



WHITE BEAR TOWNSHIP

1858
RAMSEY COUNTY
MINNESOTA

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Board of Supervisors
ED M. PRUDHON, *Chair*
STEVEN A. RUZEK
SCOTT E. MCCUNE

AGENDA EXECUTIVE MEETING MARCH 27, 2020

1. **11:00 a.m.** Call Meeting to Order at Administrative Office Conference Room, 1281 Hammond Road.
2. Approval of Agenda (Additions/Deletions).
3. Approval of February 21, 2020 Minutes.
4. 2020 Street Improvements – Update.
5. Water System Improvements – Update.

11:30 a.m. Lake Links Representatives Presentation

6. I & I – Update.
7. Tyler Content Manager – Paperless Financial Software Purchase.

12:30 p.m. League of MN Cities Presentation

1:00 p.m. Hockey Day Minnesota Presentation

8. Winter Parking Violation Notification Procedure – Review.
9. Tobacco 21 – Ordinance No. 69 Amendment.
10. Stable Property – Next Step.
11. Public Works Director Report.
12. Code Enforcement Officer / Building Inspector Report:
 - a. Water Gremlin – Building Permit Status.
13. Clerk-Treasurer Report:
 - a. DNR Groundwater Management – Update.
14. Open Time.
15. Added Agenda Items.
16. Receipt of Agenda Materials / Supplements.
17. Adjournment.

White Bear Township's Mission:

To provide White Bear Township residents, businesses and visitors with reliable, high quality municipal services while serving as open and responsible stewards of the public trust.





**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 1 – 2 - 3

Subject: Approval of March 27, 2020 Agenda
Approval of February 21, 2020 Minutes

Documentation: March 27, 2020 Agenda
February 21, 2019 Minutes

Action / Motion for Consideration:

Call meeting to order:	
Approval of Agenda:	March 27, 2020 (additions/deletions)
Approval of Minutes:	February 21, 2020 (additions/deletions)

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TOWN BOARD EXECUTIVE MEETING
FEBRUARY 21, 2020**

The meeting was called to order at 11:07 a.m.

Present: Supervisors: Prudhon, McCune, Ruzek; Clerk: Christopherson; Attorney: Lemmons; Public Works Director: Reed; Engineers: Poppler and Studenski; Finance Officer: Tom Kelly; Planner: Tom Riedesel

APPROVAL OF AGENDA (Additions/Deletions): Ruzek moved approval of the agenda as submitted with the added agenda items in the supplement, along with calling a Special Town Board meeting for the Ramsey County discussion of County Road H2. McCune seconded. Ayes all.

APPROVAL OF MINUTES OF JANUARY 31, 2020: Ruzek moved approval of the January 31, 2020 meeting minutes, with the correction of ending the meeting at 3:48 p.m. instead of 3:48 a.m. McCune seconded. Ayes all.

11:00 DISCUSSION WITH RON DENN, CABLE COMMISSION REPRESENTATIVE: Cable Commission Representative Ron Denn was present to report on the Cable Commission. The Comcast franchise expired 1 and a half year ago and in the past the Cable Commission has granted them extensions. Denn reported that certain members of the Commission feel Comcast is trying to divide and conquer and try to negotiate separate deals. Comcast has now reached the end of the extension and as a part of the Cable Commission, the Town has a role to play in the process. They could try to extend the extension again, or go straight to arbitration, as it has reached its natural end.

Denn has submitted to the Board his recommended steps of how to proceed. The Board discussed the bullet points of how to proceed. There was some discussion of Comcast's service, customer service, additional fees, and other statements and opinions of the company. There was some discussion over other members in the Cable Commission and what other communities are doing.

The Town Attorney read the contract as well as the bullet points of how to proceed. He noted no changes or deletions. It was noted that pressures with timing and lawyer fees should be in the Commission's favor. There was some discussion on whether or not there would be any benefit to not adopt the changes in the contract and to move forward with the arbitration. There will be more discussion at the March 2nd Town Board Meeting.

2020 STREET IMPROVEMENTS – UPDATE: The Town Engineer was present to report on the neighborhood meeting on February 6th, noting that there were about 30 people in attendance and a lot of individual dialogue such as driveways, grades, tree removal, etc. Rice Creek Watershed District had a representative in attendance who discussed rain gardens with some residents who seemed interested. The Engineer noted that staff did their best to maximize the street width, though in some areas, due to terrain, 26-28 feet in width was not possible. There was some discussion over the curb.

The plans and specifications and bid approval will be brought to the Town Board for discussion and approval at the second meeting in March. There was discussion over the few who have had

**MINUTES
TOWN BOARD EXECUTIVE MEETING
FEBRUARY 21, 2020**

concerns with the assessment. It was noted that staff have not heard anything since the neighborhood meeting, that only one or a couple have had questions at the neighborhood meeting.

The Engineer stated that staff will keep in communication with the residents about the bids and the projects with a weekly email blast. It was noted that the 2019 street improvement project was daily tracked and updated on the Town's website. There was some discussion over Peterson Road. It was noted that the borings have been completed and staff is currently waiting on the report from the geologist. There was some minor discussion on the bonding, and staff will proceed as soon as the bids are in.

WATER SYSTEM IMPROVEMENTS – UPDATE: The Town Engineer reported that the Water System Improvement project opens for bid on the last Wednesday in February. The upgrades will be done on wells 4 and 5 in the pumps ability to mix water at a greater capacity, and the SCADA system to automatically and electronically monitor the water usage, readings, mixing needs, etc. The amount for bond will still be within the \$515,000 range. The pumps will be out of service for 3 months, but the point of getting started sooner will be to ensure the pumps are ready to go before the summer when water consumption is typically at a year-high. It was noted that with the increase in sensitivity with water, there will be a brochure sent out in the utility bill.

I & I – UPDATE: The Public Works Director reported that the 2020 I & I will be just a following-up on the items done last year, mainly joint sealing, one pipe repair, some flow monitoring. There will be communication with North Oaks and North Oaks Company for future projects.

WATER METER – UPDATE: The Public Works Director reported that the subcontractor is down to 83 meters left. Several of these 83 homes are at zero responses even though the Town has sent multiple communications. The subcontractor Hydro Corp is finished up and the Town staff will potentially install future meters. If these 83 homes do not comply, there is the quarterly \$300 charge on the utility bill. It was noted that there are very few homes that have something in the way of the installation, though this is still on the homeowner and not the Township, noting that the ordinance calls for access. Staff will continue to update the Board at future meetings.

LAKE LINKS TRAIL – UPDATE: The Town Planner reported that the first public informational open house was scheduled for March 31st at South Shore Trinity Church from 3 to 8 p.m. The Board will set up a special meeting to attend. There will be a couple of designs shown of the south shore section of the trail with the County's redevelopment projects and street improvement projects.

The Board recessed at 12:07 p.m. for lunch. The Board came back to order at 12:31 p.m.

1:00 GIS PRESENTATION – TKDA: Leigh Henning from TKDA was present to give a visual presentation of the GIS implementation staff has been working on over the past several months. Henning works with the Public Works Director and other staff importing data on water, reports, projects, annual documentation, and more. GIS gets aligned with reporting for DNR, MDCA, MDH to ensure efficiency. Through the online portal Henning showed the Board the live layout of the Town. GIS uses CAD (Computer Aided Design) files to input and store all of this

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information. Within the live layout of the Town, Henning could click on a catch basin, for example, and could pull up a look up table with all the recent projects, maintenance, and other information about that particular catch basin. GIS holds a plethora of information and staff so excited to be working on this project.

Henning showed some other visuals on the site. She explained that staff also has access to a desktop version, though that isn't live. It was noted that this map is recoverable if anything were to happen. Reed noted that currently the Board only approved purchase of one license, so one staff can have access to the live GIS system at once. Staff will recommend to the Town Board later this year to consider purchasing another license.

It was noted that the RCWD wants to be able to connect maps with other communities and pool the information together. Sharing maps within municipalities or agencies make communication and projects more efficient. Reed noted that this tool has already come in handy with the sealcoating projects. He noted that he can change the years by colors. It was the consensus that the Board is pleased with this project that staff has been working on.

PUBLIC WORKS DIRECTOR REPORT: The Public Works Director reported on the Department's Activity for February 2020. **Lift Station #9:** the last of the Town's 10 lift stations to be rehabilitated is nearing completion (should be done in spring). The startup was on December 19, 2019 and staff are currently able to monitor the Lift Station through SCADA system. It was noted that the concrete driveway and site restoration will be completed summer of 2020. Staff will be working on **storm water projects** like outfall 6 and outfall 5. There was some discussion on these items and other projects related to storm water. The Public Works Director will be working on drafting the **America's Water Infrastructure ACT 2018 (AWIA)** which requires an assessment of the Town's Water System be completed and submitted by June 30, 2021. The **Emergency Response Plan (ERP)** follows, due December 31, 2021. **Purchase replacement plow truck (#49):** Reed reported that he will discuss this agenda item with the Town Board at the second meeting in March. There are 2 options for the Town to consider for this purchase. The Mack truck is preferred, though it is \$3,000 more in price. But the Town has had trouble with the Western Star brand and has been happy with the Mack trucks that staff have operated. It was also noted that the plow will have to be implemented as well. Reed wanted to bring this up to the Board for discussion prior to the Town Board meeting.

CLERK-TREASURER REPORT: **DNR Groundwater Management – Update:** There was nothing to report on this agenda item.

Parking Enforcement: The Town Clerk brought the discussion to the Town Board of switching full responsibility of parking enforcement to the Ramsey County Sheriff's department instead of the Town Building Inspector. This would be a part of the current contract and would not cost more. Instead staff would just report any violators to the Ramsey County Sheriff's department. In the past the Board has been uncomfortable with it because it's a gray area. Currently violators get 1 warning and then are fined, not towed. There was discussion on this change. The Town Clerk reported that he has been in communication with other communities like Vadnais Heights, Shoreview, and Little Canada who contract with the Ramsey County Sheriff's department. They responded that they have been pleased with the Sheriff's department's response to parking

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violators, especially in the snow events. There was some discussion of whether parking tickets were split with the Township. It was noted that preferably staff just want the cars off the street so they can plow. It was also noted that Ramsey County Sheriff's department may hold more weight if residents want to argue about a parking violation.

It was the consensus that the Board will request discussion with the undersheriff and undersargent and ask for an outline of their actions and goals. Staff will then submit it for the Board's approval. The Town Attorney agreed that this makes sense.

LGA – Update: The Town Clerk reported that the group of liaisons for the Town to receive LGA will meet with Senator Roger Chamberlain and Director of the Minnesota League of Townships David Hahn to speak about options for securing LGA.

BUILDING INSPECTOR / CODE ENFORCEMENT OFFICER REPORT: 1378 South Birch Lake Boulevard: The Building Inspector reported that there is nothing new to report. He did get a closer look at the interior, and he noted that it is in pretty good shape. He would like staff to proceed with an administrative search warrant, just to move things along. The Town Attorney has been sending correspondence to the current owner, but has not had any contact since the summer grass abatement.

5456 Township Drive: The Building Inspector reported that the Town sent out the abatement order on February 11th of the two vehicles on the property, and by the 19th one vehicle was removed, but the other was not removed. The Board discussed this and it was the consensus that staff can proceed with the towing of that second vehicle at any time. There was discussion of the current ordinance and that the Town Attorney will look into redoing the ordinance.

1651 Garden Lane: The Building Inspector reported that staff have worked on this property with the owner and neighbors previously. The owner is elderly and lives elsewhere. There is a boat in the side yard that has been considered a nuisance because it is there and not in storage or in the rear yard. There was discussion on this property and again the Board discussed the Town's ordinance. The Town Attorney will take a look at this property's need. It may very well be within the ordinance, but it may still be considered a public nuisance.

2105 Stillwater Street: The Building Inspector reported that there have been no changes in this property. The Town Attorney had been contacted by the owner's attorney, but has not heard back. The Town Attorney stated that the Town should proceed with the action of tearing the property down eventually, starting with an administrative search warrant because the owner has not been cooperative. Staff will work to get this process started.

Water Gremlin: The Building Inspector reviewed the 3 phases of this project. Phase 1 is relocating the equipment from one building to another, which is under review of the plans and specs. Phase 2 is on hold until staff has received the code of compliance. Work has begun without approval on the placement of the trailers and so the Town has issued a stop work order. The Town Attorney has notified Water Gremlin's attorney of this and is hoping he is in contact with Water Gremlin's contractor. Phase 3 will be reviewed after that. If everything is OK'd, then Water Gremlin can proceed, but not without full approval.

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OPEN TIME: It was brought up that staff received a bill from the Saint Paul Regional Watershed District regarding the cleanup and fixing of the watermain that had broken under that town home association. This happened in November, and the Board discussed it at the December Town Board Executive meeting. Staff did the repair in November and guessed that the bill would be over \$5,000. It turns out that the bill was over \$10,000. The Town Attorney has been in contact with them recently about the bill. Most likely he will hear back soon. There may be more discussion on this topic.

ADDED AGENDA ITEMS: **Call Public Hearing:** The Town Clerk made note of the Ramsey County meeting regarding the street improvements on County Road H-2 on March 4th at Tamarack Nature Center. It was noted that the Board should attend.

Ruzek made the motion to call for a special meeting for Wednesday, March 4th from 4 to 6 p.m. at Tamarack Nature Center. McCune seconded. Ayes all.

Draft Agenda for Annual Meeting: Attached in the supplemental packet is a drafted agenda for the Annual Town meeting of Tuesday, March 10, 2020. It was noted that there will be a list of the public officials attending. No changes were necessary. It was noted that staff will speak with the camera people of improving camera angles. It was the consensus that the draft is approved.

History of the Township: Supervisor McCune has talked with the Board about having a handout that explains the unique history of the Township available for students when they attend the Town Board meetings. Attached in the supplemental packet is a draft McCune wrote. It was noted that if anyone thinks of any suggestions, they should talk to the Town Clerk.

RECEIPT OF AGENDA MATERIALS / SUPPLEMENTS: Ruzek moved to receive all of the agenda materials and supplements for today's meeting. McCune seconded. Ayes all.

McCune moved to adjourn the meeting at 2:12 p.m. Ruzek seconded. Ayes all.

Respectfully Submitted,

Megan R. Cavanaugh
Recording Secretary



Town Board Executive Meeting March 27, 2020

Agenda Number: 4

Subject: 2020 Street Improvements - Update

Documentation: None

Action / Motion for Consideration:

Report at Meeting / Discuss

Minutes
Town Board Meeting
February 21, 2020

2020 STREET IMPROVEMENTS – UPDATE: The Town Engineer was present to report on the neighborhood meeting on February 6th, noting that there were about 30 people in attendance and a lot of individual dialogue such as driveways, grades, tree removal, etc. Rice Creek Watershed District had a representative in attendance who discussed rain gardens with some residents who seemed interested. The Engineer noted that staff did their best to maximize the street width, though in some areas, due to terrain, 26-28 feet in width was not possible. There was some discussion over the curb.

The plans and specifications and bid approval will be brought to the Town Board for discussion and approval at the second meeting in March. There was discussion over the few who have had concerns with the assessment. It was noted that staff have not heard anything since the neighborhood meeting, that only one or a couple have had questions at the neighborhood meeting.

The Engineer stated that staff will keep in communication with the residents about the bids and the projects with a weekly email blast. It was noted that the 2019 street improvement project was daily tracked and updated on the Town's website. There was some discussion over Peterson Road. It was noted that the borings have been completed and staff is currently waiting on the report from the geologist. There was some minor discussion on the bonding, and staff will proceed as soon as the bids are in.



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 5

Subject: Water System Improvements - Update

Documentation: None

Action / Motion for Consideration:

Report at Meeting / Discuss

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Executive Meeting
February 21, 2020**

WATER SYSTEM IMPROVEMENTS – UPDATE: The Town Engineer reported that the Water System Improvement project opens for bid on the last Wednesday in February. The upgrades will be done on wells 4 and 5 in the pumps ability to mix water at a greater capacity, and the SCADA system to automatically and electronically monitor the water usage, readings, mixing needs, etc. The amount for bond will still be within the \$515,000 range. The pumps will be out of service for 3 months, but the point of getting started sooner will be to ensure the pumps are ready to go before the summer when water consumption is typically at a year-high. It was noted that with the increase in sensitivity with water, there will be a brochure sent out in the utility bill.



**Town Board Executive Meeting
March 27, 2020**

Agenda Number:

**Subject: 11:30 a.m. Lake Links Representatives
Presentation**

Documentation:

Action / Motion for Consideration:

A MODEST PROPOSAL TO COMPLETE SOUTH SHORE

WHITE BEAR TOWNSHIP

1. Current Situation
2. Proposal
3. Practicalities
4. Economics in WBT

CURRENT SITUATION

Funds were appropriated for preliminary engineering in 2017. Public meetings held two years ago proposed various possible trail profiles. The responses of those present overwhelmingly favored a one way solution for South Shore Boulevard.

Two years later, there is no resolution. During that time, the value of the appropriation has been reduced by about \$260,000 by inflation. The road remains in terrible condition, for which Ramsey County has planned expenditures to repair. Previously, those repairs were scheduled to occur on 2019, but the time keeps sliding.

Unless all of this is resolved promptly, all users will remain in danger, costs will rise and a less satisfactory trail will be the result.

PROPOSAL

Lake Links believes the appropriate resolution includes:

- Reconstruction of SSB west of McKnight as a two-way road with continuation of the Lake Avenue profile
- Reconstruction of SSB east of McKnight as a one-way eastbound incorporating the Lake Avenue profile
- Ownership of the road in WBL by WBL, in WBT by WBT
- Beginning Construction no later than May 1, 2021
- Speed limits, 25 mph for cars, 12 mph for bikes on trail

ISSUES

1. Advantages of continued use of the established Lake Avenue Profile
2. Will this profile handle traffic levels expected on SSB?
3. Is use of the profile compliant with current regulations?
4. What are expected economic results for WBT?
5. What are costs of additional delay?

1. Advantages of continued use of Lake Avenue Profile

- The Lake Avenue profile is narrow overall, but provides both 10' trail width and 2', differentiated surface, clear zone, which permits use of added space in tight situations.
- The Lake Avenue profile can be built well within the 32' paved existing width of SSB, producing a reduction in impervious surface
- The existing profile is familiar to, and widely loved by, area users
- The current profile does not incorporate, except at street ends, high maintenance cost grassy areas.
- The current profile does not incorporate trees between roadway and trail which impose maintenance costs, tend to die off, and, if successful are an eventual threat to traffic
- Use of the current profile emphasizes continuity of the trail around much of the lake perimeter. Other trail work, notably Birchwood Road, is designed to replicate Lake Avenue to the extent possible.
- Use of the Lake Avenue profile will tie together the entire trail from Ramsey Beach to 120.

2. Will the Lake Avenue profile handle expected traffic loads? YES

Current AADT levels on Lake Avenue, based on informal study are estimated to be greater than 1,600 vehicles. (see Appendix 1). Traffic capacity west of McKnight would be unchanged. East of McKnight, the existing traffic levels would be cut in half by the change to one-way, and even that level would be attenuated to some degree by the calming effects of a narrowed road and the reduced speed limit.

The following table shows this effect:

Traffic Counts per MNDOT:

Location	Now	One Way	Attenuated
West of McKnight -	5,950	5,950	5,950
McKnight to Bellaire -	3,850	1,925	1,733
East of Bellaire -	2,650	1,325	1,200

These traffic levels are not inconsistent with current Lake Avenue traffic which does not back up or cause issues, except for waiting at the light at 61.

3. Does it Comply With Regulations?

Yes, based on the newly issued MNDOT Bikeway standards, a 10' trail is what is called for and a 2' clear zone is adequate with a 25 mph speed limit.

4. Economic Effects for the Township

- A. Costs of plowing and maintenance
- B. Increased tax revenue
- C. Rebuilding and remodeling of current residences and properties

A. MAINTENANCE COSTS: Initially, maintenance costs should be very low on a newly reconstructed road. In a matured economic analysis, using current dollars, the following is suggested:

WBT's budget shows a maintenance cost of about \$8,500 per lane mile. Adding about 3,600 feet of single lane road should result in an annual cost (not immediately, but only later when the rebuilt road needs maintaining) of approximately \$6,000 per year. This amount is dwarfed by the very predictable increases in property values and resulting tax revenue resulting from the trail.

B: IMPLICATIONS FOR TAX REVENUE:

WBL has the following properties in the area of the trail:

- 74 properties adjacent to trail, aggregate value \$43.195 million
- 186 properties within 1/4 mile, aggregate value \$44.640 million
(adjacent values from property tax statements
Proximate values at \$240,000 per property)

Effect of Trail on Surrounding Property Values

Summary of numerous studies by Headwaters Economics, documents substantial increases in property values due to trail. This is, of course, obvious to anyone who has seen the effect of Lake Avenue on the homes in the area, and the dramatic surge in remodeling, new construction and prices of homes off the lake but near the trail. For purposes of this discussion, we have used a 15% increase in value for those properties adjacent to the trail and 10% for those within 1/4 mile. Those estimates were validated by discussions with three highly successful local realtors.

WBL's effective tax rate of 0.248% was computed on the basis of 2020 proposed tax statements for homes in the area, available online.

Anticipated Tax Revenue Gain

	Value	Tax	Increment	Gain
Adjacent	\$43.195m	\$107,143	15%	\$16,071
¼ Mile	\$44.640m	\$110,1707	10%	\$11,017

Total Predicted Tax Revenue Gain from Appreciating Property:\$27,088/year

Obviously, the effect of improved property values is of greatest benefit to the owners of 261 properties adjacent to or within ¼ mile of the trail, who would see an aggregate improvement in their net worth of about \$11 million.

It is not known what value Municipal State Aid for Streets would add to WBT's income, however likely that may be. Half of that aid is based on population and the other half on need, however, so adding or subtracting less than a mile of one way road is unlikely to produce economic changes even similar to those discussed above.

C: NEIGHBORHOOD IMPROVEMENTS:

The discussion of incremental tax revenue does not include the additional benefit of improving the neighborhood. This is very evident on the streets in WBL between Highway 61 and Lake Avenue, where older homes are rapidly being upgraded, remodeled or replaced. Not only does this renaissance added value and tax revenue, but it has re-made the area. The area to the south of the South Shore trail includes many homes now 50-60 years old which will benefit greatly from higher demand and perceived improvement in the neighborhood.

NET ECONOMIC EFFECTS – MATURED BASIS

Increased Maintenance Cost	(\$6,000)
Increased Tax Revenue due to value	\$27,088
Net Change to Operating Budget	+\$21,088

The Effect of Delay - The appropriation amount is fixed at \$2.6 million, approximately half of which will be available for improvements within White Bear Township. Of that \$1.3 million, at least \$130,000 has apparently already been lost to delay at 5% per year. Each year of delay reduces the city's ability to improve its infrastructure and to complete the wonderful Lake Avenue Trail profile all the way to the county line.

None of this addresses the potential of state paid benefits which might, under some circumstances, flow to the township for ownership of the road with statutory amendments, the amounts of which are not known. However, the loss of potential improvement in the operating budget of the township, and the deterioration in value of the improvement funding over time, strongly demonstrate the need to act promptly to finish the project.

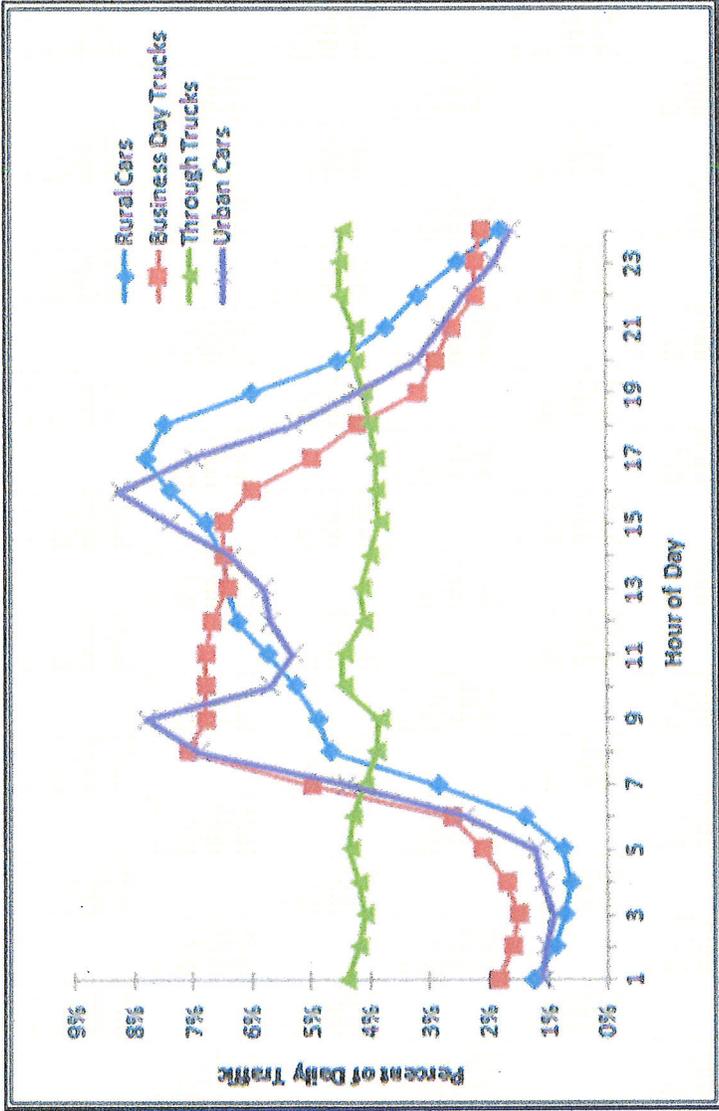
APPENDIX 1 – TRAFFIC CAPACITY OF LAKE AVENUE

A traffic count on Lake Avenue at Clark, conducted between 6:40 and 8:40 on Thursday, March 5, revealed the following:

Hour 1	112 vehicles, 8 pedestrians, 4 dogs
Hour 2	145 vehicles, 13 pedestrians, 3 dogs

A similar count conducted a year ago showed very similar results and included recording of traffic speeds which were generally 25 mph or under.

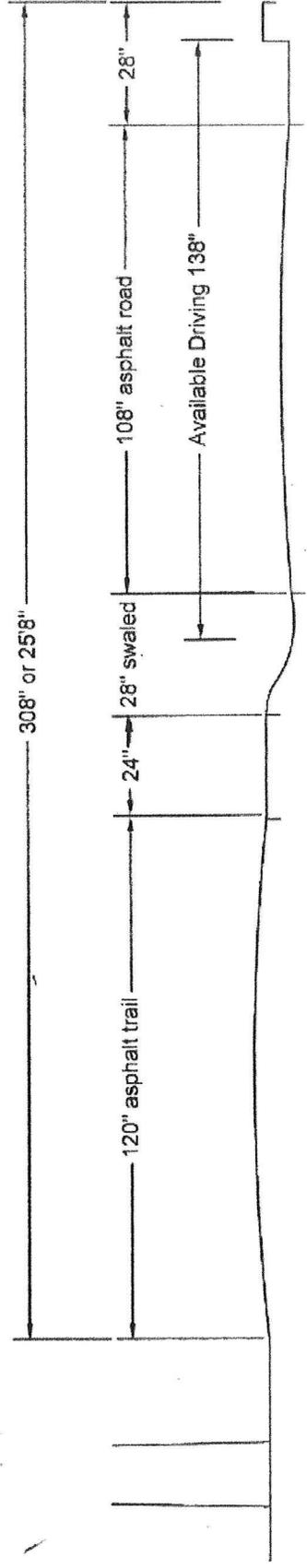
The percentage of daily traffic expected in any given hour of the day can be estimated from charts prepared by the Federal Highway administration:



Application of the percentages for the hours involved, even with allowance for the one-way nature of the road, suggests that the current traffic load on Lake Avenue is at least 1,600 cars per day.

APPENDIX II.

PROFILE OF THE MUCH-LOVED LAKE AVENUE



24" min
to trees

- 10' Asphalt Trail
- 2' Concrete Clear (patterned and spaced at road ends)
- 28" swaled curb
- 108" asphalt driving surface
- 28" vertical curb

Available driving surface approximately 11-1/2 feet

Printed at 1" = 3'



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 6

Subject: I & I – Update

Documentation: None

Action / Motion for Consideration:

Report at Meeting / Discuss

Minutes
Executive Meeting
February 21, 2020

I & I – UPDATE: The Public Works Director reported that the 2020 I & I will be just a following-up on the items done last year, mainly joint sealing, one pipe repair, some flow monitoring. There will be communication with North Oaks and North Oaks Company for future projects.



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 7

Subject: Tyler Content Manager – Paperless Financial
Software Purchase

Documentation: Finance Officer Memo w/ attachments

Action / Motion for Consideration:

Report at Meeting / Discuss

Consideration of Paperless Financial System. (TK)

A. REFERENCE AND BACKGROUND:

The Town uses Incode, which is owned by Tyler Technologies, software for financial, payroll, and utility billing. Tyler Technologies Content Manager software allows the finance system to scan documents, such as, invoices, store the invoices and payments electronically, and link them to the Town's Laserfiche (electronic records software) application.

This software will greatly improve the Town's bill paying processes and make records easier to locate without taking up file drawer space. Payable records each year fills two file drawers and they must be kept for six years, with payments to tax increment districts being kept six years from the end of the district. By having them stored electronically, it would eliminate at least three file cabinets and make those TIF District payments easier to find. Having the files electronically will also make it easier to get public works approval to pay invoices quicker and easier.

The software purchase price there is a one-time fee for the software license and conversion of \$20,005.00 and then annual maintenance fees of \$2,201.00.

- A1. Budget Impact:** The Town included \$7,000.00 in the Capital Equipment Fund for 2020 as software upgrades and \$60,000.00 for computer/software costs in various operating funds.
- A2. Staff Workload Impact:** The new software will require staff to be trained on how to utilize the software enhancement, maintain the data and to convert past records as desired. Summer interns can assist with the scanning of financial documents.

B. ALTERNATIVE ACTIONS:

- 1. Approve the purchase of Content Manager from Tyler Technologies.
- 2. Do not approve the purchase of Content Manager from Tyler Technologies.

C. STAFF RECOMMENDATION:

- 1. Staff recommendation for this item is alternative #1 with the funding coming from the Capital equipment Fund and the various computer/software operating budgets.

D. SUPPORTING DATA:

Tyler Content Manager informational brochure and price quote.

Time is
Money

PAGE 4

Tyler Content Manager

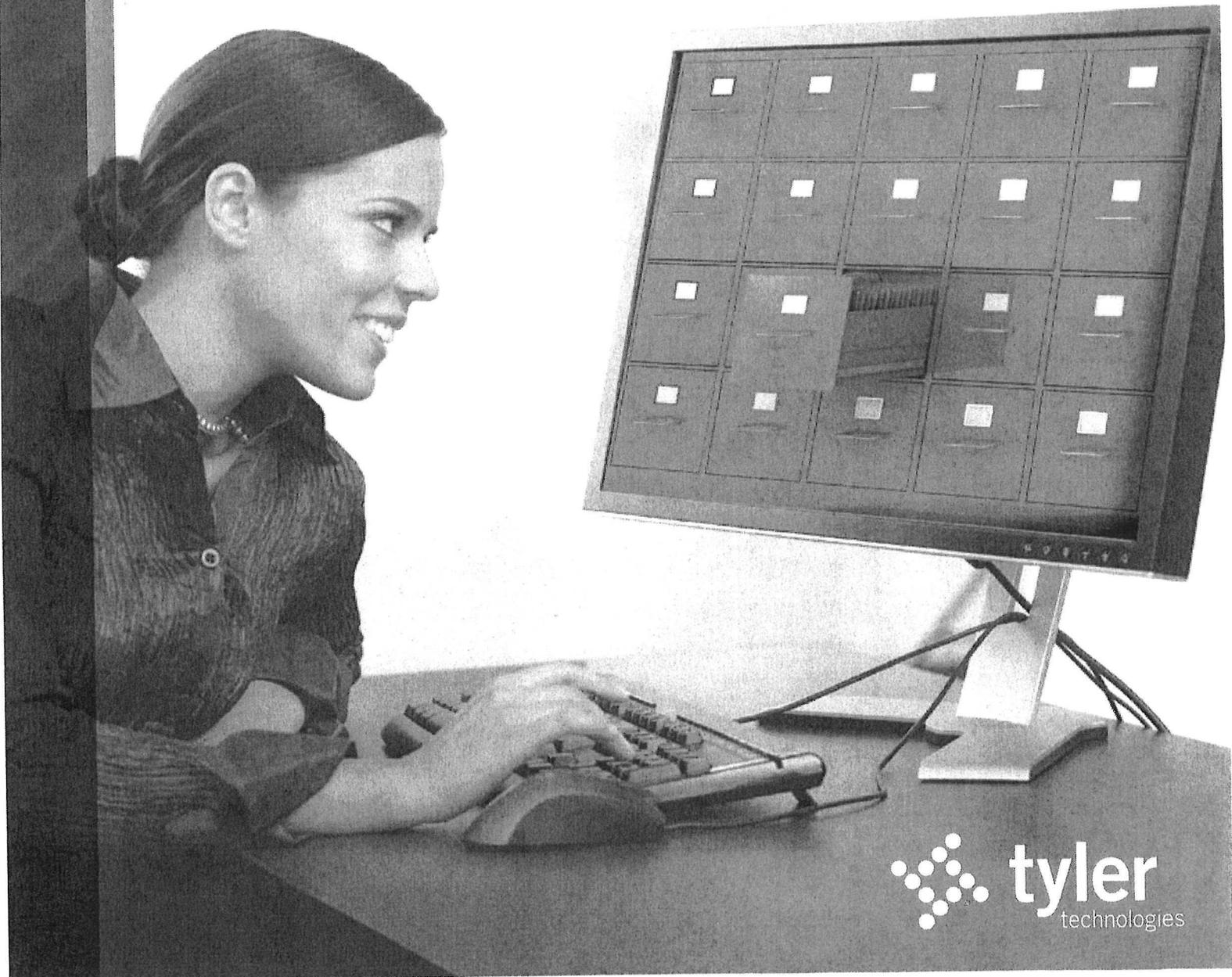
Go Paperless...

Gain Efficiency & Save Money.

Case
Study

Amity Regional
School District #5,
Connecticut

PAGE 6



Tyler Content Manager

A full-service Enterprise Content Management (ECM) solution provider should offer project management, consulting, ECM software, implementation, training and support.

TYLER CONTENT
MANAGER

“Strong demand continues for document imaging technology as enterprises look to automate document-centric processes and reduce the costs of managing and distributing paper documents¹.”

— Karen M. Shegda, Gartner, Research

With 85% of a business' information in documents, and 15% of an organization's revenues spent creating, managing and distributing those documents², document management isn't just nice to have ... it is essential for efficient, accurate and cost effective operations.

With Tyler Content Manager (TCM) your office becomes more efficient using the resources you already have. You will realize significant savings, and your productivity will increase — providing a good return on investment.

Automated and comprehensive, TCM streamlines and simplifies the management process from planning and budgeting to business performance — so you realize both soft and hard savings in labor, communication and decision making.

TCM ... It's simply good business.



The TCM suite includes all the critical components of an ECM — back-file scanning, indexing and redaction, micrographics conversion, disaster recovery, and highly secure off-site document storage. TCM also works with third-party applications, using Batch Print Capture to print multiple documents directly into TCM.

Additionally, TCM Application Connector provides seamless integration between applications and TCM. You'll improve accuracy and have quick access to related documents without leaving an application — saving valuable time navigating throughout multiple applications to find vital, related files.

More than “document management”, TCM supports multiple file types ranging across multiple departments in distributed locations. Electronic files include scanned images (TIFF, PDF, etc.), photos (JPEG), office documents (Microsoft® Word, Excel®, PowerPoint®, etc.), drawings (DWF, DWG, etc.), or any other file you want to store and manage.

3. Lyons, D (2008, December 1). Xerox Green Machine. Newsweek, E6

4. Conservartree. "How Much Paper Can Be Made From A Tree?". (2012, January 26). <http://www.conservartree.com/learn/EnviroIssues/TreeStats.shtml>

5. DeRosa, J. "Helping Companies Reduce Greenhouse Gases." (2007, May 3). <<http://www.greenpdf.com/graphics/TheGreenPDFRevolution.pdf>>

Go Green with TCM

Paperless reporting makes office printing a thing of the past — save your organization countless reams of paper and ink, every day. With more than 40% of printouts discarded within 24 hours¹, getting control of paper waste is essential to labor and materials cost.

How many reams (500 sheets) of paper do you use and store — daily, monthly, yearly? Have you thought about the impact of the paper you use on your budget and the environment?

- **One tree makes 16.67 reams of copy paper or 8,335 sheets⁴**
- **Each tree can remove about one metric ton of carbon dioxide from the atmosphere every year⁴**
- **Storing 2 million paper documents can cost an organization between \$40,000 and \$60,000 on filing cabinets alone, whereas this data could be stored electronically and circulated as Green PDFs⁵**

Reduce the paper you use and reduce the carbon footprint of your organization. You'll be saving your organization money as you help the planet.



Time is Money

TCM is an efficient, reliable and cost effective solution to manage and protect your documents and deliver cost savings.

How much time do your employees spend on routine, time-consuming tasks?

CONSIDER THESE FACTS¹:

- **60%** of employee time is spent working with documents
- The average document is printed **5 times**
- At **\$30/hour**, knowledge workers **waste \$4,500/year** working with paper

From decreased labor time and personnel, to actual printout and copy reduction, to better expense and business intelligence control, TCM provides tangible and intangible benefits. Depending on your staff and community size, this could mean tens of thousands of dollars a month in saved salary and material costs, and invaluable time gained in important decision-making situations. That means increased productivity for you. For instance:

- Access documents and files easily and reduce the time spent looking for information
- Mitigate unnecessary labor and shipping costs
- Keep your information safe with extensive built-in security features
- See who has modified information, and when, with versioning and audit trail functions
- Compare versions or restore content, preventing wasted time and re-created information
- Reduce wasted time and mistakes with automatic indexing and imaging of key fields that allow information to be handled less often and by fewer users

RETURN ON INVESTMENT (ROI)

“It has become obvious that tasks related to creating, organizing, finding and analyzing information have become significant time sinks, and IDC’s research demonstrates that investment in better information access, management, collaboration tools and processes pays for itself, often in a matter of months².”

— Susan Feldman, Vice President,
Search and Discovery Technologies at IDC

Content Capture that Saves Time

Reduced Cost of Capture

The TCM integrated system provides many ways to efficiently handle content capture. Attached scanners allow users to scan documents directly into TCM using **Content Capture** (for multiple documents), or the **Single Scan** interface (for one document at a time). Most common scanner features can be managed within the TWAIN interface in TCM.

Batch Uploads

For large batch uploads TCM provides a utility to simplify the process of importing large volumes of content with an interface to easily sort, manage and index. Additionally, Batch Print Capture allows users to print from third-party applications. For example, when printing EMS statements from an EMS billing application users can print the batch directly into TCM. Each statement of the batch will be parsed into separate records in TCM. For a Special Education application, the user can print a group of transcripts directly into TCM, which creates a record in TCM for each transcript.

Bar Code Recognition

Using bar codes (labels or pre-printed), TCM can automatically index embedded information, reducing or eliminating the requirements for index data entry. That means a lot in time-saving terms.

Tyler Product Integration

When you use TCM with a Tyler financial product, your financial documents will automatically be indexed, searchable and stored in the system without any additional work by your staff. TCM works with third party applications as well.

1. Records and Data Management. <https://recordsanddatamanagement.com/FAQs.html>

2. Feldman, S. (2009, May 6). "Hidden Costs of Information Work in the Enterprise Exposed". <http://www.pressreleasepoint.com/hidden-costs-information-work-enterprise-exposed-new-idc-progress-report>

Advanced Optical Character Recognition (OCR)

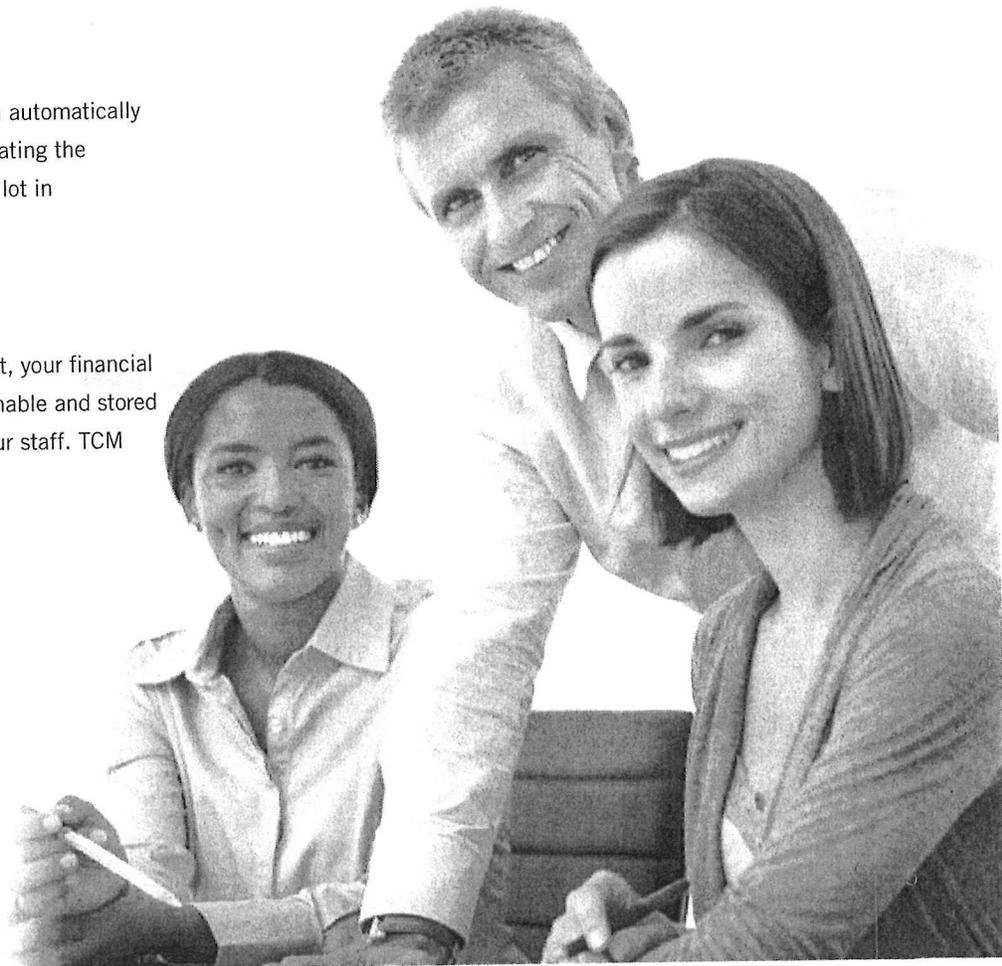
Use advanced OCR to extract text from specific zones for automatic indexing of structured forms. TCM uses OCR for three purposes to achieve automated data entry:

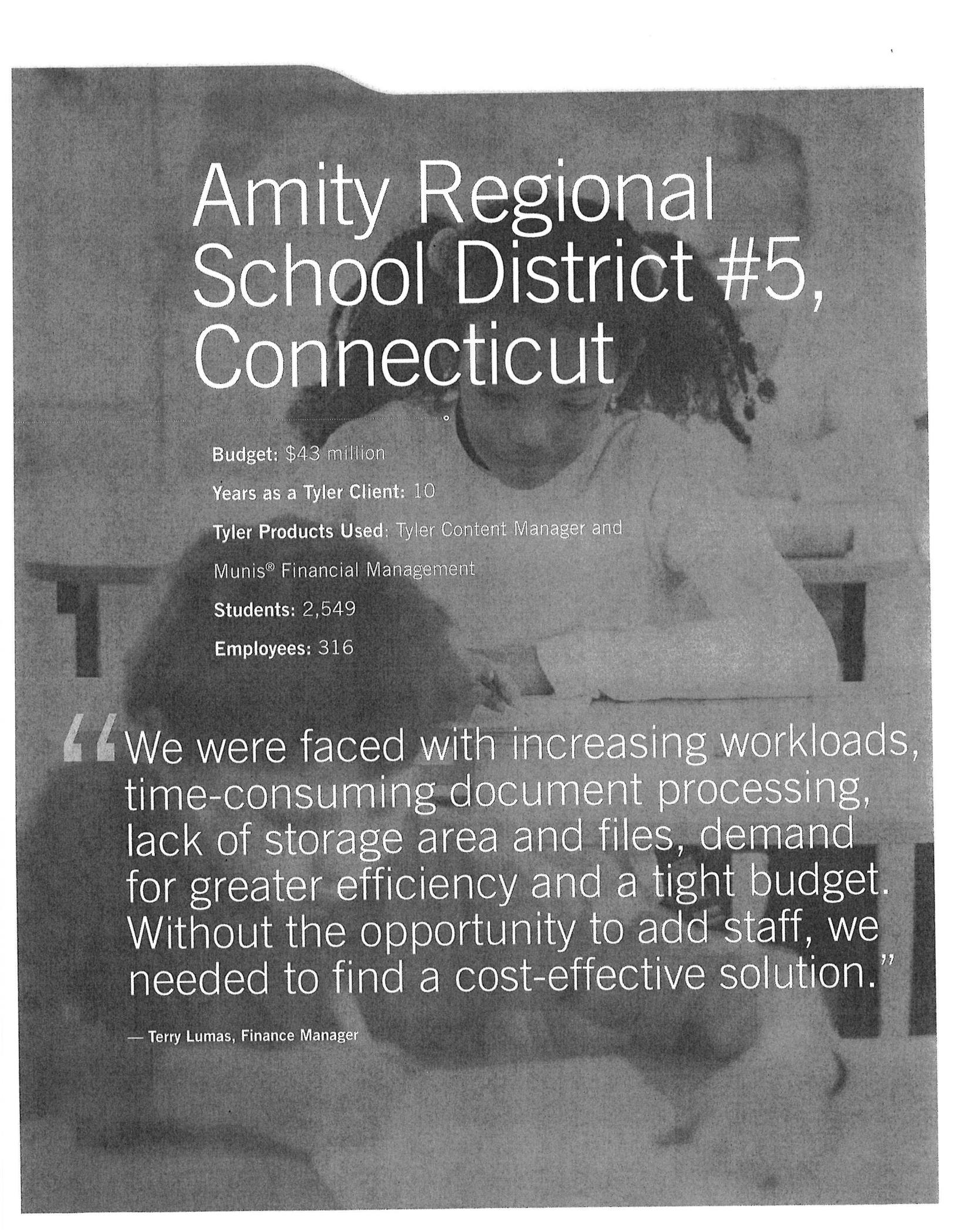
Convert — Convert and store all text data from an image as ANSI/Unicode. Once converted, the text data (along with the document coordinates) are stored in the background for future processing.

Analyze — Analyze and compare text and coordinates to predefined form templates for accurate form identification, which allows users to batch-scan different types of forms in the same batch.

Extract — Allows system extraction of pertinent data from appropriate coordinates on the form for automated indexing (data entry).

After automated indexing using Advanced OCR, the documents flow into Q/A workflow queues for user review and acceptance.





Amity Regional School District #5, Connecticut

Budget: \$43 million

Years as a Tyler Client: 10

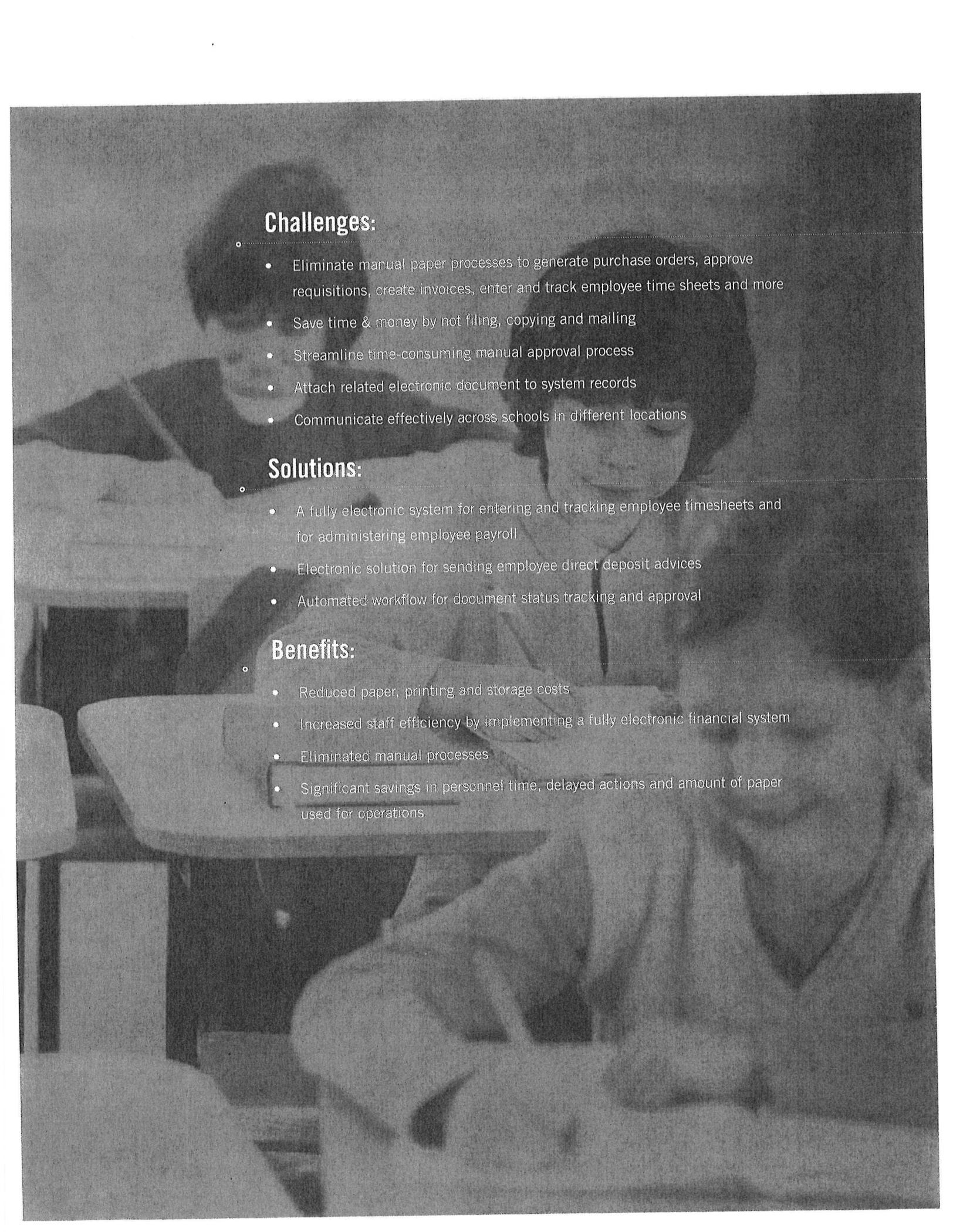
Tyler Products Used: Tyler Content Manager and
Munis® Financial Management

Students: 2,549

Employees: 316

“We were faced with increasing workloads, time-consuming document processing, lack of storage area and files, demand for greater efficiency and a tight budget. Without the opportunity to add staff, we needed to find a cost-effective solution.”

— Terry Lumas, Finance Manager



Challenges:

- Eliminate manual paper processes to generate purchase orders, approve requisitions, create invoices, enter and track employee time sheets and more
- Save time & money by not filing, copying and mailing
- Streamline time-consuming manual approval process
- Attach related electronic document to system records
- Communicate effectively across schools in different locations

Solutions:

- A fully electronic system for entering and tracking employee timesheets and for administering employee payroll
- Electronic solution for sending employee direct deposit advices
- Automated workflow for document status tracking and approval

Benefits:

- Reduced paper, printing and storage costs
- Increased staff efficiency by implementing a fully electronic financial system
- Eliminated manual processes
- Significant savings in personnel time, delayed actions and amount of paper used for operations

Powerful

Basic Optical Character Recognition

Optical Character Recognition (OCR) features are standard in TCM, making full-text searching and data capture a snap. Configure document templates so that when a document image is captured, it is automatically subjected to OCR processing. This happens on the server level so users are free to continue working while the process takes place. All converted OCR data is stored in a fully searchable background index with the document image itself. An important and exclusive function called "roping" allows users to copy a section of the image text into a separate data field by simply drawing a box around the text.

Advanced Optical Character Recognition

Advanced OCR automatically locates specific data on a form, extracts it and populates index fields in TCM reducing the number of manual keystrokes required to index documents. Enrollments, employment applications and many other structured forms are candidates for this type of recognition. With clickable data entry and roping, more documents are processed per hour than with previous methods. Automatic redaction is included with Advanced OCR.

WITH ADVANCED OCR YOU CAN:

- Process large volumes of forms in a fraction of the time it would take for manual indexing
- Identify proper form/document type by comparing with templates
- Scan and auto index different types of forms in the same batch
- Read specified coordinates in forms or combine Advanced OCR with manual indexing
- Set logical limit to the number of coordinates (zones) on a form
- Receive warning if a form does not meet pre-set criteria
- Read the most commonly typed laser quality fonts

TCM Web™

With TCM Web, you will improve document delivery, and manage public access to the images and other content of your TCM applications. Employees, teachers and citizens can easily navigate their browsers to related TCM resources and retrieve documents. Designing the look and feel of your interface is quick and easy, and TCM Web seamlessly adapts to your existing website without changing its appearance. In fact, many of our clients use the style sheets of their existing website so the TCM Web interface is seamless to users.

TCM Web is the public access module for TCM, and for those who need document access without using Tyler's ERP functionality (TCM and ERP power users will want to install a TCM client on their desktop).

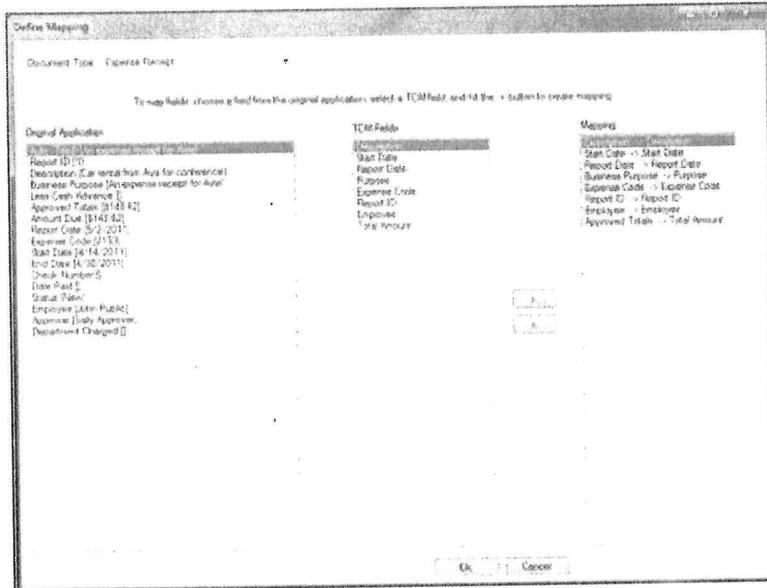
- User-defined settings
- Use existing website style sheets for a seamless interface
- Enhanced convenience for users
- eCommerce (*optional*)
- Keyword search
- Access security

Define TCM Web settings to meet requirements, including security, by limiting public access and permissions, so images are viewed only when, and if, they should be. You can control public searches, views, downloads and printing.

With TCM Web's optional eCommerce module, you can provide public access and generate revenue by providing relevant information securely through your organization's website. This allows a citizen to view building permits, land records and ordinances, or the latest city hall meeting minutes easily from anywhere. You can accept credit card payments, set credit and debit limits, provide a subscription service to your users, and set up pre-pay or draw-down accounts for frequent users.

Search & Retrieval

TCM Application Connector



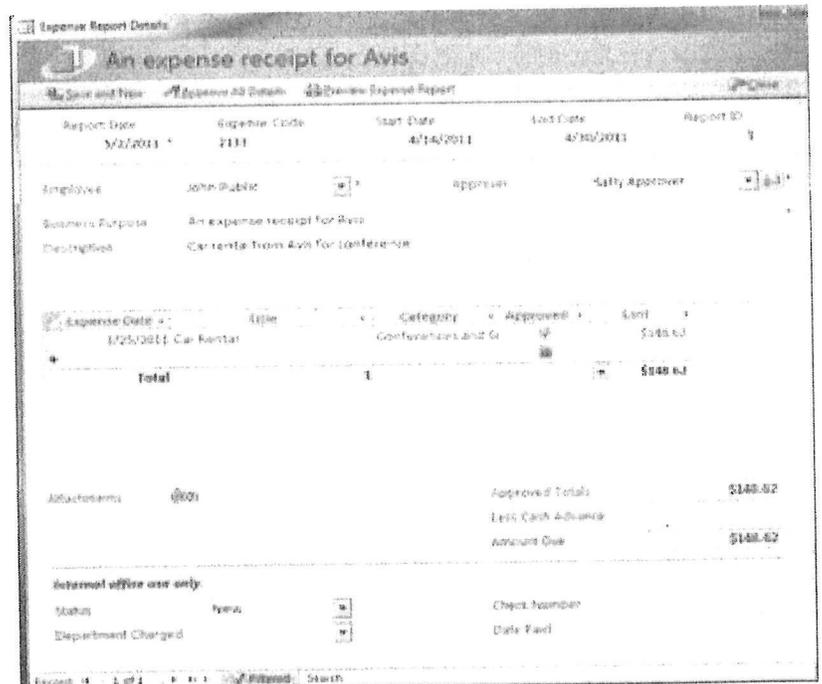
▲ The Connection Process — choose fields from the original application (e.g. expense report), select a TCM field, then proceed to map them.

TCM Application Connector gives you control of your work processes while ensuring that your organization streamlines paper flow. Now any application can “talk” to TCM quickly and easily. During implementation you’ll choose two “hot keys” from your keyboard. One will launch the configuration screen and the other launches the TCM content explorer window. Pressing a pre-defined hot key launches TCM from any application ... TCM document record fields are automatically populated from that screen. This will save time and avoid error-prone manual indexing. Additionally, if content already exists for this record, selecting the hot key will display the pre-stored images and corresponding metadata.

Application Connector's hot keys give you access to all your content — while eliminating programmatic, time-consuming integrations.

BENEFITS:

- Improve accuracy
- Fast and easy setup and implementation
- One-click access to launch work
- Quick access to related documents without leaving an application
- Seamless integration between applications and TCM
- Reduce time searching for documents
- Keep your office green by reducing excessive paper documentation



▲ Screen is Connected — expense report

Workflow & Records Management

Workflow Capabilities

TCM integrated workflow supports internal workflow policies. Configure templates to support the flow of electronic content throughout your organization — from one individual, group, or department to another, etc. The system monitors all workflow tasks for management and reporting functions. Pre-defined reports are available to help track and monitor workflow tasks and productivity.

Full-Featured Records Management

TCM delivers standard records management features and functions for full lifecycle document and records management — document version control, full, valid audit trail (deleting/not deleting document(s) when appropriate) and restore options, and comprehensive purge management related to your specific retention schedules and suspension requirements. Your organization will remain in compliance, improve efficiency and reduce overall organizational liability.

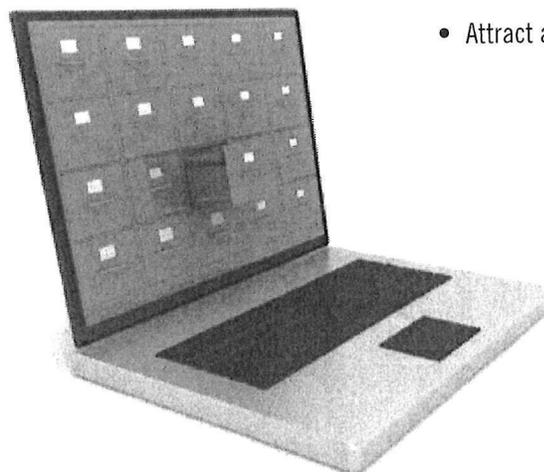
Return on Investment

Productivity • Efficiency • Security • Cost Savings

Despite often challenging economic climates, organizations continue to invest in ECM systems. According to a recent study by Gartner, the reason is productivity. “ECM can drive processes efficiently, improve data and process quality, and build better channels to your customers and prospects. ECM offerings are showing strong growth in demand as organizations embrace the vision of managing content assets throughout their life cycle¹.”

The value of ECM investment is returning big benefits. Gartner has found that clients often use ECM to realize a range of productivity goals, including the following:

- Improve effectiveness
- Reduce operational cost
- Optimize business processes
- Achieve regulatory compliance and eDiscovery goals
- Attract and retain customers



Services that Keep Your Content Safe and Secure

Redaction Software & Services

The need to protect public records and private information is critical. Congress, state legislatures, consumers, private businesses and public records custodians all wrestle with the best solution to the problem of protecting individual privacy rights, while encouraging commerce, improving compliance with government regulations, and meeting the needs of citizens.

Tyler offers redaction services that will meet your needs ... today and in the future:

- Automated — TCM OCR technology provides automated tools that identify properly formatted confidential information (SSNs, bank numbers, etc.) on all TIFF images
- Manual — TCM provides tools that allow users to manually apply redaction to all TIFF images
- Back Redaction Services

Disaster Recovery

Don't put your information at risk

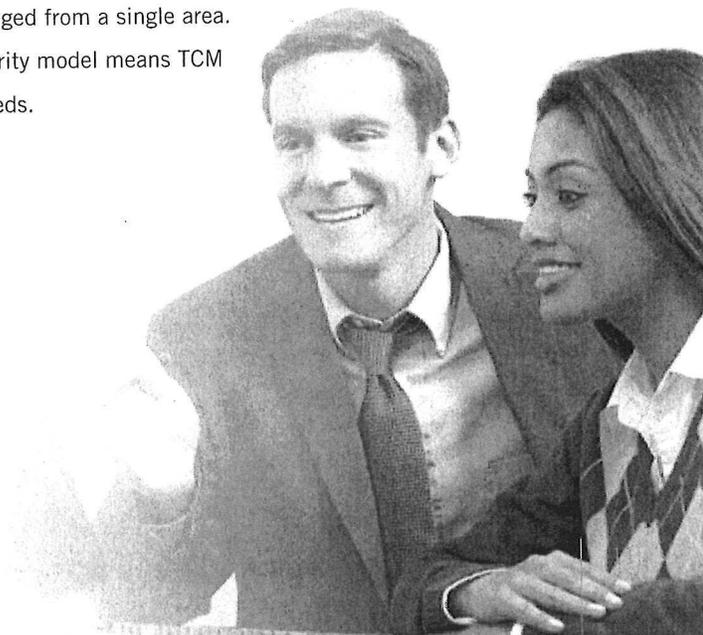
Disasters can strike at any time and without warning — an act of nature, theft, fire or a faulty sprinkler system.

Losing your data and experiencing interruption of operations are things of the past when you have Tyler's TCM Disaster Recovery. You will be back in production, and up and running within hours. Tyler servers and recovery team restore your data and images from the previous night.

As part of the service, Tyler staff will develop and publish a disaster recovery plan, including additional provided services detail and documenting the responsibilities of Tyler and your staff. Nothing will be left to chance.

Secure Storage

Content storage is handled through a secure central storage facility at the server level, and removes the need and complexity of managing multiple storage facilities, including related disaster recovery, backup and security considerations. Once stored in TCM, it can be managed from a single area. This role-based security model means TCM meets everyone's needs.

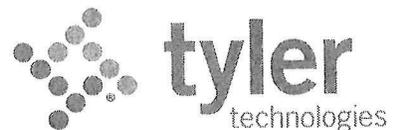


Software that thinks like you do.

At Tyler Technologies (NYSE: TYL), we have a single mission: enable local governments to be more efficient, more accessible and more responsive to the needs of citizens. That's what we do. And that's all we do — in partnership with more than 10,000 clients, including local government and school offices in all 50 states, Canada, the Caribbean and the United Kingdom.

Tyler Technologies is a leading provider of information management solutions and services for the public sector — and Tyler is the largest company in the country solely dedicated to providing software and IT services to the public sector market.

info@tylertech.com | 1.800.772.2260 | www.tylertech.com



Empowering people who serve the public®





**Town Board Executive Meeting
March 27, 2020**

Agenda Number:

Subject: 12:30 p.m. League of MN Cities Presentation

Documentation:

Action / Motion for Consideration:



**Town Board Executive Meeting
March 27, 2020**

Agenda Number:

Subject: 1:00 p.m. – Hockey Day Minnesota Presentation

Documentation:

Action / Motion for Consideration:



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 8

Subject: Winter Parking Violation Notification Procedure - Review

Documentation: Public Works Director Memo

Action / Motion for Consideration:

Report at Meeting / Discuss

MEMORANDUM

TO: Patrick Christopherson, Clerk/Treasurer

FROM: Dale Reed, Public Works Director

DATE: March 6, 2020

SUBJECT: Winter Parking Violation Notification Procedure

On March 5, 2020, The Clerk/Treasurer, Building Official/Code Enforcement Officer, and Public Works Director met with Phil Baebenroth, Commander for the Ramsey County Sheriff's Department (RCSD) regarding Parking Violation Enforcement.

Out of the discussion at that meeting, I have outlined below the procedure for Public Works staff regarding notification to the RCSD.

- The notification window will mirror the current Winter Parking Restrictions (Ordinance 17, 1-6.), no on street parking from 2 a.m. to 6 a.m. starting November 1 and ending April 1.
- The first snowfall in November, warnings for parking violations. After that, violators receive tickets.
- Staff will provide either Phil Baebenroth or Tony Waldo a notification regarding a Snow and Ice Control operation the day/evening before. Phil or Tony will share the information with the shift changes that take place at 4 p.m., 8 p.m., and 6 a.m.
- When unable to provide sufficient notification to the Sheriff's Department regarding Snow and Ice Control operation, Public Works staff will call 911 to notify the department of violations.

The goal is for the Building Official/Code Enforcement Officer to have more time to perform other responsibilities of the position.



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 9

Subject: Tobacco 21 – Ordinance No. 69 Amendment

Documentation: Staff Memo w/ attachments

Action / Motion for Consideration:

Report at Meeting / Discuss

MEMORANDUM

TO: TOWN BOARD
FROM: PATTI WALSTAD
DATE: MARCH 10, 2020

SUBJECT: ORDINANCE NO. 69 (TOBACCO) AMENDMENT

I contacted Katie Engman, our contact and the Program Director for the Association for Nonsmokers-MN, asking if there was any sample language which incorporated the new T21 changes that I could incorporate into our ordinance for review by the Public Safety Commission.

Katie asked me to send her a copy of the Township's tobacco ordinance which I did and she proceeded to forward it on to the Public Health Law Center. The Center outlined suggested changes to the ordinance which were reviewed by the Public Safety Commission at their March 5th meeting as follows:

TOBACCO 21 – ORDINANCE AMENDMENT: The Commission had read through the Proposed Ordinance Amendment to ensure there are no strong opinions. It was noted that there were no areas of concern, but the Commission wished it could be simpler: no tobacco anything until 21. However, definitions are important. It was the consensus that the Town Attorney should look into it. There was some discussion of whether the Town should put anything about other drugs in there. It was noted that this ordinance amendment is basically using what has been used before.

Katie also noted that we are one of four contract group communities that have not adopted the new regulations (WBL, Vadnais Heights, Maplewood).

PSW/s

Patti Walstad

From: Katie Engman <katie@ansrmn.org>
Sent: Wednesday, February 12, 2020 2:19 PM
To: Patti Walstad
Subject: Fwd: White Bear Township
Attachments: White Bear Township Tobacco Ord PHLC review and T21.doc; White Bear Township Tobacco Ord PHLC review and T21.pdf

Caution: This email originated outside our organization; please use caution.

Patti,

I hope you are well! Attached are suggested revisions to meet the model language that LMC and PHLC suggest. There are pieces that I would welcome the opportunity to talk through with you. I learned something new today as well.

Let me know if we could set up a call once you have time to look through things.

Katie

Katie H. Engman, MCHES
Program Director
Association for Nonsmokers-MN (ANSR)
2395 University Ave W. #310, Saint Paul, MN 55114
Office- 651-646-3005, Cell- 651-492-4298

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

From: Callanan, Rachel <Rachel.Callanan@mitchellhamline.edu>
Date: Fri, Feb 7, 2020 at 4:30 PM
Subject: RE: White Bear Township
To: Katie Engman <katie@ansrmn.org>
Cc: Phelps, Natasha <Natasha.Phelps@mitchellhamline.edu>

Hi Katie. Thank you for your request to review the tobacco retail licensing ordinance for White Bear Township to provide sample language and analysis for minimum legal sales age of 21 and minimal updates. Minimal but necessary changes were provided in this review. If further analysis and review is requested, we would be happy to provide additional revisions and sample language for additional public health policies that would provide stronger protections. I have attached the review as both a Word document and a PDF to ensure all the comments and changes are visible.

I should mention that the Public Health Law Center does not lobby, nor does it provide legal representation or advice. However, based on our experiences with regulation of commercial tobacco products throughout the country, we are able to provide you with our observations and other educational information regarding your questions about commercial tobacco control. This information is for educational purposes only; we do not request that a policymaker take any specific action in regard to our comments, nor should our comments be considered a replacement for legal advice. If you require a legal opinion, we encourage you to consult with local legal counsel. That said, we hope that our comments and suggestions are helpful to you.

Please let me know if you would like to hold a call to discuss specifics.

Have a nice weekend!

Rachel Callanan JD, MNM

Preferred gender pronouns: she/her/hers

Senior Staff Attorney

Public Health Law Center

Desk: 651-695-7667 | Cell: 612-803-1008

Rachel.Callanan@mitchellhamline.edu

www.PublicHealthLawCenter.org



Health through the power of law and policy

The Public Health Law Center provides information and technical assistance on issues related to tobacco and public health. The Center provides educational information and does not lobby, nor does it provide legal representation or advice. This e-mail should not be considered legal advice or a substitute for obtaining legal advice from an attorney who can represent you. If you have specific legal questions, we recommend that you consult with an attorney familiar with the laws of your jurisdiction.

ORDINANCE NO. 69

AN ORDINANCE RELATING TO THE SALE, ~~POSSESSION AND USE~~ OF TOBACCO, ~~TOBACCO PRODUCTS~~ NICOTINE OR LOBELIA DELIVERY PRODUCTS, ELECTRONIC DELIVERY DEVICES, AND TOBACCO-RELATED DEVICES IN THE TOWN, AND TO REDUCE THE ILLEGAL SALE, ~~POSSESSION, AND USE~~ OF SUCH ITEMS TO ~~AND BY MINORS~~ PERSONS UNDER AGE 21 IN THE TOWN OF WHITE BEAR, RAMSEY COUNTY, MINNESOTA

Commented [PHLC1]: It was requested that the White Bear Township tobacco licensing ordinance be reviewed to provide sample language and analysis for minimum legal sales age of 21 and minimal updates. Minimal but necessary changes were provided in this review. If further analysis and review is requested, we would be happy to provide additional revisions and sample language for additional public health policies that would provide stronger protections.

THE TOWN BOARD OF SUPERVISORS OF THE TOWN OF WHITE BEAR ORDAINS:

An Ordinance relating to the sale ~~, possession, and use~~ of tobacco, tobacco products, nicotine or lobelia delivery products, electronic delivery devices, and tobacco-related devices ~~tobacco, tobacco products, and tobacco-related devices~~ in the Town and to reduce the illegal sale ~~, possession, and use~~ of such items to persons under the age of 21 ~~and by minors~~.

SECTION 1. PURPOSE AND FINDINGS. Because the Town recognizes that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of under the age of 21 violates federal law; and because studies, which the town accepts and adopts, have shown that youth use of any commercial tobacco product has increased to 26.4% in Minnesota; and because nearly 90% of smokers begin smoking before they have reached the age of 18 years, and that almost no one starts smoking after age 25; and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because commercial tobacco use has been shown to be the cause of many serious health problems which subsequently place a financial burden on all levels of government, this ordinance is intended to regulate the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious health effects associated with use and initiation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in Minn. Stat. § 144.391, as it may be amended from time to time.

In making these findings, the Town Board of Supervisors accepts the conclusions and recommendations of: the U.S. Surgeon General reports, *E-cigarette Use Among Youth and Young Adults* (2016), *The Health Consequences of Smoking — 50 Years of Progress* (2014) and *Preventing Tobacco Use Among Youth and Young Adults* (2012); the Centers for Disease Control and Prevention in their studies, *Tobacco Use Among Middle and High School Students — United States, 2011–2015* (2016), and *Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997* (1998); and of the following scholars in these scientific journals: Chen, J., & Millar, W. J. (1998). Age of smoking initiation: implications for quitting. *Health Reports*, 9(4), 39-46; D’Avanzo, B., La Vecchia, C., & Negri, E. (1994). Age at starting smoking and number of cigarettes smoked. *Annals of Epidemiology*, 4(6), 455-459; Everett, S. A., Warren, C. W., Sharp, D., Kann, L., Husten, C. G., & Crosssett, L. S. (1999). Initiation of cigarette smoking and subsequent smoking behavior among U.S. high school students. *Preventive Medicine*, 29(5), 327–333; Giovino, G. A. (2002). Epidemiology of tobacco use in the

United States. *Oncogene*, 21(48), 7326–7340; Khuder, S. A., Dayal, H. H., & Mutgi, A. B. (1999). *Age at smoking onset and its effect on smoking cessation. Addictive Behaviors*, 24(5), 673–677; Luke, D. A., Hammond, R. A., Combs, T., Sorg, A., Kasman, M., Mack-Crane, A., Henriksen, L. (2017). Tobacco Town: Computational Modeling of Policy Options to Reduce Tobacco Retailer Density. *American Journal of Public Health*, 107(5), 740–746; Minnesota Department of Health. (2018). *Data Highlights from the 2017 Minnesota Youth Tobacco Survey*. Saint Paul, MN; Tobacco Control Legal Consortium. (2006). *The Verdict Is In: Findings from United States v. Philip Morris, The Hazards of Smoking*. University of California — San Francisco. Truth Tobacco Industry Documents, <https://www.industrydocumentslibrary.ucsf.edu/tobacco/>; Xu, X., Bishop, E. E., Kennedy, S. M., Simpson, S. A., & Pechacek, T. F. (2015) Annual healthcare spending attributable to cigarette smoking: an update. *American Journal of Preventive Medicine*, 48(3), 326–333, copies of which are adopted by reference.

~~Because the Town recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of both State and Federal laws; and because studies, which the Township hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Ordinance shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as state in Minnesota Statutes, section 144.391.~~

SECTION 2. DEFINITIONS AND INTERPRETATIONS. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and the neuter, and vice-versa. The term “shall” means mandatory and the term “may” mean permissive. The following terms shall have the definitions given to them:

Commented [PHLC2]: For readability, definitions should be put into alphabetical order.

2-1. TOBACCO OR TOBACCO PRODUCTS. ~~“Tobacco” or “Tobacco products” shall mean Any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. TOBACCO does not include any product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.~~

Commented [PHLC3]: Definitions should define a single term.

~~any substance or item containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigarettes; cigars; little cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies, perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking. Tobacco or tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.~~

2-2. TOBACCO RELATED DEVICES. “Tobacco-related devices” means any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products. tobacco-related device includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. tobacco-related devices may or may not contain tobacco. ~~“Tobacco related devices” shall mean any tobacco product as well as a pipe, rolling papers, ash tray, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.~~

Commented [PHLC4]: This is an updated and more comprehensive definition that covers all intended tobacco-related devices.

2-3. NICOTINE OR LOBELIA DELIVERY PRODUCTS. “Nicotine or lobelia delivery products” shall mean Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not a tobacco or an electronic delivery device as defined in this section. nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the U.S. Food and Drug Administration as a tobacco-cessation product, a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose. ~~a product containing or delivering nicotine or lobelia intended for human consumption that is not tobacco or tobacco related devices as defined by sections 2-2 and 2-3 of this ordinance. Exemption: Not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for another medical purposes, and is being marketed and sold solely for that approved purpose.~~

Commented [PHLC5]: This reflects the definition in state law.

2-4. SELF-SERVICE DISPLAYMERCHANDISING. “Self-service merchandisingdisplay” shall mean the open display of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee’s employee. ~~open display of tobacco, tobacco products, tobacco related devices, lobelia or nicotine delivery products in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices, lobelia, or nicotine delivery product without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco~~

Commented [PHLC6]: This is a more straightforward definition and updates the terminology used.

~~related device, lobelia, or nicotine delivery products between the customer and the licensee or employee. Self service merchandising shall not include vending machines.~~

2-5. VENDING MACHINE. "Vending Machine" shall mean any mechanical, electric or electronic, or other types of device which dispenses ~~tobacco, tobacco products, tobacco related devices, or nicotine delivery products~~ licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the ~~tobacco, tobacco product, tobacco related device, or nicotine delivery products~~ licensed products.

~~**2-6. INDIVIDUALLY PACKAGED.** "Individually Packaged" shall mean the practice of selling any tobacco, tobacco product, or nicotine delivery product wrapped individually for sale. Individually wrapped tobacco, tobacco products and nicotine delivery products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, single cans or other packaging of snuff or chewing tobacco, nicotine based electronic cigarettes and lobelia based electronic cigarettes. Cartons or other packaging containing more than a single pack or other container as described in this section shall not be considered individually packaged.~~

Commented [PHLC7]: This definition is unnecessary. The only place this term arises is within the definition of "loosies" where it is already clear how that term applies.

2-67. LOOSIES. "Loosies" shall mean the common term used to refer to single cigarettes, cigars, and any other licensed product that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

~~the common term used to refer to a single or individually packed cigarette, or any other tobacco product that has been removed from its packaging and sold individually. The term "loosies" does not include individual cigars with a retail price, before any sales taxes, of more than \$2.00 per cigar.~~

Commented [PHLC8]: Federal law and the MSA prohibits the sale of single cigarettes (commonly referred to as "loosies"), but not other harmful commercial tobacco products often sold individually and for a low price. State and local governments can replicate and expand the federal provisions to close the loopholes that exist. This language includes and expands on the existing federal ban on the sale of single cigarettes known as "loosies" to include the sale of single cigars and other tobacco products (e.g., smokeless pouches and Juul pods) that have been removed from their intended packaging. So essentially, with this definition and the prohibition on the sale of loosies (included later in the ordinance) the sale of any tobacco product that has been removed from its original packaging is prohibited. The Town may also establish a minimum price for cigars by including the language setting a minimum price of single cigars that are in original packaging but marketed to price sensitive youth (e.g., 99-cent flavored cigar pack containing 1 or 2 cigars). Language can be provided by PHLC if the Town would like to consider a minimum price for cigars.

~~**2-8. MINOR.** "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.~~

2-7. SMOKING. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device.

Commented [PHLC9]: Definition not necessary with T21.

Commented [PHLC10]: There was no definition of smoking, but smoking is prohibited below within all tobacco retail establishments so should be clearly defined.

2-89. RETAIL ESTABLISHMENT. "Retail Establishment" shall mean any place of business where ~~tobacco, tobacco products, or tobacco related devices~~ licensed products are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

2-910. MOVABLE PLACE OF BUSINESS. "Movable Place of Business" shall refer to any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

2-101. SALE. A "Sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

2-112. COMPLIANCE CHECKS. "Compliance Checks" shall mean the system the Town uses to investigate and ensure that those authorized to sell ~~tobacco, tobacco products, and tobacco-related devices~~ licensed products are following and complying with the requirements of this Ordinance. Compliance checks shall involve the use of ~~minors~~ persons under the age of 21 as authorized by this Ordinance. Compliance checks shall also mean the use of persons under the age of 21 ~~minors~~ who attempt to purchase ~~tobacco, tobacco products, or tobacco-related devices~~ licensed products for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to ~~tobacco, tobacco products, and tobacco-related devices~~ licensed products.

2-123. INDOOR AREA. All space between a floor and a ceiling that is bounded by walls, doorways or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

2-13. LICENSED PRODUCTS. "Licensed products" is the term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

2-14. ELECTRONIC DELIVERY DEVICE. "Electronic delivery device" means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the U.S. Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

2-15. CIGAR. "Cigar:" means any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.

Commented [PHLC11]: The Town may consider adding a new definition as an "umbrella" or catch-all term that includes all of the tobacco products covered in the ordinance (tobacco, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products). One umbrella term other jurisdictions have used is "licensed products." This allows for simplification throughout the ordinance. Here and throughout the rest of the ordinance, instead of listing all covered products, the code need only reference "licensed products."

Commented [PHLC12]: There was no definition of electronic delivery device.

Commented [PHLC13]: There was no definition of cigar.

SECTION 3. LICENSE. No person shall sell or offer to sell any ~~tobacco, tobacco products, or tobacco-related device~~licensed products without first having obtained a license to do so from the Township.

Section 3A3-1. SMOKING. Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling ~~tobacco and tobacco-related~~licensed products is prohibited.

Section 3-2B. PROXIMITY TO OTHER RETAILERS. No license shall be granted pursuant to this section to any person for any retail sales of ~~tobacco, tobacco products, tobacco related devices, or nicotine or lobelia delivery devices~~licensed products, within two thousand feet of any other establishment holding such license, as measured by the shortest line between the space to be occupied by the proposed licensee and the occupied space of the nearest existing licensee, unless that person has been in the business of selling such products in that ~~3-~~location before the date this section was enacted into law for at least one year and that location has not failed to renew its license.

Commented [PHLC14]: Changed format here to fit the numbering format used throughout the ordinance.

Commented [PHLC15]: This could be updated to reflect one year from the actual date this ordinance was adopted.

Commented [PHLC16]: This language could be added to ensure the license was continuously held during this time.

3-31. APPLICATION. An application for a license to sell ~~tobacco, tobacco products, or tobacco-related devices~~licensed products shall be made on a form provided by the Township. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the Township deems necessary. Upon receipt of a completed application, the Town Clerk shall forward the application to the Town Board for action at their next regularly scheduled meeting. If the Town Clerk shall determine that an application is incomplete, he shall return the application to the applicant with notice of the information necessary to make the application complete.

3-42. ACTION. The Town Board may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant, as it deems necessary.

3-53. TERM. All licenses issued under this Ordinance shall expire on December 31st of the year issued.

3-64. REVOCATION OR SUSPENSION. Any license issued under this Ordinance may be revoked or suspended as provided in the Violations Penalties section of this Ordinance.

3-75. TRANSFERS. All licenses issued under this Ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid ~~without the prior approval of the Town Board.~~

Commented [PHLC17]: All licenses should be treated the same and require that all licensees undergo the full application process. The sentence allowing the board discretion in granting a license transfer would undermine the application process and necessary investigations to ensure the applicant meets all criteria.

3-86. MOVABLE PLACE OF BUSINESS. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Ordinance.

3-97. DISPLAY. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

3-108. RENEWALS. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty (30) days, but no more than sixty (60) days before the expiration of the current license. The issuance of a license under this Ordinance shall be considered a privilege and not an absolute right of the applicant, and shall not entitle the holder to an automatic renewal of the license.

SECTION 4. FEES. No license shall be issued under this Ordinance until the appropriate license fees shall be paid in full. The fees for this license are as set forth in Ordinance No. 54 (Fees & Charges).

Commented [PHLC18]: Fees provide revenue for the administration and enforcement of the ordinance and for retailer and community education. Periodic review and adjustment of licensing fees will ensure that they are sufficient to cover all administration, implementation, and enforcement costs, including compliance checks. If the Town is considering multiple compliance checks, the fees should be adjusted to cover the costs of the additional checks. PHLC's publication, [Retail License Fees](#), provides more information about retail licensing fees and a license fee checklist.

SECTION 5. BASIS FOR DENIAL OF LICENSE. The following shall be grounds for denying the issuance or renewal of a license under this Ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the Township must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

5-1. The applicant is under the age of ~~eighteen~~twenty-one (1821) years.

5-2. The applicant has been convicted within the past five (5) years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to ~~tobacco or tobacco products, or tobacco related devices~~licensed products.

5-3. The applicant has had a license to sell ~~tobacco, tobacco products, or tobacco related devices~~licensed products revoked within the preceding twelve months of the date of application.

5-4. The applicant fails to provide any information required on the application, or provides false or misleading information.

5-5. The applicant is prohibited by Federal, State or other local law, ordinance, or other regulation, from holding such a license.

SECTION 6. PROHIBITED SALES.

6-1. IN GENERAL. It shall be a violation of this Ordinance for any person to sell or offer to sell any ~~tobacco, tobacco product, tobacco related device, or nicotine delivery product~~licensed product:

~~6-1. To any person under the age of eighteen (18).~~

Commented [PHLC19]: This minimum legal sales age is moved to its own paragraph to allow inclusion of specific language to direct age verification and signage requirements, which assist with compliance.

~~6-1-12. By means of any type of vending machine, except as may otherwise be provided in this Ordinance.~~

~~6-1-24. By means of loosies as defined in Section 2 of this Ordinance.~~

~~6-1-35. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.~~

~~6-1-46. By any other means, to any other person, or in any other manner or form prohibited by Federal, State or other local law, ordinance provisions, or other regulation.~~

~~6-2. LEGAL AGE. No person shall sell any licensed product to any person under the age of 21.~~

~~6-2-1. AGE VERIFICATION. Licensees must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.~~

~~6-2-2. SIGNAGE. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the town, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.~~

~~SECTION 7. VENDING MACHINES. It shall be unlawful for any person licensed under this Ordinance to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine.~~

Commented [PHLC20]: This section is not necessary because vending sales is prohibited in the previous section.

~~6-3. SECTION 8. SELF-SERVICE SALES. It shall be unlawful for a licensee under this Ordinance to allow the sale of tobacco, tobacco product, or tobacco related devices licensed products by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device licensed product between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices licensed products shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit nor left open and accessible to the general public.~~

~~Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this Ordinance is adopted shall comply with this Section within thirty (30) days.~~

Commented [PHLC21]: Sentence no longer needed since earlier ordinance with this provision was adopted 7 years ago.

SECTION 79. RESPONSIBILITY. All licensees under this Ordinance shall be responsible for the actions of their employees in regard to the sale of ~~tobacco, tobacco products, or tobacco related devices~~ licensed products on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the Township from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

SECTION 810. COMPLIANCE CHECKS AND INSPECTIONS. ~~All licensed premises must be open to inspection by law enforcement or other authorized town officials during regular business hours. From time to time, but at least [twice] per year, the town will conduct compliance checks. In accordance with state law, the town will conduct [at least one compliance check that involves the participation of two persons: one person between the ages of 15 and 17 and one person between the ages of 18 and 20] [at least one compliance check that involves the participation of a person between the ages of 15 and 17 and at least one compliance check that involves the participation of a person between the ages of 18 and 20] to enter licensed premises to attempt to purchase licensed products. Prior written consent is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.~~ All licensed premises shall be open to inspection by the Township or its authorized inspectors during regular business hours. From time to time, but at least once per year, the Township shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years, but less than eighteen (18) years, to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by Township designated law enforcement officers or other designated Township personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by State or Federal laws for education, research, or training purposes, or required for the enforcement of a particular State or Federal law.

Commented [PHLC22]: This compliance check language has been updated to reflect checks for a Minnesota jurisdiction that has set the minimum legal sales age to 21. State law requires every local licensing authority to conduct at least one compliance check each year. This state-mandated compliance check "must involve minors over the age of 15, but under the age of 18." Cities with T21 laws can conduct this annual compliance check to both satisfy state law and to enforce its local T21 policy. To do so, a municipality could either conduct at least one compliance check with a person between the ages of 15 and 17 and a person between the ages of 18 and 20, or conduct more than one compliance check -- at least one check with a person between the ages of 15 and 17 and at least one additional check with a person between the ages of 18 and 20. Included here, the bracketed language identifies two options that the Town could choose and only one option should be retained in a final licensing ordinance.

SECTION 911. OTHER ~~ILLEGAL PROHIBITED~~ ACTS. Unless otherwise provided, the following acts shall be a violation of this Ordinance.

~~11-1. Illegal sale. It shall be a violation of this Ordinance for any person to sell or otherwise provide any tobacco, tobacco product, tobacco related device, or nicotine delivery product to any minor.~~

Commented [PHLC23]: This is not necessary because sale to underage person is already prohibited above.

~~11-2. ILLEGAL POSSESSION.~~ It shall be a violation of this Ordinance for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device, or nicotine or lobelia delivery device not approved by the FDA. This section shall not apply to minors lawfully involved in a compliance check.

~~11-3. ILLEGAL USE.~~ It shall be a violation of this Ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

~~911-14. PROHIBITED FURNISHING OR PROCUREMENT.~~ It is a violation of this ordinance for any person 21 years of age or older to purchase or otherwise obtain any licensed product on behalf of a person under the age of 21. It is also a violation for any person 21 years of age and older to coerce or attempt to coerce a person under the age of 21 to illegally purchase or attempt to purchase any licensed product.

~~ILLEGAL PROCUREMENT.~~ It shall be a violation of this Ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it shall be a violation of this Ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This section shall not apply to minors lawfully involved in a compliance check.

~~911-25. USE OF FALSE IDENTIFICATION.~~ It shall be a violation of this Ordinance for any minor person under the age of 21 to attempt to disguise his or her true age by the use of false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent and age older than the actual age of the person.

SECTION 102. VIOLATIONS.

102-1. NOTICE. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

102-2. HEARINGS. If a person accused of violating this Ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

102-3. HEARING OFFICER. The Town Board shall serve as the hearing officer.

102-4. DECISION. If the Town Board determines that a violation of this Ordinance did occur, that decision, along with the Town Board's reasons for finding a violation and the penalty to be imposed under Section 13 of this Ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the Town Board finds that no violation

Commented [PHLC24]: This removes penalties for youth Purchase/Use/Possession (PUP) but retains penalties for persons over age 21 who furnish or procure on behalf of underage person. The reason for removing penalties for under age persons is that PUP laws may be unlikely to reduce youth smoking significantly. They may undermine other conventional avenues of youth discipline, divert attention from more effective tobacco control strategies, and relieve the tobacco industry of responsibility for its marketing practices. Some communities are concerned that PUP provisions may be enforced inconsistently with respect to youth from certain racial and ethnic groups, resulting in their introduction into the criminal justice system. Nicotine is more addictive than heroin and other drugs. Many public health groups suggest focusing instead on the retailer, especially since this is a licensing code. For these reasons, the City may consider removing these sections which establish penalties for underage violators of the tobacco licensing ordinances. Removal of these provisions puts responsibility on the licensee, seller, or provider of the covered products.

Commented [PHLC25]: For reasons similar to those for removing PUP, the Town may also consider removing the use of false identification provision. If penalties for using false identification are retained, they should be non-criminal, non-monetary penalties to ensure youth are not introduced into the criminal justice system or be burdened with financial penalties they cannot afford.

occurred or finds grounds for not imposing any penalty, such finding shall be recorded and a copy provided to the acquitted accused violator.

102-5. APPEALS. Appeals of any decision made by the Town Board shall be filed at the Ramsey County District Court.

~~**12-6. MISDEMEANOR PROSECUTION.** Nothing in this Section shall prohibit the Town from seeking prosecution as a misdemeanor for any alleged violation of this Ordinance. If the Town elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.~~

Commented [PHLC26]: Misdemeanor prosecution is addressed below in Section 13-4.

102-67. CONTINUED VIOLATION. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Commented [PHLC27]: If this paragraph remains, it could be amended to remove this sentence which would allow for the Town to pursue BOTH criminal and administrative penalties. Both types of penalties should be an option to provide more incentive for retailers to comply with the law.

SECTION 113. PENALTIES.

~~**113-1. LICENSEES.** Any licensee found to have violated this ordinance, or whose employee violated this ordinance, will be charged an administrative fine of [\$500] for a first violation; [\$750] for a second offense at the same licensed premises within a 36-month period; and [\$1,000] for a third or subsequent offense at the same location within a 36-month period. Upon the third violation, the license will be suspended for a period of not less than [30] consecutive days. Upon a fourth violation within a 36 month period, the license will be revoked. Any licensee found to have violated this Ordinance, or whose employee shall have violated this Ordinance, shall be charged an administrative fee of \$200.00 for a first violation of this Ordinance; \$400.00 for a second violation at the same licensed premises within a twenty four month period; and \$600.00 for a third or subsequent offense at the same location within a twenty four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.~~

Commented [PHLC28]: This penalty language could be updated with longer look-back periods between violations, higher penalties, longer suspension period, and revocation of the license upon a fourth violation. Strong penalties help encourage compliance.

~~**113-2. OTHER INDIVIDUALS.** Other individuals, other than minors persons under age 21 regulated by Section 113-3 of this section, found to be in violation of this Ordinance, shall be charged an administrative fine of \$50.~~

~~**113-3. MINORSPERSONS UNDER THE AGE OF 21.** Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the town determines to be appropriate. The Town Board of Supervisors will consult with court personnel, educators, parents, children and other interested parties to determine an appropriate penalty for persons under the age of 21 in the town. The penalty may be established by ordinance and amended from time to time. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be referred to the White Bear Community Counseling Center.~~

Commented [PHLC29]: This language updates alternative penalties for underage persons who use false identification and is consistent with the goals of removing PUP penalties from the licensing ordinance

~~1413~~-4. **MISDEMEANOR.** Nothing in this Section shall prohibit the Town from seeking prosecution as a misdemeanor for any alleged violation of this Ordinance by a person 21 years of age or older.

Commented [PHLC30]: In accordance with other changes in this ordinance (raising the legal sales age to 21 and addressing the penalty structure) Town could consider adopting these changes which makes the issuance of a criminal penalty optional and at the discretion of the prosecutor or the Town Board of Supervisors instead of mandatory. Criminal penalties may not always be appropriate and this allows for flexibility in determining what rises to a criminal penalty.

SECTION 124. EXCEPTIONS AND DEFENSES. Nothing in this Ordinance shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor-person under the age of 21 as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this Ordinance for a person to have reasonably relied on proof of age as described by State law.

SECTION 135. SEVERABILITY. Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part held to be invalid.

SECTION 146. EFFECTIVE DATE. The Ordinance shall take effect and be in force from and after its passage and publication.

Passed by the Town Board of Supervisors of the Town of White Bear, Ramsey County, Minnesota, this 5th day of December, 2011.

APPROVED:

WILLIAM R. MAMPLE, Chairman

ATTEST:

WILLIAM F. SHORT, Town Clerk

Board of Supervisors.
WILLIAM R. MAMPLE, Chair
ROBERT R. KERMES, Supervisor
ED M. PRUDHON, Supervisor

Synopsis Published in the White Bear Press January 11, 2012

Historical Notes
2011

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 passed on December 5, 2011, and effective January 11, 2012 by Mample (Chair), Kermes and Prudhon; Short (Clerk).

2010

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 passed on December 20, 2010, and effective January 26, 2011 by Sand (Chair), Mample and Kermes; Short (Clerk).

1997

Ordinance, Title and Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 originally passed December 1, 1997, and effective December 17, 1997 by Weisenburger (Chair), Sand and Ford; Short (Clerk).



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 10

Subject: Stable Property – Next Step

Documentation: None

Action / Motion for Consideration:

Report at Meeting / Discuss



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 11

Subject: Public Works Director Report

Documentation: None

Action / Motion for Consideration:

Report at Meeting / Discuss



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 12.a
Building Inspector / Code Enforcement Officer Report

Subject: Water Gremlin – Building Permit Status

Documentation: None

Action / Motion for Consideration:

Report at Meeting/ Discuss

Minutes
Town Board Meeting
February 21, 2020

Water Gremlin: The Building Inspector reviewed the 3 phases of this project. Phase 1 is relocating the equipment from one building to another, which is under review of the plans and specs. Phase 2 is on hold until staff has received the code of compliance. Work has begun without approval on the placement of the trailers and so the Town has issued a stop work order. The Town Attorney has notified Water Gremlin's attorney of this and is hoping he is in contact with Water Gremlin's contractor. Phase 3 will be reviewed after that. If everything is OK'd, then Water Gremlin can proceed, but not without full approval.



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 13.a

Subject: Clerk-Treasurer Report:
a. DNR Groundwater Management - Update

Documentation: None

Action / Motion for Consideration:

Report at Meeting / Discuss

**Minutes
Executive Meeting
February 21, 2020**

DNR Groundwater Management – Update: There was nothing to report on this agenda item.



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 14 - 15

Subject: Open Time
Added Agenda Items

Action / Motion for Consideration:



**Town Board Executive Meeting
March 27, 2020**

Agenda Number: 16 – 17

Subject: Receipt of Agenda Materials / Supplements
Adjournment

Action / Motion for Consideration:

Receive All Agenda Materials & Supplements for Today's Meeting

Adjourn Meeting