classification must possess a minimum of a Special Class Engineer Boiler's License; have completed 200 hours of authorized technical training; and have 30 months of Public Service Worker experience with the City of Minnetonka.
      2. To be placed in Step 2 of the PSW III position, employees in this classification must possess a minimum of a 2nd Class Boiler's License; have completed 400 hours of authorized technical training; and have 30 months of experience at PSW 111, Step 1, with the City of Minnetonka.
   C. Senior Water and Sewer Maintenance Worker (PSW V):
      1. To be placed in Step 1 of the PSW V position, employees must
possess Class C Water Supply System Operator and Wastewater Treatment Facility Operator Licenses and have 30 months of water and sewer system and facility operator experience, at least 12 months of which must be with the City of Minnetonka.

2. To be placed in Step 2 of the PSW V position, employees must possess Class B Water Supply System Operator and Wastewater Treatment Facility Operator Licenses and have six years of water and sewer system and facility operator experience, at least 24 months of which are with the City of Minnetonka.

3. To be placed in Step 3 of the PSW V position, employees must possess Class A Water Supply System Operator and Wastewater Treatment Facility Operator Licenses and have six years of water and sewer system and facility operator experience, at least 36 months of which are with the City of Minnetonka.

5. All employees who have completed Skills Based Pay (SBP) program requirements are eligible to receive the SBP hourly differential as outlined for each classification in the wage schedule of Appendix A. Employees receiving SBP must be recertified on a biannual basis in order to continue receiving said pay.

6. Employees classified in the Public Service Worker I position required by the Employer to operate a skid steer loader will be paid the Public Service Worker II pay rate, same step as their PSW I rate, for those hours assigned to the unit.

7. Employees classified in the Public Service Worker I position required by the
Employer to perform duties requiring a State Boiler's Operator License will be paid the Public Service Worker II pay rate, same step as their PSW I rate, for those hours assigned said duties.

8. To be placed in Step 1, the Qualified Utility Only step of the Public Service Worker II position, utility locators must possess a Class D water and sewer operator’s license and have 18 months experience as a utility locator with the City of Minnetonka. This is the top step of the qualified utility locator classification.

9. Employees classified in the Public Service Worker I, II, III or IV position who are assigned to perform Public Service Worker IV - Welder and Mechanic duties will be paid Public Service Worker IV - Mechanic and Welder, Step 4 pay and, if eligible as a Public Service Worker I, II, III, or IV, associated skills-based pay for those hours assigned to that duty.

10. For each seven-day period while serving in the "standby" status, the Lead Building Maintenance Custodian will be compensated by receiving a total of three hours of overtime pay for that one-week period.

11. Employees classified as Public Service Worker I, II, or III who are assigned by the Employer as an Acting Foreman shall be compensated at $0.90/hour above the Public Service Worker III, Step 2 wage for all the time they are assigned to that position. Employees classified as Public Service Worker IV who are assigned by the Employer as an Acting Foreman shall be compensated at $0.90/hour above the Public Service Worker IV, Step 4 wage for all the time they are assigned to that position. Employees classified as Public Service Worker V who are assigned by the
Employer as an Acting Foreman shall be compensated at $0.90/hour above the Public Service Worker V, Step 3 wage for all the time they are assigned to that position. Assignments as Acting Foreman are at the sole discretion of the Employer.

12. Employees classified as Public Service Worker I, II, or III who are assigned by the Employer as a Crew Leader shall be compensated at $0.60/hour above the Public Service Worker III, Step 2 wage for all the time they are assigned to that position. Employees classified as Public Service Worker IV who are assigned by the Employer as a Crew Leader shall be compensated at $0.60/hour above the Public Service Worker IV, Step 4 wage for all the time they are assigned to that position. Employees classified as Public Service Worker V who are assigned by the Employer as a Crew Leader shall be compensated at $0.60/hour above the Public Service Worker V, Step 3 wage for all the time they are assigned to that position. Assignments as Crew Leader are at the sole discretion of the Employer.

13. Employees classified as Public Service Worker I, II, or III who are assigned by the Employer as Field Training Worker shall be compensated at $0.60/hour above the Public Service Worker III, Step 2 wage for all the time they are assigned to that position. Employees classified as Public Service Worker IV who are assigned by the Employer as Field Training Worker shall be compensated at $0.60/hour above the Public Service Worker IV, Step 4 wage for all the time they are assigned to that position. Employees classified as Public Service Worker V who are assigned by the Employer as Field Training Worker shall be compensated at $0.60/hour above the Public Service Worker V, Step 3 wage for all the time they are assigned to that position. Assignments as Field Training Worker are at the sole discretion of the Employer.
14. Employees employed by the Employer on a seasonal/temporary basis for no more than 180 calendar days per calendar year either in a full-time or part-time capacity (more than 14 hours per week) will be compensated as determined by the Employer for the term of this employment.

1. Employees who meet the requirements to be classified as “Public Employee Support Workers” under the Public Employment Labor Relations Act (PELRA) are not eligible for the following articles: Compensatory Time (Article XII), Holidays (Article XV), Vacation (Article XVI), Severance (Article XVII) or Uniforms (Article XVIII). Public Employees will only be eligible for Insurance (Article XXVI) if they meet the eligibility threshold under the Affordable Care Act as required by law.

2. Employees who meet the requirements to be classified as “Public Employee Support Workers” under the Public Employment Labor Relations Act (PELRA) are eligible for the following articles: Union Security (Article IV), Employee Rights – Grievance Procedure (Article VII), Wages (Article X), Overtime Pay (Article XI), Legal Defense (Article XIX), Discipline (Article XXI), Safety (Article XXIV), Duration (Article XXIX) and Flexible Work Weeks according to any current MOU.

15. Employees who have earned a 22 20-credit Public Works Certificate from North Hennepin Community College while employed with the city shall receive a one-time payment of $500 $750. The city shall cover 90% of the cost of the Public Works Certificate from North Hennepin Community College program in accordance with its tuition reimbursement program.
16. Employees with one year of service shall receive performance pay as follows:

   a. **Organizational performance MERIT** pay - The focus of the organizational performance MERIT pay is achievement of organization-wide goals as established by the city council. On an annual basis, employees shall be awarded performance pay in the lump sum amount based on the grade achieved by the organization as follows: for a grade of 4.0, each employee will be awarded $100; for a grade of less than 4.0, the award will be prorated based on the actual percentage achieved (e.g., 3.8 grade is 95% of 4.0, so 95% of $100 = $95, 3.5 grade is 87.5% of 4.0, so 87.5% of $100 = $87.50, etc.). **Seasonal, temporary, on-call (STOC) and flex part time employees are not eligible for organizational MERIT pay.**

   b. **Departmental performance MERIT** pay - The focus of the departmental performance MERIT pay is achievement of department-wide goals and performance indicators as established and evaluated annually by a representative group of employer, union and other public works department employees. On an annual basis, employees shall be awarded performance pay in the lump sum amount based on the percentage of goals/indicators achieved by the department as follows: 100% achievement will be awarded 1.5% (one and one-half percent) of base pay; achievement less than 100% shall be prorated based on the actual percentage achieved (e.g., 97% achievement = 97% of 1.5% base pay; 92% achievement = 92% of 1.5% base pay, etc.). **Seasonal, temporary, on-call (STOC) and flex part time employees are not eligible for departmental MERIT pay.**

   c. Compensation for organizational and departmental performance MERIT pay
will be paid in lump sums at the same time it is awarded to non-organized personnel.

17. For serving in the “standby” status the Building Maintenance Technician, assigned as the Acting Foreman, will be compensated by receiving one hour of overtime pay per weekday, 2 hours for Saturday and 2 hours for Sunday. For each holiday while serving in the “standby” status, the assigned employee will be compensated by receiving three hours of overtime pay.

18. To be placed in the Qualified Mechanic/Welder only step of the Public Service Worker IV position, Automotive Mechanic employees must possess a valid DOT inspection certificate and have 30 months experience as an automotive mechanic/welder/fabricator with the City of Minnetonka. This is the top step of the qualified automotive mechanic/welder/fabricator classification.

19. To be placed in the Qualified Mechanic/Welder only step of the Public Service Worker IV position, Welder/Fabricator employees must have 30 months experience as an automotive mechanic/welder/fabricator with the City of Minnetonka and possess a valid: American Welding Society (AWS) certification in gas metal arc welding (GMAW); or American Welding Society (AWS) certification in gas tungsten arc welding (GTAW); or successfully completed the Hennepin Technical College curriculum in Structural Iron Fabrication and Repair. This is the top step of the qualified automotive mechanic/welder/fabricator classification.
MEMORANDUM OF AGREEMENT
BETWEEN
THE CITY OF MINNETONKA AND
THE INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 49

The Union and the City agree on the following during the 2015 – 2020 contract.

SKILLS BASED PAY

By May 31, 2018, labor and management will develop new Skills Based Pay recertification requirements for the (1) recertification of core skills and (2) emergency management training.

UTILITIES DIVISION - SECOND SHIFT

The parties agree to the following conditions as it relates to the second shift of the City of Minnetonka’s Public Works Department, Utilities Division.

The second shift of the Utilities Division is hereby established for the above mentioned interim period as follows:

1. The City retains the right to establish schedules.

2. From the end of the scheduled second shift until the scheduled start time the following morning, Monday through Thursday, the employee who worked the second shift will serve in a "standby" status. An employee on "standby" is required to have with them at all times the City-provided pager and cellular phone mobile devices and must be able to respond to the City as soon as possible but within 45 minutes.

3. From the end of the second shift on Friday through the scheduled start time the following Monday morning, the assigned second shift employee shall serve in a "standby" status as defined above in paragraph 2.

4. For each week day and weekend day while serving in the "standby" status, the assigned employee will be compensated by receiving a total of ten hours of overtime pay (a total of five hours for the period of Monday through Friday, 2.5 hours for Saturday, and 2.5 hours for Sunday). For each holiday while serving in the "standby" status, the assigned employee will be compensated by receiving three hours of overtime pay at one and one-half times the employee’s base rate.

5. For each telephone call and/or computer alarm in excess of two per shift and a maximum of two per hour (when no response to the City is needed), the assigned employee will be compensated by receiving 30 minutes pay at one and one-half times the employee’s base pay rate.

6. For the purposes of paragraphs 4. and 5. of this Memorandum of Agreement, Article 12.1 of the labor agreement between the City and I.U.O.E. Local 49 does not apply.

7. The weekend and holiday shift is a two-hour morning shift. The employee must begin
work on these days before 8 a.m. and work for two hours. The employee is responsible for calling the Police Department Dispatcher to inform police personnel of his or her arrival. Employees will be compensated for working these hours at the overtime pay rate or compensatory time.

8. Should employees wish to switch assigned second shift or weekend duties, they may do so subject to supervisory approval at least 24 hours in advance of the switch. If an employee wishes to switch duty for either a Friday, Saturday or Sunday (or a holiday which falls on a Friday or Monday), the involved employees must switch for the entire weekend time period starting on Friday at noon through Monday (or Tuesday if a holiday) morning.

This language shall be effective as of December 14, 2017 and shall remain in full force and effect until December 24, 2020, or until a successor Agreement is reached, whichever is later.

For IUOE Local No. 49

___________________________   ___________________________

___________________________   ___________________________

___________________________

Dated:       Dated:

For the City of Minnetonka

___________________________   ___________________________

___________________________   ___________________________

___________________________

Dated:       Dated:
MEMORANDUM OF AGREEMENT
BETWEEN
THE CITY OF MINNETONKA AND
THE INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 49

The Union and the City agree on the following during the 2017 – 2020 contract.

Payroll – Working Past Midnight

1. The parties agree to the following conditions as it relates to the payroll calculations when an employee works past midnight for the City of Minnetonka’s Public Works Department.

When an employee that has worked a scheduled 8-hour shift is called back or works an extended day that goes past midnight and into the following day, the city will pay overtime (or if preferred compensatory time) for the extended hours even though their time extends past midnight and into the next work day.

Upon completion of the extended shift (second day), the employee and supervisor will decide the employee’s schedule for the second day before leaving public works. The following options are possible for the second day’s employee work schedule:

A. The employee will work their normal scheduled shift. Hours worked after midnight on the extended shift will be recorded as overtime.

B. The employee will report to work on or after the scheduled start time and work a partial shift utilizing all or a portion of the overtime hours converted to regular hours that were worked the previous day in order to log a regular 8-hour work day. If a balance of regular hours remain, the balance will be converted to overtime hours and paid as overtime for the first day.

C. The employee will not report to work and use overtime hours and/or vacation or compensatory time to log an 8-hour regular work day. If a balance of hours remain, the balance will be converted to overtime hours and paid as overtime for the first day.

2. In the event the provisions of this Memorandum fail to meet the requirements of or are held to be contrary to law by a court of competent jurisdiction from whose judgment or decree no appeal has been taken within the time provided, this provision shall be voided. To the extent this provision is declared to the contrary to law by a court of final jurisdiction or administrative ruling or is in violation of legislation or administrative regulations, said provision shall be void and of no effect. The Union and the Employer will meet immediately to bargain over the voided provision.

This language shall be effective as of December 15, 2017 and shall remain in full force and effect until December 24, 2020, or until a successor Agreement is reached, whichever is later.
LABOR AGREEMENT BETWEEN THE
CITY OF MINNETONKA AND
INTERNATIONAL UNION OF OPERATING ENGINEERS (IUOE)
LOCAL NO. 49, AFL-CIO
2018 – 2020

Effective December 15, 2017 – December 24, 2020
<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Purpose of Agreement</td>
<td>1</td>
</tr>
<tr>
<td>II</td>
<td>Recognition</td>
<td>1</td>
</tr>
<tr>
<td>III</td>
<td>Definitions</td>
<td>2</td>
</tr>
<tr>
<td>IV</td>
<td>Union Security</td>
<td>3</td>
</tr>
<tr>
<td>V</td>
<td>Employer Security</td>
<td>3</td>
</tr>
<tr>
<td>VI</td>
<td>Employer Authority</td>
<td>3</td>
</tr>
<tr>
<td>VII</td>
<td>Employee Rights - Grievance Procedure</td>
<td>4</td>
</tr>
<tr>
<td>VIII</td>
<td>Savings Clause</td>
<td>8</td>
</tr>
<tr>
<td>IX</td>
<td>Work Schedules</td>
<td>8</td>
</tr>
<tr>
<td>X</td>
<td>Wages</td>
<td>9</td>
</tr>
<tr>
<td>XI</td>
<td>Overtime Pay</td>
<td>9</td>
</tr>
<tr>
<td>XII</td>
<td>Compensatory Time</td>
<td>10</td>
</tr>
<tr>
<td>XIII</td>
<td>Call Back</td>
<td>10</td>
</tr>
<tr>
<td>XIV</td>
<td>Preshift Premium</td>
<td>11</td>
</tr>
<tr>
<td>XV</td>
<td>Holidays</td>
<td>11</td>
</tr>
<tr>
<td>XVI</td>
<td>Vacation</td>
<td>12</td>
</tr>
<tr>
<td>XVII</td>
<td>Severance Pay</td>
<td>14</td>
</tr>
<tr>
<td>XVIII</td>
<td>Uniforms</td>
<td>15</td>
</tr>
<tr>
<td>XIX</td>
<td>Legal Defense</td>
<td>15</td>
</tr>
<tr>
<td>XX</td>
<td>Right of Subcontract</td>
<td>15</td>
</tr>
<tr>
<td>XXI</td>
<td>Discipline</td>
<td>16</td>
</tr>
<tr>
<td>XXII</td>
<td>Seniority</td>
<td>16</td>
</tr>
<tr>
<td>XXIII</td>
<td>Probationary Period</td>
<td>16</td>
</tr>
<tr>
<td>XXIV</td>
<td>Safety</td>
<td>17</td>
</tr>
<tr>
<td>XXV</td>
<td>Job Posting</td>
<td>17</td>
</tr>
<tr>
<td>XXVI</td>
<td>Insurance</td>
<td>18</td>
</tr>
<tr>
<td>XXVII</td>
<td>Retiree Health Savings Plan</td>
<td>19</td>
</tr>
<tr>
<td>XXVIII</td>
<td>Waiver</td>
<td>19</td>
</tr>
<tr>
<td>XXIX</td>
<td>Duration</td>
<td>20</td>
</tr>
<tr>
<td>A</td>
<td>Appendix A</td>
<td>21</td>
</tr>
</tbody>
</table>
LABOR AGREEMENT BETWEEN
THE CITY OF MINNETONKA AND
INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL NO. 49, AFL-CIO

ARTICLE I - PURPOSE OF AGREEMENT

This Agreement is entered into between the City of Minnetonka, hereinafter called the Employer, and Local No. 49, International Union of Operating Engineers, AFL-CIO, hereinafter called the Union.

The intent and purpose of this Agreement is to:

1.1 Establish certain hours, wages, and other conditions of employment;
1.2 Establish procedures for the resolution of disputes concerning this Agreement's interpretation and/or application;
1.3 Specify the full and complete understanding of the parties; and
1.4 Place in written form the parties' agreement upon terms and conditions of employment for the duration of this Agreement.

The Employer and the Union, through this Agreement, continue their dedication to the highest quality of public service. Both parties recognize this Agreement as a pledge of this dedication.

ARTICLE II – RECOGNITION

The Employer recognizes the Union as the exclusive representative for all employees in the job classifications listed below who are public employees within the meaning of Minnesota Statute 179A.03, Subdivision 14, excluding supervisory, confidential, and all other employees.
ARTICLE III - DEFINITIONS

3.1 Union: The International Union of Operating Engineers, Local No. 49, AFL-CIO.

3.2 Employer: The individual municipality designated by this Agreement.

3.3 Union Member: A member of the International Union of Operating Engineers, Local No. 49, AFL-CIO.

3.4 Employee: A member of the exclusively recognized bargaining unit.

3.5 Base Pay Rate: The employee's hourly pay rate exclusive of longevity or any other special allowance.

3.6 Seniority: Length of continuous service in any of the job classifications covered by ARTICLE II, RECOGNITION. Employees who are promoted from a job classification covered by this Agreement and return to a job classification covered by this Agreement shall have their seniority calculated on their length of service under this Agreement for purposes of promotion, transfer, and lay off, and total length of service with the Employer for other benefits under this Agreement.

3.7 Severance Pay: Payment made to an employee upon honorable termination of employment.

3.8 Overtime: Work performed at the express authorization of the Employer in excess of either eight (8) hours within a twenty-four (24) hour period (except for shift changes) or more than forty (40) hours within a seven (7) day period.

3.9 Call Back: Return of an employee to a specified work site to perform assigned duties at the express authorization of the Employer at a time other than an assigned shift. An extension of or early report to an assigned shift is not a call back.
ARTICLE IV - UNION SECURITY

In recognition of the Union as the exclusive representative, the Employer shall:

4.1 Deduct each payroll period an amount sufficient to provide the payment of dues established by the Union from the wages of all employees authorizing in writing such deduction, and

4.2 Remit such deduction to the appropriate designated officer of the Union.

4.3 The Union may designate certain employees from the bargaining unit to act as stewards and shall inform the Employer in writing of such choice.

4.4 The Union agrees to indemnify and hold the Employer harmless against any and all claims, suits, orders, or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this Article.

ARTICLE V - EMPLOYER SECURITY

The Union agrees that during the life of this Agreement it will not cause, encourage, participate in or support any strike, slow down, other interruption of or interference with the normal functions of the Employer.

ARTICLE VI - EMPLOYER AUTHORITY

6.1 The Employer retains the full and unrestricted right to operate and manage all manpower, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct and determine the number of personnel; to establish work schedules; and to perform any inherent managerial function not specifically limited by this Agreement.
6.2. Any term and condition of employment not specifically established or modified by this Agreement shall remain solely within the discretion of the Employer to modify, establish, or eliminate.

ARTICLE VII - EMPLOYEE RIGHTS - GRIEVANCE PROCEDURE

7.1 Definition of Grievance - A grievance is defined as a dispute or disagreement as to the interpretation or application of the specific terms and conditions of this Agreement.

7.2 Union Representative - The Employer will recognize representatives designated by the Union as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article. The Union shall notify the Employer in writing of the names of such Union representatives and of their successors when so designated.

7.3 Processing of a Grievance - It is recognized and accepted by the Union and the Employer that the processing of grievances as hereinafter provided is limited by the job duties and responsibilities of the employees and shall therefore be accomplished during normal working hours only when consistent with such Employee duties and responsibilities. The aggrieved employee and the Union Representative shall be allowed a reasonable amount of time without loss in pay when a grievance is investigated and presented to the Employer during normal working hours provided the employee and the Union Representative have notified and received the approval of the designated supervisor who has determined that such absence is reasonable and would not be detrimental to the work programs of the Employer.

7.4 Procedure - Grievances, as defined by Section 7.1, shall be resolved in conformance with the following procedure:
Step 1. An employee claiming a violation concerning the interpretation or application of this Agreement shall, within twenty-one (21) calendar days after such alleged violation has occurred, present such grievance to the employee's supervisor as designated by the Employer. The Employer designated representative will discuss and give an answer to such Step 1 grievance within ten (10) calendar days after receipt. A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Agreement allegedly violated, and the remedy requested and shall be appealed to Step 2 within ten (10) calendar days after the Employer designated representative's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered waived.

Step 2. If appealed, the written grievance shall be presented by the Union and discussed with the Employer designated Step 2 representative. The Employer designated representative shall give the Union the Employer's Step 2 answer in writing within ten (10) calendar days after receipt of such Step 2 grievance. A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the Employer designated representative's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the Union within ten (10) calendar days shall be considered waived.

Step 3. If appealed, the written grievance shall be presented by the Union and discussed with the Employer designated Step 3 representative.
The Employer designated representative shall give the Union the Employer's answer in writing within ten (10) calendar days after receipt of such Step 3 grievance. A grievance not resolved in Step 3 may be appealed to Step 4 within ten (10) calendar days following the Employer designated representative's final answer in Step 3. Any grievance not appealed in writing to Step 4 by the Union within ten (10) calendar days shall be considered waived.

Step 4. A grievance unresolved in Step 3 and appealed in Step 4 shall be submitted to the Minnesota Bureau of Mediation Services. A grievance not resolved in Step 4 may be appealed to Step 5 within ten (10) calendar days following the Employer's final answer in Step 4. Any grievance not appealed in writing to Step 5 by the Union within ten (10) calendar days shall be considered waived.

Step 5. A grievance unresolved in Step 4 and appealed in Step 5 shall be submitted to arbitration subject to the provisions of the Public Employment Labor Relations Act of 1971, as amended. The selection of an arbitrator shall be made in accordance with the "Rules Governing the Arbitration of Grievances" as established by the Public Employment Relations Board.

7.5 Arbitrator's Authority

A. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the terms and conditions of this Agreement. The arbitrator shall consider and decide only the specific issues submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.
B. The arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules, or regulations having the force and effect of law. The arbitrator's decision shall be submitted in writing within thirty (30) days following the close of the hearing or the submission of briefs by the parties, whichever be later, unless the parties agree to an extension. The decision shall be binding on both the Employer and the Union and shall be based solely on the arbitrator's interpretation or application of the express terms of this Agreement and to the facts of the grievance presented.

C. The fees and expenses for the arbitrator's services and proceedings shall be borne equally by the Employer and the Union provided that each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. If both parties desire a verbatim record of the proceedings, the cost shall be shared equally.

7.6 Waiver - If a grievance is not presented within the time limits set forth above, it shall be considered "waived". If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the Employer's last answer. If the Employer does not answer a grievance or an appeal thereof within the specified time limits, the Union may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the Employer and the Union.

7.7 Choice of Remedy – If the grievance involves the suspension, demotion, or discharge of an employee who has completed the required probationary period, and
if, as a result of the Employer response in Step 4, the grievance remains unresolved, and, if the grievance may be pursued in another forum such as: Civil Service, Veteran's Preference, Fair Employment, or Data Practices, then the aggrieved employee shall indicate in writing which procedure is to be utilized, Step 5 of ARTICLE VII or another forum, and shall sign a statement to the effect that the choice of any other forum precludes the aggrieved employee from making a subsequent appeal through Step 5 of ARTICLE VII.

ARTICLE VIII - SAVINGS CLAUSE

This Agreement is subject to the laws of the United States, the State of Minnesota, and the City of Minnetonka. In the event any provision of this Agreement shall be held to be contrary to law by a court of competent jurisdiction from whose judgment or decree no appeal has been taken within the time provided, such provision shall be voided. To the extent a provision of the contract is declared to the contrary to law by a court of final jurisdiction or administrative ruling or is in violation of legislation or administrative regulations, said provision shall be void and of no effect. All other provisions of this Agreement shall continue in full force and effect. The voided provision may be renegotiated at the request of either party.

ARTICLE IX - WORK SCHEDULES

9.1 The sole authority for establishing work schedules is the Employer. The normal work day for an employee shall be eight (8) hours. The normal work week shall be forty (40) hours Monday through Friday.

9.2 Service to the public may require the establishment of regular shifts for some
employees on a daily, weekly, seasonal, or annual basis other than the normal 7:00 a.m. to 3:30 p.m. day. The Employer will give 48 hours advance notice to the employees affected by the establishment of work days different from the employee’s normal eight (8) hour work day.

9.3 In the event that work is required because of unusual circumstances such as, but not limited to, fire, flood, snow, sleet, or breakdown of municipal equipment or facilities, no advance notice need be given. It is not required that an employee working other than the normal work day be scheduled to work more than eight (8) hours; however, each employee has an obligation to work overtime or call backs if requested unless unusual circumstances prevent the employee from so working.

9.4 Service to the public may require the establishment of regular work weeks that schedule work on Saturdays and/or Sundays.

ARTICLE X - WAGES

10.1. During the term of this Agreement, the Employer shall pay to members of the bargaining unit wages in accordance with salary schedule attached as Exhibit A.

ARTICLE XI - OVERTIME PAY

11.1 Hours worked in excess of eight (8) hours within a twenty-four (24) hour period, except for shift changes, or more than forty (40) hours within a seven (7) day period, will be compensated for at one and one-half (1 - ½) times the employee’s regular base pay rate.

11.2 Overtime will be distributed as equally as practicable.

11.3 Overtime refused by employees will for record purposes under ARTICLE 11.2 be
considered as unpaid overtime worked.

11.4 For the purpose of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.

ARTICLE XII - COMPENSATORY TIME

Non-exempt employees under the Fair Labor Standards Act shall be eligible for compensatory time in accordance with that act, subject to the following conditions:

12.1 Employees shall choose whether they want to have overtime pay or compensatory time by the end of the pay period in which it was earned.

12.2 No employee shall carry more than 40 hours accumulated compensatory time past the closest pay period ending date prior to November 15 of each year, except as permitted by the Employer. All accumulated compensatory time over 40 hours will be paid to the employee no later than the first paycheck dated on or after November 15 of each year.

12.3 The scheduling of compensatory time shall be at the reasonable discretion of the department director.

12.4 Cash payment for accumulated compensatory time may be taken at the employee's option, with approval of the department director.

12.5 The Employer or department director may prohibit the use of compensatory time.

ARTICLE XIII - CALL BACK

An employee called in for work at a time other than the employee's normal scheduled shift will be compensated for a minimum of three (3) hours' pay at one and one-half (1 1/2) times the employee's base pay rate. Any call outs received during the three-hour time block are
considered a continuation of the original call out and will be compensated as such.

**ARTICLE XIV - PRESHIFT PREMIUM**

14.1 Employees who are called to work prior to the starting time of the shift regularly assigned shall be compensated at a preshift premium of $7.00 per hour ($8.00 per hour beginning in 2019) for the preshift hours worked.

14.2 Preshift premium pay will be paid to employees for hours worked prior to the starting time of the shift regularly assigned while engaged in regularly scheduled ice rink maintenance, street sweeping or flushing. To be eligible for this preshift premium pay an employee must work a full eight (8) hour day. If an employee uses leave they are exempt from premium pay.

**ARTICLE XV – HOLIDAYS**

Regular full-time employees shall be provided twelve (12) paid holidays as follows:

- New Year’s Day: January 1
- Martin Luther King’s Birthday: Third Monday in January
- President’s Day: Third Monday in February
- Memorial Day: Last Monday in May
- Independence Day: July 4
- Labor Day: First Monday in September
- Veteran’s Day: November 11
- Thanksgiving Day: Fourth Thursday in November
- Day after Thanksgiving: The day after Thanksgiving
- Christmas Day: December 25
- Two (2) Floating Holiday’s: Two days shall be known as “floating holidays” and may be taken as holidays at the election of the employee with Employer approval, on any day throughout the fiscal year in which granted, or be lost.
15.1 When New Year's Day, January 1; or Independence Day, July 4; or Christmas Day, December 25; falls on Sunday, the following day shall be a holiday, and provided, when New Year's Day, January 1; or Independence Day; July 4; or Christmas Day, December 25; falls on Saturday, the preceding day shall be a holiday.

15.2 Holidays will be administered in accordance with the posted Public Works Policy.

ARTICLE XVI - VACATION

16.1 a. Regular full-time employees hired prior to January 1, 1998 shall be eligible for earned vacation leave on the following basis:

From the beginning of continuous employment through the fifth (5th) year of continuous employment, each regular full-time employee shall earn vacation at the rate of five-sixths (5/6) of a day per month or ten (10) working days per year. From the sixth (6th) year and on through the fifteenth (15th) year of continuous employment, each employee shall earn vacation at the rate of one and one-fourth (1-1/4) days per month or fifteen (15) working days per year. From the sixteenth (16th) year and on through the twentieth (20th) year, each employee shall earn vacation at the rate of twenty (20) working days per year. From the twenty-first (21st) year on, each employee shall earn twenty-five (25) days.

b. Regular full-time employees hired after January 1, 1998 shall be eligible for earned vacation leave on the following basis:

From the beginning of continuous employment through the fifth (5th) year of continuous employment, each regular full-time employee shall earn vacation
at the rate of five-sixths (5/6) of a day per month or ten (10) working days per year. From the sixth (6th) year through the tenth (10th) year of continuous employment, each employee shall earn vacation at the rate of one and one-fourth (1 1/4) days per month or fifteen (15) working days per year. During each of the following years of continuous employment, each employee shall earn vacation at the rates as specified:

- 11th year: one and one-third (1 1/3) days per month or sixteen (16) working days per year.
- 12th year: one and four-tenths (1 4/10) days per month or seventeen (17) working days per year.
- 13th year: one and one-half (1 1/2) days per month or eighteen (18) working days per year.
- 14th year: one and six-tenths (1 6/10) days per month or nineteen (19) working days per year.
- From the fifteenth (15th) year of continuous service and on, each employee shall earn one and two-thirds (1 2/3) days per month or twenty (20) working days per year.

16.2 Accrual. Employees may accrue vacation leave not to exceed the following based on the employee’s rate of vacation earned.

<table>
<thead>
<tr>
<th>Rate of vacation earned</th>
<th>Maximum hours of accrued vacation leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>80 hours per year</td>
<td>200 hours</td>
</tr>
<tr>
<td>120 hours per year</td>
<td>225 hours</td>
</tr>
<tr>
<td>128-160 hours per year</td>
<td>250 hours</td>
</tr>
<tr>
<td>200 hours per year</td>
<td>275 hours</td>
</tr>
</tbody>
</table>

16.3 Vacation leave may be taken after approval by the Department Director.

16.4 Any employee leaving the municipal service in good standing after giving proper
notice of such termination of employment shall be compensated for vacation leave accrued and unused to the date of separation. Proper notice shall mean, "Written notice of at least fourteen (14) days prior to date of termination."

16.5. Waiving Vacation Prohibited. As vacation leave is granted to employees for a period of recreation, no employee shall be permitted to waive such leave for the purpose of receiving double pay.

**ARTICLE XVII - SEVERANCE PAY**

171 To be eligible for severance pay, employees must be regular employees on the date of termination, and have a total of 10 years of continuous service as a regular employee. Severance pay is granted to eligible employees when they leave the municipal service in good standing for one of the following reasons:

A. Elimination of their classification or position by the city.

B. Separation from city employment when the employee is eligible, based on age and/or service requirements, for an annuity from the Public Employees Retirement Association whether or not the employee starts receiving those benefits.

C. Mandatory retirement or termination of employment due to health reasons, service-connected injury, illness or death. A letter from a physician is required to indicate an employee’s inability to perform essential functions of the job.

17.2 Employees are entitled to severance pay equal to the greater of:

A. Four weeks of appropriate pay plus one additional week of appropriate pay for each year of service beyond 10 years, not to exceed a total of 13 weeks appropriate pay at their basic rate of pay,
or

B. One-third of the employee's accumulated sick leave at the appropriate pay rate.

17.3 Employees eligible for severance pay in accordance with Section 17.1 who submit a written notice of separation from City employment at least three months prior to that separation and who do not revoke it will receive the amount of severance pay pursuant to the policy plus an additional ten percent of that amount.

ARTICLE XVIII - UNIFORMS

In accordance with policies developed at the sole discretion of the Employer, the Employer will provide uniforms for Union members.

ARTICLE XIX - LEGAL DEFENSE

19.1 Employees involved in litigation because of negligence, ignorance of laws, nonobservance of laws, or as a result of employee judgmental decision may not receive legal defense by the municipality.

19.2 Any employee who is charged with a traffic violation, ordinance violation or criminal offense arising from acts performed within the scope of the employee's employment, when such act is performed in good faith and under direct order of the employee's supervisor, shall be reimbursed for reasonable attorney's fees and court costs actually incurred by such employee in defending against such charge.

ARTICLE XX - RIGHT OF SUBCONTRACT

Nothing in this Agreement shall prohibit or restrict the right of the Employer from
subcontracting work performed by employees covered by this Agreement.

ARTICLE XXI - DISCIPLINE

21.1 The Employer will discipline employees only for just cause.

21.2 An employee(s) will not be required to participate in an investigatory interview by the Employer where the information gained from the interview could lead to the discipline of the employee(s) unless the employees is given the opportunity to have a third party present at the interview to act as witness for the employee(s).

ARTICLE XXII - SENIORITY

22.1 Seniority will be the determining criterion for transfers, promotions and layoffs only when all job relevant qualification factors are equal.

22.2 Seniority will be the determining criterion for recall when the job relevant qualification factors are equal. Recall rights under this provision will continue for twenty-four (24) months after lay off. Recalled employees shall have ten (10) working days after notification of recall by registered mail at the employee's last known address to report to work or forfeit all recall rights.

ARTICLE XXIII - PROBATIONARY PERIOD

23.1 All newly hired or rehired employees will serve a twelve (12) month probationary period.

23.2 All employees will serve a twelve (12) month probationary period in any job classification in which the employee has not served a probationary period.

23.3 At any time during the probationary period a newly hired or rehired employee may
be terminated at the sole discretion of the Employer.

23.4 At any time during the probationary period a promoted or reassigned employee may be demoted or reassigned to the employee's previous position at the sole discretion of the Employer.

ARTICLE XXIV - SAFETY

The Employer and the Union agree to jointly promote safe and healthful working conditions, to cooperate in safety matters and to encourage employees to work in a safe manner.

ARTICLE XXV - JOB POSTING

25.1 The Employer and the Union agree that regular job vacancies within the designated bargaining unit shall be filled based on the concept of promotion from within provided that applicants:

A. Have the necessary qualifications to meet the standards of the job vacancy; and

B. Have the ability to perform the duties and responsibilities of the job vacancy.

25.2 Employees filling a higher job class based on the provisions of this ARTICLE shall be subject to the conditions of ARTICLE XXIII (PROBATIONARY PERIOD).

25.3 The Employer has the right of final decision in the selection of employees to fill posted jobs based on qualifications, abilities, and experience.

25.4 Job vacancies within the designated bargaining unit will be posted for five (5) working days so that members of the bargaining unit can be considered for such
vacancies.

ARTICLE XXVI - INSURANCE

26.1 For each benefit-earning employee electing health insurance coverage through the employer-sponsored cafeteria benefits program, the employer's monthly contribution toward that employee's benefits program is $970 for those electing Single Coverage; $1,100 for Employee plus Spouse; $1,205 for Employee plus Child(ren) Coverage; or $1,250 for Family Coverage in plan year 2018.

26.2 Each benefit-earning employee electing health insurance coverage through the employer-sponsored cafeteria benefits program and who participates in the employer-sponsored health initiative program receives $100 per month. Each benefit-earning employee who opts out of the Employer sponsored cafeteria benefits program who participates in the employer-sponsored health initiative program receives $50 per month in plan year 2018. Insurance is open for negotiations in 2019 and 2020.

26.3 The Employer agrees to pay the full cost of a $35,000 life insurance policy for each regular full-time employee.

26.4 The Employer will provide employees with Long Term Disability insurance provided that a sufficient number of employees enroll to meet the insurer's eligibility requirements. The cost of the insurance will be paid through deductions in each employee's accrued sick leave account of hours of time sufficient to provide for the payment of premiums.

26.5 In the event the health insurance provisions of this Agreement fail to meet the requirements of the Affordable Care Act and its related regulations or cause the Employer to be subject to a penalty, tax or fine, the Union and the Employer will
meet immediately to bargain over alternative provisions.

**ARTICLE XXVII - RETIREE HEALTH SAVINGS PLAN**

Employees who qualify to receive severance pay upon retiring from the City, as defined by the Personnel Policy, must place 100% of their severance pay and unused vacation pay in their individual Retiree Health Savings Plan accounts at the time of retirement.

**ARTICLE XXVIII - WAIVER**

28.1 Any and all prior agreements, resolutions, practices, policies, rules and regulations regarding terms and conditions of employment, to the extent inconsistent with provisions of this Agreement, are hereby superseded.

28.2 The parties mutually acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any terms or conditions of employment not removed by law from bargaining. All agreements and understandings arrived at by the parties are set forth in writing in this Agreement for the stipulated duration of this Agreement. The Employer and the Union each voluntarily and unqualifiedly waives the right to meet and negotiate regarding any and all terms and conditions of employment referred to or covered in this Agreement or with respect to any term or condition of employment not specifically referred to or covered by this Agreement, even though such terms or conditions may not have been within the knowledge or contemplation of either or both parties at the time this contract was negotiated or executed.
ARTICLE XXIX - DURATION

This Agreement shall be effective as of December 15, 2017 and shall remain in full force and effect through December 14, 2017.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this __________ day of ________, ______.

International Union of Operating Engineers, Local No. 49, AFL-CIO:
______________________________ Business Agent
______________________________ Business Manager
______________________________ Union Steward
______________________________ Union Steward
______________________________ Union Steward
______________________________ Union Steward

City of Minnetonka:
______________________________ Terry Schneider, Mayor
______________________________ Geralyn Barone, City Manager
The following positions will be in effect from the last payroll period for 2014 through the last payroll period in 2017.

<table>
<thead>
<tr>
<th>Position</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Employee Support Worker (PESW)</td>
<td>Automotive Support Worker</td>
</tr>
<tr>
<td>Public Service Worker I (PSW I)</td>
<td>Building Maintenance Custodian Utility Locator</td>
</tr>
<tr>
<td>Public Service Worker II (PSW II)</td>
<td>Lead Building Maintenance Custodian Park Maintenance Worker Street Maintenance Worker Water &amp; Sewer Maintenance Worker Building Maintenance Technician Automotive Service Worker</td>
</tr>
<tr>
<td>Public Service Worker III (PSW III)</td>
<td>Senior Building Maintenance Technician</td>
</tr>
<tr>
<td>Public Service Worker IV (PSW IV)</td>
<td>Automotive Mechanic Welder/Fabricator</td>
</tr>
<tr>
<td>Public Service Worker V (PSW V)</td>
<td>Senior Water &amp; Sewer Maintenance Worker</td>
</tr>
<tr>
<td>Out of Class Positions</td>
<td>Acting Foreman Field Training Worker Crew Leader Building Foreman</td>
</tr>
</tbody>
</table>

The following wage schedule will be in effect from the first payroll period for 2018 through the last payroll period in 2020.
<table>
<thead>
<tr>
<th>POSITION</th>
<th>STEP/DATE</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>PESW</td>
<td>Automotive Service Worker</td>
<td>$18.02</td>
<td>$18.29</td>
<td>$18.56</td>
</tr>
<tr>
<td>PSW I</td>
<td>Step 1 - Start</td>
<td>19.65</td>
<td>19.94</td>
<td>20.24</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>20.78</td>
<td>21.09</td>
<td>21.41</td>
</tr>
<tr>
<td></td>
<td>Step 3 - 18 months</td>
<td>21.95</td>
<td>22.28</td>
<td>22.61</td>
</tr>
<tr>
<td></td>
<td>Step 4 - 30 months</td>
<td>23.10</td>
<td>23.45</td>
<td>23.80</td>
</tr>
<tr>
<td></td>
<td>Qualified Utility Only</td>
<td>24.36</td>
<td>24.73</td>
<td>25.10</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>PSW II</td>
<td>Step 1 - Start</td>
<td>24.36</td>
<td>24.73</td>
<td>25.10</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>25.79</td>
<td>26.18</td>
<td>26.57</td>
</tr>
<tr>
<td></td>
<td>Step 3 - 18 months</td>
<td>27.26</td>
<td>27.67</td>
<td>28.09</td>
</tr>
<tr>
<td></td>
<td>Step 4 - 30 months</td>
<td>28.69</td>
<td>29.12</td>
<td>29.56</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>PSW III</td>
<td>Step 1 - Start</td>
<td>29.39</td>
<td>29.83</td>
<td>30.28</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>29.88</td>
<td>30.33</td>
<td>30.78</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>PSW IV</td>
<td>Step 1 - Start</td>
<td>26.12</td>
<td>26.51</td>
<td>26.91</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>27.64</td>
<td>28.05</td>
<td>28.47</td>
</tr>
<tr>
<td></td>
<td>Step 3 - 18 months</td>
<td>29.21</td>
<td>29.65</td>
<td>30.09</td>
</tr>
<tr>
<td></td>
<td>Step 4 - 30 months</td>
<td>30.72</td>
<td>31.18</td>
<td>31.65</td>
</tr>
<tr>
<td></td>
<td>Qualified Mechanic/Welder Only</td>
<td>31.40</td>
<td>31.87</td>
<td>32.35</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.20</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td>PSW V</td>
<td>Step 1 - Start</td>
<td>30.67</td>
<td>31.13</td>
<td>31.60</td>
</tr>
<tr>
<td></td>
<td>Step 2 - 6 months</td>
<td>31.43</td>
<td>31.90</td>
<td>32.38</td>
</tr>
<tr>
<td></td>
<td>Step 3 - conditional</td>
<td>32.07</td>
<td>32.55</td>
<td>33.04</td>
</tr>
<tr>
<td></td>
<td>SBP hourly differential</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
</tr>
</tbody>
</table>

For 2019, the top 2018 pay rates (excluding Skills Based Pay) for Minnetonka Public Service Workers will be multiplied by the negotiated base pay increase. Using 2018 League of Minnesota Cities salary data for the cities listed below, the average weighted mean of these cities will be multiplied by the negotiated base pay increase for 2019. These two rates will be compared, and the higher of the two will be the 2019 top pay rates for Minnetonka.

This same process will be repeated using 2019 data to determine if there is a 2020 market adjustment.

Minnesota cities included in the comparison are Brooklyn Park, Burnsville, Eagan, Eden Prairie, Edina, Lakeville, Maple Grove, Plymouth, St. Louis Park and Woodbury.
3. The minimum requirements for each of the steps in the wage schedule are as follows:
Progression from the starting salary through the top step of each classification based on actual months of service, demonstrated skill levels, and satisfactory performance.

4. Additional requirements:
   A. Water and Sewer Maintenance Worker (PSW II):
      Employees must possess a Class D Operator's License.
   B. Senior Building Maintenance Technician (PSW III):
      1. To be placed in Step 1 of the PSW III position, employees in this classification must possess a minimum of a Special Class Engineer Boiler's License; have completed 200 hours of authorized technical training; and have 30 months of Public Service Worker experience with the City of Minnetonka.
      2. To be placed in Step 2 of the PSW III position, employees in this classification must possess a minimum of a 2nd Class Boiler's License; have completed 400 hours of authorized technical training; and have 30 months of experience at PSW III, Step 1, with the City of Minnetonka.
   C. Senior Water and Sewer Maintenance Worker (PSW V):
      1. To be placed in Step 1 of the PSW V position, employees must possess Class C Water Supply System Operator and Wastewater Treatment Facility Operator Licenses and have 30 months of water
and sewer system and facility operator experience, at least 12 months of which must be with the City of Minnetonka.

2. To be placed in Step 2 of the PSW V position, employees must possess Class B Water Supply System Operator and Wastewater Treatment Facility Operator Licenses and have six years of water and sewer system and facility operator experience, at least 24 months of which are with the City of Minnetonka.

3. To be placed in Step 3 of the PSW V position, employees must possess Class A Water Supply System Operator and Wastewater Treatment Facility Operator Licenses and have six years of water and sewer system and facility operator experience, at least 36 months of which are with the City of Minnetonka.

5. All employees who have completed Skills Based Pay (SBP) program requirements are eligible to receive the SBP hourly differential as outlined for each classification in the wage schedule of Appendix A. Employees receiving SBP must be recertified on a biannual basis in order to continue receiving said pay.

6. Employees classified in the Public Service Worker I position required by the Employer to operate a skid steer loader will be paid the Public Service Worker II pay rate, same step as their PSW I rate, for those hours assigned to the unit.

7. Employees classified in the Public Service Worker I position required by the Employer to perform duties requiring a State Boiler's Operator License will be paid the Public Service Worker II pay rate, same step as their PSW I rate, for those hours
assigned said duties.

8. To be placed in the Qualified Utility Only step of the Public Service Worker I position, utility locators must possess a Class D water and sewer operator’s license and have 18 months experience as a utility locator with the City of Minnetonka. This is the top step of the qualified utility locator classification.

9. Employees classified in the Public Service Worker I, II, III or IV position who are assigned to perform Public Service Worker IV - Welder and Mechanic duties will be paid Public Service Worker IV - Mechanic and Welder, Step 4 pay and, if eligible as a Public Service Worker I, II, III, or IV, associated skills-based pay for those hours assigned to that duty.

10. For each seven-day period while serving in the "standby" status, the Lead Building Maintenance Custodian will be compensated by receiving a total of three hours of overtime pay for that one-week period.

11. Employees classified as Public Service Worker I, II, or III who are assigned by the Employer as an Acting Foreman shall be compensated at $0.90/hour above the Public Service Worker III, Step 2 wage for all the time they are assigned to that position. Employees classified as Public Service Worker IV who are assigned by the Employer as an Acting Foreman shall be compensated at $0.90/hour above the Public Service Worker IV, Step 4 wage for all the time they are assigned to that position. Employees classified as Public Service Worker V who are assigned by the Employer as an Acting Foreman shall be compensated at $0.90/hour above the Public Service Worker V, Step 3 wage for all the time they are assigned to that
position. Assignments as Acting Foreman are at the sole discretion of the Employer.

12. Employees classified as Public Service Worker I, II, or III who are assigned by the Employer as a Crew Leader shall be compensated at $0.60/hour above the Public Service Worker III, Step 2 wage for all the time they are assigned to that position. Employees classified as Public Service Worker IV who are assigned by the Employer as a Crew Leader shall be compensated at $0.60/hour above the Public Service Worker IV, Step 4 wage for all the time they are assigned to that position. Employees classified as Public Service Worker V who are assigned by the Employer as a Crew Leader shall be compensated at $0.60/hour above the Public Service Worker V, Step 3 wage for all the time they are assigned to that position. Assignments as Crew Leader are at the sole discretion of the Employer.

13. Employees classified as Public Service Worker I, II, or III who are assigned by the Employer as Field Training Worker shall be compensated at $0.60/hour above the Public Service Worker III, Step 2 wage for all the time they are assigned to that position. Employees classified as Public Service Worker IV who are assigned by the Employer as Field Training Worker shall be compensated at $0.60/hour above the Public Service Worker IV, Step 4 wage for all the time they are assigned to that position. Employees classified as Public Service Worker V who are assigned by the Employer as Field Training Worker shall be compensated at $0.60/hour above the Public Service Worker V, Step 3 wage for all the time they are assigned to that position. Assignments as Field Training Worker are at the sole discretion of the Employer.

14. Employees employed by the Employer on a seasonal/temporary basis for no more
than 180 calendar days per calendar year either in a full-time or part-time capacity (more than 14 hours per week) will be compensated as determined by the Employer for the term of this employment.

1. Employees who meet the requirements to be classified as “Public Employee Support Workers” under the Public Employment Labor Relations Act (PELRA) are not eligible for the following articles: Compensatory Time (Article XII), Holidays (Article XV), Vacation (Article XVI), Severance (Article XVII) or Uniforms (Article XVIII). Public Employees will only be eligible for Insurance (Article XXVI) if they meet the eligibility threshold under the Affordable Care Act as required by law.

2. Employees who meet the requirements to be classified as “Public Employee Support Workers” under the Public Employment Labor Relations Act (PELRA) are eligible for the following articles: Union Security (Article IV), Employee Rights – Grievance Procedure (Article VII), Wages (Article X), Overtime Pay (Article XI), Legal Defense (Article XIX), Discipline (Article XXI), Safety (Article XXIV), Duration (Article XXIX) and Flexible Work Weeks according to any current MOU.

15. Employees who have earned a 20-credit Public Works Certificate from North Hennepin Community College while employed with the city shall receive a one-time payment of $750. The city shall cover 90% of the cost of the Public Works Certificate from North Hennepin Community College program in accordance with its tuition reimbursement program.

16. Employees with one year of service shall receive performance pay as follows:
   a. Organizational MERIT pay - The focus of the organizational MERIT pay is
achievement of organization-wide goals as established by the city council.

On an annual basis, employees shall be awarded performance pay in the lump sum amount based on the grade achieved by the organization as follows: for a grade of 4.0, each employee will be awarded $100; for a grade of less than 4.0, the award will be pro-rated based on the actual percentage achieved (e.g., 3.8 grade is 95% of 4.0, so 95% of $100 = $95, 3.5 grade is 87.5% of 4.0, so 87.5% of $100 = $87.50, etc.). Seasonal, temporary, on-call (STOC) and flex part time employees are not eligible for organizational MERIT pay.

b. Departmental MERIT pay -The focus of the departmental MERIT pay is achievement of department-wide goals and performance indicators as established and evaluated annually by a representative group of employer, union and other public works department employees. On an annual basis, employees shall be awarded performance pay in the lump sum amount based on the percentage of goals/indicators achieved by the department as follows: 100% achievement will be awarded 1.5% (one and one-half percent) of base pay; achievement less than 100% shall be pro-rated based on the actual percentage achieved (e.g., 97% achievement = 97% of 1.5% base pay; 92% achievement = 92% of 1.5% base pay, etc.). Seasonal, temporary, on-call (STOC) and flex part time employees are not eligible for departmental MERIT pay.

c. Compensation for organizational and departmental MERIT pay will be paid in lump sums at the same time it is awarded to non-organized personnel.
17. For serving in the “standby” status the Building Maintenance Technician, assigned as the Acting Foreman, will be compensated by receiving one hour of overtime pay per weekday, 2 hours for Saturday and 2 hours for Sunday. For each holiday while serving in the “standby” status, the assigned employee will be compensated by receiving three hours of overtime pay.

18. To be placed in the Qualified Mechanic/Welder only step of the Public Service Worker IV position, Automotive Mechanic employees must possess a valid DOT inspection certificate and have 30 months experience as an automotive mechanic/welder/fabricator with the City of Minnetonka. This is the top step of the qualified automotive mechanic/welder/fabricator classification.

19. To be placed in the Qualified Mechanic/Welder only step of the Public Service Worker IV position, Welder/Fabricator employees must have 30 months experience as an automotive mechanic/welder/fabricator with the City of Minnetonka and possess a valid: American Welding Society (AWS) certification in gas metal and welding (GMAW); or American Welding Society (AWS) certification in gas tungsten arc welding (GTAW); or successfully completed the Hennepin Technical College curriculum in Structural Iron Fabrication and Repair. This is the top step of the qualified automotive mechanic/welder/fabricator classification.
MEMORANDUM OF AGREEMENT
BETWEEN
THE CITY OF MINNETONKA AND
THE INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 49

The Union and the City agree on the following during the 2017 – 2020 contract.

SKILLS BASED PAY

By May 31, 2018, labor and management will develop new Skills Based Pay recertification requirements for the (1) recertification of core skills and (2) emergency management training.

UTILITIES DIVISION - SECOND SHIFT

The parties agree to the following conditions as it relates to the second shift of the City of Minnetonka's Public Works Department, Utilities Division.

The second shift of the Utilities Division is hereby established for the above mentioned interim period as follows:

1. The City retains the right to establish schedules.

2. From the end of the scheduled second shift until the scheduled start time the following morning, Monday through Thursday, the employee who worked the second shift will serve in a "standby" status. An employee on "standby" is required to have with them at all times the City-provided mobile devices and must be able to respond to the City as soon as possible but within 45 minutes.

3. From the end of the second shift on Friday through the scheduled start time the following Monday morning, the assigned second shift employee shall serve in a "standby" status as defined above in paragraph 2.

4. For each week day and weekend day while serving in the "standby" status, the assigned employee will be compensated by receiving a total of ten hours of overtime pay (a total of five hours for the period of Monday through Friday, 2.5 hours for Saturday, and 2.5 hours for Sunday). For each holiday while serving in the "standby" status, the assigned employee will be compensated by receiving three hours pay at one and one-half times the employee's base rate.

5. For each telephone call and/or computer alarm in excess of two per shift and a maximum of two per hour (when no response to the City is needed), the assigned employee will be compensated by receiving 30 minutes pay at one and one-half times the employee's base pay rate.

6. For the purposes of paragraphs 4. and 5. of this Memorandum of Agreement, Article 12.1 of the labor agreement between the City and I.U.O.E. Local 49 does not apply.
7. The weekend and holiday shift is a two-hour morning shift. The employee must begin work on these days before 8 a.m. and work for two hours. The employee is responsible for calling the Police Department to inform police personnel of his or her arrival. Employees will be compensated for working these hours at the overtime pay rate or compensatory time.

8. Should employees wish to switch assigned second shift or weekend duties, they may do so subject to supervisory approval at least 24 hours in advance of the switch. If an employee wishes to switch duty for either a Friday, Saturday or Sunday (or a holiday which falls on a Friday or Monday), the involved employees must switch for the entire weekend time period starting on Friday at noon through Monday (or Tuesday if a holiday) morning.

This language shall be effective as of December 15, 2017 and shall remain in full force and effect until December 24, 2020, or until a successor Agreement is reached, whichever is later.

For IUOE Local No. 49

For the City of Minnetonka

___________________________   ___________________________

___________________________   ___________________________

___________________________   ___________________________

Dated:       Dated:
MEMORANDUM OF AGREEMENT
BETWEEN
THE CITY OF MINNETONKA AND
THE INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 49

The Union and the City agree on the following during the 2017 – 2020 contract.

Payroll – Working Past Midnight

1. The parties agree to the following conditions as it relates to the payroll calculations when an employee works past midnight for the City of Minnetonka’s Public Works Department.

When an employee that has worked a scheduled 8-hour shift is called back or works an extended day that goes past midnight and into the following day, the city will pay overtime (or if preferred compensatory time) for the extended hours even though their time extends past midnight and into the next work day.

Upon completion of the extended shift (second day), the employee and supervisor will decide the employee’s schedule for the second day before leaving public works. The following options are possible for the second day’s employee work schedule:

A. The employee will work their normal scheduled shift. Hours worked after midnight on the extended shift will be recorded as overtime.

B. The employee will report to work on or after the scheduled start time and work a partial shift utilizing all or a portion of the overtime hours converted to regular hours that were worked the previous day in order to log a regular 8-hour work day. If a balance of regular hours remain, the balance will be converted to overtime hours and paid as overtime for the first day.

C. The employee will not report to work and use overtime hours and/or vacation or compensatory time to log an 8-hour regular work day. If a balance of hours remain, the balance will be converted to overtime hours and paid as overtime for the first day.

2. In the event the provisions of this Memorandum fail to meet the requirements of or are held to be contrary to law by a court of competent jurisdiction from whose judgment or decree no appeal has been taken within the time provided, this provision shall be voided. To the extent this provision is declared to the contrary to law by a court of final jurisdiction or administrative ruling or is in violation of legislation or administrative regulations, said provision shall be void and of no effect. The Union and the Employer will meet immediately to bargain over the voided provision.

This language shall be effective as of December 15, 2017 and shall remain in full force and
effect until December 24, 2020, or until a successor Agreement is reached, whichever is later.

For IUOE Local No. 49

For the City of Minnetonka

___________________________   ___________________________

___________________________   ___________________________

___________________________

Dated:       Dated:
City Council Agenda Item #11A
Meeting of December 18, 2017

Brief Description
Applications for renewed precious metal and secondhand dealer licenses for 2018

Recommendation
Approve the licenses

Background
The city has received applications for renewal of precious metal and secondhand dealer licenses for the following establishments:

Evergreene Jewelers 3500 County Road No. 101
Ideal Diamond, Inc. 11900 Wayzata Boulevard, #116K
Best Buy #4 13513 Ridgedale Drive
Best Buy Mobile #2975 12401 Wayzata Blvd
Shane Co 11300 Wayzata Blvd, Suite A

Best Buy within Macy’s at Ridgedale closed early 2017. There have been no changes to the ownership structure or day-to-day operations since the licenses were approved last year.

Police Contacts
The police department reports that they have had no adverse contacts with any of the businesses this year.

Other Issues
All applicants meet all the requirements of the precious metal dealer/secondhand dealer ordinance. All assessments and other city claims against these establishments, as well as property taxes, are current.

Recommendations
Staff recommends that the city council approve the precious metal and secondhand dealer licenses for the above establishments, for the license year January 1, 2018, through December 31, 2018.

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

Originated by:
Kathy Leervig, Community Development Coordinator
City Council Agenda Item #11B
Meeting of December 18, 2017

Brief Description: Resolution accepting gifts, donations and sponsorships given to the city during 2017

Recommended Action: Adopt the resolution

Background

Council Policy 2.12 regulates the receipt and acceptance of gifts, donations and sponsorships to the city in compliance with Minnesota Statutes §465.03. The policy provides that the council must officially approve acceptance of gifts to the city by adopting a resolution.

Attached is the list of all such donations received between last year’s council acceptance and during 2017 that were not otherwise individually approved by the city council during the period. As required by the council policy, staff certified that all listed donations were an official sponsorship of an approved city program; a donation to the Richard Wilson Scholarship Fund or Parks for Tomorrow Fund; a conservation easement; or were merchandise or equipment meeting the following criteria:

- provide for a previously identified need and is for public benefit and use;
- no long-term costs exist for accepting, maintaining and disposing (if applicable) of the donation; and
- the donation is free of any quid pro quo expectations by the donor.

Volunteer time does not require specific council approval nor do advertisements supporting city enterprise funds, the latter because the monies are payment for the benefit of the advertising.

Except where the donation was anonymous, staff has acknowledged each gift, e.g. a thank you letter, printed or electronic publication of the sponsorship, etc.

Recommendation

Staff recommends the city council adopt the resolution to accept the attached list of gifts, donations and sponsorships for 2017, which have a total estimated value of $163,298.00.

Submitted through: Geralyn Barone, City Manager

Originated by: Merrill King, Finance Director
<table>
<thead>
<tr>
<th>Date</th>
<th>Department</th>
<th>Program</th>
<th>Donor Name, if not anonymous</th>
<th>Amount/Value</th>
<th>In-kind Description, if applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/10/2017</td>
<td>Recreation</td>
<td>Richard-Wilson Scholarship Fund</td>
<td>Robann Mrkonich</td>
<td>$75.00</td>
<td>Check</td>
</tr>
<tr>
<td>1/20/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Potbelly</td>
<td>$25.00</td>
<td>3 sandwich vouchers</td>
</tr>
<tr>
<td>1/20/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Great Harvest Bread Co.</td>
<td>$100.00</td>
<td>18 lunch bags &amp; 18 free cookie vouchers</td>
</tr>
<tr>
<td>1/31/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>The Glenn-Hopkins</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>2/10/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Chipotle</td>
<td>$100.00</td>
<td>9 BOGO vouchers</td>
</tr>
<tr>
<td>2/14/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>WestRidge of Minnetonka</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>2/15/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>CUB Foods</td>
<td>$25.00</td>
<td>5 - $5 gift cards</td>
</tr>
<tr>
<td>3/1/2017</td>
<td>Recreation</td>
<td>TONKS 10’s</td>
<td>Famous Daves B-B-Q</td>
<td>$100.00</td>
<td>20 kids meal vouchers</td>
</tr>
<tr>
<td>3/1/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Target/Knollwood</td>
<td>$25.00</td>
<td>5/$5 gift cards</td>
</tr>
<tr>
<td>3/9/2017</td>
<td>Recreation</td>
<td>Richard-Wilson Scholarship Fund</td>
<td>Robann Mrkonich</td>
<td>$50.00</td>
<td>Check</td>
</tr>
<tr>
<td>3/17/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>Home Care Assistance</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>3/22/2017</td>
<td>Recreation</td>
<td>Sips and Songs</td>
<td>Brookdale Minnetonka Carlson Parkway</td>
<td>$100.00</td>
<td>$50 + Refreshments</td>
</tr>
<tr>
<td>4/1/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Snuffys Malt Shop</td>
<td>$100.00</td>
<td>18 Malt vouchers</td>
</tr>
<tr>
<td>4/1/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Driskell’s Grocery</td>
<td>$20.00</td>
<td>1 gift card</td>
</tr>
<tr>
<td>5/1/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Mall of America</td>
<td>$100.00</td>
<td>2 park wristbands/2 moose adventure wristbands, MOA coupon book</td>
</tr>
<tr>
<td>5/1/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Starbucks</td>
<td>$80.00</td>
<td>coffee lids, stuffd bear, 2 mugs</td>
</tr>
<tr>
<td>5/2/2017</td>
<td>Recreation</td>
<td>Richard-Wilson Scholarship Fund</td>
<td>Robann Mrkonich</td>
<td>$50.00</td>
<td>Check</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Cherrywood Pointe</td>
<td>$75.00</td>
<td>Expo Event Bags</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Emerald Crest</td>
<td>$50.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Healing Hands for Feet</td>
<td>$50.00</td>
<td>Door Prize</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Landmark Tours</td>
<td>$75.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Legacy Care Home</td>
<td>$75.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Meals on Wheels-South Shore</td>
<td>$50.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Minnetonka Family Chiropractic</td>
<td>$50.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Nerium International</td>
<td>$50.00</td>
<td>Door Prize</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>North Memorial-Minnetonka Medical</td>
<td>$50.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>5/4/2017</td>
<td>Recreation</td>
<td>Senior Expo</td>
<td>Jewish Family and Childrens Services</td>
<td>$50.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>5/16/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>Ridgepointe</td>
<td>$120.00</td>
<td>Flowers</td>
</tr>
<tr>
<td>5/20/2017</td>
<td>Recreation</td>
<td>Mighty Mudders Mud Run</td>
<td>State Farm Insurance</td>
<td>$50.00</td>
<td>Fruit for participants</td>
</tr>
<tr>
<td>Date Received</td>
<td>Department</td>
<td>Program</td>
<td>Donor Name, if not anonymous</td>
<td>Amount/Value</td>
<td>In-kind Description, if applicable</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------</td>
<td>----------------------------------</td>
<td>------------------------------</td>
<td>--------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>5/20/2017</td>
<td>Recreation</td>
<td>Mighty Mudders Mud Run</td>
<td>State Farm Insurance</td>
<td>$50.00</td>
<td>Fruit for participants</td>
</tr>
<tr>
<td>6/1/2017</td>
<td>Recreation</td>
<td>Farmers Market - Power of Produce</td>
<td>South Lake Pediatrics</td>
<td>$1,000.00</td>
<td>Check</td>
</tr>
<tr>
<td>6/1/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Lunds &amp; Byerlys</td>
<td>$50.00</td>
<td>96 bottle of water</td>
</tr>
<tr>
<td>6/6/2017</td>
<td>Recreation</td>
<td>Richard-Wilson Scholarship Fund</td>
<td>Michelle Solomon</td>
<td>$20.00</td>
<td>Check</td>
</tr>
<tr>
<td>6/15/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>The Glenn-Minnetonka</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>6/15/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>WestRidge of Minnetonka</td>
<td>$75.00</td>
<td>Prizes</td>
</tr>
<tr>
<td>6/23/2017</td>
<td>Recreation</td>
<td>Tri Tonka Youth Triathlon</td>
<td>Great Harvest Bread Co</td>
<td>$50.00</td>
<td>Bread rolls for participants</td>
</tr>
<tr>
<td>6/23/2017</td>
<td>Recreation</td>
<td>Tri Tonka Youth Triathlon</td>
<td>Cub Foods</td>
<td>$50.00</td>
<td>$50 Gift Card (used to buy race water, cookies)</td>
</tr>
<tr>
<td>6/23/2017</td>
<td>Recreation</td>
<td>Lunch and a Movie</td>
<td>Nothing Bundt Cakes</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>7/1/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Trader Joes</td>
<td>$35.00</td>
<td>Food gift basket</td>
</tr>
<tr>
<td>7/20/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>Redgepointe</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>7/21/2017</td>
<td>Public Works</td>
<td>Parks for Tomorrow</td>
<td>Karen Hansen</td>
<td>$924.00</td>
<td>Check-Memorial Bench</td>
</tr>
<tr>
<td>7/28/2017</td>
<td>Recreation</td>
<td>Lunch and a Movie</td>
<td>Eldercare</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>7/31/2017</td>
<td>Public Works</td>
<td>Parks for Tomorrow</td>
<td>Phyllis Theel</td>
<td>$924.00</td>
<td>Check-Memorial Bench</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Cargill</td>
<td>$750.00</td>
<td>Sunglasses</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Mall of America</td>
<td>$150,000.00</td>
<td>10,400 mall passes (each ticket estimated value average $15)</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Gina Maria Pizza</td>
<td>$150.00</td>
<td>10 free large pizza certificates &amp; 150 coupon booklets</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Target - Ridgedale</td>
<td>$350.00</td>
<td>$245 in giftcards &amp; 10 boxes of $1 bin items</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Cub Foods-Minnetonka</td>
<td>$50.00</td>
<td>Five $10 gift cards</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Target - Hwy 101</td>
<td>$300.00</td>
<td>$249 in giftcards &amp; 2 boxes of $1 bin items</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Champs Restaurant</td>
<td>$50.00</td>
<td>Five mystery giftcards</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Gold Nugget Tavern &amp; Grille</td>
<td>$755.00</td>
<td>151 $5 gift cards</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Great Harvest Bread Co</td>
<td>$300.00</td>
<td>150 free loaf of bread certificates</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Snuffy's Malt Shoppe</td>
<td>$40.00</td>
<td>Four $10 gift cards</td>
</tr>
<tr>
<td>8/1/2017</td>
<td>Recreation</td>
<td>TONKA 10’s</td>
<td>Sams Club</td>
<td>$25.00</td>
<td>Gift card</td>
</tr>
<tr>
<td>8/4/2017</td>
<td>Public Works</td>
<td>Parks for Tomorrow</td>
<td>Karen Hansen</td>
<td>$125.00</td>
<td>Check - young sapling</td>
</tr>
<tr>
<td>8/17/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>Nothing Bundt Cakes</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>8/25/2017</td>
<td>Recreation</td>
<td>Lunch and a Movie</td>
<td>The Glenn-Minnetonka</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>8/25/2017</td>
<td>Recreation</td>
<td>Lunch and a Movie</td>
<td>The Glen Minnetoka</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
</tbody>
</table>
City of Minnetonka
2017 Gifts, Donations Sponsorships

<table>
<thead>
<tr>
<th>Date Received</th>
<th>Department</th>
<th>Program</th>
<th>Donor Name, if not anonymous</th>
<th>Amount/Value</th>
<th>In-kind Description, if applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>8/26/2017</td>
<td>Recreation</td>
<td>Back To School USTA Junior Tennis Tournament</td>
<td>Jeff Litvack - Class Act Stationery</td>
<td>$500.00</td>
<td>Cash</td>
</tr>
<tr>
<td>8/26/2017</td>
<td>Recreation</td>
<td>Back To School USTA Junior Tennis Tournament</td>
<td>Jeff Litvack - Class Act Stationery</td>
<td>$150.00</td>
<td>50 Notebooks</td>
</tr>
<tr>
<td>8/30/2017</td>
<td>Public Works</td>
<td>Parks for Tomorrow</td>
<td>Paul Lehman and Family</td>
<td>$1,615.00</td>
<td>Check-Memorial Bench</td>
</tr>
<tr>
<td>9/1/2017</td>
<td>Recreation</td>
<td>TONKA 10's</td>
<td>Target/Minnetonka</td>
<td>$20.00</td>
<td>4 - $5 gift cards</td>
</tr>
<tr>
<td>9/13/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>Home Care Assistance</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>9/20/2017</td>
<td>Recreation</td>
<td>Sips and Songs</td>
<td>Deephaven Woods</td>
<td>$100.00</td>
<td>$50 + Refreshments</td>
</tr>
<tr>
<td>9/29/2017</td>
<td>Recreation</td>
<td>Lunch and a Movie</td>
<td>Meridian Manor</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>10/27/2017</td>
<td>Recreation</td>
<td>Lunch and a Movie</td>
<td>Meridian Manor</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>10/31/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>Joyful Companions Home Care</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>11/9/2017</td>
<td>Recreation</td>
<td>Lunch and a Movie</td>
<td>Meridian Manor</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>11/10/2017</td>
<td>Recreation</td>
<td>Veterans Week</td>
<td>Hillcrest</td>
<td>$50.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>11/10/2017</td>
<td>Recreation</td>
<td>Veterans Week</td>
<td>The Glenn</td>
<td>$50.00</td>
<td>Check-Sponsorship</td>
</tr>
<tr>
<td>11/10/2017</td>
<td>Recreation</td>
<td>Veterans Week</td>
<td>Elder Homestead</td>
<td>$70.00</td>
<td>Cookies at speaker and $50 Check-Sponsorship</td>
</tr>
<tr>
<td>11/12/2017</td>
<td>Public Works</td>
<td>City flowers</td>
<td>Senior Garden Club</td>
<td>$875.00</td>
<td></td>
</tr>
<tr>
<td>11/15/2017</td>
<td>Recreation</td>
<td>Sips and Songs</td>
<td>Deephaven Woods</td>
<td>$100.00</td>
<td>$50 + Refreshments</td>
</tr>
<tr>
<td>11/21/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>Home Care Assistance</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>12/8/2017</td>
<td>Recreation</td>
<td>Lunch and a Movie</td>
<td>Ridgepointe</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>12/14/2017</td>
<td>Recreation</td>
<td>Monthly Party</td>
<td>Eldercare</td>
<td>$100.00</td>
<td>Dessert</td>
</tr>
<tr>
<td>12/18/2017</td>
<td>Recreation</td>
<td>Sips and Songs</td>
<td>Brookdale Minnetonka Carlson Parkway</td>
<td>$100.00</td>
<td>$50 + Refreshments</td>
</tr>
</tbody>
</table>

2017 Total Value $163,298.00
Resolution No. 2017-
Resolution accepting gifts, donations and sponsorships made to the city in 2017

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

Section 1. Background.

1.01. Council Policy 2.12 regulates the receipt and acceptance of gifts, donations and sponsorships to the city. The policy requires the council to officially approve acceptance of gifts to the city.

1.02. Minnesota Statutes, section 465.03 allows cities to accept gifts of real or personal property, including money, and to use the gifts in accordance with the terms prescribed by the donor. The statute requires the gift to be accepted by resolution, approved by two-thirds of the members of the city council.

1.03. During the year 2017, the city received gifts, donations or sponsorships as set forth in the list attached to this resolution.

1.04. City staff has certified that all listed donations conform to Council Policy 2.12.

1.05. The total estimated value of the gifts, donations and sponsorships for 2017 is $163,298.00.

Section 2. Council Action.

2.01. Council accepts the gifts, donations and sponsorships set forth on the attached list and designates those gifts for the uses specified in the attached list or, if no use is specified, for the general fund.

Adopted by the City Council of the City of Minnetonka, Minnesota, on December 18, 2017.

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 December 18, 2017.

__________________________________
David E. Maeda, City Clerk
Resolutions regarding utility related items:
1) Municipal water and sanitary sewer rates;
2) Municipal water and sanitary sewer connection fees;
3) Recycling fee

Recommended Action: Hold the public hearing and adopt the resolutions

Background

The city of Minnetonka has long held a policy of making decisions with the long-term in mind. Each spring, the staff and council analyze the operating and infrastructure needs of the city’s water, sewer, recycling and storm water utility enterprises during its development of the Capital Improvements Program (CIP), which includes estimated costs and revenues for at least the future five years. The first year of these five-year enterprise plans is codified in the next year’s budget, over which the council deliberates during several meetings in the summer and fall, and then adopts the final budget in December. Any changes in utility user rates and fees needed to enact the budget are further discussed at a public hearing prior to their specific adoption in December to become effective for billing the following year.

1. Municipal water and sanitary sewer rates

In 2014 and 2015, the city council convened a number of study sessions regarding critical maintenance and reconstruction of the city’s $500 million water and sewer system assets. Subsequently, the council proactively adopted a long-term bonding and user rate plan to support the ongoing costs required to keep the aging systems in appropriate working order.

The schedule for reconstruction of the system prioritizes street areas of high frequency water main breaks. Beginning in 2016, the city’s capital program covered the first of a series of high-cost/high-priority projects. These included Libb’s Lake neighborhood area (2016), Oakland Road (2016), and Crosby Road (2017). In 2018, Woodhill Road will be reconstructed including replacement of water infrastructure. Staff estimates that the remaining two highest-cost/high-priority areas, Groveland School Road/Bay Street and Tonka-Woodcroft neighborhoods will be scheduled in 2022 and 2023. As the latter dates approach, staff will continue to engage consultants for further analysis and update of the long term capital plan for the utility system along with its financial blueprint.

The adopted rates and financial plan continues to be consistent with the city’s historic and appropriate financing structures for the city’s utilities. It uses a Pay-As-You-Use
approach for financing the major infrastructure of these enterprises and does not special assess to property owners such road-related projects.

Under the rates and financial plan, the city has sold $17.5 million in G.O. revenue bonds in 2015 and 2016, and annual debt service on those bonds began last year. The timing of the first issuance ensured the city preserved its bank-qualified status, which garnered savings of as much as $1 million over the life of amortizing its liability. Current cash flow estimates suggest that the city does not need to issue additional debt for the system until early next year. Staff will continue to analyze the need for each and every future bond sale before council action on each. The city will pay off debt service on the only outstanding water/sewer obligation from years prior to 2015 in 2020, and the newer debt is built to wrap-around the related reduction in annual costs to ensure normalized costs from year to year.

Per the city’s plan, user rates need to be increased to support the cost of the new debt service in order to finance the utility work without special assessing costs to adjacent property owners. The recommended schedule of fee changes are similar to that adopted by the city in 2006 and 2007 for our Road Improvement Plan, which included more significant hikes in the first two years, then ongoing more modest increases annually thereafter. 2018 is the first year of the city’s now modest annual increases.

Staff recently requested and received from its financial advisors, Springsted Inc., an update based upon current actual and revised forecasts of construction project costs and timing. As a result, staff recommends only a 3.75 percent increase in water and sewer rates, which is lower than prior plans for 2018. Under this new recommended rate, our advisors estimate that the average water and sewer utility customer will experience a water sewer utility bill increase of around $2 per month in 2018. And, as indicated below, around three quarters of all water consumption falls within the lowest tier fee rate and less than four percent in the highest.

### Residential Monthly Consumption by Tier Fee Rate

- Tier 1 (0 to 6,000 gal./mo.): 74.9%
- Tier 2 (6,001 to 13,333 gal./mo.): 13.2%
- Tier 3 (13,334 to 23,333 gal./mo.): 8.4%
- Tier 4 (Over 23,334 gal./mo.): 3.5%
At the recommended rates, the city of Minnetonka’s relative position of customer costs for water and sewer services compared to other cities in the Metro would continue to make the city’s utility bill one of the larger. However, Minnetonka’s would continue to be somewhat similar amongst those cities where utility infrastructures are comparable in age, as indicated in the shaded portion of the following table. And, Minnetonka does not special assess residents, which is not the case in most other cities.

<table>
<thead>
<tr>
<th>City</th>
<th>2017</th>
<th>Proposed 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brooklyn Park</td>
<td>$34.17</td>
<td>$36.13</td>
</tr>
<tr>
<td>Lakeville</td>
<td>$35.02</td>
<td>$37.03</td>
</tr>
<tr>
<td>Apple Valley</td>
<td>$37.17</td>
<td>$39.03</td>
</tr>
<tr>
<td>Plymouth</td>
<td>$40.37</td>
<td>$42.47</td>
</tr>
<tr>
<td>Eden Prairie</td>
<td>$39.53</td>
<td>$42.90</td>
</tr>
<tr>
<td>Burnsville</td>
<td>$45.12</td>
<td>$46.86</td>
</tr>
<tr>
<td>St. Louis Park</td>
<td>$44.27</td>
<td>$46.93</td>
</tr>
<tr>
<td>Edina</td>
<td>$49.01</td>
<td>$51.24</td>
</tr>
<tr>
<td>Minnetonka</td>
<td><strong>$51.85</strong></td>
<td><strong>$53.78</strong></td>
</tr>
<tr>
<td>Minneapolis</td>
<td>$65.44</td>
<td>$69.48</td>
</tr>
</tbody>
</table>

Under the city’s adopted water and sewer system cash balance policy, the minimum targets for the Utility Fund’s operating reserve is six months operating costs and the capital reserve target is ten percent of the system’s accumulated depreciation. The Utility Fund met these cash reserve goals for the first time at the end of 2015 and again in 2016. By the end of this year, staff projects we will be short by almost $2 million (12 percent) for 2017 because of our decision to wait to issue bonds until next year. In 2018 and thereafter, staff projects we will continue to meet the goals due to the cash inflow from bond proceeds during those years.

A summary of the recommended changes are as follows:

<table>
<thead>
<tr>
<th>Current (1,000 gallons)</th>
<th>Proposed (1,000 gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Residential Water Rate (quarterly use)</td>
<td></td>
</tr>
<tr>
<td>• Tier 1 (0 to 18,000 gallons)</td>
<td>$2.85</td>
</tr>
<tr>
<td>• Tier 2 (18,001 to 40,000 gallons)</td>
<td>$3.25</td>
</tr>
<tr>
<td>• Tier 3 (40,001 to 70,000 gallons)</td>
<td>$4.07</td>
</tr>
<tr>
<td>• Tier 4 (70,001 + gallons)</td>
<td>$5.65</td>
</tr>
</tbody>
</table>
II. Sewer Rate
- Base fee – residential: $63.56/quarter to $65.94/quarter
- Base fee – commercial: $21.19/month to $21.98/month
- Special class base fee*: $23.47/quarter to $24.35/quarter
  *Discontinued for new entrants into program.

III. Commercial/Industrial Water
- Base rate: $2.85 to $2.96
- Summer surcharge rate (May – Sept): $3.22 to $3.34

IV. Meter Maintenance Fee
- 1 ½”: $1.42 to $1.47
- 2”: $4.23 to $4.39
- 3”: $8.49 to $8.81
- 4”: $12.62 to $13.09
- 6”: $16.98 to $17.62

V. Commercial/Industrial Sprinkler Accounts (monthly use)
- Sprinkler I (0 to 75,000 gallons): $3.25 to $3.37
- Sprinkler II (75,001 to 175,000 gallons): $4.07 to $4.22
- Sprinkler III (175,001 + gallons): $5.65 to $5.86

State of Minnesota testing fees and meter maintenance fees will remain the same.

Because the water and sewer systems sustainability plan must be aggressive, staff continues a public education effort to assist our utility customers in understanding why rates are increasing. Staff will continue to publish articles about the water and sewer utilities in the Minnetonka Memo and on the city’s website over the next year.

2. Municipal water and sanitary sewer connection fees

City Council Policy 12.4, Sanitary Sewer and Water Connection Fees, directs the city’s Residential Equivalent Charge (REC) to be indexed for annual inflationary changes per the “Engineering News Record.” The REC is used as a multiplier against the Metropolitan Council established units of SAC (sewer access charge) in determining city water and sewer connections fees. Per the policy, the REC would be increased in 2018 by the current index for Minneapolis of 7.1 percent, which would increase the RECs per SAC unit to $1,954.96 for water and $1,099.65 for sewer for a total increase of over $200 per SAC unit.
However, this index seems significantly out of proportion to the general Consumer Price Index (CPI) at 1.98 percent for the same period as maintained by the U.S. Department of Labor. Therefore, staff recommends alternatively using the Municipal Cost Index (MCI) to benchmark the increase. The MCI is currently at 3.19 percent, and therefore, staff recommends increasing the RECs per SAC unity to $1,883.59 for water and $1,059.50 for sewer for a total increase of $90.98 per SAC unit.

Staff will more closely examine the revenues and costs associated with the city’s REC charges prior to the annual rate adjustment at the end of next year. If a change in council policy is warranted, staff will recommend an alternative inflationary benchmark on a more permanent basis at that time.

3. Recycling Fee

In 2014, council adopted a plan to shore up the city’s Environmental Fund relative to the long-term change in the market for recycled materials. The fund maintains not only the costs of residential recycling, but also the city’s popular yard waste recycling and special drop-off programs. The 2018 budget continues to appropriately address the fund’s ongoing need for structural balance with a very modest increase in the recycling fee to meet the expenses of the city’s environmental programs supported by the fund.

Before the recession, revenues to the city from the sale of recycled materials (shown above as “contract rebate”) along with the fund’s other sources had more than covered program costs. As of last year, the market for recycled goods has dramatically dried up, and therefore no associated revenues are conservatively forecasted in the future. To offset this loss of revenue, staff has sought to reduce expenditures and have recently negotiated some significant contract service savings for grinding of brush and trees.
Other similar savings may be forthcoming, but such discussions are currently only preliminary.

Staff recommends an increase in the residential fee for recycling from $4.10 to $4.15 per month. Until 2014, the city’s recycling fee rate had remained the same for the prior ten years. The new fee rate will place the city’s charges to be in the ball park of the average of residential recycling fees across the metro and would allow the city to recover the full costs of our programs over the long term while requiring only very modest annual rate increases.

**Recommendation**

Staff recommends that the council conduct the public hearing and adopt the attached resolutions to enact the rates, increase connection fees, and increase the recycling fee. New rates would become effective with bills issued January 1, 2018 and thereafter.

Submitted through:
  Geralyn Barone, City Manager  
  Perry Vetter, Assistant City Manager

Originated by:
  Merrill King, Finance Director  
  Brian Wagstrom, Public Works Director
Resolution No. 2017-

Resolution providing for a change in municipal water rates and sanitary sewer charges

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

Section 1. Background.

1.01. On December 19, 2016, the City Council adopted Resolution No. 2016-136 setting municipal water rates and sanitary sewer service charges.

1.02. Those rates and charges are now scheduled for an increase in order to sustain the operations, maintenance and capital improvements of the city’s water and sanitary sewer enterprise.

1.03. The City Council, upon recommendation of the City Manager, city staff, and financial consultants, deems it proper and for public purposes and in the public interest to revise the current water and sanitary sewer rates and rate structure.

Section 2. Council Action.

2.01. The municipal water rates and sanitary service charges will be established as follows:

1. Residential water charges will be based on a four tier structure as follows:

<table>
<thead>
<tr>
<th>Tier</th>
<th>Gallons</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1</td>
<td>0 – 18,000</td>
<td>$2.96/1,000</td>
</tr>
<tr>
<td>Tier 2</td>
<td>18,001 – 40,000</td>
<td>$3.37/1,000</td>
</tr>
<tr>
<td>Tier 3</td>
<td>40,001 – 70,000</td>
<td>$4.22/1,000</td>
</tr>
<tr>
<td>Tier 4</td>
<td>70,001+</td>
<td>$5.86/1,000</td>
</tr>
</tbody>
</table>

2. For residential accounts, a late payment fee of 10 percent of the current late balance per quarter will be charged for quarterly bills more than 10 calendar days past due.

3. The base water rate for commercial/industrial consumers is set at $2.96 per thousand gallons.

4. A summer surcharge of $0.38 per thousand gallons will be charged for the months of May through September for commercial/industrial customers.
5. Apartment buildings will be billed at residential tiered rates and tier cutoffs will be adjusted by multiplying the number of units in each metered apartment building by each tier threshold.

6. Commercial/industrial irrigation sprinkler accounts will be charged on the following three-tier structure:

<table>
<thead>
<tr>
<th>Tier</th>
<th>Gallons Range</th>
<th>Fee per 1,000 gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sprinkler I</td>
<td>0-75,000 gallons</td>
<td>$3.37</td>
</tr>
<tr>
<td>Sprinkler II</td>
<td>75,001-175,000 gallons</td>
<td>$4.22</td>
</tr>
<tr>
<td>Sprinkler III</td>
<td>175,001+ gallons</td>
<td>$5.86</td>
</tr>
</tbody>
</table>

7. For commercial/industrial accounts a 10 percent late payment charge will be collected for monthly billings more than 10 calendar days past due.

8. A meter maintenance fee be collected for each monthly billing as follows:

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 ½”</td>
<td>$1.47 per month</td>
</tr>
<tr>
<td>2”</td>
<td>$4.39 per month</td>
</tr>
<tr>
<td>3”</td>
<td>$8.81 per month</td>
</tr>
<tr>
<td>4”</td>
<td>$13.09 per month</td>
</tr>
<tr>
<td>6”</td>
<td>$17.62 per month</td>
</tr>
</tbody>
</table>

10. The State of Minnesota testing fee will be $1.59 per quarter for residential customers and $0.53 per month for commercial/industrial customers.

11. Municipal sanitary sewer charges will be $2.34 per thousand gallons of water actually consumed per quarter or during the winter quarter, whichever is less.

12. All municipal water and/or sewer users, except in #13 below, will be charged a base rate of $65.94 each quarter (residential) and $21.98 per month (commercial) to support fixed costs of the utility systems.

13. Senior citizens, 62 years of age or older, who are served by the city’s sanitary sewer system in properties homesteaded under state law, and who submitted an approved application prior to December 17, 2012, will be charged a base rate of $24.35 each quarter to support fixed costs of the utility systems.

2.02. The revised municipal water and sanitary sewer service charges contained herein will become effective for billings prepared on or after January 1, 2018.
Adopted by the City Council of the City of Minnetonka, Minnesota, on December 18, 2017.

______________________________
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.

CERTIFIED COPY:

I certify that the foregoing is a correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on December 18, 2017.

______________________________
David E. Maeda, City Clerk
Resolution No. 2017-

Resolution providing for a change in municipal water and sanitary sewer connection fees

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

Section 1. Background.

1.01. On May 4, 2009, the City Council adopted Resolution No. 2009-038 establishing municipal water and sanitary sewer connection fees.

1.02. Council policy states that water and sanitary sewer connection fees will be determined by the use of a “Residential Equivalent Charge” (REC).

1.03. The policy further states that the city council will establish the RECs by resolution based on an analysis of the financing needs for the water and sanitary sewer systems. Thereafter, the council will annually, by resolution, increase the REC for water and for sanitary sewer based upon the construction index found in the “Engineering News Record.”

1.04. Because the current construction index of the “Engineering News Record” is 7.10 percent annual change and the U.S. Department of Labor Consumer Price Index is only 1.98 percent, council deems the Municipal Cost Index at 3.19 percent to be a more appropriate inflationary benchmark for 2018.

1.05. The municipal water and sanitary sewer fees are now scheduled for an increase in order to ensure that all properties pay a just and equitable share of the sanitary sewer and water infrastructure serving them.

1.06. The City Council, upon recommendation of the City Manager, city staff, and financial consultants, deems it proper and for public purposes and in the public interest to revise the current water and sanitary sewer connection fees.

Section 2. Council Action.

2.01. The “Residential Equivalent Charge” for water connection fees will be $1,883.59 and the “Residential Equivalent Charge” for sanitary sewer connection fees will be $1,059.50, and both will become effective January 1, 2018.
Adopted by the City Council of the City of Minnetonka, Minnesota, on December 18, 2017.

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 certify that the foregoing is a correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on December 18, 2017.

David E. Maeda, City Clerk
Resolution No. 2017-

Resolution increasing the city’s monthly recycling fee

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

Section 1. Background.

1.01. The City of Minnetonka has provided a recycling program to its citizens since 1989.

1.02. On January 7, 1991, the City Council adopted Resolution No. 91-9163 establishing a utility charge to fund the recycling program, which now may be supported also with a portion of proceeds from the sale of recycled materials, plus funds from Hennepin County.

1.03. In addition to curbside recycling and the recycling drop-off location at the city’s public works building, the City uses the recycling revenues to help pay the cost of other environmental collection and reuse programs including organics, special drop-offs, spring and fall leaf drop-offs, as well as brush drop-offs, which are provided several times every year.

1.04. A substantial change in the market for recycled materials has occurred in recent years, and this change in addition to increases in the cost of the city’s recycling contract and a reduced weight of materials recycled (mainly due to less newsprint and magazines) have resulted in a significant loss in revenues to support the program.

1.05. Before 2014, the monthly recycling fee had not been increased since December 1993.

Section 2. Council Action.

2.01. The recycling fee charged to Minnetonka residents is hereby increased from $4.10 to $4.15 per household per month.

2.02. The revised recycling fee of $4.15 per household per month will become effective for billings prepared on or after January 1, 2018.

Adopted by the City Council of the City of Minnetonka, Minnesota, on December 18, 2017.

_______________________________________
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 certify that the foregoing is a correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on December 18, 2017.

______________________________
David E. Maeda, City Clerk
City Council Agenda Item #13A (4)
Meeting of December 18, 2017

**Brief Description:** Resolutions regarding utility related items:
4) Stormwater rates

**Recommended Action:** Hold the public hearing and adopt the resolution

**Background**

On January 27, 2003, the city council adopted a resolution approving a council policy for the establishment of a stormwater utility. The policy states that council will, from time to time, by resolution establish a basic system rate that will be used in determining the stormwater fees to be charged against each parcel of land within the city of Minnetonka. The basic rate is the same rate charged to residential parcels.

The 2018-2022 Capital Improvement Program (CIP) was prepared in anticipation of a stormwater fee increase in 2018 that would maintain structural balance within this fund through the next five years. This CIP was reviewed with council at the April 17 study session and was prepared with a balanced approach of increasing funding, and more efficiently using the funds that are available by prioritizing needs. Council approved the 2018-2022 CIP on June 12.

**Proposed Rates**

The proposed 2018 basic rate represents a three percent increase over the 2017 rate. The increase is necessary and reflects the following budgetary pressures that are related to stormwater control and oversight in the city:

- Local street reconstruction project funding that helps minimize the street improvement fund costs for local projects.
- Improvements to stormwater infrastructure in village center areas including projects at Ridgehaven Lane, Plymouth Road and Ridgedale Drive, and in and around the Opus and Shady Oak road areas.
- Funding federal mandates concerning water quality.

Staff has reviewed the stormwater fund expenditures and CIP for the upcoming five-year period, and anticipates future yearly increases will also be in the range of three percent. The proposed 2018 rates outlined below keep Minnetonka’s stormwater charges in line with comparable cities.
### Proposed Minnetonka Stormwater Utility Fees for 2018

<table>
<thead>
<tr>
<th>Classification</th>
<th>Description</th>
<th>2017 Rate</th>
<th>Proposed 2018 Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Open Space, Golf Courses, Undeveloped</td>
<td>$3.00/acre/month</td>
<td>$3.09</td>
</tr>
<tr>
<td>2</td>
<td>Single-Family and Two/Three-Family Residential</td>
<td>$6.67/unit/month</td>
<td>$6.87</td>
</tr>
<tr>
<td>3</td>
<td>Churches, Schools, and Government Buildings</td>
<td>$18.02/acre/month</td>
<td>$18.56</td>
</tr>
<tr>
<td>4</td>
<td>Apartments, Condos, and Railroad R/W</td>
<td>$20.02/acre/month</td>
<td>$20.62</td>
</tr>
<tr>
<td>5</td>
<td>Commercial and Industrial</td>
<td>$50.46/acre/month</td>
<td>$51.97</td>
</tr>
</tbody>
</table>

In order to fully cover expenses in 2018 and throughout the proposed 2018-2022 CIP, staff is recommending increasing the basic rate (residential fee) by $0.20 to $6.87 per month. In accordance with the policy, the new basic rate is used to calculate the stormwater fee increases for the other parcel classifications, as shown above.

**Recommendation**

Hold the public hearing and adopt the attached resolution. If adopted, the new rates will become effective for bills dated January 1, 2018 and thereafter.

Submitted through:
- Geralyn Barone, City Manager
- Perry Vetter, Assistant City Manager

Originated by:
- Will Manchester, P.E., Director of Engineering
- Merrill King, Finance Director
Resolution No. 2017
Resolution increasing stormwater utility fees

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

Section 1. Background.

1.01. On January 27, 2003 the city council adopted a resolution approving a council policy for the establishment of a stormwater utility.

1.02. The policy states that council will, from time to time, by resolution establish a basic system rate that will be used in determining the stormwater fees to be charged against each parcel of land within the City of Minnetonka.

1.03. The city council, upon recommendation from the city manager and city staff, deems it proper and in the public interest to increase such rate.

Section 2. Council Action.

2.01. The basic system rate shall be $6.87, and shall become effective for billings prepared on or after January 1, 2018.

Adopted by the City Council of the City of Minnetonka, Minnesota, on December 18, 2017.

________________________________________
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 December 18, 2017.

David E. Maeda, City Clerk
<table>
<thead>
<tr>
<th>Brief Description</th>
<th>Resolution calling a public hearing on the issuance of multifamily revenue bonds for Dominium, 11001 Bren Rd E</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommendation</td>
<td>Adopt the resolution</td>
</tr>
</tbody>
</table>

**Background**

Dominium is proposing to redevelop the existing commercial properties at 11001 Bren Road East. The concept plan contemplates redevelopment of the existing office building to construct a 6-story, 256-unit independent senior building and 198 units of affordable work-force rental housing within two 4-story buildings on the 9.8 acre site. The proposed 454 units would provide a housing density of 48 units per acre. (The original concept plan indicated 475 units.) (See attached plans.)

The proposed redevelopment includes a mix of workforce and senior housing units ranging from one to three bedrooms. The developer is proposing that all units would consist entirely of affordable workforce and tenants age 50 and older earning up to 60% AMI ($54,240 for a family of four). The rents are structured to be capped at approximately 30% of the income level and are estimated to range from $1,017 for a one-bedroom, $1,221 for a two-bedroom, and $1,410 for a three-bedroom unit (inclusive of utilities).

On December 4, 2017, the city council discussed the initial concept plan and financing inquiry from Dominium. The discussion focused on the density, quality of construction, and height of the project, and the existing and proposed housing in Opus. The council expressed initial concern regarding the amount of affordable units in one project. However, the council members agreed that additional senior and workforce affordable housing would assist Minnetonka in meeting current and future housing demand. The council requested that staff research future trail, park planning, and retail opportunities in the area. Lastly, the council expressed the financial assistance request was reasonable for the size of the project and would further review the financial request as the project progresses.

At this time, no formal land use application has been submitted; however, the developer previewed a request for TIF financing with the EDAC on November 27 and city council on December 4.

**Financing Request**

As discussed at the December 4 City Council meeting, Dominium is anticipating funding a majority of the project with city issued tax-exempt revenue bonds. Rather than applying for bond allocations equal to half of the project costs, as presented on December 4, Dominium is now requesting an allocation of bonds up to $120 Million. The revised bond allocation request increases the developer’s likelihood of securing at least half of the bonding allocation necessary to apply for low income housing tax credits.

In addition, Dominium is committing to reserving approximately 256 units to tenants that are age 50 and older. This allows Dominium to attempt to secure bond financing in January rather than waiting until the May application (reserved for projects with tenants 55 and older). The attached
letter from Ryan Lunderby describes the commitment in greater detail. In addition, representatives from Dominium will attend the meeting to answer any questions.

To apply for bonding allocation through the State of Minnesota in January, Dominium must obtain approval from the city in December. If Dominium does not obtain an allocation in early 2018, it is likely that it would have to wait until 2019 to reapply for a bond allocation. The demand for this type of financing has outpaced available funding in recent years. The bond allocation is also necessary for the developer to obtain 4% Low Income Housing Tax Credits (LIHTC). The process of being considered for tax credits follows the bond allocation commitment. The attached resolution requests the following actions:

1. Call for a public hearing to approve the issuance of bonds;
2. Provides preliminary approval for the issuance of bonds; and
3. Authorizes Dominium to submit an application for allocation to the office of Minnesota Management and Budget.

If the developer received a commitment for bond financing in 2018, it would be required to pay the city a one-time application fee of $3,500 and a one-time administrative fee of one-eighth of one percent of the principal amount of the bonds at closing. For a $120,000,000 request the fee would equal $153,500 ($150,000 + $3,500). In addition, the developer must pay the state a fee of $20 for each $100,000 ($24,000) of allocation requested and put down a deposit of 1% of the amount of allocation ($1,200,000) requested to obtain the allocation. The deposit is refundable if bonds are issued within 120 days of receipt of allocation from the state. If the project has not received planning and financing approvals during that timeframe, the city can issue temporary bonds, as it did for the Music Barn Project. Once all city approvals are in place the city can issue bonds to finance the project later in the year when the full land use application has been reviewed and approved.

These actions do not obligate the city to issue bonds and does not obligate the city to provide zoning approvals or city financial assistance. In addition, the bonds would not count against the City’s bank-qualification (BQ) amount for 2018. Affordable housing bonds are not eligible to be designated BQ and therefore do not count against the BQ of the City. The city’s bond counsel, Julie Eddington, will attend the meeting to answer any questions about the bonding request.

**Recommendation**

Staff recommends the city council adopt the resolution, calling a public hearing on the issuance of multifamily housing revenue bonds for Dominium. If the city council adopts the resolution calling the public hearing, the next step in the process will consist of the developer formally submitting land use applications and a formal financing request, which will come back to the EDAC and city council in 2018.

Submitted through:
- Geralyn Barone, City Manager
- Merrill King, Finance Director
- Julie Wischnack, AICP, Community Development Director
Originated by:
   Alisha Gray, EDFP, Economic Development and Housing Manager

Additional Information

Location Map

Concept Plan

Memo from Julie Eddington – Kennedy and Graven

Letter from Ryan Lunderby - Dominium

City Council Meeting – December 4, 2017

EDAC Meeting – November 27, 2017
Location Map

Dominium
Address: 11001 Bren Rd E

City of minnetonka

This map is for illustrative purposes only.
December 7, 2017

Alisha Gray
Economic Development Housing Manager
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN  55345-1502

Re: Resolution to call public hearing on the issuance of multifamily housing revenue bonds for the benefit of Dominium

Dear Alisha,

Minnetonka Leased Housing Associates II, LLLP, an affiliate of Dominium (the “Dominium”), is proposing to redevelop an existing commercial property located at 11001 Bren Road East in the City of Minnetonka (the “City”) for the purpose of creating approximately 454 units of affordable workforce and senior housing (the “Project”). In order to provide for the financing of the Project, Dominium is requesting that the City issue one or more series of tax-exempt conduit revenue bonds (the “Bonds”) in the amount of approximately $120,000,000.

Prior to the issuance of the Bonds, Dominium will need to submit a request for housing bond allocation to MMB. In order to do so, Dominium must obtain approval from the City Council to request the bonding allocation. Dominium is asking for the authority to obtain allocation as soon as it is available in January. In the last several years, the amount of the allocation available has not been sufficient to meet demand. If developers do not submit an application for housing bond allocation by January 2, 2018, all of the allocation will likely be distributed and they will have to wait until August to obtain allocation. The allocation available in August is less dependable because MHFA has the ability to take the majority of the allocation available in August.

Enclosed please find a resolution that takes the following action:

1) Calls for a public hearing required under state law and federal to approve the issuance of the Bonds;
2) Provides preliminary approval for the issuance of the Bonds; and
3) Authorizes Dominium to submit an application for allocation to the office of Minnesota Management & Budget.

The adoption of the resolution does not obligate the City to issue the Bonds and does not provide the necessary planning approvals needed by Dominium to commence the Project. However, Dominium will be required to pay a fee ($20 for each $100,000 of allocation requested) and put down a deposit (1% of
the amount of allocation requested) in order to obtain allocation. The deposit is refundable if the bonds are issued within 120 days of receipt of the allocation from the State. If Dominium does not receive all necessary planning approvals prior to the end of the 120 day period, the City can issue temporary bonds to preserve the housing bond allocation. Once all approvals are provided, the City can issue permanent bonds to finance the Project later in the year.

Please contact me with any questions you may have.

Sincerely,

Julie A. Eddington
December 12, 2017

Ms. Alisha Gray  
City of Minnetonka  
14600 Minnetonka Blvd  
Minnetonka, MN 55345

Dear Ms. Gray,

Minnetonka Leased Housing Associates II, LLP (the “Borrower”) is proposing an approximately 454 affordable multifamily housing apartment project located at 11001 Bren Road East in the City of Minnetonka. The Borrower will lease 100% of its housing units to households at or below 60% of Area Median Income.

Additionally, of the approximately 454 affordable apartment units, the Borrower commits to the City of Minnetonka that it will adopt and keep in place a marketing plan that markets approximately 256 of the units to tenants that are aged 50 or older. Furthermore, the project will contain design features for 256 units that are likely to attract tenants of this age group including a salon, library, card and craft room, etc. Based on experience as an affordable housing developer, Dominium finds that similar marketing plans have resulted in the average age of the head of household at or above 70 years of age.

The other approximately 198 units will be marketed and designed to appeal to families with children. The Borrower’s intent for the overall project is to provide balanced options for current and future residents of the City of Minnetonka that are in need of affordable housing.

Sincerely,

[Signature]

Ryan Lunderby  
Authorized Representative
Resolution No. 2017-_____

Resolution calling a public hearing regarding a multifamily housing development, at 11001 Bren Rd E and granting preliminary approval for the issuance of revenue bonds to finance the costs thereof

Be it resolved by the City Council (the “Council”) of the City of Minnetonka, Minnesota (the “City”) as follows:

Section 1. Recitals.

1.01. The City is a home rule city duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota.

1.02. Pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Act”), the City is authorized to issue revenue bonds to provide funds to finance multifamily rental housing developments located within the City.

1.03. Minnetonka Leased Housing Associates II, LLLLP, a Minnesota limited liability limited partnership, or any of its affiliates or partners (collectively, the “Borrower”), has proposed that the City issue its revenue bonds in the approximate aggregate principal amount of $120,000,000, in one or more series, as taxable or tax-exempt obligations (the “Bonds”), for the benefit of the Borrower for the purposes of (i) financing the acquisition, construction, and equipping of one or more phases comprising in the aggregate approximately 454 affordable multifamily housing apartment units to be located at or about 11001 Bren Road East in the City (the “Project”); (ii) funding of one or more reserve funds to secure the timely payment of the Bonds, if necessary; (iii) paying interest on the Bonds during the construction of the Project, if necessary; and (iv) paying the costs of issuing the Bonds.

1.04. As a condition to the issuance of such revenue bonds, the City must adopt a housing program providing the information required by Section 462C.03, subdivision 1a of the Act (the “Housing Program”). The Council must also grant preliminary approval to the issuance of revenue bonds to finance the multifamily rental housing development referred to in the Housing Program and authorize the submission of an application to the office of Minnesota Management & Budget for an allocation of bonding authority with respect to the Bonds to finance the Project.

1.05. Under Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), prior to the issuance of the Bonds, the Council must conduct a public hearing after one publication of notice in a newspaper circulating generally in the City at least fourteen (14) days before the hearing. Under Section 462C.04, subdivision 2 of the Act, a public hearing must be held on the Housing Program after one publication of notice in a newspaper circulating generally in the City at least fifteen (15) days before the hearing.
1.06. Under Section 146 of the Code, the Bonds must receive an allocation of the bonding authority of the State of Minnesota. An application for such an allocation must be made pursuant to the requirements of Minnesota Statutes, Chapter 474A, as amended (the “Allocation Act”).

Section 2. Preliminary Findings.

2.01. Based on representations made by the Borrower to the City to date, the Council hereby makes the following preliminary findings, determinations, and declarations:

(a) The Project consists of a multifamily rental housing development designed and intended to be used for rental occupancy.

(b) The proceeds of the Bonds will be loaned to the Borrower and the proceeds of the loan will be applied to the following purposes: (i) the acquisition, construction, and equipping of the Project; (ii) the funding of one or more reserve funds to secure the timely payment of the Bonds, if necessary; (iii) the payment of interest on the Bonds during the construction of the Project, if necessary; and (iv) the payment of the costs of issuing the Bonds. The City will enter into a loan agreement (or other revenue agreement) with the Borrower requiring loan repayments from the Borrower in amounts sufficient to repay the loan when due and requiring the Borrower to pay all costs of maintaining and insuring the Project, including taxes thereon.

(c) In preliminarily authorizing the issuance of the Bonds and the financing of the acquisition, construction, and equipping of the Project and related costs, the City’s purpose is to further the policies of the Act.

(d) The Bonds will be special, limited obligations of the City payable solely from the revenues pledged to the payment thereof, and will not be a general or moral obligation of the City and will not be secured by or payable from revenues derived from any exercise of the taxing powers of the City.

Section 3. Public Hearing.

3.01. The Council shall meet at a future date to be determined by City staff to conduct a public hearing on the Housing Program, the Project, and the issuance of the Bonds by the City; notice of such hearing (the “Public Notice”) will be published as required by Section 462C.04, subdivision 2 of the Act and Section 147(f) of the Code. Once the hearing date has been determined, the City Clerk of the City is hereby authorized and directed to publish the Public Notice, in substantially the form attached hereto as EXHIBIT A, in the Lakeshore Weekly News, the official newspaper of and a newspaper of general circulation in the City, at least fifteen (15) days before the meeting of the Council at which the public hearing will take place. At the public hearing reasonable opportunity will be provided for interested individuals to express their views, both orally and in writing, on the Project, the Housing Program, and the proposed issuance of the Bonds.

Section 4. Housing Program.
4.01. Bond Counsel, as described below, shall prepare and submit to the City a draft Housing Program to authorize the issuance by the City of up to $120,000,000 in revenue bonds in one or more series to finance, among other things, the acquisition, construction, and equipping of the Project by the Borrower. The City is authorized and directed to submit the Housing Program to the Metropolitan Council for review and comment pursuant to Section 462C.04, subdivision 2 of the Act.

Section 5. Application for Allocation.

5.01. Under Section 146 of the Code, the Bonds must receive an allocation of the bonding authority of the State of Minnesota. The Council hereby authorizes the submission of an application for allocation of bonding authority pursuant to Section 146 of the Code and the Allocation Act in accordance with the requirements of the Allocation Act. The Mayor, the City Manager, the Finance Director of the City, and Kennedy & Graven, Chartered, acting as Bond Counsel with respect to the Project and the Bonds, shall take all actions, in cooperation with the Borrower, as are necessary to submit an application for an allocation of bonding authority to the office of Minnesota Management & Budget.

Section 6. Preliminary Approval.

6.01. The Council hereby provides preliminary approval to the issuance of the Bonds in the approximate principal amount of $120,000,000 to finance all or a portion of the costs of the Project pursuant to the Housing Program of the City, subject to: (i) a public hearing as required by the Act and Section 147(f) of the Code; (ii) receipt of allocation of bonding authority from the office of Minnesota Management & Budget; (iii) final approval following the preparation of bond documents; and (iv) final determination by the Council that the financing of the Project and the issuance of the Bonds are in the best interests of the City.

Section 7. Reimbursement of Costs under the Code.

7.01. The United States Department of the Treasury has promulgated regulations governing the use of the proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City or the Borrower for project expenditures paid prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than sixty (60) days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds occur within eighteen (18) months after the later of: (i) the date the expenditure is paid; or (ii) the date the project is placed in service or abandoned, but in no event more than three (3) years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the Bonds.

7.02. To the extent any portion of the proceeds of the Bonds will be applied to expenditures with respect to the Project, the City reasonably expects to
reimburse the Borrower for the expenditures made for costs of the Project from the proceeds of the Bonds after the date of payment of all or a portion of such expenditures. All reimbursed expenditures shall be capital expenditures, costs of issuance of the Bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations and also qualifying expenditures under the Act.

Based on representations by the Borrower, other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under prior regulations pursuant to the transitional provision contained in Section 1.150-2(j)(2)(i)(B) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimis” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures with respect to the Project to be reimbursed with the proceeds of the Bonds have been made by the Borrower more than sixty (60) days before the date of adoption of this resolution of the City.

7.03. Based on representations by the Borrower, as of the date hereof, there are no funds of the Borrower reserved, allocated on a long term-basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project to be financed from proceeds of the Bonds, other than pursuant to the issuance of the Bonds. This resolution, therefore, is determined to be consistent with the budgetary and financial circumstances of the Borrower as they exist or are reasonably foreseeable on the date hereof.

Section 8. Costs.

8.01. The Borrower will pay the administrative fees of the City and pay, or, upon demand, reimburse the City for payment of, any and all costs incurred by the City in connection with the Project and the issuance of the Bonds, whether or not the Bonds are issued.

Section 9. Commitment Conditional.

9.01. The adoption of this resolution does not constitute a guarantee or a firm commitment that the City will issue the Bonds as requested by the Borrower. If, as a result of information made available to or obtained by the City during its review of the Project, it appears that the Project or the issuance of Bonds to finance the costs thereof is not in the public interest or is inconsistent with the purposes of the Act, the City reserves the right to decline to give final approval to the issuance of the Bonds. The City also retains the right, in its sole discretion, to withdraw from participation and accordingly not issue the Bonds should the Council, at any time prior to the issuance thereof, determine that it is in the best interests of the City not to issue the Bonds or should the parties to the transaction be unable to reach agreement as to the terms and conditions of any of the documents for the transaction.
9.02. The adoption of this resolution does not constitute planning approval for the proposed Project. The Borrower must submit all planning application to the City through the typical planning process and obtain all required planning approvals from the City to commence construction of the Project.

Section 10. Effective Date.

10.01. This resolution shall be in full force and effect from and after its passage.

Adopted by the City Council of the City of Minnetonka, Minnesota this 18th day of December, 2017.

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 December 18, 2017.

David E. Maeda, City Clerk
EXHIBIT A

NOTICE OF PUBLIC HEARING

CITY OF MINNETONKA
COUNTY OF HENNEPIN
STATE OF MINNESOTA

NOTICE OF A PUBLIC HEARING TO BE CONDUCTED BY THE CITY OF MINNETONKA, MINNESOTA TO CONSIDER THE ISSUANCE OF REVENUE BONDS TO FINANCE THE ACQUISITION, CONSTRUCTION, AND EQUIPPING OF A MULTIFAMILY RENTAL HOUSING DEVELOPMENT

NOTICE IS HEREBY GIVEN that the City Council of the City of Minnetonka, Hennepin County, State of Minnesota (the “City”), will hold a public hearing on Monday, ____________, 2018, at or after 6:30 P.M. in the City Council Chambers in City Hall, 14600 Minnetonka Boulevard in the City, to consider a proposal that the City approve and authorize the issuance of its revenue bonds (the “Bonds”), in one or more series, as taxable or tax-exempt obligations, pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Act”), for the purposes of (i) financing the acquisition, construction, and equipping of one or more phases comprising in the aggregate approximately 454 affordable multifamily housing apartment units to be located at 11001 Bren Road East in the City (the “Project”); (ii) funding of one or more reserve funds to secure the timely payment of the Bonds, if necessary; (iii) paying interest on the Bonds during the construction of the Project, if necessary; and (iv) paying the costs of issuance of the Bonds. Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership, or any of its affiliates or partners (collectively, the “Borrower”), will own and operate the Project. The estimated aggregate principal amount of the proposed Bonds is $120,000,000.

Following the public hearing, the City Council will consider a resolution approving a housing program prepared in accordance with the requirements of the Act and granting approval to the issuance of the Bonds.

The Bonds will be special, limited obligations of the City, and the Bonds and interest thereon will be payable solely from the revenues and assets pledged to the payment thereof. No holder of any Bond will have the right to compel any exercise of the taxing power of the City to pay the Bonds or the interest thereon, nor to enforce payment against any property of the City except money payable by the Borrower to the City and pledged to the payment of the Bonds. Before issuing the Bonds, the City will enter into an agreement with the Borrower, whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on the Bonds when due.

At the time and place fixed for the public hearing, the City Council will give all persons who appear at the hearing an opportunity to express their views with respect to the proposal. In addition, interested persons may direct any questions or file written comments respecting the proposal with the City Clerk, at or prior to said public hearing.

Dated: [Date of Publication]
BY ORDER OF THE CITY COUNCIL OF
THE CITY OF MINNETONKA, MINNESOTA

/s/ David E. Maeda
City Clerk
City of Minnetonka, Minnesota
City Council Agenda Item #14B
Meeting of December 18, 2017

Brief Description
Resolution approving a conditional use permit for an 8 resident licensed residential care facility at 5022 Baker Road

Recommendation
Adopt the resolution approving the request

Background
Counter Point Recovery is requesting a conditional use permit to operate a chemical dependency treatment facility for 12 residents at 5022 Baker Road. The property is zoned R-1 Single-Family Residential District. The city of Minnetonka requires a conditional use permit for residential care facilities serving 7 to 12 people in single-family residential zoning districts.

The city council reviewed the request at its December 4, 2017 meeting. The city council directed staff to prepare a resolution approving a conditional use permit for an 8-resident facility with conditions. (See attached resolution.)

Since the City Council meeting
City staff met with the applicant and the applicant’s legal counsel to review the proposed resolution approving 8 residents. Three areas of the resolution were discussed related to conditions of approval. They include the following:

1. Section 4.01(1)(b) related to the number of residents
   - The applicant disagrees with the condition to limit the number of residents if the lot area and building area provisions of the standards are satisfied. The applicant stated that if the concern is related to the number of visitors, the city could impose a condition to prohibit parking by residents and to require that visits by residents’ families and staff occur off site.

2. Section 4.01(1)(h) related to fencing
   - The applicant disagrees with the premise of extending the fence to the westerly property line. The applicant believes that the fencing provides adequate buffering as proposed in the submitted December 18, 2017 landscape and fence plan. The applicant also disagrees with the requirement of providing fencing behind the home, because that fencing would not provide buffering. The applicant suggested that this code section allows the city to impose conditions only for buffering and not for enclosure purposes. There is a question about the fencing on the northern property line in that the applicant discovered there is an easement. The applicant’s attorney is reviewing that document to confirm whether the easement would affect the ability to erect a fence or the location of the fence.
3. Section 4.01(1)(i) related to electronic security

- The applicant disagrees that electronic security can be a specific condition of approval. The applicant’s application stated electronic security will be installed in the facility on doors and windows. The applicant disagrees with listing security devices as a specific and distinct condition of approval.

4. Section 4.01(1)(j) related to monitoring parking

- The applicant was agreeable to a condition about parking maximums, but the reporting requirement for the operator seemed unacceptable.

**Staff Recommendation**

Adopt the resolution approving a conditional use permit for an 8-resident licensed residential care facility at 5022 Baker Road.

Through:  
Geralyn Barone, City Manager  
Corrine Heine, City Attorney  
Julie Wischnack, AICP, Community Development Director

Originator:  
Loren Gordon, AICP, City Planner
Dear City Council,

I want to express my gratitude for your posture in Monday’s Council meeting on December 4th, 2017. You could have easily rejected the conditional use permit for CPR and I am thankful for your allowance.

As you continue to deliberate on the conditions of the permit, I would like to offer the Mills Church as a facility that may be able to relieve some of the neighbors concerns around visitation. I am happy to meet with any of you in person to discuss potentials further, but I will outline my thoughts below and I will be sending this to Fartun Ahmed as well.

The Mills Church will offer the use of our facility and commercial kitchen for any larger gathering or celebration that Counter Point Recovery Center would like to have at little to no cost to them. Our church is a mile a way from 5022 Baker Road. We have ample parking and the ability to host meals and events up to 150 people.

Councilman Wiersum, I resonated with your comments of supporting group homes and seeing neighborhood acceptance as a critical ingredient in their success.

I also believe you are wise to be slow to approve use for more than 6 residents. I do see this case, as I believe you do, as warranting a generous posture and I would like the council to be open to considering a compromise that is greater than 8 residents.

We are witnessing history in our city. We have a national treasure in Fartun Ahmed. She will be the first licensed Somali addictions counselor in the nation. This speaks to the sobering reality that Somali Americans are under-resourced and underserved in regards to counseling services that can fully address specific needs, concerns, cultural and religious sensibilities. There are not many options for healing available, so every person you say “yes” to is another family in our neighborhood that gets help. This to me is cause to consider a generous condition.

I am proud that the city of Minnetonka allows for such conditional uses beyond our state laws and I am happy that you get the honor of making these decisions of merit.

I would ask that you give CPR the ability to address staff ratios according to the number of residents, as you weigh your decision on a number. With 8 they may be required to higher another staff person that could efficiently serve 10 residents.

This may be a decision that becomes cost preventative. Again, every person we serve is another at risk family that can emerge from the shadows. I think the month of December is a wonderful time to consider making a little more room in the inn.
As you consider conditions, I would ask that you lean away from being overly restrictive. I am very familiar with the neighbors concerns when we allowed ICA food shelf to build on St. David’s property. You had neighbors for years after still counting cars and monitoring speeds and holding resentments that raised all our health care costs (I’m being facetious...sort of). Sometimes we can help some of our more OCD neighbors out by expanding what we allow.

Our city code restricts parking to 4 exposed cars for those living in the residence. The residents don’t have cars. So I think this gives you some leeway to both address neighbors concerns and give some flexibility to CPR so as not to incite and encourage daily complaints. The property is situated beautifully, so unless you are looking into the driveway from Baker road the buffering naturally prevents it from looking like a used car lot. Be broader in your provision is my request.

I offer our church for larger events, but I encourage you to allow kids to visit their dads without it leading to a revocation hearing. These men are not criminals. They are our neighbors seeking help. I also encourage you to be generous to CPR as a young business. Their community unfortunately faces suspicion and daily animosity. This reality is exhausting and having your words parsed and scrutinized by neighbors makes living freely and openly difficult.

As a neighbor, I’m asking that the council continue to set a gracious and generous tone, not an overly restrictive one. As much as I like the idea of allowing CPR to reapply for additional residents after a year, I really would like to protect them and the neighbors from going through another showdown. I think now is your best time to name the number that will probably in all likelihood, be the number that our neighbors learn to adjust to. If we are simply setting a number as a compromise, do 9. It is halfway between 6 and 12. Again, I ask you to get staff to client ratios as a more grounded basis for setting the number of residents, but I am really hoping that you consider allowing more.

Councilman Allendorf, I believe you suggested that the overnight number of persons be restricted to the number of 8 per the conditional permit. I may have misunderstood this part of the conversation, but I just wanted the council to recognize that we need to allow the overnight staff to be included in any overnight limitations. I am guessing the intent is to restrict overnight visitors, I just wanted to raise this as a point of clarification.

Thank you so much for reading. I greatly appreciate your service to our city. If our church can be a resource to the city in any current and future projects, please don’t hesitate to reach out to me.

Regards,

David Landt
Lead Pastor, Mills Church
13215 Minnetonka Drive
Minnetonka, MN 55305
Good Afternoon,

I understand you are still considering the approach and conditions regrading the permit for 5022 Baker Road. There is some new information we did not bring-up at the city council meeting, due to the spirit of cooperation/compromise in the meeting. Attached is a letter to the council to consider as well as an updated list of conditions that our neighborhood created prior to the planning commission meeting. The last attachment is a single page on landscape design to supplement the issues with the proposed landscaping design.

Again, thank you for your consideration of my position on the matter and I hope the best to develop not just a short-term conclusion for the permit, but develop a long-term strategy for facility and resident expansion.

Thank you,

Jim Swigart
5211 Baker Road
Dear Mayor and City Council Members and Staff,

I am writing with a final perspective before you make your recommendation regarding the application for a Conditional Use Permit for the property at 5022 Baker Road.

I do have a few additional concerns, which others and I did not feel were appropriate to discuss at the city council meeting due to the nature of conversation and focus on diffusing the tension and focusing on a solution. At least two of us who spoke didn’t want to derail the conversation, even if our positions were factually based.

Before I start, I want to make some key points. While I applaud the efforts to compromise where most members initially agreed to allow 8 residents, I still do not feel the plan adequately meets the standards for anything above 6 residents. However, weighing the options, I feel that the benefits of conditions placed on this or any other facility outweigh the additional two residents.

I think that it is also important that to my understanding, the owners of CPR have approval from inspections to have 12 men in the facility. In the case you can’t legally limit the residents to 8, I do not see how you can allow for 12, which the ownership would almost certainly have. If you can’t legally limit the residents to 8, I ask you vote to deny the permit outright.

Below are my key points:

1) In my opinion, the submitted landscape design is inadequate for a buffer, not sustainable and essentially be more upkeep for the owners of 5022 Baker Road. As is, it simply does not meet the specific standard 8 regarding buffering. I took an intensive landscape design course at the Arboretum from Ph.D James Calkins, which is what I am basing this feedback on.

   - The existing landscaping/buffer on the east side of the property consists of deciduous trees and does not provide any buffering during late Fall, Winter or Spring seasons. A fence or additional evergreen trees would be needed along the entire east side to create a visual buffer.

   - The landscape plan on the south side, the proposed trees are minimally offset. As you can see from the pictures provided, the trees have a pyramidal form, which leaves gaps visually between them. You would need more trees that are offset and even then would not help containment.

   - In landscape drawings, the trees should be represented at maturity. If this plan is executed, it could take several years for the plan to meet the purpose. The same species of tree on the design is represented as very different diameters, which either under-represents the gaps or has crowing issues in the next point.

   - The trees they suggest are placed too close together (as it appears in the design), not at maturity and will result in the un-natural grooming of the trees, having to cut off lower limbs to prevent them from overlapping. This is problematic because the health of the trees in this case can be compromised. Not only does close placement cost more to maintain, but if the trees
become less healthy, it would be extremely expensive to replace. One example is that the Black Hills Spruce can grow up to 35’ in diameter (see the screen shot from the U of MN landscaping plant selection guide). They show 5 on the west side and an additional 3 toward the East side. Even with a 30’ diameter, those 8 trees alone would extend the entire 200’ property line even with some offset. Because the trees are pyramidal, they will not create a visual barrier.

- There is no proposed mulch ring around the trees, which are important for the overall health of the trees long-term.

Solution: As expressed by the Mayor in the meeting, a certain amount of containment is preferred. A better design would be to have an abnormally tall fence due to the property to the south being elevated a couple of feet. Additional landscaping on the south side of the fence would be nice for the neighbor to minimize the visual impact of a very long, tall fence on their property. An alternative to a fence could be a better plant for creating a visual barrier, containment and lower maintenance would be the Columnar Arborvitae, pictured below, but would need additional accents to be visually appealing.

The below shows the spread of a Black Hills Spruce can spread up to 35’ and has a pyramidal form
If nothing else, this continues to show the plans for the property still do not meet the requirements and could actually be extremely costly to create and maintain for the owner. Per the next point, upkeep has been an issue and the owner is less motivated for upkeep since they are not a resident there. The standard for barrier has not been met in the application.

2) One member of the neighborhood around 5022 Baker went door to door in the neighborhood surrounding the existing CPR facility on Moonlight Hill Rd. The feedback conclusively shows that the neighbors were negatively impacted, changed their behaviors, felt uncomfortable using their property and even had to pay for expenses to eliminate or minimize the issues with the facility, which only housed six residents. In one case, a resident at the facility offered a cigarette to a minor. It also highlights how residents were often outside of the property. Below are just some of the responses. If you would like, I can send the full surveys that were signed by each of the neighbors who responded.

Below are the verbatim responses from the surveys including owner and address.

Sarah Day, 14257 Moonlight Hill Road:

"There are always residents on the overhead deck. They watch me pick up my mail and newspapers. They have called to my kids- one of them asked my son if he wanted a cigarette. Once I caught someone - resident or staff member- watching a football game through our windows"

"I myself have called the police when there was a disruptive resident in the cul-de-sac late at night. I've installed additional window coverings and a security system because there are so many unfamiliar people off and on the property. Residents smoke outside constantly. Staff smoke in the driveway. The smoke frequently drifts into our house and yard."

Robert and Janet Arndt, 14409 Moonlight Hill Road:

“The residents stare at my teenage daughter” which makes them feel “Extremely uncomfortable”

Merri Miller, 14520 Moonlight Hill Road:

“The upkeep is not there, people coming and going”

“The residents are outside on their deck, yelling and swearing at each other. Cars are loud and staff are coming/going later at night.”

Chuck Dahlmer, 14521 Moonlight Hill Rd:
“Lots of police calls, shouting, people walking off property, staring at me, constant traffic at all hours and speeding up the street.”

Even after city council meeting “Still lots of traffic, police calls, yard unkept and people always on the deck watching you in your yard doing yard work, an unkind sort of watching”

Even with a six person facility, there are numerous issues. Some may be minimized by a well thought-out and vetted barrier, but others are not. Regardless, based on what we know about the existing facility, there will be an impact to the character of the neighborhood, which then does not meet the general standard 300.16 subd 2 part b regarding meeting the city plans. Specifically Chapter 3, Section C, Page 9, Policy 1 in the city plan.

3) To this date, I am not aware of operational support to ensure that the needs of the facility residents are met. The application does not meet the specific standard regarding operations.

- There is only one kitchen for 8 people and per the schedule from the applicant, there is only 45 minutes dedicated to dinner. The application didn’t have any mention of a cook. How are 8 men, let alone 12, going to cook and eat in a single kitchen in 45 minutes? It does not seem an ideal place to position to put the residents in.

- To my understanding, the applicant still has not identified how they will operate off-site visitations. The applicant did state they will have 1-2 staff on-site evenings and weekends. It is logistically impossible to have 1 person who is in charge of transporting residents to visitation hours and still supervise the other residents. Even with 2 staff this is an enormous task. Since visitations are required and I am certain visitors are not all going to the same place at the exact same arrival and duration, it either requires residents to “hang out” waiting before or after visitation. There may be ways around this, but the applicant has not sufficiently addressed this and either there will be on-site visitations (resulting in traffic/parking issues) or create visitation conditions that are overly restrictive to the residents and visitors.

My overall concern is the lack of understanding, accuracy or detail necessary in the application to approve the permit, even for 8 residents.

4) I am attaching the original list of recommended conditions I created and received input and approval from by dozens of local residents. I listed the condition and the reasoning behind the condition for each. We ask you consider these as you are outlining the conditions if you are able to limit to an 8 person facility.

Long-Term Strategy:
I also ask that the city council work with the residents to create a new set of standards that will help minimize the discussion, help owners of these facilities better identify properties and business plan, protect the character of our neighborhoods and align with the best interests of the residents who are seeking help.

As a framework, I suggest the following:

- Create two sets of standards. One that allows for 12 person facilities, that are residentially zoned but more isolated from neighbors, have adequate parking for on-site visitation, enough bedroom space, kitchens, etc. Another that limits expansion to 8 residents in neighborhood areas, but meets a certain number of conditions of which we can align on. This allows the city to expand capacity without adding facilities while protecting the neighborhoods.
- Develop spacing criteria for all facilities. Per the map shown with the facility locations, East Minnetonka has a much higher population of these facilities and we as a community should all be invested equally in the development of these facilities to support residents going through rehabilitation. We can then partner with facility owners to create additional residential capacity of 6 person facilities distributed throughout our city.

If you are able, I would like to work with a couple of members on the city council to develop these and present our recommendations to the council for consideration. We would also include a couple of owners of these facilities for a balanced set of recommendations. I understand all of you are busy, but by working up front now to develop the standards we can hopefully minimize the contention and negativity that was associated with this debate. I am not certain the process to get something like this started, but can reach out if there is willingness to collaborate.

If you have any thoughts or questions, please feel free to call me at any time.

Thank you,

Jim Swigart

5211 Baker Road

Cell: [Phone number]
Dear Planning Commission and City Council members,

While we believe there are serious enough concerns and evidence to deny the approval of the permit, in the event the evidence is not persuasive enough we request that the following conditions be a part of the permit. These are based on neighborhood concerns and include brief points on why these conditions are important to the neighborhood and necessary regardless of whether there is a six or twelve resident facility.

There are around 100 individuals we are speaking for and in a single day, 30 of them replied approving the general conditions stated below. Part of the logic behind the recommendations is based on a phone conversation I had with one of the owners, Fartun Ahmed.

- The existing 12-person van or other vehicles accommodating > 7 people must be parked in garage at all times
  - This is more of a commercial vehicle which you would not normally see in our neighborhood

- No visitation hours at the facility and family education also held offsite
  - Fartun already stated visitation will be done outside the facility and discussed it in the application, so council should have no issues with this condition
  - Minimizes traffic in and out of residence during re-occurring, consolidated hours

- Submission of list of employee vehicles on site regularly
  - Help to eliminate false calls to city from residents when there are occasions where there are more than 4 cars parked on the driveway
  - For example, if there are 5 cars parked outside and we know 4 of them are regular staff, we will understand that there may be a single, short-term visitor versus 5 cars that are not regular staff

- Staff is not allowed to carpool within 5 miles of the facility unless picking-up directly from employee residence and staff/visitors are not allowed to park on neighborhood streets then walk to facility
  - There are many lots and city streets within walking distance of the facility and want to ensure that CPR staff and visitors are not using those on a regular basis in order to comply with the four cars on the driveway condition.
  - Still allows employees to carpool, but doesn’t put parking burden on another part of the city or neighborhood

- Outdoor activity schedule be posted online where/when residents will be in open, public spaces and must adhere to that schedule
  - Allows residents notice when to expect large groups on public trails, parks, etc
  - This was also a large concern of the neighbors of the existing CPR facility and limited their use of common areas
- Nature walks, park visits, “therapeutic walks”, etc must be accompanied by a security personnel (i.e. off-duty police officers) that has the right to intervene or contain residents if necessary, to be paid for by CPR
  - Many local trails and parks are difficult for police to respond to in a timely fashion if an incident occurs or a CPR resident leaves the group and this allows for immediate response and if necessary containment
  - CPR does not have the right to intervene or contain residents, but relies on the local police if an incident occurs or a resident leaves unsupervised
  - Helps eliminate a major neighborhood concern regarding safety when out of the facility
  - Plain-clothed, off duty officers can blend in and is more respectful of the residents when in public trails, walkways, etc.
  - Based on my discussion with Fartun (and the schedule she provided) the walks are less frequent and limited to 45 minutes, which should not put a significant financial burden on the owners

- CPR will have one employee supervising for every 4 residents during off-facility excursions
  - Especially in public places, it allows continuous surveillance of residents, which CPR stated is necessary at all times in their permit application

- Neighborhood within 1 mile of the facility must be reasonably notified 2 months in advance of any permit requests, can be done via email
  - Gives neighborhood opportunity to partner and co-develop recommendations with CPR
  - Allows ample time for community to research permit impact on the neighborhood

- All windows/doors facing adjacent neighbors that are visible will have shades drawn after 5:00
  - This was an issue for neighbors next to the existing location
  - Most of this should ideally be taken care of by barriers/landscaping

- Fences of appropriate height to block any view of residents or landscaping that creates barrier for visual privacy and to minimize off-site issues will be created on the entire South, North and East sides of the property (exception is the driveway area).
  - Creates privacy for residents and neighbors and reduces noise from larger gatherings outside (even with 6 residents plus staff can have 12+ people congregating on a regular basis)
  - East barrier reduces visual impact of front-yard space and of more visible front yard space and allows residents to use that more optimal space without impact to neighbors
  - Makes access to overpass pedestrian bridge over 494 less easily accessible
  - Current deciduous trees offer little to no coverage during late Fall to Spring seasons and you can clearly see the house from the street at this time
- Any resident who leaves the property line without supervision or notice will be removed from the program
  - Speaking with Fartun, the previous resident who left was removed from the program “immediately” as a result and we want to ensure the policy continues at the new residence
  - Ensures that residents who have a history of leaving the facility unsupervised are no longer permitted in the program

- Proactively disclose 911 calls within 24 hours of report
  - Ensures community is aware of facility and resident issues in a timely manner

- Inform local community immediately if any resident is outside the property unsupervised through a community alert
  - After calling police, ensures local residents are aware of potential issues
  - Local neighborhood can be on the lookout and assist in locating the resident

- Facility will have window and door sensors, cameras at exits and motion/cameras on the exterior that is directly linked to a security system that can immediately alert police
  - Assists night/overnight CPR employee to monitor and survey residents when minimal staff present in a multi-story facility
  - Helps ensure CPR staff and police are immediately notified if/when a resident leaves the facility unsupervised

- Exterior doors will be locked, without resident access to unlock, after 5:00 daily. Exception will be a single emergency door located in the closest proximity/visibility of night staff
  - This was discussed in the application and want to ensure it does not get removed as a policy
  - Helps minimize residents exiting property when minimal supervision is on-site

- The City of Minnetonka will not allow permit for any other similar facility within a one mile radius of the 5022 Baker Road address while the facility exists
  - Our neighborhood will already have one facility with double the capacity of most others and this will ensure that one area of the community does not have a disproportionate number of these expanded residences
Avoiding Mistakes Even the Professionals Make

Designing successful landscapes that meet the test of time is a challenging and complicated task that involves understanding the desires of the property owner, thoughtful design and the integration of a variety of important landscape spaces, careful plant selection based on a clear understanding of the site, and proper implementation of the design. Failed landscapes are common and result from design and implementation mistakes related to the five considerations of sustainable landscape design as outlined below:

**Principal Landscape Spaces** (Front Yard/Public Space, Back Yard/Private Space, Side Yards/Public or Private)
- Access
- Hardscapes
- Trees/Turf/Planted Beds
- Entry Gardens
- Foundation Plantings
- Border/Screen Plantings
- Family Gathering & Activities
- Deck/Patio Gardens
- Water Features
- Kennels
- Composting
- Snow Storage
- Boulevard Plantings
- Accents/Focal Points
- Vegetable Gardens
- Stormwater Management
- Services & Utilities
- Others (client & site/landscape specific)

**The Five Considerations of Sustainable Landscape Design (CSLD)**

**Common Mistakes to Avoid When Designing Sustainable Landscapes**

**Poor Understanding of the Site** (especially soil characteristics; Site Survey & Analysis; CSLD Impacts-1/2/3/4/5)
- Five Factors of Plant Growth - light, water, mineral nutrients (pH), gas exchange (CO₂/O₂), proper temperature + pests
- Landscape Needs/Functions/Spaces & Relationships Not Defined (Needs & Spatial Analyses; CSLD Impact-1)
- No Comprehensive Plan (entire property - front, back, and side yards; consider phasing; CSLD Impacts-1/2/3/4/5)
- Poor Concept Line/Plan Development (backbone of good design; pleasingly shaped spaces; unity; CSLD Impacts-2/3/5)
- Blob/Island & Straight Line Effects (house dictates foundation planting shape; rectilinear spaces - not natural; CSLD Impact-5)
- Planting Beds & Hardscapes Too Small/Too Narrow (scale, Mix & Match, function/access; CSLD Impacts-1/2/3/4/5)

**Landscape Plant/Site Mismatch** (especially soils, but also pest resistance, light, etc.; CSLD Impacts-1/2/3/4/5)
- Poor Plant Spacing (insufficient space/too close/too far apart ($ driven); 3-dimensional consideration; CSLD Impacts-1/2/3/4/5)
- Narrow Turf (maintenance problem, sometimes a survival problem; CSLD Impacts-2/3/4/5)
- Turf on Steep Slopes (difficult to maintain/safety concerns, poor performance; CSLD Impacts-1/2/3/4/5)
- Poor Mix & Match (plant type - all woody / all herbaceous, Plant Design Use, height, texture, rows, etc.; CSLD Impact-5)
- Lack of Plant Massing (should be largest footprint; turf typically biggest mass/space; unity; CSLD Impact-5)
- Lack of Mow Strips (high maintenance; CSLD Impacts-2/3/4)
- Poor Use of Accents/Focal Points (none, too few, too many; wrong location - accent vs. key plants; CSLD Impacts-1/5)
- Poor Materials Selection (hardscapes & other hardgoods and plants; CSLD Impacts-1/2/3/4/5)
- Poor Implementation (failure of key landscape components; CSLD Impacts-1/2/4/5)
  - Planting Technique (soil amendment), Hardscape Installation (retaining walls, pavers, edging), Mulching (always mulch)
- Maintenance Ignored/Abandoned or Improper (most want low maintenance; esp. turf; poor pruning; CSLD Impacts-1/2/3/4/5)
- No Consideration of SISS (snow, ice, salt, and sand; CSLD Impacts-1/2/3/4/5)
- Poor Infiltration/Runoff Management (should be a key component of every landscape; CSLD Impacts-1/3/4)
- Lack of Wildlife Habitat (replace what has been lost; CSLD Impacts-1/3)
- Mass Marketing/HGTV Mentality (landscaping isn’t easy; easy way out is always a mistake; CSLD Impacts-1/2/3/4/5)
- Poor Grading & Soils Not Amended (too flat/no topography; poor, compacted soils; CSLD Impacts-1/2/3/4/5)

Others - Anything that conflicts with the Five Considerations of Sustainable Landscape Design relative to a specific property owner and landscape situation

Resolution No. 2017-

Resolution approving a conditional use permit for an 8 resident licensed residential care facility at 5022 Baker Road

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

Section 1. Background.

1.01 Counter Point Recovery has requested a conditional use permit to operate a 12 resident licensed residential care facility at 5022 Baker Road.

1.02 The property is legally described as:

Auditor's Subd. No. 321, N 165 Ft Of The E 310 Ft Of Lot 5 And That Part Of Lot 8 Lying N Of N Line Of Lot 5 And E Of The W Line Of Lot 5 Extended Except Hwy

1.03 On November 30, 2017, the planning commission held a public hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council deny the permit.

Section 2. Standards.

2.01 City Code §300.16 Subd. 2 outlines the general standards that must be met for granting a conditional use permit. These standards include:

1. the use must be consistent with the intent of the zoning ordinance;

2. the use must be consistent with the goals, policies and objectives of the comprehensive plan;

3. the use must not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and

4. the use must not have an undue adverse impact on the public health, safety or welfare.
2.02 City Code §300.16 Subd. 3(g) outlines the following specific standards that must be met for granting a conditional use permit for such facilities:

1. 3,000 square feet of lot area for each overnight resident, based on proposed capacity;

2. 300 square feet of residential building area for each overnight resident, based on proposed capacity;

3. in R-1 and R-2 districts, for new construction including additions, a floor area ratio (FAR) that is no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street. The FAR applies to an existing structure only if it seeks to expand. The city may exclude a property that the city determines is not visually part of the applicant's neighborhood and may add a property that the city determines is visually part of the applicant's neighborhood. The city may waive or modify the floor area requirement where:

   a) the proposed use would be relatively isolated from the rest of the neighborhood by slopes, trees, wetlands, undevelopable land, or other physical features; or

   b) the applicant submits a specific building design and site plan, and the city determines that the proposed design would not adversely impact the neighborhood character because of such things as setbacks, building orientation, building height, or building mass. In this case, the approval is contingent upon implementation of the specific site and building plan.

4. no external building improvements undertaken in R-1 and R-2 districts which alter the original character of the home unless approved by the city council. In R-1 and R-2 districts, there must be no exterior evidence of any use or activity that is not customary for typical residential use, including no exterior storage, signs, and garbage and recycling containers;

5. traffic generation: a detailed documentation of anticipated traffic generation must be provided. In order to avoid unreasonable traffic impacts to a residential neighborhood, traffic limitations are established as follows:

   a) in R-1 and R-2 districts, the use is not permitted on properties that gain access by private roads or driveways that are used by more than one lot;

   b) the use must be located on, and have access only to, a collector or arterial roadway as identified in the comprehensive plan;
c) the use must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays, that has been reviewed and approved by city staff.

6. no on-street parking to be allowed. Adequate off-street parking will be required by the city based on the staff and resident needs of each specific facility. In R-1 and R-2 districts, the parking area must be screened from the view from other R-1 and R-2 residential properties. Private driveways must be of adequate width to accommodate effective vehicle circulation and be equipped with a turnaround area to prevent backing maneuvers onto public streets. Driveways must be maintained in an open manner at all times and be wide enough for emergency vehicle access. Driveway slope must not exceed 8 percent unless the city determines that site characteristics or mitigative measures to ensure safe vehicular circulation are present. Adequate sight distance at the access point must be available;

7. all facilities to conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;

8. landscape buffering from surrounding residential uses to be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts. Landscape screening from surrounding residential uses may be required by the city depending on the type, location and proximity of residential areas to a specific facility;

9. submission of detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity which may result in the imposition of reasonable conditions to limit the off-site impacts;

10. submission of a formal site and building plan review if a new building is being constructed, an existing building is being modified, or the city otherwise determines that there is a need for such review; and

11. additional conditions may be required by the city in order to address the specific impacts of a proposed facility.

2.03 The applicant has the burden of establishing that it has satisfied all applicable conditions.

Section 3. Findings.

3.01 The city council finds that the proposal meets the following standards:

1. Section 300.16, Subd. 2(a), related to consistency with the intent of the zoning ordinance;
2. Section 300.16, Subd. 2(b), related to consistency with the comprehensive plan;

3. Section 300.16, Subd. 3(g)(1), related to lot area;

4. Section 300.16, Subd. 3(g)(2), related to building area;

5. Section 300.16, Subd. 3(g)(3), related to floor area ratio, subject, however, to the continuing conditions set forth at section 4.01 below, for any future building additions or new construction;

6. Section 300.16, Subd. 3(g)(4), related to the external character of the home, subject, however, to the conditions set forth at 4.01 below;

7. Section 300.16, Subd. 3(g)(5)(a) and (b), related to traffic generation; and

8. Section 300.16, Subd. 3(g)(10), related to site and building plan review, subject, however, to the continuing condition set forth at section 4.01 below.

3.02 The applicant has not met its burden of demonstrating that the proposed facility meets the following standards, based the findings in paragraph 3.03 below:

1. Section 300.16, Subd. 2(c), related to not having an undue adverse impact on governmental services;

2. Section 300.16, Subd. 2(d), related to not having an undue adverse impact on the public health, safety or welfare;

3. Section 300.16, Subd. 3(g)(5)(c), related to a traffic plan that avoids unreasonable traffic impacts on the neighborhood;

4. Section 300.16, Subd. 3(g)(6), related to adequacy of parking;

5. Section 300.16, Subd. 3(g)(7), related to conformity with all applicable codes;

6. Section 300.16, Subd. 3(g)(8), related to buffering from surrounding residential uses;

7. Section 300.16, Subd. 3(g)(9), related to program information sufficient to evaluate off-site impacts;

3.03 Relative to the deficiencies noted at section 3.02 above, the council makes the following findings:

1. The proposed parking plan includes four exterior parking spaces and three spaces inside the garage. In its application materials, the applicant
represented that: residents would not be allowed to have vehicles on site; no more than five vehicles would be on site at the same time, during the 8 am to 5 pm time slot; and no visitation would be allowed in the program and any special events for resident family/parties would be held off site.

2. The evidence at the public hearing regarding expected parking at the property was unclear and cast doubt on the completeness of the application materials and the ability to comply with applicable laws and regulations regarding on-site visitors. The applicant acknowledged that, in addition to staff members, other visitors such as attorneys, medical care professionals and religious advisors would conduct on-site visits at the property. The applicant represented having received verbal approval from the licensing authority to refuse on-site visits by family members but provided no documentation. Based on the city’s experience with other licensed residential facilities in the city, a prohibition of on-site visits is unusual, and there is no assurance that a future facility would have the same operational policy.

3. Because conditional use permits run with the land, and because the city has no control over licensing issues that may be approved for one applicant but may not be approved for a future applicant, the adequacy of the property to accommodate a given number of residents must be based on the actual number of residents at the site and not on the applicant’s operational rule.

4. The applicant has not demonstrated that the property can adequately handle traffic and parking of staff members, professional advisors such as attorneys and medical providers, as well as social visitors for 12 persons. The seven designated parking spaces can accommodate, at any given time, up to four staff vehicles, the facility’s van, and two additional visitors. A limitation on the number of residents is appropriate, and is a condition of this approval.

5. Additional landscaping and fencing is needed to buffer the use from neighboring properties. The landscaping plan does not specify the height of the trees to be planted along the south property line, and the proposed fence only partially buffers the property from the adjacent property to the north. Additional requirements are set forth as a condition of this approval.

6. The applicant has not demonstrated that the use of the property as a 12-person facility will not have undue adverse impacts on government services or on the public health, safety and welfare. Evidence in the record indicates that the range of police calls for similar facilities in the city varies greatly. The applicant currently operates a facility that serves only six adults, and that facility generated 13 calls for police service in only 13 months of operation. That number of police calls is disproportionate to the typical number of police calls to a single property in the low density residential areas of the city, and has an undue adverse impact on surrounding
Section 4. City Council Action.

4.01 A conditional use permit is approved for a licensed residential facility providing chemical dependency treatment to eight adults, subject to the following conditions:

1. Prior to occupancy by more than six residents, and while this conditional use permit remains in force, the applicant must comply with the following requirements:

   a) This resolution must be recorded with Hennepin County.

   b) The facility must be licensed by the Minnesota Department of Human Services to provide care to up to eight people.

   c) The facility must be brought into compliance prior to initial occupancy and must be maintained in a state of compliance with all requirements of the Minnesota state building code, fire code, and health code.

   d) Upon request by the city, the applicant must submit updated detailed program information including goals, policies, activity schedule, and staffing patterns. The city may request updated information based upon verified reports of adverse impacts or reasonably suspected violations of the conditional use permit.

   e) The applicant must apply for and receive a lodging and food license from the City of Minnetonka.

   f) The driveway must be constructed with a hardsurface material extending from the garage to Baker Road. The applicant must secure permits as required by Hennepin County for driveway work in the right of way.

   g) The final drive pavement and any utility work needed should be adjusted to minimize tree loss and tree impacts and erosion control and tree protection must be installed and maintained as needed.

   h) The applicant must submit a revised landscaping plan for the city planner’s review and approval, which must include the additions to the landscaping plan dated December 1, 2017 as described in this
paragraph. The landscaping along the south property line must be a minimum of six feet in height. The fencing along the north property line must extend to the fence on the westerly property line and must be a minimum of six feet in height. The plan must be revised by adding a fenced area to the rear of the residential building that affords recreational space and privacy to the residents; this requirement is not intended to prevent supervised use of the front yard by the residents. The applicant must conform the property to the approved revised landscaping plan prior to occupancy of more than six residents and must at all times maintain the landscaping and fencing in a state of good repair.

i) Electronic security devices must be installed in the building, to alert staff when doors or windows are opened. The security devices must be maintained in good repair and be in operation on a 24-hour basis.

j) On-site outdoor parking conditions must be monitored and recorded one time per month by on site staff. A record of the maximum number of cars parked outside must be recorded. By December 31 of every year, a report of the parking conditions must be provided to city staff. Staff may also field verify numbers of vehicles.

k) The property must comply with all provisions of City Code §845, Public Nuisances.

2. Any change in or to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

3. The city council may reasonably add or revise conditions to address any future unforeseen problems.

Adopted by the City Council of the City of Minnetonka, Minnesota, on December 4, 2017.

_______________________________________
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 December 4, 2017.

David E. Maeda, City Clerk
Addenda
Minnetonka City Council
Meeting of December 18, 2017

10D Resolution approving agreement for donation to the city of vacant land on Martha Lane

Attached is a memo from the city attorney noting item 10D requires five votes for approval and thus should be moved as part of agenda item 11 (Consent Agenda – 5 Vote Items).

10G Labor agreement between the city of Minnetonka and International Union of Operating Engineers, Local No. 49

The agreement in the staff report had an incorrect date.

Under Article XXIX – Duration, the contract expiration date is incorrectly listed as December 14, 2017, rather than December 24, 2020. The agreement has been updated to reflect the following redline language:

"This Agreement shall be effective as of December 15, 2017 and shall remain in full force and effect through December 14, 2017 December 24, 2020."

14B Resolution approving a conditional use permit for an 8-resident licensed residential care facility at 5022 Baker Road

A letter from the applicant’s attorney is attached.
MEMORANDUM

To: David Maeda, City Clerk
From: Corrine Heine, City Attorney
Date: December 18, 2017
Subject: December 18, 2017 council meeting – addendum

The following are changes to the agenda packet for the December 18, 2017 council meeting:

- Item 10.D., Resolution approving agreement for donation to the city of vacant land on Martha Lane, should be moved to Item 11.C.

- Item 14.B., Resolution approving a conditional use permit for an 8-resident licensed residential care facility at 5022 Baker Road. Add the attached letter to the packet.
December 18, 2017

Corrine Heine
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Email: cheine@eminnetonka.com

Re: Counter Point Recovery, L.L.C.’s Application for Conditional Use Permit for 5022 Baker Road, Minnetonka (“Property”)

Dear Ms. Heine:

As the city is aware, our firm represents Counter Point Recovery, L.L.C. (“Counter Point”) in connection with its application for a conditional use permit at the Property for a seven (7) to twelve (12) resident licensed residential care facility (“CUP”). Our client has specifically requested that the CUP permit twelve (12) residents to occupy the facility based upon the City of Minnetonka’s existing conditional use permit ordinance.

BACKGROUND

As the City knows, Counter Point currently operates a chemical dependency treatment facility in Minnetonka at 14528 Moonlight Hill Road. The current facility treats six (6) full time residents. Minnesota law expressly authorizes this use without any approvals required from the City. Counter Point can simply move those six (6) residents to the 5022 Baker Road address or it may treat six (6) new residents at the 5022 Baker Road address while keeping the existing treatment facility. Based upon state law and the City’s own ordinances, Counter Point needs no further approvals to operate a facility at the Property that contains six (6) or fewer residents.

Counter Point, however, desires to treat up to twelve (12) full time residents at the Property. In order to treat between seven (7) and twelve (12) residents at the Property, Counter Point must obtain a CUP from the City for such a facility. Counter Point has submitted this application to the City requesting the CUP.

Provided that Counter Point satisfies the conditions contained in the City’s CUP ordinance, the City must grant the CUP to Counter Point. Counter Point maintains that it has fully satisfied the general and specific conditions of the City’s CUP ordinance.

CUP STANDARDS

Minnesota law provides that if an applicant satisfies the standards of the local CUP
ordinance, the local governing authority must grant the CUP to permit the use. A city has no legal basis for denying a CUP if the applicant satisfies the conditions set forth in the local zoning ordinance. Further, to the extent that a city desires to impose conditions upon the applicant, the conditions must be specifically related to the conditions set forth in the CUP zoning ordinance and the must be specifically related to the site under consideration. Any conditions must be specifically related to site specific considerations rather than the operational considerations.

Counter Point satisfies both the general and the specific conditions contained in the City of Minnetonka’s CUP zoning ordinance governing these types of facilities. Accordingly, the City has limited abilities to impose the conditions that were proposed at the December 4, 2017 council meeting and in the proposed resolution before the Council.

COUNTER POINT OBJECTS TO VARIOUS LIMITATIONS PROPOSED BY COUNCIL AND INCLUDED IN THE PROPOSED RESOLUTION.

At the direction of the City Council, staff prepared a draft Resolution approving Counter Point’s application, but containing significant conditional limitations not supported by the City’s own zoning ordinance or by site specific considerations. Counter Point objects to those conditions set forth in the draft resolution to the City Council and which City Council directed to be included at the last City Council meeting on December 4, 2017. Those limitations are set forth below:

1. Limiting the total of residents to eight (8) residents;
2. Monitoring outdoor parking conditions at least one time per month and providing an annual report to City staff;
3. Installing electronic security devices on all doors and windows to alert staff when the doors and windows are opened;
4. Various changing to the landscaping plan including:
   a. Landscaping the rear yard of the house by installing a privacy fence;
   b. Extending the fence on the north property line all the way to the westerly property line.

A. THE CITY OF MINNETONKA IS NOT PERMITTED TO LIMIT THE NUMBER OF TOTAL RESIDENTS TO EIGHT (8) INSTEAD OF TWELVE (12).

At the December 4, 2017 City Council meeting, the City Council proposed to limit Counter Point’s operations to eight (8) total residents or less. Despite the desire to limit the total number of residents, the City failed to articulate a condition within its own ordinance or any site specific conditions that justify this limitation. Accordingly, the condition lacks merit and legal authority despite City Council’s request for the limitation.

According to the City of Minnetonka’s own CUP ordinance, the applicant must demonstrate that the total lot area of the Property contains at least 3,000 square feet for each overnight resident. Second, the residential building contain at least 300 square feet for each overnight resident. Any failure to meet these conditions would permit the City to limit the total number of residents at the facility. However, Counter Point satisfies both conditions of the ordinance. The City’s own staff report specifically states that the lot contains 54,760 square feet which well exceeds the 36,000 square feet needed for twelve (12) full time residents. Similarly, the residential building contains 3,928 square feet in size which exceeds the 3,600 feet needed for twelve (12) full time residents.
Both the Property and the building well exceed the square footage necessary for the maximum total of twelve (12) residents. The applicant clearly satisfies the requirements set forth in the City’s CUP ordinance and the City has failed to articulate any other justifiable reason for limiting the total number of residents.

To the extent that the City desires to limit the number of total residents to less than twelve (12), particularly in light of the fact that Counter Point clearly satisfies the City’s zoning ordinance, the City must articulate specific site conditions that would allow the City to limit the total number of residents. No such conditions have been specified nor do such conditions exist. Instead, the applicant has demonstrated that the Property satisfies the conditions set forth within the City’s own zoning ordinance. Any attempt to limit the total number of residents based upon parking concerns or other concerns, other than the size of the Property and of the residential facility, are misplaced and inappropriate.

**B. THE CITY CANNOT LIMIT OCCUPANCY BASED UPON PERCEIVED PARKING CONCERNS WHEN THE APPLICANT SATISFIES THE CITY’S OWN ORDINANCES.**

In attempting to oppose the proposed application, numerous residents point to proposed parking concerns in connection with a twelve (12) resident facility. The City Council itself pointed to potential concerns over parking and the proposed findings of fact for the draft resolution articulate parking concerns to justify a limitation on the number of residents. All of these parking concerns are misplaced because Counter Point’s application satisfies the City’s existing parking ordinance.

The City’s CUP ordinance for these facilities does not specifically address parking other than to state that “no on-street parking” will be allowed. Counter Point submitted a parking plan that specifically shows room for three (3) vehicles to be parked in a three (3) stall garage. Additionally, Counter Point proposed outdoor spaces for at least four (4) other vehicles so there would be at least seven (7) on-site parking spaces at the Property. Counter Point did not propose any on-street parking and Counter Point has demonstrated more than sufficient parking available for its residents, staff and any visitors.

City code limits outdoor parking to four (4) vehicles at any given time, **excluding vehicles of occasional guests that do not work or reside at the property**, Counter Point has explained that none of the residents are permitted to have their own vehicles parked at the facility and that it will agree to comply with the City’s existing parking ordinance. To the extent that Counter Point fails to adhere to the City’s existing parking ordinances, the City has the right to enforce those ordinances against Counter Point, just as it could enforce them against any other resident. As Counter Point’s application articulates, the seven (7) parking spaces more than sufficiently accommodate the staff and residents. Any concerns related to visitors or occasional guests that do not work or reside at the property are misplaced as those vehicles are specifically permitted to park at the Property pursuant to City ordinance.

Based upon the foregoing, the City may not limit the number of residents at the property to less than twelve (12) based upon purported parking concerns. If the City truly has concerns about parking, it can choose to enforce its parking ordinances. The City cannot simply limit the number of residents when it could instead simply enforce its own parking regulations.
Similarly, nothing in the City’s CUP ordinance would allow or authorize the City to require Counter Point to monitor outdoor parking conditions and report those conditions to the City on an annual basis. The City lacks any justification for including such a condition as part of approving Counter Point’s application for a CUP.

C. THE CITY LACKS THE AUTHORITY AND JUSTIFICATION TO REQUIRE COUNTER POINT TO INSTALL A SECURITY SYSTEM AS A CONDITION OF THE APPROVAL OF ITS APPLICATION.

The City’s proposed resolution and request that the December 4, 2017 Council meeting requested that, as a condition of approval, Counter Point install a security system on all windows and doors to alert staff when any doors or windows are opened.

Nothing contained in the City’s CUP ordinance addresses security systems. Further, the City seems to lack a site specific basis for requiring the installation of a security system. One of the proposed findings contained in the proposed resolution suggests that Counter Point’s existing operation at its current location has generated approximately 13 police calls, but any reference to another location within the City deals strictly with the operations of an entirely separate facility and cannot be connected to the proposed site for the twelve (12) person facility. The applicants existing operations simply cannot be used as a justification to deny a CUP or impose conditions not supported by the City’s own zoning ordinance.

Counter Point has proposed to include a security system as part of the operational plan that it submitted to the City, but the operational plan does not in and of itself turn into conditions under the City’s CUP ordinance. So although Counter Point may be willing to install a security system at the facility, it objects to the installation of such a system being a condition of the granting of the CUP.

D. COUNTER POINT OPPOSES PORTION OF THE PROPOSED LANDSCAPE AND BUFFERING IMPROVEMENTS.

Counter Point has proposed a landscape and buffering plan for the property pursuant to the City’s CUP ordinance and to screen the property from surrounding residential uses. Generally, Counter Point is prepared to satisfy the City’s specific CUP condition for buffering by installing the proposed landscaping. However, Counter Point does object to a few of the proposed landscaping conditions.

First, the City has requested that Counter Point landscape the backyard and install a privacy fence in the backyard. The installation of the privacy fence in the backyard of the Property seems to lack any beneficial screening for surrounding properties and is unnecessary. The current house on the Property sits well back from Baker Road. In fact, the house sits significantly further back on the Property than the adjacent houses to both the north and south. Accordingly, the existing house provides screening itself from the adjacent properties and a backyard privacy fence will have little, if any effect on the surrounding properties. Because of how the house is set back, the backyard is already screened from the existing neighbors’ properties. Accordingly, Counter Point requests that the City eliminate this screening as a condition of the CUP.

Second, Counter Point had proposed a fence on the northerly edge of the Property. Following the submission of its plan to the City, Counter Point discovered that the proposed fence may be
located in a utility easement and, therefore, Counter Point may not be permitted to construct the fence in the exact location proposed. Counter Point requests that the City permit Counter Point to change the exact location of the northerly fence based upon where Counter Point can lawfully construct the fence outside of any utility easements. Counter Point will work with the City, and the neighbor to the north, if necessary, to construct the proposed fence on the property line if no other suitable location can be found.

Similarly, the Council had requested that Counter Point extend this fence to the Westerly sound wall. Counter Point’s property may not extend to the sound wall or, if it does, there may be easements that would prohibit the construction of any improvements in that area. Given that the fence could likely not be connected to the sound wall, Counter Point requests that the City not request that the fence be extended to the Westerly property line of the property as it will have little to know screening value.

CONCLUSION

Counter Point looks forward to their continued operations in the city of Minnetonka and the expansion to its new location. Counter Point has provided valuable treatment services in the community and searched long and hard for a location where it could expand those services to more clients.

My client is disappointed with the neighborhood opposition that has taken place as it strives to be a good neighbor to all. But more importantly, my client has significant concerns with the City’s attempt to impose conditions not authorized by the its own zoning ordinance and site specific conditions. Counter Point has satisfied all of the conditions set forth in the City’s CUP ordinance and specifically requests that the City issue the CUP without any limitations on the number of residents to be located at the Property or any other conditions not otherwise warranted by Minnesota law.

Respectfully yours,

[Signature]

Stephen A. Ling

SAL/sad

cc: Counter Point Recovery