



**AGENDA**  
**REGULAR MEETING OF THE CITY COUNCIL OF**  
**THE CITY OF WHITE BEAR LAKE, MINNESOTA**  
**TUESDAY, DECEMBER 12, 2017**  
**7:00 P.M. IN THE COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ROLL CALL**

PLEDGE OF ALLEGIANCE

**2. APPROVAL OF MINUTES**

Minutes of the Closed City Council Meeting on November 28, 2017  
Minutes of the Regular City Council Meeting on November 28, 2017

**3. APPROVAL OF THE AGENDA**

**4. VISITORS AND PRESENTATIONS**

**5. PUBLIC HEARINGS**

**6. LAND USE**

A. Consent

1. Consideration of a Planning Commission recommendation for approval of a request by **Violet Montessori** for a Conditional Use Permit for a day care facility; a variance to allow the fence and play area in a front yard; and, “General Concept” & “Development Plan” stage approval of a Planned Unit Development for signage; all in order to allow the establishment and operation of a Montessori for the property located at 2025 4th Street. (Case No. 17-2-PUD, 17-4-CUP and 17-23-V)
2. Consideration of a Planning Commission recommendation for approval of a request by **Betsy Larey** to split one lot into two for the property located at 1298 N. Birch Lake Boulevard. (Case No. 17-1-LS)

B. Non-Consent

1. Consideration of a Planning Commission recommendation for approval of a request by **Division 25, LLC** on behalf of **Lund’s and Byerly’s** for Development Stage Planned Unit Development (PUD) approval for Tower Crossing – Phase II to permit a grocery store for the property located at 4630 Centerville Road. (Case No. 17-5-CUP)

**7. UNFINISHED BUSINESS**

Nothing scheduled

## **8. ORDINANCES**

- A. Second reading of an ordinance establishing 2018 annual fee and utility rate schedule
- B. First reading of an ordinance establishing gas and electric franchise fees
- C. First reading of an ordinance establishing right-of-way for small cell permits

## **9. NEW BUSINESS**

- A. Resolutions adopting 2017 Tax Levy Collectible in 2017 and adoption of the revised 2017 and proposed 2018 Budget
- B. Resolution approving the policy and purchase of Body Worn Cameras
- C. Resolution approving Classification and Compensation Plan
- D. Resolution approving bids and awarding contract for the Sports Center Rehabilitation Project, City Project No. 18-09
- E. Resolution approving revisions to Boatworks Community Room rental policy
- F. Resolution approving Joint Powers Agreement with Ramsey County for Dispatch Services
- G. Resolution ordering preparation of a feasibility report for the 2018 Street Reconstruction Project and the 2018 Mill and Overlay Project, City Project Nos.: 17-06, 18-01, 18-06 & 18-13

## **10. HOUSING AND REDEVELOPMENT AUTHORITY**

- A. Roll Call
- B. Approval of the August 22, 2017 HRA Meeting Minutes
- C. Resolution not waiving the monetary limits on Municipal Tort Liability established by Minnesota Statutes 466.04 for Housing and Redevelopment Authority
- D. Resolution authorizing an amendment to extend a parking lot lease for the property at 2137 4th Street
- E. Adjournment

## **11. CONSENT**

- A. Acceptance of October White Bear Lake Conservation District Minutes; October Environmental Advisory Commission Minutes; October Park Advisory Commission Minutes; November Planning Commission Minutes.

B. Resolution not waiving the monetary limits on Municipal Tort Liability established by Minnesota Statutes 466.04

C. Resolution approving execution of a management agreement for Pioneer Manor

**12. DISCUSSION**

**13. COMMUNICATIONS FROM THE CITY MANAGER**

➤ Year-end accomplishments

**14. ADJOURNMENT**



**MINUTES  
REGULAR MEETING OF THE CITY COUNCIL OF  
THE CITY OF WHITE BEAR LAKE, MINNESOTA  
TUESDAY, NOVEMBER 28, 2017  
7:00 P.M. IN THE COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ROLL CALL**

Mayor Emerson called the meeting to order at 7:00 p.m. Councilmembers Doug Biehn, Kevin Edberg, Steven Engstran, Dan Jones, Bill Walsh in attendance. Staff members present were City Manager Ellen Richter, Assistant City Manager Rick Juba, Finance Director Don Rambow, City Engineer Mark Burch, City Clerk Kara Coustry and City Attorney Andy Pratt.

PLEDGE OF ALLEGIANCE

**2. APPROVAL OF MINUTES**

Minutes of the Regular City Council Meeting on November 14, 2017.

It was moved by Councilmember **Edberg** seconded by Councilmember **Jones**, to approve the Minutes of the Regular City Council Meeting on November 14, 2017.

Motion carried unanimously.

**3. APPROVAL OF THE AGENDA**

It was moved by Councilmember **Jones** seconded by Councilmember **Walsh**, to approve the Agenda as presented.

Motion carried unanimously.

**4. VISITORS AND PRESENTATIONS**

**A. Mike Greenbaum – New Trax Senior Shuttle**

Mike Greenbaum explained that New Trax is a non-profit transport company formed over 5 years ago to create a more efficient transportation system in the northeast metro. The concept was initiated through the White Bear Community Forum on Seniors' Transportation Sub-committee. Newtrax in conjunction with the White Bear Senior Center conducted focus groups to hear priorities. They met with DARTS to hear about their community circulars and learn best practices.

Scott Olson, Community Transportation Coordinator, explained that as of October 5, 2017, New Trax operates a pilot program on the south loop, Thursdays from 10:00 a.m.- 12:30 p.m. The County Road E corridor is covered through nine stops at residential facilities and five retail centers, in which three buses reach the site every 20 minutes. Ridership is growing as route timing and confidence in the service grows.

Mr. Olson shared future plans including expansion into the northern loop focused on downtown and Highway 96 corridor with the White Bear Senior Center as a connection

point with the incorporation of elementary school volunteering into the route. To those living independently in their homes, access would be provided on a pre-scheduled basis.

Mr. Greenbaum explained that the cost of operations only (driver wages and fuel) to run the south loop is approximately \$15,000 annually. Newtrax makes in-kind contribution through use of vehicles at no cost. Adding a north loop would cost approximately \$5,000 per vehicle per year as currently constructed.

Mr. Greenbaum reported that financial contributions have come from the dismantled Lionmobile program, Kowalski's Lake Area Bank, Greater White Bear Lake Community Foundation, Vadnais Heights Area Community Foundation and Vadnais Heights Lions Club. There may be some capacity for future financial support through assistance from senior residential partners (subsidized facilities within routes will be included at no cost) and voluntary contributions from riders. Mr. Greenbaum explained that with this pilot program in place, it is hopeful the need will be recognized and more private and public support will contribute to fund its ongoing success.

## **5. PUBLIC HEARINGS**

### **A. Consideration of Body Worn Camera policy**

Ms. Richter explained that a draft policy has been available and posted on the City website for the public comment as required by state statute prior to consideration of a recommendation to purchase. After providing a brief legislative summary, Ms. Richter asked Chief Swanson to report on the process of selecting cameras and developing a policy.

Chief Julie Swanson explained that as the City explores body cameras, other agencies' policies have been reviewed. Officers are used to turning on a microphone from their squad camera already, so she believes that activating a camera will not be a significant change of practice. Chief Swanson described the camera review process.

Chief Swanson explained that the department demoed cameras from three vendors, and ultimately concluded that the Motorola product was better suited for the department. Their product provides superior sound recording and its local vendor has been very responsive in the past.

Chief Swanson explained that in the process of developing the draft policy, the department consulted with other law enforcement agencies, worded with the MN Chiefs of Police Association, consulted with the MN BCA and solicited input from the Sergeants. The most frequent topic of discussion with the body camera policy tends to be how a critical incident is handled and when an officer will have the opportunity to view the footage from the critical incident. Chief Swanson explained the importance of having an officer give their statement of the event prior to reviewing the footage with their union representation to allow for them to account for the event as they experienced it, rather than as captured on video. After giving an initial statement, then viewing the footage, the officer will have an opportunity to provide a public statement regarding the event.

Councilmember Biehn expressed concern with law enforcement not viewing the footage prior to make a statement. Chief Swanson explained that if there is a collaborative decision among the Prosecuting Attorney, the BCA and the Chief of Police, there could be

circumstances in which the officer may be permitted to review the footage prior to giving a statement.

Mayor Emerson expressed that with there being no objections from officers, she believes the policy is acceptable.

In response to Councilmember Jones, Chief Swanson explained that Maplewood, Roseville, and St. Paul, Washington County, Bayport, and Woodbury currently have body worn cameras. Lino Lakes is in the process of getting them. Ramsey County does not have body worn cameras.

Councilmember Walsh asked how the periodic review of footage in regard to job performance would be managed. Chief Swanson explained this would typically be used in training rather than scrutinizing performance, and is very similar to the current squad camera policy.

Mayor Emerson opened a public hearing at 7:45 p.m. No one came forward and the Mayor closed the public hearing at 7:45 p.m.

Chief Swanson explained the intent is to equip all 29 officers, including the Chief and other Administrative staff. Community Service Officers will not be equipped at this time due to the costs.

#### B. Truth in Taxation Hearing

Ms. Richter explained this meeting is to provide an opportunity for the public to comment on the budget and no action will be requested of the Council until the December 12 meeting. The tax levy represents 50% of general fund revenues for which 42% funds the police department.

Ms. Richter reviewed trends, economic conditions, the allocation of tax dollars and sources of revenue for the General Fund, and explained how property tax rates are calculated. The proposed tax levy has been kept relatively flat since 2007 by using a drawdown of reserves to offset operations, shifting the levy from infrastructure to operations, and reallocating a portion of LGA from infrastructure to operations.

Ms. Richter reported on the proposed 2018 tax levy, which anticipates three central elements that will require additional resources. The proposed tax levy will eliminate reliance on Reserves for operations, which amounts to \$226,000 or 50% of the proposed levy increase; commit resources to help fund capital replacement of \$146,000 or 32% of the levy increase; provide additional funding for general operations to the tune of \$80,000 or 18% of the proposed increase. The General Fund increase represents a 1.6% increase over 2017.

Mayor Emerson opened the Public Hearing at 8:13 p.m. As no one came forward to speak, Mayor Emerson closed the Public Hearing and brought the discussion back to the City Council. She explained that the Council will be asked to take action at the December 12, 2017 City Council Meeting.

## 6. LAND USE

Nothing scheduled

## 7. UNFINISHED BUSINESS

Nothing scheduled

## 8. ORDINANCES

Nothing scheduled

## 9. NEW BUSINESS

- A. Resolution accepting the work and authorizing final payment to Insituform Technologies USA, LLC for the Sanitary Sewer Main Lining Program, City Project No.: 17-07

City Engineer Burch reported that Insituform Technologies USA, LLC has completed construction of the 2017 Sanitary Sewer Main Lining Project (City Project 17-07). All of the work specified in the contract has been accomplished and the sanitary sewer mains are back in service. The original contract amount for this project was \$84,084.80 and the final revised contract amount is \$90,402.20. The revised contract amount is due to addition of work required due to a manhole located in Trunk Highway 61.

It was moved by Councilmember **Jones**, seconded by Councilmember **Biehn**, to adopt **Resolution No. 12122** accepting the work and authorizing final payment to Insituform Technologies USA, LLC for the Sanitary Sewer Main Lining Program, City Project No.: 17-07

Motion carried unanimously.

- B. Resolution authorizing execution of the 2018 labor agreement with International Union of Operating Engineers Local No. 49; Public Works

City Manager Richter reported that City, through good faith negotiations, has reached an agreement on the terms of its 2018 labor agreement with the International Union of Operating Engineers Local 49 – Public Works. Of particular note, wages are set to increase 2.75% and the vacation accrual schedule was accelerated as a tool for better recruitment and retention of employees.

It was moved by Councilmember **Jones**, seconded by Councilmember **Biehn**, to adopt **Resolution No. 12123** authorizing execution of the 2018 labor agreement with International Union of Operating Engineers Local No. 49; Public Works

Motion carried unanimously.

## 10. CONSENT

- A. Resolution approving massage therapy establishment and massage therapist licenses.  
**Resolution No. 12124**

It was moved by Councilmember **Biehn**, seconded by Councilmember **Edberg**, to adopt the Consent Agenda as presented.

Motion carried unanimously.

## 11. DISCUSSION

### A. Utility rates – review of options

Finance Director Rambow reviewed two options for sewer rate adjustments. One option relies on use of reserve funds to balance the utility fund deficit; the other increases rates enough to provide revenues for reimbursement of the non-bonded fund.

Councilmember Edberg felt the proposed water and sewer rate increases needed to reimburse the non-bonded fund were not onerous, amounting to \$10 more per year for water usage and \$20 more per year for sewer usage.

Councilmember Jones agreed that citizens should pay what it costs for the services they get.

Councilmember Walsh also agreed, however he stated that rates are increasing everywhere and he believed the City should ease into the rate increases and was okay with use of the non-bonded fund to support the utility account in the meantime to give some relief to residents.

## 12. COMMUNICATIONS FROM THE CITY MANAGER

### ➤ Small cell wireless

City Attorney Pratt stated he is drafting an agreement on a Small Cell Wireless Ordinance for the City of White Bear Lake, which will be forthcoming.

### ➤ Sports Center

City Manager Richter explained that City Attorney Pratt is writing a contract to outline the Hockey Association debt service payment anticipated with the Sports Center project.

### ➤ Works sessions – 2018

City Manager Richter shared topics for 2018 work sessions in the works including CIP/Financial Planning, Fire Services, Economic Development, a budget work session and strategic planning meeting in the fall.

### ➤ City Engineer Burch shared there is a public information meeting tomorrow night in City Hall to discuss the 2018 Mill and Overlay projects.

### ➤ City Engineer Burch reported that the bids for the Sports Center will opened tomorrow, but it will take some time to evaluate the bids to discover which one maximizes a tax implication identified by the Finance Director.

### ➤ City Attorney Pratt mentioned that the Federal Tax bill has a tax finance implication by taxing municipal bonds, which would raise the cost of them. The bill also takes away a City's ability to provide tax exempt bonds.



- City Manager Richter shared information about an indoor winter market at Tamarack Nature Center on Saturday, December 9<sup>th</sup> from 10:00 a.m. – noon.
- City Manager Richter shared a customer appreciation award that was presented to the City of White Bear Lake on behalf of MINNCOR Industries for the City’s use of their services to construct the marina dock system, which was completed and installed in 2017.

### 13. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Biehn** seconded by Councilmember **Jones** to adjourn the regular meeting at 8:45 p.m.

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Jo Emerson, Mayor

**ATTEST:**

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Kara Coustry, City Clerk



**MINUTES**  
**CLOSED MEETING OF THE CITY COUNCIL OF**  
**THE CITY OF WHITE BEAR LAKE, MINNESOTA**  
**TUESDAY, NOVEMBER 28, 2017**  
**IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ROLL CALL

Mayor Jo Emerson convened a closed meeting of the White Bear Lake City Council at 6:02 p.m. under Attorney-Client privilege. Councilmember Edberg made a motion to convene, seconded by Councilmember Biehn. Motion carried.

Councilmembers Doug Biehn, Kevin Edberg and Bill Walsh were present at the start of the meeting. Councilmember Dan Jones was present from 6:13 – 6:54 p.m., and Councilmember Engstran was present at 6:25 p.m. Staff members present were City Manager Ellen Richter, Assistant City Manager Rick Juba, City Engineer Mark Burch, City Clerk Kara Coustry and City Attorney Andy Pratt.

2. Robin Greenwald from Weitz & Luxenberg, and Jan Evans and Nancy Burke from Gray Plant Mooty presented information related to participation in a lawsuit to recover damages resulting from harmful coal tar sealants.

3. Adjournment

There being no further business to come before the Council, it was moved by Councilmember **Walsh**, seconded by Councilmember **Biehn**, to adjourn the meeting at 6:55 p.m.

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Jo Emerson, Mayor

ATTEST:

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Kara Coustry, City Clerk



**City of White Bear Lake**  
Community Development Department

**MEMORANDUM**

**To:** Ellen Richter, City Manager  
**From:** The Planning Commission  
**Through:** Samantha Crosby, Planning & Zoning Coordinator  
**Date:** December 6, 2017 for the December 12, 2017 City Council Meeting  
**Subject:** Violet Montessori, 2025 4<sup>th</sup> Street - Case No. 17-2-PUD, 17-4-CUP & 17-23-V

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**REQUEST**

A Conditional Use Permit for a day care facility; a 30-foot variance from the 30-foot front yard setback requirement along Murray Avenue, to allow the fence and play area in a front yard; and “General Concept” & “Development Plan” stage approval of a Planned Unit Development for signage to allow projecting signs; all in order to allow the establishment and operation of a 20 child Montessori and 10 adult parent resource center for the property located at 2025 4<sup>th</sup> Street.

**SUMMARY**

No one from the public spoke to the request.

**RECOMMENDED COUNCIL ACTION**

On a 5-0 vote, the Planning Commission recommended approval of the request as recommended by staff.

**ATTACHMENT**

Resolution of Approval

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING  
A CONDITIONAL USE PERMIT FOR A DAY CARE,  
A FRONT YARD SETBACK VARIANCE, AND  
A PUD FOR SIGNAGE FOR 2025 4<sup>TH</sup> STREET  
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, a proposal (17-2-PUD, 17-4-CUP & 17-23-V) has been submitted by Violet Montessori, to the City Council requesting approval of a PUD for signage, a Conditional Use Permit for a day care and a front yard setback variance from the Zoning Code of the City of White Bear Lake for the following location:

**LOCATION:** 2025 4<sup>th</sup> Street

**EXISTING LEGAL DESCRIPTION:** Lot 4, Block 4, Murray's Addition to White Bear, Ramsey County, MN (PID # 143022420133)

**WHEREAS, THE APPLICANT SEEKS THE FOLLOWING PERMITS:** Both "General Concept" and "Development Plan" stage approval of a Planned Unit Development for signage, per Code Section 1301.070, to allow two projecting signs, and a Conditional Use Permit for a day care facility, per Code Section 1302.140;and

**WHEREAS, THE APPLICANT SEEKS THE FOLLOWING RELIEF:** A 30-foot variance from the 30-foot front yard setback requirement along Murray Avenue, per 1302.140, to allow the play area in a front yard; all in order to allow the establishment and operation of a 20 student Montessori school (8 infants and 12 toddlers) with a 10 "student" parent resource center; and

**WHEREAS**, the Planning Commission has held a public hearing as required by the city Zoning Code on November 27, 2017;

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

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake after reviewing the proposal, that the City Council accepts and adopts the following findings of the Planning Commission in relation to the Planned Unit Development and the Conditional Use Permit:

1. The proposal is consistent with the city's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. The proposal conforms to the Zoning Code requirements.

4. The proposal will not depreciate values in the area.
5. The proposal will not overburden the existing public services nor the capacity of the City to service the area.
6. The traffic generation will be within the capabilities of the streets serving the site.
7. The special conditions attached in the form of conditional use permits are hereby approved.

**FURTHER, BE IT RESOLVED** by the City Council of the City of White Bear Lake that the City Council accepts and adopts the following findings of the Planning Commission in relation to the variances:

1. The requested variance will not:
  - a. Impair an adequate supply of light and air to adjacent property.
  - b. Unreasonably increase the congestion in the public street.
  - c. Increase the danger of fire or endanger the public safety.
  - d. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this Code.
2. The variance is a reasonable use of the land or building and the variance is the minimum required to accomplish this purpose.
3. The variance will be in harmony with the general purpose and intent of the City Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
4. The special conditions or circumstances are not the result of actions of the applicant.
5. The non-conforming uses of neighboring lands, structures, or buildings in the same district are not the sole grounds for issuance of the variance.

**FURTHER, BE IT RESOLVED**, that the City Council of the City of White Bear Lake hereby approves the requests, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Per Section 1301.050, Subd.4, if within one (1) year after approving the Conditional Use Permit, the use as allowed by the permit shall not have been completed or utilized, the CUP shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.

3. This Conditional Use Permit shall become effective upon the applicant tendering proof (ie: a receipt) to the City of having filed a certified copy of the sign resolution of approval with the County Recorder pursuant to Minnesota State Statute 462.3595 to ensure the compliance of the herein-stated conditions.
4. Snow may not take up parking or be pushed into the play area, consequently, it may need to be hauled off site.
5. No play equipment is permitted outside of the fenced play area. The 4 foot tall metal picket fence shall be setback one foot from the east property line with a landscape buffer. It shall not be located closer to 4<sup>th</sup> Street than shown on the site plan.
6. The applicant shall obtain the appropriate building permits prior to beginning any work.
7. Prior to the installation of any signs, the applicant shall provide a comprehensive sign plan for staff review and approval.
8. Prior to the 2018/2019 winter season, the vehicular access off of Murray Avenue shall be removed, (including gutter, bituminous drive and apron) and restored to City specifications.

Prior to the issuance of a building permit, the applicant shall:

9. Provide a more detailed plan for the construction of the play area. Plan shall be reviewed and approved by the City Engineer.
10. Provide a detailed plan for the curb cut and street restoration work required in condition #8. Plan shall be reviewed and approved by the City Engineer.
11. Revise the plans to upgrade the fire alarm system to meet current requirements.
12. Revise the plans to include an accessible parking stall that meets ADA standards (including signage and loading area). All parking stalls to be re-striped.
13. Revise the plans to replace the 8-foot tall wooden privacy fence and vegetation along the north property line.
14. Revise the plans to include a 6-foot tall masonry dumpster enclosure to match the building with an opaque gate – or trash and recycling must be stored within the building.
15. Provide a cost estimate for exterior improvements, including parking lot striping, privacy fence, dumpster enclosure, and approved curb cut and street restoration work. Cost Estimate to be reviewed and approved by the City Engineer.

- 16. Provide a letter of credit or escrow funds as a surety for exterior improvements listed in condition #15. Amount of letter or check to be 1.25% of the city-approved cost estimate required in condition #15.
- 17. Provide a SAC (Sewer Availability Charge) determination letter from the Metropolitan Council.
- 18. Provide proof of capacity as determined by state licensing agent.

Prior to the release of the letter of credit:

- 19. All exterior improvements must be installed and pass inspection.
- 20. The applicants shall provide proof of having recorded the certified copy of the resolution of approval with the County Recorder’s Officer.

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

Ayes:  
 Nays:  
 Passed:

\_\_\_\_\_  
 Jo Emerson, Mayor

**ATTEST:**

\_\_\_\_\_  
 Kara Coustry, City Clerk

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 Approval is contingent upon execution and return of this document to the City Planning Office.

I have read and agree to the conditions of this resolution as outlined above.

\_\_\_\_\_  
 Signed Date

\_\_\_\_\_  
 Print Name & Title



**City of White Bear Lake**  
Community Development Department

***MEMORANDUM***

**To:** Ellen Richter, City Manager  
**From:** The Planning Commission  
**Through:** Samantha Crosby, Planning & Zoning Coordinator  
**Date:** December 6, 2017  
**Subject:** **Larey Lot Split, 1298 N. Birch Lake Blvd. – Case No. 17-1-LS**

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**REQUEST**

Approval of a minor subdivision to split one lot into two.

**SUMMARY**

No one from the public spoke to the request.

**RECOMMENDED ACTION**

On a 5-0 vote, the Planning Commission recommended approval of the request as recommended by staff.

**ATTACHMENTS**

Resolution of Approval



**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING A MINOR SUBDIVISION  
FOR 1298 NORTH BIRCH LAKE BOULEVARD  
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, a proposal (17-1-LS) has been submitted by Betsy Larey to the City Council requesting approval of a Minor Subdivision per the City of White Bear Lake Subdivision Code at the following site:

**ADDRESS:** 1298 North Birch Lake Blvd.

**EXISTING LEGAL DESCRIPTION:** Except the south 714.50 feet, the East 198 feet of that part of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 16, Township 30, Range 22, lying South of North Birch Lake Boulevard. (PID # 163022410003)

**PROPOSED LEGAL DESCRIPTIONS:**

**Parcel A:** Except the South 714.50 feet, the East 198 feet of that part of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 16, Township 30, Range 22, lying South of North Birch Lake Boulevard, EXCEPT the East 99 feet thereof.

**Parcel B:** Except the South 714.50 feet, the East 99 feet of that part of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 16, Township 30, Range 22, lying South of North Birch Lake Boulevard

**WHEREAS THE APPLICANTS SEEK THE FOLLOWING:** Approval of a minor subdivision to split one lot into two, per Code Section 1407.030; and

**WHEREAS**, the Planning Commission has reviewed this proposal on November 27, 2017; and

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed Minor Subdivision upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to traffic, property values, light, air, danger of fire, and risk to public safety, in the surrounding area;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake after reviewing the proposal, that the City Council accepts and adopts the following findings of the Planning Commission:

1. The proposal is consistent with the city's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. The proposal conforms to the Zoning Code requirements.
4. The proposal will not depreciate values in the area.
5. The proposal will not overburden the existing public services nor the capacity of the City to service the area.

6. Traffic generation will be within the capabilities of the streets serving the site.
7. That the special conditions attached in the form of a conditional use permit are hereby approved.

**FURTHER, BE IT RESOLVED**, that City Council hereby approves the lot recombination, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Within 6 months after the approval of the Survey by the City, the applicant shall record the Survey and the approving resolution, with the County Land Records Office or the subdivision shall become null and void.
3. The applicant shall provide the City with proof of recording (receipt) as evidence of compliance with condition #2. Within 120 days after the date of recording, the applicant shall provide the City Planner with two final, recorded copies of the Certificate of Survey.
4. Durable iron monuments shall be set at the intersection points of the new lot line with the existing lot lines. The applicant shall have one year in which to set the monuments.
5. No construction permits may be issued for improvements on the new lot (Parcel A) prior to approval and recording of the survey and approving resolution.
6. The applicants shall agree to reapportion any pending or actual assessments on the original parcel or lot of recording accordance with the original assessment formula on the newly approved parcels as per the City of White Bear Lake finance office schedules.
7. The park dedication fee shall be collected for both Parcel A and Parcel B at the time when a building permit is issued for each.
8. Metropolitan Council SAC (Sewer Availability Charge) and WAC (Water Availability Charge) and City SAC and WAC shall be due at the time of building permit for Parcel A.
9. Water and sewer hook-up fees shall be collected for the new vacant parcel (Parcel A) at the time when a building permit is issued.
10. A tree preservation plan shall be submitted for review and approval prior to the issuance of a building permit for the new residence.

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

Ayes:

Nays:

Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

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Approval is contingent upon execution and return of this document to the City Planning Office.

I have read and agree to the conditions of this resolution as outlined above.

\_\_\_\_\_  
Betsy Larey

\_\_\_\_\_  
Date



**City of White Bear Lake**  
Community Development Department

## *MEMORANDUM*

**To:** Ellen Richter, City Manager

**From:** The Planning Commission

**Through:** Anne Kane, Community Development Director

**Date:** December 7, 2017 for the December 12<sup>th</sup> City Council Meeting

**Subject:** **TOWER CROSSING PUD – Development Plan Approval for Phase II – Lunds & Byerlys Grocery Store - Case No. 17-5-CUP**

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### **REQUEST**

Development Plan Approval for Phase II of the Tower Crossings Planned Unit Development (“PUD”) to develop a 47,200 square foot Lunds & Byerlys grocery store.

### **SUMMARY**

On November 27<sup>th</sup>, the Planning Commission conducted a Public Hearing to consider the request. In addition to the Development Team who provided an overview and answered questions, three interested parties also provided input during the Public Hearing citing concerns primarily focused on traffic concerns and the impact a center median will have on circulation patterns. In addition, the Planning Commission received written comments at their dais from John Moriarty, representing White Oak and Tires Plus which was received after packets were distributed (a copy of which is attached). The Planning Commission agreed with the applicant’s request to modify condition No. 4.a pertaining to extend the sidewalk within Centerville Road right-of-way, as reflected in the revised Resolution.

### **RECOMMENDED COUNCIL ACTION**

On a 5-0 vote, the Planning Commission forwarded a unanimous recommendation of approval of the Resolution approving Phase II of the Tower Crossings Planned Unit Development.

### **ATTACHMENT**

1. Resolution of Approval
2. E-mail correspondence dated November 27, 2017 from John Moriarty on behalf of White Oak and Tires Plus

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING PHASE II OF THE  
TOWER CROSSINGS PLANNED UNIT DEVELOPMENT  
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA  
(LUNDS & BYERLYS)**

**WHEREAS**, a proposal (Case No.17-5-CUP) has been submitted by Division 25, LLC, requesting Development Plan Approval for Phase II of a Planned Unit Development from the City of White Bear Lake at the following site:

**ADDRESS:** 4630 Centerville Road

**LEGAL DESCRIPTION:** Lot 3 of Block 1 in Tower Crossings in Section 16, Township 30, Range 22;

**WHEREAS, THE APPLICANT SEEKS THE FOLLOWING:** Development Plan Approval for Phase II of the Tower Crossings PUD for a 47,200 square foot Lunds & Byerlys grocery store per Code Section 1301.070; and

**WHEREAS**, the Planning Commission has held a Public Hearing as required by the City Zoning Code on November 27, 2017; and

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

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake after reviewing the proposal, that the City Council accepts and adopts the following findings of the Planning Commission:

1. The proposal is consistent with the City's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. Because the proposed project is a Planned Unit Development, which allows flexibility from the strict application of the zoning code, the proposal conforms to the Zoning Code requirements.
4. The proposal will not depreciate values in the area.
5. The proposal will not overburden the existing public services nor the capacity of the City to service the area.
6. The traffic generation will be within the capabilities of the streets serving the site.

**FURTHER, BE IT RESOLVED**, that the City Council of the City of White Bear Lake hereby approves the requested Planned Unit Development subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Per Section 1301.050, Subd.4, if within one (1) year after approving the Planned Unit Development, the use as allowed by the permit shall not have been completed or utilized, the PUD shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council.
3. This Planned Unit Development shall become effective upon the applicant tendering proof (ie: a receipt) to the City of having filed a certified copy of the sign resolution of approval with the County Recorder pursuant to Minnesota State Statute 462.3595 to ensure the compliance of the herein-stated conditions.

Prior to the issuance of a building permit, the applicant shall:

4. Submit revised Final PUD plans that reflect the following revisions:
  - (a) ~~Provide a more direct pedestrian connection between the retail building and the uses to the south~~ Include a sidewalk in the Centerville Road right-of-way for the length of Phase II;
  - (b) Reduce the spacing of shade trees along the south property line to not more than 25 feet.
  - (c) A signage and striping plan for the right turn into the parking lot.
  - (d) Revise note on Landscape Plan to indicate that decorative planters along the retail storefront will be year round and planted with seasonal displays.
5. Extend a letter of credit consisting of 125% of the exterior improvements, which renews automatically every six months. The amount of the letter shall be based on a cost estimate of the outside improvements, to be approved by the City prior to the issuance of the letter of credit.
6. Provide a SAC (Sewer Availability Charge) determination letter from the Metropolitan Council. City WAC (Water Availability Charge) shall be due at the unit charge determined by the Met Council.
7. Secure and submit construction easements from the adjacent property owners.
8. Enter into an Encroachment Agreement for the proposed improvements in the 30 foot utility easement.
9. Submit Park Dedication in the amount of \$12,950.
10. Obtain any permits from MnDOT, if necessary.
11. Obtain any required permits from Ramsey County.
12. Obtain approval and a permit from the Vadnais Lake Area Water Management Organization.

- 13. Enter into a Stormwater Operation and Maintenance Agreement for the on-site stormwater features.

Prior to the release of the letter of credit, the applicant shall:

- 14. The applicant shall provide an as-built plan for the stormwater system.
- 15. All exterior improvements must be installed.
- 16. All landscaping must have survived at least one full growing season.
- 17. The applicant shall provide proof of having recorded the Stormwater Operation and Maintenance Agreement with the County Recorder's Office.

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

Ayes:  
 Nays:  
 Passed:

\_\_\_\_\_  
 Jo Emerson, Mayor

**ATTEST:**

\_\_\_\_\_  
 Kara Coustry, City Clerk

\*\*\*\*\*

Approval is contingent upon execution and return of this document to the City Planning Office.

I have read and agree to the conditions of this resolution as outlined above.

\_\_\_\_\_  
 Signed \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
 Printed Name and Title



**City of White Bear Lake**  
City Manager's Office

# *MEMORANDUM*

**To:** Mayor and City Council

**From:** Ellen Richter

**Date:** December 7, 2017

**Subject:** **Fee Schedule Ordinance 2018 – Second Reading**

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## **BACKGROUND**

As part of the annual budgeting process, staff reviews the City's fee schedule to determine whether any changes are recommended. This year the City's utility rates have been incorporated into the schedule so all fees can be reviewed by the Council at the same time it considers adoption of the annual budget. These rates necessarily impact their corresponding enterprise funds; therefore, it is timely to consider adoption of these rates, which are needed to support the operations proposed in the budget.

First reading of the proposed fee schedule was held during the November 14<sup>th</sup> Council meeting to coordinate its adoption with final consideration of the City's 2018 annual budget on December 12<sup>th</sup>.

## **SUMMARY**

Below is a description of each proposed change included in the attached document.

### **General Fees/Fines (proposed changes)**

**Potentially Dangerous/Dangerous Dogs:** At the time the ordinance regulating potentially dangerous and dangerous dogs was adopted, consideration of a corresponding fee had not been considered. The fines proposed in the 2018 fee schedule, \$120 and \$500 respectively, reflect a metro-wide standard.

**Bees:** Although it was proposed during first reading to add a fee for bees, it has since been determined that bees, along with pigeons and hens are treated as zoning permits handled through the Planning & Zoning Department. The current fee for zoning permits is \$50.00.

**Cost of copies:** Fees for copies are updated to reflect current technology and data practice requirements. Since first reading, another copy fee was discovered in the Planning and Zoning section of the fee schedule, which was also removed as these fees fall under data practices.



**Damage Deposits:** All reference to damage deposits for park facility rentals has been removed. In sixteen (16) years, there have been only three instances when deposits have had to be retained. The City's park facilities are used heavily, and the collection and return of deposits is cumbersome for both park users and staff. In place of a deposit, all park rentals will require a signed waiver that indemnifies the City and provides a mechanism for collection of damages in small claims court, if necessary. Council will continue to have opportunity to require a deposit for use of a park for special events.

**Sewer Line Televising:** Since 2001, the City has offered televising services to residents at a reduced cost of \$150, \$75 if it is part of a street reconstruction project. The fee schedule is amended to reflect this practice.

**Additions since first reading:** It was discovered that two fees which were approved over ten years ago were not included on the fee schedule. Under Planning & Zoning, the Address List fee of \$30 was added in addition to the CUP Amendment fee of \$200.

### Sewer Rates

The City continues to make considerable efforts toward controlling operational costs in the sewer fund; however, with the Metropolitan Council Environmental Services (MCES) charges comprising approximately 75% of the total fund expenditures, it is difficult to control overall costs for the department. The following chart summarizes the operational and MCES disposal costs affecting the fund over a nine-year period:

	Operations	Disposal (MCES)	Total Costs	Revenues	Revenues over Expenditures
2010	574,549	1,814,791	2,389,340	2,258,683	(130,657)
2011	576,393	1,855,043	2,431,436	2,344,904	(86,532)
2012	577,416	1,738,459	2,315,875	2,445,310	129,435
2013	596,614	1,793,656	2,390,270	2,368,492	(21,778)
2014	698,043	1,692,271	2,390,314	2,268,611	(121,703)
2015	596,812	1,788,793	2,385,605	2,268,670	(116,935)
2016	625,373	1,967,272	2,592,645	2,437,394	(155,251)
2017 est.	703,052	2,080,000	2,783,052	2,738,000	(45,052)
2018 proj.	712,915	2,155,000	2,867,915	2,977,000	109,085

The City's sewer rate remained unchanged for a five-year period (2011-2015). During this period, the Sewer fund reported operating losses totaling \$521,516. As of December 31, 2016, the Sewer fund balance deficit totaled \$113,594. The fund had reported a 2016 operating loss that exceeded \$155,000, or nearly 6.50% of revenue collection. The 2017 rate adjustment helped to reverse the trend in annual losses, but did not correct the fund balance deficit.

**OPTION #1:** The fund deficit can be eliminated by transferring \$200,000 from the Non-Bonded Fund, which would establish a financial floor for future years.

If this is done, it is recommended that the fee structure be set at level which provides sufficient revenue to fully recover operating costs through customer payments. The fee structure should also provide the fund with adequate reserves, whereby unanticipated costs can be addressed without significantly affecting customers. OPTION #1 sets sewer rates at \$3.75 per 100 cubic feet of wastewater contributed to the MCES system, which is a \$0.35 increase over current rates. This will bring revenues in above expenditures, and begin to build a very modest fund balance of 5.3%. The proposed rate increase does not include funding for infrastructure improvements.

**OPTION #2:** This option was presented at the request of Council as an alternative and establishes rates at a level which will pay for operating costs, as well as recover funds used from the Non-Bonded Fund to balance the sewer fund deficit. Under this option, rates would be \$3.95 per 100 cubic feet, which is a \$0.55 increase over current rates.

### **Water Rates**

The City faces a unique challenge as it relates to the Water Fund. Successful water conservation efforts naturally lead to a decline in water production. This makes it increasingly difficult to provide sufficient revenue to meet operational expenditures. While there are some savings realized through a reduction in the use of chemicals and energy for the treatment and production processes, (approximately \$11,000 in 2017), the savings are not proportionate to the decline in revenues.

Rates adopted for 2017 were projected to increase revenues by 9%; however, total water production is projected to decrease by 6.5% by the end of 2017. Consequently, billing revenues will increase only 2.0%, which translates into approximately \$75,000 less in projected revenues.

Residential water meters are also failing at an accelerating pace, which is another factor contributing to an increase in overall costs. The City will have spent nearly \$110,000 in 2017 to replace non-functioning residential meters. By ordinance, residential meters are the responsibility of the utility fund and cannot be charged to the utility customer. Staff is currently evaluating options for a meter replacement program to relieve some of the financial pressure placed on this fund, which would be brought to Council at a future date.

The Water Fund recorded operating losses totaling nearly \$315,000 over the four-year period 2013-2016, resulting in a year-end operating deficit of \$50,000 on December 31, 2016. The 2017 budget projects a \$200,000 deficit for fiscal 2017.

**OPTION #1:** In order to eliminate the Water Fund deficit, a one-time contribution from the Non-Bonded Debt Fund totaling \$300,000 to the Water Fund can be made. This contribution, along with a 2018 water rate adjustment, should provide sufficient resources to stabilize the fund's deficit, and provide adequate resources to fund on-going operational expenditures.

**OPTION #2:** As with the sewer fund, this option was presented at the request of Council as an alternative and establishes rates at a level which will pay for operating costs, as well as recover funds used from the Non-Bonded Fund to balance the water fund deficit.

Residential Water Customers Current Rates		OPTION 1	OPTION 2	Commercial / Industrial Water Customers – Current Rates		OPTION 1	OPTION 2
0 - 8 units	\$9.75/quarter	\$11.00/quarter	\$12.30/quarter	0- 8 Units	\$ 9.75/quarter	\$11.00	\$12.30
Winter quarter rate*	\$1.15/unit	\$1.30/unit	\$1.45/unit	8 – 27 units	\$ 1.10/unit	\$1.25	\$1.40
Non-winter quarter rate**	\$1.40/unit	\$1.60/unit	\$1.80/unit	27 – 75 units	\$ 1.15/unit	\$1.30	\$1.45
				Over 75 units	\$ 1.30/unit	\$1.45	\$1.60
				Non-winter quarter rate	\$ 1.40/unit	\$1.60	\$1.80

### Refuse Rates

Since fall of 2016, Republic Services has been under contract with the City to provide comprehensive residential refuse and recycling services. Staff has been very pleased with the responsiveness of the company and overall service to our community. No changes to rates paid to the hauler are being recommended at this time. However, the City pays directly for the disposal charges based on tipping fees at the Ramsey-Washington County Recycling & Energy Facility in Newport. Disposal fee account for 86% of the City's annual refuse expenditures, which will increase by 12% in 2018.

Net disposal fees have increased more than 50% over an eleven-year period. The 2018 disposal fee represents a significant increase (12%) compared to the last several years, as illustrated below:

<u>Year</u>	<u>Cost per ton</u>	<u>County Rebate</u>	<u>Net Disposal</u>	<u>% increase</u>
January 2008	55.00	12.00	43.00	13.15%
January 2009	59.00	12.00	47.00	9.30%
January 2010	64.00	12.00	52.00	10.64%
January 2011	68.00	14.00	54.00	3.85%
January 2012	72.00	14.00	58.00	7.41%
January 2013	84.00	28.00	56.00	(3.45%)

January 2014	84.81	28.00	56.81	1.45%
January 2015	86.22	28.00	58.22	2.48%
January 2016	70.00	12.00	58.00	(0.38%)
January 2017	70.00	12.00	58.00	0.00%
January 2018	77.00	12.00	65.00	12.07%

The current rate structure has been maintained since September 2011. However, the new disposal fees will result in additional costs totaling \$71,000, which requires an offsetting fee adjustment to avoid an operating deficit. Rate adjustments are recommended as follows:

Proposed 2018 Refuse Rates:

<u>Service</u>	<u>Current Rates</u>	<u>Proposed Rates</u>
30 gallon (Senior)	\$9.50	\$10.00
30 gallon	\$9.70	\$10.25
60 gallon	\$14.25	\$15.05
90 gallon	\$19.40	\$20.50

With the adoption of these proposed rates, the projected fund balance at the end of 2018 is projected to total \$82,402.

### **RECOMMENDED COUNCIL ACTION**

Following a public hearing, staff recommends the City Council approve the attached Fee Schedule, which includes rate adjustments for sewer and water services as described in either Option #1 or Option #2. Staff also recommends adoption of a Summary Resolution to facilitate final publication.

### **ATTACHMENTS**

Summary Resolution

Ordinance – Fee Schedule 2018

Fee Schedule

Memo regarding Sewer and Water rate options

Supplementary Utility Rate Information

**RESOLUTION NO.**

**A RESOLUTION ESTABLISHING THE TITLE AND  
SUMMARY APPROVAL OF ORDINANCE NO. 17-12-2027**

**AN ORDINANCE ESTABLISHING A FEE SCHEDULE  
FOR SERVICES, PERMITS AND LICENSES**

**FOR PUBLISHED NOTICE.**

WHEREAS, the City of White Bear Lake City Council may, pursuant to Ordinance No. 83-6-666, adopt a title and summary of a proposed ordinance to be published in lieu of lengthy entire ordinances, and

WHEREAS, in addition to adopting a title and ordinance summary, the Council shall direct the City Clerk to:

1. Have available for inspection during regular office hours a copy of the entire ordinance.
2. Post a copy of the entire ordinance at the White Bear Lake Branch of the Ramsey County Public Library.
3. Receive an affidavit of publication of the title and summary from the official newspaper.

NOW, THEREFORE, BE IT RESOLVED, that the City of White Bear Lake City Council hereby adopts the aforementioned title and summary for approved Ordinance No. 17-12-2027 as listed below:

**AN ORDINANCE ESTABLISHING A FEE SCHEDULE  
FOR SERVICES, PERMITS AND LICENSES**

The ordinance consolidates the City's fee schedule for services, permits and licenses for efficient administration and to facilitate annual review as an integral part of the budget process.

FURTHER, BE IT RESOLVED, that the City of White Bear Lake City Council hereby directs the City Clerk to provide the inspection and publication requirements as listed above.

The foregoing resolution, offered by Councilmember \_\_\_ and supported by Councilmember \_\_\_, carried on the following vote:

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

**ORDINANCE NO. 17-12-2027**

**AN ORDINANCE ESTABLISHING A FEE SCHEDULE  
FOR SERVICES, PERMITS AND LICENSES**

THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE, MINNESOTA DOES ORDAIN THE FOLLOWING:

SECTION 1. All fees for services, permits and licenses set forth in the City Code, previous fee schedules or otherwise adopted and which are listed in Section 2 of this Ordinance are void, and in lieu thereof, fees for services, permits and licenses are set forth in Section 2 of this Ordinance.

SECTION 2. Annual Fee Schedule 2018 (attached)

SECTION 3. This ordinance becomes effective after approval shall take effect and be in force on January 1, 2018 following its passage and final publication on December 20, 2017.

First Reading: November 14, 2017

Initial Publication: November 22, 2017

Second Reading: December 12, 2017

Final Publication: \_\_\_\_\_

Codified: \_\_\_\_\_

Posted on web: \_\_\_\_\_

\_\_\_\_\_  
*City Clerk Initials*

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

## WHITE BEAR LAKE ANNUAL FEE SCHEDULE - 2018

I. <u>ALCOHOLIC BEVERAGES</u> (RESOLUTION NO. 9538)	<u>FEE</u>	<u>PROPOSED FEE</u>	<u>LAST ADJUSTED</u>
On and Off Sale Malt Liquor License Application & Investigation	100.00	No change	January 13, 2004
On Sale Malt Liquor License	Class A: 175.00 Class B: 275.00	No change No change	January 13, 2004 January 13, 2004
Off Sale Malt Liquor License	Class A: 75.00 Class B: 150.00	No change No change	January 13, 2004 January 13, 2004
On Sale Wine License Application and Investigation Fee	250.00	No change	January 13, 2004
On and Off Sale Liquor License Application and Investigation	500.00	No change	January 13, 2004
On Sale Wine License	Class A: 250.00 Class B: 350.00	No change No change	January 13, 2004 January 13, 2004
On Sale Liquor License	3200.00	No change	January 13, 2004
Off Sale Liquor License	200.00	No change	January 13, 2004
On Sale Sunday Liquor License	200.00	No change	January 13, 2004
On Sale Temporary Malt Liquor License	5.00	No change	January 13, 2004
On Sale Temporary Liquor License	27.50	No change	January 13, 2004
Club License	100.00	No change	January 13, 2004
II. <u>AMUSEMENT &amp; COMMERCIAL RECREATION</u>	<u>FEE</u>	<u>PROPOSED FEE</u>	<u>LAST ADJUSTED</u>
Bowling Alley License (Res. No. 9538)	25.00/alley	No change	January 13, 2004
Shooting Gallery License (Res. No. 9538)	35.00	No change	January 13, 2004
Pool Hall License (Res. No. 9538)	40.00/table	No change	January 13, 2004
Roller Skating Rink License (Res. No. 9538)	100.00	No change	January 13, 2004
Coin Operated Amusement Devices License (Ord. 1105)	25.00/location 15.00/machine	No change No change	February 8, 2000
Motion Picture Theater License (Ord. 1107)	210.00	No change	January 13, 1981
Public Dances and Dance Hall Permit (Ord. 1107)	30.00	No change	January 13, 1981
Charitable Gambling License (Res. No 9538)	225.00	No change	January, 2017
State Licensed Gambling Investigation Fee (Res. No. 9538)	75.00	No change	January, 2017
III. <u>BUSINESS AND ADMINISTRATION</u>	<u>CURRENT FEES</u>	<u>PROPOSED FEES</u>	<u>LAST UPDATED</u>
Animals: Dog Kennel License (Ord. 701)	Annually \$ 50.00	No change	January, 2017
Animals: Dog License Male/Female (Ord. No. 701)	Every 2 years \$ 20.00	No change	January, 2017
Animals: Dog License Neutered/Spayed (Ord. No. 701)	Every 2 years \$ 15.00	No change	January, 2017
Animals: Dog License Late Fee (Ord. No. 701) / replacement license	\$ 5.00	No change	January, 2017
Animals: Potentially dangerous dogs	\$120.00		
Animals: Dangerous dogs	\$500.00		
Animals: Impounding dogs (Ord. No. 752)	Actual cost of contractor	No change	January, 2017
Animals: Impounding/disposal of misc. animals	Actual cost of contractor	No change	January, 2017
Animals: <del>Chicken, Pigeon, License</del>	<del>\$30.00</del>	No change	April 12, 2016
Cigarette / Tobacco Products License (Res. No. 9538)	Class A: \$ 150.00 Class B: \$ 200.00	No change No change	January, 2017 January, 2017
Gas Station License	\$ 25.00 / nozzle	No change	January, 2017
Public Bench License (Res. No. 9538)	\$ 25.00 / application \$ 20.00 / bench	No change No change	January, 2017 January, 2017
Copies: 1 to 100 pages (MN Statute, section 13.03)	\$ 0.25 / page	No change	Aug. 1, 2005
Copies: over 100 pages (MN Statute, section 13.03)	Actual cost of data collection and copies		
Copies: <del>Minutes (MN Statute, section 13.03)</del>	<del>\$ 0.25 / page</del>	No change	Aug. 1, 2005
Copies: <del>Mailed (Minutes or other documents)</del>	<del>\$ 0.25 / page + postage</del>	No change	Aug. 1, 2005
Copies: <del>Public Records Cassette Tape (Res. No. 9538)</del>	<del>\$ 15.00</del>		Jan. 13, 2004
Copies: <del>Public Records Video Tape (Res. No. 9538)</del>	<del>\$ 20.00</del>		Jan. 13, 2004
Copies: Public Records Electronic Diskette (Res. No. 9538) Audio / visual	\$ 25.00	No change	January, 2017
Copies: <del>City Code Book (Res. No. 9538)</del>	<del>\$ 80.00</del>	<del>\$100.00</del>	Jan. 13, 2004
Fax (Res. No. 9538)	\$ 0.50 / sheet	No change	Jan. 13, 2004
Farmer's Market Annual reservation/application fee	\$120		
Farmer's Market Same day temporary permit	\$10		Feb. 23, 2010
Refuse / Recycling Hauler License (Res. No. 9538)	\$ 150.00		January, 2017
Return Check Charge (Res. No. 9538)	\$ 30.00	No change	Jan. 13, 2004
Rubbish Hauler and Junk Dealer License (Res. No. 9538)	\$50.00	No change	Jan. 13, 2004
Slaughter and Packing House License (Ord. No. 116)	\$60.00	No change	Jan. 13, 1981
Solicitor/Peddler/Transient Merchant License (Res. No. 7033)	\$50.00/month	No change	January, 2017

Taxi Cab Driver License (Ord. No. 1119)	\$35.00	No change	Jan. 13, 1981
Traveling Shows and Circuses License (Ord. No. 1120)	\$310.00	No change	Jan. 13, 1981
Arcades Licenses (Ord. No. 1122)	\$100.00	No change	Dec. 14, 1982
Massage Therapist License	\$25.00	No change	Sept. 8, 2015
Massage Therapist background	\$25.00	No change	Sept. 8, 2015
Adult Establishment License (Ord. 1124)	\$2,000.00		January, 2017
Application and background check for adult establishment	\$500 unless out of state check, then actual costs not to exceed	\$1500	
Pawnbroker and Precious Metal Dealer License (Ord. No. 1125)	\$10,000.00	\$12,000.00	June 13, 1995
Sale of Fireworks License (Res. No. 9366)	\$100.00/location		January, 2017
	\$50.00/re-inspection	\$50.00/re-inspection	
Christmas Tree Sales Lot License (Ord. 1103)	\$35.00	No change	Jan.13, 1981
Launch Tags	\$25.00/resident	No change	January, 2017
	\$40.00/non-resident	\$45.00/non-resident	January, 2017
Moorings	\$375.00/city resident	No change	January, 2017
	\$500.00/non-resident	No change	January, 2017
Skids	\$55.00/resident	No change	January, 2017
	\$80.00/non-resident	No change	January, 2017
Kayak / Canoe Rack	\$45.00/resident	No change	January, 2017
	\$60.00/non-resident	No change	January, 2017
Duplicate copies of licenses and permits	\$1.00	No change	January, 2017
Passport photo	\$15.00	No change	January, 2017
Elections Filing	\$5.00	No change	1966

#### IV. PUBLIC SAFETY

##### A. FIRE NEGLIGENCE

	<u>CURRENT FEES</u>	<u>PROPOSED FEES</u>	<u>LAST UPDATED</u>
Pumper Truck (Ord. No. 805)	Actual cost	No change	January, 2017
Ladder Truck (Ord. No. 805)	Actual cost	No change	January, 2017
Rescue Unit (Ord. No. 805)	Actual cost	No change	January, 2017
Chief/Command Unit (Ord. No. 805)	Actual cost	No change	January, 2017
Rescue Boat (Ord. No. 805)	Actual cost	No change	January, 2017
Hazardous Material Unit (Ord. No. 805)	Actual cost	No change	January, 2017

##### B. AMBULANCE FEES

	<u>CURRENT FEES</u>	<u>PROPOSED FEE</u>	<u>LAST UPDATED</u>
Basic Life Support (BLS)	\$1195.00	No change	May 23, 2017
Advanced Life Support (ALS1)	\$1575.00	No change	May 23, 2017
Major Advanced Life Support (ALS2)	\$1720.00	No change	May 23, 2017
Treatment – No transport	\$400.00	No change	May 23, 2017
Mileage	\$24.75/mile	No change	May 23, 2017

##### C. ADMINISTRATION

	<u>CURRENT FEES</u>	<u>PROPOSED FEE</u>	<u>LAST UPDATED</u>
Accident Photo <del>(black and white)</del>	\$25.00 / cd	No change	January, 2017
Accident Report: 1 to 100 pages (MN Statutes 13.03)	\$0.25/page	No change	
Accident Report: more than 100 pages	Actual costs	No change	
Accident Report – mailed	change	No	
Accident Data Review	\$10.00/month	No change	
Computer generated reports	\$15.00/min/\$50.00/hr		
Driver's License Record ??	\$5.00	No change	
Transcripts	\$3.00/page	No change	
Fire Report: 1 to 100 pages (MN Statutes, Section 13.03)	\$0.25/page	No change	
Police Report: 1 to 100 pages (MN Statutes, Section 13.03)	\$0.25/page	No change	
Police Report – mailed		Actual cost	
Ambulance: 1 to 100 pages (MN Statute, Section 13.03)	\$0.25/page	No change	
Finger Printing	Free/resident	No change	
	\$20.00/non-resident	No change	



**V. RENTALS**

A. PARK FACILITIES	<b>Resident</b>	<b>Non-Resident</b>	<b>For Profit &amp; Corporate</b>	<b>Deposit</b>	<b>PROPOSED FEE Resident / Non-Res / Profit</b>	<b>LAST ADJUSTED October 2010</b>
Bossard, Ramaley, Rotary, Spruce and Jack Yost Parks	\$ 25.00	\$ 75.00	\$ 100.00	<del>\$75.00</del>	No change	
Podvin Park (pavilion only)	\$ 35.00	\$ 90.00	\$ 150.00	<del>\$100.00</del>	No change	
Podvin Park (kitchen & mtg rm)	\$ 75.00	\$ 125.00	\$ 225.00	<del>\$300.00</del>	No change	
Podvin Park (full facility)	\$ 100.00	\$ 200.00	\$ 300.00	<del>\$300.00</del>	No change	
Lakewood Hills (pavilion only)	\$ 35.00	\$ 90.00	\$ 150.00	<del>\$100.00</del>	No change	
Lakewood Hills (kitchen & pavilion)	\$ 75.00	\$ 125.00	\$ 225.00	<del>\$300.00</del>	No change	
Lakewood Hills (ballfields)	\$75.00	\$125.00	\$ 225.00	<del>\$100.00</del>	No change	
Matoska Park	\$25.00 for two hours maximum			<del>none</del>	No change	
Stellmacher Park	\$ 35.00	\$ 90.00	\$ 150.00	<del>\$100.00</del>	No change	
West Park	\$ 35.00	\$ 90.00	\$ 150.00	<del>\$100.00</del>	No change	
					No change	
<b>Trash pick-up and disposal</b>	<b>Community and Non-Profit</b>		<b>Profit/Co.</b>			
Events over 100 people			\$ 50.00		No change	
Events over 250 – 500 ppl	\$ 50.00 flat fee		\$ 75.00		No change	
Every additional 250 ppl			+ \$ 25.00		No change	
Spray paint of any kind				\$ 250.00	No change	
No parking signs				\$ 50.00	No change	

B. BOATWORKS COMMONS (Resolution 11677)	<b>Civil/Non-Profit</b>	<b>Proposed</b>	<b>WBL Club/Org</b>	<b>Proposed</b>	<b>LAST ADJUSTED Oct. 13, 2015</b>
City Hosted and School District Events – Gratis. Hosting agency responsible for set-up, clean-up and tear down					
Less than 20 attendees	Gratis	No change		No change	
Greater than 20 attendees	\$50.00	No change	\$100.00	No change	

C. ARMORY FACILITY (Resolution No. 11844)	<b>Current Resident</b>	<b>Proposed Resident</b>	<b>Current Non-resident</b>	<b>Proposed Non-resident</b>	<b>LAST ADJUSTED</b>
<b>Private Party</b>					
Full Day with kitchen (including set up)	\$650.00	No change	\$900.00	No change	July 12, 2016
Kitchen	\$100.00	No change	\$150.00	No change	
Hourly rate (1-7 hours) Mon. – Thurs.	\$80.00	No change	\$80.00	No change	
Fri. – Sun.	\$100.00	No change	\$120.00	No change	
City staff is available for set-up per hour rate	Contract Rate	No change	Contract Rate	No change	
<b>Security Contract Rate</b> (refunded if re-rented)	\$27.00/hr	No change	\$27.00/hr	No change	
Down payment	\$275.00	No change	\$375.00	No change	
Damage deposit	\$350.00	No change	\$500.00	No change	
<b>Hourly Activities</b>					
Athletics/Special Events/Meeting Room	\$25.00/hr	No change	\$25.00/hr	No change	

<b>Daily Activities</b>	<b>White Bear Non-Profit</b>		<b>White Bear Groups/Clubs</b>		<b>Non-Resident Non-Profit</b>		<b>LAST ADJUSTED</b>
	<b>Non-Profit</b>	<b>Proposed</b>	<b>Groups/Clubs</b>	<b>Proposed</b>	<b>Non-Profit</b>	<b>Proposed</b>	
1 day	\$0.00	No change	\$90.00	No change	\$135.00	No change	July 12, 2016
2 days	\$50.00	No change	\$160.00	No change	\$245.00	No change	
3 days	\$75.00	No change	\$260.00	No change	\$390.00	No change	
4 days	\$100.00	No change	\$355.00	No change	\$510.00	No change	

D. WHITE BEAR LAKE SPORTS CENTER	<b>TAX INCLUDED</b>	<b>NON-TAXABLE</b>	<b>PROPOSED FEE</b>	<b>LAST UPDATED January 1, 2017</b>
<b>ICE RENTAL MARCH – AUGUST</b>				
Prime Time	\$160.00/hr	\$150.00/hr	No change	
Weekend	\$160.00/hr	\$150.00/hr	No change	
Non-Prime	\$135.00/hr	\$125.00/hr	No change	
<b>ICE RENTAL SEPTEMBER – FEBRUARY</b>				
Prime Time	\$203.50/hr	\$190.00/hr	No change	
Weekday, 8am – 3pm	\$160.00/hr	\$150.00/hr	No change	
Non-Prime and after 9pm	\$145.00/hr	\$135.00/hr	No change	

<b>SKATING SCHOOL</b>	<b>CURRENT FEES</b>	<b>PROPOSED FEES</b>	<b>LAST UPDATED</b>
Group Lessons			January 1, 2017
Weekly (Tot-PreAlpha & Power)	\$9.50 per weeks in session	No change	
Weekly (Alpha – Delta & Adults)	\$14.25 per weeks in session	No change	
Freestyle Levels	\$18.00 per weeks in session	No change	
Contract (Open & Intermediate)	\$11.00 per weeks in session	No change	
Contract (High Level)	\$12.00 per weeks in session	No change	
ISI	\$15.00	No change	
Drop In	\$13.00	No change	
Morning	\$7.00 before school	No change	
Open Skate	\$5.00	No change	
Skate Rental	\$4.00	No change	
Open Hockey	\$6.00 per session	No change	
Dead Ice	\$7.00/hour	No change	
<b>COURT FEES</b>			
Monthly	\$50.00	No change	
3 Month	\$115.00	No change	
6 Month	\$205.00	No change	
Wally Ball	\$30.00 per 1.5 hours per court	No change	
Racquetball	\$8.00 per person per hour	No change	
<b>MISC. FEES AND CHARGES</b>			
Meeting Room Rental	\$10.00/hour	No change	
Aerobic Room Rental	\$15.00/hour	No change	
Locker Room Rental	\$2.00/month	No change	

<b>VI. PLANNING AND ZONING</b>	<b>FEE</b>	<b>PROPOSED FEE</b>	<b>LAST ADJUSTED</b>
<b>Address List</b>	\$30.00	No change	January 13, 2004
Comprehensive Plan Amendment (Ord. No. 1301.010)	\$500.00	No change	January 13, 2004
<b>Copies: Zoning Ord / Subdivision Ord, Sign Code (Res. No. 9538A)</b>	<b>Actual costs / \$10.00</b>	<b>No change</b>	<b>January 13, 2004</b>
Conditional Use Permit: Fee (Ord. No. 1301.050)	\$400.00	No change	January 13, 2004
<b>Conditional Use Permit Amendment</b>	<b>\$200.00</b>	<b>No change</b>	<b>January 13, 2004</b>
Home Occupation: Permit Fee (Ord. No. 1303)	\$50.00/permitted, \$100.00 special	No change	April 12, 1994
Rental Dwelling License (Ord. No. 508.020)	\$50.00 plus \$7.00/unit over 3 units	No change	Nov. 26, 1991
Late Fees	25% plus original fee/1-7 days past due 50% plus original fee/8 or more days past due Legal procedures begin/30 days past due		
Re-inspection Fee	25% of license fee or \$50.00 whichever is greater		
License Transfer (Ord. No. 508-090)	\$50.00	No change	January, 2017
Planned Unit Development (Ord. No. 1301.070)	\$750.00	No change	January, 2017
Rezoning: Application Fee (Ord. No. 1301.040)	\$750.00	No change	January, 2017
Subdivision: Preliminary Plat (Ord. No. 1407)	\$500.00	No change	January, 2017
Final Plat	\$100.00	No change	January, 2017
Subdivision: Minor Subdivision/Lot Split (Ord. No. 1407)	\$250.00	No change	January, 2017
Vacation (City Charter, Section 8.02)	\$250.00	No change	January, 2017
Variance Permit (Ord. No. 1407)	\$250.00/residential \$500.00/commercial & industrial	No change	January, 2017
Administrative Variance (Ord. No. 1408)	\$25.00	No change	January 13, 2004
Zoning Letter (Res. No. 9538)	\$75.00	\$75.00	January, 2017
Sign Permit: Permanent (Ord. No. 1115)	\$50.00/wall \$30.00 / temporary banner, sign, or reface \$150.00/free standing and dynamic display \$300.00/billboard	No change	September 8, 1987
	\$200.00/administrative fee for erecting a sign before the permit is issued	No change	September 8, 1987
Dynamic Display Sign	\$150.00	No change	January, 2017
Park Dedication: Single Family Dwelling (Res. No. 9538A)	\$1,200.00/unit	No change	January, 2017
Park Dedication: Townhome, Condominium, Duplex, Dwelling (Res. 9538A)	\$1000/unit	No change	January, 2017
Park Dedication: Apartment Dwelling (Res. No. 9538A) \$500/1 bdrm, 100/each add bdrm	\$750/\$150 no change	No change	January, 2017
Park Dedication: Commercial & Industrial (Res. No. 9538A)	\$3,500.00/acre	No change	January 13, 2004
Zoning Permit: Shed, Driveway, Fence, <b>Pigeons, Chickens, Bees</b>	\$50.00/each	No change	January, 2017
Time Extension for CUP	\$50.00	No change	January, 2017

## VII. UTILITIES

Buildings or dwellings existing or constructed in the City of White Bear Lake must connect to the municipal water and sanitary sewer system so long as it is reasonably available. Metropolitan Council Sewer Access Charge (SAC) units and fees are established by the Metropolitan Council per state statute MN 473.517.

### 1. CONNECTION FEES - Prior to connecting to public utilities, the owner or representative must pay the following fees:

A. SEWER CONNECTION FEES	CURRENT FEES	PROPOSED FEES	LAST UPDATED
Single Family Dwellings	\$650.00 per dwelling	No change	January, 2017
Two Family Dwellings	\$1,300.00 per dwelling	No change	January, 2017
Multiple Dwellings	\$400.00 per unit	No change	January, 2017
Commercial and Industrial (minimum of 1 unit charged)	\$1,000 per acre or \$650 per unit for each 100,000 gallons of estimated annual flow	No change	January, 2017

B. WATER CONNECTION FEES	CURRENT FEES	PROPOSED FEES	LAST UPDATED
Single Family Dwellings	\$650.00 per dwelling	No change	January, 2017
Two Family Dwellings	\$1,300.00 per dwelling	No change	January, 2017
Multiple Dwellings	\$400.00 per unit	No change	January, 2017
Commercial and Industrial (minimum of 1 unit charged)	\$1,000 per acre or \$650 per unit for each 100,000 gallons of estimated annual flow	No change	January, 2017

### C. TEMPORARY WATER SHUT OFF / TURN ON FOR NON-MAINTENANCE (Snow birds, realtors, foreclosures):

	CURRENT FEES	PROPOSED FEES	LAST UPDATED
November 1 <sup>st</sup> – March 31 <sup>st</sup>	\$125.00 / visit	No change	January, 2017
April 1 <sup>st</sup> – October 31 <sup>st</sup>	\$75.00	No change	January, 2017

### 2. SEWER AND WATER

A. UNIT PERMIT FEE SCHEDULE (Note: State surcharge = \$1.00):	CURRENT FEES	PROPOSED FEES	LAST UPDATED
Street excavation / refundable deposit	\$ 30.00 / \$ 1,500	No change	January, 2017
Water Tap (Each)	\$ 25.00	No change	January, 2017
Sewer Tap (Each)	\$ 25.00	No change	January, 2017
Sewer Disconnect Only	\$40.00	No change	January, 2017
Water Disconnect Only	\$40.00	No change	January, 2017
Sewer and Water Disconnect	\$70.00	No change	January, 2017
Water Line Install or Repair (Residential)	\$ 40.00	No change	January, 2017
Sewer Line Install or Repair (Residential)	\$ 40.00	No change	January, 2017
Water Line Install or Repair (Commercial)	\$ 55.00	No change	January, 2017
Sewer Line Install or Repair (Commercial)	\$ 55.00	No change	January, 2017
<b>Sewer Line Televising</b>	<b>\$150.00</b>		<b>January, 2018</b>
<b>Sewer Line Televising for Street Reconstruction</b>	<b>\$75.00</b>		<b>January, 2018</b>
Hydrostatic and Conductivity Test (Each)	\$ 55.00	No change	January, 2017
Storm sewer	\$ 40.00	No change	January, 2017
Individual Sewage Treatment System – New Installation or Replacement of existing system	\$ 200.00	No change	January, 2017
Individual Sewage Treatment System - Repair or Alteration of existing system	\$ 100.00	No change	January, 2017
Individual Sewage Treatment System Abandonment	\$ 50.00	No change	January, 2017

B. HYDRANT METER RENTAL:	CURRENT FEES	PROPOSED FEES	
Cost of inspection, use and administration (not prorated)	\$50.00/month	No change	January, 2017
Charge for water used based on either metered amount or 6 billing units per month, whichever is greater. Charges assessed at maximum summer consumption rate in effect on the date the hydrant meter is returned.			January, 2017
Dec 1 – Apr 1, additional rental charge for extraordinary inspection (not prorated)	\$30.00/month	No change	January, 2017
Applicants will be responsible for breakage or damage to hydrant, meter or other works at actual repair or replacement costs.			January, 2017

3. CONSUMPTION RATES:

A. WATER RATES:		PROPOSED RES. FEES	CURRENT FEES:	PROPOSED FEES	LAST ADJUSTED	
Residential Water Customers			Commercial / Industrial Water Customers		February 1, 2017	
0 - 8 units	\$9.75 per quarter	OPTION 1: \$11.00 per quarter  OPTION 2: \$12.30 per quarter	0- 8 Units	\$ 9.75 per quarter	OPTION 1: \$11.00 per quarter  OPTION 2: \$12.30 per quarter	January 1, 2018
Winter quarter rate*	\$1.15 per unit	OPTION 1: \$1.30 per unit  OPTION 2: \$1.45 per quarter	8 – 27 units*	\$ 1.10 per unit	OPTION 1: \$1.25 per quarter  OPTION 2: \$1.40 per quarter	January 1, 2018
Non-winter quarter rate**	\$1.40 per unit	OPTION 1: \$1.60 per unit  OPTION 2: \$1.80 per quarter	27 – 75 units*	\$ 1.15 per unit	OPTION 1: \$1.30 per quarter  OPTION 2: \$1.45 per quarter	January 1, 2018
			Over 75 units*	\$ 1.30 per unit	OPTION 1: \$1.45 per quarter  OPTION 2: \$1.65 per quarter	January 1, 2018
			Non-winter quarter rate**	\$ 1.40 per unit	OPTION 1: \$1.60 quarter  OPTION 2: \$1.80 per quarter	January 1, 2018

\* Rate for consumption over 8 units in the winter quarter & "base" for the other three (3) quarterly billing cycles

\*\*Rate for consumption above the winter quarter rate for the other three (3) quarterly billing cycles

LAKE LEVEL LITIGATION FEE*:	CURRENT RATES	PROPOSED RATES	LAST ADJUSTED
Residential	\$4.00 quarterly	No change	February 1, 2017
Commercial	\$17.50 quarterly	No change	February 1, 2017

\*Includes communities that purchase municipal water from the City

\*Imposed until legal fees are recovered.

B. SEWER RATES:	CURRENT FEES	PROPOSED RATES	LAST ADJUSTED
0 – 8 units	\$27.20	OPTION 1: \$30.00 OPTION 2: \$31.75	January 1, 2018
Unit (750 gallons)	\$3.40	OPTION 1: \$3.75 OPTION 2: \$3.95	January 1, 2018

C. REFUSE / RECYCLING RATES	CURRENT FEES	PROPOSED RATES	LAST ADJUSTED
30 Gallon Senior – monthly	\$ 9.50	\$10.00	January 1, 2018
30 Gallon Service – monthly	\$ 9.70	\$10.25	January 1, 2018
60 Gallon Service – monthly	\$ 14.25	\$15.05	January 1, 2018
90 Gallon Service – monthly	\$ 19.40	\$20.50	January 1, 2018

VIII. BUILDING LICENSES AND PERMITS

A. BUILDING TRADE CITY LICENSES	CURRENT FEES	PROPOSED FEES	LAST ADJUSTED
Mechanical / Gas Piping/Tree Trimmer License (Class II)	\$45 / prorated \$35 after 7/1	No change	January, 2017
Commercial General Contractor License (Class I)	\$120 / prorated \$35 after 7/1	No change	January, 2017

B. PLUMBING PERMIT FEES: (Note: State surcharge = \$1.00)	CURRENT FEES	PROPOSED FEES	LAST ADJUSTED	
Residential fee (minimum permit fee)		\$ 40.00	No change	January, 2017
Commercial fee (minimum permit fee)		\$ 50.00	No change	January, 2017

For each fixture or fixture opening	\$15.00	No change	January, 2017
Water Heater / Venting – New Install or Replacement	\$ 50.00	No change	January, 2017
Water Softener – New Install or Replacement of existing	\$ 25.00	No change	January, 2017
Gas Piping	\$ 30.00	No change	January, 2017
Water Piping / Drain / Waste / Vent Alteration or Repair	\$ 50.00	No change	January, 2017
Backwater Valve	\$ 20.00	No change	January, 2017
Plumbing General Repair	\$ 50.00	No change	January, 2017
New backflow Prevention Device (permit required)	\$ 25.00	No change	January, 2017
Backflow Prevention Annual Testing Per Device	\$20.00	No change	January, 2017

C. MECHANICAL/ELECTRICAL PERMIT FEES: Mechanical permit fees are based on 1% of job valuation or the minimum, whichever is greater plus a state surcharge of .0005% of job valuation. For a review of mechanical plans and other data the fee is equal to 25% of the permit fee or the minimum, whichever is greater.

1. HEATING, AC, UNIT HEATERS and IN-FLOOR HEAT: For the installation of any new or replacement central heating and/or air conditioning system, Unit Heaters, or in floor heating with heat source.

	<u>CURRENT FEES</u>	<u>PROPOSED FEES</u>	<u>LAST ADJUSTED</u>
Heating System - Minimum Fee	\$ 70.00	No change	January, 2017
Air Conditioning - Minimum Fee	\$ 40.00	No change	January, 2017
Heating & Air Conditioning - Minimum Fee	\$ 100.00	No change	January, 2017
HVAC for New Residential Construction	\$ 175.00	No change	January, 2017
Ductwork Extension or Alteration – minimum fee	\$30.00	No change	January, 2017

2. HEATING & AC REPAIR: For alteration or repair to any central heating and/or air conditioning system, the permit fee is 1% of the estimated cost or the minimum, whichever is greater plus state surcharge of .0005% of valuation.

	<u>CURRENT FEE</u>	<u>PROPOSED FEE</u>	<u>LAST ADJUSTED</u>
Heating & Air Conditioning Repair - Minimum Fee	\$ 30.00	No change	January, 2017

3. MISCELLANEOUS APPLIANCE OR EQUIPMENT: For each appliance or piece of equipment regulated by the code, but not classed in other appliance categories, or for which no other fee is listed in the code.

	<u>CURRENT FEE</u>	<u>PROPOSED FEE</u>	<u>LAST ADJUSTED</u>
Miscellaneous Mechanical Equipment - Minimum Fee	\$ 40.00	No change	January, 2017

4. PROCESS PIPING: For the installation, alteration, or repair of each process piping system.

	<u>CURRENT FEE</u>	<u>PROPOSED FEE</u>	<u>LAST ADJUSTED</u>
Process Piping - Minimum Fee	\$ 40.00	No change	January, 2017

5. FIREPLACE: For the new installation or replacement of an existing fireplace.

	<u>CURRENT FEE</u>	<u>PROPOSED FEE</u>	<u>LAST ADJUSTED</u>
Fireplace - Minimum Fee	\$ 50.00	No change	January, 2017

6. ELECTRICAL FEES: Electrical fees shall be applied as established in Minnesota Statutes section 326.2441.

D. FIRE SUPPRESSION PERMIT FEES

1. FIRE SPRINKLER SYSTEM FEE SCHEDULE (Note: State surcharge = \$1.00)

	<u>CURRENT FEES</u>	<u>PROPOSED FEES</u>	<u>LAST ADJUSTED</u>
Ansul hood (each)	\$ 50.00	No change	January 1, 2017
Automatic fire suppression system:			
1 to 10 heads, including risers	\$ 50.00	No change	January 1, 2017
Each additional 10 heads or fraction thereof	\$ 5.00	No change	January 1, 2017
Fire alarm system	\$ 50.00	No change	January 1, 2017
Fire permit plan review	50% of the permit fee	No change	January 1, 2017
Miscellaneous Fire Suppression Permits	\$50.00	No change	January 1, 2017

2. MINIMUM FIRE PROTECTION STANDARDS

	<u>CURRENT FEES</u>	<u>PROPOSED FEES</u>	<u>LAST ADJUSTED</u>
Certificate of Compliance application	\$6.00/unit (min \$36, max \$250 per building)	No change	January 1, 2017
Biennial Inspection	50% of the original fee	No change	January 1, 2017
Re-Inspection if required	\$15.00	No change	January 1, 2017

E. BUILDING CONSTRUCTION (Ord. No. 1201)

LAST ADJUSTED – JANUARY 1, 2017

<b>TOTAL VALUATION</b>			<b>FEE</b>
\$1.00	to	\$500	\$30.00
		<b>Proposed Fee:</b>	No change
\$500	to	\$2,000	\$30.00 for the first \$500.00 plus \$3.50 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
		<b>Proposed Fee:</b>	No change
\$2,001	to	\$25,000	\$82.50 for the first \$2,000.00 plus \$16.10 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
		<b>Proposed Fee:</b>	No change
\$25,000	to	\$50,000	\$452.80 for the first \$25,000.00 plus \$11.65 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
		<b>Proposed Fee:</b>	No change
\$50,000	to	\$100,000	\$744.05 for the first \$50,000.00 plus \$8.15 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
		<b>Proposed Fee:</b>	No change
\$100,001	to	\$500,000	\$1,151.55 for the first \$100,000.00 plus \$6.50 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
		<b>Proposed Fee:</b>	No change
\$500,001	to	\$1,000,000	\$3,751.55 for the first \$500,000.00 plus \$5.60 for each addition \$1,000.00 or fraction thereof, to and including \$1,000,000.00
		<b>Proposed Fee:</b>	No change
\$1,000,001		and up	\$5,991.55 for the first \$1,000,000.00 plus \$4.00 for each additional \$1,000.00 or fraction thereof
		<b>Proposed Fee:</b>	No change
<b>Other Inspections and Fees:</b> \$62.00 per hour or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of employees involved.			
- Inspections outside of normal business hours (two hour minimum charge)			
- Re-inspection fees			
- Inspection for which no fee is specifically indicated (30 minute minimum charge)			
- Additional plan review required by changes, additions or revisions to plans (30 minute minimum charge)			
<b>Outside consultants for plan checking and inspections or both:</b> Actual costs including administrative and overhead costs.			
<b>Certificate of Occupancy = \$20.00</b>			
Plan Review Fee – Residential = 50% of permit fee			
Plan Review Fee – Commercial = 65% of permit fee			

F. STATE SURCHARGE FEES FOR BUILDING PERMITS BASED ON VALUATION: the surcharge is equivalent to one-half mill (.0005) if the fee or \$0.50 cents, whichever amount is greater. For all other permits, the surcharge is as follows:

<b>VALUATION OF STRUCTURE, ADDITION OR ALTERATION</b>			<b>SURCHARGE COMPUTATION</b>	<b>PROPOSED COMPUTATION</b>
\$ -	to	\$ 1,000,000	.0005 x valuation (minimum \$0.50)	No change
\$ 1,000,000	to	\$ 2,000,000	\$ 500 + .0004 x (value - \$1,000,000)	No change

\$ 2,000,000	to	\$ 3,000,000	\$ 900 + .0003 x (value - \$2,000,000)	No change
\$ 3,000,000	to	\$ 4,000,000	\$ 1,200 + .0002 x (value - \$3,000,000)	No change
\$ 4,000,000	to	\$ 5,000,000	\$ 1,400 + .0001 x (value - \$4,000,000)	No change
\$ 5,000,000		or greater	\$ 1,500 + .0005 x (value - \$5,000,000)	No change

G. FLAT FEE BUILDING PERMITS: (Note: State surcharge of \$1.00)

	CURRENT FEES	PROPOSED FEES	LAST ADJUSTED
Doors	1 door = \$ 80 / 2 or more = \$ 110	No change	January, 2017
Egress Windows	1 window = \$ 80 / 2 or more = \$ 110	No change	January, 2017
Roofs	Res \$ 160 / Commercial \$ 300 / Repair \$ 80	No change	January, 2017
Siding	Res \$ 160 / Commercial \$ 300 / Repair \$ 80	No change	January, 2017
Soffit/Fascia	Res \$60 / Commercial \$ 120 / Repair \$ 30	No change	January, 2017
Windows	1 window = \$ 65 / 2 or more = \$ 120	No change	January, 2017

H. DEMOLITION AND WRECKING OF BUILDING FEES: Interior \$60 / Accessory structure \$85 / Residential Building \$200 / Commercial Building \$350 (Note: State surcharge of \$1.00)

I. GRADING PERMIT FEES: Residential Site \$ 90.00 and Commercial Site \$350.00, Site over 2 acres \$450.00 / (Note: State surcharge = \$1.00)

J. MISCELLANIOUS BUILDING FEES – (Note: State surcharge = \$1.00)

	CURRENT FEES	PROPOSED FEES	LAST ADJUSTED
Building moving fee for a house	\$ 150.00 + \$1 surcharge	No change	January, 2017
Building moving fee for a garage	\$ 60.00 + \$1 surcharge	No change	January, 2017
Parking lot replacement	\$150.00	No change	January, 2017



**City of White Bear Lake**  
City Manager's Office

# *MEMORANDUM*

**To:** Mayor and City Council  
**From:** Ellen Richter, City Manager  
**Date:** November 22, 2017  
**Subject:** 2018 Utility Rates – Discussion of Options

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## **BACKGROUND**

At its last meeting, the Council discussed 2018 utility rates as proposed in the draft fee schedule presented for First Reading. As included in the November 8<sup>th</sup> staff memorandum and further described at the meeting, an option to eliminate fund balance deficits in both the sewer and water funds was presented that requires a significant transfer from the City's non-bonded fund. This was presented as an option to mitigate the rate increase, which is also needed to account for increased MCES disposal costs and reduced water consumption, factors which impact the sewer and water funds respectively.

Staff prepared another option for Council to consider which represents a rate increase that would recover funds needed to balance the deficit balances over a three-year period, as well as address operational realities. Option #1 represents elimination of fund balance deficits by transferring funds from the non-bonded fund. Option #2 represents rates needed to recover funds over a three-year period. Note that the rate comparison worksheet represents 2017 rates from the other communities for comparative purposes; 2018 rates are not yet available.

## **RECOMMENDED COUNCIL ACTION**

This item is for discussion only. No action required.

## **ATTACHMENTS**

Utility rate and comparison worksheets



City of White Bear Lake  
Utility Rate Adjustment  
Residential Comparison

11/17/2017

	2017 Rates	Option #1 2018 Rates	Option #2 2018 Rates
<b>Water</b>			
0 - 8 Units	9.75	11.00	12.30
> 8 Units	1.15	1.30	1.45
Non Winter > 8 Units	1.40	1.60	1.80
<b>Sewer</b>			
0 - 8 Units	27.20	30.00	31.75
> 8 Units	3.40	3.75	3.95
<b>Refuse</b>			
30 gallon - Senior	9.50	10.00	10.00
30 gallon	9.70	10.25	10.25
60 gallon	14.25	15.05	15.05
90 gallon	19.40	20.50	20.50

Low Volume User

11 units of water / 8,250 gallons = 91.67 gallons per day average

	Winter			Summer		
State Testing Fee	1.59	1.59	1.59	1.59	1.59	1.59
Lake Litigation Fee	4.00	4.00	4.00	4.00	4.00	4.00
Water = 11 Units	12.65	14.30	15.95	12.65	14.30	15.95
Additional Water = 10 Units				14.00	16.00	18.00
Sewer = 11 Units	37.40	41.25	43.45	37.40	41.25	43.45
Refuse = 60 Gallons	42.75	45.15	45.15	42.75	45.15	45.15
Refuse Taxes	12.91	13.64	13.64	12.91	13.64	13.64
<b>Total</b>	<b>111.30</b>	<b>119.93</b>	<b>123.78</b>	<b>125.30</b>	<b>135.93</b>	<b>141.78</b>

Mid Volume User

26 units of water / 19,500 gallons = 216.67 gallons per day average

	Winter			Summer		
State Testing Fee	1.59	1.59	1.59	1.59	1.59	1.59
Lake Litigation Fee	4.00	4.00	4.00	4.00	4.00	4.00
Water = 26 Units	29.90	33.80	37.70	29.90	33.80	37.70
Additional Water = 18 Units				25.20	28.80	32.40
Sewer = 26 Units	88.40	97.50	102.70	88.40	97.50	102.70
Refuse = 60 Gallons	42.75	45.15	45.15	42.75	45.15	45.15
Refuse Taxes	12.91	13.64	13.64	12.91	13.64	13.64
<b>Total</b>	<b>179.55</b>	<b>195.68</b>	<b>204.78</b>	<b>204.75</b>	<b>224.48</b>	<b>237.18</b>

High Volume User

55 units of water / 41,250 gallons = 458.33 gallons per day average

	Winter			Summer		
State Testing Fee	1.59	1.59	1.59	1.59	1.59	1.59
Lake Litigation Fee	4.00	4.00	4.00	4.00	4.00	4.00
Water = 55 Units	63.25	71.50	79.75	63.25	71.50	79.75
Additional Water = 61 Units				85.40	97.60	109.80
Sewer = 55 Units	187.00	206.25	217.25	187.00	206.25	217.25
Refuse = 60 Gallons	42.75	45.15	45.15	42.75	45.15	45.15
Refuse Taxes	12.91	13.64	13.64	12.91	13.64	13.64
<b>Total</b>	<b>311.50</b>	<b>342.13</b>	<b>361.38</b>	<b>396.90</b>	<b>439.73</b>	<b>471.18</b>



**City of White Bear Lake**  
City Manager's Office

## *MEMORANDUM*

**To:** Mayor and City Council

**From:** Ellen Richter, City Manager  
Don Rambow, Finance Director

**Date:** December 6, 2017

**Subject:** **First Reading of ordinances related to renewal of the 20-year right-of-way agreement with Xcel Energy:**

- 1) **Electric Franchise Ordinance**
- 2) **Natural Gas Ordinance**
- 3) **Electric Service Franchise Fee Ordinance**

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### **BACKGROUND**

Renewal of the City's 20-year right of way franchise agreement with Xcel Energy is due the end of January 2018. Effectively, the franchise provides Xcel Energy access to municipal right of way for its electrical and natural gas distribution system. Terms of the agreement are primarily governed by state statute.

The Council and staff discussed the option of adjusting franchise fees at the November 14, 2017 council meeting. Staff was directed to proceed with the franchise agreement renewal without implementing any revisions to the fee at this time. Renewal of the 20-year agreement does not preclude the City's ability to adjust rates at a future date.

### **SUMMARY**

The electric franchise agreement maintains a one and half percent (1.5%) electrical consumption fee. The natural gas franchise agreement does not include a fee.

Both agreements include a provision which allows for amending the ordinance. Specifically, the provision allows for the City to modify the franchise fee in future years.

### **RECOMMENDED COUNCIL ACTION**

It is recommended that Council hold First Reading of the Electric Franchise, Natural Gas Franchise and Electrical Service Franchise Fee Ordinances at its meeting on December 12<sup>th</sup>. Second reading will be held at the January 9, 2018 meeting.

### **ATTACHMENTS**

Electric Franchise Ordinance  
Natural Gas Franchise Ordinance  
Electric Service Franchise Fee Ordinance

**ELECTRIC FRANCHISE ORDINANCE**

**ORDINANCE NO. \_\_\_\_\_.**

**CITY OF WHITE BEAR LAKE, RAMSEY AND WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF WHITE BEAR LAKE, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.**

**THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE, RAMSEY AND WASHINGTON COUNTY, MINNESOTA, ORDAINS:**

**SECTION 1. DEFINITIONS.**

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

1.1 **City.** The City of White Bear Lake, Counties of Ramsey and Washington, State of Minnesota.

1.2 **City Utility System.** Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

1.3 **Commission.** The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all, or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.

1.4 **Company.** Northern States Power Company, a Minnesota corporation, its successors and assigns.

1.5 **Electric Facilities.** Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the purpose of providing electric energy for public use.

1.6 **Notice.** A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 401 Nicollet Mall, 8<sup>th</sup> Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Hall, 4701 Highway 61 North, White Bear Lake, MN 55110. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.

1.7 **Public Ground.** Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

1.8 **Public Way.** Any street, alley, walkway or other public right-of-way within the City.

## **SECTION 2. ADOPTION OF FRANCHISE.**

2.1 **Grant of Franchise.** City hereby grants Company, for a period of 20 years from the date passed and approved by the City, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Grounds and Public Ways of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement.

2.2 **Effective Date; Written Acceptance.** This franchise agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Company, and its publication as required by law. The City, by Council resolution, may revoke this franchise agreement if Company does not file a written acceptance with the City within 90 days after publication.

2.3 **Service and Rates.** The service to be provided and the rates to be charged by Company for electric service in City are subject to the jurisdiction of the Commission. The area within the City in which Company may provide electric service is subject to the provisions of Minnesota Statutes, Section 216B.40.

2.4 **Publication Expense.** The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

2.5 **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used, or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

## **SECTION 3. LOCATION, OTHER REGULATIONS.**

3.1 **Location of Facilities.** Electric Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Electric Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Electric Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not

inconsistent with the terms of this franchise agreement. Company may abandon underground Electric Facilities in place, provided at the City's request, Company will remove abandoned metal or concrete encased conduit interfering with a City improvement project, but only to the extent such conduit is uncovered by excavation as part of the City improvement project.

3.2 Field Locations. Company shall provide field locations for its underground Electric Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3 Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Electric Facilities. In such event Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second working day thereafter, Company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for one year thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace or maintain facilities in a Public Way.

3.5 Avoid Damage to Electric Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric Facilities while performing any activity.

3.6 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Grounds and Public Ways upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Electric Facilities.

3.7 Shared Use of Poles. Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities upon terms and conditions acceptable to Company whenever such use will not interfere with the use of such poles or towers by Company, by another electric

utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the City shall pay for any added cost incurred by Company because of such use by City.

#### **SECTION 4. RELOCATIONS.**

4.1 Relocation of Electric Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Electric Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. If a relocation is ordered within five years of a prior relocation of the same Electric Facilities, which was made at Company expense, the City shall reimburse Company for non-betterment costs on a time and material basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 Relocation of Electric Facilities in Public Ground. City may require Company, at Company's expense, to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

4.3 Projects with Federal Funding. City shall not order Company to remove or relocate its Electric Facilities when a Public Way is vacated, improved or realigned for a right-of-way project or any other project which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation are first paid to Company. The City is obligated to pay Company only for those portions of its relocation costs for which City has received federal funding specifically allocated for relocation costs in the amount requested by the Company, which allocated funding the City shall specifically request. Relocation, removal or rearrangement of any Company Electric Facilities made necessary because of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the rights herein granted to Company are valuable rights.

4.4 No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Ground or Public Way was established, or Company's rights under state or county permit.

**SECTION 5. TREE TRIMMING.**

Company may trim all trees and shrubs in the Public Grounds and Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any Electric Facilities installed hereunder, provided that Company shall save the City harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the City.

**SECTION 6. INDEMNIFICATION.**

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Electric Facilities located in the Public Grounds and Public Ways. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner, of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

6.2 Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City and Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

**SECTION 7. VACATION OF PUBLIC WAYS.**

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Electric Facilities, shall not operate to deprive Company of its rights to operate and maintain such Electric Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

**SECTION 8. CHANGE IN FORM OF GOVERNMENT.**

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

## **SECTION 9. FRANCHISE FEE.**

9.1 **Fee Schedule.** During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class. The parties have agreed that the franchise fee collected by the Company and paid to the City in accordance with this Section 9 shall not exceed one and one-half percent (1.5%) of the Company's Gross Revenues, as hereinafter defined. Gross Revenues is defined as all sums received by Company from the sale of electricity to its retail customers within the corporate limits of the City.

9.2 **Separate Ordinance.** The franchise fee shall be imposed by a separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least 90 days after written notice enclosing such proposed ordinance has been served upon Company by certified mail. The fee shall not become effective until the beginning of a Company billing month at least 90 days after written notice enclosing such adopted ordinance has been served upon Company by certified mail. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. No action by the City to implement a separate ordinance will commence until this Ordinance is effective. A separate ordinance which imposes a lesser franchise fee on the residential class of customers than the maximum amount set forth in Section 9.1 above shall not be effective against Company unless the fee imposed on each other customer classification is reduced proportionately in the same or greater amount per class as the reduction represented by the lesser fee on the residential class.

9.3 **Terms Defined.** For the purpose of this Section 9, the following definitions apply:

9.3.1 "Customer Class" shall refer to the classes listed on the Fee Schedule and as defined or determined in Company's electric tariffs on file with the Commission.

9.3.2 "Fee Schedule" refers to the schedule in Section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its electric tariffs after the effective date of this franchise agreement.

9.4 **Collection of the Fee.** The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amounts specifically permitted by this Section 9. The time and manner of collecting the franchise fee is subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company's applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of



erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers.

9.5 **Equivalent Fee Requirement.** The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The “same or greater equivalent amount” shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

**SECTION 10. PROVISIONS OF ORDINANCE.**

10.1 **Severability.** Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2 **Limitation on Applicability.** This Ordinance constitutes a franchise agreement between the City and Company as the only parties, and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

**SECTION 11. AMENDMENT PROCEDURE.**

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company’s written consent thereto with the City Clerk within 90 days after the date of final passage by the City of the amendatory ordinance.

**SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.**

This franchise supersedes any previous electric franchise granted to Company or its predecessor.

Passed and approved: \_\_\_\_\_, 20\_\_.

Electric w/fee

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Mayor

Attest:

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City Clerk

Date Published: \_\_\_\_\_

## GAS FRANCHISE ORDINANCE

ORDINANCE NO. \_\_\_\_\_.

**CITY OF WHITE BEAR LAKE, RAMSEY AND WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO ERECT A GAS DISTRIBUTION SYSTEM FOR THE PURPOSES OF CONSTRUCTING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF WHITE BEAR LAKE, MINNESOTA, THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE TRANSMISSION OR DISTRIBUTION OF GAS TO THE CITY AND ITS INHABITANTS AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH THE CITY AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.**

**THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE, RAMSEY AND WASHINGTON COUNTY, MINNESOTA, ORDAINS:**

### **SECTION 1. DEFINITIONS.**

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

1.1 **City.** The City of White Bear Lake, Counties of Ramsey and Washington, State of Minnesota.

1.2 **City Utility System.** Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

1.3 **Commission.** The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all, or part of the authority to regulate Gas retail rates now vested in the Minnesota Public Utilities Commission.

1.4 **Company.** Northern States Power Company, a Minnesota corporation, its successors and assigns.

1.5 **Gas.** "Gas" as used herein shall be held to include natural gas, manufactured gas, or other form of gaseous energy.

1.6 **Gas Facilities.** Pipes, mains, regulators, and other facilities owner or operated by Company for the purpose of providing gas service for public use.

1.7 **Notice.** A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 401 Nicollet Mall, 8<sup>th</sup> Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Hall,

4701 Highway 61, White Bear Lake, MN 55110. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.

1.8 **Public Ground.** Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

1.9 **Public Way.** Any street, alley, walkway or other public right-of-way within the City.

## **SECTION 2. ADOPTION OF FRANCHISE.**

2.1 **Grant of Franchise.** City hereby grants Company, for a period of 20 years from the date passed and approved by the City, the right to transmit and furnish Gas energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Grounds and Public Ways of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement.

2.2 **Effective Date; Written Acceptance.** This franchise agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Company, and its publication as required by law. The City by Council resolution may revoke this franchise agreement if Company does not file a written acceptance with the City within 90 days after publication.

2.3 **Service and Rates.** The service to be provided and the rates to be charged by Company for Gas service in City are subject to the jurisdiction of the Commission.

2.4 **Publication Expense.** The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

2.5 **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

## **SECTION 3. LOCATION, OTHER REGULATIONS.**

3.1 **Location of Facilities.** Gas Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Gas Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Gas Facilities shall be subject to permits if required by

separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground gas facilities in place, provided, at City's request, Company will remove abandoned metal pipe interfering with a City improvement project, but only to the extent such metal pipe is uncovered by excavation as part of the City's improvement project.

3.2 Field Locations. Company shall provide field locations for its underground Gas Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3 Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Gas Facilities. In such event Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second working day thereafter, Company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for one year thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace or maintain facilities in a Public Way.

3.5 Avoid Damage to Gas Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Gas Facilities while performing any activity.

3.6 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Grounds and Public Ways upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Gas Facilities.

## **SECTION 4. RELOCATIONS.**

4.1 Relocation of Gas Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Gas Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Gas Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. If a relocation is ordered within five years of a prior relocation of the same Gas Facilities, which was made at Company expense, the City shall reimburse Company for Non-Betterment Costs on a time and material basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Gas Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 Relocation of Gas Facilities in Public Ground. City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Ground upon a finding by City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

4.3 Projects with Federal Funding. City shall not order Company to remove or relocate its Gas Facilities when a Public Way is vacated, improved or realigned for a right-of-way project or any other project which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation are first paid to Company. The City is obligated to pay Company only for those portions of its relocation costs for which City has received federal funding specifically allocated for relocation costs in the amount requested by the Company, which allocated funding the City shall specifically request. Relocation, removal or rearrangement of any Company Gas Facilities made necessary because of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the rights herein granted to Company are valuable rights.

4.4 No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Ground or Public Way was established, or Company's rights under state or county permit.

## **SECTION 5. TREE TRIMMING.**

Company is also granted the permission and authority to trim all shrubs and trees, including roots, in the Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of Gas Facilities, provided that Company shall save City harmless from any liability in the premises.

**SECTION 6. INDEMNIFICATION.**

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Grounds and Public Ways. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

6.2 Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

**SECTION 7. VACATION OF PUBLIC WAYS.**

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Gas Facilities, shall not operate to deprive Company of its rights to operate and maintain such Gas Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

**SECTION 8. CHANGE IN FORM OF GOVERNMENT.**

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

**SECTION 9. PROVISIONS OF ORDINANCE.**

9.1 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

9.2 Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a

Gas w/o fee

third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

**SECTION 10. AMENDMENT PROCEDURE.**

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 90 days after the date of final passage by the City of the amendatory ordinance.

**SECTION 11. PREVIOUS FRANCHISES SUPERSEDED.**

This franchise supersedes any previous Gas franchise granted to Company or its predecessor.

Passed and approved: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Date Published: \_\_\_\_\_



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE IMPLEMENTING AN ELECTRIC SERVICE FRANCHISE FEE ON NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, FOR PROVIDING ELECTRIC SERVICE WITHIN THE CITY OF WHITE BEAR LAKE**

**THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE DOES ORDAIN:**

**SECTION 1.** The City of White Bear Lake Municipal Code is hereby amended to include reference to the following Special Ordinance.

**Subd. 1. Purpose.** The White Bear Lake City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide electric services within the City of White Bear Lake.

- (a) Pursuant to City Ordinance \_\_\_\_\_, a Franchise Agreement between the City of White Bear Lake and Northern States Power Company, a Minnesota corporation, its successors and assigns, the City has the right to impose a franchise fee on Northern States Power Company, a Minnesota corporation, its successors and assigns, in an amount and fee design as set forth in Section 9 of the Northern States Power Company Franchise and in the fee schedule attached hereto as Schedule A.

**Subd. 2. Franchise Fee Statement.** A franchise fee is hereby imposed on Northern States Power Company, a Minnesota Corporation, its successors and assigns, under its electric franchise in accordance with the schedule attached here to and made a part of this Ordinance, commencing with the NSPM May, 2018 billing month.

This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the city will control.

**Subd. 3. Payment.** The said franchise fee shall be payable to the City in accordance with the terms set forth in Section 9 of the Franchise.

**Subd. 4. Surcharge.** The City recognizes that the Minnesota Public Utilities Commission may allow Company to add a surcharge to customer rates of city residents to reimburse Company for the cost of the fee.

**Subd. 5. Enforcement.** Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Franchise Agreement.

**Subd. 6. Effective Date of Franchise Fee.** The effective date of this Ordinance shall be after its publication and ninety (90) days after the sending of written notice enclosing a copy of this adopted Ordinance to NSPM by certified mail. Collection of the fee shall commence as provided above.

Passed and approved: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
*Mayor*

Attest:

\_\_\_\_\_  
*City Clerk*

SEAL

## SCHEDULE A

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### **Franchise Fee Rates:**

Electric Utility

The franchise fee shall be in an amount determined by applying the following gross revenues schedule per customer premise/per month based on metered service to retail customers within the City:

<u>Class</u>	<u>Amount per month</u>
Residential	1.5%
Sm C & I – Non-Dem	1.5%
Sm C & I – Demand	1.5%
Large C & I	1.5%
Public Street Ltg	1.5%
Muni Pumping –N/D	1.5%
Muni Pumping – Dem	1.5%

Franchise fees are submitted to the City on a quarterly basis as follows:

January – March collections due by April 30.

April – June collections due by July 31.

July – September collections due by October 31.

October – December collections due by January 31.



City of White Bear Lake  
City Manager's Office

# MEMORANDUM

**To:** Mayor and City Councilmembers  
**From:** Ellen Richter, City Manager  
**Date:** December 7, 2017  
**Subject:** **Right-of-Way Ordinance – First Reading**

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## SUMMARY

While reviewing the necessary steps to implement a review and permitting process for small-cell wireless facilities, the City Attorney's Office recommended that the City adopt a comprehensive Right-of-Way Ordinance, as is described on the attached memo from Mr. Pratt.

## RECOMMENDATION

Council is asked to hold first reading of the attached draft ordinance. Second reading will be held on the January 9, 2018 Council meeting.

## ATTACHMENTS

Draft Right-of-Way Ordinance  
Memo from City Attorney, Andy Pratt

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF WHITE BEAR LAKE, RAMSEY COUNTY, MINNESOTA, AMENDING ARTICLE IX – PUBLIC WAYS AND PROPERTY, OF THE WHITE BEAR LAKE CITY CODE, BY ADDING SECTION 906 – RIGHT OF WAY**

**THE COUNCIL OF THE CITY OF WHITE BEAR LAKE DOES ORDAIN:**

**Section 1.** The following chapter is added to the White Bear Lake City Code, at Article IX – Public Ways and Property:

906. Right of Way

§906.010 RIGHT OF WAY; PURPOSE AND INTENT. To provide for the health, safety, and welfare of the citizens of the City of White Bear Lake, and to ensure the integrity of its streets and the appropriate use of its rights of way, the City strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the City hereby enacts this new chapter of this Code relating to right-of-way permits and administration. This chapter imposes reasonable regulations on the placement and maintenance of facilities and equipment currently within the City’s rights of way or to be placed therein at some future time. It is intended to complement the regulatory roles of governmental agencies separate from the City. Under this chapter, persons excavating and obstructing the City’s rights of way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the City’s rights of way.

This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minn. Stat. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the “Act”) and 2017 Minn. Laws, ch. 94, art. 9, amending certain portions of the Act, and the other laws governing applicable rights of the City and right-of-way users. This chapter shall also be interpreted consistent with Minn. R. 7819.0050–7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the aforementioned Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

§906.020 RIGHT OF WAY; ELECTION TO MANAGE. Pursuant to the authority granted to the City under state and federal statutory, administrative and common law, the City hereby elects, pursuant to Section 237.163, subd. 2(b) of the Act, to manage rights of way within its jurisdiction.

§906.030 RIGHT OF WAY; DEFINITIONS. The following definitions apply in this chapter of this Code. References hereafter to “sections” are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

Subd. 1. Abandoned Facility. A facility no longer in service or physically disconnected from another discrete portion of the facility, or from any other facility, that is in use or still carries

service. A facility is not abandoned unless declared so by the right-of-way user, unless 60 days pass after a written notice is delivered from the City to the right-of-way user, inquiring as to whether the facility is abandoned, and no response is received from the right-of-way user.

Subd. 2. Act. Minnesota Statutes, Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086, as amended.

Subd. 3. City. The City of White Bear Lake, Minnesota, its elected officials, officers, employees, or agents.

Subd. 4. Collocate or Collocation. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately or by the City or other governmental unit.

Subd. 5. Collocation Agreement. The Small Wireless Facility Collocation and Lease Agreement, utilized by the City in compliance with Section 237.163, subd. 3a(f) of the Act.

Subd. 6. Commission. The State of Minnesota Public Utilities Commission.

Subd. 7. Construction Security. Any of the following forms of security provided at permittee's option:

- (i) Cash deposit;
- (ii) Security of a form listed or approved under Minn. Stat. § 15.73, subd. 3;
- (iii) Irrevocable Letter of Credit, in a form acceptable to the City, with automatic renewal provisions;
- (iv) Self-insurance, in a form acceptable to the City; or
- (v) A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.

Subd. 8. Degradation. A decrease in the useful life of the right of way caused by excavation in or disturbance of the right of way, resulting in the need to reconstruct such right of way earlier than would be required if the excavation or disturbance did not occur.

Subd. 9. Degradation Cost. Subject to Minn. R. 7819.1100, means the cost to achieve a level of restoration, as determined by the City at the time the permit is issued, not to exceed the maximum restoration as set forth in Minn. R., parts 7819.9900 to 7819.9950.

Subd. 10. Degradation Fee. The estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right of way caused by the excavation, and which equals the Degradation Cost.

Subd. 11. Delay Penalty. The penalty imposed as a result of unreasonable delays in right-

of-way excavation, obstruction, patching, or restoration as established by permit.

Subd. 12. Department. The department of public works of the City.

Subd. 13. Director. The director of the department of public works of the City, or her or his designee.

Subd. 14. Emergency. A condition that (1) poses a danger to life, health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

Subd. 15. Equipment. Any tangible asset used to install, repair, or maintain facilities in any right of way.

Subd. 16. Excavate. To dig into or in any way remove or physically disturb or penetrate any part of a right of way.

Subd. 17. Excavation Permit. The permit which, pursuant to this chapter, must be obtained before a Person may excavate in a right of way. An Excavation Permit allows the holder to excavate that part of the right of way described in such permit.

Subd. 18. Excavation Permit Fee. Money paid to the City by an registrant to cover the costs as provided in Section 906.120 of this Code.

Subd. 19. Facility or Facilities. Any tangible asset in the right of way required to provide a service.

Subd. 20. Local Representative. A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

Subd. 21. Management Costs. The actual costs the City incurs in managing its rights of way, including such costs as those associated with registering registrants; issuing, processing, and verifying right-of-way or small-wireless-facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small-wireless-facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the City including fees tied to or based on customer counts, access lines, or revenues generated by the right of way for the City, the fees and cost of litigation relating to the interpretation of the Act; or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to Section 906.300 of this chapter.

Subd. 22. Micro wireless facility. A small wireless facility that is no longer than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11

inches.

Subd. 23. Obstruct. To place any tangible object in a right of way so as to hinder free and open passage over that or any part of the right of way.

Subd. 24. Obstruction Permit. The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right of way, allowing the holder to hinder free and open passage over the specified portion of that right of way, for the duration specified therein.

Subd. 25. Obstruction Permit Fee. Money paid to the City by a permittee to cover the costs as provided in Section 906.120.

Subd. 26. Patch or Patching. A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the City's capital improvement plan.

Subd. 27. Pavement. Any type of improved surface that is within the public right of way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Subd. 28. Permit. Has the meaning given "right-of-way permit" in Section 237.162, subd. 7 of the Act.

Subd. 29. Permittee. Any person to whom a permit to excavate or obstruct a right of way has been granted by the City under this chapter.

Subd. 30. Person. An individual or entity subject to the laws and rules of the State of Minnesota, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Subd. 31. Probation. The status of a person that has not complied with the conditions of this chapter.

Subd. 32. Probationary Period. One year from the date that a person has been notified in writing that they have been put on probation.

Subd. 33. Registrant. Any person who (1) has or seeks to have its equipment or facilities located in any right of way regulated by this chapter, or (2) in any way occupies or uses, or seeks to occupy or use, the right of way or place its facilities or equipment in the right of way.

Subd. 34. Restore or Restoration. The process by which an excavated right of way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

Subd. 35. Restoration Cost. The amount of money paid to the City by a permittee to



achieve the level of restoration according to Commission rules.

Subd. 36. Right of way or Public Right of way. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the City has an interest, including other dedicated rights of way for travel purposes and utility easements of the City. A right of way does not include the airwaves above a right of way with regard to cellular or other non-wire telecommunications or broadcast service.

Subd. 37. Right-of-way Permit. Either the excavation permit, obstruction permit, or small-wireless-facilities permit, or any combination thereof, depending on the context, required by this chapter.

Subd. 38. Right-of-way User. (1) A “telecommunications right-of-way user,” as defined in Section 237.162, subd. 4 of the Act, or (2) a person owning or controlling a facility in the right of way that is used or intended to be used for providing a service, and who has a right under law, franchise, contract, license, or ordinance to use the public right of way.

Subd. 39. Service. Includes: (1) those services provided by a public utility, as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications system, as defined in Minn. Stat. ch. 238; (4) natural gas or electric energy or telecommunications services provided by the City; (5) services provided by a cooperative electric association organized under Minn. Stat., ch. 308A; and (6) water and sewer services, including service laterals, steam, cooling, or heating services.

Subd. 40. Service Lateral. An underground facility that is used to transmit, distribute or furnish ‘gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer’s premises.

Subd. 41. Small Wireless Facility. A wireless facility that meets both of the following qualifications:

(i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or could fit within such an enclosure; and

(ii) all other wireless equipment associated with the small wireless facility, provided such equipment is, in aggregate, no more than twenty-eight (28) cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

Subd. 42. Small-Wireless-Facility Permit. The permit which, pursuant to this chapter, must be obtained before a person may install, place, maintain, or operate a small wireless facility in a public right of way to provide wireless service. A small-wireless-facility permit allows the holder to conduct such activities in that part of the right-of-way described in such permit. A small-

wireless-facility permit does not authorize (1) providing any service other than a wireless service, or (2) installation, placement, maintenance, or operation of a wireline backhaul facility in the right of way.

Subd. 43. Small-Wireless-Facility Permit Fee. Money paid to the City by a permittee to cover the costs as provided in Section 906.120 of this Code.

Subd. 44. Supplementary Application. An application made to the City to excavate or obstruct more of the right of way than allowed in, or to extend or supply additional information to, a permit that has already been submitted or issued.

Subd. 45. Telecommunications Right-of-way User. A person owning or controlling a facility in the right of way, or seeking to own or control a facility in the right of way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. ch. 238, as amended, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. § 216B.02, as amended, a municipality, a municipal gas or power agency organized under Minn. Stat. chs. 453 and 453A, as amended, or a cooperative electric association organized under Minn. Stat. ch. 308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

Subd. 46. Trench. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Subd. 47. Utility Pole. A pole that is used in whole or in part to facilitate telecommunications or electric service.

Subd. 48. Wireless Facility. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, that are not otherwise immediately adjacent to and directly associated with a specific antenna.

Subd. 49. Wireless Service. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

Subd. 50. Wireless Support Structure. A new or existing structure in a right of way designed to support or capable of supporting small wireless facilities, as reasonably determined by the City.

Subd. 51. Wireline Backhaul Facility. A facility used to transport communications data by wire from a wireless facility to a communications network.

§906.040 RIGHT OF WAY; ADMINISTRATION. The City Engineer and the Public Works Director are the principal City officials responsible for the administration of the public right of way, its permits, and the ordinances related thereto. The City Engineer or the Public Works Director may delegate any or all of the duties hereunder.

§906.050 RIGHT OF WAY; REGISTRATION AND OCCUPANCY.

Subd. 1. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right of way without first being registered with the City.

Subd. 2. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a City ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right of way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right of way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. ch. 216D, (Excavation Notice System).

§906.060 RIGHT OF WAY; REGISTRATION INFORMATION.

Subd. 1. Information Required. The information provided to the City at the time of registration shall include, but not be limited to:

(i) Each registrant's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.

(ii) The name, address, and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(iii) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the City;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (1) use and occupancy of the right of way by the registrant, its officers, agents, employees, and permittees, and (2) placement and use of facilities and equipment in the right of way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

(c) Naming the City as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(d) Requiring that the City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the City in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this chapter. Such amounts shall be no less than the current maximum tort liability amounts applicable to municipalities in Minn. Stat. §466.04, as amended.

(f) The City requires a copy of the actual insurance policies.

(g) If the registrant is a corporation, a copy of the corporate certificate that has been recorded and certified to by the Minnesota Secretary of State.

(h) A copy of the person's order granting a certificate of authority from the Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

Subd. 2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the City information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

#### §906.070 RIGHT OF WAY; REPORTING OBLIGATIONS.

Subd. 1. Operations. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the City. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights of way.

The plan shall include, but not be limited to, the following information:

(i) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(ii) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

The term "project" in this section shall include both next-year projects and five-year projects.

By January 1 of each year, the City will have available for inspection a composite list of all projects of which the City has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1 of each year, each registrant may change any project in its list of next-year projects, and must notify the City and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

Subd. 2. Additional Next-Year Projects. Notwithstanding the foregoing, the City will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the City if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

§906.080 RIGHT OF WAY; PERMIT REQUIREMENT.

Subd. 1. Permit Required. Except as otherwise provided in this Code, no person may obstruct or excavate any right of way, or install or place facilities in the right of way, without first having obtained the appropriate right-of-way permit from the City to do so.

(i) *Excavation Permit*. An excavation permit is required by a registrant to excavate that part of the right of way described in such permit and to hinder free and open passage over the specified portion of the right of way by placing facilities described therein, to the extent and for the duration specified therein.

(ii) *Obstruction Permit*. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right of way by placing equipment described therein on the right of way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(iii) *Small-Wireless-Facility Permit*. A small-wireless-facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right of way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked. No small-wireless-facility permit is required to solely conduct: (1) routine maintenance of a small wireless facility; (2) replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or (3) installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes, however, a service provider is required to make written notice of such activities to the City if the micro wireless facility work will obstruct a public right of way. A small-wireless-facility permit is required for the work specified in this paragraph regardless of whether the registrant also possesses an excavation permit or an obstruction permit.

(iv) *Conditional use permit.* A conditional use permit is required to install a new wireless support structure for the siting of a small wireless facility in a right of way in a district that is zoned for single-family residential use (i.e., as of the effective date of this Ordinance, R-1L, R-1S, R-2, R-3, R-4, R-5, R-6, R-7, R-B, R-MH) or within a historic district established by federal or state law or by this Code as of the date of application for a small wireless facility permit.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right of way beyond the date or dates specified in the applicable permit unless (1) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (2) a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minn. Rule 7819.1000 subp. 3 and notwithstanding subd. 2 of this Section, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution. A delay penalty will not be imposed if the delay in completion is due to circumstances beyond the control of the registrant, including without limitation inclement weather, acts of God, or civil strife.

Subd. 4. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

§906.090 RIGHT OF WAY; PERMIT APPLICATIONS. Application for all permits described in this chapter must be made to the City. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- (i) Registration with the City pursuant to this chapter.
- (ii) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed work underlying the permit and the location of all known existing and proposed facilities.
- (iii) Payment of money due to the City for:
  - (a) permit fees, estimated restoration costs, and other management costs;
  - (b) prior obstructions or excavations, before issuance of the permit;
  - (c) any undisputed loss, damage, or expense suffered by the City because of the registrant's prior excavations or obstructions of the rights of way or any emergency actions taken by the City; and
  - (d) franchise fees or other charges, if applicable.
- (iv) Payment of disputed amounts due to the City by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing, which shall be determined by the City.

(v) Posting an additional or larger construction security for additional facilities when registrant requests an excavation permit to install additional facilities and the City deems the existing construction security inadequate under applicable standards.

§906.100 RIGHT OF WAY; ISSUANCE OF A PERMIT AND CONDITIONS.

Subd. 1. Permit Issuance. If the registrant has satisfied the requirements of this chapter, the City shall issue a right-of-way permit.

Subd. 2. Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the registrant thereunder to protect the health, safety, and welfare or when necessary to protect the right of way and its current use. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01 - .09 (Excavation Notice System) and Minn. R., ch. 7560, each as amended.

Subd. 3. Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right of way, shall be subject to the following conditions:

(i) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application submitted by the registrant.

(ii) No new wireless support structure installed within the right of way shall exceed 50 feet in height without the City's written authorization, provided that the City may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right of way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

(iii) No wireless facility may extend more than 10 feet above its wireless support structure.

(iv) Where a registrant proposes to install a new wireless support structure in the right of way, the City may impose reasonable separation requirements between such structure and any existing wireless support structure or other facilities in and around the right of way.

(v) Where a registrant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the City may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.

(vi) Where a registrant proposes to replace a wireless support structure, the City may impose reasonable restocking, replacement, or relocation requirements on the replacement of such

structure.

(vii) Where a registrant proposes to install a small wireless facility in a single-family residential (i.e., as of the effective date of this Ordinance, R-1L, R-1S, R-2, R-3, R-4, R-5, R-6, R-7, R-B, R-MH) or historic zoned district (as may later be established by this Code or by applicable state or federal law or regulation), the City will require a conditional use permit.

Subd. 4. Small-Wireless-Facility Agreement. A small-wireless-facility permit shall only be issued after the registrant has executed a Collocation Agreement with the City. The Collocation Agreement may require payment of the following:

(i) Up to \$150 per year for rent to collocate on a wireless support structure owned by the City.

(ii) \$25 per year for maintenance associated with the collocation.

(iii) If the registrant/permittee obtains electrical service through the City, a monthly fee for electrical service as follows:

(a) \$73 per radio node less than or equal to 100 maximum watts;

(b) \$182 per radio node over 100 maximum watts; or

(c) The actual costs of electricity, if the actual costs exceed the foregoing.

The Collocation Agreement shall be in addition to, and not in lieu of, the required small-wireless-facility permit, provided, however, that the registrant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small-wireless-facility permit does not supersede, alter or affect any existing agreement between the City and the registrant established by the effective date of this chapter.

#### §906.110 RIGHT OF WAY; ACTION ON SMALL-WIRELESS-FACILITY PERMIT APPLICATIONS.

Subd. 1. Deadline for Action. The City shall approve or deny a small-wireless-facility permit application within 90 days after filing of such application. The small-wireless-facility permit shall be deemed approved if the City fails to approve or deny the application within the 90-day review period.

Subd. 2. Consolidated Applications. A registrant may file a consolidated small-wireless-facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the City, provided that all small wireless facilities in the application:

(i) are located within a two-mile radius;



- (ii) consist of substantially similar equipment; and
- (iii) are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the City may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

Subd. 3. Tolling of Deadline. The 90-day deadline for action on a small-wireless-facility permit application may be tolled if:

(i) The City receives applications from one or more registrants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the City may extend the deadline for all such applications by 30 days by informing the affected registrants in writing of such extension.

(ii) The registrant fails to submit all required documents or information and the City provides written notice of incompleteness, with specificity as to the missing information, to the registrant within 30 days of receipt of the application. Upon submission of additional documents or information, the City shall have ten days to notify the registrant in writing of any still missing information.

(iii) The City and a small wireless facility registrant agree in writing to toll the review period.

#### §906.120 RIGHT OF WAY; PERMIT FEES.

Subd. 1. Excavation Permit Fee. The City shall impose an excavation permit fee, as may be set forth in the City's annual fee schedule, in an amount sufficient to recover the following costs:

- (i) City management costs;
- (ii) degradation costs, if applicable.

Subd. 2. Obstruction Permit Fee. The City shall impose an obstruction permit fee, as may be set forth in the City's annual fee schedule, in an amount sufficient to recover the City management costs.

Subd. 3. Small Wireless Facility Permit Fee. The City shall impose a small wireless facility permit fee, as may be set forth in the City's annual fee schedule, in an amount sufficient to recover:

- (i) City management costs; and
- (ii) City engineering and construction costs (if any) associated with collocation of small wireless facilities.

Subd. 4. Payment of Permit Fees. No excavation permit, obstruction permit, or small-wireless-facility permit shall be issued without payment of the corresponding permit fees.

Subd. 5. Non Refundable. Permit fees that were paid for a permit that the City has revoked for a breach as stated in Section 906.220 are not refundable.

Subd. 6. Application to Franchises. Unless otherwise agreed to in a franchise agreement, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise agreement.

#### §906.130 RIGHT OF WAY; PATCHING AND RESTORATION.

Subd. 1. Timing. The work to be done under an excavation permit, and the patching and restoration of the right of way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under Section 906.160.

Subd. 2. Patch and Restoration. A Permittee shall patch its own work. The City may choose either to have the permittee restore the right of way or to restore the right of way itself after the work is completed.

(i) *City Restoration.* If the City restores the right of way, the permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.

(ii) *Permittee Restoration.* If the permittee restores the right of way, it shall at the time of application for an excavation permit post construction security in accordance with the provisions of this chapter.

(iii) *Degradation Fee in Lieu of Restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

Subd. 3. Standards. The permittee shall perform excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the City and shall comply with Minn. Rule 7819.1100.

Subd. 4. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by the permittee or its agents. The permittee upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting

force majeure or days when work is prohibited as unseasonable or unreasonable under Section 906.160.

Subd. 5. Failure to Restore. If the permittee fails to restore the right of way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the actual cost of restoring the right of way. If the permittee fails to pay as required, the City may exercise its rights under the construction security.

#### §906.140 RIGHT OF WAY; JOINT APPLICATIONS.

Subd. 1. Joint application. Registrants may jointly apply for permits to excavate or obstruct the right of way at the same place and time. Registrants may not jointly apply for small-wireless-facility or conditional-use permits.

Subd. 2. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the City does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. With City projects. Registrants who join in a scheduled obstruction or excavation performed by the City, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit is still required to provide the City with details regarding the project.

#### §906.150 RIGHT OF WAY; SUPPLEMENTARY APPLICATIONS.

Subd. 1. Limitation on Area. A right-of-way permit is valid only for the area of the right of way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area must (1) apply for a supplementary application and pay any additional fees required thereby, and (2) be granted a new or amended permit or permit extension.

Subd. 2. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new or amended permit or an extension of the old permit before working after the end date of the previous permit.

#### §906.160 RIGHT OF WAY; OTHER OBLIGATIONS.

Subd. 1. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve a permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all

fees required by the City pursuant to its current fee schedule, or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Excavation Notice System) and Minn. R., ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right of way pursuant to its permit, regardless of who does the work.

Subd. 2. Prohibited Work. Except in an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. Interference with Right of way. A permittee shall not so obstruct a right of way that the natural free and clear passage of water through the gutters, ditches or other waterways shall be interfered with. Private vehicles of those doing work in the right of way may not be parked within or next to an area covered by a permit, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Subd. 4. Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. ch. 216D and Minn. R., ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Director.

#### §906.170 RIGHT OF WAY; DENIAL OF PERMIT.

Subd. 1. Reasons for Denial. The City may deny a permit for failure to meet the requirements and conditions of this chapter or if the City determines that the denial is necessary to protect the health, safety, and welfare of the public or when necessary to protect the right of way and its current use.

Subd. 2. Procedural Requirements. The denial of a permit must be made in writing and must document the basis for the denial. The City must notify the registrant in writing within ten (10) business days of the decision to deny a permit. If an application is denied, the registrant may cure the deficiencies identified by the City and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The City must approve or deny the resubmitted application within 30 days after submission.

§906.180 RIGHT OF WAY; INSTALLATION REQUIREMENTS. The excavation, backfilling, patching and restoration, and all other work performed in the right of way shall be done in conformance with Minn. R. 7819.1100 and 7819.5000 (for telecommunications) and other applicable local requirements, in so far as they are not inconsistent with Sections 237.162 and 237.163 of the Act. Installation of service laterals shall be performed in accordance with Minn. R., ch 7560 and this Code. Service lateral installation is further subject to those requirements and conditions set forth by the City in the applicable permits and agreements referenced in Section

906.230, subd. 2 of this chapter.

§906.190 RIGHT OF WAY; INSPECTION.

Subd. 1. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rule 7819.1300. “As built” drawings are required to be completed by the permittee and distributed to the City within six (6) months of completion of the work.

Subd. 2. Site Inspection. The Permittee shall make the work site available to the City and to all others as authorized by law for inspection at all reasonable times during the construction of and upon completion of the work.

Subd 3. Authority of City.

(i) At the time of inspection, the Director or City Engineer may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(ii) The Director or City Engineer may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the Director or the City Engineer, as the case may be, that the violation has been corrected. If such proof has not been presented within the required time, the Director or the City Engineer, as the case may be, may revoke the permit pursuant to Sec. 906.220 of this chapter.

§906.200 RIGHT OF WAY; WORK DONE WITHOUT A PERMIT.

Subd. 1. Emergency Situations. Each registrant shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators’ notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

If the City becomes aware of an emergency regarding a registrant’s facilities, the City will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency. The City shall not be liable for any action or inaction taken under this paragraph.

Subd. 2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right of way must subsequently

obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by this Code, deposit with the City the fees necessary to correct any damage to the right of way, and comply with all of the requirements of this chapter.

§906.210 RIGHT OF WAY; SUPPLEMENTARY NOTIFICATION. If the obstruction or excavation of the right of way begins later or ends sooner than the date given on the permit, the permittee shall notify the City of the most accurate and up-to-date information as soon as this information is known.

§906.220 RIGHT OF WAY; REVOCATION OF PERMITS.

Subd. 1. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit or relevant agreement. A substantial breach by a permittee shall include, but shall not be limited to, the following:

- (i) The violation of any material provision of the right-of-way permit.
- (ii) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens.
- (iii) Any material misrepresentation of fact in the application for a right-of-way permit.
- (iv) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control.
- (v) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 906.190.

Subd. 2. Written Notice of Breach. If the City determines that a permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the City shall follow the procedural requirements of Sec. 906.170, subd. 2 of this chapter. In addition, the demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to Notice of Breach. Within two (2) calendar days of receiving notification of the breach, the permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. The permittee's failure to so contact the City, or the permittee's failure to timely submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

Subd. 4. Reimbursement of City costs. If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

§906.230 RIGHT OF WAY; MAPPING DATA.

Subd. 1. Information Required. Each registrant and permittee shall provide mapping information required by the City in accordance with Minn. R. 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the Director accurate maps and drawings certifying the “as-built” location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the City’s electronic mapping system, when practical or as a condition imposed by the Director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit.

Subd. 2. Service Laterals. All permits issued for the installation or repair of service laterals, other than “minor repairs” as defined in Minn. R. 7560.0150, subp. 2, shall require the permittee’s use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the Director reasonably requires it. Permittees or their subcontractors shall submit to the Director evidence satisfactory of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005, shall be a condition of any City approval necessary for:

(i) payments to contractors working on a public improvement project, including those under Minn. Stat. ch. 429; and

(ii) City approval under development agreements or other subdivision or site plan approvals under Minn. Stat. ch. 462. The Director shall reasonably determine the appropriate method of providing such information to the City. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

§906.240 RIGHT OF WAY; LOCATION AND RELOCATION OF FACILITIES.

Subd. 1. Location. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minn. R. 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

Subd. 2. Undergrounding. Unless otherwise agreed in a franchise or other agreement between the applicable right-of-way user and the City, facilities in the right of way must be located or relocated and maintained underground. This regulation does not apply to small wireless facilities or micro wireless facilities.

Subd. 3. Limitation of Space. To protect the health, safety, and welfare of the public, or when necessary to protect the right of way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right of way. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the right of way, but shall be guided primarily by considerations of the public interest, the

public's needs for the particular utility service, the condition of the right of way, the time of year with respect to essential utilities, the protection of existing facilities in the right of way, and future City plans for public improvements and development projects which have been determined to be in the public interest. The City shall provide written findings to a registrant in connection with the prohibition of new or additional facilities within the right of way.

§906.250 RIGHT OF WAY; PRE-EXCAVATION FACILITIES LOCATION. In addition to complying with the requirements of Minn. Stat. §§ 216D.01-.09 (Excavation Notice System) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

§906.260 RIGHT OF WAY; DAMAGE TO OTHER FACILITIES. When the City does work in the right of way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right of way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

§906.270 RIGHT OF WAY; VACATION AND RESERVATION OF RIGHT. If the City vacates a right of way that contains the facilities of a registrant, the registrant's rights in the vacated right of way are governed by Minn. R. 7819.3200.

§906.280 RIGHT OF WAY; INDEMNIFICATION AND LIABILITY. By registering with the City, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the City in accordance with the provisions of Minn. Rule 7819.1250.

§906.290 RIGHT OF WAY; ABANDONED AND UNUSABLE FACILITIES.

Subd. 1. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the right of way under this chapter have been lawfully assumed by another registrant.

Subd. 2. Removal. Any registrant who has abandoned facilities in any right of way shall remove it from that right of way, and must remove the facilities immediately if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the City.

§906.300 RIGHT OF WAY; APPEAL. A registrant or a right-of-way user, as the case may be, that: (1) has been denied a permit; (2) has had a permit revoked; (3) believes that the fees imposed by the City are not in conformity with Section 237.163, subd. 6 of the Act; or (4) disputes a



determination of the Director regarding Section 906.230, subd.2 of this chapter may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the registrant or right-of-way user, as the case may be, has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

§906.310 RIGHT OF WAY; RESERVATION OF REGULATORY AND POLICE POWERS. A permittee’s rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

§906.320 RIGHT OF WAY; SEVERABILITY. If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the City from requiring a franchise agreement with a registrant or right-of-way user, as allowed by law, in addition to requirements set forth herein.

**Section 2.** This Ordinance shall be in full force and effect from and after its passage and publication according to law and the Charter of the City of White Bear Lake, Minnesota.

Adopted by the City Council of the City of White Bear Lake, Minnesota, this 9th day of January, 2018.

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

**ECKBERG LAMMERS**  
**MEMORANDUM**

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**TO:** Mayor Jo Emerson  
White Bear Lake City Council  
City Manager Ellen Richter  
City Engineer Mark Burch

**FROM:** Andy Pratt, City Attorney  
Dan Burns, Assistant City Attorney

**DATE:** December 7, 2017

**RE:** Right-of-Way Management Ordinance

On the City Council agenda for the December 12, 2017 meeting is the first reading of a new ordinance regulating the City's right-of-way property. The second reading of the ordinance and consideration of the ordinance is tentatively scheduled to be on the Council's January 9, 2018 agenda.

Background

In 2017, the Minnesota Legislature passed a law that gave significant rights to private parties to place "small cell wireless facilities" and "micro wireless facilities" on public property with minimal regulation. The Legislature did allow for municipalities to first establish a model lease agreement, in which the municipality and the private entity would enter into an agreement governing the location(s) of the wireless facility or facilities and other pertinent matters. Often these facilities are "collocated" on utility poles or other structures located within the public right-of-way. Our office has prepared a model collocation and lease agreement and distributed this document to City staff.<sup>1</sup> This agreement was referenced at the Council's November 28, 2017 meeting, as staff is ready to meet with private entities seeking to locate small cell wireless facilities within the right-of-way.

Need for Right-of-Way Ordinance

During the drafting process for the model collocation agreement, we discovered the City does not currently have a right-of-way ordinance in place. Without a right-of-way ordinance, a private entity could technically approach the City to locate a structure within the right-of-way, or excavate

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<sup>1</sup> The new wireless facility law required the model collocation agreement to be drafted and available for use by November 30, 2017.

an area within the right-of-way, or obstruct an area for a project, without the City being able to regulate many aspects of that activity.<sup>2</sup> We therefore set out to draft a comprehensive right-of-way ordinance, to allow the City to undertake reasonable regulation of a private project within its right-of-way. In today's economy, many right-of-way projects occur with telecommunications or cable companies, but this ordinance would also deal with private utility placements and other right-of-way disturbances.

Here are some highlights of the ordinance:

- The ordinance establishes permit requirements for any party who wishes to undertake excavation, obstruct, or place a wireless facility within the City's right-of-way. The permit will specifically identify the private party doing the work, and will contain important insurance requirements to protect the City against liability for the work (the City will be named as an "additional insured" on the private party's insurance policy).
- The private party doing the work must file specific project plans and depictions of the right-of-way, so the City is acutely aware of the work occurring at all times. If the private party goes outside the boundaries of the project plans, the City can demand that the project return to the original plans, with the private party liable for any payments to restore the right-of-way.
- City staff was specifically concerned with the possibility that several small cell wireless facilities will begin popping up in residential zoning districts. We have accounted for this issue by requiring a conditional use permit (CUP) for all such facilities in the City's ten residential districts. A CUP will also be required for any facilities located in a historical district, whether designated through the City Code or through other local, state or federal law. A CUP will give City staff, the Planning Commission, and the City Council the ability to impose reasonable conditions on a right-of-way facility, with the violation of any condition being grounds for revocation of the CUP.
- The City is able to impose reasonable fees for the issuance of a right-of-way excavation permit, an obstruction permit, or a small cell wireless permit. We will work with City staff to develop the necessary permit language and include the fees in the permit itself or in the City's fee schedule.
- If City staff denies a right-of-way permit application for whatever reason, the applicant may appeal the denial to the City Council. In this case, we will work closely with City staff and the Council to develop a resolution of denial, if the Council chooses this method. The resolution of denial will contain necessary findings for the Council to rely on. This step is crucial to protect the City from later legal action taken by the applicant.

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<sup>2</sup> It is not accurate to state the City is without any power to regulate its right-of-way. Separate ordinances may require a permit for land disturbance, or may limit the time in which an area within the right-of-way is obstructed, for example.

Of course, there are several rights-of-way within the City that are owned by the State of Minnesota or by Ramsey County. The City has no property interest in these rights-of-way, and therefore cannot regulate right-of-way applications in these areas. We have recommended that City staff approach the County and MnDOT personnel to coordinate the right-of-way application process, to protect against the proliferation of small cell wireless facilities and other obstructions within popular and well traveled rights-of-way within the City.

Please let me know if you have any questions related to this issue. Thank you.

Andy Pratt  
651.351.2125 (direct)  
apratt@eckbergglammers.com



**City of White Bear Lake**  
Finance Director's Office

# *MEMORANDUM*

**To:** Mayor and City Council

**From:** Ellen Richter, City Manager  
Don Rambow, Finance Director

**Date:** December 5, 2017

**Subject:** **Adoption of 2017 Tax Levy Collectible in 2018 and Adoption of the Revised 2017 and Proposed 2018 Budget**

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## **BACKGROUND**

At its regular meeting on September 12, 2017, the City Council adopted a preliminary tax levy that was then used by the County to develop truth in taxation statements, which have since been mailed to all property owners. In accordance with state statute, the Council may choose to lower the preliminary tax levy as adopted in September, but cannot increase the amount.

Prior to forwarding a recommendation for the preliminary tax levy in September, City departments prepared budget requests and recommendations for 2018 and submitted them to the Finance and City Manager Departments for review. A draft of the 2017 Budget was then distributed to Council in early November.

The City Council held its Truth in Taxation hearing at its last meeting on November 28<sup>th</sup> at which no one came forward to speak.

## **SUMMARY**

Staff has given careful consideration to the impact of the recommended tax levy. While there are always many worthwhile improvements and programs the City may add to its range of services, it is prudent and reasonable to consider the ability and willingness of the majority of our residents to pay for those improvements and services through taxes or other fees.

### Tax Levy

Staff has made budgeting adjustments and incorporated those adjustments into the 2018 budget document. The tax levy recommendation remains the same as the September 12<sup>th</sup> preliminary tax levy. The recommended final tax levy totaling \$5,625,000 is proposed to fund the following categories.

General Fund	2017	Additional Levy	2018
Operations	4,891,000	80,000	4,971,000
Reserve Utilization Adjustment		226,000	226,000
Total General Fund	4,891,000	306,000	5,197,000
Capital & Debt Service			
Equipment	50,000	146,000	196,000
Building	100,000		100,000
YMCA Debt	132,000		132,000
TOTAL	<u>5,173,000</u>	<u>452,000</u>	<u>5,625,000</u>

The direct tax levy to fund current operational requirements is recommended to increase \$80,000 or 1.64%. The effort to eliminate the financial reliance on reserves will require \$226,000, and an additional allocation of \$146,000 for capital equipment is recommended.

The tax levy, which supports the 2018 budget, does not include any new or expanded operational programs or services. The 2018 budget provides for a competitive compensation plan.

Staff has prepared two resolutions adjusting Ambulance and Pioneer Manor rates as presented in the 2018 budget document for Council consideration. Copies of these sections of the budget are attached for Council's reference. These fees along with the 2018 City fee schedule is expected to adequately fund the 2018 operations as currently presented.

### **RECOMMENDATION**

A \$5,625,000 2017 tax levy, collectible in 2018, is presented for the Council's consideration. This levy represents a \$452,000 increase over last year's levy. The increase accounts for elimination of reserves, additional capital equipment assistance and general operational requirements.

Staff recommends approval of the following resolutions as presented in the 2018 budget document:

- 1) The Resolution adopting the 2017 tax levy collectible in 2018 at \$5,625,000
- 2) The Resolution adopting the 2018 budget and revising the 2017 budget as adopted by Resolution No. 11917
- 3) The Resolution committing fund balances for specific purpose.
- 4) The Resolution authorizing City Contributions toward volunteer and employee recognition.
- 5) The Resolution authorizing and acknowledging the City's contributions and involvement in promoting business and cultural activities in White Bear Lake.
- 6) Resolution establishing 2018 Pioneer Manor rates
- 7) Resolution establishing 2018 Ambulance rates

**Resolution No.**

**RESOLUTION APPROVING THE 2017 TAX LEVY  
COLLECTIBLE IN 2018**

WHEREAS, the City of White Bear Lake is annually required by Charter and State law to approve a resolution setting forth an annual proposed annual tax levy to the Ramsey and Washington County Auditors; and

WHEREAS, Minnesota Statutes currently in force require certification of a tax levy to the Ramsey and Washington County Auditors on or before December 28, 2017; and

WHEREAS, the City Manager submitted the summary details to the City Council upon completion of the budget process, as revised.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of White Bear Lake, Ramsey and Washington Counties, Minnesota that the following sums is levied in 2017, collectible in 2018, upon the taxable property in said City of White Bear Lake for the following purposes:

General Fund	\$5,197,000
Municipal Building – Infrastructure	100,000
Equipment Acquisition Fund	196,000
Municipal Building – Debt Service	<u>132,000</u>
Gross Levy	5,625,000
Less: Fiscal Disparity	<u>(706,621)</u>
Net Levy	<u>4,918,379</u>

BE IT FURTHER RESOLVED, that provision has also been made for payment of the City's share of Public Employees Retirement Association's contributions for the ensuing years; and

BE IT FURTHER RESOLVED, that there is a sufficient sum of monies in the Debt Service Funds of the City which are irrevocably pledged, to pay principal and interest in 2018 on all outstanding bond issues, and the deferred annual tax levies previously certified to the County Auditor are hereby canceled, and replaced by the above debt service tax levy; and

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the County Auditor's of Ramsey and Washington Counties, Minnesota, as required by law.

**Resolution No.**

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

Ayes:  
Nays:  
Passed:

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Jo Emerson, Mayor

ATTEST:

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Kara Coustry, City Clerk



**RESOLUTION NO \_\_\_\_\_**

**RESOLUTION ADOPTING THE 2018 BUDGET AND REVISING THE 2017  
BUDGET AS ADOPTED BY RESOLUTION NO. 11917**

WHEREAS, the City Charter provides for the adoption of an annual operating budget and that such adoption shall precede the tax levy resolution; and

WHEREAS, State law provides that such tax levy resolution shall be submitted to the County Auditor prior to December 28th of the year preceding collection; and

WHEREAS, the Mayor and City Council had been presented with budget recommendations for expenditures and revenues, such that revenues fully fund expenditures and provide a safe margin of undesignated fund balances; and

WHEREAS, Resolution No.11917 adopted the 2017 operating budget; and

WHEREAS, the City Charter authorizes the transfer of sums to other purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota, that the 2018 operating budget shall be adopted and the 2017 operating budget shall be revised as follows:

	<u>2017 Revised</u>	<u>2018 Budget</u>
<b>Revenue:</b>		
<u>General Fund</u>		
General Property Tax	\$ 4,942,000	\$ 5,117,000
Franchise Fee and Fines	383,000	417,000
Licenses and Permits	626,000	758,500
Intergovernmental	2,408,200	2,578,000
Charges for Services	455,000	544,250
Miscellaneous	70,000	170,000
Transfers In	<u>710,000</u>	<u>662,920</u>
Total General Fund	<u>9,594,200</u>	<u>10,247,670</u>

**RESOLUTION NO \_\_\_\_\_**

	<u>2017 Revised</u>	<u>2018 Budget</u>
<u>Special Revenue Funds</u>		
Armory	\$ 62,550	\$ 63,550
Surface Water Pollution Prevention	86,937	87,297
Marina Operations	384,000	379,000
Sport Center	551,000	407,000
Forfeiture	26,000	31,000
Economic Development	<u>2,310,049</u>	<u>501,800</u>
Total Special Revenue Funds	<u>3,420,536</u>	<u>1,469,647</u>
 <u>Debt Service Funds</u>		
Municipal Building	284,100	284,000
Non-Bonded Special Assessment	1,110,000	1,057,500
2012 Special Assessment	220,000	225,000
2012 Refunding Tax Increment (PM)	160,000	160,000
2016 Tax Increment (BWC)	<u>115,000</u>	<u>155,000</u>
Total Debt Service Funds	<u>1,889,100</u>	<u>1,881,500</u>
 <u>Capital Project Funds</u>		
Equipment Acquisition	638,500	1,180,000
Municipal Building	227,500	5,638,800
Park Improvement	139,900	89,500
Water Improvement	18,000	20,000
Sewer Improvement	15,500	17,000
HRA Tax Increment	<u>803,427</u>	<u>593,000</u>
Total Capital Project Funds	<u>1,842,857</u>	<u>7,538,300</u>
 <u>Enterprise Funds</u>		
Water Utility	1,821,000	1,401,000
Sewer Utility	2,938,000	2,977,000
Environmental Recycling & Disposal Waste	1,364,100	1,435,000
Ambulance	1,631,000	1,818,000
Pioneer Manor	385,000	388,500
License Bureau	<u>963,000</u>	<u>963,000</u>
Total Enterprise Funds	<u>9,102,100</u>	<u>8,982,500</u>
 <u>Internal Service Funds</u>		
Insurance	641,750	664,500
Employee Expense	2,511,614	2,566,105
Engineering	<u>652,000</u>	<u>708,200</u>
Total Internal Service Funds	<u>3,805,364</u>	<u>3,938,805</u>
 Revenue Subtotal		
	<u>29,654,157</u>	<u>34,058,422</u>
Community Reinvestment	<u>125,000</u>	<u>125,000</u>
Total Revenue	<u>29,779,157</u>	<u>34,183,422</u>

**RESOLUTION NO \_\_\_\_\_**

	<u>2017 Revised</u>	<u>2018 Budget</u>
<b>Appropriations/Reserves:</b>		
<u>General Fund</u>		
Legislative	\$149,367	\$150,843
Administration	328,592	330,050
Finance	551,568	571,923
Legal	66,669	71,169
City Hall	227,035	233,280
Elections	35,333	94,162
Planning	377,538	417,725
Public Safety		
Police	3,868,989	4,096,492
Fire	972,855	943,759
Dispatch	523,600	539,935
Legal Prosecution	148,810	148,970
Animal Control	15,265	18,840
Emergency Preparedness	11,299	16,904
Building and Code Enforcement	533,077	582,518
Public Works		
Streets	521,585	522,350
Snow and Ice Removal	184,643	210,198
Street Lighting	186,984	195,835
Parks	648,349	692,575
Garage	143,412	175,577
Non-Departmental		
General Services		14,220
Lake Conservation District	34,780	34,780
Northeast Youth and Family Services	39,050	39,575
Contingency		15,500
Transfers	<u>25,000</u>	<u>25,000</u>
Total General Fund	<u>9,593,800</u>	<u>10,142,180</u>
<u>Special Revenue Funds</u>		
Armory	79,106	79,182
Surface Water Pollution Prevention	187,524	209,563
Marina Operations	739,270	257,865
Sport Center	585,486	510,483
Forfeiture	38,000	35,800
Economic Development	<u>583,228</u>	<u>409,674</u>
Total Special Revenue Funds	<u>2,212,614</u>	<u>1,502,567</u>
<u>Debt Service Funds</u>		
Municipal Building	280,000	285,000
Non-Bonded Special Assessment	1,334,700	1,690,000
2012 Special Assessment	225,645	218,715
2012 Refunding Tax Increment (PM)	182,500	173,600
2016 Tax Increment (BWC)	<u>112,506</u>	<u>150,913</u>
Total Debt Service Funds	<u>2,135,351</u>	<u>2,518,228</u>

**RESOLUTION NO \_\_\_\_\_**

	<u>2017 Revised</u>	<u>2018 Budget</u>
<u>Capital Project Funds</u>		
Equipment Acquisition	\$743,170	\$1,242,000
Municipal Building	473,000	5,856,500
Park Improvement	200,000	450,000
Water Improvement	104,300	263,000
Sewer Improvement	150,000	175,000
HRA Tax Increment	<u>1,085,315</u>	<u>488,500</u>
Total Capital Project Funds	<u>2,755,785</u>	<u>8,475,000</u>
 <u>Enterprise Funds</u>		
Water Utility	1,442,379	1,444,455
Sewer Utility	2,783,052	2,867,915
Environmental Recycling & Disposal Waste	1,362,188	1,433,608
Ambulance	1,577,045	1,721,478
Pioneer Manor	400,570	376,720
License Bureau	<u>1,088,599</u>	<u>1,037,466</u>
Total Enterprise Funds	<u>8,653,833</u>	<u>8,881,642</u>
 <u>Internal Service Funds</u>		
Insurance	945,000	489,000
Employee Expense	2,577,000	2,663,000
Engineering	<u>670,057</u>	<u>710,038</u>
Total Internal Service Funds	<u>4,192,057</u>	<u>3,862,038</u>
 Appropriations/Reserves Subtotal		
	<u>29,543,440</u>	<u>35,381,655</u>
Community Reinvestment	<u>125,000</u>	<u>125,000</u>
Total Appropriations/Reserves	<u>29,668,440</u>	<u>35,506,655</u>

The foregoing resolution, offered by Councilmember \_\_\_\_\_, and seconded by Councilmember \_\_\_\_\_, was declared carried on the following vote:

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

**RESOLUTION NO.**

**RESOLUTION COMMITTING FUND BALANCES FOR SPECIFIC PURPOSE**

**WHEREAS**, the Governmental Accounting Standards Board's Statement #54 defines committed fund balance as amounts that can only be used for specific purposes; and

**WHEREAS**, the City Council formalizes these fund balances for specific purpose in the budget document; and

**WHEREAS**, the budget document commits or reserves fund balances for defined purposes.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of White Bear Lake that the specific portions of fund balances or the actual amounts determined as of fiscal year end is committed as follows:

<u>Fund</u>	<u>Purpose</u>	<u>Amount</u>	
		<u>2017</u>	<u>2018</u>
General	Cash Flow	\$3,350,000	\$3,435,000
Special Revenue			
Armory	Community Utilization	51,903	36,271
Surface Water Pollution Prevention	Storm Water Run Off Control	737,847	615,581
Marina Operations	Community Utilization	64,732	185,867
Sport Center	Community Utilization	313,499	210,016
Forfeiture	Public Safety	141,554	136,754
Economic Development	Economic Improvement	2,368,794	2,460,920
Debt Service			
Municipal Building Department	Municipal Facility Obligations	201,034	200,034
Non-Bonded Debt	Special Assessment Financing	674,890	42,390
Special Assessment - 2012	Construction	11,949	18,234
Tax Increment – 2012	Pioneer Manor Bonds	113,236	99,636
Tax Increment – 2016	Boatworks Common Bonds	20,688	24,775

**RESOLUTION NO.**

<u>Fund</u>	<u>Purpose</u>	Amount	
		2017	2018
Capital Projects			
Equipment Acquisitions	Equipment Purchases	\$939,204	\$432,204
Municipal Building	Facility Construction	837,142	619,442
Park Improvement	Park Construction	1,969,722	1,759,222
Water Improvement	Water Construction	601,567	358,567
Sewer Improvement	Sewer Construction	627,288	469,288
Community Reinvestment	Construction Financing	7,655,000	7,655,000
HRA	Tax Increment Financing	347,758	452,258

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

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

**RESOLUTION NO.**

**RESOLUTION AUTHORIZING CITY CONTRIBUTIONS TOWARDS VOLUNTEER  
AND EMPLOYEE RECOGNITION PRESENTED IN THE  
2017 AND 2018 BUDGET**

WHEREAS, the City of White Bear Lake annually appropriates funds through the budget process which recognize contributions received by the City from volunteers and employees; and

WHEREAS, the detailed listing for this recognition is presented to declare these expenses are in the public's interest and to inform the public; and

WHEREAS, rent payments from Pioneer Manor funds the Pioneer Manor appropriations; and

WHEREAS, reimbursements fund the Insurance Fund appropriation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake that the expenditure budgets for 2017 and 2018 specifically authorizes the following appropriations, which recognize volunteer and employee achievements.

General Fund	<u>2017</u>	<u>2018</u>
Legislative		
Employee Appreciation Lunch	\$ 900	\$ 900
Service Awards (attached)	1,200	1,200
Civic Promotion (plaques/mugs)	600	1,200
Volunteer Recognition Dinner	1,600	1,700
Police		
Service Awards	50	1,000
TRIAD Events and Recognition	550	550
DARE	2,250	2,500
Crime Prevention	200	485
Volunteer Shirts / Award	200	200
CPA Shirts and Supplies	1,325	1,350
Emergency Preparedness		
Reserve Recognition	300	300

**RESOLUTION NO.**

**RESOLUTION NO. \_\_\_\_\_**

	<u>2017</u>	<u>2018</u>
Fire		
Service Awards	\$ 500	\$ 500
Annual Banquet (current and retired)	5,000	7,000
Twenty Year Awards		
Explorer Recognition	250	250
Pioneer Manor		
Social Activities	1,300	1,300
Insurance		
Safety Awards	500	500

The foregoing resolution, offered by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_, was declared carried on the following vote:

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk



**RESOLUTION NO.**

**RESOLUTION AUTHORIZING AND ACKNOWLEDGING  
CITY CONTRIBUTIONS AND INVOLVEMENT IN PROMOTING BUSINESS AND  
CULTURAL ACTIVITIES IN WHITE BEAR LAKE IN THE  
2017 AND 2018 BUDGET**

WHEREAS, the City of White Bear Lake annually appropriates funds through the budget process for activities which promote business and the Downtown area; and

WHEREAS, it is the funding of the City that such expenditures are in the public interest and promote the general welfare of the community; and

WHEREAS, the City is a third party conduit for restricted revenue remitted for use by the White Bear Main Street Association; and

WHEREAS, the City Council recognizes that through payment of annual membership dues to the White Bear Lake Area Chamber of Commerce, the City receives services including advertising, event planning and promotion, advocacy and visitor services of a value greatly exceeding the cost of dues.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake that the expenditure budgets for 2017 and 2018 specifically authorize the following appropriations for which the City receives services of value exceeding the cost.

General Fund	<u>2017</u>	<u>2018</u>
Legislative		
Chamber of Commerce	\$ 550	\$ 550
Community Groups	400	400
Economic Development		
Marketfest	7,000	7,000
Historical Society	14,733	14,733

The foregoing resolution, offered by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_, was declared carried on the following vote:

AYES:  
NAYS:  
PASSED:

\_\_\_\_\_  
Jo. Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

**RESOLUTION NO.:** \_\_\_\_\_

**RESOLUTION AUTHORIZING INCREASE IN RENTS FOR PIONEER MANOR  
SENIOR APARTMENTS**

WHEREAS, City of White Bear Lake has developed a forty-two (42) unit affordable senior apartment building called Pioneer Manor; and

WHEREAS, the Pioneer Manor is intended to be self-supporting financially both now and in the future; and

WHEREAS, operating expenses continue to increase on an annual basis; and

WHEREAS, an adequate replacement reserve will be needed in the future to maintain the quality and livability of the project.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of White Bear Lake, Minnesota that rents at Pioneer Manor shall be increased by approximately two percent (2.0%) per year. The facility's rent shall be as follows on April 1, 2018.

<u>Type</u>	<u>2018</u>
1 Bedroom	\$690
1 Bedroom/Den	740
2 Bedroom	805
2 Bedroom Deluxe	855
Garage	56

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

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

## **Fund: Pioneer Manor Fund (5300)**

The Pioneer Manor Fund accounts for the operation, maintenance, and repair of the City-owned 42-unit senior citizen housing facility. The City's goal for Pioneer Manor focuses on providing a quality independent living environment at a reasonable cost without direct tax payer contribution.

### **Budget Activity:**

The City attempts to maintain a delicate balance between providing a quality senior living environment, controlling operational costs, and maintaining an equitable rent structure. As the building continues to age, there are increasing costs for maintenance, such as roof, attic insulation, rain gutters, shakes, and soffit repairs / replacements. Painting (inside and outside), carpet replacement, and appliance replacement require continuing monitoring.

The City recognizes the importance of providing quality management services to help the facility operate as efficiently and effectively as possible. Since the City does not employ staff with these specialized skills, the City contracts with an outside firm to provide management oversight for Pioneer Manor.

In 2012, City staff prepared a cost/benefit analysis of the debt issue and decided to refinance the debt issue to take advantage of savings associated with the record low interest rates available in the market. Even though this process reduced the Fund's annual debt payment obligation for the remaining years of the issue, the fund's annual debt service transfer will not follow the amortization schedule and remains at the established rate of \$160,000 per year. The excess amounts transferred to the Debt Service Fund in current years will be offset the payment increases required by the schedule in future years.

This process allows the Fund a consistent debt service budget allocation and assists in maintaining residents rent at an affordable level. The debt obligation will expire in 2023.

In 2018, the City contracted for the facility's roof, attic, insulation and rain gutters replacement.

The City reviews rental rates on a regular basis to ensure adequate revenues and funding is available to meet the projected operating and capital expenditures for the facility. Recognizing that senior citizens live on a limited budget each month, the City strives to maintain a stable rate structure with minimal increase. The last rental rate adjustment was effective June 1, 2017 a two percent adjustment anticipated in 2018.

The recommended adjustment anticipates ensuring the facility's capital replacements requirements are adequately funded.

The following schedule lists rental rates from 2014 through the proposed 2018 fee schedule. The facility's caretaker occupies one two-bedroom unit.

**Fund: Pioneer Manor Fund (5300)**

**Budget Activity (cont.)**

<u>Type of Unit</u>	<u>No. of Units</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
1 bedroom	23	\$655	\$665	\$665	\$675	\$690
1 bedroom/den	3	700	710	710	725	740
2 bedroom	6	765	775	775	790	805
2 bedroom deluxe	10	810	825	825	840	855
Garage	20	52	54	54	55	56

**Budget Summary:**

The revised 2017 budget provides for an additional apartment carpet replacement. Funding for legal costs associated with legal litigation adds an additional \$15,000 to the 2017 budget. The revised 2017 budget provides an additional \$32,000 for the facility's roof replacement.

The 2018 budget anticipates expenditures trends to reflect historical patterns.

**Goals:**

- I. Continue to provide a quality senior facility for residents at affordable rental rates.
- II. Implement a Resident Advisory Committee to help guide allocation of resources for facility improvements and/or community enhancement activities.
- III. Continue providing social activities through management programming efforts.
- IV. Receive monthly reports from management organization that includes, but is not limited to, resident events, apartment vacancies and the number of applications received.

**Performance Indicators:**

	<u>2015</u> <u>Actual</u>	<u>2016</u> <u>Budget</u>	<u>2017</u> <u>Budget</u>	<u>2018</u> <u>Actual</u>
Number of Unit-day vacancies per year	31	30	30	30
Number of resident events scheduled	225	225	230	232

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION AMENDING AMBULANCE SERVICE RATES  
ESTABLISHED BY RESOLUTION NO. 12034**

**WHEREAS**, the City of White Bear Lake operates an ambulance service under rates established by City Council Resolution No. 12034; and

**WHEREAS**, adequate revenues are necessary to fund the continuing operations of the ambulance service in subsequent years.

**NOW, THEREFORE, BE IT RESOLVED**, that the following rates are established effective January 1, 2018.

<u>Service Type</u>	<u>Fee</u>
Basic Life Support (BLS)	\$1,285
Advanced Life Support (ALS1)	1,695
Major Advanced Life Support (ALS2)	1,850
Treatment – No transport	430
Mileage	26.60 / mile

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

Ayes:

Nays:

Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

**Fund:           Ambulance Fund (5250)**

The Ambulance Fund accounts for revenues and expenditures related to providing emergency medical services to the White Bear Lake area. Members of the City's fire department are trained according to the State Health Department and the Emergency Medical Services emergency Regulatory Board requirements to provide ambulance service using Emergency Medical Technicians and Paramedics. Thorough records are maintained to comply with State Statutes on training and to ensure customers receive high quality care. The department uses four ambulances, two are stored at each fire station. Three are used on a regular basis. The fourth "back-up" ambulance is used when there are four runs simultaneously or when a truck is out of service for maintenance. This strategy provides adequate vehicle availability to respond to service calls while other units are out of service. The City's current ambulance fleet is made up of four units placed in service in the following years: 2003, two 2010 and 2015.

The fund is supported by service fees at rates established by the City Council. While revenues currently support operations, they do not sufficiently support major capital replacement of equipment, which is currently reliant on the Equipment Acquisition Fund.

**Service Activities:**

The ambulance service area includes White Bear Township, Birchwood, Dellwood, a small portion of Lino Lakes, as well as the City. The department has successfully provided this service with a combination of full-time personnel, which is significantly supported by a staff of "paid-on-call" (POC) members. The department is unique whereby its POC members also are responsible for providing Advance Life Support (ALS) services that requires a paramedic to respond. The ambulance provides service to a population of approximately 37,000.

**Staffing Levels:**

The department operates with a staff of 42 Emergency Medical Technicians and 16 Paramedics that serve on a Paid On-Call (POC) basis. To complement the POC staff, ambulance operations is staffed by 2 full-time paramedics and 2 full-time EMT's.

POC firefighters and ambulance only personnel support the ambulance operation staff. All personnel responding to an ambulance call receive the same per-call compensation regardless of their firefighter or ambulance only classification. Firefighters receive credit towards their retirement package based upon the number of calls completed. Ambulance only personnel receive a \$99 monthly contribution towards a PERA Defined Contribution Plan.

Expecting POC staff members to consistently interrupt their personal life and response to a vast majority of emergency medical calls has become problematic. While departmental members continue to respond to service calls, there is a significant desire allowing members more time that is not subject to being called away from family time to provide

**Fund: Ambulance Fund (5250)**

**Staffing Levels (cont.):**

call response. The 2018 personal service budget provides resources to establish a shift program, which will lessen the burden on employees and provide a more consistent level of service.

Departmental staff will be assigned specific shifts whereby they will be available at the station for immediate response to calls for service. The shift assignments will increase costs; however, these costs will be significantly lower than staffing the operation with full-time personnel.

**Revenue Activity:**

The City collects revenue by billing patients on a per run basis. Revenue estimates are based upon projected ambulance runs utilizing either basic or advanced life support activities. These billings are reduced by partial third party denials for selected billings and client non-payments. City ambulance rates remain lower than the metropolitan average.

To ensure the fund can financially support ambulance operations, ambulance rates were reviewed and recommended to be adjusted as follows:

<u>Type</u>	<u>Current Rates</u>	<u>Proposed 2018 Rates</u>
BLS	1,195.00	1,285.00
ALS	1,575.00	1,695.00
ALS-1	1,720.00	1,850.00
Treatment-No Transport	400.00	430.00
Mileage	24.75	26.60

Federal law establishes a cap on transport fees that ambulance service providers can collect for Medicare patient transportations. All medical response services are required to accept the reimbursement amount allowable under federal law for transportation and are required to write off any difference without billing the patient for the difference between the billed amount and the federally authorized reimbursed amount. It is estimated that 825 transports or nearly 60% of all transports are related to some type of revenue collection restriction, such as Medicare or Medicaid. This results in approximately \$1,075,000 of ambulance fees being disallowed due to Federal law. A comparison of the City's rate structure and Medicare reimbursement amount is as follows:

<u>Service Type</u>	<u>City Fee</u>	<u>Medicare Reimb.</u>	<u>Differential</u>
Basic Life Support (BLS)	\$1,195.00	\$366.84	\$(828.16)
Advanced Life Support (ALS – 1)	1,575.00	435.62	(1,139.38)
Advanced Life Support (ALS – 2)	1,720.00	630.51	(1,089.49)
Treatment – No Transport	400.00	0	(400.00)
Mileage	24.75	7.29	(17.46)

**Fund:           Ambulance Fund (5250)**

**Budget Activity**

The department's operational activity allocates that 50% of the Fire Chief and 75% of the Fire Department Secretary's time to ambulance-related duties.

Department members are compensated on a per-run basis without regard to the variable requirements of each run. Through its compensation structure, the City tries to balance its commitment to high quality service, the need to motivate its department members to respond to calls, and the desire to establish a reasonable patient cost for service.

The current per run compensation amounts shown below:

<u>Level of Responder</u>	<u>Per Run Payment</u>
Paramedic	\$40.00
EMT-I	35.00
EMT	32.50
Non-EMT	25.00
Patient Non-Transport	17.50

The quarterly incentive compensation is as follows:

<u>Level of Service Responder</u>	<u>Quarterly Incentive Pay</u>
Paramedic completing a minimum of 24 runs per quarter	\$120 per month
EMT completing a minimum of 18 runs per quarter	\$60 per month

The department provides a quarterly and an annual incentive compensation based upon over all individual response attendance. These incentive payments, which encourage member's participation, are expected to total \$125,000 in 2018.

To maintain current personnel and provide an incentive for new members, the City Council created a Health Care Reimbursement program for department members. The program provides each qualified member to receive \$101.00 monthly that is intended to assist the members in paying for out-of-pocket health care expenses. It is expected that this program will result in an annual contribution totaling \$23,000.

The establishment of a shift program, with a crew ready to respond will result in a compensation program restructuring whereby members will receive an hourly compensation rather than a service call compensation. The shift program will cover the hours in which the full-time EMS staff are not available. It is projected that the shift program will increase overall personnel operating costs by approximately \$8,000 per month.



**Fund: Ambulance Fund (5250)**

**Budget Activity (cont.):**

The Ambulance operation utilizes the City's dispatching services to receive calls and page members for needed responses. A transfer is made to the General Fund to reimburse it for the service that approximates 50% of the dispatch center operational costs and to cover its share of the Health Reimbursement Plan. While the costs for dispatching services are anticipated to decrease once the transition to Ramsey County is complete, it is anticipated that the savings will be needed to support modifications to the service delivery model and future capital needs.

A summary of the Ambulance Fund's contribution for these activities is as follows:

<u>Activity</u>	<u>Contribution</u>	
	<u>2017</u>	<u>2017</u>
Dispatch	\$242,840	\$230,040
Life Insurance	2,160	2,160
Health Reimb. Plan	37,800	37,800
Total	<u>282,800</u>	<u>270,000</u>

The December 31, 2018 fund balance is projected to be \$133,601.

**Budget Summary:**

The 2017 revised budget reflects elimination departmental radios totaling \$124,200 and Station 1 remodeling by \$5,000. These costs were more accurately reported in the Equipment Acquisition and Municipal Building fund. Supplies are expected to increase by \$13,000 and generally offset by lower than projected training expense.

The 2018 operational budget increases \$144,000 over the revised 2017 budget. This increase is related to the following personnel changes. 1) Full staffing of current positions totaling \$57,000, 2) Transitioning to a shift program operation \$65,000, 3) personnel benefit costs increases \$16,000, 4) training budget increases \$13,000.

**Department Staff:**

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2017</u>	<u>2018</u>
	<u>Actual</u>	<u>Actual</u>	<u>Adopted</u>	<u>Revised</u>	<u>Budget</u>
Chief	.50	.50	.50	.50	.50
Secretary	.75	.75	.75	.75	.75
Quality Assurance Tech.	2.00	2.00	2.00	2.00	2.00
Ambulance Staff	4.00	4.00	4.00	4.00	4.00
Ambulance Support (1)	17.00	17.00	17.00	17.00	17.00
Total Ambulance	<u>24.25</u>	<u>24.25</u>	<u>24.25</u>	<u>24.25</u>	<u>24.25</u>

**Fund: Ambulance Fund (5250)**

**Department Staff (cont.):**

(1) Ambulance support staff are paid-on-call and are non-benefited earning staff similar to firefighter's position. These positions provide additional support for ambulance responses only.

**Capital Outlay:**

<u>Item</u>	<u>2017</u>	<u>2018</u>
Capital Outlay Purchases -		
Ice rescue equipment	\$5,200	\$5,200
Water rescue equipment	4,300	5,000
Rope rescue equipment	2,100	1,500
Medical boxes	3,200	
Ambulance replacement		225,000
 Total Equipment Purchases	<hr/> 14,800	<hr/> 236,700

**Goals:**

- I. Effective utilization of personnel to increase overall service delivery.
- II. Adjust personnel utilization that will ensure proper staffing and reduce paid-on-call demand service levels.
- III. Implementation of a shift program to enhance service levels.
- IV. Increase involvement of members in various community education endeavors including general health awareness, safety seatbelt education, and CPR training.
- V. Utilize the information collected on the ambulance run reports to determine the training needs of department members.
- VI. Educate paramedics on the procedures for working new equipment for critically ill patients.

**Fund:            Ambulance Fund (5250)**

**Performance Indicators:**

	2015	2016	2017	2018
	<u>Actual</u>	<u>Actual</u>	<u>Budget</u>	<u>Budget</u>
Ambulance 1 Calls	1,088	1,105	1,100	1,110
Ambulance 2 Calls	754	730	725	730
Ambulance 3 Calls	661	600	600	625
Ambulance 4 Calls	<u>257</u>	<u>255</u>	<u>250</u>	<u>260</u>
Total	<u>2,760</u>	<u>2,690</u>	<u>2,675</u>	<u>2,725</u>
Community Health Awareness Talks	5	5	5	6
Percent of Surveys Received with "Exceeding Expectations"	83%	85%	85%	85%
CPR Classes Offered	17	15	18	18
Number of Individuals Taught CPR	1,825	1,800	1,795	1,800



City of White Bear Lake  
Police Department

## MEMORANDUM

**To:** Ellen Richter, City Manager  
**From:** Julie Swanson, Chief of Police  
**Date:** December 6, 2017  
**Subject:** **Body worn camera policy and purchase**

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### BACKGROUND

The use of body-worn cameras (BWCs) in law enforcement is relatively new. The primary purpose of using body worn cameras is to capture evidence arising from police-citizen encounters. During the 2016 Minnesota Legislative session, compromise was reached on a range of elements related to body-worn cameras. The law established minimum periods of data retention and data classification, which are now defined in legislation. The law also provided direction for local law enforcement agencies in establishing a program and developing a policy. One key legislative requirement is the need to provide opportunity for public input regarding the purchase or implementation of a body-worn camera program, and allow for input in the development of a body-worn camera program policy. The draft body-worn camera policy was posted on the City of White Bear Lake website, and a public hearing was held during the November 28, 2017 City Council meeting. The City Council provided input to the draft policy. There was no public comment by community members at the meeting or by email or mail to the City.

### SUMMARY

The White Bear Lake Police Department began researching BWC vendors last spring, with participation solicited from police department personnel. After meeting with several vendors at the MN Chiefs of Police Conference in Saint Cloud last April, the administrative team evaluated each vendor for product functionality, cost, availability and experience. Staff invited three vendors to present their products to the BWC committee. After evaluating the different features with each vendor, every officer had the opportunity to demo the cameras over the summer. After consideration of officer feedback, the functionality of each system, and the availability of vendor staff, the BWC committee narrowed the review to Motorola. Motorola has a solid reputation, offers excellent service with the Motorola portable radios, and contracts with a local vendor, ANCOM, to manage all of their customer service needs.

Motorola's body-worn camera is unique as it combines a body-worn video speaker microphone with advanced cloud based management, which allows agencies to minimize the number of devices needed for public safety personnel to do their job effectively. The body-worn camera serves as a smart interface with an integrated remote speaker microphone and body-worn camera in one. The system assures reliable voice and mission critical sight, sound and security needed to work more safely.

### **Motorola's Digital Evidence Management Solution (DEMS) - DEMS Software as a Service (SaaS)**

SaaS combines the power of a Si500 with CommandCentral Vault, which provides foundation for any body-worn program. DEMS SaaS provides a discount on the Si500 lowering initial upfront costs of a body worn camera solution, including CommandCentral Store, Manage and Judicial for all content management needs. By selecting SaaS your Agency is also kept up to date on the latest technology with ongoing updates via CommandCentral Vault and two (2) next generation refreshes of Si device with a 5 year contract.

#### **SaaS Package Offers:**

- Lower upfront cost on Si500 Video Speaker Microphone (VSM).
- CommandCentral Store.
- CommandCentral Manage.
- CommandCentral Judicial, share evidence online with your judicial partners.
- Built-in Redaction of all video content managed by CommandCentral VAULT.
- Ability to import 3rd party open source digital media evidence and make it part of your chain of custody.
- Storage per Si500:
  - 250GB of storage per camera, year 1.
  - 50GB storage pool increase per camera, per incremental year (years 2-5, +200GB).
  - A 5 year contract will provide 450GB of storage per camera at the term of the 5th year.
- All data is pooled into one overall storage bucket.
- Unlimited user accounts, allowing chain of custody to never be broken as officers leave the agency.

Staff recommends the purchase of 29 Motorola's Digital Evidence Management Solution (DEMS) – body-worn cameras. The costs for the first year is \$67,544.00. This cost includes the body-worn cameras (DEMS si-500 device), the command central vault which is the cloud based content solution to securely store, review, manage and share all forms of evidence, and all other required equipment and licenses. This also includes deployment and training services. The Motorola five (5) year contract also establishes year two through five costs, which includes subscription and storage costs, as well as one new si500 device refresh. The contract price for the body-worn cameras in year two (2) through five (5) is \$20,230.40 per year.

#### **RECOMMENDED COUNCIL ACTION**

Staff recommends Council adopt the resolution approving the policy and purchase of 29 Motorola DEMS body-worn cameras unit through ANCOM for a cost of \$67,544.00.

#### **ATTACHMENTS**

Resolution

Portable Recording Systems Policy

**RESOLUTION NO.**

**RESOLUTION APPROVING THE POLICY AND PURCHASE OF  
BODY WORN CAMERAS**

WHEREAS public expectation for transparency in law enforcement is on the rise, especially as technology has become more widely available; and

WHEREAS the draft Body Worn Camera Policy was posted on the City's website on November 17, 2017 for public comment for which no public comment was received; and

WHEREAS a public hearing was held during the November 28, 2017 City Council meeting to consider adoption of the proposed Body Worn Camera Policy for which no one from the public provided comment; and

WHEREAS an evaluation of body worn camera vendors revealed that the Motorola cameras with Digital Evidence Management Solution (DEMS) software provides unique features, functionality, secure data storage and training; and

WHEREAS staff recommends the purchase of 29 Motorola DEMS body worn cameras (sufficient to outfit all sworn officers of the White Bear Lake Police Department) for a cost of \$67,544, which includes the cameras, cloud based storage, related equipment, licenses, deployment and training in the first year.

THEREFORE, NOW BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that the Body Worn Camera Policy be adopted.

BE IT FURTHER RESOLVED by the City Council of the City of White Bear Lake, Minnesota that the purchase of 29 Motorola DEMS body worn cameras for the first year cost of \$67,544.

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

Ayes:

Nays:

Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

## WHITE BEAR LAKE POLICE DEPARTMENT USE OF BODY WORN CAMERAS

### I. Purpose

The use of Body Worn Cameras (BWC) in law enforcement is relatively new. Their use by the White Bear Lake Police Department is intended to enhance the mission of the Department by documenting contacts between members of the Department and the public, while balancing demands of accountability, transparency, and privacy concerns. Digital evidence captured by the portable recording system is not all-inclusive. The system captures a less-broad and less-detailed image than the totality of the human senses. This policy reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must attend to their primary duties that include the safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

### II. Policy

It is the policy of the White Bear Lake Police Department to authorize and require the use of department-issued BWCs as set forth by Minnesota State Statute 626.8473, subd. 3.

### III. Scope

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of surreptitious recording devices in undercover operations or the use of squad-based (dash-cam) video recorders. The Chief or Chief's designee may supersede this policy by providing specific instructions for the use of BWC to individual officers, or providing specific instructions for the use of BWC pertaining to certain events or classes of events, including but not limited to political rallies and demonstrations. The Chief or Chief's designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities. Officers deemed to be *Brady-Giglio* impaired must wear and utilize their BWC in all public contacts while serving in their official capacity.

### IV. Definitions

The following phrases have special meanings as used in this policy:

- A. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- B. **Records Retention Schedule** refers to the General Records Retention Schedule for the City of White Bear Lake. See Appendix A.
- C. **Body Worn Cameras** are camera systems as defined in M.S. 13.825, subd.1(b)(1) as a device worn by police department personnel that is capable of video and audio recording of the officer's activities and interactions with others, or collecting digital multimedia evidence as part of an investigation.

- D. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- E. **Evidentiary value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer. Note: “[R]elated civil or administrative proceeding” refers, for example, to implied consent or forfeiture actions arising from an arrest or prosecution. Nothing in this policy obligates the department to collect or maintain BWC data solely for use in third-party tort litigation.
- F. **General Citizen Contact** means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- G. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- H. **Unintentionally recorded footage** is a video recording that results from an officer’s inadvertence or neglect in operating the officer’s BWC, provided that no portion of the resulting recording has evidentiary or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.
- I. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this department or while in uniform.
- J. **Brady-Giglio Impaired**, means that a police officer has engaged in certain qualifying conduct established by the Ramsey County Attorney that may necessitate disclosure as part of the prosecution or defense of a criminal defendant. A police officer deemed to have a Brady impairment shall have additional BWC use expectations as identified within this policy.
- K. **Critical Incident:** An incident involving any of the following situations occurring in the line of duty:
- The use of Deadly Force by or against a White Bear Lake Police Officer;



- Death or Great Bodily Harm to an Officer;
- Death or Great Bodily Harm to a person who is in the custody or control of an Officer;
- Any action by an Officer that causes or is intended to cause Death or Great Bodily Harm.

## **V. Use and Documentation**

- A. Officers must use only department-issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department. This provision prohibits officers from using personally owned BWCs, or those provided by private entities that may be contracting for services, while performing agency-authorized law enforcement activities. The use of non-agency equipment is inconsistent with the employing entity's obligation to administer resulting video footage as government data.
- B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall check their issued BWCs at the beginning of each shift and periodically throughout the shift to ensure the devices are functioning properly, and shall promptly report any malfunctions to a supervisor. If available, a replacement BWC should be used. Department personnel shall not attempt maintenance or repair any component of the BWC.
- C. Officers should wear their issued BWCs in accordance with White Bear Lake Police Department training.
- D. All department personnel issued a BWC are required to wear and use their BWC while working any uniformed assignment. This applies to overtime assignments and uniformed off-duty employment.
- E. Officers must document BWC use and nonuse as follows:
1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report.
  2. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- F. Officers wearing a BWC are not required to wear a mobile video recorder microphone.

## **VI. General Guidelines for Recording**

- A. Officers shall activate their BWCs when responding to all calls for service and during all law enforcement-related encounters and activities, including but not limited to pursuits, traffic

stops, temporary seizures of motorists and pedestrians, custodial arrests, use of force incidents, searches, suspect interviews and interrogations, and during any police/citizen contact that becomes adversarial. Officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (V)(2) (above). However, the BWC should be activated as soon as practical.

- B. This policy is not intended to describe every possible scenario in which the BWC should be operated. Department personnel should activate the BWC any time personnel believes it would be appropriate or valuable to record an incident. Officers have no affirmative duty to inform people that a BWC is being operated or that they are being recorded. [MSS 626A.02] Department personnel may elect to notify people they encounter that a BWC is in operation if they feel it would de-escalate an encounter. If asked, officers are required to provide a factual response about recording.
- C. Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. A supervisor or investigator having charge of a scene may likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. For purposes of creating a complete record of use, officers are strongly encouraged to state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- D. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.
- E. Notwithstanding any other provision in this policy, officers shall not use their BWC to record other department personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation. The Chief of Police may authorize the use of a BWC as a part of an administrative or internal criminal investigation.
- F. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the Chief or the Chief's designee.
- G. Department personnel assigned to plain clothes, investigative assignments, undercover assignments, or in a non-uniformed administrative role shall not be required to wear a BWC during their day-to-day duties unless working in uniformed patrol or otherwise required by this policy.
- H. Department personnel are prohibited from using recording devices to duplicate BWC video or audio in any form, including cell phones or video cameras.

- I. There shall be no audio or video recordings made in any court of law, unless authorized by a judge. [MN Court Rule 4, general rules of practice]

## VII. Special Guidelines for Recording

Officers may, in the exercise of sound discretion, determine:

- A. To use their BWC to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B. To use their BWC to take recorded statements from persons believed to be victims and witnesses of crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

Department personnel shall use their BWC and, if so equipped, use their squad-based audio/video systems to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

## VIII. Downloading and Labeling Data

- A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to the designated storage device location by the end of each shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- B. Officers shall label the BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. Officers should assign as many of the following labels as are applicable to each file:

<b>Classification</b>	<b>Definition</b>
AOA	Footage captured while assisting other agency that may contain evidence
Arrest	Custodial Arrest
Data Subject Request	BWC data requested to be held by subject of data
DWI	Arrest for DWI related offense
Flee	Footage of vehicle refusing to stop

Information	Community contact of interest: Supervisor notification & comments required
Interview / Investigate	Interview captured on BWC that does not result in any classification and/or Community contact of interest; ID poss. suspect; comments required
Test / Accidental Act	System check at beginning of duty tour / Accidental activation
Traffic Citation/Warn	Traffic Stop resulting in citation/warn
Use of Force	Not included in arrest incident

The retention period will provide department personnel an opportunity to retain the data according to guidelines as set forth in Minnesota Statutes and Ramsey County evidence retention guidelines. [General Records Retention Schedule for Minnesota Cities](#)

**NOTES:**

Unintentionally recorded footage fits within the Records Retention Schedule’s classification of “extraneous” recordings, and may accordingly be disposed of at the end of the officer’s daily shift.

**IX. Access to BWC Data**

- A. Access to BWC data shall be limited to the employee who captured the video, supervisory personnel and command level personnel, along with others deemed by the chief of police to have “need to know” or “need to access,” such as case investigators and Records Unit personnel. In addition, BWC video shall be available to approved personnel within the offices of the White Bear Lake City Attorney and Ramsey County Attorney. Prosecutors or their designee may authorize protected access to specific cases with BWC video.
- B. Access to BWC data whether accessed from city or personally owned and approved devices shall be managed in accordance with established city policy.
- C. Officers may access and view stored BWC video only when there is a clear and legitimate business need for doing so.
- D. Officers are prohibited from reviewing BWC footage following a police-citizen critical incident that results in great bodily harm or death to a citizen, prior to giving a voluntary statement to the investigating authority.
- E. Under rare circumstances, when a given fact-set calls for clarification of a critical incident, and with unanimous agreement of the Chief of Police, the investigating authority, and the

prosecuting authority, an involved officer may be authorized to review video prior to or during an investigatory interview of an incident.

- In the event that pre-statement BWC footage is authorized, the police chief shall make pre-statement review authorization and the reason for the authorization publicly available upon request.
- F. Officers may display portions of the BWC footage to witnesses for purposes of investigation as allowed by M.S. 13.82, subd 15. Officers should generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public.
- G. Department personnel shall document their reasons for accessing stored BWC data in the manner provided within the database at the time of each access. Department personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including, but not limited to, uploading BWC data recorded or maintained by this department onto public and social media websites.
- H. Officers shall refer members of the media or public seeking access to BWC data to the City Clerk and/or Chief of Police, who will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
- I. Requests made by data subjects to receive BWC footage shall be provided upon request and proper determination of identity as data subject. It shall be the policy of this department to freely provide BWC data to any individual, group, or entity representing the BWC data subject upon receipt of a notarized request from the data subject for the BWC footage.
- J. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

## **X. Department Use of Data**

- A. Supervisors are encouraged to periodically review BWC recordings made by officers to assist them in evaluating the work performance of their subordinates. Minor infractions (not criminal in nature) discovered during routine review of recorded data may be viewed as training opportunities and not as disciplinary action. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action will be taken.
- B. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- C. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainee's performance.

- D. Any department member who is deemed to be non-compliant with or in violation of this policy may be subject to disciplinary action, up to and including, termination and criminal prosecution [M.S. 13.09].
- E. The Department will conduct an annual audit to check for the occurrence of unauthorized access to BWC data. Randomized sampling may be utilized for this process, and statistical results of the audit shall be reported to the City Manager and annually reported to the City Council.

## **XI. Data Retention**

- A. Evidentiary data shall be retained for the period specified in the General Records Retention Schedule for the City of White Bear Lake. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable retention period.
- B. Unintentionally recorded footage shall not be retained and is to be purged by a command-level staff member with administrative rights to take such action. Any data manually deleted from the system, excluding demonstration data, shall be communicated to the chief of police, including the type of data and reason for deletion. A log shall be maintained of all administratively deleted video.

## **XII. Data Classification**

- A. Outside of active criminal investigations (where data is generally confidential or protected non-public) BWC data is private or non-public data. Private data is accessible to the data subject.
- B. In accordance with M.S. 13.825, subd. 2(2), BWC data is public under four [4] criteria:
  - 1. When a peace officers discharges a firearm in the course of duty (but not when discharged for training purposes or incapacitating animals).
  - 2. When use of force by a peace officer results in “substantial bodily harm” as defined in M.S. 609.02, subd.7a; “great bodily harm” as defined in M.S. 609.02, subd. 8; or death.
  - 3. When a data subject requests that the data be made accessible to the public, after redacting undercover officers and those who have not consented to the release.
  - 4. When BWC data documenting the basis for discipline is part of personnel data in final disposition of discipline.
- C. With the approval of the Chief of Police, this department may make otherwise non-public data public data if that data could aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest, consistent with M.S.13.82, subd. 15.



**City of White Bear Lake**  
City Manager's Office

# MEMORANDUM

**To:** Mayor and City Council

**From:** Ellen Richter, City Manager

**Date:** December 7, 2017

**Subject:** **Approval of the 2018 Position Classification and Compensation Plan**

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## BACKGROUND

In January, 1988, the City Council first adopted a Position Classification and Compensation Plan for the City. The objectives of that plan were stated in Section I of the document. Foremost among the objectives was the desire to "develop and maintain salary structures which will enable the City of White Bear Lake to attract and retain qualified and desirable personnel essential for effective operation now and in the future while demonstrating fiscal responsibility." Of equal importance, the plan was to provide for on-going compliance with the Minnesota Local Government Pay Equity Act of 1984 (Comparable Worth), encourage efficient and dedicated employee performance and maintain and equitable compensation relationship both internally and externally.

The plan ranks classified positions according to a "point-factor analysis" conducted for comparable worth compliance. This procedure recognizes the relative degree of difficulty, skill requirement, impact of decisions and other job-related factors for each position when compared to all other positions in the City. Section II of the Plan establishes a salary structure in the form of ranges and explains the composition of the salary structures and its method of administration. Pursuant to state law and generally accepted compensation practices, the salary structure within the Plan allows for an equitable compensation relationship between positions of diverse duties, skills and responsibilities. The Plan also incorporates a reasonable opportunity to encourage and recognize individual initiative and high quality performance. Subsection 8 of that section provides that the overall wage and salary structure will be reviewed annually and adjustments made as justified ensuring competitive salary levels are maintained. This plan provides the framework for salary administration of the City. It is used directly in determining the salary of employees not governed by labor contracts and serves as a guide in negotiating compensation with employee unions and monitoring the City's compliance with comparable worth requirements.

### Recent Compliance Test and Range Compression:

Every three years the City is tested by the State of Minnesota to determine whether it complies with the Pay Equity Act. The City was tested in January 2015 and determined to be in compliance with the law. Staff will submit data required for the 2018 evaluation next month. Although adherence to the City's classification and compensation plan allows the City to remain in compliance with gender equity laws, the pay structure has in the past experienced range

compression when compared to market conditions for higher level technical and professional employees. For instance, to meet market demand, the City Council previously authorized compensation for the Director of Public Works and Finance Director to exceed the range maximum, and more recently the positions of two other department heads were near the maximum of their range under the proposed plan, but well within the range for the comparable external market. Three years ago the Council authorized compensation table adjustments to somewhat address this problem.

The proposed 2018 compensation table accounts for changes in the Community Development Department with the hire of a Housing and Economic Development Coordinator and reorganization of code enforcement duties, as well as the assignment of additional Human Resource duties to the City's payroll clerk. Lastly, the License Clerk position was elevated to that of a departmental administrative assistant position in recognition of the increased complexity of the position, as it has grown over the past several years.

#### Economic and Market Impact:

While the Plan calls for annual review, financial changes are intended only when supported by the market. The compensation table in the Plan was last changed effective January 1, 2017 and it was used as a guide for labor contracts and non-bargaining pay adjustments over the past year.

Staff proposes that the Plan and its compensation table be reviewed with changes considered effective January 1, 2018. In performing such a review, the City takes several factors into consideration including an overall increase in consumer prices, employee recruitment and retention, the adjustment of other private and public employers competing within the City's labor market, and the City's financial resources.

Adjustments to the City's pay schedule effective January 1, 2017 allowed the City to remain reasonably competitive for most positions within its labor market. The City increased its compensation table by an average of 2.75%. It was anticipated that such an increase would be comparable to competing employers and fiscal constraints of the City. Reports of salary adjustments in the City's labor market (both public and private) indicate that this pay structure adjustment generally kept the City competitive through that year.

As in past years, a group of metropolitan cities has been surveyed to gather wage information that could be used as a factor to help determine what adjustments, if any, the City would make in its 2017 pay schedule. Cities of comparable size in the north and east metro area are reporting the following overall increases for 2018 wages: New Brighton 3%, Hastings 3%, Shoreview 3%, Fridley 3%, Richfield 3%, New Hope 2.5%, Forest Lake 2%. When private sector data is available, it is also factored in. Human Resource representatives from two major corporations in the St. Paul area representing the banking and manufacturing industries are anticipating 2.5% to 3% wage increases.

Attempts are made to correlate benchmark positions that have both public and private sector counterparts to determine if the City's salary/wage structure is in line with this broader market. A salary and wage survey from the Minnesota Department of Energy and Economic Development is used for this purpose and the results for the benchmark positions the City has historically tracked are shown below. These data provide a basis to determine that the City's wage structure is reasonably comparable to the labor markets. This comparison illustrates that the City is reasonably within the metropolitan area labor market for these sample positions.



<b>Department of Employment and Economic Development data updated First Quarter, 2017</b>			
<b>Occupation</b>	<b>SOC code*</b>	<b>Metro Median</b>	<b>City Pay in 2017</b>
License Clerk	43-4031	21.93	19.84 – 26.84
Fire Inspectors	33-2021	31.91	26.59 – 35.97
Highway Maintenance	47-4051	23.94	21.72 – 26.17
Secretaries, general	43-6014	22.96	19.84 – 26.84
Civil Engineering Tech	17-3022	29.64	23.89 – 32.32
Police Officer	33-3051	32.56	27.91 - 34.89

*\* Standard Occupational Codes (SOC) is a system for classifying occupations used by the U.S. Department of Labor and Minnesota Department of Employment and Economic Development, (DEED).*

Proposed Changes:

Data discussed above indicate the City has reasonably kept pace with its labor market through 2017. Based on a recent update of the survey information discussed above and the City's prevailing wage objective, it is recommended that the City Council authorize an adjustment of 2.75% to the City's compensation table which reflects benchmarks as well as market changes. Copies of the existing and proposed tables are included in the attached document.

Annual review of the plan also requires consideration of the salary adjustment guide chart found on page 7 of the plan. This chart provides the guideline for determining the exact amount of a salary adjustment based upon the performance of the employee and the current level of compensation. External labor market pressure is not factored into this chart. The current chart provides for adjustments ranging from 1% for an employee who is compensated high when compared to the salary to the table but performing at a poor level, to an amount of 3.5% for an employee who is performing very well but compensated at a low level in comparison to the salary table. That chart also recommends that an employee who is considered to be fully qualified and meeting the performance requirements of the position and currently compensated in the medium range of the table be increased by 2.75%. The recommended 2018 Salary Adjustment Guide Chart is attached.

In recent years, the City Council has discussed the need to make market adjustments specific to certain technical or professional positions in order to avoid loss of key employees due to tight market conditions. The Council has authorized the City Manager to make these adjustments as necessary so long as the salary fell within the assigned range. The City Council, based on market conditions and assignment of duties has authorized the positions of Finance Director and Public Works Director to exceed the range. In all other cases, compensation beyond that range would require City Council approval.

**SUMMARY**

The City continues to be guided by its stated principles for fair and competitive compensation. It is acknowledged that the overall cost of living increase has been relatively flat; however, increasing demand for employees due to a recovering economy has placed upward pressure on wages. A 2.75% adjustment to the City's compensation table reflects these market changes and is consistent with the City's stated compensation policy; such changes are provided for in the City's annual budget.

**RECOMMENDED COUNCIL ACTION**

It is recommended that the City Council adopt the attached resolution establishing the City's compensation table for 2018.

**ATTACHMENTS**

Resolution

Position Classification and Compensation Plan

**RESOLUTION NO.**

**RESOLUTION ESTABLISHING 2018 COMPENSATION TABLE**

WHEREAS, in January 1988, the City Council adopted a position classification plan which comprehensibly analyzed the assigned tasks of each position giving value to the complexity, importance and unfavorability of each position and establishing an equitable compensation relationship between all positions of the City based on the assigned responsibility level; and

WHEREAS, Section II of said plan establishes a salary table providing for periodic reviews; and

WHEREAS, after giving consideration of economic factors relating to compensation and desiring to provide fair and reasonable compensation for the employees of the City, the City Council desires to increase the current table for application during the calendar year 2018.

THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota, that the salary table for the City's Position Classification and Compensation Plan as provided in the attached exhibit is hereby adopted and the City Manager is directed to make the appropriate adjustments to the Plan.

BE IT FURTHER RESOLVED, that in cases where exceptional labor market conditions exist and are documented for technical and professional employees, the City Manager is authorized to set salaries based on market conditions and performance so long as the employee's salary falls within the approved range. Specific City Council action is required to set salary beyond the established range.

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

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

**CITY OF WHITE BEAR LAKE**

**POSITION CLASSIFICATION**

**AND**

**COMPENSATION PLAN**

City Manager's Office  
January, 1988

Approved by the City Council of the City of White Bear Lake  
March 15, 1988

Last revision: December 5, 2017\*

CITY OF WHITE BEAR LAKE

SALARY POLICY GUIDELINES

SECTION I. OBJECTIVES

- A. To develop and maintain salary structures which will enable the City of White Bear Lake to attract and retain qualified and desirable personnel essential for effective operations now and in the future while demonstrating fiscal responsibility.
- B. To provide incentive through a sound program of salary administration which will encourage development of the potential ability of each employee.
  - To properly compensate employees who meet job performance expectations and reward employees who perform beyond expectations.
- C. To have a program of salary administration with flexibilities sufficient to meet current and changing economic and competitive conditions.
- D. To maintain salary relationships among positions which are internally consistent in recognizing the important relative differences in position requirements.
  - To recognize and re-evaluate positions where responsibilities have changed noticeably.
- E. To establish and maintain salary levels which will compare favorably with salaries paid in government and businesses for positions of comparable levels of responsibility, educational background, and experience.
- F. To comply with the Minnesota Local Government Pay Equity Act of 1984.

## SALARY POLICY GUIDELINES

### SECTION II. SALARY STRUCTURE AND PRINCIPLES OF APPLICATION

#### A. Salary Structures

The structure shall consist of salary ranges which progress in an orderly alignment from the lowest to the highest responsibility level positions.

#### B. Salary Ranges

Minimum		Maximum
Zone 1	Zone 2	Zone 3

1. Minimum Salary: The salary normally paid an individual whose performance meets the minimum requirements of the position.
  - Salary payments below the minimum salary rate may be made where the new hire or promoted person lacks the experience and/or background required for the position. Such a person will be considered as being in a status of "qualifying" for a particular position. (See Section IV for treatment of employees who meet all job requirements but are compensated below minimum.)
2. Zone 1: This salary zone provides fair and equitable compensation for those employees who are new in the position, are in a development stage, or have a definite area of weakness in performance.
3. Zone 2: This salary zone provides opportunity to recognize those employees who consistently perform in a manner which "meets or exceeds performance requirements" of the position. This zone establishes the maximum salary for positions in which performance is not a major factor in determining compensation.
4. Zone 3: This salary zone is reserved for those employees who perform in a consistently "outstanding" manner, all the areas of accountability and responsibilities of their position.
5. Maximum Salary: The highest salary justified for a position within a responsibility level.
6. The level of demonstrated performance in relation to overall delegated responsibilities of the position is the principal determinant of where a position is placed within a range.
7. Midpoint of Zone 2 is the middle of the range for each responsibility level. Zone 2 extends 7.5 percent above and below the midpoint; the entire range extends 15 percent above and below the midpoint for each responsibility level.
8. The overall structure will be reviewed annually and adjustments made, as justified, to ensure competitive salary levels are maintained.

## SALARY POLICY GUIDELINES

### SECTION III. ADMINISTRATION PROCEDURES AND POLICIES

#### A. Responsibilities for Administration

1. The City Manager shall be accountable to the City Council for overall administration of the salary program, and will report on such administration annually or more often, as requested.
2. The overall salary structure and supporting administration policies will be reviewed annually by the City Manager with appropriate reporting to the City Council relative to the status of the program.

Continuing responsibilities will include:

- a. Maintenance of position job descriptions. Update as necessary.
- b. Maintenance of current records providing salaries, salary revisions, and other pertinent data.
- c. Making periodic analysis of the salary program to determine internal equity and external competitiveness.

#### B. Performance Reviews and Salary Reviews for Employees not Covered by Collective Bargaining Agreement.

1. The performance review program provides a planned and orderly means of evaluating individual performance in a position in relation to the areas of accountability as defined in each job description. Performance reviews will be scheduled independent of salary reviews. If possible, they should be scheduled six months prior to the employee's annual salary review date and should be no later than three months prior to the salary review date.
2. Salary reviews will be made by supervisory personnel for the purpose of determining what, if any, salary adjustment is to be recommended. The results of the performance review and the related conference conducted with each position incumbent will be an important consideration in this decision. If the employee has improved markedly since the performance review, the improvement shall be taken into consideration as a positive factor when considering the salary increase.
3. In discussions of salary with personnel, supervisors are encouraged to generally speak in terms of the salary range for Zone 2 for each position without emphasis of Zone 3 established for the position. If a supervisor is meeting with an employee who has been given evidence of becoming an outstanding performer, it may be explained that continued outstanding work performance will be recognized as justification for payment of a salary above Zone 2.
4. The term "performance review" as used in this policy statement means a "person to person" discussion of on-job performance.

**C. Performance Reviews and Wage/Salary Determination for Positions Included in Collective Bargaining Agreements.**

1. Job related performance of employees in positions included in collective bargaining agreements shall be evaluated not less than once annually according to the procedure set forth in appendix A of this policy.
2. To the extent provided in the appropriate collective bargaining agreement or in a manner not inconsistent with a contract the results of the performance evaluation shall be applied to determine compensation.

**SECTION IV. SALARY ADJUSTMENTS FOR IMPROVED PERFORMANCE**

**A. Frequency of Salary Reviews**

1. All personnel will have their salaries reviewed at least once each year and their current salary shall be maintained until changes are approved.
2. Salary adjustments, however, shall be made only when earned, based on identifiable improvement in performance, supported by the recommendation of the immediate supervisor of the department in which the position is located.
3. It is important to emphasize that the recommended increase not be communicated to the employee until it has received final approval.
4. The following guidelines will be used in determining when an employee is eligible for salary review:
  - a. An employee receiving a salary below the minimum rate for the responsibility level in which the position is classified will typically have a salary review at six month intervals until performance justifies a salary within Zone 1.
  - b. An employee receiving a salary within Zone 1 established for the position may normally expect to have a salary review at 12-month intervals. In those cases where outstanding performance is demonstrated, a review may be requested by the appropriate department head and approved by the City Manager before the end of the 12-month interval. A salary review will not be made before six months have elapsed from the date of the last salary review.
  - c. An employee receiving a salary within Zone 2 or higher will have a salary review annually.
  - d. If, at the time of a scheduled salary review, the department head determines that a salary adjustment has not been earned based on performance, the salary review may be rescheduled for a later date when performance will be re-evaluated. Subsequent salary reviews will then be scheduled six or 12 months after the revised date, depending upon the incumbent's salary relative to the salary range assigned to the particular responsibility level.



## **B. Effective Date of Salary Adjustment**

1. The determination as to the effective date of a salary increase should be related as closely as possible to the time when a meaningful improvement in performance occurred or when mutually agreed upon achievement goals have been attained.
2. To achieve the maximum incentive values from salary adjustments, the intent of this policy is to place less emphasis on the passing of time (months or years). Of greater importance, therefore, is whether an employee has earned a salary increase as a result of performance not how much time has elapsed since the last adjustment. However, as stated in this policy, each salary will be reviewed annually.
3. Salary adjustments will not be approved and placed into effect unless a performance review interview has been conducted in accordance with the established performance review procedures.

## **C. Amount of Salary Adjustments**

1. After the level of demonstrated performance has been reviewed, the supervisor should determine what, if any, salary adjustment is to be made.
2. The chart on the last page of this section provides guidelines for the amount of individual salaries. This chart will be reviewed annually and will take into consideration salary increases provided as a result of changing economic conditions.

## **D. Procedure for Recommending Salary Adjustments**

1. The responsibility for initiating a salary adjustment recommendation is delegated to the immediate supervisor. All recommendations must be approved by the department head before referral to the City Manager for review and approval.
2. Recommendations made within the guidelines of this policy and the salary structure adopted by the City Council shall be placed in effect upon approval of the City Manager.
3. The City Council, on recommendation of the City Manager, will review and approve or reject any salary adjustment which exceeds the established guidelines. Compensation beyond the maximum may be considered only when required by extraordinary market conditions.

## **E. Salary Adjustments Resulting from Economic and Competitive Compensation Patterns.**

1. It is the established policy of the City of White Bear Lake to review the salary structure annually in relation to the changes which may be occurring in the economy and/or competitive compensation practices. The salary structure referred to herein was developed based on data available to the City concerning salaries for positions of comparable responsibilities.
2. A change, if any, in the salary structures will be made following the annual review of the City's compensation and on the recommendation of the City Manager to the City Council.

3. Adjustments to salary ranges will be taken into consideration when increases for improved performance are recommended.
4. Employees whose performance has stabilized and who are receiving fair compensation for services rendered may receive consideration for salary adjustments in line with economic changes when their annual salary review is scheduled.

**F. Salary Adjustments Resulting from Promotions and "step" adjustments.**

The objective of this policy is to provide a promoted employee with a salary adjustment sufficient to bring compensation up to a minimum of the new salary range. Such an adjustment would normally be made at the time of promotion, or within a reasonable period if a question as to qualifications for the position is involved.

A reasonable and fair promotion adjustment should be made in connection with each promotion. The adjustment, however, should normally not result in a salary which would exceed Zone 1 established for the position.

Employees in a position which are rated as fully satisfying the requirements of the position but compensated at a rate below mid-range or well below that of comparable positions may have their salary reviewed on a six month basis as a "step" adjustment in addition to annual adjustments.

## Salary Policy Guidelines

### Salary Adjustment Guide Chart 2018

<b>Summary Evaluation of Overall Performance</b>	<b>Salary Reviews at 6-month Interval</b>	<b>Salary Reviews at 12-month Intervals</b>			
		<b>Zone 1</b>	<b>Zone 2</b>	<b>Zone 3</b>	<b>Beyond Zone 3</b>
<b>V</b> New in position and/or has serious weaknesses or Performance stabilized below level desired	1.50%	1.75%	1.50%	1.25%	1.0%
<b>IV</b> Making satisfactory progress	2.0%	2.25%	2.0%	1.75%	1.50%
<b>III</b> Meets all performance requirements Considered to be a fully qualified performer for salary zone to which assigned	2.75%	3.00%	2.75%	2.5%	2.25%
<b>II</b> Exceeds overall position performance requirements	3.0%	3.25%	3.0%	2.75%	2.50%
<b>I</b> Consistently performs at a level well beyond that expected	3.25%	3.50%	3.25%	3.00%	2.75%

## SALARY POLICY GUIDELINES

### SECTION V. PAY EQUITY

#### A. Statement of Intent.

It is the intent of the City of White Bear Lake to assure that:

1. Compensation for job positions bear a reasonable relationship to others of comparable work value within the City's employment;
2. Compensation for job positions bear a reasonable relationship to similar positions of other public and private employees; and
3. Compensation for job positions bear a reasonable relationship with position of greater or lesser work value within the City's employment.
4. Compensation shall be considered to bear a reasonable relationship between positions if:
  - a) Compensation for positions which require comparable skill, effort, responsibility, working conditions and other relevant work related criteria is comparable; and
  - b) The compensation for positions which require differing skill, effort, responsibility, working conditions and other relevant work related criteria is proportional to the skill, effort, responsibility, working conditions and other relevant work related criteria required.

#### B. Assignment of Responsibility Level.

The City has analyzed and evaluated the required skill, effort, responsibility, working conditions and other relevant work related criteria of each position of the City using the HR FOCUS methodology developed by the Control Data Corporation. The primary product of this evaluation is a Time Spent Profile (TSP) for each position which will serve as the basis of the job description for each position. The secondary product of this evaluation is a point value which is determined by multiplying the time spent data of the TSP by weighted task values considering complexity, importance/responsibility and unfavorability. Each position of the City is placed in one of the thirty-three responsibility levels based on its point value as illustrated in Tables A and B following this section.

TSP's will be reviewed periodically to determine whether they remain accurate.

#### C. Determination of Equitable Compensation Relationship.

1. Positions for which top compensation falls within Zone 2 of its responsibility level and for which entry level compensation is at or above the minimum for its responsibility level shall be deemed to be within an equitable relationship with other positions in the City's employment if the employee meets performance requirements.
2. Positions for which compensation falls below the minimum for its responsibility level, or top compensation falls below Zone 2, shall be deemed to not have an equitable relationship with other positions of the City's employment if the employee meets performance requirements.

## SALARY POLICY GUIDELINES

3. Positions for which compensation exceeds the maximum for its responsibility level, or top compensation exceeds Zone 2, and job performance or merit are not a significant factor in determining compensation nor does an extraordinary market condition exist, shall be deemed to not have an equitable relationship with other positions of the City's employment.

### D. Establishment of Equitable Compensation Relationship.

1. Positions for which an equitable compensation relationship does not exist due to the fact that it is compensated below the minimum for its responsibility level or its top compensation is below Zone 2, shall:
  - a) Be eligible for six month salary adjustments guided by the chart in Section IV which will result in annual adjustments of two times the average adjustments for other employees of the city at similar performance levels if the position is not included in a collective bargaining agreement; or
  - b) Be the topic of negotiation for compensation under a collective bargaining agreement whereby said position shall be considered for a compensative adjustment approximately two times that of the average adjustment provided by the City for that year.
2. Positions for which an equitable compensation relationship does not exist due to the fact that it is compensated beyond the maximum for its responsibility level or its top compensation exceeds Zone 2 and performance or merit are not significant factors in determining compensation shall:
  - a) Be granted an annual salary or wage adjustment of not more than one-half the average amount granted for other position of the City if the position is not included in a collective bargaining agreement; or
  - b) Be the topic of negotiation for compensation under a collective bargaining agreement whereby said position shall be considered for a compensation adjustment approximately one-half the amount of average adjustments provided by the City for that year.

### E. Schedule for Implementation of Pay Equity Plan.

Beginning January 1, 1988, this plan and policy shall serve as the basis of establishing compensation for non-bargaining positions of the City and shall serve as the basis for determining the City's position in collective bargaining.

It is the City's contention that this plan will provide an equitable compensation relationship among positions of the City within four years.

## SALARY POLICY GUIDELINES

### RESPONSIBILITY LEVEL ASSIGNMENT

Table A

<u>Responsibility Level</u>	<u>Points</u>
1	36 - 38
2	39 - 41
3	42 - 44
4	45 - 47
5	48 - 50
6	51 - 53
7	54 - 56
8	57 - 59
9	60 - 62
10	63 - 65
11	66 - 68
12	69 - 71
13	72 - 74
14	75 - 77
15	78 - 80
16	81 - 83
17	84 - 86
18	87 - 89
19	90 - 92
20	93 - 95
21	96 - 98
22	99 - 101
23	102 - 104
24	105 - 107
25	108 - 110
26	111 - 113
27	114 - 116
28	117 - 119
29	120 - 122
30	123 - 125
31	126 - 128
32	129 - 131
33	132 - 134

SALARY POLICY GUIDELINES

WHITE BEAR LAKE  
JOINT COMPENSATION STUDY  
JOB HIERARCHY

Table B  
*adopted 12/12/17*

	<u>Pts.*</u>	<u>Level</u>		<u>Pts.*</u>	<u>Level</u>	
City Manager	132	33	Utility Clerk	61	9	
Director of Public Works	123	30	Building Permit Clerk	60	9	
Police Chief	114	27	Planning Secretary	60	9	
Finance Director	114	27	Account Payable Clerk	60	9	
Fire Chief	109	25	Engineering Secretary	60	9	
Community Development Director	108	25	Police Records Tech	60	9	
Assistant City Manager*	100	22	License & Passport Clerk	60	9	
			EMT*	59	9	
Public Works Supt.	99	22	Fire Secretary	59	8	
Police Lieutenant/Captain	99	22	Public Works Office Clerk	59	8	
Police Sergeant	91	19	Cashier/Receptionist (SC)	57	8	
Assistant City Engineer	90	19	Recept./Clerk** (City Hall)	54	8	
Assistant Finance Director	89	18				
Building Official	89	18	Maintenance I	52	6	
Arena Manager	83	16	Intern I	47	4	
Patrol Officer	81	16	Build/Grounds Maintenance	47	4	
			Public Works Aid II	39	2	
Information Technology Coordinator	81	16	General Custodian	37	1	
Planning and Zoning Coordinator	81	16	Public Works Aid	37	1	
Housing and Econ Development Coord	81	16	Skate Guard/Maintenance	36	1	15
Senior Engineer Technician	79	15				
Quality Assurance Technician II	78	15				
Fire Inspector	77	14				
Building Inspector	77	14				
License Bureau Supervisor	76	14				
Rental Housing Inspector	73	13				
Maintenance III (Sewer)	71	12				
Maintenance III (Water)	69	12				
Engineering Tech III	69	12				
Maintenance III (Streets/Parks)	68	11				
Administrative Assistant/City Clerk*	67	11				
Environmental Specialist	67	11				
Human Resource Specialist	67	11				
Quality Assurance Technician	66	11				
Paramedic*	65	10				
Engineering Tech II	65	10				
Code Enforcement I	64	10				
Maintenance II Public Wks	63	10				
Maintenance II Sports Ctr	62	9				

NOTE: For conversion between original (old) FOCUS value and new value apply the following formula:

To compute a new job value when an old job value is known:

1. Multiply the old job value by 1.184
2. Subtract 10.23 from the value obtained in step #1. The result is an estimate of the new job value.

To compute an old job value when a new job value is known:

1. Add 10.23 to the new job value.
2. Divide the value obtained in step #1 by 1.184. The result is an estimate of the old job value.

\* ranking currently under review





## APPENDIX A

### PERFORMANCE REVIEW PROGRAM

A performance review determines how well an employee is performing in the assigned areas of responsibility for his/her position and should encourage improved performance and personal development.

#### I. OBJECTIVE

Regular performance reviews are essential if the following basic objective is to be achieved:

- To stimulate improved performance on the part of each employee in municipal government to achieve the highest possible level of excellence in service for the citizens.

The success of the total program will depend upon each supervisor recognizing a continuing responsibility to motivate and guide assigned employees. In practice, discussions of performance should occur:

- During the formal performance review, which, in turn, will lay the foundation for day-to-day relationships which a good supervisor develops with each associate.

The performance review is used to evaluate total performance in a position for a specified period of time. The discussion should be scheduled in advance so the incumbents overall performance is fully considered and the review session is prepared for.

#### II. PURPOSE OF PERFORMANCE DISCUSSIONS

A discussion of job performance provides a positive demonstration that employees work assignment is of significant importance to warrant individual attention. The employee also learns:

- The importance of the position within the framework of the City.
- What the immediate supervisor expects in the way of performance.
- How the supervisor evaluates the employees performance.
- It answers the persistent question, "How am I doing?"
- Where and how improved performance can be achieved.

The supervisor learns:

- How the employee views the responsibilities assigned to the position.

- Where the employee feels performance improvement may be achieved.
- What ideas and suggestions each employee may have that will benefit the City and/or the functioning of the department.

The success of the discussion will depend upon:

- The climate in which the discussion is held--sincerity and frankness are more important than technique.
- The planned and objective review of the areas of accountability assigned to each employee as identified in the job description--this provides the logical foundation for the discussion to follow.
- The manner in which the supervisor guides the performance review discussion.
- The supervisor's ability to motivate employees to improve their performance.

### III. CONTENT OF THE PERFORMANCE REVIEW

It is not the employee's personality which is being reviewed, rather it is the performance as related to the stated objectives of the position and the important areas of accountability as defined in the job description for that employee's position.

The concept of the review procedure will result in a performance review which will be constructive and will lay the groundwork for a mutually beneficial discussion between the subordinate and the supervisor.

The best source of information is personal observation. Some supervisors may, however, find it necessary to supplement their observations with information gained from other City administrative personnel. This would be true when the employee being evaluated performs services for, or comes in frequent contact with, personnel from more than one area of City operations. Because examples of good and poor performance are easily forgotten if not systematically recorded, brief notes should be kept. These will prove very useful when preparing the review report and when in conference with the person being reviewed. Reviews based on limited information or hearsay are likely to be inaccurate and lead to unfair judgement.

Specific notes are most helpful, and make the review easier and more objective. While an impression may be helpful, the specific incidents which form the opinion are more meaningful. While notes are helpful, it is not intended that all facts can or should be recorded. Only those which are significant and add meaning for planning action to improve the performance or compliment past performance should be used. Isolated incidents or unusual circumstances must not unduly influence judgement.

The review period must be clearly designated, and review based on performance only during that period. Performance previous to that period, and predictions of future performance, should not be allowed to influence the review.

## INSTRUCTIONS FOR COMPLETING PERFORMANCE EVALUATION REPORT FORMS

The purpose of this section is to provide specific instructions regarding the procedure to be followed to complete a performance review report form (a copy of such a form is included at the end of this section).

### A. MAJOR AREAS OF ACCOUNTABILITY

The job descriptions have numbers assigned to each major area of accountability. In evaluating performance, relate the number on the job description to the same number on the performance review form. The Judgment as to the level of performance rendered for each "area of accountability" should be noted by a check mark at the appropriate place on the graphic scale.

Where the check mark on the graphic scale indicates "deficient" or "outstanding" performance, explanatory comments should be given. Where the performance is identified as "meets requirements," it is not necessary to make any comments, but it will be helpful to do so.

Whenever there is a lack of specific information concerning performance in a particular area, there may be a tendency to indicate "average" performance. It is recommended that such implied judgment be omitted rather than indicate a conclusion not based on actual performance.

The completed review form will indicate individual strengths as well as areas where improvement can be made. Every effort should be made to emphasize these differences on the graphic scales through proper use of both high and low check marks. This critical evaluation is an important reason for having the review.

### B. PERSONAL CHARACTERISTICS TO BE CONSIDERED

In the space provided, the supervisor may note any important personal attributes and characteristics possessed by the person being reviewed which to a "marked degree," either add to or detract from the person's overall performance. The following are illustrations of attributes or characteristics which may exist and could be considerable:

Positive examples -- "add to"

- This person's natural enthusiasm, pleasant and cooperative manner is stimulating to his associates.

Negative examples -- "detract from"

- Creates impression of being reluctant to cooperate with other members of the department.
- Tends to discourage new ideas because of a negative attitude.

### **C. OTHER FACTORS TO BE CONSIDERED**

Recognize and comment upon any condition or other influence which, to a noticeable degree, affects performance.

Specific examples indicating how performance was affected will help to make the valuation more meaningful. An employee's newness on a job or perhaps some particularly adverse working conditions are examples of other factors to be considered.

### **D. SIGNIFICANT CHANGES IN PERFORMANCE TO BE NOTED**

To achieve the purpose of this review program, it is essential that recognition be given to any significant change in performance which has occurred since the previous review--favorable or unfavorable.

Specific references and/or illustrations should be given here rather than vague generalizations. Therefore, identify progress made toward "achievement goals" that have been agreed on.

### **E. IDENTIFY KEY AREAS WHERE PERFORMANCE CAN BE IMPROVED**

The supervisor should clearly identify and note the specific phases of performance where improvement can be achieved. The next logical step is to reach agreement and develop a plan of action for achieving the desired level of performance. The exact plan agreed upon need not be recorded on the performance review form, but a written record of the plan should be prepared and retained. A series of goals and objectives may be suitable in many cases.

### **F. SUGGESTIONS FOR EMPLOYEE ACTION TO IMPROVE**

Comment should be made on matters discussed with the employee which would contribute to improved performance. Such matters might include specific night school or correspondence courses, outside reading and study, etc.

### **G. DIFFERENCES OF OPINION**

It is not unusual for differences of opinion to appear during a performance review discussion. In fact, they may be anticipated in the beginning of the program. One of the objectives of the review program is to discover disagreements or areas of misunderstanding so they can be "brought out in the open" and discussed.

The opportunity to discuss (not argue) existing differences in thinking usually encourages a stronger relationship. Lack of discussion may be an indication of indifference or fear of the consequence of disagreeing with the supervisor.

## SUMMARY EVALUATION OF OVERALL PERFORMANCE

The statement in the job description which identifies the "primary objective of the position" should be used as a guide in reaching a conclusion as to the overall level of performance being rendered. Care should be taken to give proper consideration to the actual "on job" performance of the person reviewed in relation to expected level of performance.

The check mark should be checked in the appropriate space on the graphic scale at the point which best represents the level of actual performance being rendered.



City of White Bear Lake  
City Manager's Office

## MEMORANDUM

**To:** Mayor and City Councilmembers

**From:** Ellen Richter, City Manager

**Date:** December 7, 2017

**Subject:** **Sports Center Renovation Project, Bids and Financial Agreement**

---

### SUMMARY

Attached is a summary of bids received for the Sports Center Renovation project, which came in below estimates. As described in the attached memorandum, staff is recommending the Council accept the bids and award the contracts as proposed; the project is scheduled to commence on April 2, 2018.

Also attached is a memorandum and draft agreement from the City Attorney, Andy Pratt, outlining the terms of the financial agreement with the White Bear Lake Hockey Association. Staff has reviewed three years of recent financial statements from the White Bear Lake Hockey Association's gambling fund, which were audited by the ABDO, EICK & MEYERS, LLP. The audited statements demonstrate the association's capacity to finance the annual debt service estimated to be \$183,000 over a 20-year period. However, the Council is reminded that in the event the association is no longer able to meet its obligations, the City will be responsible for assuming its debt service.

The association remains committed to its fundraising efforts with the intent to reduce its long term debt obligation through significant donations.

### ATTACHMENTS

Resolution approving Bids and Awarding Contract  
Resolution approving the Financial Agreement  
Memo from Engineering Director, Mark Burch  
Memo from City Attorney, Andy Pratt  
Contract  
Budget Exhibit

**RESOLUTION NO.:**

**RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACTS  
FOR THE WHITE BEAR LAKE SPORTS CENTER RENOVATION  
CITY PROJECT #18-09**

WHEREAS, the City of White Bear Lake desires to perform renovations to the White Bear Lake Sports Center to replace aging refrigeration, mechanical, electrical, plumbing and building envelope systems; and

WHEREAS, the City has engaged the professional services of Kraus-Anderson Construction Co. and JLG Architects to design and prepare plans, specifications and bid documents for the proposed Sports Center Renovation Project; and

WHEREAS, the project was advertised for bids and bids were received on November 29, 2017 for the various components of the work; and

WHEREAS, the bids have been reviewed and the following contracts are recommended for approval and award by the City Council:

<b>Work Scope</b>	<b>Contractor, City, State</b>	<b>Bid Amount</b>
WS 03-A	Concrete S&S Concrete & Masonry LLP dba Northland Concrete & Masonry, LLC Burnsville, MN	Base Bid: \$154,970.00
WS 03-B	Structural Precast Plank Molin Concrete Products Company Lino Lakes, MN	Labor: Material: Total Without Sales Tax: \$8,762.00 <u>\$19,153.00</u> \$27,915.00
WS 06-A	Carpentry Ebert Inc dba Ebert Construction Corcoran, MN	Base Bid: \$344,000.00
WS 07-A	Roofing Palmer West Construction Company, Inc. Rogers, MN	Base Bid: \$33,400.00
WS 07-B	Metal Panels Minnkota Architectural Products Centerville, MN	Base Bid: \$824,428.00
WS 08-A	Aluminum Translucent Brin Glass Company dba Brin Contract Glazing Minneapolis, MN	Labor: Material: Total Without Sales Tax: \$34,300.00 <u>\$127,700.00</u> \$162,000.00
WS 09-A	Tile Grazzini Brothers & Company Eagan, MN	Labor: Material: Total Without Sales Tax: \$19,250.00 <u>\$9,960.00</u> \$29,210.00

WS 09-B	Athletic Flooring	All-American Arena Products Alden, MN	Labor: Material: Total Without Sales Tax:	\$9,050.00 <u>\$29,500.00</u> \$38,550.00
WS 09-C	Painting	Steinbrecher Painting Company Princeton, MN	Base Bid:	\$20,000.00
WS 12-A	Telescoping Bleachers	Seating and Athletic Facility Enterprises, LLC Ellendale, MN	Labor: Material: Total Without Sales Tax:	\$12,710.00 <u>\$103,203.00</u> \$115,913.00
WS 13-A	Rink	Rink-Tec International Inc. Little Canada, MN	Base Bid: Alternate #2: Total:	\$1,239,067.00 <u>\$20,730.00</u> \$1,259,797.00
WS 13-B	Dasher Boards	Becker Arena Products, Inc. Shakopee, MN	Labor: Material: Alternate #3 Material: Alternate #4 Material:  Total:	\$33,682.00 \$5,415.03 \$9,351.28 <u>\$13,510.43</u>  \$61,958.74
WS 21-A	Fire Protection	Viking Automatic Sprinkler Company St. Paul, MN	*Recommend Reject	
WS 23-A	Mechanical	St. Cloud Refrigeration St. Cloud, MN	Base Bid:	\$508,000.00
WS 26-A	Electrical	AE2S Construction, LLC dba EIM Fridley, MN	Base Bid:	\$369,883.00
WS 31-A	Earthwork	Minnesota Utilities & Excavating Forest Lake, MN	Base Bid	\$165,985.00

WHEREAS, the bid for the Fire Suppression System portion of the work is rejected due to a misinterpretation of the scope of the work and that this division of the work is to be re-bid; and

WHEREAS, the preliminary estimated cost of the Sports Center Renovations Project was \$5.5 million dollars and the revised estimated cost of the project is \$5,146,794 based upon the current bid amounts.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that:

1. The City Council hereby receives the bids submitted at the November 29, 2017 letting for the White Bear Lake Sports Center Renovation Project
2. Contracts are hereby approved for the following divisions of work:



**Work Scope****Contractor, City, State****Bid Amount**

Work Scope	Contractor, City, State	Bid Amount
WS 03-A	Concrete S&S Concrete & Masonry LLP dba Northland Concrete & Masonry, LLC Burnsville, MN	Base Bid: \$154,970.00
WS 03-B	Structural Precast Plank Molin Concrete Products Company Lino Lakes, MN	Labor: \$8,762.00 Material: <u>\$19,153.00</u> Total Without Sales Tax: \$27,915.00
WS 06-A	Carpentry Ebert Inc dba Ebert Construction Corcoran, MN	Base Bid: \$344,000.00
WS 07-A	Roofing Palmer West Construction Company, Inc. Rogers, MN	Base Bid: \$33,400.00
WS 07-B	Metal Panels Minnkota Architectural Products Centerville, MN	Base Bid: \$824,428.00
WS 08-A	Aluminum Translucent Brin Glass Company dba Brin Contract Glazing Minneapolis, MN	Labor: \$34,300.00 Material: <u>\$127,700.00</u> Total Without Sales Tax: \$162,000.00
WS 09-A	Tile Grazzini Brothers & Company Eagan, MN	Labor: \$19,250.00 Material: <u>\$9,960.00</u> Total Without Sales Tax: \$29,210.00
WS 09-B	Athletic Flooring All-American Arena Products Alden, MN	Labor: \$9,050.00 Material: <u>\$29,500.00</u> Total Without Sales Tax: \$38,550.00
WS 09-C	Painting Steinbrecher Painting Company Princeton, MN	Base Bid: \$20,000.00
WS 12-A	Telescoping Bleachers Seating and Athletic Facility Enterprises, LLC Ellendale, MN	Labor: \$12,710.00 Material: <u>\$103,203.00</u> Total Without Sales Tax: \$115,913.00
WS 13-A	Rink Rink-Tec International Inc. Little Canada, MN	Base Bid: \$1,239,067.00 Alternate #2: <u>\$20,730.00</u> Total: \$1,259,797.00
WS 13-B	Dasher Boards Becker Arena Products, Inc. Shakopee, MN	Labor: \$33,682.00 Material: \$5,415.03 Alternate #3 Material: \$9,351.28 Alternate #4 Material: <u>\$13,510.43</u> Total: \$61,958.74

WS 21-A	Fire Protection	Viking Automatic Sprinkler Company St. Paul, MN	*Recommend Reject	
WS 23-A	Mechanical	St. Cloud Refrigeration St. Cloud, MN	Base Bid:	\$508,000.00
WS 26-A	Electrical	AE2S Construction, LLC dba EIM Fridley, MN	Base Bid:	\$369,883.00
WS 31-A	Earthwork	Minnesota Utilities & Excavating Forest Lake, MN	Base Bid	\$165,985.00

3. The bid for the Fire Suppression System (Division 21-A) is hereby rejected and the City Engineer is hereby authorized to solicit new bids for this work.
4. The City Engineer is hereby authorized to proceed with construction of the White Bear Lake Sports Center Renovation Project with construction to begin on April 2, 2018.

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

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk

## **RESOLUTION NO.:**

### **RESOLUTION AUTHORIZING EXECUTION OF FINANCIAL AGREEMENT WITH THE WHITE BEAR LAKE HOCKEY ASSOCIATION FOR THE WHITE BEAR LAKE SPORTS CENTER RENOVATION PROJECT**

WHEREAS, the City of White Bear Lake desires to perform renovations to the White Bear Lake Sports Center to replace aging refrigeration, mechanical, electrical, plumbing and building envelope systems; and

WHEREAS, the City has reached an agreement with the White Bear Lake Hockey Association to share in the cost of the Sports Center Renovation Project up to \$2.5 million; and

WHEREAS, the purpose of this Agreement is for the City and the Association to broadly identify the funding mechanism for the Project, and to agree upon a cost-share scenario in which the Association will assist with the long-term financing and capital investment necessary for the Project; and

WHEREAS, this Agreement is a binding declaration of the City and the Association, and has been approved by the governing bodies of each party; and

WHEREAS, terms of the Agreement are as follows:

#### **AGREEMENT**

1. Funding Mechanism -- City. The City expects to issue general obligation tax abatement bonds to completely fund the costs of the Project (the "Bonds"). The Bonds are expected to be issued by the City in the spring or summer of 2018. Based on the construction bids received by the City, the City expects total Project costs to be approximately \$5.5 million, with a total bond amount to be approximately \$5.0 million. The Bonds are expected to be repaid over a maximum term of up to 20 years.

2. Funding Mechanism – Association. The Association is currently fundraising to assist with the cost-share for the Project, and will provide financing as follows.

- (a) Total Contribution. The Association covenants to provide up to \$2.5 million in cost sharing for the Project, plus an amount of interest, which will be identified when the Bonds are issued. It is expected this total contribution will occur each year during the term of the Bonds.
- (b) Initial Contribution. As a part of the total principal amount of \$2.5 million, the Association covenants to provide to the City a cash amount of \$500,000 as an initial contribution to the Project. This initial contribution will be forwarded to the City no later than April 1, 2018. If the Association contributes less than \$500,000 by April 1, 2018, the Association's ongoing, long-term contribution will be increased by the amount that is less than \$500,000. Conversely, if the Association contributes more than \$500,000 by April 1, 2018, the Associations, ongoing, long-term contribution will be decreased by the amount that is in excess of \$500,000.

## **RESOLUTION NO.:**

### **RESOLUTION AUTHORIZING EXECUTION OF FINANCIAL AGREEMENT WITH THE WHITE BEAR LAKE HOCKEY ASSOCIATION FOR THE WHITE BEAR LAKE SPORTS CENTER RENOVATION PROJECT**

(c) Ongoing Contributions. The Association has identified the use of its charitable gambling proceeds as the primary source of revenue for its ongoing cost-share contribution to the Project. The Association will collaboratively work with the City to provide financial security to the City in the event charitable gambling proceeds are not sufficient to meet the Association's cost-share requirement in a given year during the term of the Bonds.

3. Association Representations. The Association is a nonprofit corporation organized and existing under the laws of the State of Minnesota. The Association is in good standing with the Minnesota Office of the Secretary of State. The Association is also a corporation organized under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The governing body of the Association has approved and endorsed the form of this Agreement and the initial financial contribution and ongoing contributions described above.

4. City Representations. The City has the necessary statutory authority to finance the Project, and is additionally authorized to contract with the Association to undertake a cost-share mechanism for the long-term financing of the Project. The City owns the Property and the Facility, and there are no material liens or encumbrances affecting the Property or the Facility as of the date of this Agreement.

5. Further Agreements. The City intends to issue and sell general obligation tax abatement bonds to finance the Project, and may additionally transfer available funds of the City to this endeavor. The City and the Association understand and acknowledge that certain financial details for the Project are not available at the time of execution of this Agreement. Once the Bonds are issued and sold, the City will provide the final debt service schedule of the Bonds to the Association, showing final principal and interest amounts due, and the Association will structure its ongoing financial contributions within such debt service schedule. These financial details will be contained in a new funding agreement, to be entered into subsequent to the issuance of the Bonds (the "Funding Agreement"). The Association and the City hereby agree to collaboratively work together to negotiate and approve the terms of the Funding Agreement, which will also describe any and all security interests the City will impose upon the Association.

6. No Property Interest or Special Entitlements. The Association understands and acknowledges the execution of this Agreement and the Funding Agreement does not and will not provide the Association with any property interests in the Property or the Facility, and does not provide it with any special entitlements to use of the Property or the Facility over other individuals or organizations, including but not limited to preferential treatment regarding the allocation of ice time.

7. Amendment. This Agreement may only be amended with the written consent of each of the parties hereto. Any amendments must be attached to this original Agreement.

**RESOLUTION NO.:**

**RESOLUTION AUTHORIZING EXECUTION OF FINANCIAL AGREEMENT WITH  
THE WHITE BEAR LAKE HOCKEY ASSOCIATION  
FOR THE WHITE BEAR LAKE SPORTS CENTER RENOVATION PROJECT**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that the Mayor and City Manager are authorized to execute the Financial Agreement with the White Bear Lake Hockey Association.

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

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk



City of White Bear Lake  
Engineering Department

# MEMORANDUM

**To:** Ellen Richter, City Manager

**From:** Mark Burch, Public Works Director/City Engineer

**Date:** December 6, 2017

**Subject:** **Receiving Bids and Awarding Contracts for the White Bear Lake Sports Center Renovation Project  
City Project No. 18-09**

---

## BACKGROUND/SUMMARY

On November 19, 2017, the City received bids on the proposed White Bear Lake Sports Center Renovation Project. The Sports Center Renovation Project is a joint effort between the City and the White Bear Lake Skating Community (represented by the White Bear Lake Hockey Association) to renovate the existing facility. The improvements include:

- Replacement of the ice refrigeration system which includes the concrete rink floor and construction of a new addition to house the new ammonia refrigerant ice making equipment. The new addition and equipment are designed to accommodate future equipment expansion if a second rink is desired in the future and accomplishes a conversion from Freon R-22 refrigerant to an ammonia refrigerant to meet current environmental standards.
- Installing new insulated metal panels on the roof and sides of the building to improve the energy efficiency, weather resistance and appearance of the building. The new building exterior will also include a section of translucent panels on the western wall as an architectural feature and new bear logo signage.
- All electrical lighting in the building will be replaced with LED fixtures including the lighting over the rink floor.
- All restrooms and plumbing fixtures will be remodeled and upgraded to meet current ADA standards.
- Exterior site improvements will include removing large trees currently overhanging the eastern portion of the building, grading to improve drainage, tree trimming and new landscaping at the north entrance and along Birch Lake Boulevard South.
- Replacement of the bleacher system with new bleachers which meet current ADA standards.

## 9.D

- Interior improvements such as painting, new ceilings in small spaces, replacement of exterior doors, and new tile in restroom/locker room areas.
- Replacement of the dehumidification system in the arena and enhancement of the air circulating system.

In addition to the major components of the work listed above we are recommending that several alternative items be included in the project such as painting of the rink floor with a base color and all the lines and circles and replacement of the kickplate and caprail on the dasher boards. The Hockey Association is especially interested in replacing the kickplate and caprail on the dasher boards with orange and black components which are the White Bear Lake school colors.

The project was bid in 16 work divisions (electrical, mechanical, refrigeration, metal panels, etc.) and will be managed by a construction manager from Kraus-Anderson Construction Company who the City hired to oversee the project. The City will enter into a contract with the successful low bidder in each division. The bid packages were set up to allow bidders to provide separate bids on labor, equipment and materials so that the City could take advantage of its tax exempt status when purchasing materials for the project. The process is relatively complicated but it did allow the City to realize approximately \$20,000 in savings.

At the bid opening on November 29<sup>th</sup> there were 55 bids submitted for various divisions of the work. All of the bids have been evaluated and we are recommending that contracts be awarded to the following contractors for specific divisions of the work:

<b>Work Scope</b>	<b>Contractor, City, State</b>	<b>Bid Amount</b>
WS 03-A	Concrete S&S Concrete & Masonry LLP dba Northland Concrete & Masonry, LLC Burnsville, MN	Base Bid: \$154,970.00
WS 03-B	Structural Precast Plank Molin Concrete Products Company Lino Lakes, MN	Labor: \$8,762.00 Material: \$19,153.00 Total Without Sales Tax: \$27,915.00
WS 06-A	Carpentry Ebert Inc dba Ebert Construction Corcoran, MN	Base Bid: \$344,000.00
WS 07-A	Roofing Palmer West Construction Company, Inc. Rogers, MN	Base Bid: \$33,400.00
WS 07-B	Metal Panels Minnkota Architectural Products Centerville, MN	Base Bid: \$824,428.00
WS 08-A	Aluminum Translucent Brin Glass Company dba Brin Contract Glazing Minneapolis, MN	Labor: \$34,300.00 Material: \$127,700.00 Total Without Sales Tax: \$162,000.00

## 9.D

WS 09-A	Tile	Grazzini Brothers & Company Eagan, MN	Labor: Material: Total Without Sales Tax:	\$19,250.00 <u>\$9,960.00</u> \$29,210.00
WS 09-B	Athletic Flooring	All-American Arena Products Alden, MN	Labor: Material: Total Without Sales Tax:	\$9,050.00 <u>\$29,500.00</u> \$38,550.00
WS 09-C	Painting	Steinbrecher Painting Company Princeton, MN	Base Bid:	\$20,000.00
WS 12-A	Telescoping Bleachers	Seating and Athletic Facility Enterprises, LLC Ellendale, MN	Labor: Material: Total Without Sales Tax:	\$12,710.00 <u>\$103,203.00</u> \$115,913.00
WS 13-A	Rink	Rink-Tec International Inc. Little Canada, MN	Base Bid: Alternate #2: Total:	\$1,239,067.00 <u>\$20,730.00</u> \$1,259,797.00
WS 13-B	Dasher Boards	Becker Arena Products, Inc. Shakopee, MN	Labor: Material: Alternate #3 Material: Alternate #4 Material:  Total:	\$33,682.00 \$5,415.03 \$9,351.28 <u>\$13,510.43</u>  \$61,958.74
WS 21-A	Fire Protection	Viking Automatic Sprinkler Company St. Paul, MN	*Recommend Reject	
WS 23-A	Mechanical	St. Cloud Refrigeration St. Cloud, MN	Base Bid:	\$508,000.00
WS 26-A	Electrical	AE2S Construction, LLC dba EIM Fridley, MN	Base Bid:	\$369,883.00
WS 31-A	Earthwork	Minnesota Utilities & Excavating Forest Lake, MN	Base Bid	\$165,985.00

We are also recommending that the City council reject the bid for Fire Suppression System because the bid is too high and the contractor misinterpreted the scope of the work. We will rebid this division of the work and present revised bids to the City Council in January 2018.



There were several alternatives included in the bid package as well and we are recommending that the Council award contracts for the following alternates:

Alternate #2 – Epoxy Coating of rink floor and line markings	\$20,730.00
Alternate #3 – Dasher kickplate (orange)	\$10,040.93
Alternate #4 – Dasher caprail (black)	\$14,506.83

The overall project budget of \$5.5 million established by the City Council in partnership with the White Bear Lake Hockey Association can be accomplished with the improvements designed and with the bids submitted by the contractors. The overall project budget worksheet is attached which details project costs for the entire project as well as the contingency set aside for unforeseen construction costs.

#### **RECOMMENDED COUNCIL ACTION**

We recommend that the construction contracts proposed in the attached resolution be approved. If the City Council approves the contracts, the project will commence on April 2, 2018 with a completion date of August 31, 2018. Our recommendation is that the City Council adopt the resolution receiving bids and awarding contracts.

#### **ATTACHMENTS**

Resolution

**ECKBERG LAMMERS**  
**MEMORANDUM**

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**TO:** Mayor Jo Emerson  
White Bear Lake City Council  
City Manager Ellen Richter  
Finance Director Don Rambow

**FROM:** Andy Pratt, City Attorney

**DATE:** December 7, 2017

**RE:** Sports Center Renovation and Financial Agreement

For some time now, the City has undertaken initial steps to develop plans and specifications and receive construction bids for the renovation of the White Bear Lake Sports Center. The project is progressing rapidly and one integral step in the process is a financial cost-sharing agreement for the project, to be entered into between the City and the White Bear Lake Area Hockey Association (WBLAHA), which is both a nonprofit corporation under the laws of the State of Minnesota and a 501(c)(3) organization under the Internal Revenue Code.

On the City Council agenda for December 12, 2017 is a “White Bear Lake Sports Center Renovation and Financial Agreement,” to be entered into between the City and WBLAHA. This agreement is necessary at this time to obligate WBLAHA to contribute money up-front in Spring 2018, as well as to provide for a long-term revenue stream to cost-share this project.

Financing Structure

Our office has had initial conversations with City staff about the financing structure for the renovation project. The City intends to issue general obligation bonds to finance the project, in the approximate amount of \$5 million. The City also has the ability to transfer available revenues to assist with a smaller portion of the project financing. WBLAHA has agreed to contribute a principal amount of \$2.5 million to the cost of the project, with up to \$500,000 contributed on or around April 1, 2018. The remaining cost-share amount will be spread out over time, which will be consistent with the debt service schedule established for the City’s bonds. The bonds will likely be issued for a 15-year term, so WBLAHA’s ongoing cost-share will also have a 15-year duration. Once the debt service payments are determined, WBLAHA will simply distribute its share of principal and interest to the City on a regular basis. It is expected this cost-share will come out of WBLAHA’s charitable gambling proceeds.

Details regarding the final principal amount of the bonds, the final interest rates, etc., are of course not available until the bonds are actually issued by the City. This timeline will require a separate “funding agreement” to be entered into between the City and WBLAHA. The funding agreement will contain the final financial details of the bonds, and will describe how WBLAHA’s ongoing contribution will be distributed to the City. The funding agreement will also contain details as to what security the City may retain, in case the cost-share amounts by WBLAHA are not sufficient. WBLAHA does not own any property upon which the City may take a mortgage, so the City will have to creatively impose a first lien on WBLAHA’s charitable gambling revenues.

It is my understanding the WBLAHA governing board is eagerly awaiting to approve this agreement. The City Council’s approval of this document will be contingent upon the approval of WBLAHA’s governing board.

Please let me know if you have any questions related to this issue. Thank you.

Andy Pratt  
651.351.2125 (direct)  
apratt@eckbergglammers.com

## **WHITE BEAR LAKE SPORTS CENTER RENOVATION AND FINANCIAL AGREEMENT**

This WHITE BEAR LAKE SPORTS CENTER RENOVATION AND FINANCIAL AGREEMENT (the “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017 by and between the **White Bear Lake Area Hockey Association**, a non-profit corporation organized under the laws of the State of Minnesota (the “Association”), and the **City of White Bear Lake, Minnesota**, a home rule charter city and political subdivision organized under the laws of the State of Minnesota (the “City”).

### **RECITALS**

A. The City owns property located at 1328 Highway 96, White Bear Lake, Minnesota (the “Property”), upon which is a sports center facility that provides community recreational activities centered on ice utilization (the “Facility”).

B. The Facility has been in use since approximately 1989, and the City has determined the Facility is in need of major renovation to maintain its importance in the community. Specifically, the Facility’s ice refrigeration system and the concrete ice floor must be replaced, as well as certain other building envelope, mechanical equipment, electrical updates, ADA and plumbing code requirements, as well as the expansion of the Facility’s cooling system to accommodate a potential second ice sheet (collectively, the “Project”).

C. The City has identified these needs and developed a mechanism to finance the Project, which the Association has also identified as a major fundraising goal. The City has engaged a construction manager for the Project and has solicited and accepted construction bids for the Project.

D. The purpose of this Agreement is for the City and the Association to broadly identify the funding mechanism for the Project, and to agree upon a cost-share scenario in which the Association will assist with the long-term financing and capital investment necessary for the Project.

E. This Agreement is a binding declaration of the City and the Association, and has been approved by the governing bodies of each party.

### **AGREEMENT**

1. Funding Mechanism -- City. The City expects to issue general obligation tax abatement bonds to completely fund the costs of the Project (the “Bonds”). The Bonds are expected to be issued by the City in the spring or summer of 2018. Based on the construction bids received by the City, the City expects total Project costs to be approximately \$5.5 million, with a total bond amount to be approximately \$5.0 million. The Bonds are expected to be repaid over a maximum term of up to 20 years.

2. Funding Mechanism – Association. The Association is currently fundraising to assist with the cost-share for the Project, and will provide financing as follows.

(a) *Total Contribution.* The Association covenants to provide up to \$2.5 million in cost sharing for the Project, plus an amount of interest, which will be identified when the Bonds are issued. It is expected this total contribution will occur each year during the term of the Bonds.

(b) *Initial Contribution.* As a part of the total principal amount of \$2.5 million, the Association covenants to provide to the City a cash amount of \$500,000 as an initial contribution to the Project. This initial contribution will be forwarded to the City no later than April 1, 2018. If the Association contributes less than \$500,000 by April 1, 2018, the Association's ongoing, long-term contribution will be increased by the amount that is less than \$500,000. Conversely, if the Association contributes more than \$500,000 by April 1, 2018, the Association's, ongoing, long-term contribution will be decreased by the amount that is in excess of \$500,000.

(c) *Ongoing Contributions.* The Association has identified the use of its charitable gambling proceeds as the primary source of revenue for its ongoing cost-share contribution to the Project. The Association will collaboratively work with the City to provide financial security to the City in the event charitable gambling proceeds are not sufficient to meet the Association's cost-share requirement in a given year during the term of the Bonds.

3. Association Representations. The Association is a nonprofit corporation organized and existing under the laws of the State of Minnesota. The Association is in good standing with the Minnesota Office of the Secretary of State. The Association is also a corporation organized under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The governing body of the Association has approved and endorsed the form of this Agreement and the initial financial contribution and ongoing contributions described above.

4. City Representations. The City has the necessary statutory authority to finance the Project, and is additionally authorized to contract with the Association to undertake a cost-share mechanism for the long-term financing of the Project. The City owns the Property and the Facility, and there are no material liens or encumbrances affecting the Property or the Facility as of the date of this Agreement.

5. Further Agreements. The City intends to issue and sell general obligation tax abatement bonds to finance the Project, and may additionally transfer available funds of the City to this endeavor. The City and the Association understand and acknowledge that certain financial details for the Project are not available at the time of execution of this Agreement. Once the Bonds are issued and sold, the City will provide the final debt service schedule of the Bonds to the Association, showing final principal and interest amounts due, and the Association will structure its ongoing financial contributions within such debt service schedule. These financial details will be contained in a new funding agreement, to be entered into subsequent to the issuance of the Bonds (the "Funding Agreement"). The Association and the City hereby agree to collaboratively

work together to negotiate and approve the terms of the Funding Agreement, which will also describe any and all security interests the City will impose upon the Association.

6. No Property Interest or Special Entitlements. The Association understands and acknowledges the execution of this Agreement and the Funding Agreement does not and will not provide the Association with any property interests in the Property or the Facility, and does not provide it with any special entitlements to use of the Property or the Facility over other individuals or organizations, including but not limited to preferential treatment regarding the allocation of ice time.

7. Amendment. This Agreement may only be amended with the written consent of each of the parties hereto. Any amendments must be attached to this original Agreement.

[The remainder of this page is intentionally left blank.]

Execution page of the White Bear Lake Renovation and Financial Agreement, dated as of the \_\_\_\_ day of December, 2017, by and between the White Bear Lake Area Hockey Association and the City of White Bear Lake, Minnesota.

**WHITE BEAR LAKE AREA HOCKEY ASSOCIATION**

\_\_\_\_\_  
President

\_\_\_\_\_  
Treasurer

**CITY OF WHITE BEAR LAKE, MINNESOTA**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Manager

### Overall Project Budget

 Owner: City of White Bear Lake  
 Project: White Bear Lake Sports Center Remodel  
 Location: White Bear Lake, MN  
 Designer: JLG Architects

Description	WBL Sports Center	TOTALS	Remarks
Initial City Revenue	\$3,000,000	\$3,000,000	
Hockey Association Reimbursement Revenue	\$2,500,000	\$2,500,000	
Utility Rebates	\$20,000	\$20,000	Allowance--TBD
Interest Earnings		\$0	
<b>Total Available Dollars</b>	<b>\$5,520,000</b>	<b>\$5,520,000</b>	
<b>Pre Construction Costs</b>			
Land Acquisition/Demolition	\$17,755	\$17,755	
Geotechnical Exploration / Soil Borings	\$2,800	\$2,800	Actual; Braun
Construction Testing / Special Inspections Testing	\$9,990	\$9,990	Allowance
Commissioning	\$0	\$0	
Building Permit Fee/Inspections	\$3,500	\$3,500	Electrical Only
Other Permit Costs	\$0	\$0	None anticipated
Site Survey	\$0	\$0	Work by City
Misc. Owner Expenses	\$0	\$0	None anticipated
Utility Relocation/New Service Charges	\$12,000	\$12,000	Transformer Relocation-Xcel Allowance
<b>Subtotal</b>	<b>\$46,045</b>	<b>\$46,045</b>	
<b>Construction Costs</b>			
<b>Building Construction</b>			
Building Construction	\$4,216,010	\$4,216,010	Actual Bids with Accepted Alternates, Allowance for F.P
General Conditions	\$105,000	\$105,000	
Construction Contingency	\$210,800	\$210,800	
Builders Risk Insurance	\$0	\$0	By Owner
Site Sign	\$50,000	\$50,000	Allowance
Parking lot sealcoat and striping	\$0	\$0	
Infrared heat relocation	\$2,850	\$2,850	
Sanitary Sewer Connection	\$0	\$0	
Reconnect Alarm System	\$1,200	\$1,200	Allowance
Landscaping	\$25,000	\$25,000	Allowance
<b>Subtotal</b>	<b>\$4,610,860</b>	<b>\$4,610,860</b>	
<b>CM Professional Fees</b>			
Preconstruction Services (Phase 1)	\$69,388	\$69,388	
Design Services (Phase 2)	\$80,680	\$80,680	
CM/Design Fee	\$339,820.40	\$339,820	
<b>Subtotal</b>	<b>\$489,888</b>	<b>\$489,888</b>	
<b>Furniture Fixtures and Equipment/ Technology</b>			
Furniture Fixtures and Equipment	\$0	\$0	
Technology / Equipment	\$0	\$0	
<b>Subtotal</b>	<b>\$0</b>	<b>\$0</b>	
<b>Owner Costs for Closeout of Construction</b>			
Owner Moving/Relocation Costs	\$0	\$0	
<b>Subtotal</b>	<b>\$0</b>	<b>\$0</b>	
<b>Total Project Costs</b>		<b>\$5,146,794</b>	
<b>Project Balance Available over/ (under)</b>		<b>(\$373,206)</b>	

- Painting beams & columns  
 - Sign Lighting  
 - Fire Protection Systems





**City of White Bear Lake**  
Community Development Department

## *MEMORANDUM*

**To:** Ellen Richter, City Manager

**From:** Anne Kane, Community Development Director

**Date:** December 7, 2017 for the December 12<sup>th</sup> City Council Meeting

**Subject:** **BOATWORKS COMMONS/Community Room Use Policy**

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### **BACKGROUND**

As the City Council may recall, Rules and Regulations for the North Marina Triangle District were initially drafted in July 2013 and were revised in 2015 when the room was completed. The initial Use Policy was more restrictive by design and intended to accommodate a soft roll-out of the space. The current Policy restricts the use of the space to four primary groups of users:

- City-sponsored events and meetings including public forums, informational open houses, recognition meetings, etc.;
- School District No. 624 sponsored meetings and events;
- meetings and events hosted by White Bear Lake-based civic and non-profit organizations, including the Historical Society, Lions Club, League of Women Voters, etc.; and,
- meetings or events conducted by White Bear Lake-based clubs and groups, including Explore White Bear, sailing organizations, Bear Boating, etc..

### **CURRENT PROPOSAL**

The Community Room at the Boatworks Commons opened in June 2015 and has hosted a wide variety of events sponsored by these community groups over the past 2½ years. Securing a tenant for the restaurant building was a large factor in previously not wanting to open up the space to compete directly with other event venues offered throughout the community. This past July, MIZU Japanese opened a restaurant on the first floor with a yoga studio upstairs, eliminating one concern that the restaurant tenant would want to provide a private event space upstairs. Regardless, the Community Room is publicly owned and the Council has expressed a desire to be able to allow residents to host private events in the space.

Therefore, Staff revised the Use Policy to allow the space out to be rented out for private events, such as weddings, graduations, or holiday parties hosted by residents and businesses located in the City. Given the limited amount of public parking available to support the

variety of uses that rely on the availability of this parking, events not sponsored by the City are limited to weekdays and weekends before 2:00 p.m. during the peak summer season. Off-season when the marinas and some of the area restaurants are closed, we believe adequate parking is available to support private events throughout the week and weekends both day and night. This allows the Community Room to be used to support the many fundraising runs and events sponsored by White Bear Lake civic and non-profit organizations on a year round basis. To allow staff to gauge the demand for the space and the resources needed to meet that demand, the policy limits private events in the Community Room to one per weekend.

White Bear Lake-based civic and non-profit organizations are allowed to conduct business meetings with less than 20 attendees free of charge. However, for social or special events that will attract a larger audience, extend several hours, and/or involve food or beverage service, then a \$50 usage fee is charged and a \$50 pass-through cleaning fee is collected. However, not wanting the Community Room to compete with private sector venues that offer similar event/meeting space, staff recommends a (4) hour/\$500 minimum room rental charge, with \$50 per hour thereafter, for private events. This charge will include basic room set-up and cover the cleaning fee. In comparison, The Fireside Room at the Vadnais Heights, with a capacity of 60, rents for \$90.00/hour with a six (6) hour/\$540 minimum room rental. Staff reviewed this proposed rate with a local business operator who offers similar accommodations. Catered food to the space will be required to come from businesses located within the City.

#### **RECOMMENDED COUNCIL ACTION**

Please forward the attached resolution to the City Council for consideration at its December 12<sup>th</sup> meeting, which, if approved, revises the Use Policy to allow private events and functions to be hosted by residents and businesses located in the City. While we anticipate a variety of functions and scenarios, we acknowledge that is not the final version and this will continue to be a policy that evolves over time as we learn how the space is used and managed.

#### **ATTACHMENTS**

1. Draft Resolution
2. Draft Section 4.11 of the City Policy Manual with revisions highlighted

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION REVISING A POLICY RELATED TO  
THE USE OF THE COMMUNITY ROOM AT BOATWORKS COMMONS**

WHEREAS, the City of White Bear Lake finds that it is in the public interest to own and operate the Community Room at the Boatworks Commons to commemorate the community's 150 year history of boat building around the White Bear Lake area; and

WHEREAS, to facilitate the use of the Community Room by the City and White Bear Lake-based organizations for community meetings and special events; and, to allow residents and businesses located in the City to use the Community Room for private events and parties, the White Bear Lake City Council finds it appropriate to revise the policy for the use of the Community Room.

NOW, THEREFORE, BE IT RESOLVED that the White Bear Lake City Council adopts the **revised** Section 4.11 of the City Policy Manual which is part of the City's Policy Manual which establishes a policy for the use of the Community Room at the Boatworks Commons for community meetings, private parties and special events.

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

Ayes:

Nays:

Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk



#### 4.11 Community Room at Boatworks Commons

##### ***Purpose***

The Community Room at Boat Works Commons is owned and operated by the City of White Bear Lake. The intent of the room is to provide a public space that commemorates the history of boat building in the White Bear Lake area over the past 150 years. The Community Room is designed to accommodate gatherings, meetings and events hosted by White Bear Lake-based civic groups, non-profit organizations, ~~and~~ community clubs, and private social events held by residents or businesses located in the City or for other purposes authorized by the City of White Bear Lake.

##### ***Policy***

Use of Community Room: As the City offers a variety of other meeting space alternatives, the Community Room is intended to provide a space to host special events, as opposed to standing, sequential meetings of community groups, organizations and clubs. The Community Room may ~~not~~ be reserved for private social events, such as weddings, graduations or birthday celebrations held by residents or businesses located in the City White Bear Lake. The Community Room is not intended and shall not be used to conduct commercial enterprise or activities.

The City reserves the right to exclude certain dates and holidays from permitted events to ensure the Community Room is available for the general public to enjoy. The City may also use its discretion to limit the number of concurrent events permitted due to the reliance on a shared parking facility to accommodate the increased intensity of use.

Classification and Priority of Users: City staff will judiciously schedule the facility based upon the following criteria.

1. Any meeting or event directly sponsored by the City of White Bear Lake.
2. Any meeting or event sponsored by the Community Services Department of School District No. 624 approved by the City of White Bear Lake.
3. Meetings or events conducted by White Bear Lake-based civic and non-profit organizations.
4. Meetings or events conducted by White Bear Lake-based clubs or organizations.
5. Private social events held by residents and businesses located in the City of White Bear Lake.

##### Application of Use:

1. All groups not coordinated, supervised, or otherwise conducted by the City shall complete the “Application and Permit for Use of the Community Room at Boat Works Commons”.
2. The City staff will review all applications for approval. The applicant will receive confirmation approving his/her applications.

3. Room Reservations may be made up to ~~12~~24 months in advance by the City of White Bear Lake; and up to ~~6~~12 months in advance for White Bear Lake-based-civic groups, non-profit organizations ~~and~~, community clubs, and up to 6 months for residents or businesses located in the City.
4. The following steps are to be taken by the applicant to reserve the Community Room:
  - a. Contact staff at the Sports Center at (651) 429-8571 to check the availability of a particular date and receive a rental packet. (If the desired date is open and within the allowable reservation timeframe, it will be tentatively held for 5 business days.)
  - b. By the end of 5 business days, individuals making the request must return the completed permit form with required reservation fee or notify the Sports Center to cancel the tentative reservation.

Permit for Use: A permit will be denied if the Community Room has been previously reserved or if the requested use is for an activity contrary to this Policy or City ordinance. The City reserves the right to deny or cancel a permit if the regulations are violated. Permits may not be assigned, transferred, or sub-let to anyone other than the person/organization making the application.

Available Dates/Hours for events not sponsored by the City:

1. May 1st – Labor Day: Monday - Sunday 8:00 am – 2:00 pm
2. Labor Day – April 30th: Monday - Sunday 8:00 am – 10:00 pm
3. The Community Room is closed for private events on City holidays.
4. The Community Room is available at 8:00 am and will close no later than 10:00 pm for any function.
5. Private parties will be allocated a maximum of six hours.
6. A maximum one event per day on weekdays, and a maximum of one event per weekend (Friday – Sunday) will be held.

Restrictions on Use:

1. A maximum capacity of 75 attendees.
- ~~2. Events may start at 8:00 a.m. and must conclude no later than 10:00 p.m. (Sunday through Thursday) and 11:00 p.m. Friday and Saturday.~~
- ~~3.2.~~ 2. The Community Room reservation includes the use of the community room, and adjoining kitchen and restrooms. Guests may also enjoy non-exclusive use of the adjacent porch and patio. Please note the general public has a right to enjoy these shared outdoor spaces during scheduled events and functions.
- ~~4.3.~~ 3. The applicant must agree to follow these rules:
  - a. Supervise the conduct of the members/guests of their event;
  - b. Use only the spaces approved for use;
  - c. Do not remove or disrupt any displays;
  - d. Leave the spaces used in a clean and orderly fashion;
  - e. Ensure functions conclude at the closing time stated on the permit;
  - f. Assume full responsibility for its group's conduct and for any loss, breakage, or damage to the room, equipment, displays, and/or furnishings.
  - g. Comply with all City ordinances, Minnesota State Statutes, Federal laws, and the established rules for use, which apply to the authorized users of the Community

Room.

- ~~5.4.~~ The applicant is solely responsible for any and all damage incurred while utilizing the Community Room.
- ~~6.5.~~ No live bands or excessive noise from stereo or AV equipment is permitted. If noise complaints are received, the City and/or building management reserves the right to terminate the event immediately. No refunds will be given in this type of instance.
- ~~7.6.~~ Nothing may be taped, tacked, stapled, or nailed to the walls, ceiling or floor.
- ~~8.7.~~ The Boat Works Commons property is a smoke-free environment. Smoking is prohibited in the Community Room and discouraged on the adjacent porch, patio and public plaza.
- ~~9.8.~~ Fees and Policies may be waived at the discretion of the City Manager.

9. ~~Alcohol~~ Agree to Use a White Bear Lake-based business for any outside catering contracted for all food service.

Alcoholic Beverages:

1. No compensation may be exchanged for alcoholic beverages. This includes donations, advance ticket sales and tips. Exception to this would be a caterer who has a liquor license or a private party who has obtained a permit through the City. A copy of the license or permit must be submitted with Community Room Agreement.
2. No alcoholic beverages may be served after ~~11~~10:00 p.m.
3. All parties consuming liquor pursuant to the authority established by the Municipal Code, Article X, §1001 and §1002 “Alcoholic Beverages” shall be required to conform to all City and State liquor laws.
4. Persons dispensing liquor must be of legal drinking age (at least 21 years of age).
5. Proof of insurance must be provided if serving alcohol, prior to date of use.
6. The City of White Bear Lake reserves the right to require security for events held in the Community Room when alcoholic beverages are on site. The renting party is responsible for payment to the City for all security fees.

Security Room Setup and Decoration:

1. A renter is to call the White Bear Lake Sports Center Staff 30 days prior to the event to make an appointment to finalize room set-up, caterer arrival times, and any special requests. All additional items brought into the Community Room must be approved by city staff.
2. Decorating of the Community Room is prohibited with the exception of linens and table centerpieces.
3. Room set-up will be done for private parties by City staff based on the agreed floor plan unless other arrangements have been made.
4. Confetti may not be used in the building nor may items be taped on the walls. Candles must be battery operated. Fog machines are not permitted in the Community Room. Violation will result in loss of damage deposit.

Event Attendant: At the time a person or group reserves the Community Room, staff will assess ~~the level of security needed whether or not an event attendant is required.~~ Typically, community groups renting for fund-raising purposes will not require ~~security. Security personnel are~~

~~expected to an event attendant. Event attendants will~~ monitor the event beginning no less than one (1) hour after alcohol is served to guests ~~or~~ until the guests have departed.

Liability: The City of White Bear Lake and Boatworks Commons, LLC are not responsible or liable for any injury, loss, theft or damage to persons, property, or personal property in connection with the use of the Community Room.

Refunds and Cancellation: Rental fees and other charges are completely refundable if the City cancels the use of the Community Room for any reason other than violations by the ~~users~~USER. When the permit holder requests cancellation ~~no less than 30 days prior to, the scheduled event date, the reservation fee~~following policies will be ~~refunded.~~used:

The entire down payment will be refunded if the facility is re-rented by an event of equal or greater value.

In the event of cancellation by the permit holder, the City reserves the right to schedule non-revenue producing activities. For example, a White Bear Lake Area Food Shelf meeting could be scheduled during the cancellation rental period. The original renting party would therefore not receive a refund because an alternate user of equal or greater value was not found. Alternate user is determined on a first-come, first-served basis.

## *History*

Approved by the City Council on ~~October 13, 2015~~December 12, 2017 by Resolution No. ~~11677.~~\_\_\_\_\_.

~~Mark, Sather~~Ellen Richter, City  
Manager



**City of White Bear Lake**  
City Manager's Office

## *MEMORANDUM*

**To:** Mayor and City Councilmembers

**From:** Ellen Richter, City Manager

**Date:** December 6, 2017

**Subject:** Ramsey County Dispatch Agreements

### **BACKGROUND**

At its regular meeting on September 26, 2017 the City Council authorized the City Manager to enter negotiations with Ramsey County to contract for emergency 911 dispatching services. Following that discussion, the City Council has approved an impact agreement for the City's current dispatch staff to ensure staffing during the transition and the administrative staff has begun the process of operational transition planning with Ramsey County. The next course of action is to approve the attached Resolution authorizing the Mayor and City Clerk to execute a Joint Powers Agreement (JPA) along with the Computer-Aided Dispatch (CAD) and Mobile Data Agreement with Ramsey County. The City Council should also appoint an individual member to serve on the Dispatch Policy Committee.

### **SUMMARY**

The JPA contains the general terms such as the structure of the Dispatch Policy Committee, which is made up of elected officials from throughout Ramsey County and the City Council may appoint one member to the Committee. As previously discussed 60% of the Ramsey County Dispatch operating costs are paid through the countywide property tax levy. The remaining 40% is paid through an assessment to each member entity based on calls for service from within the Member's jurisdictional boundaries compared to total calls for service to the dispatch center. For 2018, 2019 and 2020 the City's share of that 40% will be 3.188% which equates to an approximate cost of \$202,000. Thereinafter the City's call history will determine the percentage. The City will pay an estimated \$45,000 to buy into the existing CAD system. In addition, Ramsey County will receive the City's share of 911 revenues from the State of Minnesota will be redirected to Ramsey County. In the previous two years, the City had received \$33,850 from the state annually in 911 revenues. In lieu of buying into the Emergency Communications Department Fund Balance, the City will transfer ownership of its Motorola radio console and related equipment and software to the County. The JPA is the same for each member entity throughout the County and automatically renews on an annual basis but the City may terminate the agreement following a twelve month notice.

The CAD and Mobile Data Agreement lays out the parameters for the provision of CAD and mobile data services by the County to the members. This agreement covers the technical aspects of how the county wide system works and delineates what the County provides and what the



individual members are responsible for. The agreement establishes the CAD Policy Committee, CAD Command Subcommittee and the CAD Operations Groups. The agreement also specifies certain technologies the individual members must implement such as Automatic Vehicle Location (AVL) systems and Fire Department (Station) Alerting. The City will need to implement station alerting at both fire stations. The City's existing infrastructure is sufficient to meet the fixed network requirements but there will be some minor investments needed in the Fire Department to meet the wireless requirements of the agreement. Estimated costs for station alerting and additional computers, etc. are \$40,000. Withdrawal from this agreement is under the same terms as the JPA and requires a 12 month notice.

Both the JPA and CAD/Mobile Data Agreement are standard documents used by all the cities in Ramsey County. Cost projections used while assessing the move to Ramsey County Dispatch have been solidified in a unanimous recommendation from the Dispatch Policy Committee and the Ramsey County Board will take action on that recommendation following the City's approval.

#### **RECOMMENDED COUNCIL ACTION**

Consider approving the attached Resolution authorizing the Mayor and City Clerk to execute the JPA for Dispatch Services, the CAD/Mobile Data Agreement and appointment Councilmember \_\_\_\_\_ to the Ramsey County Dispatch Policy Committee.

#### **ATTACHMENTS**

Resolution

**RESOLUTION NO.**

**RESOLUTION APPROVING A JOINT POWERS AGREEMENT WITH RAMSEY COUNTY FOR DISPATCH SERVICES**

**WHEREAS**, the City of White Bear Lake wishes to obtain 9-1-1 dispatch services from Ramsey County's Consolidated Dispatch Center; and

**WHEREAS**, both parties have reached agreement on the terms and conditions for the provision of dispatch services, including guidelines for Computer-Aided Dispatch (CAD) and Mobile Data Services; and

**WHEREAS**, the City Council approves the submission of a request to become a member under the terms and conditions of the CAD and Mobile Data Agreement; and

**WHEREAS**, the City of White Bear Lake desires to consolidate their PSAP/Dispatch Center, the Mayor or one member of the White Bear Lake City Council is to be appointed to the Policy Committee.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of White Bear Lake authorize pursuant MN Statute 412.201 the Mayor and City Clerk to execute the Joint Powers Agreement with Ramsey County for Dispatch Services; and

**BE IT FURTHER RESOLVED** that the City Council of the City of White Bear Lake authorize the Mayor and the City Manager to execute the CAD Users Agreement with Ramsey County; and

**BE IT FURTHER RESOLVED** that the City Council of the City of White Bear Lake, in accordance with the CAD Users Agreement, do hereby appoint \_\_\_\_\_ to serve as the City's representative on the Policy Committee.

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

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

**ATTEST:**

\_\_\_\_\_  
Kara Coustry, City Clerk



**City of White Bear Lake**  
City Engineer's Office

# *MEMORANDUM*

**To:** Ellen Richter, City Manager

**From:** Mark Burch, Public Works Director/City Engineer

**Date:** December 7, 2018

**Subject:** **Feasibility Report for Proposed 2018 Street Reconstruction and 2018 Mill & Overlay Projects, City Project Nos. 17-06, 18-01, 18-06, 18-13**

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## **BACKGROUND / SUMMARY**

The City of White Bear Lake has been reconstructing streets since the mid-1980's, replacing deteriorated streets with new engineered gravel bases, concrete curb and gutter and bituminous pavements. Street reconstruction projects also include improvements to the storm sewer system and installation of storm water treatment facilities. The reconstruction program is ongoing and with completion of the 2017 street reconstruction project, the City has reconstructed over 90% of its streets (77 miles) which leaves 8 miles remaining to be improved to current engineering standards.

Each year the City Council selects streets for inclusion in the City's Street Reconstruction Program. The Council receives recommendations for reconstruction projects from the Engineering and Public Works Departments based upon pavement conditions among other factors. The proposed 2018 Street Reconstruction is highlighted in the color blue on the Proposed Street Reconstruction Project Map included with this memo.

Based upon our analysis, the following streets are recommended to the City Council for inclusion in a Feasibility Report for the 2018 Street Reconstruction and 2018 Mill & Overlay Project:

**17-06 Streets being considered:**

**Old White Bear Avenue**  
(Cottage Park Rd to South Shore Blvd)

**18-01 Streets being considered:****Eighth Street**

(Stewart Ave to Lake Ave N)

**Ninth Street**

(Stewart Ave to Lake Ave N)

**Tenth Street**

(T.H. 61 to Alley East of Stewart Ave)

**Tenth Street**

(Morehead Ave to Johnson Ave)

**Eleventh Street**

(T.H. 61 to Johnson Ave)

**Morehead Avenue**

(Seventh St to Tenth St)

**Morehead Avenue**

(Eleventh St to State Hwy 96)

**Johnson Avenue**

(Seventh St to Eleventh St)

**Alleys**

(Various Alleys throughout the project area)

**18-06 Streets being considered:****Birch Lake Boulevard South**

(Otter Lake Rd to end Cul-De-Sac)

Once streets have been reconstructed to current engineering standards, they can be maintained by routine maintenance techniques such as crack sealing, sealcoating and minor patching. These maintenance techniques should keep bituminous pavements in good condition for approximately 25 years before another major rehabilitation technique such as milling and overlaying is necessary. The life of the pavements between major rehabilitation techniques depends largely on traffic types and volumes. Streets which carry larger vehicles with heavy loads and higher daily volumes of traffic wear out faster than low volume residential streets.

There are streets in the City in which the wearing course (top surface of pavement) is deteriorating to the point where routine patching is no longer able to maintain the street in an acceptable driving condition, making milling and overlaying necessary. Milling and overlaying is a process where the upper 1-1/2" to 2" of asphalt is "milled" (removed with a large grinding machine) and then a new bituminous wearing course is placed, creating a new road surface. Use of this pavement maintenance technique is necessary to ensure the preservation of our street pavements. This type of project extends the length of time required between street reconstructions. As reconstructed pavements age, the City will need to increase the number of mill and overlay projects in order to maintain the serviceability of its pavement infrastructure.

The City has reached a point in its pavement management program where the implementation of a mill and overlay program is necessary to preserve the investment it has made in its street infrastructure. The City incorporated a mill and overlay component into its overall Pavement Management Program for the first time in 2011. The mill and overlay program is a technique by

which streets will be rehabilitated in the future when total reconstruction of the roadway is not necessary but just pavement rehabilitation. The mill & overlay program is starting now even though we have not yet completed the street reconstruction program (approximately 10% or 8 miles of streets remain). The City will be challenged as it works to complete the street reconstruction program while undertaking mill and overlay projects at the same time to maintain streets reconstructed 20 – 30 plus years ago. We anticipate that the two programs could overlap for 5 to 7 years before the street reconstruction program is completed and we are just undertaking mill and overlay projects.

Similar to the Street Reconstruction Program, each year the City Council will need to select streets for inclusion in the City's Mill & Overlay Program. The Council receives recommendations for mill and overlay projects from the Engineering and Public Works Departments based upon pavement conditions among other factors. The proposed 2018 Mill & Overlay Project is highlighted in the color blue on the Proposed Mill & Overlay Program Map included with this memo.

Based upon our analysis, the following streets are recommended to the City Council for inclusion in a Feasibility Report for the 2018 Mill & Overlay Project:

**18-13 Streets being considered:**

**11<sup>th</sup> Street**

(Division Avenue to East Cul-De-Sac)

**Sumac Circle**

(Sumac Ridge to Sumac Ridge)

**Sumac Ridge**

(Bellaire Ave to 1000' East of Bellaire Ave)

**Manitou Drive**

(County Road D to Sumac Ridge)

**Manitou Lane**

(Manitou Drive to Sumac Ridge)

**Trail Reconstruction**

(Division Avenue to East Cul-De-Sac)

**Trail Reconstruction**

(Division Avenue to East Cul-De-Sac)

The next step in the improvement process is the preparation of a Feasibility Report to determine if the projects are advisable from an engineering standpoint and how they could best be constructed and funded.

A portion of the project cost will be assessed to benefitting properties in accordance with the City's Special Assessment Policy. The assessment rates for 2018 will be reviewed in consultation with the City's appraisal consultant and presented in the Feasibility Report.

The proposed assessment roll is being reviewed by the appraisal firm of Dahlen & Dwyer to ensure the proposed assessments are fair, uniform and provide benefit in the amount of the proposed assessments. We have asked the appraiser to specifically look at the large and irregular shaped parcels. Copies of the appraisal reports will be provided to the City Council when it is complete.

**RECOMMENDED COUNCIL ACTION**

Staff recommends that the Council adopt the resolution and order preparation of a Feasibility Report for the 2018 Street Reconstruction Project and the 2018 Mill & Overlay Project.

**ATTACHMENTS**

Resolution

Proposed Street Reconstruction Project Map

Proposed Mill & Overlay Project Map

**RESOLUTION NO.:**

**RESOLUTION ORDERING PREPARATION OF A FEASIBILITY REPORT  
FOR THE 2018 STREET RECONSTRUCTION PROJECT  
AND THE 2018 MILL & OVERLAY PROJECT**

**CITY PROJECT NOs. 17-06, 18-01, 18-06 & 18-13**

WHEREAS, the City has made a commitment to improving and preserving its bituminous pavement street system by reconstructing deteriorated streets and undertaking maintenance programs such as patching, crack sealing, sealcoating, and milling & overlaying; and

WHEREAS, streets which have been reconstructed and maintained with routine maintenance techniques still require periodic major rehabilitation to maintain a smooth driving surface and protect the integrity of the structural components of the road; and

WHEREAS, it is proposed to improve Old White Bear Avenue (from Cottage Park Road to South Shore Blvd.), Eighth Street (from Stewart Ave to Lake Ave N), Ninth Street (from Stewart Ave. to Lake Avenue N.), Tenth Street (from T.H. 61 to Alley East of Stewart Avenue), Tenth Street (from Morehead Avenue to Johnson Avenue), Eleventh Street (from T.H. 61 to Johnson Avenue), Morehead Avenue (from Seventh Street to Tenth Street), Morehead Avenue (from Eleventh Street to State Highway 96), Johnson Avenue (from Seventh Street to Eleventh Street), Alleys (Various alleys throughout the project area) and Birch Lake Boulevard South (from Otter Lake Road to end Cul-De-Sac) by installation of utility, storm sewer improvements and street reconstruction, and to assess the benefited properties for all or a portion of the cost of the improvements, pursuant to Minnesota Statutes, Chapter 429; and

WHEREAS, it is proposed to improve Eleventh Street (from Division Avenue to East Cul-De-Sac), Sumac Circle (from Sumac Ridge to Sumac Ridge), Sumac Ridge (from Bellaire Avenue to 1000' East of Bellaire Avenue), Sumac Drive (from County Road D to Sumac Ridge), Manitou Lane (from Manitou Drive to Sumac Ridge), Trail Reconstruction (from White Bear Parkway to Birch Lake Boulevard), and Trail Reconstruction (from County Road 96 to Birch Lake Boulevard North) by milling and overlaying the bituminous pavement, and to assess the benefited properties for all or a portion of the cost of the improvements, pursuant to Minnesota Statutes, Chapter 429.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that:

The proposed improvements be referred to the City Engineer for study and that he is instructed to report to the City Council with all convenient speed advising the Council in a preliminary way as to whether the proposed improvements are feasible and as to whether they should best be made as proposed or in connection with some other improvements, and the estimated cost of the improvements as recommended.

**RESOLUTION NO.:**

**RESOLUTION ORDERING PREPARATION OF A FEASIBILITY REPORT  
FOR THE 2018 STREET RECONSTRUCTION PROJECT  
AND THE 2018 MILL & OVERLAY PROJECT**

**CITY PROJECT NOs. 17-06, 18-01, 18-06 & 18-13**

The foregoing resolution offered by Councilmember \_\_\_\_\_ and  
supported by Councilmember \_\_\_\_\_, was declared carried on the following

vote:

Ayes:  
Nays:  
Passed:

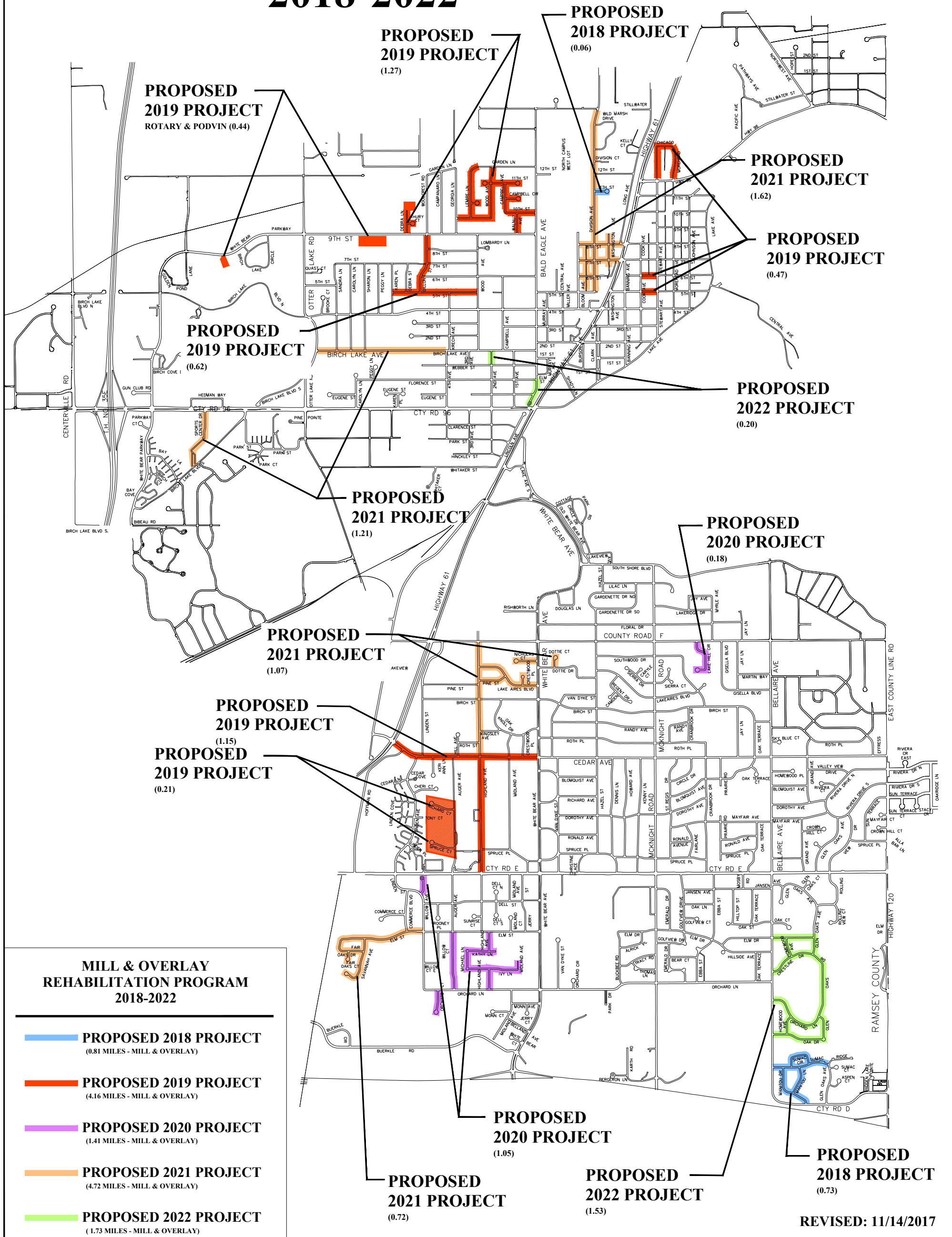
\_\_\_\_\_  
Jo Emerson, Mayor

ATTEST:

\_\_\_\_\_  
Kara Coustry, City Clerk



# CITY OF WHITE BEAR LAKE PROPOSED MILL & OVERLAY REHABILITATION PROGRAM 2018-2022



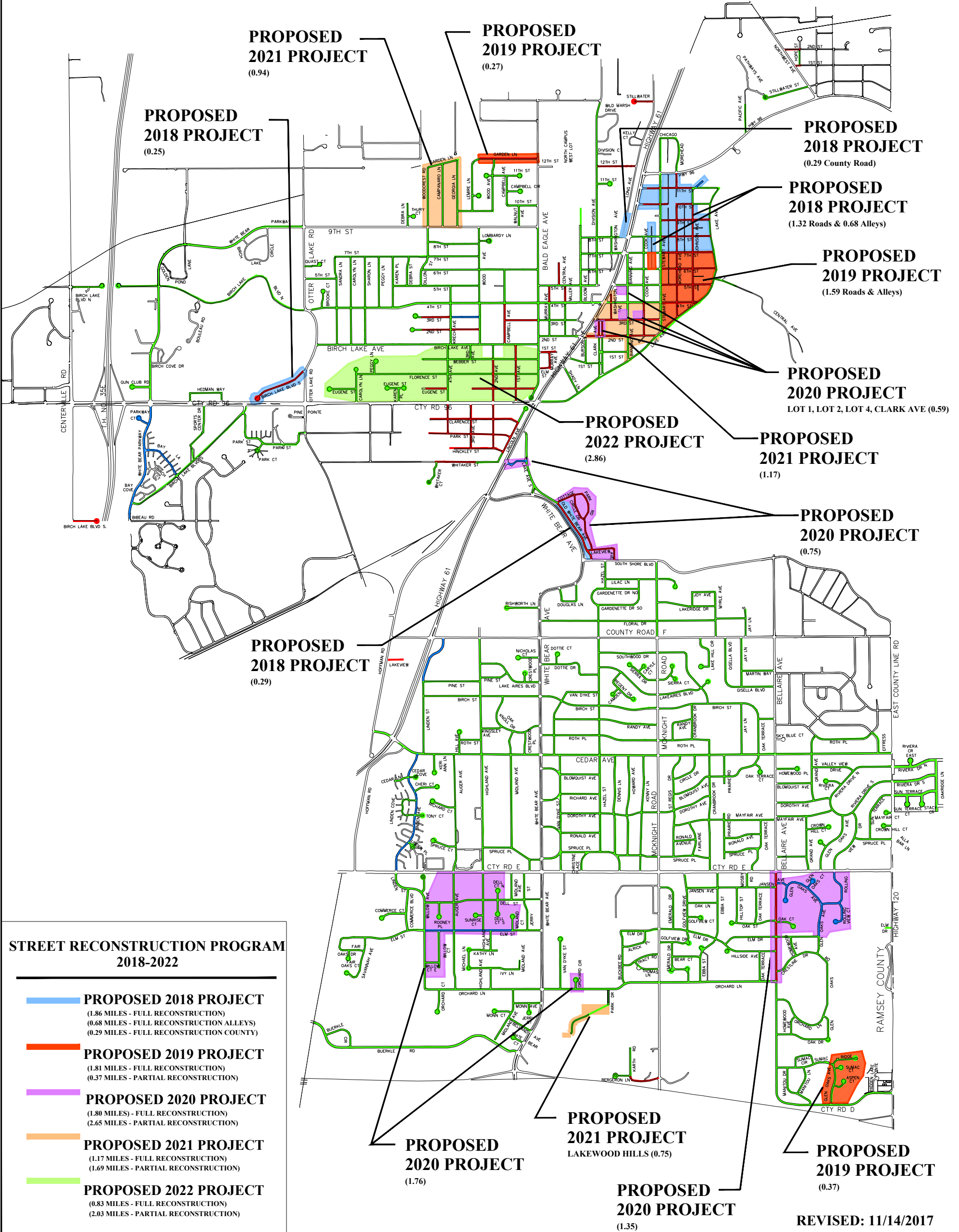
# CITY OF WHITE BEAR LAKE PROPOSED STREET RECONSTRUCTION PROGRAM 2018-2022

**PAVEMENT CONDITION**

**LEVEL 1** █  
(RECONSTRUCTED TO CURRENT  
ENGINEERING STANDARDS)

**LEVEL 2** █  
(STREETS WITH  
CONCRETE CURB & GUTTER)

**LEVEL 3** █  
(BITUMINOUS STREETS)





**MINUTES OF THE MEETING OF THE  
HOUSING AND REDEVELOPMENT AUTHORITY  
OF WHITE BEAR LAKE, MINNESOTA  
HELD ON TUESDAY, AUGUST 22, 2017**

**1. CALL TO ORDER AND ROLL CALL**

HRA Chair Biehn convened the meeting of the Housing and Redevelopment Authority at 8:44 p.m.

Members Doug Biehn, Kevin Edberg, Steven Engstran and Bill Walsh was present. Member Dan Jones was absent for agenda items 1 – 3 below, but was in attendance for the remainder of the meeting.

**2. APPROVAL OF THE AGENDA**

It was moved by Member **Walsh** seconded by Member **Engstran**, to approve the agenda as presented.

The motion carried unanimously.

**3. APPROVAL OF THE MINUTES**

It was moved by Member **Engstran** seconded by Member **Edberg**, to approve the August 8, 2017, HRA Meeting Minutes.

The motion carried unanimously.

**4. RESOLUTION ESTABLISHING A REVOLVING LOAN AND GRANT PROGRAM FOR THE COUNTY ROAD E CORRIDOR**

Community Development Director Kane reported the City established a revolving loan and grant program in 1989 for the downtown commercial area, with \$150,000 in initial seed money contributed by the Housing and Redevelopment Authority (HRA). The initial maximum loan amount was \$50,000, funded in equal parts by the HRA revolving grant program and a local financial institution.

Since 1989, 39 small businesses in the downtown area have taken advantage of this loan program, resulting in more than \$676,000 in private investment utilized for fixed interior improvements and permanent enhancements exterior renovations, including walls, awnings, signage and landscaping. The program has earned nearly \$40,000 in interest since its inception.

There is a desire to mirror a similar revolving loan program for the County Road E corridor, which would hopefully stimulate small and medium-size local businesses to move to and invest in the area. City Staff is requesting \$150,000 in initial seed money, and the HRA's existing budget has adequate funds for this program. Local banks would determine the credit worthiness of the businesses, and not City Staff.

An amendment to the revolving loan program's language may be required, to clearly define parameters so that the portfolios of large corporations would not be eligible. City Staff has worked with local bankers to identify thresholds, maximum number of employees, sales and building square footage, and to ensure that the loan program serves locally-owned and operated businesses. Another key provision is that businesses must work with a local financial institution, which will narrow the field of applicants.

Qualified parcels along the corridor include commercial properties on Hoffman, White Bear Avenue, Linden, Bellaire, County Road E, Century Avenue and Highway 120.

Discussions with local businesses have revealed an initial interest in developing the area, such as a local florist who has expressed interest in the Sunshine Insurance building on County Road E, for a floral shop and offices. Ha Long Bay Vietnamese Restaurant has purchased the former Taco Bell building, and the revolving loan program will provide resources for the owners to complete exterior improvements to the building. The revolving loan program will help the City attract prospective buyers to the former gas station site at County Road E and Bellaire Avenue.

Member Jones asked whether the Sheet Metal Workers building would qualify for the program, and whether it is tax exempt. Community Development Director Kane stated that property is not included, and she is unsure about their tax-exempt status. She added that would be worth exploring further.

Member Edberg asked whether the City would enter into a separate direct loan equivalent to the financing received from the private financial institution. Community Development Director Kane stated the City would provide its portion of the funding to the financial institution, who would administer the loan.

Member Edberg requested clarification regarding collateralization requirements for loan. Community Development Director Kane there would be a lien on the property, which presents a challenge for small tenants who do not own their property. She added landlords may be willing to become involved in the program and agree to put a loan lien on their property. She noted that is a City requirement.

Member Edberg asked whether there have been any defaults in the history of the program. Community Development Director Kane stated there have been no defaults.

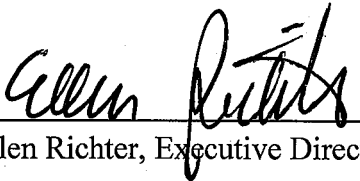
Member Walsh requested clarification regarding adequate HRA funding resources. Community Development Director Kane stated there is over \$1.5 million in the HRA account, and these funds are intended to encourage economic development in the community. She added this seed money would be about 10% of the available HRA funds.

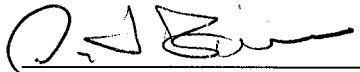
It was moved by Member **Walsh** seconded by Member **Engstran**, to approve **Resolution No. 17-07** approving the establishment of a revolving loan and grant program for the County Road E Corridor.

The motion carried unanimously.

**5. ADJOURNMENT**

It was moved by Member **Engstran**, seconded by Member **Jones**, to adjourn the HRA. There being no further business before the HRA, Chair Biehn adjourned the meeting at 8:55 p.m.

  
Ellen Richter, Executive Director

  
Doug Biehn, Chair of HRA



City of White Bear Lake  
Finance Department

## MEMORANDUM

**To:** Ellen Richter, City Manager  
**From:** Don Rambow, Finance Director  
**Date:** December 5, 2017  
**Subject:** HRA Tort Liability Limit – 2018 coverage year

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### BACKGROUND

As the Housing and Redevelopment Authority (HRA) seeks to renew its general liability insurance for fiscal year 2018, it must determine the level of liability coverage it seeks. The League of Minnesota Cities Insurance Trust (LMCIT), the HRA's insurance provider, offers two options for structuring the HRA's liability insurance coverage. The first option provides maximum coverage of \$500,000 per claimant and \$2,000,000 per occurrence tort liability. The LMCIT has adopted a policy of providing a policy limit which is \$500,000 higher than Minnesota Statutes requires. The LMCIT has adopted the higher coverage level in response to overall industry coverage requirements. The second option is for the HRA to waive the statutory and league limits, and possibly incur higher settlements than what is established in state statutes and league limits while assuming higher premiums. These liability limits apply whether the claim is against the HRA, against the individual officer or employee, or against both. These liability limits do not apply to actions brought in federal court including civil rights cases.

### SUMMARY

The HRA's renewal liability coverage through LMCIT provides a limit of \$2,000,000 per occurrence which is \$500,000 higher than the statutory. The LMCIT has realized that a common contract requirement has been to establish an insurance liability limit at \$2,000,000. The HRA's and LMCIT liability coverage would meet its requirement. The \$500,000 per claimant part of the statutory liability is not automatically waived. Thus, under the basic coverage form, the HRA through LMCIT would be able to use the \$500,000 per claimant limit as a defense where it applies.

Beside the overall LMCIT coverage limit of \$2,000,000 per occurrence, there are also annual aggregate limits (that is, limits on the total amount of coverage for the year regardless of the number of claims) for certain specific risks. Aggregate limits apply to the following:

Products/Completed Operations	\$3,000,000 annually
Limited pollution claims*	\$3,000,000 annually
Failure to supply utility services	\$3,000,000 annually
Data security breaches	\$3,000,000 annually
Land use regulation and development litigation*	\$1,000,000 annually

\*The limit applies to both damages and defense costs. Defense costs and damages in land use regulation and development litigation are covered on a sliding scale percentage basis.

The result is that the HRA will have \$2,000,000 of coverage available for most claims. On those claims to which the statutory limits apply, the HRA and LMCIT will be able to use the statutory tort liability limit to limit an individual claimant's recovery to no more than \$500,000. As mentioned above, there are some claims to which the statutory liability limits don't apply. Some examples are as follows:

- *Claims under federal civil rights laws.* These include Section 1983, the Americans with Disabilities Act.
- *Claims for tort liability that the HRA has assumed by contract.* This occurs when a HRA agrees in a contract to defend and indemnify a private party.
- *Claims for actions in another state.* This might occur in border communities that have mutual aid agreement with adjoining states, or when a HRA official attends a national conference.
- *Claims based on a "taking" theory.* Suits challenging land use regulation frequently include an "inverse condemnation" claim, alleging that the regulation amounts to a "taking" of the property.

The HRA maintains a separate general liability policy due, in part, to the independent nature of its activities, and the potential of the City and HRA being named in the same civil action, and also due to the relatively low premium cost for the HRA. The HRA's \$2.0 million coverage requires a premium cost of approximately \$2,200.

### **Options/Alternatives**

The HRA, through the LMCIT, would be purchasing additional \$500,000 liability coverage. This additional coverage would be consistent with industry contract standard language. The LMCIT liability limit change will not directly impact the HRA's overall premiums.

If the HRA would choose not to waive the statutory limit, the LMCIT additional \$500,000 liability coverage would only be applicable to those types of claims that are not covered by the statutory liability limit.

By establishing a \$2,000,000 municipal tort liability, the HRA will limit the taxpayer's liability by capping the possible expenditure of funds at the LMCIT basic coverage limit.

Excess liability insurance would act as umbrella coverage for claims not limited by statutes or in the extreme case where the presiding judge would interpret state law as too restrictive and waive the limit. The second option is considered extremely remote and would ultimately be determined by a higher court. Each \$1 million of excess liability coverage would cost approximately \$35,000 - \$55,000 depending upon the dollar level of coverage selected. The HRA has not currently incurred any claims exceeding the statutory or LMCIT limits; however, purchasing \$1 million excess liability coverage represents 2.2 cents per dollar of umbrella coverage. The HRA is saving approximately \$25,000 for each \$1 million in excess liability coverage over the state statutory limit it does not purchase.

### **RECOMMENDED COUNCIL ACTION**

It is recommended that the HRA continue to choose to not waive the statutory limit. This choice would avoid the need for the HRA to purchase excess liability coverage, which would cost approximately \$25,000 for each one-million of coverage.

This recommendation is consistent with prior years' coverage and would limit individual claimants to recover no more than \$500,000 and limit all claimants to \$1,500,000 for a single occurrence on any statutory tort limit claim against the HRA. The HRA would have \$2,000,000 of coverage for those claims which are not subject to the statutory limit.

### **ATTACHMENTS**

Resolution

Related excerpt from League of MN Cities



**RESOLUTION NO.**

**RESOLUTION NOT WAIVING THE MONETARY LIMITS ON MUNICIPAL TORT LIABILITY ESTABLISHED BY MINNESOTA STATUTES 466.04 FOR THE HOUSING AND REDEVELOPMENT AUTHORITY**

**WHEREAS**, Minnesota Statutes 466.04 limits the Housing and Redevelopment Authority liability of any single occurrence to \$1,500,000 after January 1, 2018; and

**WHEREAS**, the Housing and Redevelopment Authority provides coverage up to \$500,000 per individual claimant and up to \$1,500,000 per occurrence.

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSING AND REDEVELOPMENT AUTHORITY (HRA) OF THE CITY OF WHITE BEAR LAKE**, that the HRA does not waive the statutory liability limits for the Fiscal Year January 1, 2018 – December 31, 2018:

The foregoing resolution, offered by Member \_\_\_\_\_, and supported by Member \_\_\_\_\_, was declared carried on the following vote:

Ayes:

Nays:

Passed:

\_\_\_\_\_  
Doug Biehn, Chair

ATTEST:

\_\_\_\_\_  
Ellen Richter, Executive Director

**RELEVANT LINKS:**

See Section III.K, *Liquor liability*.  
See Section III.T, *Special events*.

See Section III.T, *Special events*.

See Section III.T, *Special events*.

Minn. Stat. § 466.04.

See Section II.D.3.a, *Statutory limits may not apply*.

## **D. Coverage limits**

LMCIT gives members options for structuring their liability coverage. Members can also choose either to waive or not to waive the monetary tort caps the statutes provide. It can also select from among several liability coverage limits.

### **1. LMCIT primary liability limits**

The statutory municipal tort liability is limited to a maximum of \$500,000 per claimant and \$1.5 million per occurrence. These limits apply whether the claim is against the city, against the individual officer or employee, or against both. LMCIT's liability coverage provides a standard limit of \$2 million per occurrence. Higher limits are in place for a couple reasons.

First, the statutory liability limit caps the city's liability for many types of claims. But some types of liability claims aren't subject to the statutory tort caps, so the city's potential liability is unlimited for some types of claims.

**RELEVANT LINKS:**

See Section II.D.3,  
*Purchasing higher liability  
limits.*

See Section III.B, *Data  
security breach and  
computer-related risks.*

See Section III.J, *Land use  
and special risk litigation  
and Land Use Incentive  
Program.*

See Section III.D,  
*Employees' activities in  
outside organizations.*

Minn. Stat. § 466.04.

Second, it's increasingly more common to see contracts require more than the statutory limit of \$1.5 million; a more common figure is \$2 million. LMCIT's higher limit meets this requirement, but if even higher limits are required, there is the option to carry LMCIT's excess liability coverage to meet the additional requirements. LMCIT can in some cases also issue an endorsement to increase the city's coverage limit only for claims relating to a particular contract.

In addition to the LMCIT coverage limit of \$2 million per occurrence, there are annual aggregate limits (that is, limits on the total amount of coverage for the year regardless of the number of claims), for certain specific risks.

Aggregate limits apply to claims arising out of the following:

- Products \$3 million annually
- Failure to supply utilities \$3 million annually  
Coverage applies for the failure to supply water, electricity, gas, or steam service. It also applies to damages arising out of the failure to supply phone and internet or other electronic data transmission services.
- Data security breaches \$3 million annually  
A \$250,000 annual aggregate/sublimit (part of and not in addition to the \$3 million aggregate) applies for Payment Card Industry (PCI) fines and penalties and data security breach regulatory fines and penalties resulting from a data security breach claim.
- Electromagnetic fields \$3 million annually
- Limited contamination \$3 million annually  
Includes the sudden and accidental release of pollutants; herbicide and pesticide applications; sewer ruptures, overflows, and backups; lead and asbestos claims; mold claims; organic pathogen claims; hostile fire claims; and excavation and dredging claims. Excavation and dredging claims are subject to an annual \$250,000 sublimit. These limits apply to both damages and defense costs.
- Land use/special risk litigation \$1 million annually  
Land use litigation coverage is provided on a sliding scale percentage basis, which is based on participation in LMCIT's land use incentive. Coverage applies to both damages and litigation costs.
- Activities in outside organizations \$100,000 annually

**2. Statutory liability limits**

The statutory municipal tort cap is limited to a maximum of \$500,000 per claimant and \$1.5 million per occurrence.

These limits apply whether the claim is against the city, against the individual officer or employee, or against both. The LMCIT liability coverage provides a standard limit of \$2 million per occurrence.

**RELEVANT LINKS:**

See *Summary of LMCIT Liability Coverage Options* and the effects of choosing the various coverage structure options.

See Section II.D.3, *Purchasing higher liability limits.*

See Section II.D.3, *Purchasing higher liability limits.*

At the city's coverage renewal each year, it must decide whether to waive or not waive the statutory limits. There is no right or wrong answer on this point, and it's a discretionary decision that each governing body must make.

**a. Waiving the statutory limit**

Members who choose to waive the statutory limits are waiving the protection of the statutory limits, up to the amount of coverage the city has. Someone with a claim against a city that has waived the statutory limits would be able to recover up to the LMCIT standard limit of \$2 million, rather than the statutory limit of \$500,000 per claimant. Because the waiver increases the exposure, the premium is a few percentage points higher for coverage under the waiver option.

A city may choose to pay more in premium for the waiver option because the statutory liability limit only comes into play in a case where the city is in fact liable and the injured party's actual proven damages are greater than the statutory limit. Some cities as a matter of public policy may want to have more assets available to compensate their citizens for injuries caused by the city's negligence. Waiving the statutory liability limits is a way to do that.

There is no increase in risk if the city waives the statutory liability limits. In other words, there is no risk for the city to end up with liability if LMCIT doesn't cover it. The LMCIT waiver form specifically says the city is waiving the statutory tort caps only to the extent of the city's coverage. That's not to say there is no risk the city's liability could exceed its coverage limits. There are certain situations in which this could happen, but the waiver doesn't increase that risk.

In those cases where the city waives the statutory limit, but also purchases the LMCIT excess liability coverage, a claimant could potentially recover more. For example, if the city has \$1 million of excess coverage and chooses to waive the statutory tort caps, the claimants (whether it's one claimant or several) could then potentially recover up to \$2.5 million in damages in a single occurrence. If the city carries higher excess coverage limits, the potential maximum recovery per occurrence is correspondingly higher.

Carrying LMCIT's excess coverage under the waiver option is a way to address an issue that some cities find troubling, and that's: the case where many people are injured in a single occurrence caused by city negligence. An example is if a city vehicle negligently ran into a school bus full of children causing multiple serious injuries.

The statutory limit of \$1.5 million divided 50 ways may not go far in compensating those injuries. Excess coverage under the waiver option makes more funds available to compensate the victims in this kind of situation.

**RELEVANT LINKS:**

See Section II.D.3,  
*Purchasing higher liability  
limits.*

See Section II.D.3.a,  
*Statutory limits may not  
apply.*

Minn. Stat. § 3.736.

The cost of the excess liability coverage is higher if the city waives the statutory tort caps. The cost difference is proportionally greater than the cost difference at the primary level because for a city that carries excess coverage, waiving the statutory tort caps increases both the per claimant exposure and the per occurrence exposure.

**b. Not waiving the statutory limit**

For cities who choose not to waive the statutory limits, the city's liability is limited by the statute to no more than \$500,000 per claimant and \$1.5 million per occurrence. LMCIT's higher coverage limits would only come into play on those types of claims that aren't covered by the statutory limit.

**3. Purchasing higher liability limits**

LMCIT makes available the option of carrying higher coverage limits than the basic limit of \$2 million per occurrence. This coverage, called excess liability coverage, is available in \$1 million increments up to a maximum of \$5 million.

There are several different reasons why cities may consider carrying LMCIT's excess liability coverage.

**a. Statutory limits may not apply**

The statutory tort caps either do not or may not apply to several types of claims. Some examples include:

- *Claims under federal civil rights laws.* These include Section 1983, the Americans with Disabilities Act, and so on.
- *Claims for tort liability the city has assumed by contract.* This occurs when a city agrees in a contract to defend and indemnify a private party.
- *Claims for actions in another state.* This might occur in border cities that have mutual aid agreements with adjoining states or when a city official attends a national conference or goes to Washington to lobby.
- *Claims based on liquor sales.* This mostly affects cities with municipal liquor stores, but it could also arise relating to beer sales at a fire relief association fundraiser, for example.
- *Claims based on a "taking" theory.* Suits challenging land use regulations frequently include an "inverse condemnation" claim, alleging the regulation amounts to a "taking" of the property.

**RELEVANT LINKS:**

See Section II.D, *Coverage limits*.

LMC information memos, *LMCIT Auto Coverage Guide* and *LMCIT Workers' Compensation Coverage Guide*. See Section III.L, *Medical payments*; Section III.D, *Employees' activities in outside organizations*; and Section III.K, *Liquor liability*.

LMC information memo, *Making and Managing City Contracts*, Section IV.B.6, *Umbrella/excess insurance*.

See Section III.Q, *Separate city boards and commissions*.

**b. Annual limits apply in LMCIT's coverage for specific risks**

Besides LMCIT's overall coverage limit of \$2 million per occurrence, there are also annual aggregate limits for certain specific risks. If the city has a loss or claim in one of these areas, there might not be enough limits remaining to cover the city's full exposure if there is a second loss of the same sort during the year.

There are, however, a couple important restrictions on how the excess coverage applies to risks that are subject to aggregate limits. The excess coverage does not apply to the following types of risks.

- Failure to supply utilities.
- Mold.
- Lead and asbestos.
- Excavation and dredging.
- Sudden and accidental release of pollutants below ground or within or on the surface of any body of water.
- Auto no-fault claims.
- Uninsured/underinsured motorist claims.
- Workers' compensation, disability, or unemployment claims.
- Claims under the medical payments coverage.
- Claims arising from the activities of outside organizations.
- No-fault sewer backup
- Liquor liability, unless the city has specifically requested it.



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## LIABILITY COVERAGE – WAIVER FORM

**LMCIT members purchasing coverage must complete and return this form to LMCIT before the effective date of the coverage. Please return the completed form to your underwriter or email to [psstech@lmc.org](mailto:psstech@lmc.org)**

This decision must be made by the member's governing body every year. You may also wish to discuss these issues with your attorney.

League of Minnesota Cities Insurance Trust (LMCIT) members that obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits apply regardless of whether the city purchases the optional excess liability coverage.
- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could potentially recover up to \$2,000,000 for a single occurrence. (Under this option, the tort cap liability limits are waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2 million.) The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.
- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name \_\_\_\_\_

Check one:

- The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04.
- The member **WAIVES** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04 to the extent of the limits of the liability coverage obtained from LMCIT.

Date of city council/governing body meeting \_\_\_\_\_

Signature \_\_\_\_\_ Position \_\_\_\_\_



**City of White Bear Lake**  
Community Development Department

## *MEMORANDUM*

**To:** Ellen Richter, City Manager

**From:** Anne Kane, Community Development Director

**Date:** December 7, 2017 for the December 12<sup>th</sup> HRA Meeting

**Subject:** 4<sup>th</sup> STREET VENTURES/Parking Lot Lease

---

### **BACKGROUND**

When the property at the northwest corner of Highway 61 and 4<sup>th</sup> Street (2137 4<sup>th</sup> Street – Edina Realty/Elevated/Pezzo /Subway building) was redeveloped in 1995, the developer entered into a parking lot lease agreement with the City. The agreement provides that the City would construct and the developer (and subsequent owners) would maintain the parking lot immediately north of the multi-tenant building (see attachment). The lease agreement had an initial term of 15 years with the option to renew for three additional 15 year terms. In December 2010, the Housing and Redevelopment Authority (“HRA”) approved the first lease extension conditioned on completion of certain maintenance tasks, which were satisfactorily addressed by the current owners (4<sup>th</sup> Street Ventures, LLC).

Last month, the City Council approved a 27 stall parking variance for the Oak Ridge Office Center immediately north of the parking lot in order to bring that site into compliance for a pending sale. In 1999, the City granted a conditional use permit to allow a 21,870 square foot office/retail building within the DCB zoning district. For some reason, unknown to both the applicant and current staff, the building that was constructed is 29,408 square feet in area — one full story more than originally approved. Therefore, the site did not provide adequate parking to comply with Code or industry standards.

### **CURRENT REQUEST**

While the parking variance was granted, the lending institution for the contract purchasers require the actual parking spaces be provided. As the site is fully developed, the current owners of Oak Ridge Office Centre approached the City to explore possible solutions. While the City owns the adjacent parking lot south of the site—all 192 spaces are allocated and leased to 4<sup>th</sup> Street Ventures, LLC. Therefore, a meeting with all parties was held earlier this month to explore a sublease of 27 stalls in the City’s parking lot to satisfy the buyers’ lender and facilitate the transfer of the office building to new ownership. 4<sup>th</sup> Street Ventures indicated a willingness to consider a sublease; however, they noted that as the extended term of their parking lot lease continues to shorten each passing year, the value of their investment is reduced. To address this concern, they requested the City consider an extension of the parking lot lease to the



original 1995 terms. In other words, tag on a fourth term extension of 22 years to the end of the third and final lease extension (which would presently terminate on 12/31/2056) and would potentially extend the parking lot lease through 12/31/2077.

### **SUMMARY**

The City could have chosen to sell the parking lot to the developer back in 1995 but instead retained ownership to preserve future opportunities for additional development if, and when, deemed appropriate. 4<sup>th</sup> Street Ventures currently has the vested right to extend the lease through 2041. Under the current lease, the City has the right to substitute the parking stalls in a parking ramp or below ground, if the opportunity presents itself. However, it does not discuss how the cost of structured parking would be allocated. It is difficult to forecast what the parking requirements or demands for the retail and office uses will be in 2056, or by 2077 for that matter. The greatest risk to extending the term of the current parking lease is the potential for increased construction costs to redevelop the parking lot in the final extension. Provided the costs to build structured parking are assessed equally per stall to the benefitting properties, including both 4<sup>th</sup> Street Ventures and Oak Ridge Center, then staff does not object to an additional and fourth extension of the Parking Lot Lease for an additional 22 years. Finally, the Lease restricts the assignment or subletting of the parking lot without the written consent of the City. If approved, the Lease Extension could provide such authorization.

### **RECOMMENDED COUNCIL ACTION**

Please forward the attached resolution to the HRA for consideration at its December 12<sup>th</sup> meeting, which, if approved, authorizes the Chairman and Executive Director to negotiate a Lease Extension subject to the terms described herein.

### **ATTACHMENTS**

1. Draft Resolution
2. Parking Lot Exhibit

**HOUSING AND REDEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF WHITE BEAR LAKE  
COUNTY OF RAMSEY, STATE OF MINNESOTA**

**RESOLUTION NO.**

**A RESOLUTION AUTORIZING A PARKING LOT LEASE EXTENSION  
(4<sup>TH</sup> STREET VENTURES)**

**WHEREAS**, the Housing and Redevelopment Authority in and for the City of White Bear Lake entered into a Redevelopment Agreement with Commonweal Development Corporation on June 13, 1995 to facilitate the construction of a multi-tenant office/retail building located at 2137 4<sup>th</sup> Street; and

**WHEREAS**, to preserve future opportunities for additional development if, and when, deemed appropriate, the City agreed to construct a parking lot ("Parking Lot") to provide the required parking and the property owner agreed to maintain the parking lot; and

**WHEREAS**, the duties and obligations of both parties were outlined in a Parking Lot Lease Agreement, dated August 29, 1995 which had an initial 15 year term and the right to renew for three additional 15 year terms; and

**WHEREAS**, the prospective owners of the adjacent Oak Ridge Office Center seek to sublet 27 parking spaces in the subject Parking Lot to bring their property into compliance with the Zoning Code; and

**WHEREAS**, the current owners of the Commonweal Development multi-tenant office/retail building are amenable to subletting the 27 parking spaces to the Oak Ridge Office Center IF the City agrees to extend the term of the Parking Lot Lease; and

**WHEREAS**, it is in the City's interest to ensure commercial properties provide or have access to adequate infrastructure, including shared parking facilities, to retain their market value and stabilize the municipal tax base.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners ("the Commissioners") of the Housing and Redevelopment Authority in and for the City of White Bear Lake, Minnesota (the "Authority") as follows:

- 1) The Chairman and Executive Director are hereby authorized to negotiate an amendment to the Parking Lot Lease, subject to the following terms:

The amendment shall not extend the final term of the Lease for a period longer than 22 years.

The amendment shall preserve the City's ability to substitute comparable parking stalls with ground level stalls, below ground stalls, or stalls in a parking ramp, provided the costs to build such parking are assessed equally per stall to

the benefitting properties, including both 4<sup>th</sup> Street Ventures and Oak Ridge Center.

The Amendment shall address the assignment or subletting of the parking lot without the written consent of the City.

Adopted by the Board of Commissioners of the Housing and Redevelopment Authority of the City of White Bear Lake this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Doug Biehn, Chairman

ATTEST:

\_\_\_\_\_  
Ellen Richter, Executive Director

### CERTIFICATION

I, Ellen Richter, Executive Director of the Housing and Redevelopment Authority in and for the City of White Bear Lake, County of Ramsey, State of Minnesota, hereby certify that the foregoing is a true and correct copy of Resolution No. \_\_\_\_\_ passed by the Authority on the \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Ellen Richter, Executive Director



REGULAR MEETING OF THE WHITE BEAR LAKE CONSERVATION DISTRICT  
7:00 P.M. WHITE BEAR CITY HALL  
MINUTES of October 17, 2017

~~FOR~~ APPROVED November 21, 2017  
*as corrected*

**1. CALL TO ORDER** The October meeting of the White Bear Lake Conservation District was convened by Chair Bryan DeSmet at 7:00 pm in the WBL Council Chambers.

**2. ROLL CALL** Present were: Chair Bryan DeSmet, Vice Chair Mark Ganz, Secretary/Treasurer Diane Longville; Directors: Mike Parenteau, Susie Mahoney, George St. Germain, Scott Costello, Geoff Ratte, and newly appointed representative from Dellwood, Brady Ramsay. We still have one vacancy (Birchwood). A quorum was present.

Chairman DeSmet reminded all to speak directly into their microphone for clarity on the DVD recording. He, also, welcomed Brady Ramsay, representing Dellwood, to the Board and thanked him for volunteering.

**3. AGENDA**

Add item 8d1: VFW Permits for winter events: Horseshoes on the Ice (Feb 10, 2018) and Softball on the Ice (Feb 17, 2018).

***MOTION #1 (DeSmet / St. Germain) Move to approve agenda with additions. All aye, passed***

**4. APPROVAL OF MINUTES**

***MOTION #2 (Ratte / Parenteau) Move to approve minutes as received. All aye passed.***

**5. PUBLIC COMMENT TIME:**

**Flotilla of Party Boats**

Shannon Foster, 5011 Lake Avenue, Chateauguet Condominiums, passed out a copy of their concerns about a “flotilla” of party boats which parked for hours in front of the condos and West Beach this summer (2017). The residents of Chateauguet and the young swimmers at the beach were subjected to loud and inappropriate music, jet skis, speed boats and swimming dogs. They blocked access to the condo docks and many times were rude when asked to move. Safety and health issues as well as the many ruined times this summer are a concern -- to the point where one resident has sold his condo and another is thinking of moving. The Sheriff’s office was called many times. There would be a brief lull, but it would start up again as soon as the deputies would leave.

Mike Parenteau said “She is not exaggerating at all. It may not be all of them but it is a major problem.” Geoff Ratte said, “We can hear them clear over on the Mahtomedi side as well.” Chairman DeSmet thanked her for bringing the concerns to the Board although it is not something that is before the board at this time, it is good to have their information on record.

## **Eurasian Water Milfoil treatments (EWM) for 2018 -- Another Perspective**

Fletcher Driscoll, 28 Peninsula Road, in Dellwood, spoke to re-thinking the basis for decisions on Eurasian Water Milfoil control -- from a sailing perspective. He felt "we are losing the battle to Milfoil." Sailboats are no longer able to use a good part of the lake for racing". Early deeper treatment would be better. There is a time gap between survey and treatment.

He introduced Jay ~~Reynolds~~ <sup>REYNOLDS</sup>, 4740 Stewart Avenue, WBL. Jay is retired from the DNR of Minnesota where he worked for 20 years. Fletcher felt Jay could add the DNR perspective plus he has sailed White Bear Lake for over 40 years. Jay reiterated that Milfoil is growing in large areas. Even if it is not visible from the surface, sailboats require more clearance than motorboats to provide for the keels and center boards which can be as deep as six feet in the water. He thought it would be helpful to treat deeper and earlier. White Bear Lake has been a sailing/racing lake since the 1800s and he felt it is important to maintain those sailing opportunities.

## **6. NEW BUSINESS**

### **Mike introduced Steve McComas: here to present 2017 Lake Report**

Steve has worked on White Bear Lake for 20 years and is a well-respected EWM expert.

Steve said that the 2017 approach to treatment on WBL had mixed success (different results in different areas). He passed out printed photos and comparative charts and graphs to illustrate his points. Discussion is now going on to plan for 2018 based on the results of various treatments and timing used on a variety of Minnesota lakes. It is a complex problem. In addition to the variables of timing, treatment and product; when water is low, EWM can grow now where it was not a problem before. They thrive using the store of nitrogen in that bottom area. The Zebra Mussels clarify the water which allows more sunlight to stimulate EWM and other plant growth and rate of growth.

Steve felt the best results can be obtained by treating a larger area around the targeted Milfoil to allow longer contact and counteract drift. After 3-4 hours repeat on the same area --- which allows for maximum plant contact. It is called the "Dual Pass."

It has not been determined which of the chemicals is most effective -- both are a growth hormone selective to EWM. If EWM is treated too early in the season, there is, also, the possibility that it will start to re-grow by the last of July or early August. It is a judgment call by the Board which has to consider cost as well.

Susie Mahoney asked if there is a granular product (as opposed to liquid) that would settle to the bottom and treat longer as it would not be as affected by drift. Steve said there was such a product, but it was much more expensive and has not proven to be that much more effective. She also asked if the amount and number of treatments could impact the quality of the lake. Steve said, yes, treating large areas can cause die-off that stimulates algae growth. DNR only allows treatment of 15% of a lake's littoral zone. In WBL that would be about 160 acres.

The DNR will issue a permit earlier if they know EWM is present (takes about a week to process). When asked about a trigger point at which treatment should begin, Steve said that the plant(s) being treated needs to be actively growing so it can take up the chemical. One sign that growth is active is that the leaflets are a bright green.

Asked about the appearance of surface cottony or slimy green algae, Steve said it is natural and usually does not last long depending on the lake current. It does not appear every year. Not yet in White Bear Lake, but on the horizon, invasive species we should watch for: Rusty crayfish, starry stonewort (big algae all strung together) which is very invasive. New, generally seen at landings or public access. It can be treated with copper sulphate 2 or 3 times a year. Good to get it early and contain at access. Good to do boat inspections and educate public

Mike Parenteau mentioned that, this winter, there are groups studying the data on EWM Control from this year. They may come up with suggestions for best practices for next Year (regarding chemicals, timing, enlarging treatment areas to compensate for drift, and other issues – perhaps depth control (for sail boats) could also be put on their agenda.

## 7. UNFINISHED BUSINESS

None

## 8. REPORTS/ACTION ITEMS

### 8a. Executive Committee

- 8a.1 City of Dellwood meeting was not available. However, Chairman DeSmet called the Mayor who thought the WBLCD Board is doing good work. He was interested in lake level lawsuit result and if it would impact our work
- 8a.2 Administrative Secretary recruitment. Ad will be placed on League of Minnesota Cities website, WBLCD website and Community Newspapers through Press Publications

***MOTION #3 ( Parenteau/ Longville ) Move to approve up to \$500 advertising expenses. All aye passed.***

### **8b – inactive**

### **8c. Lake Quality Committee**

- 8c.1 Water Level is 922.09'
- 8c.2 Water Temperature is 64 degrees
- 8c.3 John Redpath removed the shallow water buoys for us this year. The 2 new shallow water boys have been received and stored in the office

### **8d Lake Utilization Committee**

- 8d.1 Permit Applications:** 1) VFW Softball and 2) Horseshoes On Ice; 3) Rotary Club, Bearly Open and 3)Special Olympics Polar Plunge .
- 8d.2 License Applications:** 1) White Bear Yacht Club, 2) Snyder's Bay, 3) Alicia Heights ~~2) Scott Costello abstained~~

***MOTION #4 ( Ganz/ St. Germain ) Move to approve all) All aye passed.***

### **8e Lake Education Committee**

Website has recruitment advertisement and educational material links back to cleanup regarding Zebra Mussels. DNR has decided to count and monitor one more year. We did not put our Zebra Mussel control ad in Press Publications this fall. Consensus is you cannot transport Mussels dead or alive on public roads. If pulling out onto your own property, no need to scrape – winter exposure kills them. The shells are very sharp to walk on. We have links to DNR material. When new Administrative Secretary is hired, Scott would like to spend some time with her explaining website duties. There is cleanup needed and content needs to

be kept current. We should get information into Homeowner's Association's newsletter next spring.

**8f. Treasurer's Report**

***MOTION #5(Longville Parenteau) Motion move to approve October 2017 treasurers report and pay checks 4441 – 4446. All aye passed.***

**8g. Board Counsel Report**

Attorney Kantrud had a conflict and could not attend tonight's meeting, but he called Chairman DeSmet and said there was no activity to report.

**9. CONSENT AGENDA**

***MOTION ##6 (Longville/ Parenteau) Move to approve Consent Agenda. All aye passed***

**10. ANNOUNCEMENTS**

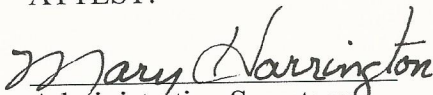
Geoff Ratte wondered if there would be a quorum for November meeting because it was the week before Thanksgiving. There was general consensus that there would be.

**11. ADJOURNMENT**

***MOTION #7 (St Germain /Ratte) Move to adjourn. All aye passed.***

Meeting adjourned at 8:20 p.m.

ATTEST:

  
Administrative Secretary

\_\_\_\_\_  
November 21, 2017

APPROVED:

\_\_\_\_\_  
Board Chairperson

\_\_\_\_\_  
November 21, 2017

# City of White Bear Lake Environmental Advisory Commission

## MINUTES

Date: October 18, 2017	Time: 6:30pm	Location: WBL City Hall
COMMISSION MEMBERS PRESENT	Sheryl Bolstad, Gary Eddy, Chris Greene, Bonnie Greenleaf, Gary Schroeder, June Sinnett	
COMMISSION MEMBERS ABSENT	Greg Pariseau, Eric Wagner (Chair)	
STAFF PRESENT	Connie Taillon	
VISITORS	None	
NOTETAKER	Connie Taillon	

### 1. CALL TO ORDER

The meeting was called to order at 6:38pm.

### 2. APPROVAL OF AGENDA

Staff removed the Surface Water Management Plan item from new business. Commissioner Bolstad moved, seconded by Commissioner Sinnett, to approve the agenda as amended. Motion carried, vote 6/0.

### 3. APPROVAL OF MINUTES

#### a) September 20, 2017 meeting

The commission members reviewed the September 20, 2017 draft minutes and had no changes.

Commissioner Bolstad moved, seconded by Commissioner Eddy, to approve the minutes of the September 20, 2017 meeting as presented. Motion carried, vote 6/0.

### 4. VISITORS & PRESENTATIONS

None

### 5. UNFINISHED BUSINESS

#### a) 2017-2018 Work Plan

The commission members continued to discuss goals for 2018. Commissioner Greenleaf would like to consider using issues identified in the 2011 Natural Step Framework training sessions as a guide to prioritize goals.

Commission members also discussed community solar options on rooftops, possible drop-off locations for an organics dumpster at the new Public Works building and the County Road E gas station, and school composting programs. Consider inviting a representative from the school district to attend a future meeting.

Each commission member will choose their top three goals and present at the November 15<sup>th</sup> meeting.

#### b) Budget Updates and Discussion

Staff reported that an Environmental Advisory Commission banner would cost between \$150 to \$200 dollars depending on the size and design. Commissioner Greene volunteered to create a concept design for a 2' x 8' banner and bring it to the November meeting for review. Staff will email the City logo to Commissioner Greene for use in the design. The commissioners also discussed purchasing a rain barrel for the Environmental Resource Expo raffle next year. Commissioner Greenleaf moved, seconded by Commissioner Bolstad, to purchase a banner and rain barrel from the 2017 budget. Motion carried, vote 6/0.

#### c) Review last month's do-outs

No discussion



**6. NEW BUSINESS**

**a) Officer election – Chair, Vice-Chair**

Commissioner Greenleaf moved, seconded by Commissioner Sinnett, to nominate Commissioner Schroeder as Chair and Commissioner Bolstad as Vice-Chair. Motion carried, vote 6/0.

**b) New do-outs**

Commissioners:

- Commissioner Greene to design the Expo banner and present at the November meeting
- Commissioner Eddy to inventory trash and recycling containers in the Downtown area
- Commissioner Bolstad to research storm drain stenciling
- Choose top three goals and present at November meeting

Staff:

- Email City logo to Commissioner Greene
- Email storm drain stenciling contact information to Commissioner Bolstad
- Gather information about the location of existing trash and recycling containers in the Downtown area and email to Commissioner Eddy

**7. DISCUSSION**

• **Staff Updates**

None

• **Commission Member Updates**

Commissioner Bolstad reported on the 25by25 event held at City Hall on September 21st. It was a nice event with opening remarks from Mayor Emerson and the Mayor of Mahtomedi. There were presentations from Conservation MN, VLAWMO, and RCWD and then the participants split up into small groups to answer questions on current water issues.

**8. ADJOURNMENT**

The next meeting will be held on November 15, 2017 at 6:30pm at City Hall. Commissioner Sinnett moved, seconded by Commissioner Greenleaf, to adjourn the meeting at 8:25 pm. Motion carried, vote 6/0.

# Park Advisory Commission Meeting Minutes

OCTOBER 19, 2017

6:30 P.M.

CITY HALL

MEMBERS PRESENT	Bryan Belisle, Bill Ganzlin, Dan Louismet, Mike Shepard, Joann Toth
MEMBERS ABSENT	Anastacia Davis, Don Torgerson,
STAFF PRESENT	Mark Burch, Mike Natterstad
VISITORS	
NOTE TAKER	Mark Burch

## 1. CALL TO ORDER

Bill Ganzlin called the meeting to order at 6:30 pm.

## 2. APPROVAL OF MINUTES

Approval of the minutes from September 21, 2017 was moved by Mike Shepard and seconded by Bryan Belisle. Motion carried.

## 3. APPROVAL OF AGENDA

Bryan Belisle moved to approve the October 19, 2017 agenda, seconded by Dan Louismet. Motion carried.

## 4. COMMITTEE REPORTS

None.

## 5. UNFINISHED BUSINESS

None.

## 6. NEW BUSINESS

### a) 2018 Arbor Day

The Park Advisory discussed possible Arbor Day projects for 2018 which will be held on Saturday, May 5<sup>th</sup>.

- 4<sup>th</sup> and Johnson raingarden
- **Ebba Park** – Remove Ash trees on south side of the Park and replant with new trees to promote awareness of oncoming Emerald Ash Borer situation.
- **Podvin Park** – Plant trees on south side to screen lacrosse fence.

- **Rotary Park** – Replace oaks on the west side of the park that were removed due to oak wilt.
- **Spruce Park** – Plant trees to provide shade for play equipment area.
- **Matoska Park** – For replacement trees use B&B instead of spaded trees.

b) 2018 Parks Capital Improvement Fund

Park Commission reviewed final revisions adopted at the September meeting.

## 7. OTHER STAFF REPORTS

a) Clark Avenue Flagpole Memorial Restoration Project update

Project has been delayed until 2018 while fund raising continues.

b) Sports Center Update

Sports Center plans are completed. Mark Burch reviewed the project components. City Council will be considering moving forward with the project at its October 24<sup>th</sup> meeting.

c) Matoska Park Gazebo

The Commission discussed the evolving Gazebo restoration/replacement project. Joann and Mike have been working with members of Joann's company to explore ways to replicate the ornate panels on the gazebo. Several options are under consideration. Mike and Joann are going to arrange a site meeting with Joann's Superintendent and include Sarah Markoe (Historical Society) and Brian Hansen (Architect).

d) Mike Natterstad reported that the Lacrosse Association and their contractors are doing an excellent job with revisions to Podvin Park softball fields to convert them to Lacrosse use.

e) Mike Natterstad reported that the overhead trolley play equipment the commission has been considering for Lakewood Hills Park has not been installed at a location he has been able to inspect. We would like to inspect another installation before committing to installing it in Lakewood Hills Park. The Park Advisory Commission decided to delay the project to 2018 so there is time to confirm the value of the new play equipment.

f) Mike Natterstad presented some potential shelter models that could be used to replace the picnic shelters at Lions Park. Replacement of the picnic shelters is anticipated in the next few years.

## 8. COMMISSION REPORTS

None.

## 9. OTHER BUSINESS

The Park Advisory Commission will attend the South Shore Street and Trail Project Public Informational Meeting on November 16<sup>th</sup> instead of its regular meeting.

#### **10. ADJOURNMENT**

The next meeting will be held on November 16, 2017 at 6:30 p.m. at the South Shore Street and Trail Public Meeting at South Shore Trinity Church.

There being no further business to come before the Park Commission, the meeting was adjourned. Moved by Bryan Belisle and seconded by Mike Shepard.

**MINUTES  
PLANNING COMMISSION MEETING  
CITY OF WHITE BEAR LAKE  
November 27, 2017**

The regular monthly meeting of the White Bear Lake Planning Commission was called to order on Monday, November 27, 2017, beginning at 7:00 p.m. in the White Bear Lake City Hall Council Chambers, 4701 Highway 61, White Bear Lake, Minnesota by Chair Jim Berry.

**1. CALL TO ORDER/ROLL CALL:**

MEMBERS PRESENT: Chair Jim Berry, Erich Reinhardt, Mary Alice Divine, Ken Baltzer and Mark Lynch.

MEMBERS EXCUSED: Marvin Reed and Peter Reis.

MEMBERS UNEXCUSED: None.

STAFF PRESENT: Anne Kane, Community Development Director, Samantha Crosby, Planning & Zoning Coordinator and Amy Varani, Recording Secretary.

OTHERS PRESENT: Emily Shubitz, Meggan Burak, Linda Henry, Ross Carter, John Moriarty, Kim Schwietz, Mike Oase, John Johansson, Mitch Avery, Jason Stiefel, Mike Edgett and Wally Lindemann.

**2. APPROVAL OF THE NOVEMBER 27, 2017 AGENDA:**

Member Lynch moved for approval of the agenda. Member Baltzer seconded the motion, and the revised agenda was approved (5-0).

**3. APPROVAL OF THE OCTOBER 30, 2017 PLANNING COMMISSION MEETING MINUTES:**

Member Baltzer moved for approval of the minutes. Member Reinhardt seconded the motion, and the minutes were approved (5-0).

**4. CASE ITEMS:**

**A. Case No. 17-2-PUD, 17-4-CUP and 17-23-V:** A request by **Violet Montessori** for a Conditional Use Permit for a day care facility; a 30-foot variance from the 30-foot front yard setback requirement along Murray Avenue to allow the fence and play area in a front yard; and, "General Concept" & "Development Plan" stage approval of a Planned Unit Development for signage to allow projecting signs; all in order to allow the establishment and operation of a Montessori School and Parent Resource Center for the property located at 2025 4<sup>th</sup> Street.

Crosby discussed the case. The day care would have a maximum of 20 children – 8 infants and 12 toddlers; the parent resource center would have a maximum of 10 students. Staff recommends approval of all the aspects of the request, all subject to the conditions listed in the staff report.

Crosby stated that the code defines all sides which abut a public street as a front yard. She also indicated that there would be only two lights that would shine down from the projecting signs.

Lynch encouraged the use of bike racks.

Berry opened the public hearing.

Emily Shubitz and Meggan Burak came up to speak. Shubitz stated that they are the two that want to open the Montessori with the hope that it will bring the community together. She likes the idea of the bike racks. The Montessori will be environmentally friendly. They're excited to get to know everybody in the community a little more. She has lived here for many years and has three daughters that go to school at White Bear Montessori.

As no one else came up to speak, Berry closed the public hearing.

Member Lynch moved to recommend approval of Case No. 17-2-PUD, 17-4-CUP and 17-23-V. Member Divine seconded the motion. The motion passed by a vote of 5-0.

- B. Case No. 17-5-CUP:** A request by **Division 25, LLC** on behalf of **Lund's and Byerly's** for Development Stage Planned Unit Development (PUD) approval for Tower Crossing – Phase II to permit a 47,000 square foot grocery store for the property located at 4630 Centerville Road.

Kane discussed the case. She stated that the site was zoned PZ-Performance Zone. It is an 8.4 acre mixed-use Planned Unit Development ("PUD") under development by Division 25 LLC for a 47,000 square foot Lund's & Byerly's grocery store. She gave a history of the PUD designation for both Phase I and Phase II. The applicant is here this evening seeking Final PUD approval for Phase II of the Tower Crossings PUD.

Kane explained that the City's Comprehensive Plan guides this property for "High Density Residential". As proposed, Tower Crossings is a two-phase mixed-use PUD comprised of residential in Phase I to the north and retail commercial in this final phase.

Kane stated that the Internal Service Drive plays a critical role in accommodating and funneling the traffic of other surrounding businesses. The drive is maintained on the site plan for Phase II and incorporates the 90 degree turns depicted in the original concept intended to calm traffic as it moves through the site. Reduced setbacks are consistent with the zoning flexibility afforded through the PUD process

and results in a more unified and efficient land use pattern.

Regarding building elevations, Kane stated that the new building will incorporate strong architectural features.

For parking and circulation, Kane stated that at 42,500 NFA this use is required to provide 212 stalls, including 8 handicap accessible spaces. A total of 192 including 8 accessible spaces are provided. The second deviation that the applicant is requesting is 10 x 18 foot parking stalls, which many municipalities permit by right.

In relation to the landscaping, Kane indicated that with the increased building size and parking, there is a reduced area to incorporate the required landscaping on site. However, staff worked with the applicant to make adjustments to increase the material sizes and quantities.

Kane addressed enhancing the pedestrian connection to the south. Staff's desire has been to strengthen the pedestrian connection internal to the site, and there is a condition 4.a towards such end. However, there are some concerns about the existing grade and making sure that's a safe transition. She believes the developer may prefer to bring the sidewalk back out to Centerville Road so that pedestrians are utilizing that frontage to access retail properties to the south, including Tires Plus, Walgreens and McDonald's. There will probably be some pedestrians that will take a shortcut, but if they can be accommodated in the public right-of-way, that is a desirable result.

Kane explained the plans depict a right turn to access the parking lot immediately upon entering the shared internal drive from Centerville Road. Lund's & Byerly's cite this as an opportunity to relieve some of the traffic that otherwise would need to travel in front of their store. Customers can access parking spaces upon entering the site or utilize a secondary route to adjoining businesses. A signage and striping plan will be necessary for this right turn and it may be necessary to provide an additional entry aisle to accommodate this.

Kane discussed the truck turning template, as well as the Easement Encroachment and Vacation Exhibits.

Regarding signage, the sign plan for the east elevation is contingent on MnDOT permitting removal of plant growth to the east of the store. The overall sign package is sophisticated and subtle and staff has no objections with the increased square footage proposed.

Kane discussed the 2016 Traffic Impact Study. Given the floor area reduction of the current applicant's proposal, staff requested the Traffic Impact Study be updated to reflect its impact on the area roadway network over the previous proposal. The current development proposal projects 470 PM peak hour trips (a 31% reduction) and 5,100 daily trips (a 32% reduction) on the surrounding roadway network over the previous proposed. The increased traffic can be safely accommodated with modifications to both Highway 96 and Centerville Road. One modification is a new northbound travel lane to the entry drive. Second is installation of a traffic signal at

the new intersection, which is warranted based on existing volumes and the addition of the increased traffic associated with the development of Mrs. Lande's property. Third is the timing of the signals along Highway 96 to optimize their operation. Staff understands Ramsey County intends to do so in the next couple of years.

Kane stated that a fourth modification includes changes to the median on Centerville Road. Ramsey County has full jurisdiction on any modifications to the roadway, and the site plan for the Tower Crossings PUD is not impacted one way or the other if a full/modified/no median is approved by the County. This long-anticipated development of Mrs. Lande's property offers the opportunity to provide relief for traffic generated by the commercial users on the east side, within the City's jurisdiction.

Kane stated that staff recommends approval of the Development Phase Approval for Phase II of the Tower Crossings PUD when subject to the conditions outlined in the draft Resolution of Approval.

Divine asked about the green highlighted area on the median exhibit – was that there for the last proposal? Kane stated no. She explained that when it got to the Planning Commission last time, the Ramsey County traffic engineer had not made a determination on the median. Cub expressed a lot of concerns about having traffic from Meadowlands Drive cut through in front of their building. Kane believes Ramsey County heard that message. They accommodated another business request to maintain that left turn out onto northbound Centerville Road. Divine is glad to see that.

Divine asked about the left turn lane that currently goes into Meadowlands Drive. Kane stated if traveling northbound on Centerville Road, or coming from the east on Highway 96, one would either stay on Highway 96 or turn left onto 96 to access Meadowlands Drive from an internal side drive, between Arby's and Auto Zone. Medians can't be changed without changing traffic patterns.

Divine questioned if there'll be a left turn lane into Cub at the stop light. Kane answered yes. Divine asked if there's been any discussion about evening that out, because it isn't aligned right now. Kane replied that Ramsey County will identify if any curbs need to be modified.

Divine questioned who pays for the traffic light and the median. Kane stated that Ramsey County has agreed to pay for the median modifications. They indicated that they won't pay anything for the traffic light, as it serves private businesses. Staff is trying to find a funding mechanism that works for every benefitting party, so that they pay their share. The County has two legs on this intersection and two private commercial developments. The arrangements for the payment of the signalized intersection have not been ironed out. The right turn into Lund's is being paid 100% by the developer. The sidewalk is eligible for a 50/50 share with Ramsey County. There will be a funding agreement before any work begins.

Baltzer asked if there's a U-turn at the north intersection. Kane stated that one of Ramsey County's comments was to change the geometrics on that north



intersection so that U-turns are allowed there.

Lynch stated that it would be nice if southbound at Highway 96 and northbound at the new signal a sign saying "U-Turns Allowed" could be put in. It would help people from all directions figure out where they're supposed to go.

Lynch asked about the lights in the parking lot. Kane indicated that the lights are on 22' poles on a 2' base. It's consistent with what was approved for Phase I.

Lynch asked about the 30' utility easement. If something needs to be torn up, how do deliveries get made? Kane stated that there is a reciprocal easement agreement between the City, White Bear Heights, and Lund's & Byerly's. This would be given the highest priority for repairs.

Lynch indicated that he likes the quick right-in. It will be very helpful. He's impressed with the September 2018 opening date.

Kane discussed an e-mail received from Tom Moriarity and his brothers representing properties to the south, a copy of which was provided at the dais. A lot of the issues regarding grading and drainage would be ironed out as part of the site development permit process.

Berry opened the public hearing.

John Johansson, Division 25, Welsh Companies, 4350 Baker Road, Minnetonka, came up to speak. They're delighted to be here and hopefully welcome Lund's & Byerly's to White Bear Lake. With him here tonight are Mitch Avery with Lund's & Byerly's; he has a team of people with him. Also, their partners and consultants from Alliant Engineering are here. The contractor is ready to break ground right after city approval and continue with construction through the winter and summer. They've met with the County several times.

Johansson referred to condition #4A in the staff report. The sidewalk moving out to Centerville Road would meet that condition. They want to continue the Phase I sidewalk that runs between the senior housing building and Centerville Road, and continue that along their property. Eventually, Tires Plus and Walgreens will have to put a sidewalk in as well.

Regarding landscaping, Johansson stated that they will add the calipers to the trees. They need cooperation with MnDOT to remove scrub growth within the I-35E corridor. They would replant. Otherwise, they may need to put up a pylon sign.

For the 5 foot encroachment into the easement, Johansson stated that they accept the conditions. It's extremely rare that new utility lines fail, at least within the first 40 or 50 years. The reality is that every commercial property is surrounded by utility lines. If something unforeseen happens, they'll deal with it.

Johansson talked about the traffic improvements on Centerville Road. They are very hopeful that the County and neighboring property owners understand the

improvements. They may not like all the improvements, but they're necessary for safety. They are thankful for the City's assistance in helping to find some funding vehicles, hopefully with the County. They'll absorb their share.

Regarding the U turn at the new traffic light, Johansson welcomes it very much. It's a very slow turn on a controlled light.

Johansson stated that there are three utility poles along the frontage. They'll bury them if there is room. The issue with Connexus is that there are so many utilities running through there in the right-of-way.

Mitch Avery, Lund's Food Holdings, 3946 W. 50<sup>th</sup> Street, Edina, came up to speak. He introduced their development team. Avery stated that the family-owned and operated Lund's started in 1939. They are a good neighbor. They think their customer lives here in White Bear Lake and they love the community. He explained the type of food that the grocery store and Creations Café will have and what they will be like. The building will have beautiful exterior walls, and the building will be similar to the Edina store. With the replacement of scrub trees with new plantings on the east side, they won't have the need for a large pylon sign. They put together a minimal sign package. They want to be open by the end of September of 2018. The shopping hours and times for their customers are spread out, and there will be a spread out traffic flow. They want wider parking stalls, and safety and security in front of the store. The right turn lane coming in is very important to them. They appreciate the welcoming they've had from city staff.

Divine asked what the hours will be. Avery responded the hours will be 6 a.m. – midnight. Creations café will be open pretty much the same hours.

Linda Henry, Jonquil Lane in White Bear Township, came up to speak. Three towns meet at this intersection. She avoids it; it needs to be fixed. She is concerned about the traffic and overdevelopment causing environmental damage. It affects the quality of life for them and future residents. They don't need another grocery store in the area, as there are others nearby. No taxpayer money should be spent on construction that will further reduce the flow of traffic, pollute the air and harm the land.

Michael Oase, Kowalski's, 8505 Valley Creek Road, stated their concerns with the construction and road changes. They want to protect their customers and want to make sure they have the access they need to their parking lot, Centerville Road and Meadowlands Drive. The traffic signal is going in because of the new development. They think there are some benefits; but there's also drawbacks such as traffic stacking in their parking lot, and a U-turn at the median, which will create slowdowns for people wanting to go south out of their parking lot onto Centerville Road.

Divine talked about Meadowlands Drive. She stated that maybe there needs to be some re-education to Cub's customers. Oase stated that their primary concern is people being able to go North on Centerville Road.

John Moriarity, owner of White Oak Development, 4600 Centerville Road, came up

to speak. More traffic for them is good traffic. They are excited about Lund's & Byerly's coming in. He is concerned about some of the traffic and the elevation. The grade for the internal service drive is pretty steep, with the ramp starting on their property. He referred to the traffic study; there are no counts for projected traffic that will go up the ramp.

Kane responded that the counts don't look at internal traffic impacts. It examines impacts onto the adjoining roadway network.

Moriarity wondered if Lund's knows what their internal counts are. He likes the outlet that they are putting in. He'd like to see an engineer look at that.

Kane responded that the city engineer will be looking at it through the permitting process.

Moriarity would like it if the developer can curve the road.

Johansson talked about the grade. It's not so steep that it's uncomfortable, it is consistent with the grade of Walgreen's existing driveway to Centerville Road.

As no one else came up to speak, Berry closed the public hearing.

Reinhardt talked about the road between Arby's and Auto Zone. Can a sign be installed directing people on Highway 96 to take that road as opposed to Centerville Road?

Kane thinks that's a great idea. It could be temporary directional signage that remains sometime after the road improvements are made to provide additional way-finding signage for motorists. However, she doesn't know what the County's position is with identifying commercial businesses within a public right-of-way.

Lynch stated that he likes this design and proposal. He thinks it's very well thought out. He likes the improvements that have come through on Centerville Road. It solves a lot of problems. He likes the fact that densification is happening, because it means that people don't have to drive as far to where they'd like to shop. He thinks it's good for competition too. His one concern is the drive aisle through the front. It seems a little tight, but that will help people slow down, which makes it safer. The U-turns and left turns on Centerville Road will help the circulation. He likes this a lot.

Member Batlzer moved to recommend approval of Case No. 17-5-CUP. Member Reinhardt seconded the motion. The motion passed by a vote of 5-0.

**C. Case No. 17-1-LS:** A request by **Betsy Larey** to split one lot into two for the property located at 1298 N. Birch Lake Boulevard.

Crosby discussed the case. Staff supports the request, subject to the standard conditions.

Berry opened the public hearing. As no one came up to speak, the public hearing was closed.

Member Reinhardt moved to recommend approval of Case No. 17-1-LS. Member Baltzer seconded the motion. The motion passed by a vote of 5-0.

**5. DISCUSSION ITEMS:**

**A.** City Council Meeting Minutes of November 14, 2017.

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**B.** Park Advisory Commission Meeting Minutes from October 19, 2017.

Kane stated that the last Park Commission meeting was held at the November 16<sup>th</sup> open house for the South Shore Boulevard Trail design that was conducted at South Shore Trinity Lutheran church. There was a good turnout, although only one resident from County Road F signed in. The City, the Township and Ramsey County are working together to do a very preliminary design on how to extend the trail, as part of the Lake Links Trail Connection program. They are looking at one-way streets, so she'd encourage the Planning Commissioners, if they have thoughts on that, to attend the next open house on December 7<sup>th</sup> at 5:30 p.m. at South Shore Trinity Lutheran church.

**6. ADJOURNMENT:**

Member Lynch moved to adjourn, seconded by Member Reinhardt. The motion passed unanimously (5-0), and the November 27, 2017 Planning Commission meeting was adjourned at 8:47 p.m.



City of White Bear Lake  
Finance Department

## MEMORANDUM

**To:** Ellen Richter, City Manager  
**From:** Don Rambow, Finance Director  
**Date:** December 5, 2017  
**Subject:** **Municipal Tort Liability Limit – 2018 coverage year**

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### BACKGROUND

As the City seeks to renew its general liability insurance for fiscal year 2018, it is required to determine the level of liability coverage it seeks. The League of Minnesota Cities Insurance Trust (LMCIT), the City's insurance provider, offers two options for structuring the City's liability insurance coverage. The first option provides maximum coverage of \$500,000 per claimant and \$2,000,000 per occurrence tort liability. The LMCIT has adopted a policy of providing a policy limit which is \$500,000 higher than Minnesota Statutes requires. The LMCIT has adopted the higher coverage level in response to overall industry coverage requirements. The second option is for the City to waive the statutory and league limits, and possibly incur higher settlements than what is established in state statutes and league limits while assuming higher premiums. These liability limits apply whether the claim is against the City, against the individual officer or employee, or against both. These liability limits do not apply to actions brought in federal court including civil rights cases.

### SUMMARY

The City's renewal liability coverage through LMCIT provides a limit of \$2,000,000 per occurrence which is \$500,000 higher than the statutory. The LMCIT has realized that a common contract requirement has been to establish an insurance liability limit at \$2,000,000. The City's and LMCIT liability coverage would meet its requirement. The \$500,000 per claimant part of the statutory liability is not automatically waived. Thus, under the basic coverage form, the City through LMCIT would be able to use the \$500,000 per claimant limit as a defense where it applies.

Beside the overall LMCIT coverage limit of \$2,000,000 per occurrence, there are also annual aggregate limits (that is, limits on the total amount of coverage for the year regardless of the number of claims) for certain specific risks. Aggregate limits apply to the following:

Products/Completed Operations	\$3,000,000 annually
Limited pollution claims*	\$3,000,000 annually
Failure to supply utility services	\$3,000,000 annually
Data security breaches	\$3,000,000 annually
Land use regulation and development litigation*	\$1,000,000 annually

\*The limit applies to both damages and defense costs. Defense costs and damages in land use regulation and development litigation are covered on a sliding scale percentage basis.

The result is that the City will have \$2,000,000 of coverage available for most claims. On those claims to which the statutory limits apply, the City and LMCIT will be able to use the statutory tort liability limit to limit an individual claimant's recovery to no more than \$500,000. As mentioned above, there are some claims to which the statutory liability limits don't apply. Some examples are as follows:

- *Claims under federal civil rights laws.* These include Section 1983, the Americans with Disabilities Act.
- *Claims for tort liability that the City has assumed by contract.* This occurs when a City agrees in a contract to defend and indemnify a private party.
- *Claims for actions in another state.* This might occur in border cities that have mutual aid agreement with adjoining states, or when a city official attends a national conference.
- *Claims based on a "taking" theory.* Suits challenging land use regulation frequently include an "inverse condemnation" claim, alleging that the regulation amounts to a "taking" of the property.

The City's HRA, EDA, and port authority are themselves a separate political subdivision. The City's HRA maintains a separate general liability policy due, in part, to the independent nature of its activities, and the potential of the City and HRA being named in the same civil action, and also due to the relatively low premium cost for the HRA. The HRA's \$2.0 million coverage requires a premium cost of approximately \$2,200.

### **Options/Alternatives**

The City, through the LMCIT, would be purchasing additional \$500,000 liability coverage. This additional coverage would be consistent with industry contract standard language. The LMCIT liability limit change will not directly impact the City's overall premiums.

If the City would choose not to waive the statutory limit, the LMCIT additional \$500,000 liability coverage would only be applicable to those types of claims that are not covered by the statutory liability limit.

By establishing a \$2,000,000 municipal tort liability, the City will limit the taxpayer's liability by capping the possible expenditure of funds at the LMCIT basic coverage limit.

Excess liability insurance would act as umbrella coverage for claims not limited by statutes or in the extreme case where the presiding judge would interpret state law as too restrictive and waive the limit. The second option is considered extremely remote and would ultimately be determined by a higher court. Each \$1 million of excess liability coverage would cost approximately \$35,000 - \$55,000 depending upon the dollar level of coverage selected. The City has not currently incurred any claims exceeding the statutory or LMCIT limits; however, purchasing \$1 million excess liability coverage represents 2.2 cents per dollar of umbrella coverage. The City is saving approximately \$25,000 for each \$1 million in excess liability coverage over the state statutory limit it does not purchase.

### **RECOMMENDED COUNCIL ACTION**

It is recommended that the City continue to choose to not waive the statutory limit. This choice would avoid the need for the City to purchase excess liability coverage, which would cost approximately \$25,000 for each one-million of coverage.

This recommendation is consistent with prior years' coverage and would limit individual claimants to recover no more than \$500,000 and limit all claimants to \$1,500,000 for a single occurrence on any statutory tort limit claim against the City. The City would have \$2,000,000 of coverage for those claims which are not subject to the statutory limit.

### **ATTACHMENTS**

Resolution

Related excerpt from League of MN Cities

**RESOLUTION NO.**

**RESOLUTION NOT WAIVING THE MONETARY LIMITS ON MUNICIPAL TORT LIABILITY ESTABLISHED BY MINNESOTA STATUTES 466.04**

**WHEREAS**, Minnesota Statutes 466.04 limits the City liability of any single occurrence to \$1,500,000 after January 1, 2018; and

**WHEREAS**, the City provides coverage up to \$500,000 per individual claimant and up to \$1,500,000 per occurrence.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE**, that the City does not waive the statutory liability limits for the Fiscal Year January 1, 2018 – December 31, 2018:

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

Ayes:

Nays:

Passed:

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Jo Emerson, Mayor

ATTEST:

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Kara Coustry, City Clerk



**RELEVANT LINKS:**

See Section III.K, *Liquor liability*.  
See Section III.T, *Special events*.

See Section III.T, *Special events*.

See Section III.T, *Special events*.

Minn. Stat. § 466.04.

See Section II.D.3.a, *Statutory limits may not apply*.

## **D. Coverage limits**

LMCIT gives members options for structuring their liability coverage. Members can also choose either to waive or not to waive the monetary tort caps the statutes provide. It can also select from among several liability coverage limits.

### **1. LMCIT primary liability limits**

The statutory municipal tort liability is limited to a maximum of \$500,000 per claimant and \$1.5 million per occurrence. These limits apply whether the claim is against the city, against the individual officer or employee, or against both. LMCIT's liability coverage provides a standard limit of \$2 million per occurrence. Higher limits are in place for a couple reasons.

First, the statutory liability limit caps the city's liability for many types of claims. But some types of liability claims aren't subject to the statutory tort caps, so the city's potential liability is unlimited for some types of claims.

**RELEVANT LINKS:**

See Section II.D.3, *Purchasing higher liability limits.*

See Section III.B, *Data security breach and computer-related risks.*

See Section III.J, *Land use and special risk litigation and Land Use Incentive Program.*

See Section III.D, *Employees' activities in outside organizations.*

Minn. Stat. § 466.04.

Second, it's increasingly more common to see contracts require more than the statutory limit of \$1.5 million; a more common figure is \$2 million. LMCIT's higher limit meets this requirement, but if even higher limits are required, there is the option to carry LMCIT's excess liability coverage to meet the additional requirements. LMCIT can in some cases also issue an endorsement to increase the city's coverage limit only for claims relating to a particular contract.

In addition to the LMCIT coverage limit of \$2 million per occurrence, there are annual aggregate limits (that is, limits on the total amount of coverage for the year regardless of the number of claims), for certain specific risks.

Aggregate limits apply to claims arising out of the following:

- Products \$3 million annually
- Failure to supply utilities \$3 million annually  
Coverage applies for the failure to supply water, electricity, gas, or steam service. It also applies to damages arising out of the failure to supply phone and internet or other electronic data transmission services.
- Data security breaches \$3 million annually  
A \$250,000 annual aggregate/sublimit (part of and not in addition to the \$3 million aggregate) applies for Payment Card Industry (PCI) fines and penalties and data security breach regulatory fines and penalties resulting from a data security breach claim.
- Electromagnetic fields \$3 million annually
- Limited contamination \$3 million annually  
Includes the sudden and accidental release of pollutants; herbicide and pesticide applications; sewer ruptures, overflows, and backups; lead and asbestos claims; mold claims; organic pathogen claims; hostile fire claims; and excavation and dredging claims. Excavation and dredging claims are subject to an annual \$250,000 sublimit. These limits apply to both damages and defense costs.
- Land use/special risk litigation \$1 million annually  
Land use litigation coverage is provided on a sliding scale percentage basis, which is based on participation in LMCIT's land use incentive. Coverage applies to both damages and litigation costs.
- Activities in outside organizations \$100,000 annually

**2. Statutory liability limits**

The statutory municipal tort cap is limited to a maximum of \$500,000 per claimant and \$1.5 million per occurrence.

These limits apply whether the claim is against the city, against the individual officer or employee, or against both. The LMCIT liability coverage provides a standard limit of \$2 million per occurrence.

**RELEVANT LINKS:**

See *Summary of LMCIT Liability Coverage Options* and the effects of choosing the various coverage structure options.

See Section II.D.3, *Purchasing higher liability limits.*

See Section II.D.3, *Purchasing higher liability limits.*

At the city's coverage renewal each year, it must decide whether to waive or not waive the statutory limits. There is no right or wrong answer on this point, and it's a discretionary decision that each governing body must make.

**a. Waiving the statutory limit**

Members who choose to waive the statutory limits are waiving the protection of the statutory limits, up to the amount of coverage the city has. Someone with a claim against a city that has waived the statutory limits would be able to recover up to the LMCIT standard limit of \$2 million, rather than the statutory limit of \$500,000 per claimant. Because the waiver increases the exposure, the premium is a few percentage points higher for coverage under the waiver option.

A city may choose to pay more in premium for the waiver option because the statutory liability limit only comes into play in a case where the city is in fact liable and the injured party's actual proven damages are greater than the statutory limit. Some cities as a matter of public policy may want to have more assets available to compensate their citizens for injuries caused by the city's negligence. Waiving the statutory liability limits is a way to do that.

There is no increase in risk if the city waives the statutory liability limits. In other words, there is no risk for the city to end up with liability if LMCIT doesn't cover it. The LMCIT waiver form specifically says the city is waiving the statutory tort caps only to the extent of the city's coverage. That's not to say there is no risk the city's liability could exceed its coverage limits. There are certain situations in which this could happen, but the waiver doesn't increase that risk.

In those cases where the city waives the statutory limit, but also purchases the LMCIT excess liability coverage, a claimant could potentially recover more. For example, if the city has \$1 million of excess coverage and chooses to waive the statutory tort caps, the claimants (whether it's one claimant or several) could then potentially recover up to \$2.5 million in damages in a single occurrence. If the city carries higher excess coverage limits, the potential maximum recovery per occurrence is correspondingly higher.

Carrying LMCIT's excess coverage under the waiver option is a way to address an issue that some cities find troubling, and that's: the case where many people are injured in a single occurrence caused by city negligence. An example is if a city vehicle negligently ran into a school bus full of children causing multiple serious injuries.

The statutory limit of \$1.5 million divided 50 ways may not go far in compensating those injuries. Excess coverage under the waiver option makes more funds available to compensate the victims in this kind of situation.

**RELEVANT LINKS:**

See Section II.D.3,  
*Purchasing higher liability  
limits.*

See Section II.D.3.a,  
*Statutory limits may not  
apply.*

Minn. Stat. § 3.736.

The cost of the excess liability coverage is higher if the city waives the statutory tort caps. The cost difference is proportionally greater than the cost difference at the primary level because for a city that carries excess coverage, waiving the statutory tort caps increases both the per claimant exposure and the per occurrence exposure.

**b. Not waiving the statutory limit**

For cities who choose not to waive the statutory limits, the city's liability is limited by the statute to no more than \$500,000 per claimant and \$1.5 million per occurrence. LMCIT's higher coverage limits would only come into play on those types of claims that aren't covered by the statutory limit.

**3. Purchasing higher liability limits**

LMCIT makes available the option of carrying higher coverage limits than the basic limit of \$2 million per occurrence. This coverage, called excess liability coverage, is available in \$1 million increments up to a maximum of \$5 million.

There are several different reasons why cities may consider carrying LMCIT's excess liability coverage.

**a. Statutory limits may not apply**

The statutory tort caps either do not or may not apply to several types of claims. Some examples include:

- *Claims under federal civil rights laws.* These include Section 1983, the Americans with Disabilities Act, and so on.
- *Claims for tort liability the city has assumed by contract.* This occurs when a city agrees in a contract to defend and indemnify a private party.
- *Claims for actions in another state.* This might occur in border cities that have mutual aid agreements with adjoining states or when a city official attends a national conference or goes to Washington to lobby.
- *Claims based on liquor sales.* This mostly affects cities with municipal liquor stores, but it could also arise relating to beer sales at a fire relief association fundraiser, for example.
- *Claims based on a "taking" theory.* Suits challenging land use regulations frequently include an "inverse condemnation" claim, alleging the regulation amounts to a "taking" of the property.

**RELEVANT LINKS:**

See Section II.D, *Coverage limits*.

LMC information memos, *LMCIT Auto Coverage Guide* and *LMCIT Workers' Compensation Coverage Guide*. See Section III.L, *Medical payments*; Section III.D, *Employees' activities in outside organizations*; and Section III.K, *Liquor liability*.

LMC information memo, *Making and Managing City Contracts*, Section IV.B.6, *Umbrella/excess insurance*.

See Section III.Q, *Separate city boards and commissions*.

**b. Annual limits apply in LMCIT's coverage for specific risks**

Besides LMCIT's overall coverage limit of \$2 million per occurrence, there are also annual aggregate limits for certain specific risks. If the city has a loss or claim in one of these areas, there might not be enough limits remaining to cover the city's full exposure if there is a second loss of the same sort during the year.

There are, however, a couple important restrictions on how the excess coverage applies to risks that are subject to aggregate limits. The excess coverage does not apply to the following types of risks.

- Failure to supply utilities.
- Mold.
- Lead and asbestos.
- Excavation and dredging.
- Sudden and accidental release of pollutants below ground or within or on the surface of any body of water.
- Auto no-fault claims.
- Uninsured/underinsured motorist claims.
- Workers' compensation, disability, or unemployment claims.
- Claims under the medical payments coverage.
- Claims arising from the activities of outside organizations.
- No-fault sewer backup
- Liquor liability, unless the city has specifically requested it.



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## LIABILITY COVERAGE – WAIVER FORM

**LMCIT members purchasing coverage must complete and return this form to LMCIT before the effective date of the coverage. Please return the completed form to your underwriter or email to [psstech@lmc.org](mailto:psstech@lmc.org)**

This decision must be made by the member's governing body every year. You may also wish to discuss these issues with your attorney.

League of Minnesota Cities Insurance Trust (LMCIT) members that obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits apply regardless of whether the city purchases the optional excess liability coverage.
- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could potentially recover up to \$2,000,000 for a single occurrence. (Under this option, the tort cap liability limits are waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2 million.) The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.
- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name \_\_\_\_\_

Check one:

- The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04.
- The member **WAIVES** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04 to the extent of the limits of the liability coverage obtained from LMCIT.

Date of city council/governing body meeting \_\_\_\_\_

Signature \_\_\_\_\_ Position \_\_\_\_\_



**City of White Bear Lake**  
Community Development Department

## *MEMORANDUM*

**To:** Ellen Richter, City Manager

**From:** Jacquell Nissen, Housing and Economic Development Coordinator

**Date:** December 7th for the December 12th City Council Meeting

**Subject:** **Pioneer Manor Management Services**

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### **BACKGROUND**

Ebenezer Management Services (Ebenezer) has been the contract manager of Pioneer Manor since the City last solicited management bids in 2008. The management contract initially was to provide on-site management, housekeeping, caretaker, and maintenance services. In the eight years of management under Ebenezer, industry-staffing standards varied. The caretaker position is no longer common among senior properties, often replaced by an on-call maintenance options. The caretaker position was not fulfilled at Pioneer Manor once the position opened up, and the on-site manager hours were extended. It is important to revisit the market with an RFP at this time to ensure the City is providing competitive management services for its residents at Pioneer Manor. The management bidding process also allows for a comprehensive review of current senior housing management industry standards.

The City published the Management Services Request for Proposals (“RFP”) on the City website for four weeks. Additionally, in order to solicit interest, 12 local senior housing management organizations were contacted. Four management proposals were received by the City: Ebenezer, Great Lakes Management, Walker Methodist and Vision Quest. The previous management contracts were used to determine appropriate staffing levels. The on-site manager is a part-time position to manage tenant relations and oversee building operations. The part-time maintenance position will address work order requests and ongoing maintenance. The resident caretaker or 24/7 maintenance is primarily an on-call position intended to respond to after hour emergencies. The housekeeping staff is also included in the contract and covers cleaning of the common areas on a weekly basis, and cleaning of units upon turnover.

Three of the four organizations took the opportunity to tour the facility and discuss the opportunity with staff. Each of the four firms present impressive credentials and would likely do a capable job of managing the property. The bids to provide these services are as follows:

Walker Methodist.....	\$58,399/year
Great Lakes Management .....	\$55,023/year
Vision Quest.....	\$76,230/year
Ebenezer.....	\$81,000/year

**SUMMARY**

Staff was pleased with all of the proposals submitted. Great Lakes Management and Walker Methodist proposals were the most competitive proposals that also remain within the proposed 2018 budget for management services. Both companies have impressive credentials and are prepared to manage the property. However, there were key factors that varied between each proposal. Although, Walker Methodist has proposed a management fee that is not the lowest bid, they propose staffing levels more fitting to current resident needs and industry standards. Walker Methodist also proposes higher wages for the on-site personal to support highly skilled staff. A skilled, on-site manager with back-up support resources has proven to be an effective staffing strategy. Walker Methodist's references indicate there is little staff turnover at their management properties, and high resident satisfaction. Harmony among Pioneer Manor residents can be supported by the regular presence of an individual dedicated to quality senior housing.

Walker Methodist has been serving older adults since 1954. Walker owns and manages 1361 units, in which 260 units are affordable, independent senior housing. Walker Methodist has a proven reputation as leaders in the industry, with a strong leadership team. Walker proposes to promote a couple of their current staff members to full-time positions by taking on responsibilities at Pioneer Manor. One of their current staff members with additional part-time responsibilities will fulfill the on-site management position the other portion of her time. They will also be combining a nearby part-time maintenance technician to a full-time roving maintenance technician for more reliable maintenance.

**RECOMMENDED COUNCIL ACTION**

The current annual budget for management services at Pioneer Manor is \$68,000. Walker proposes a total management fee of \$58,399 per year. The combined cost for all areas of management is within the proposed 2018 budget which assumed a slight rental increase in spring of 2018.

Trying to predict the success of a new contractual relationship is often a challenge. However, in our interview with Walker Methodist staff, staff was impressed by their knowledge of the field of senior housing, their history of innovation, and their apparent dedication to providing quality, caring services to their senior communities. Staff recommends approval of the attached resolution allowing staff to execute a Management Support Services Agreement for Pioneer Manor with Walker Methodist for 2018.

**ATTACHMENTS**

Resolution for 2018 Management Services at Pioneer Manor



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING 2018  
MANAGEMENT SUPPORT SERVICES AGREEMENT  
FOR PIONEER MANOR**

**WHEREAS**, the City of White Bear Lake owns and operates Pioneer Manor, a 42-unit affordable senior apartment building; and,

**WHEREAS**, the City solicited proposals to provide management services for Pioneer Manor; and

**WHEREAS**, Walker Methodist proposes to provide management services for 2018 consistent with the City's specifications for a fee of \$58,399; and

**WHEREAS**, Walker Methodist has extensive experience and qualifications in managing senior housing communities;

**WHEREAS**, Walker Methodist will provide high-quality management, maintenance and housekeeping at a cost-effective rate; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council in and for the City of White Bear Lake that the proposed contract for management services by Walker Methodist for calendar year 2018 in the amount of \$58,399 is approved and that the City Manager is authorized to execute said contract.

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

Ayes:  
Nays:  
Passed:

\_\_\_\_\_  
Jo Emerson, Mayor

**ATTEST:**

\_\_\_\_\_  
Kara Coustry, City Clerk