



WHITE BEAR TOWNSHIP

1858
RAMSEY COUNTY
MINNESOTA

1281 HAMMOND ROAD
WHITE BEAR TOWNSHIP, MN 55110

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

AGENDA TOWN BOARD MEETING MAY 18, 2020

1. **7:00 p.m.** Call Virtual Meeting to Order at Township Administrative Offices, 1281 Hammond Road.
2. Approval of Agenda (Additions/Deletions).
3. Approval of Payment of Bills.
4. Approval of Minutes of May 4, 2020 (Additions/Deletions).
5. **Consent Agenda:**
 - A. **VLAWMO 2019 Financial Report** – Based on Finance Officer Review & Recommendation Receive & Accept the 2019 Financial Report of the Vadnais Lake Area Water Management Organization.
 - B. **National Police Week** – Adopt Resolution Recognizing National Police Week as May 10-16, 2020.
 - C. **Conditional Use Permit Request @ Tamarack Nature Center** – Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to Consider a Conditional Use Permit Request to Allow an Addition to the Nature Center Building & Other Improvements.
 - D. **Mooring Requests** – In Accordance with the Portland Avenue Mooring Fees Policy, Approve the Mooring Requests for the 2020 Boating Season June 1, 2020 through October 1, 2020 for 5373 & 5406 Portland Avenue.
 - E. **Right-of-Way Setback Variance Request @ 2731 Stillwater Street** – Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to Consider a 35' Right-of-Way Setback Variance
 - F. **Right-of-Way Setback Variance Request @ 2317 Hoxie** – Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to Consider a 25' Right-of-Way Setback Variance.

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.



- G. **White Bear Lake Conservation District Representatives** – Adopt Resolution Re-Electing Diane Longville & Bryan DeSmet to Three-Year Terms on the White Bear Lake Conservation District Board of Directors Through April 30, 2023.
- H. **Polar Lakes Park Ballfield** – Based on Public Works Director Review & Recommendation Approve White Bear Lake School District 624's Ballfield Preparation/Maintenance Proposal for 2020.
- I. **Construction Activity Report** – Receive.

6. **Old Business:**

- A. **Ordinance No. 69 (Tobacco)** – Adopt Amendment.
- B. **Liquor License Fees** – Refund Options.
- C. **Hockey Day Minnesota** – Update.
- D. **Emergency Management Team Report:**
 - 1. Ramsey County COVID-19 Incident Management.
 - 2. Contract Group Update.
 - 3. Attorney Update.
 - 4. Operations Logistics/Administrative Offices/Public Works.
 - 5. Park Closing.

7. **Public Hearing:** None.

8. **New Business:**

Town Planner Items:

- A. **Bellaire Beach Lifeguards** - Status.
- B. **Tree Trust Planting** – Brandwood Park.

Public Works Director Item:

- C. **Birchwood Lift Station #1** – Approve Alarm Disabling.

Town Engineer Item:

- D. **Peterson Road:**
 - 1. Improvement Discussion.
 - 2. Neighborhood Meeting Discussion.

**White Bear Township's
Mission:**

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- E. **Otter Ridge Circle** – Authorize Preparation of a Report for a Street Improvement.

General Business:

- F. **Ordinance No. 92** – Adopt.
- 9. **Added Agenda Items.**
 - 10. **Receipt of Agenda Materials & Supplements.**
 - 11. **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 Meeting
May 18, 2020**

Agenda Number: 1 - 2 - 3 - 4

Subject: Call to Order – 7:00 p.m.
Township Administrative Offices
1281 Hammond Road

Approval of May 18, 2020 Agenda
Approval of Payment of Bills
Approval of Minutes of May 4, 2020

Documentation: May 18, 2020 Agenda
May 4, 2020 Minutes

Action / Motion for Consideration:

Call meeting to order:	8:00 a.m.
Approval of Agenda:	May 18, 2020 (additions/deletions)
Approval of Payment of Bills	
Approval of Minutes:	May 4, 2020 Meeting

**MINUTES
TOWN BOARD MEETING
MAY 4, 2020**

The meeting was called to order at 8:00 a.m. the Township Administrative Office.

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

The meeting was held at the Town Office Conference Room, present there were the Town Finance Officer, Town Attorney, Town Clerk, Town Planner and the Public Works Director. Town Board Chair Prudhon, Supervisors McCune and Ruzek, Town Engineers Poppler and Studenski, and guests were present via telephone conference. The motions, seconds, and votes were stated by roll call as directed.

APPROVAL OF AGENDA (Additions/Deletions): Ruzek moved to approve the agenda as submitted. McCune seconded. Ayes all.

APPROVAL OF PAYMENT OF BILLS: Ruzek moved to approve payment of bills. McCune seconded.

APPROVAL OF MINUTES OF APRIL 20, 2020 (Additions/Deletions): Ruzek moved to approve the minutes of April 20, 2020, with the correction of one error: under Bellaire Beach discussion, Q3 is a subcontractor for XcelEnergy, not the Township. McCune seconded. Ayes all.

CONSENT AGENDA: McCune moved to approve the consent agenda as follows: 5A) South Shore Trinity Lutheran Church – In accordance with the Township’s special events policy, grant non-exclusive use of Bellaire Beach to South Shore Trinity Lutheran Church, 2480 South Shore Boulevard to hold outdoor worship services, weather permitting & provided the Stay-at-Home Order is lived on June 24 & 28, July 12 & 26, & August 9 & 23, beginning at 9:45 a.m. for two hours per service & to allow use of electricity from the Township’s lifeguard building to power the south system, noting the church will adhere to any safety/social distancing guidelines that are in place during this time, and noting the submitted COI is on record; 5B) Cub Foods Fireworks License – Based on staff review & recommendation approve the fireworks license for Cub Foods from May 1, 2020 through April 30, 2021 subject to approval by the Town’s Fire Inspector; 5C) Planning Commission – Re-appoint Ronald Denn, Howard Blin & Zachary Flann to three year terms on the Planning Commission to expire April 30, 2023; 5D) Utility Commission – Re-appoint Trent Bernstein & Dennis DeLoach to three year terms on the Utility Commission to expire April 30, 2023; 5E) Public Safety Commission – Re-appoint Patrice Pozzini-Stedman & James Linn to three year terms on the Public Safety Commission to expire April 30, 2023; 5F) Right-of-Way Permit – Based on Town Engineer review & recommendation & including his recommended conditions, approve the XcelEnergy permit to straighten & add a guide wire to 2 poles on 120th Street. Ruzek seconded. Ayes all.

EMERGENCY MANAGEMENT TEAM REPORT:

1. Ramsey County COVID-19 Incident Management: The Town Clerk reported that the previous week Ramsey County COVID-19 Incident Management team had a phone conference. During this time the team discussed the new testing methods are reflective of the numbers going up.

2. Contract Group Update: The Contract Group did not meet.

3. Attorney Update: The Town Attorney noted that the outdoor recreational provisions is still in effect, but the Town cannot open the parks to any organized groups. Legally tennis courts shouldn't be a problem, but any contact sports like basketball would be too much. It was noted that the Baseball Association is holding virtual tryouts. Boating is now open too, so Summit Lane will open on time. Public Works staff will update the signs around the Town parks, and the Town Attorney will get a document to the Public Works Director for details of how to proceed.

4. Operations Logistics/Administrative Offices/Public Works – Revise Declaration of Emergency: The Town Clerk reported on the legal memos from the Minnesota Association of Townships. Townships across the state are legally able to go back to in-person meetings or over the phone. There was discussion among this in the Ramsey County meeting, and all of the Township's municipal neighbors are closed to the public. One thing Town staff are disappointed with is Ramsey County not following through on the COVID-19 talking points so all communities within the county are operating uniformly. The Town Clerk suggested the Township be closed to public and continue staggering shifts, at least until after the Governor's executive order is completed. It was noted that the Town has not received any complaints regarding staffing and administrative office closure, that all residents are respectful of what everyone is going through right now.

There was discussion of meeting as a Town Board. There was discussion of the masks the Town could provide, however, the Town cannot limit the number of people in the audience due to the open meeting law, so it was decided that the Board could go back to meeting at 7:00 p.m. but keep the meeting place and details as is. The May 18th Town Board meeting will begin at 7:00 p.m. (EDA meeting at 6:40 p.m.) at the Town Offices conference room, via in-person and telephone conference. And the May 22nd Executive Town Board meeting will begin at 8:00 a.m. at the Town Offices conference room, via in-person and telephone conference.

There was discussion over seasonal staff, that the Town should continue to hire on the seasonal staff as directed to keep up with mowing and road patching. Town staff will ensure that the COVID-19 rules and regulation are also laid out in the contract that will have to sign off on.

BUILDING INSPECTOR ITEM – 1ST QUARTER CONSTRUCTION REPORT: This agenda item and the information in the packet are FYI for the Board. There was discussion on how

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MAY 4, 2020**

the Town Building Inspector is handling all of his duties during this time. It was noted that he is doing very well, but is very busy. Vadnais Heights have him working a bit, plus numbers on building permits are way up. There have been more building permits issued in April than all of last quarter. It was also noted that WBL is helping Vadnais Heights when the Town's Building Inspector cannot.

There was discussion over business license renewals are down due to COVID-19. Town staff will keep sending out notices that licenses are due for renewal. Staff doesn't want businesses opening back up and not have the licenses set in place to operate.

IMPROVEMENT 2020-1—STREET IMPROVEMENTS – 1. AWARD CONTRACT – 2.

AUTHORIZE TKDA TO PERFORM CONSTRUCTION OBSERVATION: The Town Engineer reported that the Board received the bids at the last meeting, and explained that even with all of the contingency calculations (15%) and other fees that go into the street improvement projects; the Township is still nearly \$1 Million under budget. There was discussion over the assessments and it was noted again that the assessments may still go down, but the Town should wait until the September assessment hearing because once the assessments are lowered, they cannot be raised. The Town Engineer advised the Town to start now and take advantage of the prices of this market. If started now, the process will finish on time, but if the Board waits much longer the project will be rushed. It was noted that TKDA will have a mix of newer engineers and seasoned engineers on site daily to ensure construction is performed to the Township's standards.

Ruzek moved based on Town Engineer review & recommendation adopt resolution awarding contract for Improvement 2020-1 to T.A. Schifsky & Sons, Inc., in the amount of \$1,591,578.26. McCune seconded. Ayes all.

Ruzek moved based on Town Engineer review & recommendation authorize TKDA to perform construction observation services in an amount not-to-exceed \$182,699.00. McCune seconded. Ayes all.

CAPITAL IMPROVEMENT PROJECTS 2020/2021 – DISCUSS: The Town Clerk reported that this was discussed a bit at the Executive Town Board meeting in April and has been followed-up on since by staff to work on the financial, planning, and engineering sides, etc. The goal is for the Town to put together a package with the 2020 projects as well as the potential 2021 projects as a way to get ahead during this low interest rate market. The package for the Town to bond at once for is for Peterson Road, the restrooms at Polar Lakes Park, the 2020 street improvements, and the water system improvements.

There was discussion over one area (Meadowview Lane) of the Township that seems halfway between 2020's projects and near another project years in the future. The street rating is 1.3, and is lower due to the soil conditions of the road. It was decided that the street would be more of a total reconstruction, and therefore would take more work than the contractor could do this year, especially due to the timing of a feasibility study that would have to be done. It was decided that Township staff will maintain the street with surface

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projects this year in order to extend the life of the street and then improve it on schedule with the other projects near Meadowview Lane.

There was further discussion of Peterson Road and the logistics and assessments. The project cost may be too much, and outweigh any potential increase in the value of their home. There was discussion over potential grants for which the Town could apply to lessen the financial burden of Peterson Road residents. There will be more clarification on Peterson Road, but a consensus on the projects submitted.

ORDINANCE NO. 69 (TOBACCO) – ADOPT AMENDMENT: The Town Attorney reported that the Town can raise the legal age of purchasing tobacco to 21. The age increase is not adopted by the state yet, but it most likely will be as it is in process. The federal law is more unclear and it will be a state-by-state item. There are a couple ways of adopting the ordinance amendment: the Town could take their current amendment and change all '18' to '21'; or the Town could adopt the Tobacco 21's amendment submitted. There was discussion on the wording of this amendment. It was noted that it is heavy, but the Town Attorney stated that it is comprehensive. The only concern he has is the regulation against cigar sale in general. It was decided that the Board will only approve amending the Town's current ordinance, but would like additional research.

Ruzek made the motion to table this agenda item until the Town Attorney does additional research and reports back at the May 18th Town Board meeting. McCune seconded. Ayes all.

LAKE LINKS REPRESENTATIVE – CALL IN: No one was present to report on this agenda item.

LIQUOR LICENSE FEES – REFUND OPTIONS: The Town Clerk reported that he wanted to discuss this item in a formal atmosphere. There was discussion of approving the refund of 2 months of the liquor license fees, but what happens if the Governor pushes the Stay-at-Home order back again. The discussion focused on whether the Town should issue some refund checks at this time or wait until the state is opened back up. It was noted that this is the time to show support of local businesses, and the Town could do that by starting with the 2 months refund and add to it if needed at a later date. There will be more discussion, as the Board wants to come to a consensus before anything is decided. This agenda item will be discussed at the May 18th Town Board meeting.

HOCKEY DAY MINNESOTA – UPDATE: The Town Planner reported that staff is continuing to get a feel for what Hockey Day Minnesota would look like in the Township, a good feeling so far. Hockey Day Minnesota has been in contact with the designer of Polar Lakes Park and have discussed the intricacies. Everything is looking good, though there will be no announcement until January of 2021 about the following year's location. There was a question regarding generators, and it was noted that the vendors at the festival will take power out of the Township's transformer pedestals. The Board is eager to learn of the conceptual design process to see if everything works together. The Board doesn't want to

**MINUTES
TOWN BOARD MEETING
MAY 4, 2020**

spend a lot of time and resources on this if it isn't going to go through, so it was noted that staff should keep track of all the time spent on this agenda item.

ATTORNEY/CLIENT CLOSED SESSION – STABLE PROPERTY: At 9:31 a.m. Ruzek made the motion to go into closed session regarding fees of the case of the Town of White Bear vs. Stoddard. McCune seconded. Ayes all.

At 9:43 a.m. Ruzek made the motion to come out of closed session. McCune seconded. Ayes all.

The overview of the closed session was to update the Board regarding the statutory costs dealing with the Stoddard case.

ADDED AGENDA ITEMS: There were no added agenda items.

OPEN TIME: No one was present for open time.

RECEIPT OF AGENDA MATERIALS / SUPPLEMENTS: Ruzek motioned to receive all Agenda Materials & Supplements for tonight's meeting. Ayes all.

McCune moved to adjourn the meeting at 9:44 a.m. Ruzek seconded. Ayes all.

Respectfully Submitted,

Patrick Christopherson
Recording Secretary

Approved as Official Meeting Minutes

Town Board Chair

Date



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.A – Consent Agenda

Subject: VLAWMO 2019 Financial Report – Based on Finance Officer Review & Recommendation Receive & Accept the 2019 Financial Report of the Vadnais Lake Area Water Management Organization

Documentation: Staff Memo w/ attachments

Action / Motion for Consideration:

Receive Information / Discuss

Based on Finance Officer Review & Recommendation Receive & Accept the 2019 Financial Report of the Vadnais Lake Area Water Management Organization

MEMORANDUM

Date: May 11, 2020

To: Town Board

From: Tom Kelly, Finance Officer

Re: Vadnais Lake Area Water Management Organization (VLAWMO) 2019 Financial Report.

In the past, I have reviewed the Vadnais Lake Area Water Management Organization's (VLAWMO) audited financial report for the year. This year all we received was their Annual Report, The auditor's management letter, and some other information on the Watershed. Included in the management report was a reported deficiency or material weakness. The one material weakness has to do with internal control procedures and size of operation, which is common for organization with very small staff sizes. However, it is noted, that the personnel has not monitored recent accounting developments and that it could lead to potential omissions or errors in the financial statements. Financial statements should be monitored monthly to assure accuracy.

The other finding related to undocumented or improper supporting documents. This could make fraud more likely.



CliftonLarsonAllen LLP
CLAconnect.com

Board of Directors and Management
Vadnais Lake Area Water Management Organization
Vadnais Heights, Minnesota

In planning and performing our audit of the financial statements of the governmental activities and the major fund of the Vadnais Lake Area Water Management Organization (the Organization) as of and for the year ended December 31, 2019, in accordance with auditing standards generally accepted in the United States of America, we considered the Organization's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Organization's internal control. Accordingly, we do not express an opinion on the effectiveness of the Organization's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified a certain deficiency in internal control that we consider to be a material weakness.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Organization's financial statements will not be prevented, or detected and corrected, on a timely basis.

Material weaknesses

We consider the following deficiencies in the Organization's internal control to be material weaknesses.

Financial reporting process

The board of directors and management share the ultimate responsibility for the Organization's internal control system. While it is acceptable to outsource various accounting functions, the responsibility for internal control cannot be outsourced.

The Organization engages CliftonLarsonAllen LLP (CLA) to assist in preparing its financial statements and accompanying disclosures, including adjustments for the conversion from modified to full accrual balances. Adjustments also included recording special assessments receivable and other receivables and payables. However, as independent auditors, CLA cannot be considered part of the Organization's internal control system. As part of its internal control over the preparation of its financial statements, including disclosures, the Organization has implemented a comprehensive review procedure to ensure that the financial statements, including disclosures, are complete and accurate. Such review procedures should be performed by an individual possessing a thorough understanding of accounting principles generally accepted in the United States of America and knowledge of the Organization's activities and operations.

Material weaknesses (continued)

Financial reporting process (continued)

The Organization's personnel have not monitored recent accounting developments to the extent necessary to enable them to prepare the Organization's financial statements and related disclosures, to provide a high level of assurance that potential omissions or other errors that are material would be identified and corrected on a timely basis. If the financial statements are not properly monitored, the financial statements on a monthly basis may not be consistent with the annual financial statements.

The outsourcing of this service is not unusual in organizations of your size and is a result of management's cost benefit decision to use our accounting expertise rather than to incur internal resource costs.

Other deficiencies in internal control and other matters

During our audit, we became aware of other deficiencies in internal control and other matters that are opportunities to strengthen your internal control and improve the efficiency of your operations. While the nature and magnitude of the other deficiencies in internal control were not considered important enough to merit the attention of the board of directors they are considered of sufficient importance to merit management's attention and are included herein to provide a single, comprehensive communication for both those charged with governance and management.

Documentation and review

During our testing of internal controls, it was noted in several areas the documentation of review was not retained or indicated on the supporting statements. These areas include payroll registers, bank reconciliations, and journal entries. We recommend the Organization review their policies and procedures and ensure a formal review process is in place for all areas. These review processes should include proper documentation of the reviews.

We will review the status of these comments during our next audit engagement. We have already discussed many of these comments and suggestions with various Organization personnel, and we will be pleased to discuss them in further detail at your convenience, to perform any additional study of these matters, or to assist you in implementing the recommendations.

* * *

This communication is intended solely for the information and use of management, the board of directors, and others within the Organization, and is not intended to be, and should not be, used by anyone other than these specified parties.



CliftonLarsonAllen LLP

Minneapolis, Minnesota
April 1, 2020



CliftonLarsonAllen LLP
CLAconnect.com

Board of Directors
Vadnais Lake Area Water Management Organization
Vadnais Heights, Minnesota

We have audited the financial statements of the governmental activities and the major fund of Vadnais Lake Area Water Management Organization (the Organization) as of and for the year ended December 31, 2019, and have issued our report thereon dated April 1, 2020. We have previously communicated to you information about our responsibilities under auditing standards generally accepted in the United States of America, as well as certain information related to the planned scope and timing of our audit. Professional standards also require that we communicate to you the following information related to our audit.

Significant audit findings

Qualitative aspects of accounting practices

Accounting policies

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Organization are described in Note 1 to the financial statements.

No new accounting policies were adopted and the application of existing policies was not changed during 2019.

We noted no transactions entered into by the Organization during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the financial statements were:

- Management's estimate of the useful lives of capital assets is based on authoritative guidance and past experience. We evaluated the key factors and assumptions used to develop the useful lives of capital assets in determining that it is reasonable in relation to the financial statements taken as a whole.
- Management's estimate of the amount of the year-end compensated absences payable to employees is based on historical trends and anticipated leave time activity.
- Management's estimate of the city's proportionate share of Public Employees' Retirement Association of Minnesota net pension liabilities as well as the related deferred inflows and outflows of resources is based on guidance from GASB Statement No. 68, GASB Statement No. 71, and the plans' allocation tables. The plans' allocation tables allocate a portion of the plans' net pension liabilities based on the city's contributions during the plans' fiscal years as a percentage of total contributions received for the related fiscal year by the plans.



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.B – Consent Agenda

**Subject: National Police Week – Adopt Resolution Recognizing
National Police Week as May 10-16, 2020**

Documentation: Resolution

Action / Motion for Consideration:

Receive Information / Discuss

Adopt Resolution Recognizing National Police Week as May 10-16, 2020

McCune – Moves

Ruzek - Second

EXTRACT OF MINUTES OF A MEETING OF THE TOWN
BOARD OF THE TOWN OF WHITE BEAR, MINNESOTA,
HELD ON MAY 18, 2020

Pursuant to due call and notice thereof, a Special meeting of the Town Board of the Town of White Bear, Minnesota, was duly held at the Township Administrative Offices on May 18, 2020 at 7:00 p.m.

The following members were present via telephone conference: Prudhon, Ruzek, McCune; and the following members were absent: None.

Supervisor McCune introduced the following Resolution and moved its adoption:

**RESOLUTION RECOGNIZING NATIONAL POLICE WEEK
2020 AND TO HONOR THE SERVICE AND SACRIFICE
OF THOSE LAW ENFORCEMENT OFFICERS KILLED IN THE
LINE OF DUTY WHILE PROTECTING OUR COMMUNITIES
AND SAFEGUARDING OUR DEMOCRACY**

WHEREAS, To recognize National Police Week 2020 and to honor the service and sacrifice of those law enforcement officers killed in the line of duty while protecting our communities and safeguarding our democracy.

WHEREAS, There are approximately 900,000 law enforcement officers serving in communities across the United States, including the dedicated members of the **Ramsey County Sheriff's Office**; and

WHEREAS, Over 60,000 assaults against law enforcement officers are reported each year, resulting in approximately 17,000 injuries; and

WHEREAS, Since the first recorded death in 1791, almost 21,000 law enforcement officers in the United States have made the ultimate sacrifice and been killed in the line of duty, including four members of the **Ramsey County Sheriff's Office**; and

WHEREAS, The names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.; and

WHEREAS, In 2019, 146 officers were killed nationwide in the line of duty and their names will be added to the National Law Enforcement Officers Memorial this spring; and

WHEREAS, The service and sacrifice of all officers killed in the line of duty will be honored during the National Law Enforcement Officers Memorial Fund's Virtual Candlelight Vigil on May 13, 2020; and

WHEREAS, On May 15, 2020, the service and sacrifice of all officers killed in the line of duty will be honored by the National Law Enforcement Officers Memorial Fund and the Minnesota Law Enforcement Memorial Association; and

WHEREAS, May 15, 2020 is designated as National Peace Officers' Memorial Day in honor of all fallen officers and their families; and

WHEREAS, The service and sacrifice of **Ramsey County Suburban Law Enforcement** officers killed in the line of duty will be honored during the **Suburban Ramsey County Law Enforcement Memorial Ceremony** later this year;

NOW THEREFORE, BE IT RESOLVED that the **WHITE BEAR TOWNSHIP BOARD** formally designates May 10-16, 2020, as Police Week in **WHITE BEAR TOWNSHIP BOARD**, and publicly salutes the service of law enforcement officers in our community and in communities across the nation.

The motion for the adoption of the foregoing Resolution was duly seconded by Supervisor Ruzek, and upon vote being taken thereon, the following voted in favor thereof: Prudhon, Ruzek, McCune; and the following voted against the same: None.

Whereupon said Resolution was declared duly passed and adopted.

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY) ss.
)
TOWN OF WHITE BEAR)

I, the undersigned, being the duly qualified and acting Clerk of the Town of White Bear, Minnesota, DO HEREBY CERTIFY, that I have carefully compared the attached and foregoing Extract of Minutes of Regular Meeting of the Town Board of the Town held on the 18th day of May, 2020, with the original on file in my office, and that the same is a full, true and complete transcript therefrom insofar as the same relates to a Resolution relating to National Police Week.

WITNESS my hand as such Clerk and the Town Clerk's Seal this 18th day of May, 2020.

TOWN CLERK, TOWN OF WHITE BEAR, MINN.



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.C – Consent Agenda

Subject: Conditional Use Permit Request @ Tamarack Nature Center – Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to Consider a Conditional Use Permit Request to Allow an Addition to the Nature Center Building & Other Improvements

Documentation: Public Notice

Action / Motion for Consideration:

Receive Information / Discuss

Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to Consider a Conditional Use Permit Request to Allow an Addition to the Tamarack Nature Center Building & Other Improvements



NOTICE OF HEARING REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW AN ADDITION TO THE NATURE CENTER BUILDING & OTHER IMPROVEMENTS AT THE TAMARACK NATURE CENTER IN WHITE BEAR TOWNSHIP, RAMSEY COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN, That the Town Board of Supervisors of the Town of White Bear, Ramsey County, Minnesota, will meet at either the Township Administrative Office, 1281 Hammond Road or Heritage Hall, 4200 Otter Lake Road, location to be determined at a later date, in said Town on Monday, June 15, 2020 at 7:00 p.m., to consider the request for the granting of a Conditional Use Permit to allow an addition to the nature center building and other improvements at the Tamarack Nature Center in the Town of White Bear, Ramsey County, Minnesota, lying and being in the area described as follows:

The South half of the southeast quarter of the northwest quarter of Section 10, Township 30, Range 22, Ramsey County, Minnesota,

(5287 Otter Lake Road)

and to hear and pass upon objections and recommendations, if any, and to conduct any and all business incident thereto.

Given under my hand this 18th day of May, 2020.

PATRICK CHRISTOPHERSON, Clerk-Treasurer



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.D – Consent Agenda

Subject: Mooring Requests – In Accordance with the Portland Avenue Mooring Fees Policy, Approve the Mooring Requests for the 2020 Boating Season June 1, 2020 through October 1, 2020 for 5373 & 5406 Portland Avenue

Documentation: Staff Memo w/attachments

Action / Motion for Consideration:

Receive Information / Discuss

In Accordance with the Portland Avenue Mooring Fees Policy, Approve the Mooring Requests for the 2020 Boating Season June 1, 2020 through October 1, 2020 for 5373 & 5406 Portland Avenue

MEMORANDUM

TO: TOWN BOARD
FROM: PATTI WALSTAD
DATE: MAY 12, 2020

SUBJECT: PORTLAND AVENUE MOORING

The two remaining members of the Portland Avenue Mooring Association (5373 & 5406 Portland) have submitted their annual request to moor their boats at the Portland Avenue mooring area.

The Portland Avenue Mooring Fees Policy states in part as follows:

8. After approval by the Town Board, the “grandfathered in” residents who receive permission to moor at the Portland Avenue Site are required to submit a \$100.00 mooring fee, and a signed Hold Harmless Agreement prior to mooring at the site.
 - B. Beginning in 2010, the Portland Avenue Mooring Fees shall be \$165 per year for each mooring site, and an additional fee of \$100 shall be charged for all fees and “Hold Harmless Agreements” received after June 1st of each year thereafter.

In accordance with the Policy, the applicants will be advised of the payment amount and Hold Harmless Agreement. The additional fee will not be imposed as the White Bear Lake Conservation District is in the process of approving the Township’s annual request.

PSW/s
cc:admin/add.file
b:mooring-20

Deputy-Clerk
White Bear Township Board of Supervisors
1281 Hammond Road
White Bear Township, MN, 55110

Portland Avenue Mooring Association
5406 Portland Avenue, White Bear Township, MN, 55110

Dear Deputy-Clerk

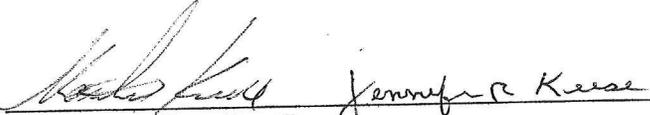
The Portland Avenue Mooring Association requests that the following moorings be renewed for the 2020 boating season:



Steve Swanson
5373 Portland Avenue
White Bear Township, MN, 55110

5-1-20

Date



Matthew & Jennifer Keese
5406 Portland Avenue
White Bear Township, MN, 55110

5/1/20

Date

Truly,



Matthew Keese

RECEIVED
MAY 04 2020
TOWN OF WHITE BEAR



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.E – Consent Agenda

Subject: Right-of-Way Setback Variance Request @ 2731 Stillwater Street – Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to Consider a 35' Right-of-Way Setback Variance

Documentation: Public Notice

Action / Motion for Consideration:

Receive Information / Discuss

Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to Consider a 35' Right-of-Way Setback Variance at 2731 Stillwater Street



NOTICE OF HEARING REQUEST FOR A VARIANCE FROM ORDINANCE NO. 35 (ZONING) OF THE TOWN OF WHITE BEAR, RAMSEY COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN, That the Town Board of the Town of White Bear, Ramsey County, Minnesota, will meet at either the Township Administrative Office, 1281 Hammond Road, or Heritage Hall, 4200 Otter Lake Road, location to be determined at a later date, in said Town on Monday, June 15, 2020 @ 7:00 p.m. to consider the following variance request:

- 35' Right-of-Way Setback Variance

to allow construction of a shed and a fence on the following described property lying and being in the Town of White Bear, Ramsey County, Minnesota:

Lots 31 and 32, Block 24, White Bear Beach

(2731 Stillwater Street)

and to hear and pass upon objections and recommendations, if any, and to conduct any and all business incident thereto.

Given under my hand this 18th day of May, 2020.

BY ORDER OF THE TOWN BOARD OF SUPERVISORS

PATRICK CHRISTOPHERSON, Clerk-Treasurer



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.F – Consent Agenda

**Subject: Right-of-Way Setback Variance Request @ 2317 Hoxie –
Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to
Consider a 25' Right-of-Way Setback Variance**

Documentation: Public Notice

Action / Motion for Consideration:

Receive Information / Discuss

Call Public Hearing for Monday, June 15, 2020 @ 7:00 p.m. to Consider a
25' Right-of-Way Setback Variance at 2317 Hoxie



NOTICE OF HEARING REQUEST FOR A VARIANCE FROM ORDINANCE NO. 35 (ZONING) OF THE TOWN OF WHITE BEAR, RAMSEY COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN, That the Town Board of the Town of White Bear, Ramsey County, Minnesota, will meet at either the Township Administrative Office, 1281 Hammond Road, or Heritage Hall, 4200 Otter Lake Road, location to be determined at a later date, in said Town on Monday, June 15, 2020 @ 7:00 p.m. to consider the following variance request:

- 25' Right-of-Way Setback Variance

to allow construction of a garage on the following described property lying and being in the Town of White Bear, Ramsey County, Minnesota:

Lot 24, Block 4, Shady Side Addition

(2317 Hoxie)

and to hear and pass upon objections and recommendations, if any, and to conduct any and all business incident thereto.

Given under my hand this 18th day of May, 2020.

BY ORDER OF THE TOWN BOARD OF SUPERVISORS

PATRICK CHRISTOPHERSON, Clerk-Treasurer



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.G – Consent Agenda

**Subject: White Bear Lake Conservation District Representatives –
Adopt Resolution Re-Electing Diane Longville & Bryan
DeSmet to Three-Year Terms on the White Bear Lake
Conservation District Board of Directors Through April 30,
2023**

Documentation: Staff Memo w/attachments

Action / Motion for Consideration:

Receive Information / Discuss

Adopt Resolution Re-Electing Diane Longville & Bryan DeSmet to Three-Year Terms on the White Bear Lake Conservation District Board of Directors Through April 30, 2023

McCune – Moves

Ruzek - Seconds

EXTRACT OF MINUTES OF A MEETING OF THE TOWN BOARD OF THE TOWN OF WHITE BEAR, MINNESOTA, HELD ON MAY 18, 2020

Pursuant to due call and notice thereof, a Special meeting of the Town Board of the Town of White Bear, Minnesota was duly held at the Township Administrative Offices in said Town on May 18, 2020, at 7:00 p.m.

The following members were present via telephone conference: Prudhon, Ruzek, McCune; and the following members were absent: None.

Supervisor McCune introduced the following Resolution and moved its adoption:

RESOLUTION RE-ELECTING DIANE LONGVILLE TO A THREE-YEAR TERM ON THE WHITE BEAR LAKE CONSERVATION DISTRICT BOARD OF DIRECTORS THROUGH APRIL 30, 2023

The motion for the adoption of the foregoing Resolution was duly seconded by Supervisor Ruzek, and upon vote being taken thereon, the following voted against the same: None.

Whereupon said Resolution was declared duly passed and adopted.

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY) ss.
)
TOWN OF WHITE BEAR)

I, the undersigned, being the duly qualified and acting Clerk of the Town of White Bear, Minnesota, DO HEREBY CERTIFY, that I have carefully compared the attached and foregoing Extract of Minutes of a Special meeting of the Town Board of the said Town held on the 18th day of May, 2020, with the original on file in my office, and that the same is a full, true and complete transcript therefrom, insofar as the same relates to an appointment to the White Bear Lake Conservation District Board of Directors.

WITNESS my hand as such Clerk and the Town Clerk's Seal this 18th day of May, 2020.

TOWN CLERK, TOWN OF WHITE BEAR, MINN.



**APPLICATION FOR APPOINTMENT
TO BOARD OR COMMISSION**

Dear Applicant:

We welcome you as an applicant for one of our Boards/Commissions. Any resident of White Bear Township for at least one year is generally eligible for nomination to any of the Township's standing Commissions established by Ordinance. However, preference will be given to registered voters.

You are encouraged to attach any additional information which you believe qualifies you for appointment to the Commission you have selected.

BOARD OR COMMISSION PREFERENCE:

- Economic Development Advisory Board
- Park Board
- Planning Commission
- Public Safety Commission
- Utility Commission
- Ramsey/Washington Suburban Cable Commission
- VLAWMO Technical Commission (TEC)
- WBL Conservation District

RETURN APPLICATION TO:

By Mail:
White Bear Township
1281 Hammond Road
White Bear Township, MN 55110

By E-Mail:
wbt@whitebeartownship.org

PERSONAL INFORMATION:

Name: Diane Longville

Address: 2565 South Shore Blvd. White Bear Lake Bear Minnesota 55110

Telephone: Home: 651-426-4031 Cell: _____ Work: _____

E-Mail Address: dedelongville@hotmail.com

How long have you been a resident of White Bear Township? 70 years

Are any members of your immediate family presently employed by White Bear Township, or serving on any of the Township's Boards or Commissions: No

If yes, please explain: _____

Your occupation: Retired Employer: _____

I am a member of the following civic organizations: White Bear Lake Conservation District/Executive Board, Treasurer, Lake Quality Committee

Please list your special interests, education, past experiences, etc. which you feel would benefit the Township by your appointment to the Board/Commission you have preferred above:

BA Biology & Chemistry, MA Biological Sciences. I have been on the WBLCD board for 30 years and have worked on various committees. I am passionate about the mission of the WBLCD to preserve and protect the lake I grew up on.

Signature: _____ Date: May 13, 2020

EXTRACT OF MINUTES OF A MEETING OF THE TOWN BOARD OF THE TOWN OF WHITE BEAR, MINNESOTA, HELD ON MAY 18, 2020

Pursuant to due call and notice thereof, a Special meeting of the Town Board of the Town of White Bear, Minnesota was duly held at the Township Administrative Offices in said Town on May 18, 2020, at 7:00 p.m.

The following members were present via telephone conference: Prudhon, Ruzek, McCune; and the following members were absent: None.

Supervisor McCune introduced the following Resolution and moved its adoption:

RESOLUTION RE-ELECTING BRYAN DYSMET TO A THREE-YEAR TERM ON THE WHITE BEAR LAKE CONSERVATION DISTRICT BOARD OF DIRECTORS THROUGH APRIL 30, 2023

The motion for the adoption of the foregoing Resolution was duly seconded by Supervisor Ruzek, and upon vote being taken thereon, the following voted against the same: None.

Whereupon said Resolution was declared duly passed and adopted.

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY) ss.
)
TOWN OF WHITE BEAR)

I, the undersigned, being the duly qualified and acting Clerk of the Town of White Bear, Minnesota, DO HEREBY CERTIFY, that I have carefully compared the attached and foregoing Extract of Minutes of a Special meeting of the Town Board of the said Town held on the 18th day of May, 2020, with the original on file in my office, and that the same is a full, true and complete transcript therefrom, insofar as the same relates to an appointment to the White Bear Lake Conservation District Board of Directors.

WITNESS my hand as such Clerk and the Town Clerk's Seal this 18th day of May, 2020.

TOWN CLERK, TOWN OF WHITE BEAR, MINN.



**APPLICATION FOR APPOINTMENT
TO BOARD OR COMMISSION**

Dear Applicant:

We welcome you as an applicant for one of our Boards/Commissions. Any resident of White Bear Township for at least one year is generally eligible for nomination to any of the Township's standing Commissions established by Ordinance. However, preference will be given to registered voters.

You are encouraged to attach any additional information which you believe qualifies you for appointment to the Commission you have selected.

BOARD OR COMMISSION PREFERENCE:

- Economic Development Advisory Board
- Park Board
- Planning Commission
- Public Safety Commission
- Utility Commission
- Ramsey/Washington Suburban Cable Commission
- VLAWMO Technical Commission (TEC)
- WBL Conservation District

RETURN APPLICATION TO:

By Mail:
White Bear Township
1281 Hammond Road
White Bear Township, MN 55110

By E-Mail:
wbt@whitebeartownship.org

PERSONAL INFORMATION:

Name: Bryan DeSmet

Address: 5363 Anderlie Lane, White Bear Township, MN 55110

Telephone: Home: _____ Cell: 612.280.9128 Work: _____

E-Mail Address: bdesmet1@yahoo.com

How long have you been a resident of White Bear Township? 26 years

Are any members of your immediate family presently employed by White Bear Township, or serving on any of the Township's Boards or Commissions: No

If yes, please explain: _____

Your occupation: Engineer Employer: SD Consulting Group

I am a member of the following civic organizations: _____

Please list your special interests, education, past experiences, etc. which you feel would benefit the Township by your appointment to the Board/Commission you have preferred above:

I'm currently on the White Bear Lake Conservation District Board as a representative of WBT.

Signature: Bryan DeSmet

Digitally signed by Bryan DeSmet
DN: cn=Bryan DeSmet, o=SD Consulting Group, ou=smh-bryan.desmet@sd-consulting.com, c=US
Date: 2020.05.13 11:32:51 -0500

Date: May 13, 2020



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.H – Consent Agenda

Subject: **Polar Lakes Park Ballfield** – Based on Public Works Director Review & Recommendation Approve White Bear Lake School District 624's Ballfield Preparation/Maintenance Proposal for 2020

Documentation: Staff Memo w/attachments

Action / Motion for Consideration:

Receive Information / Discuss

Based on Staff Review & Recommendation Approve the WBLSD624's Proposal to Provide Field Maintenance Services at the Seasonal Rate of \$25.00/hour & a Fulltime Rate of \$60.00/hour for the 2020 Season

MEMORANDUM

Date: May 8, 2020
To: Town Board
From: Dale Reed, Public Works Director
Re: Ballfield Preparation/Maintenance Proposal by White Bear Lake School District

White Bear Lake School District 624 (WBLSD624) performed ballfield maintenance services during the last 6 (six) seasons (2014-2019) at the Polar Lakes baseball fields 1, 2, 3, and 4 at \$9,500.00 for the 2019 season. This year the district has provided a proposal for the 2020 season for maintenance of fields located at Polar Lakes for an hourly rate for both there Seasonal (\$25.00/hour) and Fulltime (\$60.00/hour) staff. This year is the first year that Public Works staff will begin to transition into athletic field preparation work. With the purchase of a ballfield groomer in late 2019, the Town now has the equipment to begin the transition. During this transition, the School District will be providing training for our staff and weekend ballfield preparation services at hourly rate. The total cost estimated to be less than 50% the \$9,500.00 in 2019. There would have been an increase in 2020 of at least 3%, which would have been just under \$10,000.00.

The district services included in the proposal similar to last year and include daily maintenance and game preparation, maintenance to aglime (skinned) areas, weekend game preparation, consulting services on recommended improvements to the existing ballfields, and etc. (see attached proposal for details). The WBLSD624 will provide hands on training for Township staff on field maintenance.

I am recommending that we accept WBLSD624's proposal to provide the field maintenance services for a seasonal hourly rate of \$25.00/hour and a fulltime rate of \$60.00/hour for the 2020 season. Funding for the field maintenance agreement would be from the Parks Operating Budget under Contractual Services.

Town Board action is to approve WBLSD624's proposal to provide field maintenance services by the hour for the 2020 season.

ADDENDUM

The following language shall be incorporated and made a part of that Agreement dated April 17, 2020, by and between Independent School District 624 and the Town of White Bear concerning baseball field maintenance services provided by the School District to the Town.

Independent School District 624 shall indemnify and hold harmless and defend the Township, its officials, employees, volunteers and agents from any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees, which the Township, its officials, employees and agents may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of Independent School District 624, its employees or agents, in execution, performance or failure to adequately perform its obligations pursuant to this Agreement. Under no circumstances shall Independent School District 624 be required to defend and indemnify the Township and its officials, employees, volunteers and agents from and against claims resulting from the negligent actions of the Township, including the actions of its officials, employees, volunteers and agents, or its failure to perform its obligations under this Agreement or to maintain the baseball fields.

Each party also specifically intends that the single tort cap limit specified for cooperative agreements under Minnesota Statutes § 471.59, Subd. 1(a), or as such statutes may be amended or modified from time to time, shall apply to this Agreement and to the activities of the parties hereunder. The statutory limits for the parties may not be added together or stacked to increase the maximum amount of liability for either party.

It is agreed that nothing contained in this Agreement is intended or should be construed as creating the relationship of agents, partners, joint venturers, or associates between the parties hereto or as constituting Independent School District 624 as the employee of the Township for any purpose or in any manner whatsoever. Independent School District 624 is an independent contractor and neither it, its employees, agents nor representatives are employees of the Township.

INDEPENDENT SCHOOL DISTRICT 624

TOWN OF WHITE BEAR

By: _____

By: _____
It's Town Chair

By: _____

By: _____
It's Town Clerk



White Bear Lake Area Public Schools
Independent School District 624

Department of Community Services and Recreation
4855 Bloom Avenue, White Bear Lake, MN 55110
(651) 407-7500 Fax (651) 407-7502
www.isd624.org

4/17/2020

Dale Reed - Public Works Director
White Bear Township

For your consideration, White Bear Schools will provide baseball field maintenance services, on a seasonal basis, in cooperation with the township maintenance staff.

We will provide consulting, planning, monitoring and maintenance services in an effort to continually improve 4 ballfields in the Polar Parks baseball complex during the active season. This agreement covers the three fields that will be playable during the 2020 baseball season.

Services include: Training of Township grounds staff to begin preparation of the following:

- Daily maintenance and game preparation
- Provide consulting services for continual improvement of the park
- Identify and repair soil or turf surrounding irrigation heads for player safety
- Properly maintaining the turf/skinned edge to prevent and to address dangerous build-up
- Maintaining the skinned areas of the fields including warning track, batting cages and sidelines
- Building and proper maintenance of home plate and pitching rubber areas
- Maintaining base areas and base lines: repairing cupping or build up in high use; recycle pulverized materials
- Application and removal of skinned area conditioners to respond to field moisture conditions in an effort to provide a safe, playable surface after poor weather
- Establishing and maintaining proper depths of top grade and packed foundation for all skinned areas
- Attempt to correct unsafe wet spots on playing surface before scheduled games
- Grooming of high traffic areas in the commons area
- Communicating and coordinating with township employees to improve the facilities
- Weekend game preparation - TBD
- Coordination of field schedules and communication to field users - continued by Community Services
- Tournament field preparation charges negotiated by Community Services with user groups

Service dates: April 15 to August 15 For services provided, we are asking payment of \$60 per hour for Full Time Staff and \$25 per hour for seasonal staff hours from WB Township payable to ISD 624. Payment will be done through invoicing as services are provided.

Chemicals, Infield Ag-Lime, mound clay, and bases are provided by White Bear Township.

All ball field chalk, soil drying agents will be provided by ISD 624 - Chalk and other supplies will be added in for charges to WB Township in preparation of fields.

Thank you for this opportunity to partner with White Bear Township.

Regards,


Jon Anderson

Recreation & Facility Coordinator



**Town Board Meeting
May 18, 2020**

Agenda Number: 5.1 – Consent Agenda

Subject: Construction Activity Report - Receive

Documentation: Report

Action / Motion for Consideration:

Receive Information / Discuss

White Bear Township Construction Activity Report

	April 2020		2020 YEAR TO DATE		2019 YEAR TO DATE	
<u>BUILDING PERMIT</u>						
<u>HOUSING</u>	<u>PERMITS</u>	<u>VALUATION</u>	<u>PERMITS</u>	<u>VALUATION</u>	<u>PERMITS</u>	<u>VALUATION</u>
SINGLE FAMILY	-	-	4	1,283,000	4	1,333,915
TOWN HOME	-	-	-	-	-	-
TOTALS	-	-	4	1,283,000	4	1,333,915
<u>MISCELL. RESIDENTIAL</u>	<u>PERMITS</u>	<u>VALUATION</u>	<u>PERMITS</u>	<u>VALUATION</u>	<u>PERMITS</u>	<u>VALUATION</u>
REMODEL & ADDITIONS	2	101,000	11	221,047	13	326,727
SIDING, ROOF. & WIND.	52	543,196	85	889,195	64	786,745
DECKS	3	17,000	3	17,000	4	29,350
SWIMMING POOLS	-	-	-	-	-	-
ACCESSORY BLDG	1	10,000	1	10,000	1	19,100
OTHER	5	76,440	7	396,236	4	23,335
TOTALS	63	747,636	107	1,533,479	86	1,185,257
<u>COMMERCIAL</u>	<u>PERMITS</u>	<u>VALUATION</u>	<u>PERMITS</u>	<u>VALUATION</u>	<u>PERMITS</u>	<u>VALUATION</u>
PUBLIC BUILDINGS	-	-	-	-	1	28,000
INDUSTRIAL	1	7,025,000	1	7,025,000	-	-
BUSINESS	-	-	-	-	-	-
REMODEL & ADDITIONS	-	-	2	400,000	5	2,025,000
OTHER	-	-	1	425,000	-	-
TOTALS	1	7,025,000	4	7,850,000	6	2,053,000
<u>MISCELLANEOUS</u>	<u>PERMITS</u>	<u>VALUATION</u>	<u>PERMITS</u>	<u>VALUATION</u>	<u>PERMITS</u>	<u>VALUATION</u>
DEMOLITION	-	-	-	-	1	-
<u>TOTALS</u>	64	7,772,636	115	10,666,479	97	4,572,172
PERMIT REVENUE		\$ 33,974		\$ 56,125		\$ 31,012



**Town Board Meeting
May 18, 2020**

Agenda Number: 6.A – Old Business

Subject: Ordinance No. 69 (Tobacco) – Adopt Amendment

Documentation: Town Attorney Memo

Action / Motion for Consideration:

Receive Report / Discuss

Continue Adoption of the Amendment to Ordinance No. 69 to the Next Meeting to Allow Time for Staff to Prepare the Amendment per the Town Attorney's Memo

**Minutes
Town Board Meeting
May 4, 2020**

ORDINANCE NO. 69 (TOBACCO) – ADOPT AMENDMENT: The Town Attorney reported that the Town can raise the legal age of purchasing tobacco to 21. The age increase is not adopted by the state yet, but it most likely will be as it is in process. The federal law is more unclear and it will be a state-by-state item. There are a couple ways of adopting the ordinance amendment: the Town could take their current amendment and change all '18' to '21'; or the Town could adopt the Tobacco 21's amendment submitted. There was discussion on the wording of this amendment. It was noted that it is heavy, but the Town Attorney stated that it is comprehensive. The only concern he has is the regulation against cigar sale in general. It was decided that the Board will only approve amending the Town's current ordinance, but would like additional research.

Ruzek made the motion to table this agenda item until the Town Attorney does additional research and reports back at the May 18th Town Board meeting. McCune seconded. Ayes all.

MEMORANDUM

DATE: May 14, 2020
TO: White Bear Town Board
FROM: Chad D. Lemmons
RE: Proposed Amendment Ordinance No. 69 – Tobacco

I compared the proposed ordinance changes to the existing ordinances at the City of Shoreview, City of Little Canada, City of Vadnais Heights and the City of White Bear Lake. The tobacco ordinances adopted by the City of Shoreview and the City of Little Canada are quite similar to the changes proposed to the White Bear Ordinance. I would also note that the proposed language addresses certain issues that the existing ordinance does not address. In addition, the definition of “tobacco products”, see 2-1, is more extensive in the proposed language than it is in the present ordinance. The same is true of tobacco related devices, Section 2-2, and tobacco products sold individually, see opposed Section 2-7.

However, there are certain changes that I do not feel are necessary.

The first would be the proposed language in Section 1. The present language adequately explains the purpose and findings in adopting a tobacco sales ordinance. The proposed language represents an advocacy of one position regarding the use of tobacco products.

The proposal also has additional restrictions regarding proximity to other retailers. Presently any retailer who was in business of selling tobacco products for at least one year prior to enacting the ordinance is not bound by the 2000 foot space requirement. The proposed language states that in addition to being open for at least one year there may also be no failure to renew the license. This proposed language implies that if at any time there was a failure to renew the license, for any reason, then the retailer can no longer take advantage of the 2000 foot exemption. My opinion is this additional language is over reaching and should not be considered.

The proposal also changes language to Section 3-5 dealing with transfers. Under the proposed language no transfer of license is allowed. Under the existing language a transfer can occur with approval of the Town Board. I recommend against the proposed change.

I also recommend against the proposed change to Section 12, violations. The proposed change would be to delete Section 12-6, misdemeanor prosecution. The Town should retain the flexibility of dealing with a violation either administratively or criminally.

The proposal also changes the administrative fines which a violator may be subject to in Section 13-1. Under this proposal they are increasing the first violation from \$200 to \$500, the Second violation from \$400 to \$750 and the third violation from \$600 to \$1,000. The Board has already decided what the penalty should be, however, the Board always has the option of altering the penalties.

Beyond the change from 18-21 there is another change that needs to be highlighted. The proposed language combines Section 7 and 8 into one section. Section 7 deals with vending

machines while Section 8 deals with self-services sales. Vending machines are really a subsection of self-service sales. Therefore, it would make sense to combine Section 7 and 8 into one. The resulting Section would then be simply self-service sales.

Over all the proposed changes represent updates which reflect the changes in tobacco products and sales. With the exception of the City of White Bear Lake and Vadnais Heights the proposed changes would bring the Town into conformance with surrounding municipalities.

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., & Crossett, 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 DISPLAY/MERCHANDISING. "Self-service merchandising/display" 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.

2-6.7. 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.

2-8. 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.

2-104. 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 a 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. MINORS PERSONS 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.~~

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.

~~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.~~

~~1313~~-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 Meeting
May 18, 2020**

Agenda Number: 6.B – Old Business

Subject: Liquor License Fees - Refund Options

Documentation: *Chart*

Action / Motion for Consideration:

Receive Information / Discuss

**Minutes
Town Board Meeting
May 4, 2020**

LIQUOR LICENSE FEES – REFUND OPTIONS: The Town Clerk reported that he wanted to discuss this item in a formal atmosphere. There was discussion of approving the refund of 2 months of the liquor license fees, but what happens if the Governor pushes the Stay-at-Home order back again. The discussion focused on whether the Town should issue some refund checks at this time or wait until the state is opened back up. It was noted that this is the time to show support of local businesses, and the Town could do that by starting with the 2 months refund and add to it if needed at a later date. There will be more discussion, as the Board wants to come to a consensus before anything is decided. This agenda item will be discussed at the May 18th Town Board meeting.

Restaurant	on-sale	Sunday
Lucy's	2,800.00	200.00
Zen Asia	2,800.00	200.00
Orchid	2,800.00	200.00
Applebee's	2,800.00	200.00
Emagine White Bear	2,800.00	200.00

\$3,000 divided by 12 = \$250.00

Wine & Strong Beer	Wine	3.2%
Red Luna	1,400.00	150.00

\$1,550 divided by 12 = \$129.16

Liquor Stores	off-sale
Bald Eagle Liquor	500.00
Cub	500.00



**Town Board Meeting
May 18, 2020**

Agenda Number: 6.C – Old Business

Subject: Hockey Day Minnesota - Update

Documentation: None

Action / Motion for Consideration:

Receive Information / Discuss

**Minutes
Town Board Meeting
May 4, 2020**

HOCKEY DAY MINNESOTA – UPDATE: The Town Planner reported that staff is continuing to get a feel for what Hockey Day Minnesota would look like in the Township, a good feeling so far. Hockey Day Minnesota has been in contact with the designer of Polar Lakes Park and have discussed the intricacies. Everything is looking good, though there will be no announcement until January of 2021 about the following year's location. There was a question regarding generators, and it was noted that the vendors at the festival will take power out of the Township's transformer pedestals. The Board is eager to learn of the conceptual design process to see if everything works together. The Board doesn't want to spend a lot of time and resources on this if it isn't going to go through, so it was noted that staff should keep track of all the time spent on this agenda item.



**Town Board Meeting
May 18, 2020**

Agenda Number: 6.D – Old Business

Subject: Emergency Management Team Report:

1. Ramsey County COVID 19 Incident Management.
2. Contract Group Update.
3. Attorney Update.
4. Operations Logistics/Administrative Offices/Public Works – Revise Declaration of Emergency.

Documentation: None

Action / Motion for Consideration:

Receive Memo / Discuss

Minutes
Town Board Meeting
May 4, 2020

EMERGENCY MANAGEMENT TEAM REPORT:

- 1. Ramsey County COVID-19 Incident Management:** The Town Clerk reported that the previous week Ramsey County COVID-19 Incident Management team had a phone conference. During this time the team discussed the new testing methods are reflective of the numbers going up.
- 2. Contract Group Update:** The Contract Group did not meet.
- 3. Attorney Update:** The Town Attorney noted that the outdoor recreational provisions is still in effect, but the Town cannot open the parks to any organized groups. Legally tennis courts shouldn't be a problem, but any contact sports like basketball would be too much. It was noted that the Baseball Association is holding virtual tryouts. Boating is now open too, so Summit Lane will open on time. Public Works staff will update the signs around the Town parks, and the Town Attorney will get a document to the Public Works Director for details of how to proceed.
- 4. Operations Logistics/Administrative Offices/Public Works – Revise Declaration of Emergency:** The Town Clerk reported on the legal memos from the Minnesota Association of Townships. Townships across the state are legally able to go back to in-person meetings or over the phone. There was discussion among this in the Ramsey County meeting, and all of the Township's

municipal neighbors are closed to the public. One thing Town staff are disappointed with is Ramsey County not following through on the COVID-19 talking points so all communities within the county are operating uniformly. The Town Clerk suggested the Township be closed to public and continue staggering shifts, at least until after the Governor's executive order is completed. It was noted that the Town has not received any complaints regarding staffing and administrative office closure, that all residents are respectful of what everyone is going through right now.

There was discussion of meeting as a Town Board. There was discussion of the masks the Town could provide, however, the Town cannot limit the number of people in the audience due to the open meeting law, so it was decided that the Board could go back to meeting at 7:00 p.m. but keep the meeting place and details as is. The May 18th Town Board meeting will begin at 7:00 p.m. (EDA meeting at 6:40 p.m.) at the Town Offices conference room, via in-person and telephone conference. And the May 22nd Executive Town Board meeting will begin at 8:00 a.m. at the Town Offices conference room, via in-person and telephone conference.

There was discussion over seasonal staff, that the Town should continue to hire on the seasonal staff as directed to keep up with mowing and road patching. Town staff will ensure that the COVID-19 rules and regulation are also laid out in the contract that will have to sign off on.



**Town Board Meeting
May 18, 2020**

Agenda Number: 7.A – Public Hearings

Subject: None

Documentation:

Action / Motion for Consideration:

Receive Information / Discuss



**Town Board Meeting
May 18, 2020**

Agenda Number: 8.A – New Business

Town Planner Items:

Subject: Bellaire Beach Lifeguards - Status

Documentation: Lifeguard Contract

Action / Motion for Consideration:

Report at Meeting / Discuss

Options:

- Open Beach & have lifeguards
- Do not open beach

**Minutes
Executive Meeting
April 24, 2020**

BELLAIRE BEACH LIFEGUARDS – TOWNSHIP DAY: The Town Planner reported that the Town is moving ahead with these events. The YMCA contract didn't expire; it has a renewal clause. The contract runs Memorial Day through Labor Day. After mid-August the Board can extend from weekends to weekdays for \$276 per day. With the 3% increase, the Town will spend \$21,218.00. There was discussion of whether or not the beach should be open to the public in light of the current pandemic. Minneapolis public beaches are closed; Saint Paul public beaches are closed. As far as staff knows Ramsey County beaches are closed, but staff will check with Ramsey County and the surrounding communities of their precautions. The Town Attorney will look into the contract and see if the Town is required to fund the contractors if the beach is shut down or not. The Town Planner will check in with the YMCA to see if contracted life guards are even available.

2018 -

**AGREEMENT BETWEEN
THE TOWN OF WHITE BEAR AND THE
YMCA OF GREATER TWIN CITIES
REGARDING LIFEGUARD SERVICES**

THIS CONTRACT, made and entered into on the ___ day of _____, 2018 by and between the Town of White Bear (the TOWN), a governmental subdivision of the State of Minnesota, and the YMCA of Greater Twin Cities, a Minnesota non-profit corporation (YMCA),

RECITALS

WHEREAS, the TOWN has a 99 year lease from the County of Ramsey for the property located on the south shore of White Bear Lake in the Town of White Bear, known as "Bellaire Beach",

AND WHEREAS, the YMCA is engaged in the business of hiring, training, and managing personnel who work as lifeguards at various locations,

AND WHEREAS, the TOWN desires to contract for the services from the YMCA, and the YMCA desires to provide the service to the Town of White Bear;

NOW, THEREFORE, it is agreed by and between the parties:

1. **PURPOSE AND TERM OF AGREEMENT.**

- A. The YMCA shall provide lifeguarding services from Memorial Day weekend, May 26, 2018, to Labor Day, September 3, 2018. Lifeguards will be provided on weekends only from Saturday, May 26, including Monday, May 28, until June 17. Lifeguards will be provided seven (7) days per week from June 18 through Aug. 19 and from Lifeguards will be provided weekends only from Aug. 18 through Labor Day, including Monday, Sept. 3.
- B. In the event of poor weather conditions, the YMCA will be responsible for the decision of closing the beach. YMCA will also be responsible for opening and closing of the beach facility on a daily basis and administration of keys to personnel.
- C. Official beach hours are 12 to 7 p.m., though lifeguards will use their discretion and provide services up to 30 minutes later if a significant group is at the waterfront.
- D. The Term of the Agreement shall be for one (1) year, commencing on the Effective Date of this Agreement. This Agreement shall automatically renew for additional one-year terms under the terms and conditions set forth in this

Agreement, unless either party gives written notice of its intent not to renew to the other party at least sixty (60) days prior to the end of the initial term or any subsequent renewal term.

2. **SCOPE OF CONTRACT.**

A. Services Provided by YMCA.

- a. Recruit, hire, train and evaluate all lifeguard staff. YMCA will hire, train, evaluate, discipline and terminate employees.
- b. Manage pay records and issue paychecks to all aquatic personnel working at Bellaire Beach.
- c. Ensure employees working at Bellaire Beach are employed by the YMCA and follow all YMCA personnel policies. Employees must meet the minimum requirements to work in the appropriate position.
- d. All lifeguards hired must hold a current certificate from a certifying agency approved by the YMCA in Lifeguarding, Waterfront, First Aid and CPR/AED for Lifeguards.
- e. The YMCA will monitor Aquatic Staff certifications to be sure that all certifications remain current.
- f. All Aquatic Staff is required to maintain current certifications. Expired certifications will result in being released from duties.
- g. In the event of an expired certification, the YMCA will remove the person, fill their shift with certified staff and make every attempt to renew the individual's certification in order to return the work as soon as possible, or re-staff as appropriate, at the sole discretion of the YMCA.
- h. In an effort to encourage fitness and develop strong lifeguards, the YMCA will administer the Cooper Swim Test to all lifeguards at the start of their employment along with other skill tests. These skills are also performed periodically throughout the year at mandatory in-service trainings.
- i. Lifeguards who are not achieving "good" standards according to the Cooper Test will attend additional training sessions conducted by YMCA certified lifeguard instructors and water safety instructors in order to improve their swimming skills.

- j. Lifeguards who are selected to work at the beach must be certified to work at a waterfront by a YMCA approved agency, have six months experience working as a lifeguard at the YMCA, and have demonstrated excellent dependability and responsibility. These high expectations are to insure that all staff who are working off site are aware of and following YMCA policies and work well independently.
- k. The TOWN will be able to participate in the final selection of guard staff should they desire, but the final hiring selection shall solely be the responsibility of the YMCA.
- l. Give an orientation to lifeguard staff on beach management, rules and regulations, preventive responsibilities, emergency procedures, operation of facility, suggest in-service training curriculum of the Bellaire Beach 2018/2019 summer season.
- m. Administer Bellaire Beach for the entire 2018/2019 beach seasons.
- n. Conduct minimum of five in-service training sessions (one every two weeks). In-services consist of both in and out of water training sessions. Attendance at these in-service training sessions will be mandatory. Lifeguarding skills will be evaluated at the "in-water" in-services and information vital to the success of the aquatic program will be given at "dry-land" in-services.
- o. Visit Bellaire Beach a minimum of once per week during the months of June through August to critique and advise staff on operations and gather input from participants. The Aquatic Program Manager or Head Lifeguard will be available on site during times that the beach is open. Head lifeguards must be a minimum of 18 years of age and have excellent guarding, customer service, and leadership skills.
- p. YMCA staff will also conduct "On the Job Evaluations" for lifeguards periodically throughout the year without previous warning to the staff being evaluated. The skills in an "On the Job Evaluation" may be guarding technique, CPR skills, first aid skills, and prevention of accidents. After evaluating the lifeguard, the staff will meet with the staff individually and discuss any critiques, or comments that they have to improve life guarding or teaching techniques.

- q. All employees will be evaluated for their performance formally at the end of the summer season. Employees will also be evaluated on a less formal basis midway through the summer.
- r. Provide an Automated External Defibrillator (AED) for Bellaire Beach at no cost to the TOWN.
- s. Clean the Beach facilities including the guard house and toilets. Any maintenance or mechanical problems will be immediately reported to the TOWN.
- t. Oversee use of other Bellaire Beach facilities including picnic shelter, picnic tables and grounds. Patrol the entire park once per day to clean-up litter, empty trash receptacles into park dumpster as needed. Clean beachfront daily including removing weeds and other debris from shoreline. Remove weeds and remove trees which tend to grow in shallow water areas of beach.
- u. Have the option to sell concessions such as snacks and beverages during lifeguarding operations, with the proceeds to be retained by the YMCA.
- v. Have the option to provide water safety lessons and water games programming on a fee-for-service basis on site on a regular basis, provided attendance meets minimum YMCA guidelines.

B. Services Provided by TOWN.

- a. Provide all services outside the scope of this Agreement including but not limited to signage, water quality maintenance related to swimmers itch and E. Coli testing.
- b. Provide resident names and addresses to the YMCA when requested to aid in promoting water safety lessons and water games held at Bellaire Beach

3. SERVICE FEE.

- A. The Town agrees to pay the YMCA with an annual service fee of \$20,000 for services rendered pursuant to this Agreement in 2018, with an annual increase of 3% for each subsequent year of this Agreement if the Agreement is renewed for subsequent one (1) year terms pursuant to Section 1, Paragraph D of this Agreement.

1. First payment shall be made to YMCA by June 30;
2. Second payment shall be made by July 31; and
3. Third payment shall be made by Sept. 15.

B. YMCA will invoice the Town according to the above schedule.

4. **NON-DISCRIMINATION.**

YMCA agrees that during the life of the contract, YMCA will not, within the State of Minnesota, discriminate against any employee or applicant for employment because of race, color, creed, national origin or ancestry, or sex, and will include a similar provision in all subcontracts entered into for the performance thereof, The contract may be cancelled or terminated by the TOWN, and all money due or to become due may be forfeited for a second or subsequent violation of the terms or conditions of this Paragraph. This Paragraph is inserted in the Contract to comply with the provisions of Minnesota Statutes, 181.59.

5. **INDEMNIFICATION.**

YMCA agrees to indemnify and hold harmless the TOWN, its agents, officers, and employees from any and all claims, causes of action, liabilities, losses, damages, costs, expenses, including reasonable attorney's fees, suits, demands and judgments of any nature, because of bodily injury to, or death of any person or persons and/or because of damages to property of YMCA or others, including loss of use from any cause whatsoever, which may be asserted against the TOWN on account of any act or omission, including negligence of YMCA, or YMCA's employees or agents, in connection with YMCA's performance or this Contract. YMCA agrees to defend any action brought against the TOWN on any such matter, and to pay and satisfy any judgment entered thereof, together with all costs and expenses incurred in connection therewith. The TOWN shall in no way be liable for any claims or charges incurred by YMCA in the performance of this Contract.

6. **TERMINATION.**

It is understood the essence of this Contract is high quality service to those whom frequent Bellaire Beach. As such, if the TOWN determines that YMCA is in breach of any provision of this Contract, written notice will be sent to YMCA allowing him/her thirty (30) days to comply. Upon failure by YMCA to comply with the Contract by the end of the thirty (30) day period, the TOWN will terminate the Contract and shall be released of its obligations.

Upon any failure of YMCA to fulfill any of the provisions of the Contract, the TOWN shall be authorized to hire services and equipment, or assign the TOWN employees and equipment, as may be necessary to do such work, and the cost of such expenses thereof may be charged and deducted from any monies due the Contract.

7. **NOTICE.**

Except as otherwise herein provided, all notices required to be served by either party on the other, shall be placed in writing and forwarded by certified mail to the principal office of the party to which notice is given, as follows:

To The Town:

Town of White Bear
Clerk-Treasurer
1281 Hammond Road
White Bear Township, MN 55110

YMCA:

YMCA
2100 Orchard Lane
White Bear Lake, MN 55110

IN WITNESS WHEREOF, the Town of White Bear and the YMCA have caused this Agreement to be executed on their behalf by their proper officers and Board.

TOWN OF WHITE BEAR

By: Robert J. Kermes
ROBERT J. KERMES, Chair

ATTEST:

By: William F. Short
WILLIAM F. SHORT, Clerk-Treasurer

YMCA OF GREATER TWIN CITIES

By: David

Title: CDD

Date: 4/20/18



**Town Board Meeting
May 18, 2020**

Agenda Number: 8.B – New Business

Town Planner Item:

Subject: Tree Trust Planting – Brandlwood Park

Documentation: None

Action / Motion for Consideration:

Report at Meeting / Discuss



**Town Board Meeting
May 18, 2020**

Agenda Number: 8.C – New Business

Subject: Birchwood Lift Station #1 – Approve Alarm Disabling

Documentation: Public Works Director Memo / Emails

Action / Motion for Consideration:

Report at Meeting / Discuss

MEMORANDUM

Date: May 14, 2020

To: Town Board

From: Dale Reed, Public Works Director

Re: Approval for TKDA to invoice the Township for the work to disable the City of Birchwood's Lift Station #1 alarms in the SCADA computer at Public Works.

In 2019 the City of Birchwood decommissioned their Lift Station #1 and connected via a gravity sanitary sewer line to the Township's south sanitary sewer system. The work to remove #1 from the Town's SCADA computer was not included in the City's project. I have been working with the City's Engineer, Steve Thatcher of Thatcher Engineering, to remove Lift Station #1 from the computer for several months, prior to and following, the completion of the sanitary sewer connection. Steve had received two quotes to remove the programming and the screen for #1. The quotes were around \$7,000 +/- . Early this spring I followed up with Steve again on the status of the removal of #1 from our SCADA computer. After the follow up conversation, I had thought of another option that could be less costly for the City and would alleviate the Public Works staff concerns of issues with alarms from #1 since it is still on the SCADA computer.

This option would be to disable all the alarm points for #1 on the SCADA computer via programming. TKDA has provided a not to exceed amount of \$2,000.00 (see-attached email from Jim Studenski). I presented this to Tobin Lay, the City of Birchwood's Administrator, and he has received Council approval for the work (see-attached email from Tobin Lay)

Town Board action to authorize TKDA to invoice the Township for disabling of all the alarm points for Birchwood Lift Station #1, and for the Town staff to invoice the City of Birchwood once completed.

Patti Walstad

From: Tobin Lay
Sent: Tuesday, May 12, 2020 11:11 PM
To: Dale Reed
Cc: Pat Christopherson; Steve Thatcher (sthatcher@thatcher-eng.com)
Subject: RE: Birchwood Lift Station #1 SCADA disablement

Hello Dale,

The Birchwood City Council approved TKDA's bid not to exceed \$2,000. Please proceed and advise if there is anything else you need from Steve or I on this project. Thank you!

Tobin Lay
City Administrator-Clerk
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747
email: tobin.lay@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>



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From: Dale Reed <Dale.Reed@whitebeartownship.org>
Sent: Thursday, May 7, 2020 3:36 PM
To: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Cc: Pat Christopherson <Pat.Christopherson@whitebeartownship.org>
Subject: RE: Birchwood Lift Station #1 SCADA disablement

Tobin,

The rate is \$161.45 per hour.

Dale

Public Works Director
White Bear Township
Office phone 651-747-2777

From: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Sent: Thursday, May 7, 2020 12:34 PM
To: Dale Reed <Dale.Reed@whitebeartownship.org>
Cc: Pat Christopherson <Pat.Christopherson@whitebeartownship.org>
Subject: RE: Birchwood Lift Station #1 SCADA disablement

What is his per hour rate?

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Dale Reed <Dale.Reed@whitebeartownship.org>
Date: 5/7/20 12:15 PM (GMT-06:00)
To: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Cc: Pat Christopherson <Pat.Christopherson@whitebeartownship.org>
Subject: Birchwood Lift Station #1 SCADA disablement

Tobin,

TKDA provided a not to exceed amount of \$2,000.00 to disable the Lift Station on the SCADA computer preventing any future alarms. I received the quote in an email. Let me know if this will be sufficient for presentation to your Council for approval?

Dale

Public Works Director
White Bear Township
Office phone 651-747-2777

Patti Walstad

From: James E. Studenski <jim.studenski@tkda.com>
Sent: Thursday, May 7, 2020 7:43 AM
To: Dale Reed
Subject: RE: Birchwood LS#1 Disable Alarm Ability - Yes

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

Dale,

I'm not sure when this week Tobin needs the cost for his Tuesday Council packet. So I will give it to you now.

We will need time to do some investigation like you are doing now. We will disable it and provide a letter covering what was performed so in the future it is know what was done if any changes need to be made. We will need to go to the Township to perform the work and we will work with Public Works on the process. The Birchwood Lift Station will stay on the Township system including the computer. After we are done, no one will be able to accidentally turn it back on or set off any alarms. We can perform the work for under \$2,000.

Jim

 **James E. Studenski, PE** | Senior Registered Engineer
Professional Engineer: MN
444 Cedar Street, Suite 1500, Saint Paul, MN 55101
P 651.292.4503 | C 612.369.4418
jim.studenski@tkda.com
tkda.com

From: Dale Reed <Dale.Reed@whitebeartownship.org>
Sent: Wednesday, May 6, 2020 4:55 PM
To: James E. Studenski <jim.studenski@tkda.com>
Subject: RE: Birchwood LS#1 Disable Alarm Ability - Yes

Jim,

The panel was demo'd last fall. If there was a copy? Maybe one of the other two remaining panels has the same information? I will check tomorrow.

Dale
Public Works Director
White Bear Township
Office phone 651-747-2777

From: James E. Studenski <jim.studenski@tkda.com>
Sent: Wednesday, May 6, 2020 8:54 AM
To: Dale Reed <Dale.Reed@whitebeartownship.org>
Subject: RE: Birchwood LS#1 Disable Alarm Ability - Yes

Dale,

Can you have someone check the Birchwood LS panel for any information?

Jim



James E. Studenski, PE | Senior Registered Engineer
Professional Engineer: MN

444 Cedar Street, Suite 1500, Saint Paul, MN 55101
P 651.292.4503 | C 612.369.4418
jim.studenski@tkda.com
tkda.com

From: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Sent: Wednesday, May 6, 2020 12:37 AM
To: Dale Reed <Dale.Reed@whitebeartownship.org>
Cc: James E. Studenski <jim.studenski@tkda.com>; 'Steven W. Thatcher' <sthatcher@thatcher-eng.com>
Subject: RE: Birchwood LS#1 Disable Alarm Ability - Yes

If they did, I'm not aware of it.

Tobin Lay
City Administrator-Clerk
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747
email: tobin.lay@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>



From: Dale Reed <Dale.Reed@whitebeartownship.org>
Sent: Tuesday, May 5, 2020 11:18 AM
To: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Cc: 'James E. Studenski' <jim.studenski@tkda.com>; 'Steven W. Thatcher' <sthatcher@thatcher-eng.com>
Subject: RE: Birchwood LS#1 Disable Alarm Ability - Yes

Tobin,

Did Connelly Industrial provide you with any programming documentation for LS 1? We did not get any copies, if they were?

Dale

Public Works Director
White Bear Township
Office phone 651-747-2777

From: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Sent: Tuesday, May 5, 2020 12:53 AM
To: Dale Reed <Dale.Reed@whitebeartownship.org>
Cc: 'James E. Studenski' <jim.studenski@tkda.com>; 'Steven W. Thatcher' <sthatcher@thatcher-eng.com>
Subject: RE: Birchwood LS#1 Disable Alarm Ability - Yes

Hello Dale,

Can you get me an estimate this week for this work so I can get it before the Council next Tues? Thanks.

Tobin Lay
City Administrator-Clerk
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747
email: tobin.lay@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>



From: Steven W. Thatcher <sthatcher@thatcher-eng.com>
Sent: Monday, April 27, 2020 1:53 PM
To: Dale Reed <Dale.Reed@whitebeartownship.org>; Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Cc: 'James E. Studenski' <jim.studenski@tkda.com>
Subject: RE: Birchwood LS#1 Disable Alarm Ability - Yes

Hi Dale,

Your plan to disable the SCADA system alarm ability sounds good. However, I recommend that we obtain Birchwood Village City Council approval before the work is started.

They will ask: What is the estimated fee for the work (anticipates it would be less than a day)? Can someone estimate that?

Thanks,
Steve

Steven Thatcher, PE
Thatcher Engineering Inc.
6201 Creek Valley Road
Edina, MN 55439
Phone: 612-781-2188 Cell: 612-867-7234 Fax: 612-781-2188 Web: www.thatcher-eng.com

From: Dale Reed [<mailto:Dale.Reed@whitebeartownship.org>]
Sent: Friday, April 24, 2020 1:35 PM
To: Tobin Lay <Tobin.Lay@cityofbirchwood.com>; Steven W. Thatcher <sthatcher@thatcher-eng.com>

Cc: James E. Studenski <jim.studenski@tkda.com>
Subject: FW: Birchwood LS#1 Disable Alarm Ability - Yes

Tobin and Steve,

Here's the answer I was looking for when I was talking to you. I should have checked my email while we were talking.

Unless you disagree? I will have Jim give Larry notice to proceed with a review.

Have a Safe, Healthy, and Happy weekend.

Dale

Public Works Director
White Bear Township
Office phone 651-747-2777

From: James E. Studenski <jim.studenski@tkda.com>
Sent: Friday, April 24, 2020 8:45 AM
To: Dale Reed <Dale.Reed@whitebeartownship.org>
Subject: RE: Birchwood LS#1 Disable Alarm Ability - Yes

Dale,

This is a follow-up to our phone conversation.

Yes, Larry Nussbaum can disable Birchwood's Lift Station #1 alarms.

He would need some notice time and review of the system. He would need to perform activities in preparation and at Public Works. He anticipates it would be less than a day to perform all the work.

Jim

 **James E. Studenski, PE** | Senior Registered Engineer
Professional Engineer: MN
444 Cedar Street, Suite 1500, Saint Paul, MN 55101
P 651.292.4503 | C 612.369.4418
jim.studenski@tkda.com
tkda.com



Town Board Meeting May 18, 2020

Agenda Number: 8.D – New Business

Subject: Peterson Road:
1. Improvement Discussion
2. Neighborhood Meeting Discussion

Documentation: Town Engineer Correspondence

Action / Motion for Consideration:

Town Engineer Report at Meeting / Discuss

Minutes
Town Board Meeting
May 4, 2020

CAPITAL IMPROVEMENT PROJECTS 2020/2021 – DISCUSS: The Town Clerk reported that this was discussed a bit at the Executive Town Board meeting in April and has been followed-up on since by staff to work on the financial, planning, and engineering sides, etc. The goal is for the Town to put together a package with the 2020 projects as well as the potential 2021 projects as a way to get ahead during this low interest rate market. The package for the Town to bond at once for is for Peterson Road, the restrooms at Polar Lakes Park, the 2020 street improvements, and the water system improvements.

There was discussion over one area (Meadowview Lane) of the Township that seems halfway between 2020's projects and near another project years in the future. The street rating is 1.3, and is lower due to the soil conditions of the road. It was decided that the street would be more of a total reconstruction, and therefore would take more work than the contractor could do this year, especially due to the timing of a feasibility study that would have to be done. It was decided that Township staff will maintain the street with surface projects this year in order to extend the life of the street and then improve it on schedule with the other projects near Meadowview Lane.

There was further discussion of Peterson Road and the logistics and assessments. The project cost may be too much, and outweigh any potential increase in the value of their home. There was discussion over potential grants for which the Town could apply to lessen the financial burden of

Peterson Road residents. There will be more clarification on Peterson Road, but a consensus on the projects submitted.



444 Cedar Street, Suite 1500
Saint Paul, MN 55101
651.292.4400
tkda.com

May 14, 2020

Honorable Chairman and Town Board
White Bear Township, Minnesota

RE: Peterson Road Feasibility Update
White Bear Township, Minnesota
TKDA Project No. 17727.002

Dear Board Members:

The data for the Peterson Road feasibility report has been prepared. Road and sidewalk options have been discussed at the Town Board Executive meeting and further discussions will occur at the next Town Board Executive meeting. The Town Attorney has reviewed the right-of-way and has the street benefit appraisal prepared. The attorney is preparing the utility benefit appraisal.

As previously stated, Peterson Road is a gravel road with no exiting sanitary sewer, watermain or storm sewer. The Three Oaks development will be connected to it in the future and the project extended utilities to this area.

The feasibility will be separated into two parts. One from CR H2 through the new Mehegan Lane intersection and the second to the north end of Peterson Road. The proposed improvements at this time will only be for the southerly portion connecting CR H2 to the Mehegan Lane intersection and the associated utility installation. The northerly portion of Peterson Road has wetlands and right-of-way to be addressed prior to improving the road. The north portion of the road also may change alignments in the future to better address serving the area east to the freeway.

The proposed road and pedestrian options have been discussed with staff and the Town Board and the attached drawing shows the options moving forward. A site review meeting was held on May 6th to discuss the design options and the impacts of the proposed improvements. The proposed options are addressing the effort to minimize the impacts to the existing conditions.

The existing topography conditions are challenging due to the low elevations on the west side and high elevations on the east side of the right-of-way. The east side is also heavily treed.

Peterson Road Feasibility Update
May 14, 2020
Page 2

As stated at the previous Town Board meeting to address funding of the Township projects, this southerly half of the project is estimated to cost \$1,070,000.

TKDA will continue to work closely with staff, the Town Attorney and the Towns Board through the entire process. The process will continue to include various discussions on the design during the Town Board Executive meetings to address the many challenges this project faces.

The Town Board can continue to review the proposed design following last week's site meeting and give further direction on the project.

Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Poppler". The signature is fluid and cursive, written in a professional style.

Larry Poppler, PE
Principal in Charge

Attachment



**Town Board Meeting
May 18, 2020**

Agenda Number: 8.E – New Business

Subject: Otter Ridge Circle – Authorize Preparation of a Report for a Street Improvement

Documentation: Town Engineer Correspondence / Resolution

Action / Motion for Consideration:

Town Engineer Report at Meeting / Discuss

Based on Town Engineer Review & Recommendation:

- 1) Authorize TKDA to Prepare a Feasibility Report in an Amount Not to Exceed \$2,450.00 With Funding From Improvement Fund 505
- 2) **Adopt Resolution Ordering Preparation of a Report on a Street Improvement**

Ruzek – Moves

McCune – Seconds



444 Cedar Street, Suite 1500
Saint Paul, MN 55101
651.292.4400
tkda.com

May 14, 2020

Honorable Chairman and Town Board
White Bear Township, Minnesota

RE: Otter Ridge Circle Improvements Feasibility
White Bear Township, Minnesota
TKDA Project No. 17727.000

Dear Board Members:

Otter Ridge Circle from Otter Ridge Road to Meadow View Drive is approximately 660 feet in length and was constructed in 1994. The road is 30-feet wide and has concrete curb and gutter with the drive over D412 style curb. There is an existing storm sewer system for the roadway. There are eleven properties on this portion of the proposed improvements.

The first step in the Public Improvement process is to prepare a feasibility report to determine the existing conditions and issues, the extent of the improvements and the cost of the proposed improvements. A report was prepared in 2014 and will be updated for current conditions and pricing.

The feasibility report will cover the type and extent of the proposed road improvements. This section of road has a landscaped center island that will remain in its current condition. The road width and island will remain in their current dimensions.

The Town Attorney will need to confirm the existing center island agreements and review the recent benefit appraisals for use in this process.

TKDA will work closely with staff, the Town Attorney and the Town Board through the entire process. The process will include discussions on the design options during the Town Board Executive meetings to address the final improvements and assessments.

The project is being evaluated as a project to be included with other Township road improvements and won't be improved as a stand alone project.

TKDA would work with White Bear Township staff and Town Attorney. TKDA will prepare the feasibility report for a total amount not to exceed \$2,450.00. The feasibility report will then be presented to the Town Board. The proposed improvement projects will be discussed and determine the schedule of their improvement activity.

Otter Ridge Circle Improvements Feasibility
May 14, 2020
Page 2

The funding for these projects will be through the Improvement Fund 505.

Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Poppler". The signature is fluid and cursive, with a long horizontal stroke at the end.

Larry Poppler, PE
Principal in Charge

EXTRACT OF MINUTES OF A MEETING OF THE TOWN
BOARD OF THE TOWN OF WHITE BEAR, MINNESOTA,
HELD ON MAY 18, 2020

Pursuant to due call and notice thereof, a Special meeting of the Town Board of the Town of White Bear, Minnesota was duly held at Heritage Hall in said Town on May 18, 2020 at 7:00 p.m.

The following members were present: Prudhon, Ruzek, McCune; and the following members were absent: None.

Supervisor Ruzek introduced the following Resolution and moved its adoption:

**RESOLUTION ORDERING PREPARATION OF A
REPORT ON A STREET IMPROVEMENT**

WHEREAS, it is proposed to construct bituminous paving, concrete curb and gutter, storm drainage and other appurtenances thereto, within the following area of the Township including: Otter Ridge Circle from Otter Ridge Road to Meadowview Drive, Ramsey County, Minnesota, and to assess the benefitted property for all or a portion of the cost of the improvement, pursuant to Minnesota Statutes, Chapter 429,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WHITE BEAR, MINNESOTA:

That the proposed improvement be referred to TKDA for study, and that they be instructed to report to the Board with all convenient speed advising the Board in a preliminary way as to whether the proposed improvement is necessary, cost-effective, and feasible, and as to whether it should be made as proposed or in connection with some other improvements, and the estimated cost of the improvement as recommended.

The motion for the adoption of the foregoing Resolution was duly seconded by Supervisor McCune, and upon vote being taken thereon, the following voted in favor thereof: Prudhon, Ruzek, McCune; and the following voted against the same: None.

Whereupon said Resolution was declared duly passed and adopted.

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY) ss.
)
TOWN OF WHITE BEAR)

I, the undersigned, being the duly qualified and acting Clerk of the Town of White Bear, Minnesota, DO HEREBY CERTIFY, that I have carefully compared the attached and foregoing Extract of Minutes of a Special meeting of the Town Board of the Town held on the 18th day of May, 2020, with the original on file in my office, and that the same relates to a Resolution relating to a street improvement.

WITNESS my hand as such Clerk and the Town Clerk's Seal this 18th day of May, 2020.

TOWN CLERK, TOWN OF WHITE BEAR, MINN.



**Town Board Meeting
May 18, 2020**

Agenda Number: 8.F – General Business

Subject: Ordinance No. 92 - Adopt

Documentation: Staff Memo / Ordinance / Email excerpt

Action / Motion for Consideration:

Report at Meeting / Discuss

Based on Town Attorney & Staff Review & Recommendation

- 1) Adopt Ordinance No. 92 Begin an Ordinance Regulating Nonessential Water Usage upon Critical Water Deficiency as Authorized by Minnesota Statutes, Section 103G.291, Subd. 1 and 2 and
- 2) Authorize Publication in the White Bear Press

**Minutes
Executive Meeting
November 18, 2019**

CONSENT AGENDA: 5C) Local Surface Water Management Plan – Based on the approval given by the RCWD & VLAWMO, the Town hereby adopts the final version of the Local Surface Water Management Plan;

MEMORANDUM

TO: TOWN BOARD
FROM: PATTI WALSTAD
DATE: MAY 12, 2020

SUBJECT: ORDINANCE NO. 92

In conjunction with the adoption of the Township's Water Supply Plan on November 18, 2019, the Township is required to adopt a Critical Water Deficiency Ordinance within six months. The attached ordinance, which was a League of Minnesota Cities model ordinance, has been reviewed/revised by all staff and the Town Engineer and Town Attorney.

Requested Action:

Adopt Ordinance No. 92 – An Ordinance Regulating Nonessential Water Usage upon Critical Water Deficiency as Authorized by Minnesota Statutes, Section 103G.291, Subd. 1 and 2 and publication

PSW/s

ORDINANCE NO. 92

AN ORDINANCE REGULATING NONESSENTIAL WATER USAGE UPON CRITICAL WATER DEFICIENCY AS AUTHORIZED BY MINNESOTA STATUTES, SECTION 103G.291, SUBD. 1 AND 2

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

SECTION 1. PURPOSE. This ordinance establishes water conservation restrictions; and the plan will be in effect at any time the governor declares by executive order a critical water deficiency, pursuant to Minnesota Statutes, Section 103G.291. That to carry out its duties under Section 103G.291 the Town Board has elected to appoint the Town Clerk as Administrator.

SECTION 2. DEFINITIONS. For the purpose of this Ordinance certain words and terms are hereby defined as follows:

- 2.1 ADMINISTRATOR** shall mean and refer to that person serving as Town Clerk pursuant to Minnesota Statutes, Section 367.11.
- 2.2 DEPARTMENT** means the public works department.
- 2.3 EMERGENCY** means the declaration of a critical water deficiency by the governor.
- 2.4 IRRIGATION** means the watering of shrubs, trees, sod, seeded areas, gardens, lawns, or any other outdoor vegetation, except outdoor vegetation utilized for agricultural purposes.
- 2.5 NOTIFICATION TO PUBLIC** means notification through the Town's website, social media, and local media, including interviews and issuance of news releases.
- 2.6 PUBLIC WATER SUPPLIER** means the Town or other entity that owns, manages, or operates a public water supply, as defined in Minnesota Statutes, Section 144.382, Subdivision 4.
- 2.7 RECLAIMED WATER** means water collected from rooftops, paved surfaces, or other collection devices and all water utilized more than once before re-entering the natural water cycle.
- 2.8 WATER RECIRCULATION SYSTEM** means any system which enables a user to reuse water at least once prior to returning the water to the natural water cycle.

SECTION 3. APPLICATION.

- 3.1** This ordinance applies to all customers of public water suppliers who own or control water use on any premises.
- 3.2** No person shall make, cause, use, or permit the use of water received from a public water supply for residential, commercial, industrial, governmental, or any other purpose in any manner contrary to any provision in this ordinance.
- 3.3** Mandatory emergency conservation measures shall be implemented based upon the declaration of a critical water emergency by the governor.

SECTION 4. DECLARATION OF CRITICAL WATER DEFICIENCY. Upon the declaration of a critical water deficiency by the governor, the public water supplier shall immediately post notice of the emergency declaration at the usual meeting place of the Town Board, on the Town's website, on Social Media, and/or the official Town bulletin board(s). The Town shall provide notification to the public as quickly as possible or through established water supply plans emergency response plans or procedures.

SECTION 5. APPOINTMENT OF ADMINISTRATOR. Pursuant to the provisions of Minnesota Statutes, Section 367.11(8). The Town Board hereby appoints the person then serving as Town Clerk. The Administrator shall perform all acts necessary to carry out the provisions of this Ordinance without any further actions taken by the Town Board.

SECTION 6. MANDATORY EMERGENCY WATER CONSERVATION MEASURES. Upon declaration of a water emergency and notification to the public, the following mandatory restrictions upon nonessential water use shall be enforced:

6-1. Outdoor irrigation of yards, gardens, golf courses, parklands, and other non-agricultural land, except for those areas irrigated with reclaimed water, is prohibited.

6-2. Washing or spraying of sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas with water from any pressurized source, including garden hoses, except to alleviate immediate health or safety hazards, is prohibited.

6-3. The outdoor use of any water-based play apparatus connected to a pressurized source is prohibited.

6-4. Restaurants and other food service establishments are prohibited from serving water to their customers, unless water is specifically requested by the customer.

6-5. Operation of outdoor misting systems used to cool public areas is prohibited.

6-6. The filling of swimming pools, fountains, spas, or other exterior water features is prohibited.

6-7. The washing of automobiles, trucks, trailers, and other types of mobile equipment is prohibited, except at facilities equipped with wash water recirculation systems, and for vehicles requiring frequent washing to protect public health, safety, and welfare.

SECTION 7. VARIANCES. The Town Clerk or his or her designee, is authorized to grant variances to this ordinance where strict application of its provisions would result in serious hardship to a customer. A variance may be granted only for reasons involving health or safety. An applicant may appeal the denial of a variance within five (5) days of the decision by submitting a written appeal to the Town Clerk. The Town Board shall hear the appeal at the next Town Board meeting. The decision of the Town Board is final.

SECTION 8. VIOLATION.

8.1 Violations shall be determined and cited by the Town Clerk or his/her designee. A violator may appeal the citation within five (5) days of its issuance by submitting a written appeal to the Town. The Town Board shall hear the appeal at the next Town Board meeting. The decision of the Town Board is final. Violators may be granted an administrative waiver if evidence is provided that equipment failure was the cause of the violation. A letter from a qualified vendor or equipment invoice will be required to show proof of equipment failure.

8.2 Upon discovery of a first violation, the violator shall be issued, either personally or by mail, a warning letter that sets forth the violation and which shall describe the remedy and fines for future violations.

8.3 Upon subsequent violations at the same location, the violator shall be issued, either personally or by mail, a citation that sets forth the violation and shall describe the remedy.

8-4. Fines shall be added to the monthly water bill of the owner or current occupant of the premises where the violation occurred. The imposition of the fine shall in no way limit the right of the Town to pursue other legal remedies.

SECTION 9. ENFORCEMENT. The Town Clerk or his/her designee is authorized to designate Town employees or law enforcement personnel to enforce the provisions of this ordinance.

SECTION 10. SEVERABILITY. If any provision of this ordinance or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the ordinance and the application of the ordinance to any other situation shall not be invalidated.

SECTION 11. EFFECTIVE DATE. This 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 18th day of May, 2020.

APPROVED:

ED M. PRUDHON, Chair

ATTEST:

PATRICK CHRISTOPHERSON, Clerk-Treasurer

Town Board of Supervisors:
ED M. PRUDHON, Chair
STEVEN A. RUZEK, Supervisor
SCOTT E. MCCUNE, Supervisor

Synopsis published in the White Bear Press on May 2, 2020.

ed <Dale.Reed@whitebeartownship.org>; Pat Christopherson
 Christopherson@whitebeartownship.org>; James E. Studenski <jim.studenski@tkda.com>
 , FW: Approval of the White Bear Township Water Supply Plan

From: Richter, Joe G (DNR) <joe.richter@state.mn.us>
Sent: Monday, November 4, 2019 4:20 PM
To: Lynette Olinger <Lynette.Olinger@whitebeartownship.org>
Cc: Raya.Esmaeili@metc.state.mn.us; Elhassan, Ali <ali.elhassan@metc.state.mn.us>; Mielke, Sara (DNR) <sara.mielke@state.mn.us>; Scollan, Daniel (DNR) <daniel.scollan@state.mn.us>; Daniels, Jeanne M (DNR) <jeanne.daniels@state.mn.us>; Nelson, Carmelita M (DNR) <carmelita.nelson@state.mn.us>; Sorensen, Jenifer (DNR) <jenifer.sorensen@state.mn.us>
Subject: Approval of the White Bear Township Water Supply Plan

Dear Mr. Anderson:

Attached to this e-mail is a copy of the approval letter for the White Bear Township water supply plan. The water supply plan was well done, We commend you for the work that White Bear Township has done to conserve the water resources of the State of Minnesota. A copy of the water supply plan review checklist for the White Bear Township water supply plan is also attached to this e-mail. We recommend that you review the checklist because the checklist contains comments that can be used to help to conserve water.

Attached to this e-mail is a blank Certificate of Adoption. We recommend that the White Bear Township adopt the water supply plan, fill out the Certificate of Adoption, and submit the completed Certificate of Adoption to the DNR. The ordinance that is in Appendix 7 of the White Bear Township water supply plan is not a Critical Water Deficiency Ordinance. White Bear Township is required to adopt a Critical Water Deficiency Ordinance within six months of the approval of the White Bear Township water supply plan. The White Bear Township may wish to use the model Critical Water Deficiency Ordinance that was written by the Minnesota League of Cities and the Minnesota Rural Water Association and is attached to this e-mail as the basis for their new ordinance.

White Bear Township is required to submit their water level readings from the White Bear Township production wells to the DNR on an quarterly basis. The water level data for the White Bear Township wells must be submitted to the DNR Observation Well Coordinator at gwlevelcoor.dnr@state.mn.us using the DNR [water level reporting spreadsheet template](#). Please note that the DNR Groundwater Technical Review for White Bear Township recommends that White Bear Township submit hourly water level readings to the DNR. The submittal of hourly water level readings will become a requirement of the White Bear Township water appropriation permits when these permits are next amended.

Please note that the approval of the White Bear Township water supply plan is not a pre-approval of proposed new wells in Tables 12 and 13, or of the projected future water volumes in Table 7, in the White Bear Township water supply plan. White Bear Township is required to submit a well construction – preliminary assessment application to the DNR for the proposed wells between 6-12 months prior to the construction of the new wells. White Bear Township is also required to submit a permit amendment to the DNR for increasing the authorized volume of DNR Water Appropriation Permit 1975-6218 approximately one to two years before the authorized volume of DNR Water Appropriation Permit 1975-6218 is exceeded. These applications will be reviewed using the most current geologic and legal information available at the time of the requests.

Let me know if you have any questions concerning this e-mail.

Sincerely,

Joe Richter



**Town Board Meeting
May 18, 2020**

Agenda Number: 9 – 10- 11

Subject: Added Agenda Items
Receipt of Agenda Materials & Supplements
Adjournment

Action / Motion for Consideration:

Added Agenda Items

Receive All Agenda Materials & Supplements for Tonight's Meeting
Adjourn Meeting