



AGENDA OF THE REGULAR MEETING OF  
THE CITY COUNCIL  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
August 8, 2017  
7:00 P.M.

**CALL TO ORDER**

NOTE: Due to Open Meeting Law restrictions, the City Council may be discussing agenda items for the first time. Your patience and understanding is appreciated during this process.

**PLEDGE OF ALLEGIANCE**

**APPROVE AGENDA**

**OPEN PUBLIC FORUM**

A.

**ANNOUNCEMENTS**

- A. Music in the Park, Sundays 6pm at one of the City easements or parks; inclement weather location is City Hall
- B. We are social, follow us on Facebook/Twitter or register for the email listserv

**ADMINISTRATIVE PRESENTATION**

- A. Sheriff Report\* (p. 72)
- B. Dog Park Committee Update/Minutes\* (pp. 73-74)
- C. School District Alignment Update\* (pp. 75-78)
- D. Wifi Access Point Replacement\* (pp. 79-81)

**CITY BUSINESS – CONSENT AGENDA**

- A. Approval of Regular Meeting Minutes from June 13, 2017\* (pp. 82-86)
- B. Approval of Special Meeting Minutes from July 10, 2017\* (pp. 87-88)
- C. Approval of Town Hall Meeting Minutes from July 11, 2017\* (p. 89)
- D. Approval of Regular Meeting Minutes from July 11, 2017 (supplement)
- E. Approve City Engineer Thatcher to televise City's sewer lines\* (p. 90)
- F. Approval of Resolution 2017-20 and Employment Contract with Administrator Tobin Lay\* (pp. 91-97)
- G. Approval of Consultant Agreement with SHC\* (pp. 98-107)
- H. Approval of Videographer Contract\* (pp. 108-111)
- I. Approval of Treasurer's Report\* (pp. 112-122)

## **CITY BUSINESS – REGULAR AGENDA**

- A. Roads Committee Update and Recommendations
- B. Dog Park Committee Appointment\* (pp. 3-4)
- C. Parks and Natural Resources Update\* (pp. 5-7)
- D. Docks Task Force Final Report Submission\* (pp. 8-28)
- E. Diseased Trees Ordinance\* (p. 29)
- F. Right of Way Ordinance: Possible First Reading\* (pp. 30-67)
- G. City Hall Air Conditioning\* (p. 68)
- H. Council Member Reports
- I. City Administrator's Report
  - a. Comp Plan Update – Vision Statement\* (pp. 69-70)
  - b. Schedule Budget Workshop\* (p. 71)
- J. City Attorney Report

## **ADJOURN**

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Dog Park Committee Appointment



**Birchwood Village**

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Dear Mayor and Council Members,

During the July 11, 2017 Regular City Council meeting, the Council approved accepting letters of interest for one (1) committee member position on the Dog Park Committee; to be selected during this August meeting.

Staff has received one (1) letter of interest to serve on the Dog Park Committee, from Lease Wittenberg (see enclosed email). Staff has invited Lease to attend tonight's meeting to answer any questions.

**Request**

Staff and Committee Members request Council appoint a new member of the Dog Park Committee.  
Thanks!

Regards,  
Tobin Lay

## Tobin Lay

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**From:** Lease Wittenberg [lwmonkeybanter@gmail.com]  
**Sent:** Monday, July 24, 2017 3:34 PM  
**To:** Tobin Lay

Hi Tobin,  
I would be happy to be a part of the dog park committee if you need more members.  
Thanks,  
Lease Wittenberg  
651-214-1863

Sent from my iPhone

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Parks Committee Survey



**Birchwood Village**

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Dear Mayor and Council Members,

During the July 11, 2017, Regular City Council meeting, the Parks Committee submitted a proposed survey to the City Council for review and approval to mail to Birchwood residents. The Council sent the survey back to the Parks Committee with changes requested.

The Parks Committee now submits the enclosed revised survey for Councils reconsideration and approval.

### **Request/Recommendation**

Parks Committee Members requests Council:

- 1) Review the revised survey;
- 2) Approve the survey as presented; and
- 3) Authorize Committee Members to mail, at City expense, the surveys to Birchwood residents.

Representatives from the Parks Committee are present and ready to answer any additional questions Council may have. Thanks!

Regards,  
Tobin Lay

Name (Optional): \_\_\_\_\_

The Birchwood Council has established a Parks & Natural Resources Committee. Our Committee envisions a ***Birchwood Parks System*** encompassing our 6 easements, our 3 parks, our walking trails and our other natural spaces. We will work with the Docks and Dog Park Committees to incorporate solutions that work well.

To serve you well this Parks Committee is requesting your input for ideas for our parks, easements, trails and natural spaces. To ensure everyone is heard, we are initiating a 5-step process:

- Step 1: Initiate this request to get your ideas.
- Step 2: Aggregate responses to create a master list of possibilities.
- Step 3: Share possibilities list with you and ask you to vote on the three most important to you.
- Step 4: Create a prioritized list of possibilities based on votes.
- Step 5: Use the prioritized list for setting goals for the Parks Committee.

As you fill out the Discovery Chart, please think broadly and include your whole household – as we all share these resources together. Based on the Birchwood 2010 Census, there are 5 generations in Birchwood, and our resources need to work for kids, seniors, and those in-between. There may also be things that would make them more accessible for those with different abilities.

A Birchwood Map is included with this letter. It highlights where our Parks, Easements and Trails are.

With your input and support, we will focus on what is important. We are looking forward to pursuing this new direction with you.

Sincerely,

*Parks Committee*

Your Parks Committee:	Dave Remely	Annaleisha Vang
	Jim Nelson	Scott Howe
	Houstoun Clinch	Bridget Sperl
	Judy Walker	Megan Malvey, Council Liaison
	Trilby White, Council Liaison	

### **Instructions for Discovery Chart on Other Side of this Letter**

Please enter your ideas in the Discovery Document on the other side of this letter.

1. Let us know what parks and/or easements you use.
2. Enter 2 items you would love to see (Dreams or Wishes)
3. Enter 3 areas that require improvement (Challenges or Issues)
4. Please complete the document and return a copy by Thursday, **September 21st** to Tobin Lay at the Birchwood Village Hall.

**Our Family's Top Three Dreams / Wishes (What would be wonderful to have?)**

1. Would you prefer that Parks stay just the way they are? Yes\_\_\_ No\_\_\_

2. Which parks-easements do you use?

3. Dream #1

4. Dream #2

**Our Family's Top Three Challenges / Issues / Concerns (What needs to be improved?)**

1. Challenge #1

2. Challenge #2

3. Challenge #3

## Docks Task Force (DTF) Final Report

7/27/2017

Prepared by DTF: Mike Evangelist, Mark Greseth, and Nino Nardecchia (Chairman)

- I. As requested by the City Council, accompanying this cover sheet are the DTF evaluations of the following 3 dock management options:
1. **Option 1.** The current Chapter 617 shared dock administration model (Privately owned Dock Association Docks are allowed to operate from the City's Public Lake Tracts).
  2. **Option 2.** (See OPTION 2 Evaluation Attachment 1 for more detail.) This model was taken from the 2009 "Plan for the City to Buy and Operate Its own Docks". The model is excess revenue neutral (only recovers actual costs). It is based on the model currently used to finance the Hockey Rink, Tennis Courts with the following difference. Instead of residents absorbing 100% of the costs of buying and operating the docks, they would only absorb 50% with the Boat Slip Permit Holders absorbing the other 50% as well as 100% of the cost of lift installation and removal. City would use a Docks Committee to help administer the docks. There would be no Dock Association.
  3. **Option 3.** (See OPTION 3 Evaluation Attachment 1 for more detail.) This model is the same as Option 2 except the Dock Association (Comprised of only Boat Slip Permit Holders) would hold a position on the Docks Committee, would be responsible for 100% of all dock and lift installation and removal costs, and would be responsible as it is now for assigning Boat Slip Permit Holders their specific boat slips. This model lowers the cost for residents and Boat Slip Permit Holders more than Option 2.
- II. **DISCLAIMER.** Due to the limited time provided to perform these evaluation and the lack of adequate representation on the Docks Task Force (DTF) of all affected parties, these evaluations should only be considered as summary of the discussions held between the DTF members. They should not be considered either a recommendation or disapproval of the any of the options.

Anthony C. Nardecchia, Jr.  
DTF Chairman

**DTF Evaluation of Option 1.** The current Chapter 617 shared dock administration model. Privately owned Dock Association Docks are allowed to operate from the City’s Public Lake Tracts.

**DISCLAIMER.** Due to the limited time provided to perform this evaluation and the lack of adequate representation on the Docks Task Force (DTF) of all affected parties, this evaluation should only be considered as summary of the discussions held between the DTF members. It should not be considered either a recommendation or disapproval of the model being evaluated.

1. Does model support the purpose of Chapter 617 as stated in Section 617.150?

“617.150 Purpose: The purpose of Chapter 617 is to maintain and improve the Public Lake Tracts in a manner that promotes the following:

(1.) Ensure availability of proper facilities to serve all residents. In development of its facilities, Birchwood shall strive to maintain a balance of suitable recreational activities for all persons within the municipality.

**Discussion.** Dock Association docks provide members boat mooring access, and increased fishing, swimming, sightseeing opportunities to resident members. However the City and the Dock Association need to do a better job identifying and addressing dock safety issues.

(2.) Strive to improve the Public Lake Tracts and their use and availability to all residents of Birchwood, and fair and equitable use of the docks installed thereon.

**Discussion.** Establishment of the Dock Use Only membership category was instituted seven (7) years ago to for the first time provide non-boat owner residents the opportunity to use the Dock Association docks by joining the Dock Association as Dock Use Only members. It was hoped that the Dock Use Only membership category would eliminate the Us vs Them dynamic that had plagued the City for many years.

The Dock Association originally set the Dock Use Only membership fee at \$35 to cover the a share of the Dock Associations cost of buying, installing, removing, maintaining, and insuring its five (5) docks. Seven (7) years later the cost of Dock Use Only Membership is \$35 for access to its four (4) docks.

Currently, excluding the 19 Boat Slip Permit holder member, only 58 of Birchwood’s 350 residences (14%) have paid the \$35 Dock Use Only to take advantage of these opportunities.

The DTF members unanimously believe that the \$35 fee is fair and reasonable for the opportunity to enjoy increased lake related recreational opportunities and decided to try

to understand why the participation is so low. What follows is a short synopsis of two plausible explanations.

- a. Some residents of Birchwood believe the City has already more than fairly accommodated the Dock Association by allowing the Dock Association to monopolize the use of 30-50 percent of the useable access to the lake from the City's Public Lake Tracts but still has not been adequately compensated for that accommodation.
- b. Some residents of Birchwood look at the City's success in providing dock access to the lake for all residents at Kay Beach, and ask why they can't have free access to the other four (4) docks the (Dock Association docks). They seem not to realize that Kay Beach dock access is not free. They are paying for the dock access at Kay Beach through their taxes.

The DTF members addressed this issue and came up with a proposal that could be, if implemented, a win-win solution that should be acceptable to all affected parties and can be implemented within the framework of Chapter 617 as written. It would demonstrate to all the residents of Birchwood that the Dock Association is committed to being a good partner with the City in its efforts to provide fair and equitable access to recreational opportunities on its Public lake Tracts. The proposal was presented to the Dock Association Membership at its Jul 23 meeting.

**Proposal.** The Birchwood Dock Association under the current provisions of Chapter 617 would waive the annual \$35 Dock Use Only membership fee for all Birchwood residences enabling all Birchwood residents to have free non-boating access to the four (4) Dock Association docks.

**Summary of Dock Association's 23 Jul Meeting Discussion and Action Taken.** All Dock Association members, boating and non-boating, feel that the current dock system works well and balances the diverse interests of everyone in Birchwood. Maximizing equitable access to this great resource is (as always) the Dock Association's priority.

However, recognizing that requiring Dock Association membership in order to use the docks for recreation has caused some confusion and even resentment, the Dock Association members have approved, by unanimous vote, to waive the annual Dock Use Only membership fee for all Birchwood residents. The Dock Association's Boat Slip Permit Holders will absorb the significant additional costs of this change through higher boating fees.

The Dock Association will update its insurance coverage to reflect this additional exposure, and will share this information with Birchwood residents as soon as the new policy is in force.

It is the Dock Associations hope that this will allow everyone in Birchwood to get the most out of the lake, while building on the good work which has been done by the Dock Association thus far.

**Cost of Implementation.** The Boat Slip Permit Holders would absorb 100% of the costs of implementation.

- 1. Increased Insurance Costs = \$350
- 2. Loss of revenue. ( $\$35 \times 75$ ) = \$2625
- Total Cost      \$2975

The DTF applauds the actions taken by the Dock Association under the leadership of Mike Evangelist.

- (3.) Upgrade the Public Lake Tracts, as necessary, to ensure the health, safety and general wellbeing of the residents with respect to the use and enjoyment of those facilities.

**Discussion.** The Dock Association has dock replacement and maintenance and upkeep funds budgeted and needs to execute its maintenance and dock replacement plans.

- (4.) Provide for multiple uses in keeping with the character and physical layout of each Public lake Tract and the residential character of the neighborhood.”

**Discussion.** See 1. (1.) above.

- 2. Does model balance the interests of all affected parties?

**Discussion.** The Dock Association and City perform all Chapter 617 directed coordination to ensure such interests are met.

- 3. Does model provide sufficient management, oversight, and accountability to ensure compliance with Council directed policies and procedures?

**Discussion.** Moving forward the City and the Dock Association need to do a better job working together to ensure all affected parties fulfill their Chapter 617 responsibilities.

- 4. Does model use sound financial accounting and record keeping practices that allow audit of its activities to ensure compliance Council directed policies and procedures?

**Discussion.** Financial accounting and record keeping practices are adequate.

- 5. Does model protect the City from unnecessary liability exposure?

**Discussion.** The Dock Association maintains Chapter 617 specified liability insurance policy to cover any increased exposure resulting from their operation of their docks on

the City's Public Lake Tracts and is addressing identified safety concerns on some of its docks.

6. What are the model's costs (financial and/or non-financial)?

**Discussion.** The following financial and non-financial costs were identified but specific dollar estimates could not be made due to time constraints and lack of necessary information.

- a. Time and supplies for City Staff to fulfill City's Chapter 617 responsibilities. City's administrative costs seem to be adequately covered by Dock Permit Fee, Boat Slip Permit Fee, and Lift Storage Fee.
- b. Money, time and supplies for City to manage Kay Beach Dock.
- c. Residents opting out of joining Dock Association as Dock Use Only members forgo access to its 4 docks.
- d. Unless above the above proposal is implemented, the lack of consensus as to fairness and equity of current model will perpetuate the Us vs Them dynamic.

7. What are the model's benefits (financial and/or non-financial)?

**Discussion.**

- a. While the City's uses taxes to support the Tennis Courts, Hockey Rink, Sports Fields, and Kay Beach. All residents are taxed the same amount for these venues regardless of whether or not they even use them, this model shifts all associated costs to only those residents of the city who want more lake access and opportunities than Kay Beach can provide keeping resident taxes lower.
- b. By the City allowing a private entity (The Birchwood Dock Association) to operate its private docks on the Public Lake Tracts designated for boat mooring, the City has effectively restricted use of the docks to only residents of Birchwood who choose to join the association for that increased level of access. This reduces liability exposure, and increases the safety and security of the City by discouraging non invited non-residents from utilizing these limited resources.

## **DTF Evaluation of Option 2. The City Owns and Operates all docks on its Public Lake Tracts. (See Option 2 Attachment 1 for Detailed Description)**

**DISCLAIMER.** Due to the limited time provided to perform this evaluation and the lack of adequate representation on the Docks Task Force (DTF) of all affected parties, this evaluation should only be considered as summary of the discussions held between the DTF members. It should not be considered either a recommendation or disapproval of the model being evaluated.

1. Does model support the purpose of Chapter 617 as stated in Section 617.150?

“617.150 Purpose: The purpose of Chapter 617 is to maintain and improve the Public Lake Tracts in a manner that promotes the following:

(5.) Ensure availability of proper facilities to serve all residents. In development of its facilities, Birchwood shall strive to maintain a balance of suitable recreational activities for all persons within the municipality.

**Discussion.** City owned and managed docks would provide all residents the opportunity for boat mooring access, and increased fishing, swimming, sightseeing opportunities from its Public lake Tracts.

(6.) Strive to improve the Public Lake Tracts and their use and availability to all residents of Birchwood, and fair and equitable use of the docks installed thereon.

**Discussion.** Having the City own and manage all of the docks would improve fair and equitable use of the docks by all residents.

(7.) Upgrade the Public Lake Tracts, as necessary, to ensure the health, safety and general wellbeing of the residents with respect to the use and enjoyment of those facilities.

**Discussion.** The City would have to ensure dock capital expenditure set aside funds and maintenance monies are not used for other than their intended purposes.

(8.) Provide for multiple uses in keeping with the character and physical layout of each Public lake Tract and the residential character of the neighborhood.”

**Discussion.** See 1. (1.) above.

2. Does model balance the interests of all affected parties?

**Discussion.** Yes, as much as is possible, but would require Chapter 617 to be rewritten implemented and enforced to clearly codify the process that would be followed to ensure that the interests of all affected parties are met.

3. Does model provide sufficient management, oversight, and accountability to ensure compliance with Council directed policies and procedures?

**Discussion.** See 2. above.

4. Does model use sound financial accounting and record keeping practices that allow audit of its activities to ensure compliance Council directed policies and procedures?

**Discussion.** City systems and practices are adequate are.

5. Does model protect the City from unnecessary liability exposure?

**Discussion.** The City would lose the buffer of liability protection provided now by the Dock Association's liability policy and possibly incur increased liability exposure because the docks would be public and non-invited, non-residents could access them.

6. What are the model's costs (financial and/or non-financial)?

**Discussion.** The following financial and non-financial costs were identified but specific dollar estimates could not be made due to time constraints and lack of necessary information.

- a. Initial planning time.
- b. Start-up costs.
- c. Potential increased insurance may be required due to the increased liability exposure generated by the loss of the buffer provided by the Dock Association's umbrella liability coverage.
- d. City administrative staff time.
- e. Council oversight time.
- f. Decreased safety and security; and increased liability exposure due to all docks being public meaning open to anyone to go on.
- g. Increased annual tax cost to residents (\$29/residence).

7. What are the model's benefits (financial and/or non-financial)?

**Discussion.** The following financial and non-financial benefits were identified but specific dollar estimates could not be made due to time constraints and lack of necessary information.

- a. Dock ownership by all property owners.

- b. Provides residents affordable dock access to all the docks.
- c. Financially self-sustaining.
- d. Balanced, unbiased and transparent management of our greatest resource.
- e. Unifies versus polarizes.
- f. Helps property values.
- g. Better multiple use opportunities.
- h. Decreased out of pocket cost for Boat Slip Permit holders.

# Option 2 Attachment 1

## Option2. (City Buys and Operate Its Own Docks-Excess Revenue Neutral)

### I. Startup Cost Estimates for City to Buy and Operate 4 Boat Mooring Docks.

1. Costs of 4 Docks. Estimated at \$35,000 to buy 4 new docks. Estimated at \$31,000 to buy 2 new docks and the 2 best Dock Associations docks.
2. Cost of Installing and Removing 4 Docks. Estimated at \$4,000 (\$1,000 total for both installation and removal of each dock). Recommend the City contract for these services to be done.
3. Cost of Installing and Removing 18 Lifts and 24 Lifts. Estimated cost of \$300/lift for installation and removal. Cost for 18 lifts would be \$5,400. Cost for 24 lifts would be \$7,200.
4. Annual Maintenance Costs Estimated at \$1000. Depending on the nature of the repair, most of this maintenance could be done by City approved volunteers.
5. Annual Capital Improvement Set Aside Amount. The DTF recommends that the City's sets aside at least \$3000/year to accumulate funds to pay for future anticipated capital expenditures.
6. Annual Liability Insurance Costs. City should review the City's current liability policy to insure its adequacy. The City's policy and the individual Boat Slip Permit holder's Chapter 617 general liability insurance requirement of \$1,000,000 per occurrence and \$300,000 per individual insuring boat owner against liability should be adequate.
7. WBLCD Dock Permit Fees. \$600

II. Funding Startup Costs. (See Table 1 for Summary) Recommend the City self-fund the startup costs by borrowing from the City's Fund Balance in Excess of Required Reserves (FB) at 5% interest rate. Repaying the estimated \$35,000 start-up cost at 5% interest over 5 years would require an annual payment of \$7,700. Repaying the estimated \$31,000 start-up cost at 5% interest over 5 years would require an annual payment of \$7,700.

III. Boat Slip Waiting List Fee. Remains at \$200.

IV. Boat Lift Storage Fee. Remains the same at \$100.

V. Boat Slip Permit Fee. Use a breakeven (excess revenue neutral) calculation to include:

1. 50% loan payback amount: \$3,850 or \$3,410
2. 50% operating, maintenance costs: \$500
3. 50 % dock install/remove costs: \$4,000
4. 100% lift installation/removal: \$2,700 for 18 lifts/\$3,600 for 24 lifts
5. 50% capital replacement set aside: \$1,500
6. 50% of WBLCD Fees: \$300

**Boat Slip Permit Fee with 18 Boats (\$13,150/18) = \$714 or (\$12,410/18) = \$689**

**Boat Slip Permit Fee with 24 Boats (\$13,750/24) = \$573 or (\$12,410/24) = \$517**

**VI. City Increases Taxes to Pay Remaining Costs.** City increases taxes to cover the following costs which are the same for any number of boats:

1. 50% loan payback amount: \$3,850 or \$3,410
2. 50% operating, maintenance costs: \$500
3. 50 % dock install/remove costs: \$4,000
4. 50% capital replacement set aside: \$1,500
5. 50% of WBLCD Fees: \$300

**Total            \$10,150 or \$9,710**

**Tax increase per Household (\$10,150/350) = \$29 or (\$9,710/\$350) = \$27.75**  
(Comparable to taxes paid for Hockey Rink tax.)

**Table 1. Financing, Fees and Tax Summary Option 2 (Revenue Neutral)**

<b><u>Start-up Costs</u> <u>Self-Funding</u> <u>Option</u></b>	<b><u>Total Est.</u> <u>Start-Up</u> <u>Cost</u></b>	<b><u>Source of Funds</u></b>	<b><u>Annual Payment at 5% for 5 years</u></b>
4 New Docks	\$35,000	Loan from FB*	\$7,700
2 New + 2 Docks Assoc. Docks	\$31,000	Loan from FB*	\$6,820
Boat Slip Permit + List Storage (18 Boats)		<b>\$814 (For \$35,000 loan) /\$789 (For \$31,000 loan)</b>	
Boat Slip Permit+ Plus List Storage (24 Boats)		<b>\$673 (For \$35,000 loan) /\$617 (For \$31,000 loan)</b>	
Tax increase per household.		<b>\$29 (For \$35,000 loan) /\$27.75 (For \$31,000 loan)</b>	

\* FB - Fund Balance in Excess of Required Reserves.

**VII. City Docks Management Model.** (See Figure 1 for Schematic). The City Council should establish a City Docks Committee charged with the responsibility to assist the City Council in managing installation and operation of the City's docks. The City

Administrator and City Treasurer would provide the needed administrative and bookkeeping support.

**VIII. Docks Committee Composition and Responsibilities.**

1. The City Council would form a Docks Committee comprised of 5 Council appointed residents; one from each of the following interest groups:
  - a. Non-Lake Property and Non-Boat Owners
  - b. Non-Lake Property Owners and Motorized Boat Owners
  - c. Non-Lake Property and Non-Motorized Boat Owners
  - d. Lake Property Owners adjoining Public Lake Tracts.
  - e. Individual on Boat Slip Waiting List
2. Each member would serve a two year term.
3. Once all 5 members are appointed, they in turn would select the Docks Committee chairman from the 4 Council appointed members.
4. Next the Docks Committee would develop its By Laws that would include its plan for accomplishing all responsibilities delegated to the Docks Committee by Chapter 617, to include identification of available boat slips and assignment of specific boat slips to Boat Slip Permit holders.
5. The By Laws would have to be approved by the City Council.

**IX. Dock Liaison.** The Docks Committee would designate an individual who has a boat installed at each mooring dock to be the Dock Liaison for that dock and a member of the Docks Committee to serve as Dock Liaison for Kay Beach. The Dock Liaisons would bring dock associated safety, maintenance and use issues to the Docks Committee for action. In addition, for the mooring docks, the Dock Liaison would be responsible for identifying and reporting boat slips that become available to City Clerk and the Docks Committee so they can be offered to individuals on the Boat Slip Waiting List.

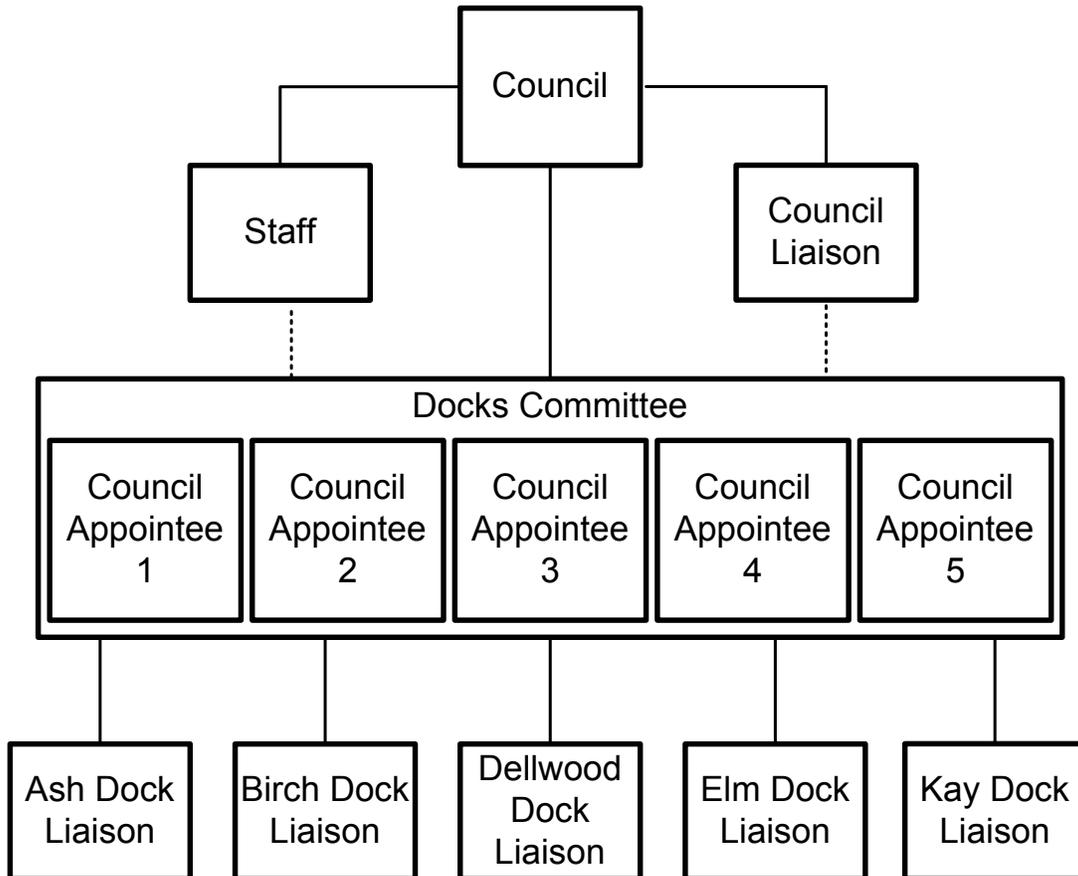
**X. City Staff Support.** The City staff would provide the administrative and financial management support specified in Chapter 617 to include the following:

1. Post required Docks Committee Meeting Notices.
2. Maintain and Administer the City's Boat Slip Waiting List.
3. Collect all fees required to be paid by Boat Slip Permit Holders.
4. Report delinquent payments to City Council.

5. Generate and solicit Requests for Proposals (RFPs) for all Council approved dock related projects.
6. Log in all received proposals and provide them to the Docks Committee for review.
7. Assist Docks Committee in generating Council recommendations on which proposal to accept.
8. The City Clerk would forward all Council approved WBLCD dock license requests to the WBLCD for approval.

Figure 1

## Option 2 Management Model



**DTF Evaluation of Option 3.** The City Owns and Operates all docks on its Public Lake Tracts but Dock Association assists).  
(See Option 3 Attachment 1 for Detailed Description)

**DISCLAIMER.** Due to the limited time provided to perform this evaluation and the lack of adequate representation on the Docks Task Force (DTF) of all affected parties, this evaluation should only be considered as summary of the discussions held between the DTF members. It should not be considered either a recommendation or disapproval of the model being evaluated.

1. Does model support the purpose of Chapter 617 as stated in Section 617.150?

“617.150 Purpose: The purpose of Chapter 617 is to maintain and improve the Public Lake Tracts in a manner that promotes the following:

(9.) Ensure availability of proper facilities to serve all residents. In development of its facilities, Birchwood shall strive to maintain a balance of suitable recreational activities for all persons within the municipality.

**Discussion.** City owned and managed docks would provide all residents the opportunity for boat mooring access, and increased fishing, swimming, sightseeing opportunities from its Public lake Tracts.

(10.) Strive to improve the Public Lake Tracts and their use and availability to all residents of Birchwood, and fair and equitable use of the docks installed thereon.

**Discussion.** Having the City own and manage all of the docks would improve fair and equitable use of the docks by all residents.

(11.) Upgrade the Public Lake Tracts, as necessary, to ensure the health, safety and general wellbeing of the residents with respect to the use and enjoyment of those facilities.

**Discussion.** The City would have to ensure dock capital expenditure set aside funds and maintenance monies are not used for other than their intended purposes.

(12.) Provide for multiple uses in keeping with the character and physical layout of each Public lake Tract and the residential character of the neighborhood.”

**Discussion.** See 1. (1.) above.

2. Does model balance the interests of all affected parties?

**Discussion.** Yes, as much as is possible, but would require Chapter 617 to be rewritten implemented and enforced to clearly codify the process that would be followed to ensure that the interests of all affected parties are met.

3. Does model provide sufficient management, oversight, and accountability to ensure compliance with Council directed policies and procedures?

**Discussion.** See 2. above.

4. Does model use sound financial accounting and record keeping practices that allow audit of its activities to ensure compliance Council directed policies and procedures?

**Discussion.** City systems and practices are adequate are.

5. Does model protect the City from unnecessary liability exposure?

**Discussion.** The City would lose the buffer of liability protection provided now by the Dock Association's liability policy and possibly incur increased liability exposure because the docks would be public and non-invited, non-residents could access them.

6. What are the model's costs (financial and/or non-financial)?

**Discussion.** The following financial and non-financial costs were identified but specific dollar estimates could not be made due to time constraints and lack of necessary information.

- a. Initial planning time.
- b. Start-up costs.
- c. Potential increased insurance may be required due to the increased liability exposure generated by the loss of the buffer provided by the Dock Association's umbrella liability coverage.
- d. City administrative staff time.
- e. Council oversight time.
- f. Decreased safety and security; and increased liability exposure due to all docks being public meaning open to anyone to go on.
- g. Increased annual tax cost to residents but less than Option 2 due to Dock Association absorbing costs of all installation and removal tasks.

7. What are the model's benefits (financial and/or non-financial)?

**Discussion.** The following financial and non-financial benefits were identified but specific dollar estimates could not be made due to time constraints and lack of necessary information.

- i. Dock ownership by all property owners.
- j. Provides residents affordable dock access to all the docks.
- k. Financially self-sustaining.
- l. Balanced, unbiased and transparent management of our greatest resource.
- m. Unifies versus polarizes.
- n. Helps property values.
- o. Better multiple use opportunities.
- p. Decreased out of pocket cost for Boat Slip Permit holders compared to Option 2.

# **Option 3 Attachment 1**

## **Option 3. (City Buys and Operates Its Own Docks with assistance from Dock Association-Excess Revenue Neutral)**

### **I. Startup Cost Estimates for City to Buy and Operate 4 Boat Mooring Docks.**

1. **Costs of 4 Docks.** Estimated at \$35,000 to buy 4 new docks. Estimated at \$31,000 to buy 2 new docks and the 2 best Dock Associations docks.
2. **Cost of Installing and Removing 4 Docks.** None. All costs absorbed by Dock Association.
3. **Cost of Installing and Removing 18 Lifts and 24 Lifts.** None. All costs absorbed by Dock Association.
4. **Annual Maintenance Costs Estimated at \$1000.** Depending on the nature of the repair, most of this maintenance could be done by City approved volunteers.
5. **Annual Capital Improvement Set Aside Amount.** The DTF recommends that the City's sets aside at least \$3000/year to accumulate funds to pay for future anticipated capital expenditures.
6. **Annual Liability Insurance Costs.** City should review the City's current liability policy to insure its adequacy. The City's policy and the individual Boat Slip Permit holder's Chapter 617 general liability insurance requirement of \$1,000,000 per occurrence and \$300,000 per individual insuring boat owner against liability should be adequate.
7. **WBLCD Dock Permit Fees.** \$600

**II. Funding Startup Costs. (See Table 1 for Summary) Recommend the City self-fund the startup costs by borrowing from the City's Fund Balance in Excess of Required Reserves (FB) at 5% interest rate. Repaying the estimated \$35,000 start-up cost at 5% interest over 5 years would require an annual payment of \$7,700. Repaying the estimated \$31,000 start-up cost at 5% interest over 5 years would require an annual payment of \$7,700.**

**III. Boat Slip Waiting List Fee. Remains at \$200.**

**IV. Boat Lift Storage Fee. Remains the same at \$100.**

V. **Boat Slip Permit Fee.** Use a breakeven (excess revenue neutral) calculation to include

1. 50% loan payback amount:	\$3,850 or \$3,410
2. 50% operating, maintenance costs:	\$500
3. No dock install/remove costs:	0
4. No lift install/removal costs:	0
5. 50% capital replacement set aside	\$1,500
6. 50% of WBLCD Fees:	\$300
<b>Total</b>	<b>\$6,150 or \$5,710</b>

**Boat Slip Permit Fee with 18 Boats (\$6,150/18) = \$341 or (\$5,710/18) = \$317**

**Boat Slip Permit Fee with 24 Boats (\$6,150/24) = \$256 or (\$5,710/24) = \$238**

VI. **City Increases Taxes to Pay Remaining Costs.** City increases taxes to cover its obligations.

**Tax increase per Household (\$6,150/350) = \$17.58 or (\$5,710/350) = \$16.31**

**Table 1. Financing, Fees and Tax Summary Option 3 (Revenue Neutral)**

<b><u>Start-up Costs Self-Funding Option</u></b>	<b><u>Total Est. Start-Up Cost</u></b>	<b><u>Source of Funds</u></b>	<b><u>Annual Payment at 5% for 5 years</u></b>
4 New Docks	\$35,000	Loan from FB*	\$7,700
2 New + 2 Docks Assoc. Docks	\$31,000	Loan from FB*	\$6,820
Boat Slip Permit + List Storage (18 Boats)		<b>\$441 (For \$35,000 loan) /\$417 (For \$31,000 loan)</b>	
Boat Slip Permit+ Plus List Storage (24 Boats)		<b>\$356 (For \$35,000 loan) /\$338 (For \$31,000 loan)</b>	
Tax increase per household.		<b>\$17.58 (For \$35,000 loan) /\$16.31 (For \$31,000 loan)</b>	

\* FB - Fund Balance in Excess of Required Reserves.

VII. **City Docks Management Model.** (See Figure 1 for Schematic) The City Council should establish a City Docks Committee charged with the responsibility to assist the City Council in managing installation and operation of the City's docks. The Dock Association would have a seat on the Committee and be responsible for keeping the Committee advised as to status of available boat slips and the assignment of boat slips to Boat Slip Permit holders. The City Administrator and City Treasurer would provide the needed administrative and bookkeeping support.

**VIII. Docks Committee Composition and Responsibilities.** The City Council should form a Docks Committee comprised of 5 members as described below.

1. Four (4) Council appointed residents, one from each of the following interest groups:
  - a. Non-Lake Property and Non-Boat Owner
  - b. Non-Lake Property and Non-Motorized Boat Owner
  - c. Lake Property Owner adjoining Public Lake Tracts.
  - d. Individual on the Boat Slip Waiting List
2. One (1) Dock Association appointed representative.
3. Each member would serve a two year term.
4. Once all 5 members are appointed, they in turn would select the Docks Committee chairman from the 4 Council appointed members.
5. Next the Docks Committee would develop its By Laws that would include its plan for accomplishing all responsibilities delegated to the Docks Committee by Chapter 617.
6. The By Laws would have to be approved by the City Council.

**IX. Dock Liaison.** The Docks Association would designate an individual who has a boat installed at each mooring dock to be the Dock Liaison for that dock. The Docks Committee would designate member of the Docks Committee to serve as Dock Liaison for Kay Beach. The Dock Liaisons would bring dock associated safety, maintenance and use issues to the Docks Committee for action. In addition, for the mooring docks, the Dock Liaisons would be responsible for identifying and reporting boat slips that become available to City Clerk and the Docks Committee so they can be offered to individuals on the Boat Slip Waiting List.

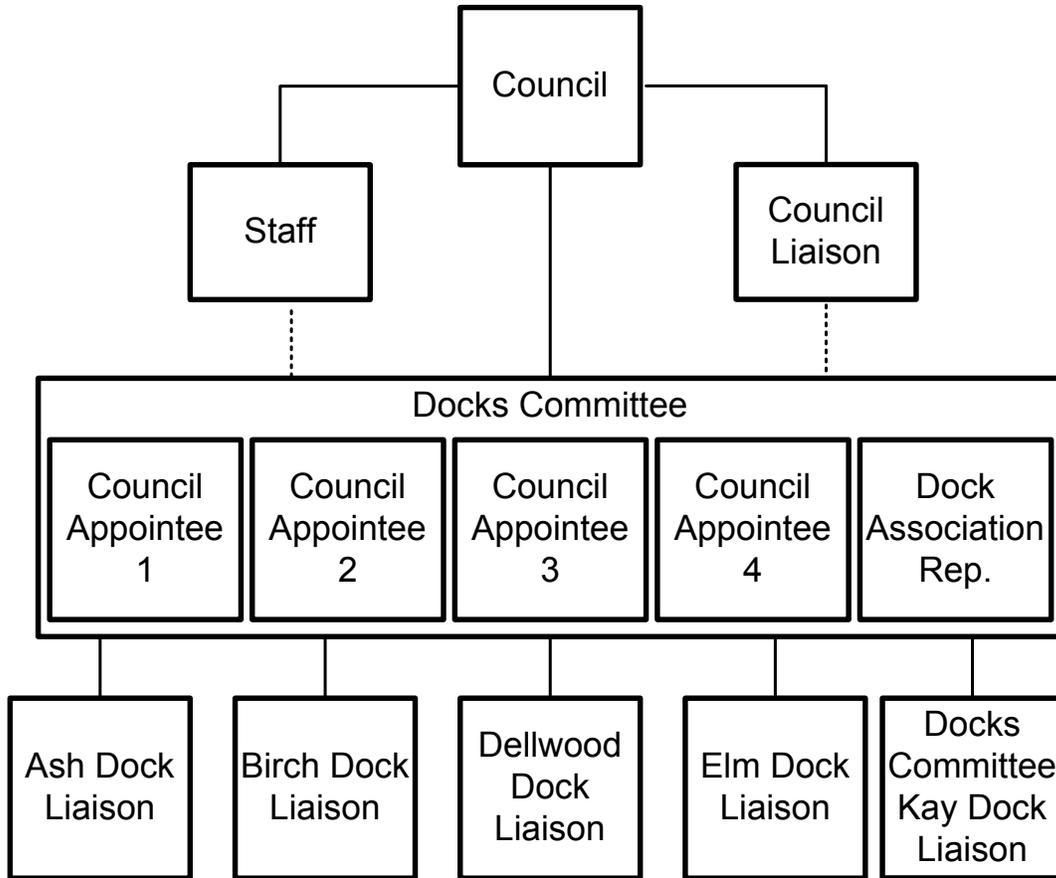
**X. City Staff Support.** The City staff would provide the administrative and financial management support specified in Chapter 617 to include the following:

1. Post required Docks Committee Meeting Notices.
2. Maintain and Administer the City's Boat Slip Waiting List.
3. Collect all fees required to be paid by Boat Slip Permit Holders.
4. Report delinquent payments to City Council.
5. Generate and solicit Requests for Proposals (RFPs) for all Council approved dock related projects.
6. Log in all received proposals and provide them to the Docks Committee for review.

7. Assist Docks Committee in generating Council recommendations on which proposal to accept.
8. The City Clerk would forward all Council approved WBLCD dock license requests to the WBLCD for approval.

Figure 1

# Option 3 Management Model



# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Diseased Tree Ordinance 403



**Birchwood Village**

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Dear Mayor and Council Members,

During the March 14, 2017, City Council meeting, the City Council considered making changes to the diseased tree ordinance, 403. Following Council's discussion, staff reviewed ordinances from other cities and requests more time to address these issues.

Education about how to prevent the spread of disease needs to be a component because trees are continuing to die in the various "hot spots" around the village, even when enforcing the ordinance.

In addition, staff research shows that many cities are only proactive about diseased trees on public property and do not even get involved with trees on private property.

**Request/Recommendation**

Staff recommends suspending the application of the current diseased tree ordinance, 403, and the matter be referred to one of the City Committees to consider further or be placed on the city council workshop calendar to consider a more effective approach. Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Right of Way Ordinance



**Birchwood Village**

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Dear Mayor and Council Members,

During the June 13, 2017, Regular City Council meeting, the City Council reviewed Grant's Right of Way Ordinance, which includes an escrow requirement for all permits, to cover damages to City property during the permitted activity.

City Attorney Kantrud informed the Council that he had also written a Right of Way ordinance before and would submit it for Council's consideration. The City Council tabled the discussion until Kantrud's ordinance could be reviewed.

Enclosed is a reworked version of the Grant ordinance with Birchwood's information. Also enclosed is Attorney Kantrud's sample.

This topic is timely and should be acted on expeditiously to protect the City's interest in our right-of-ways. In addition to losing control over contractor access to these right-of-ways and those associated lost revenues, there is also a state and national movement to take away cities' rights when it comes to small cell wireless use in the right-of-ways. The League of MN Cities is urging cities to address this topic now and they are currently working on a model ordinance to aid in this process.

Staff recommends the Council consider a two phase approach to enacting this ordinance; addressing those areas currently impacting the City now (such as contractor access and revenues) and addressing the larger issues (such as small cell wireless) later.

Because this ordinance is a Land Use ordinance, Planning Commission will need to review it for their recommendation. Staff recommends Council do a first reading of the reworked Grant ordinance tonight and send both ordinances to the Planning Commission with the request to return a recommendation in the same two phase approach; returning the first phase soon, by October Council meeting if possible.

## **Request/Recommendation**

Staff requests Council:

- 1) Provide a first reading of the reworked Grant ordinance, as enclosed;
- 2) Request the Planning Commission review the sample ordinances for their input and recommendation; and
- 3) Authorize Attorney Kantrud to assist the Planning Commission in their review.

Thanks!

Regards,  
Tobin Lay

CITY OF BIRCHWOOD VILLAGE FEE SCHEDULE—(amended)

ADDITIONAL CHARGES FOR ESCROW AMOUNTS

An escrow amount will be required at the time application fees and the application is received by the City's Consultant.

Subdivision	\$7000
Lot Split	N/A
Variance	\$3000
Conditional Use Permit (Amended and new)	\$3000
Conditional Use Permit (Renewal)	N/A
All Other Land uses	\$1000
Grading Permit Fees (under 100 cu. Yards)	\$200
(100+ cu. Yards)	\$3000

- \* Unused escrow amounts will be returned to the applicant
- \* For additional information, see also the Escrow Account Policies Form.

**CITY OF BIRCHWOOD VILLAGE**  
**WASHINGTON COUNTY, MINNESOTA**

**ORDINANCE 2017- \_\_\_\_\_**

**An Ordinance Amending the City of Birchwood Village  
Code of Ordinances  
Enacting Chapter 309, Right-of-Way Land Use**

The City Council of the City of Birchwood Village, Washington County, Minnesota, does hereby ordain as follows:

**SECTION 1. ENACTING OF CHAPTER 309 RIGHT-OF-WAY LAND USE**

That City Code Chapter 309 is hereby ENACTED as follows:

**309.010 Findings, Purpose, and Intent.**

To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in good repair and free from unnecessary encumbrances. Accordingly, the city enacts this Section 1 of Chapter 309 of the Code establishing reasonable regulations concerning the placement and maintenance of facilities and equipment within the city's rights-of-way and obstructions of such rights-of-way.

This Section is intended to implement Minnesota Statutes Sections 237.162 and 237.163 Minnesota Rules 7819.0050-7819.9950, and other applicable laws governing use of rights-of-way. Pursuant to Minnesota Statutes, Sections 237.163 subdivision 2(b), and all authority granted to the city, the city hereby elects to manage rights-of-way within its jurisdiction.

**309.020 Definitions.**

*Abandon Facility* means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use.

*Applicant* means any person that has applied for a permit to excavate or obstruct a right-of-way.

*City* means the City of Birchwood Village, Minnesota, its elected officials, officers, employees and agents.

*Commission* means the Minnesota Public Utilities Commission.

*Construction Performance Bond* means any of the following forms of security provided at a permittee's option:

- (1) Individual project bond;
- (2) Cash deposit;

- (3) Security of a form listed or approved under Minnesota Statutes, section 15.73, subdivision;
- (4) Letter of Credit, in a form acceptable to the city;
- (5) Self-insurance, in a form acceptable to the city;
- (6) A blanket bond for projects within the city, or other form of construction bond, for a time specific and in a form acceptable to the city.

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

*Degradation Cost* means the cost, subject to Minnesota Rules 7819.1100, to achieve a level of restoration as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

*Degradation Fee* means the fee established by the city at the time of permitting in an amount estimated to recover the degradation cost.

*Director* means the City Engineer of the city, or his or her designee.

*Delay Penalty* is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

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

*Equipment* means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

*Excavate* means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

*Facility or Facilities* means tangible asset in the public right-of-way required to provide utility service.

*Local Representative* means a local person authorized by a right-of-way user to accept service and to make decisions for that right-of-way user regarding all matters within scope of this Section 1.

*Management Costs* means the actual costs the city incurs in managing its rights-of-way, including costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment for the use of the right-of-way or the fees and costs of any litigation or appeals relating to this Section 1.

*Obstruct* means to place any tangible object in the right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

*Patch or Patching* means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.

*Pavement* means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

*Permit* has the meaning given "right-of-way permit" in Minnesota Statutes, section 237.162.

*Permittee* means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this Section 1.

*Person* means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

*Public Right-of-Way or Right-of-Way* has the meaning given it in Minnesota Statutes, section 237.162, subdivision 3.

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

*Restoration Cost* means the amount of money paid to the city by a right-of-way user to achieve the level of restoration according to plates 1 to 13 of Minnesota Rule 7819.1100 Subpart 1.

*Right-of-Way User* means any person who has or seeks to have its equipment or facilities located in any right-of-way.

*Service or Utility Service* means and includes (1) services provided by a public utility as defined in Minnesota Statutes 2168.02, subdivisions 4 and 6; (2) services of a telecommunications provided including transporting of voice or data information; (3) services of a cable communications system as defined in Minnesota Statutes, chapter 238.02, subdivision 3; (4) natural gas or electric energy or telecommunications services provided by a local government unit; (5) services provided by a cooperate electric association organized under Minnesota Statutes, chapter 308A.

*Temporary Surface* means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's pavement management plan, in which case it is considered full restoration.

*Trench* means an excavation in the right-of-way, with the excavation having a length equal to or greater than the width of the pavement of adjacent pavement.

### **309.030 Administration**

The City Engineer is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The City Engineer may delegate any or all of the duties hereunder.

### **309.040 Conduct Prohibited.**

Except as authorized pursuant to a permit issued by the city, no person shall:

- (a) Obstruct or excavate any right-of-way.
- (b) Place any equipment, facilities, or structures in any right-of-way.
- (c) Deposit snow or ice on any right-of-way.

- (d) Erect a fence or other barrier on or across any right-of-way.
- (e) Obstruct any ditch in or abutting a right-of-way.
- (f) Place any advertisement or sign other than a traffic control sign or other governmental sign in any right-of-way.
- (g) Deface, mar, damage or tamper with any sign, marker, signal, monument, equipment facility, structure, material, tools, or any appurtenance in any right-of-way.
- (h) Drive a vehicle over, through, around, or past any fence, barrier, sign, or obstruction erected to prevent traffic from passing over the right-of-way, or portion of the right-of-way .

**309.050 Registration and Right-of-Way Occupancy.**

(a) *Registration.* Each right-of-way user, including persons with installation and maintenance responsibilities by contract, lease, sublease or assignment, must register with the city. Registration will consist of providing registration information and paying a registration fee.

(b) *Registration prior to work.* No person may construct, install, repair remove, relocate any equipment or facilities or perform any other work in any right-of-way without first being registered with the city.

(c) *Exceptions.* Persons shall not be required to register, obtain permits or satisfy any other requirements under this Section for the following:

- (1) Construction and maintenance of driveways, sidewalks, curb and gutter, or parking lots pursuant to a driveway permit, except repairs or restoration necessitated by utility cuts or other work;
- (2) Snow removal activities;
- (3) Placement of flexible fiberglass markers at the edge of the paved road to assist snow plow operators (metal posts are prohibited).

Nothing herein relieves a person from complying with the provisions of the Minnesota Statutes, chapter 216D, Gopher One Call Law.

**309.060 Registration Information.**

(a) *Information Required.* The information provided to the city at the time of registration shall include, but not be limited to:

- (1) The right-of-way user's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers;
- (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of local representative accessible for consultation at all times. Current contact information shall be provided at the time of registration.
- (3) A certificate of insurance or self-insurance:
  - i. Verifying that an insurance policy has been issued to the right-of-way user by an insurance company authorized to do business in the State of Minnesota, or a form of self-insurance acceptable to the city;
  - ii. Verifying that the right-of-way user is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the right-of-way user, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the right-of-way user, its officers, agents, employees and

- iii. Either naming the city as an additional insured or otherwise providing evidence satisfactory to the Administrator that the city is fully covered and will be defended;
- iv. Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification off a coverage term;
- v. Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this Section.
- vi. Evidencing adequate third part claim coverage and city indemnification for all actions included in Minnesota Rule part 7819.1250.

- (4) Such evidence as the city may require to demonstrate that the person is authorized to do business in Minnesota.
- (5) Such evidence as the city may require to demonstrate that the person is authorized to use or occupy the right-of-way.

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

### **309.070 Reporting Obligations.**

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

- (b) *Plan.* The plan shall include, but not be limited to, the following information:
  - (1) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and
  - (2) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

(c) *Failure to Include Projects in Plan.* The city may deny an application for a right-of-way permit for failure to include a project in the plan submitted to the city for next-year projects unless the right-of-way user demonstrates that it used commercially reasonable efforts to identify the project. The city may annually produce for inspection a list of all planned projects for inspection.

### **309.080 Permit Requirement.**

(a) *Permit Required.* A permit is required to excavate the right-of-way, to place equipment of facilities in or on the right-of-way, or to obstruct or otherwise hinder free and open passage over the right-of-way. The permit shall specify the extent and the duration of the work permitted.

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

(c) *Delay Penalty.* In accordance with Minnesota Rule 7819.1000 subp. 3, the city may establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by city council resolution. A delay penalty will not be imposed for delays due to force majeure, including inclement weather, civil strife, acts of God, or other circumstances beyond the control of the applicant.

(d) *Permit Delay.* Permits issued under this Section shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

### **309.090 Permit Applications.**

An application for a permit is made to the city. Right-of-way permit applications shall contain, and will only be considered complete upon compliance with the following:

(a) Registration with the city pursuant to this Section.

(b) Submission of a completed permit application form including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

(c) Payment of money due to the city for:

(1) Permit fees, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;

(4) Franchise fees or other charges, if applicable.

(d) Payment of disputed amounts due to the city by posting security or depositing in an escrow account an amount equal to at least 100% of the amount owing.

(e) Posting an additional or larger construction performance bond should the city deem the existing construction performance bond inadequate.

### **309.100 Issuance of Permit; Conditions.**

(a) *Permit Issuance.* If the Applicant has satisfied the requirements of this Section 1, the city shall issue a permit.

(b) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. The city may establish and define location and relocation requirements for equipment and facilities to be located in the right-of-way.

### **309.110 Permit Fee.**

(a) *Fee Schedule and Fee Allocation.* The city's permit fees shall be designed to recover the city's actual costs and shall be based on an allocation among all users of the right-of-way, including the city.

(b) *Permit Fee Amount.* The city shall establish a permit fee sufficient to recover the following costs:

(1) The city's management costs;

(2) Degradation costs, if applicable

(c) *Payment of Permit Fees.* No permit shall be issued without payment of permit fees. Permit fees paid for a permit that the city has revoked for a breach are not refundable.

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

### **309.120 Right-of-Way Patching and Restoration.**

(a) *Timing.* The work to be done under a permit, and the required patching and restoration of the right-of-way, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee.

(b) *Patching.* The permittee must patch its own work.

(c) *Restoration.* The city may choose either to have the permittee restore the surface and subgrading portions of right-of-way or the city may restore the surface portion of right-of-way itself. If the city restores the surface portion of right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work. If the permittee restores the right-of-way itself, it shall at the time of filing the permit application post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.

(d) *Degradation fee in Lieu of Restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee in an amount identified by the city. However, the right-of-way user shall remain responsible for replacing and compacting the subgrade and aggregate base material in the excavation and degradation fee shall not include the cost to accomplish these responsibilities.

(e) *Standards.* The permittee shall perform patching and restoration according to the standards in Minnesota Rule 7819.1100, and with the materials specified by the city.

(f) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by permittee or its agents upon notification from the city, using the method required by the city.

(g) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city shall notify the permittee in writing of the specific alleged failure or failures and shall allow the permittee ten (10) days from receipt of notice to cure said failure or failures. In the event the permittee fails to cure, the city may at its option perform the necessary work and permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

### **309.130 Other Obligations.**

(a) *Compliance with other laws.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to apply all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including Minn. Statute 216D.01-.09 (Gopher One Call Excavation Notice System). A permittee shall perform all work in conformance with the applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

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

(c) *Interference with right-of-way.* A permittee shall not so obstruct or interfere with the natural passage of water through the gutters or other waterways. Private vehicles must be parked in conformance with city parking regulations. Unless specifically authorized by a permit, trucks must be loaded and unloaded within the defined permit area.

(d) *Traffic control.* A permittee shall implement traffic control measures in the area of the work and use traffic control procedures in accordance with the most recent manuals on uniform traffic control traffic control devices and traffic zone layouts published by the State of Minnesota.

#### **309.140 Denial of Permit**

The City may deny a permit for failure to meet the requirements and conditions of this Section, to protect the public health, safety, and welfare, or to protect the right-of-way and its current use.

#### **309.150 Installation Requirements.**

The installation of facilities in the right-of-way and associated excavation, backfilling, patching, and restoration work shall be done in conformance with Minnesota Rule 7819.1100 and other applicable local requirements.

#### **309.160 Inspection.**

(a) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minnesota Rule 7819.1300.

(b) *Site Inspection.* The permittee shall make the work site available to the city for inspection at all reasonable times during the execution of and upon completion of the work.

(c) *Authority of Director.* The director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public, or order the permittee to correct work that does not conform to the terms of the permit or other applicable standards, conditions, or code. If the work failure is a "substantial breach" within the meaning of Minnesota Statute 237.163 subd. 4(c), the order shall state the failure to correct the violation will be cause for revocation of the permit after a specified period determined by the director. The permittee shall present proof to the director that the violation has been timely corrected. If the violation is not timely corrected, the director may revoke the permit.

#### **309.170 Work Done without a Permit.**

(a) *Emergency Situation.* Each right-of-way user shall immediately notify the director of any event regarding its facilities that the right-of-way user considers to be an emergency. The right-of-way user may take whatever actions are necessary to respond to the emergency. Within two (2) business days after the occurrence of the emergency the right-of-way user shall apply for the necessary permits and fulfill the rest of the requirements necessary to comply with this Section.

(b) If the city becomes aware of an emergency affecting facilities in the right-of-way, the city will attempt to contact the local representative of each potentially affected right-of-way user. The city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by affected right-of-way users.

(c) *Non-Emergency Situation.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, pay an unauthorized work permit fee in an amount established from time to time by the city council, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all the requirements of this Section

### **309.180 Revocation of Permits.**

(a) *Substantial Breach.* The city reserves its right to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of a permit'
- (2) An evasion or attempt to evade any material provision of a permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a permit;
- (4) The failure to complete work in a timely manner; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated in an order issued by the director.

(b) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of term or condition of any statute, ordinance, rule regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city to place additional or revised conditions on the permit to mitigate and remedy the breach.

(c) *Response to notice of breach.* Within a time established by the director following permittee's receipt of notification of the breach, permittee shall provide the city with a plan to cure the breach, acceptable to the city. Permittee's failure to submit a timely and acceptable plan, or permittee's failure to timely implement the approved plan, shall be cause for immediate revocation of the permit.

(d) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

### **309.190 Mapping Data.**

Each right-of-way user and permittee shall provide mapping informational a form required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100.

### **309.200 Relocation of Facilities.**

A right-of-way user shall promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way when it is necessary to prevent interference, and not merely for the convenience of the city, in connection with: (1) a present or future city use of the right-of-way for a public project; (2) the public health or safety; or (3) the safety and convenience of travel over the right-of-way.

### **309.210 Interference by Other Facilities.**

When the city does work in the right-of-way and finds it necessary to maintain, support, or move a right-of-way user's facilities to carry out the work without damaging right-of-way user's facilities, the city shall notify the local representative as early as is reasonable possible. The city costs associated therewith will be billed to that right-of-way user and must be paid within thirty (30) days from the date of billing. Each right-of-way user shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages.

**309.220 Right-of-Way Vacation.**

If the city vacates a right-of-way that contains the facilities of a right-of-way user, the right-of-way user's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

**309.230 Indemnification and Liability.**

By registering with the city, or by accepting a permit under this Section, a right-of-way user or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

**309.240 Abandoned and Unusable Facilities.**

(a) Discontinued Operations. A right-of-way user who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the right-of-way user's obligations for its facilities in the right-of-way under this Section have been lawfully assumed by another right-of-way user.

(b) Removal. Any right-of-way user who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

**309.250 Appeal.**

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; or (4) believes that the fees imposed are not in conformity with Minnesota Statute 237.163, Section 410.06 may have the denial, revocation, or fee imposition reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting. A decision by the city council affirming the denial, revocation, or fee imposition will be in writing.

**309.260 Reservation of Regulatory and Policy Powers.**

A permittee's or right-of-way user's rights are subject to the regulatory and police power authority of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

**309.270 Severability.**

If any section, subsection, sentence, clause, phrase, or portion of this Section 1 is for any reason held invalid or unconstitutional by any court, regulatory body or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**309.280 Penalty.**

Any person violating any provision of this Section 1 or any permit or order issued hereunder, shall, upon conviction thereof, be guilty of a misdemeanor punishable in accordance with Section 619 of the City Code.

**SECTION 2. SEVERABILITY.**

In the event that court of competent jurisdiction adjudges any part of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included within that judgment.

**SECTION 3. EFFECTIVE DATE.**

This ordinance takes effect upon its adoption and publication according to law.

WHEREUPON, a vote, being taken upon a motion by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_ ,

Voting AYE:

Voting NAY:

Whereupon said Ordinance was declared passed adopted this \_\_day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mary Wingfield, Mayor

\_\_\_\_\_  
Attest: Tobin Lay, City Administrator

## **RIGHT-OF-WAY ORDINANCE**

### **City of Birchwood Village, Washington County, Minnesota**

An ordinance to enact a new Section of the Birchwood Village Code of Ordinances to administer and regulate the public **rights-of-way (Generally hereinafter called ROW)** in the public interest, and to provide for the issuance and regulation of ROW permits.

### ***THE COUNCIL OF BIRCHWOOD VILLAGE ORDAINS:***

**Article I. In General, Section 32-4 through Section 32-27**, City of Birchwood Village, County of Washington, Minnesota, “Right-of-Way Ordinance” is herewith adopted into city code. Any and all previously adopted sections or articles which may appear contrary or in conflict with this ordinance are hereby replaced or modified by this code.

### **SEC. 32-4. FINDINGS, PURPOSE AND INTENT.**

The City of Birchwood Village holds the ROW within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the ROW. It also recognizes that some persons, by placing their equipment in the ROW and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property. Although the installation of such service delivery facilities are in most cases necessary and proper use of the ROW, the City must regulate and manage such uses.

To provide for the health, safety and well-being of its citizens and to ensure the structural integrity of its streets and the appropriate use of ROW, the City strives to keep its ROW in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the ROW, one of the causes for the early and excessive deterioration of its ROW is frequent excavation or other intrusions into its sub-surface area.

This Article imposes reasonable fees and regulations on the placement and maintenance of equipment currently within its ROW or to be placed therein at some future time. It is intended to complement the regulatory roles of state, federal and other agencies. Under this Article, persons

disturbing and obstructing the ROW will bear a fair share of the financial responsibility for its integrity.

This Article also provides for recovery of the City's costs associated with managing its ROW.

SEC. 32-5. The provisions and requirements of this ordinance shall not apply to inter-governmental entities that have Joint Powers Agreements with the City *or other ROW users exempted by the statutes of the state of Minnesota.*

**SEC. 32-6. DEFINITIONS.**

The following words, terms and phrases, as used herein, have the following meanings:

**Abandoned Facility** - (1) a facility no longer in service and physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service; or (2) a facility that is deemed abandoned by the ROW user.

**Applicant** – Any person or entity requesting permission to excavate or obstruct a ROW.

**City** - means the corporate municipality, its elected officials, its manager and/or appointed employees to include the Director of Public Works or his/her designee, City of Birchwood Village, Minnesota.

**City Management Costs** - the actual costs incurred by the City for public ROW management; including, but not limited to, costs associated with registering applicants seeking permission to excavate or obstruct a ROW; issuing, processing and verifying ROW permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting or moving user equipment during public ROW work; determining the adequacy of ROW restoration; restoring work inadequately performed after providing notice and opportunity to correct the work; mapping of "as built" locations of facilities located in ROW; and revoking ROW permits and performing all other functions required by this Article, including other costs the City may incur in managing the provisions of this Article.

**Degradation** – means a decrease in the useful life of the ROW caused by excavation in or disturbance of the ROW, resulting in the need to reconstruct such ROW earlier than would be required if the excavation or disturbance did not occur. This condition is only applicable in ROW's that are not included in the current 5-year street replacement plan scheduled for full removal and reconstruction.

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**Degradation Cost** – subject to Minnesota Rules 7819.1100 means the cost to achieve a

level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown on Birchwood Village plates 1 to 13, and set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

**Degradation Fee** – Means the estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the ROW caused by the excavation, and which equals the degradation cost. This fee does not include the cost of patching, which is the sole responsibility of the ROW user.

**Delay Penalty** - *In accordance with Minnesota Rule 7819.1000 subd. 3, the director shall impose a delay penalty for unreasonable delays in ROW excavation, obstruction, patching, or restoration by permittee. The delay penalty shall be proposed by the director and established from time to time by city council resolution.*

**Director** - the City's Director of Public Works or his/her designee.

**Emergency** - a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

**Emergency Hole** - excavation of a hole necessitated by a condition creating a clear and immediate threat to life, health, safety or property or requiring immediate repair or replacement in order to restore service to a customer.

**Engineer** – the City's Director of Public Works or his/her designee.

**Equipment** - any tangible asset used to install, repair or maintain facilities in any ROW.

**Excavate** - to dig into or in any way remove or physically disturb or penetrate any part of a ROW.

**Excavation Permit** - a permit which must be obtained before a person may excavate in a ROW.

An excavation permit allows the holder to excavate only in that part of the ROW described in the permit.

**Facility or Facilities** - any tangible asset in the ROW required to provide utility service.

*The term*

*does not include facilities to the extent the location and relocation of such facilities are preempted*

*by Minnesota Statute 161.45, governing utility facility placement in state trunk highways.*

**Franchise** – any person or entity with tangible assets or equipment in the ROW for the purpose of providing utility service to the general public having been previously approved by the city by written agreement, contract or by franchise ordinance.

**Hole** - an excavation having a length on the long side that is less than 2 times the dimension of the width of the excavation and that conforms to O.S.H.A. standards.

**Obstruct** - to place any tangible object in a public ROW so as to hinder free and open passage over that or any part of the ROW for an aggregate period of five (5) hours or more in conjunction with the issuance of a ROW permit.

**Obstruction Permit** - a permit which must be obtained before a person may obstruct a ROW, allowing the holder to hinder free and open passage over the specified portion of that ROW by placing equipment described therein on the ROW for the duration specified in the permit.

**Patch or Patching** - a method of pavement replacement that is considered temporary in nature. A patch consists of (1) the compaction of the sub base and aggregate base, and (2) the replacement in kind, to match the existing pavement per Birchwood Village Plates 1-13. A patch shall be considered “full restoration” only if the pavement is included in the City's five year project plan.

**Pavement Repair Plates** – Drawings and details for the reconstruction and repair of Birchwood Village ROW pavements (all types) that are herewith copied and adopted from the original thirteen (13) plates as suggested and provided by the Minnesota Public Utilities Commission and any supplemental additions as provided by the City of Birchwood Village.

**Permit Holder** - any person to whom a permit to excavate, obstruct, or place equipment or facilities in a ROW has been granted by the City under this Article.

**Person** – a private individual or authorized representative or agent of an entity subject to all laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

**Registrant** - any person or entity that digs, excavates, intrudes or has or seeks to have its facilities or equipment located in any ROW for temporary or permanent placement.

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**Restoration or “Full Restoration”** - the process by which the ROW and surrounding area, including pavement, foundation, and turf areas is returned to the same or better condition

and life

expectancy that existed immediately before excavation.

**Restoration Cost** - the amount of money paid to the City by a permit holder to have the city or its

designated contractor perform the work to achieve the required level of restoration according to

Birchwood Village plates 1 to 13, which are attached hereto and incorporated herein.

**ROW** – (Right-of-Way) - the area on, below, or above a public roadway, highway, street, cart way,

bicycle lane, and public sidewalk in which the City has an interest, including other dedicated ROW for

travel purposes and/or utility easements of the City.

**ROW Engineer** – that person or persons appointed, directed and empowered by the Director of

Public Works to administrate the management of the Office of the Right-of-Way Engineer and those

necessary responsibilities empowered by the City ROW Ordinance.

**ROW Permit** - either an excavation permit or obstruction permit, or both, depending on the context

required by this Article.

**ROW User** - (1) a telecommunications ROW user as defined by Minnesota Statutes, Section

237.162, subdivision 4; or (2) a person owning or controlling a facility in the public ROW that is used or is

intended to be used for providing utility service and who has a right under the law, franchise, or ordinance

to use the public ROW.

**Trench** - an excavation having a length that is in excess of two (2) times the width of the excavation for the sections of roadway where the work is occurring, including a directional bore.

**Utility or Utility Service** – means services provided by: (1) a public utility as defined in Minnesota

Statutes, *section 216B.02*; (2) *services of a telecommunications ROW user, including the*

*transporting of voice or data information*; (3) *services provided by a cable communications*

*system as defined in Minnesota Statutes, Chapter 238*; (4) *natural gas or electric energy or*

*telecommunications services provided by a local government unit*; (5) *services provided by a*

*cooperative electric association organized under Minnesota Statutes, chapter 308A*; *and* (6) water,

sewer, steam, cooling, heating services, community television antenna system, fire and alarm

communications, storm sewer, light, or power services including wind generation.

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**Wireless Telecommunication Facility** - a tangible asset used to provide wireless telecommunication or data services, including all antennas, support devices, equipment including ground equipment, associated cables, and attachments.

**SEC. 32-7. REGISTRATION.**

(a) **Registration Required Prior to Work.** No one shall construct, install, repair, remove, relocate or perform any work within any ROW without first being registered pursuant to this Section. Such registration shall be made on an application form provided by the City's Department of Public Works and shall be accompanied by the registration fee set forth in this Code. Registration and the accompanying fee shall be required each calendar year. A franchised service or utility service operating under this section shall be registered pursuant to this Section but need not annually provide registration information as required by subsection (c) of this Section if such information has been submitted pursuant to a franchise agreement or ordinance. Further, a franchised service or utility service operating pursuant to a franchise agreement or ordinance shall be exempt from payment of an annual registration fee providing said franchise fee has been paid per written agreement or ordinance. Exceptions to the registration requirements, as described in section 32-7, shall be determined at the discretion of the ROW Engineer.

(b) **Exceptions.** The following are not subject to the requirements of this Section:

- (1) Person or Persons planting or maintaining pre-approved boulevard surface plantings or gardens.
- (2) Person or Persons installing mail boxes or private sidewalk from street or curb to dwelling or commercial structure.
- (3) Person or Persons engaged in commercial or private snow removal activities.
- (4) Person or Persons installing street furnishings.
- (5) Person or Persons installing irrigation systems.
- (6) City of Little Canada\*
- (7) City of Birchwood Village
- (8) City of North Saint Paul\*
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- (9) City of Oakdale\*
- (10) City of Saint Paul\*
- (11) City of Woodbury\*
- (12) Board of Water Commissioners of the City of Saint Paul\*

(13) Persons acting as agents, contractors or subcontractors for a registrant who has properly registered in accordance with this Section.

\* See Appendix I

(c) **Registration Information.** The registrant shall provide the following at the time of registration and

shall promptly notify the City of changes in such information:

(1) Registrant's name, address, telephone number, facsimile number and Gopher One Call registration certificate number if required by state law.

(2) Name, address, telephone number and facsimile number of the person responsible for fulfilling the obligations of the registrant.

(3) Unless exempted by previous or existing agreements or ordinance, a current Certificate of

Insurance from a company licensed to do business in the State of Minnesota providing minimum coverage in the following amounts:

**GENERAL LIABILITY:**

Public Liability, including premises, products and complete operations

Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence

Property Damage Liability - \$3,000,000 each occurrence

In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit

**COMPREHENSIVE:**

Automobile Liability Insurance, including owned, non-owned and hired vehicles.

Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence

Property Damage Liability - \$3,000,000 each occurrence

In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit

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Such certificate shall verify that the registrant is insured against claims for personal injury,

including death, as well as claims for property damage arising out of the (i) use and occupancy of the ROW by the registrant, its officers, agents, employees and permit holders,

and (ii) placement and use of equipment or facilities in the ROW by the registrant, its officers, agents, employees and permit holders, including but not limited to, protection against liability arising from completed operations, damage of underground equipment and

collapse of property. Such certificate shall also name the City as an additional insured as to

whom the coverage required herein are in force and applicable and for whom defense will be

provided as to all such coverage. Such certificate shall require that the City be notified thirty

(30) days prior to cancellation of the policy.

(4) A 24 hour emergency number.

(5) An acknowledgment by the registrant of the indemnification pursuant to this Code.

(6) Such additional information as the City may require.

**SEC. 32-8. FRANCHISE REPORTING OBLIGATIONS.**

Each franchise registrant shall, at the time of registration and not later than November 1st of the

preceding year, file a proposed construction and major maintenance plan for underground facilities

with the City. Such plan shall be submitted using a format designated by the City and shall contain

the information determined by the City to be necessary to facilitate construction coordination and

reduction in the frequency of excavations and obstructions of ROW.

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

(a) To the extent known, the locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year; and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year.

The City will have available for inspection in the Engineer's office a composite list of all known or

planned projects that have been adopted for the next calendar year. All registrants are responsible

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for keeping themselves informed of the current status of this improvement list. Each franchise

registrant must notify the City immediately of any change in its list of planned projects.

**SEC. 32-9. PERMIT REQUIREMENT.**

(a) **Permit Required.**

No person may obstruct or excavate any ROW without first having been issued the appropriate

ROW permit pursuant to this Section, except as otherwise provided in this Code.

Exceptions to the

permitting requirements, as described in section 32-9, shall be made at the discretion of the ROW

Engineer.

(1) **Excavation Permit.** An excavation permit is required by the registrant to excavate that part

of the ROW described in each permit that may hinder free and open passage over the specified portion of the ROW when placing or repairing facilities therein, to the extent

and for

the duration specified in the permit.

(2) **Obstruction/Aerial/Interduct Permit.** An obstruction/aerial/interduct permit is required by a

registrant if the work proposed may hinder free and open passage over the specified portion

of ROW by placing or repairing equipment described therein within the ROW, to the extent

and for the duration specified in the permit. An obstruction/aerial/interduct permit is not

required if a registrant has been issued a valid excavation permit for the same project.

(3) **Pole Attachment Permit.** A pole attachment permit is required by the registrant in order to

attach a wireless telecommunication facility to an existing public utility structure in the public

ROW. A pole attachment permit is not required if a registrant has been issued a valid excavation permit for the same project.

(b) **Permit Extension.** No person may excavate or obstruct the ROW beyond the date or dates

specified in the permit or do any work outside the area specified in the permit unless such person

makes a supplementary application before the expiration of the permit. Payment of all fees for an

extension of the permit is required before extension may be granted by the City;

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If the work could not be completed because of circumstances beyond the control of the permit

holder or the work was delayed or prohibited by unseasonable or unreasonable conditions, the City

may grant and extend the completion date of the work.

(c) **Delay Penalty.** Notwithstanding Subsection (b) of this Section, the City may impose a delay

penalty where excavating or obstruction work in the ROW is not completed within the time specified

if no permit extension application has been made prior to the expiration date of the permit. A delay

penalty will not be imposed if the delay is due to circumstances beyond the control of the applicant,

including without limitation inclement weather, acts of God, or civil strife.

(d) **Application and Fee.** An application for a ROW permit shall be made on forms provided by the

City and shall be accompanied by a fee as set forth in this Code established to reimburse the City

for costs. A person who pays a franchise fee to the City in accordance with a franchise agreement

shall be exempt from the payment of permit fees. If the work is to be performed by an agent,

contractor, or subcontractor on behalf of the registrant, such application shall be signed by the

registrant. The application shall also be accompanied by the following:

(1) Scaled drawings showing the location of all known existing facilities and improvements

proposed by the applicant. The applicant will be requested to submit in English

measurement two (2) paper copies at 1" = 50' scale plans at the smallest and/or one (1)

copy in Auto CAD format (Washington County Coordinate system) with X, Y, Z

dimensions to 1

foot accuracy electronic plan. All plans must be dimensional and show existing utilities, curb

and gutter, sidewalks, bikeways, signal poles, driveways, boxes, relevant structures, property lines and corners and property addresses.

(2) A description of the methods that will be used for installation.

(3) A proposed schedule for all work.

(4) The location of any public streets, sidewalks or alleys that will be temporarily closed to traffic

during the work and proposed detour route with appropriate signage.

(5) A description of methods for restoring any public improvements disrupted by the work.

(6) Any other information reasonably required by the City.

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(e) **Security.** A performance bond and cash deposit in an amount determined by the City shall be

required from each applicant. The applicant, at its option, may post security sufficient to cover all

projects contemplated for the current calendar year. The performance bond must be approved by

the City Attorney. Security required pursuant to this Subsection shall be conditioned that the holder

will perform the work in accordance with this Article and applicable regulations and will pay to the

City any costs incurred by the City in performing work pursuant to this Article. Said conditions will

indemnify and save the City and its officers, agents and employees harmless against any and all

claims, judgment or other costs arising from any excavation and related work covered by the ROW

permit. And to include further indemnification by reason of any accident or injury to persons or

property through the fault of the permit holder, either for improperly fencing and guarding the

excavation or for any other injury resulting from the negligence or willful actions of the permit

holder. The bond or any unused portions of a cash deposit shall be released by the City upon

completion of the work and compliance with all conditions imposed by the ROW permit. For

permits allowing excavations within public streets, such bond or unused part of a cash deposit shall

be held for a period of twenty-four (24) months to guaranty adequacy of all restoration work.

(f) **Permit Issuances; Conditions.** The City shall grant a ROW permit upon finding the work will

comply with the requirements of this Article. The City may impose reasonable conditions

upon the issuance of the permit and the performance of the applicant there under to protect the public health, safety and welfare, to insure the structural integrity of the ROW, to insure completion of restoration of the ROW within a specified period, to protect the property and safety of other users of the ROW and to minimize the disruption and inconvenience to the traveling public. If it is determined by the Office of the ROW Engineer that the proposed ROW intrusion or use is not in the best interest of the city and no agreement or alternative compromise solution is feasible, the applicant may appeal the Engineers decision to the Director of Public Works. Should the issue there remain un-resolved, the applicant may then request to address the case before the Birchwood Village City Council for final disposition. If the applicant's ROW permit application is terminated at any given level, the city may at its discretion, elect to grant a partial refund of fees that may have been paid but shall not disburse any part of the basic Registration Fee or more than 50% of the Administrative Fees.

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No ROW permit shall be issued to any person who has failed to register pursuant to this code.

(g) **Dumpsters/Portable-on-Demand-Storage (POD) Units.** The placement of dumpsters or POD units in the street portion of the ROW is not allowed. Dumpsters or POD units may be placed within the boulevard or driveway portions of the ROW provided that they do not obstruct pedestrian traffic along sidewalks or trails and the boulevard is restored to previous conditions. In extraordinary circumstances, the City Right of Way Engineer may make exceptions to this provision and applicant shall be subject to the permitting and fee requirements of this ordinance.

(h) **Exceptions.** No permit shall be required for the following:

- (1) Approved surface landscaping work.
- (2) Approved private sidewalks, street furnishings, posts and pillars.
- (3) Snow removal activities.
- (4) Irrigation systems provided that the system does not connect directly to water mains in the ROW installed at the property owner risk.
- (5) Activities of the City of Birchwood Village.
- (6) If granted approval by the city, piercing or drilling a street or sidewalk/trail pavement for the purpose of exploratory examination or utility depth determination.

**SEC. 32-10. TIMELINESS OF WORK.**

The work to be done under the ROW permit and the patching and restoration of the ROW as required herein, must be completed within the dates specified in the permit. It may be increased by as many days as work could not be done because of circumstances beyond the control of the permit holder or when work was prohibited as unseasonable or unreasonable.

**SEC. 32-11. STANDARDS FOR CONSTRUCTION OR INSTALLATION.**

(a) **General Standards.** The permit holder shall comply with the following standards, to the extent consistent with applicable Minnesota rules, when performing the work authorized under the permit:

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(1) Take such precautions as are necessary to avoid creating unsanitary or unsafe conditions.

Observe and comply with all laws, rules and regulations of the State and local governments.

(2) Conduct the operations and perform the work in a manner as to insure the least obstruction to and interference with traffic.

(3) Take adequate precautions to insure the safety of the general public and those who require access to abutting property.

(4) Notify adjoining property owners prior to commencement of work which may disrupt the use of and access to such adjoining properties.

(5) Comply with the Minnesota Manual of Uniform Traffic Control Devices at all times during construction or installation.

(6) Exercise precaution at all times for the protection of persons, including employees and property.

(7) Protect and identify excavations and work operations with barricade flags and if required, by flagmen in the daytime and by warning lights at night.

(8) Provide proper trench protection as required by O.S.H.A..

(9) Protect the root growth of trees and shrubbery.

(10) Where possible, provide for space in the installation area for other telecommunication ROW users and companies which install facilities in public ROW.

(11) Maintain maximum access to all properties and cross streets as possible during construction operations and maintain emergency vehicle access at all times.

(12) Maintain planned alignment and grade unless otherwise authorized by the City. Field changes not approved by the City will require removal and reconstruction.

(13) During trenching of facilities, a warning tape must be placed at a depth of twelve (12) inches

above all copper cables with over two hundred (200) pairs and above any fiber facilities.

(14) Beneath concrete or bituminous paved road surfaces, directional bore facilities shall be

installed in conduit of a type approved by the city.

14

(15) The placing of all telecommunications facilities must comply with the National Electric Safety

Code, as incorporated by reference in Minn. Stat. Sec. 326.243.

(16) Locate all property lines near ROW lines and replace any disturbed property corner markers

or judicial monuments. ***A Minnesota licensed surveyor must be used in the replacement of disturbed property corners markers or judicial monuments.***

(17) Excavations, trenches and jacking pits off the roadway or adjacent to the roadway or curbing

shall be sheathed and braced depending upon location and soil stability and as directed by the City.

(18) Excavating, trenches and jacking pits shall be protected when unattended to prevent entrance of surface drainage.

(19) All backfilling materials must be placed in 6 inch lifts (maximum) at optimum moisture and

compacted with the objective of attaining ninety-five percent (95%) of Standard Proctor Density. Compaction shall be accomplished with hand, pneumatic or vibrating compactors

as appropriate.

(20) Backfill material shall be subject to the approval of the City. The City may permit backfilling with the material from the excavation provided such material is granular in nature and acceptable to the City.

(21) Compacted backfill shall be brought to bottom of the gravel of the approved street section.

(22) All work performed in the ROW shall be done in conformance with Birchwood Village Plates 1 to 13, unless a less stringent standard is approved by the City.

(23) Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.

(24) No road surface damaging lugs, cleats or equipment may be used or driven upon paved city street surfaces.

(25) Dirt, trash or other debris must be periodically removed during construction

(26) Other reasonable standards and requirements of the City.

**(b) Standards for Installation of Underground Utilities.** The permit holder shall comply with the following standards when installing facilities underground:

- (1) Underground facilities must be placed as far off the roadway as possible to provide access from outside of the paved area.
- (2) Buried fiber facilities shall be at a minimum depth of three (3) feet and a maximum depth of four (4) feet unless an alternate location is approved by the City. Buried copper facilities beneath concrete or bituminous paved road surfaces must be placed at no less than three (3) feet but no more than four (4) feet deep. Other buried copper facilities must be placed at a minimum depth of thirty (30) inches and a maximum depth of four (4) feet.
- (3) Crossing of streets and hard surfaced driveways shall be directional bored unless otherwise approved by the City.
- (4) If construction is open cut, the permit holder must install the visual tracers approximately twelve (12) inches above buried facilities. If other construction methods are used, substitute location methods will be considered.
- (5) The permit holder shall register with Gopher State One Call and comply with the requirements of that system.
- (6) Compaction in trench backfill material shall be ninety-five percent (95%) of the standard proctor density and copies of test results shall be submitted to the City. All tests and their locations shall be determined by the City. Tests must be conducted by an independent testing firm approved by the City. Street pavement replacement will not be permitted until sub-base densities are approved by the city. Testing shall be required at the discretion of the ROW engineer. Street Pavement structure and materials shall be as specified by the city and re-paved in accordance with Birchwood Village plates 1-13. All pavement replacement shall be done in the presence of a City inspector with certified pavement material to City specifications.
- (7) The facilities shall be located so as to avoid traffic signals and signs which are generally placed a minimum of five (5) feet behind the curb.
- (8) When utilizing trenchless installation methods to cross an area in which a municipal utility is located, and/or when directed by the City, the permit holder shall excavate an observation hole over the utility to ensure that the City utility is not damaged. Observation holes shall not be backfilled until viewed and approved by the city ROW Inspector.
- (9) All junction boxes or access points shall be located no closer than ten (10) feet from municipal fire hydrants, valves, manholes, lift stations or catch basins unless an alternate location is approved by the City.

(10) Underground facilities shall not be installed between a hydrant and an auxiliary valve.

(11) Underground facilities shall not be installed within five (5) feet of hydrants, valves, lift stations or manholes in areas where utility easements exist beyond the ROW. In those areas in which no utility easement exists, placement of an underground facility shall be between the edge of pavement and no closer than three (3) feet to an existing municipal utility appurtenance unless approved by the City.

(12) In areas where an extensive effort to determine the location of municipal utility lines will be required to accommodate the installation of private facilities, the City's representative for Gopher State One Call must be contacted by the permit holder two (2) weeks prior to the beginning of the work to schedule meetings.

(13) Buried telecommunication facilities must have a locating wire or conductive shield, except for di-electric cables.

(14) Buried fiber facilities must be placed in a conduit of a type determined by the ROW user unless the permit holder obtains a waiver from the City.

(15) The standards set forth in the Standards of Installation of Water Mains required by the Board of Water Commissioners of the City of Saint. Paul.

(c) **Standards for Installation of Overhead Facilities.** The permit holder shall comply with the following standards when installing facilities overhead:

(1) All wires must be in compliance with the National Electric Safety Code and at a location that does not interfere with traffic signals, overhead signs, or street lights.

(d) **Standards for Wireless Telecommunication Facilities.**

(1) **Purpose.** The City of Birchwood Village desires high quality wireless communication services to accommodate the needs of residents and businesses. At the same time, the City strives to minimize the negative impacts that wireless telecommunication facilities can have on aesthetics and public safety. Due to the many services that must be delivered within its limited area, the City also strives to avoid unnecessary encumbrances within the public ROW. The City allows and regulates wireless telecommunication facilities outside of the public ROW through performance standards and height limits. The purpose of this Section is to regulate wireless telecommunication facilities within the public ROW in a manner that balances desire for service with aesthetic, public safety, and ROW flexibility concerns.

Public ROW are appropriate locations for wireless telecommunication facilities that present minimal impacts (i.e. small pole attachments that do not require new poles, do not require pole extensions, and do not have associated ground mounted equipment). Wireless telecommunication facilities that require greater heights than can be afforded by

existing poles in the public ROW and that require ground mounted equipment are more appropriately sited outside the public ROW in accordance with adopted performance standards of this Code. However, the City recognizes that as wireless technology advances, some residential areas of the City may be hard to serve with wireless technology due to the lack of acceptable siting alternatives in the immediate vicinity. In such areas, where no alternative non-ROW locations are available, wireless telecommunication facilities that require pole extensions and ground equipment will be allowed in the public ROW subject to the requirements of this Section which are meant to protect the public health, safety, and welfare.

**(2) Wireless Telecommunication Facilities as Pole Attachments.** Wireless telecommunication facilities that comply with the following requirements may be attached to existing public utility structures within the ROW after issuance of a pole attachment permit.

(A) The wireless telecommunication facility shall not extend above the top of the existing public utility structure and the height of the existing public utility structure shall not be increased to accommodate the wireless telecommunication facility.

(B) If the public utility structure must be replaced to structurally accommodate the wireless telecommunication facility, the replacement public utility structure height shall not exceed the existing public utility structure height and the replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than 50 percent.

(C) The wireless telecommunication facility shall not be larger than three (3) cubic feet and shall have no individual surface larger than four (4) square feet.

(D) The wireless telecommunication facility shall not extend outward from the existing pole or tower or arm thereof by more than two and one half (2 1/2) feet, except that an antenna one half inch in diameter or less may extend an additional six inches.

(E) The wireless telecommunication facility shall include no ground mounted equipment.

(F) The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Code.

(G) Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Article.

(H) The wireless telecommunication facility shall not block light emanating from the public utility structure and shall not otherwise interfere with the original use of the public utility structure.

**(3) Wireless Telecommunication Facilities as Pole Extensions or with Ground Mounted Equipment.** Wireless telecommunication facilities that require increased

public utility structure height or that have ground mounted equipment may be erected in the public ROW only when in compliance with the following provisions and after issuance of a pole attachment permit or excavation permit:

(A) The applicant shall demonstrate to the satisfaction of the City or his/her designee that the wireless telecommunication facility cannot be placed in a Code complying location outside the ROW within one quarter (1/4) mile of the proposed location.

(B) The replacement public utility structure, including lightning rods and all other attachments, shall not exceed the height of the existing public utility structure by more than fifteen (15) feet. Once the height of a public utility structure has been increased under the provisions of this Section, the height shall not be further increased.

(C) The replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than fifty (50) percent.

(D) The wireless telecommunication facility shall not extend outward from the public utility structure by more than two (2) feet.

(E) If feasible and desirable, as determined by the City, the replacement public utility structure shall match the original and surrounding public utility structures in materials and color.

(F) The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Code.

(G) A pole attachment or excavation permit for a wireless telecommunication facility that has ground mounted equipment will be issued only if the Issuing Authority finds the following:

(i) the ground mounted equipment will not disrupt traffic or pedestrian circulation;

(ii) the ground mounted equipment will not create a safety hazard;

(iii) the location of the ground mounted equipment minimizes impacts on adjacent property; and,

(iv) the ground mounted equipment will not adversely impact the health, safety, or welfare of the community.

(H) Ground mounted equipment associated with the wireless telecommunication facility shall meet the following performance standards:

(i) be set back a minimum of ten (10) feet from the edge of street or curb line;

(ii) be separated from a sidewalk by a minimum of three (3) feet;

(iii) be set back a minimum of fifty (50) feet from the nearest intersecting ROW line;

(iv) be separated from the nearest ground mounted wireless telecommunication equipment installation on the same block face by a minimum of 330 feet unless the equipment is placed underground;

(v) if located adjacent to residential uses, ground mounted equipment shall be limited to three (3) feet in height above grade and twenty seven (27) cubic feet in cumulative size;

(vi) if located adjacent to non-residential uses, ground mounted equipment shall be limited to five (5) feet in height above grade and eighty-one (81) cubic feet in cumulative size;

(vii) ground mounted equipment located outside the public ROW shall conform to the requirements of this Code.

(viii) vegetative or other screening compatible with the surrounding area shall be provided around the ground mounted equipment if deemed necessary by the City.

(I) Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Article.

(4) **New Poles.** The construction in the ROW of a new pole to support wireless telecommunication facilities is not allowed, except as a replacement of an existing public utility structure subject to the requirements of this Section.

(5) **Charges.** In addition to the permit fees outlined in this Code, the City reserves the right to charge telecommunication providers for their use of the public ROW to the extent that such charges are allowed under state law. Telecommunication providers shall be responsible for payment of property taxes attributable to their equipment in the public ROW.

## **SEC. 32-12. PATCHING OR FULL RESTORATION OF ROW.**

The permit holder shall patch its own work. In lieu of ROW restoration, a ROW user may elect to pay a degradation fee as determined by the City.

(a) **City Restoration.** If the City restores the ROW, the permit holder shall pay the costs thereof within thirty (30) days of billing. If, during the twenty-four (24) months following such surface restoration, the pavement settles due to the permit holder's improper backfilling and compaction, the permit holder shall pay to the City, within thirty (30) days of billing, all costs associated with having to correct the defective work.

(b) **Permit Holder Restoration.** If the permit holder restores the ROW, it shall at the

time of application for a ROW permit post a performance bond or cash deposit in an amount determined by the City to be sufficient to cover the cost of restoration and any associated erosion and sediment control measures. The performance bond or cash deposit must be approved by the City Attorney. If, within twenty-four (24) months after completion of restoration of the ROW, the City determines the ROW has been properly restored, the posted security will be released.

(c) **Standards.** The permit holder shall perform patching and restoration according to the Birchwood Village standards specified in Plates 1 to 13, which are attached hereto and incorporated herein.

(d) **Guarantees.** If the permit holder performs the restoration work, the permit holder shall guarantee such work and its maintenance for twenty-four (24) months following its completion. During this twenty-four (24) month period it shall, upon notification from the City, promptly and within 7 working days from receipt of notification, correct all faulty restoration work to the extent necessary, using the method required by the City.

#### **SEC. 32-13. JOINT APPLICATIONS.**

(a) **Joint Application.** Registrants may jointly apply for permits to excavate or obstruct the ROW at the same place and time.

(b) **Shared Fees.** Registrants who apply for permits for the same obstruction or excavation may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

#### **SEC. 32-14. OTHER OBLIGATIONS.**

(a) **Compliance With Other Laws.** The permit holder must obtain all other necessary permits, licenses and approvals and pay all fees required. The permit holder shall comply with all requirements of local, state and federal laws, including Minn. Stat. Secs. 216D.01-.09 ("One Call Excavation Notice System"). A permit holder shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the ROW pursuant to its permit, regardless of who does the work.

(b) **Prohibited Work.** Except in an emergency, and with the approval of the City, no ROW excavation or obstruction may be done when seasonally prohibited or when conditions are unreasonable for such work.

(c) **Interference with ROW.** A permit holder shall not so obstruct a ROW that the natural free and clear passage of water through the gutters or other waterways shall be interfered with.

#### **SEC. 32-15. DENIAL OF PERMIT.**

The City may deny a permit based on any of the following grounds:

- (a) Failure to register pursuant to requirements of this Code.
- (b) The applicant is subject to revocation of a prior permit issued pursuant to this Article.
- (c) The proposed schedule for work would conflict or interfere with an exhibition, celebration, festival or any other similar event.
- (d) The proposed schedule conflicts with scheduled or total or partial reconstruction of the ROW.
- (e) The applicant fails to comply with the requirements of this Article or other provisions of this Code.
- (f) The City determines that denial is necessary to protect the health, safety and welfare of the public or protect the ROW and its current use.

**SEC. 32-16. EMERGENCIES AND WORK DONE WITHOUT A PERMIT.**

Each registrant shall immediately notify the City and all other affected parties or property owners of any event regarding its facilities, which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. If the registrant has not been issued the required permit, the registrant shall, within two (2) business days after the occurrence of the emergency, apply for the necessary permits, pay the permit fees (where necessary) and fulfill the remaining requirements necessary to bring itself into compliance with this Article for the actions it took in response to the emergency.

If the City becomes aware of an emergency regarding a registrant's facilities, the City shall attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The City may take whatever action deemed necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a ROW must subsequently obtain a permit and (where appropriate) as a penalty, pay twice the normal fee for the permit and shall deposit with the City the fees determined to correct any damage to the ROW.

**SEC. 32-17. INSPECTION.**

- (a) **Site Inspection.** The permit holder shall make the work site available to the City and to all others authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

**(b) Authority of City**

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

(2) The City may issue a stop work order to the permit holder for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation within a stated deadline will be cause for revocation of the permit. If the violation is not corrected within the stated deadline, the City may revoke the permit.

**SEC. 32-18. REVOCATION OF PERMITS.**

(a) **Substantial Breach.** The City may revoke a ROW permit, without a fee refund, if there is a substantial breach of the terms or conditions of any statute, this Code, rule or regulation, or any condition of the permit. A substantial breach of a permit holder shall include, but not limited to, the following:

(1) The violation of any material provision of the permit.

(2) Any material misrepresentation of fact in the application for a permit.

(3) The failure to maintain the required bonds or other security and insurance.

(4) The failure to complete the work in a timely manner.

(5) The failure to correct, in a timely manner, work that does not conform to applicable standards, conditions or codes, upon inspection and notification by the City of the faulty condition.

(6) An evasion or attempt to evade any material provision of the ROW permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens.

(7) The failure to comply with the terms and conditions of any applicable federal, state and local laws, rules and regulations, including any provision of this Article.

(b) **Notice of Breach.** If the City determines that a permit holder has committed a substantial breach of a term or condition of any statute, this Code, rule or regulation or any condition of the permit, the City shall make a written demand upon the permit holder to remedy such violation within a reasonable period of time or be subject to potential revocation of the permit. The City may impose additional or revised conditions on the permit to mitigate or remedy the breach.

(c) **Reimbursement of City Costs.** If a permit is revoked, the permit holder shall reimburse the City for its reasonable costs, including restoration costs and the costs of

collection and reasonable attorney fees incurred in connection with the revocation.

**SEC. 32-19. APPEAL.**

(a) **Filing of Appeal.** Any person aggrieved by, (i) the denial of a permit application; (ii) the denial of a registration; (iii) the revocation of a permit, or (iv) the application of the fee schedule imposed by this Code, may appeal to the City Council by filing a written notice of appeal with the City Clerk. Said notice must be filed within twenty (20) days of the action causing the appeal.

(b) **Notice of Hearing.** The City Council shall hear the appeal at its next regularly scheduled meeting, unless the time is extended by agreement of the parties. Notice of the date, time, place and purpose of the hearing shall be mailed to the appellant.

(c) **Hearing and Decision.** The City Council shall, at the hearing, consider any evidence offered by the appellant, the City and any other person wishing to be heard. The Council shall issue a written decision within thirty (30) days of the completion of the hearing.

**SEC. 32-20. MAPPING DATA.**

(a) **Information Required.** Each registrant shall provide mapping as required by the City and which shall include the following information:

(1) Location and approximate depth of registrant's mains, cables, conduits, switches and related equipment and facilities, with the location based on:

- (A) offsets from property lines, distances from the centerline of the public ROW and curb lines as determined by the City; or
- (B) Washington County Coordinate System; or
- (C) Any other system agreed upon by the ROW user and the City;

(2) The type and size of the utility;

(3) A description showing above-ground appurtenances;

(4) A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and

(5) Any facilities to be abandoned, if applicable, in conformance with Minnesota Statutes, Section 216D.04, subdivision 3.

(b) **Submittal Requirement.**

(1) Within two (2) years after the effective date of this ordinance, all telecommunication ROW users shall submit comprehensive detailed maps, if available, in accordance with Subsection (a) of this Section, for all facilities and equipment installed, used or abandoned within the public ROW.

(2) Subsequent to providing the required comprehensive facility map, interim mapping data shall be submitted by all registrants for all equipment and facilities which are to be installed or constructed after the effective date of this ordinance at such time as permits are sought pursuant to this ordinance.

(c) **Trade Secret Information.** At the request of any registrant, information requested by the City which qualifies as "trade secret" data under Minnesota Statutes, Sec. 13.37(b) shall be treated as trade secret information as detailed therein.

#### **SEC. 32-21. RELOCATION OF FACILITIES.**

A ROW user shall promptly and at its own expense, with due regard for seasonal working conditions, remove and relocate its' facilities in the ROW when it is necessary to prevent interference or obstruction, but not merely for the convenience of the City, in connection with: (1) a present or future City use of the ROW for a public project or facility, (2) the public health or safety; or (3) the safety and convenience of travel over the ROW. The registrant shall restore any ROW to the condition it was in prior to removal and relocation.

#### **SEC. 32-22. DAMAGE TO OTHER FACILITIES.**

When the City does work in the ROW and finds it necessary to maintain, support, or move registrant's facilities to protect it, the City shall notify the registrant as soon as possible. The costs associated therewith shall be billed to the registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the ROW which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

#### **SEC. 32-23. ROW VACATION.**

(a) **Reservation of Right.** If the City vacates a ROW which contains the equipment or facilities of a registrant or permit holder, and if the vacation does not require the relocation of the registrant's or permit holder's equipment or facilities, the City shall reserve, to and for itself and all registrants or permit holders having equipment and facilities in the vacated ROW, the right to install, maintain and operate any equipment and facilities in the vacated ROW and to enter upon such ROW at any time for the purpose of reconstruction, inspecting, maintaining or repairing the same.

(b) **Relocation of Facilities.** If the vacation requires the relocation of the registrant's or permit holder's equipment or facilities; and (i) if the vacation proceedings are initiated by the registrant or permit holder, the registrant or permit holder must pay the relocation costs; or (ii) if the vacation proceedings are initiated by the City, the registrant or permit holder must pay the relocation costs unless otherwise agreed to by the City and the

registrant or permit holder; or (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or permit holder, such person or persons must pay the relocation costs.

#### **SEC. 32-24. ABANDONED AND UNUSABLE EQUIPMENT AND FACILITIES.**

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

(b) **Removal of Abandoned Facilities.** *Any registrant who has abandoned facilities in any ROW shall remove it from that ROW to the extent such facilities interfere with another ROW repair, excavation, or construction, unless this requirement is waived by the City.*

#### **SEC. 32-25. INDEMNIFICATION AND LIABILITY.**

By registering with the City or by accepting a permit granted under this Article, a registrant or permit holder agrees as follows:

(a) **Limitation of Liability.** By reason of the acceptance of a registration or the grant of a ROW permit, the City does not assume any liability (i) for injuries to persons, damage to property or loss of service claims by parties other than the registrant or the City, or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permit holders or activities of registrants or permit holders.

(b) **Indemnification.** A registrant or permit holder shall indemnify, keep and hold the City, its officials, employees and agents, free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a ROW, whether or not any act or omission complained of is authorized, allowed or prohibited by a ROW permit. The foregoing does not indemnify the City for its own negligence except for claims arising out of or alleging the City's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permit holder or the City, and the registrant or permit holder, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert on its own behalf. If the registrant or permit holder is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permit holder may not settle the litigation without the consent of the City. Such consent will not be unreasonably withheld.

#### **SEC. 32-26. FRANCHISE HOLDERS.**

If there is a conflict in language between the franchise of a person holding a franchise

agreement with the City or the Water Service Agreement with the City and this Article, the terms of the franchise or Water Service agreement shall prevail.

**SEC. 32-27. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

*APPENDIX I*

*ESSENTIAL MUNICIPAL SERVICES*

Special conditions and provisions to regulate and control ROW intrusions by essential service providers for which previous agreements or ordinances have been enacted and approved by the City in concurrence with the respective service providers.

**INDEX**

**Participating Municipal Provider:**  
City of Oakdale

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Trilby White, City Council Member  
SUBJECT: City Hall Air Conditioning



**Birchwood Village**

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Fellow council members,

In June, we authorized Tobin to spend up to \$1,000 to purchase and install a permanent air conditioning unit in the cable room. We also discussed the possibility of cooling the council chambers at that time.

As the council member over city buildings, I have taken this project on to help the office out. I have invited three (3) contractors to bid on this project. *Bids will be provided during the council meeting as they are not yet ready.*

It is highly unlikely that the city can cool both the cable room and the council chambers with a permanent solution for under \$1,000. Cooling the council chambers is an important priority for council to approve at this time. I've spoken with Tobin about this and he agrees.

Expecting council members and residents to suffer long hours in an overheated council chambers is not wise as it impacts both the health and morale of those in attendance.

Furthermore, in obtaining these bids, we've discovered that adding a cooling solution to the council chambers could also include a supplemental heating source during the winter that would be effective down to -5 degrees F. That means no more freezing during the winter meetings as well!

Tobin informed me that the city has received a large payment from the cable commission recently and also has a large budget with the SCC for cable related equipment. These funds would be more than adequate to cover the cost of cooling both the cable room and council chambers at this time.

## **My Motion**

I move that the council:

- 1) Approve adding the cooling of the Council chambers to the already approved air conditioning project;
- 2) Approve an increase to the budget of this project that aligns with the bids received; and
- 3) Authorize me and Tobin to select a winning bidder for this project.

Trilby

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Comp Plan Update – Vision Statement



**Birchwood Village**

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Dear Mayor and Council Members,

Earlier in the season, the Planning Commission requested input from the City Council on a vision for Birchwood. The City Council held a Town Hall meeting in July with a focus on discussing the vision for Birchwood. Many residents attended that meeting and offered input.

Enclosed is a vision statement written by Bridget Sperl (Comp Plan volunteer) that summarizes the feedback from the town hall meeting.

### **Request/Recommendation**

Staff requests Council:

- 1) Discuss the vision statement as enclosed;
- 2) Agree upon any changes/additions to the vision statement for further review and deliberation by the Planning Commission.

Thanks!

Regards,  
Tobin Lay

## City of Birchwood Village Mission, Vision, Guiding Principles

The Birchwood City Council is in the process of updating the comprehensive plan. To guide the development of the plan and our vision for Birchwood Village, the Council is proposing a mission statement, a vision statement and a set of guiding principles to guide us in this work and the governing of Birchwood.

### **Birchwood's Mission Statement:**

To provide quality public services in a fiscally responsible manner while preserving the city's natural environment and reinforcing a safe and friendly neighborhood.

### **Birchwood's Vision Statement:**

Birchwood Village commits to building on its small town, close community heritage, while enhancing a high quality of life for its citizens. We pledge to work in collaboration with our residents to foster pride, to preserve and enhance our natural environment and reinforce our safe and friendly neighborhood.

### **Birchwood's Guiding Principles:**

Ethics and Integrity We believe that ethics and integrity are the foundation of public trust and confidence and that all meaningful relationships are built on these values.

Excellence and Quality in the Delivery of Services We believe that service to our residents is our reason for being and commit to delivering services in a professional, cost-effective, and efficient manner.

Fiscal Responsibility We believe that fiscal responsibility, prudent stewardship of public funds and full fiscal transparency are essential for citizen confidence in government.

Open, Honest, Consumable Communication We believe that open, honest, consumable communication is paramount for an involved citizenry.

Respect for the Individual We believe that citizens of Birchwood are to be treated with the utmost respect and deserve the best treatment the city can provide.

Community Building We believe in the preservation and development of our community through two way communication, community events and gatherings and creating and maintaining open spaces that are safe and accessible for all our citizens.

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Schedule Budget Workshop



**Birchwood Village**

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Dear Mayor and Council Members,

The 2018 preliminary budget needs to be approved during the September City Council meeting. Accordingly, Council and staff should meet prior to the September City Council meeting to discuss the budget in detail.

### **Request/Recommendation**

Staff recommends the Council and staff schedule a budget workshop for September 12, 6:00pm, just before the Regular City Council meeting. If this date/time is not acceptable, staff requests Council select a date/time during tonight's meeting. Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Sheriff Report



**Birchwood Village**

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Dear Mayor and Council Members,

Here is the Sheriff Report for the period July 1-31, 2017:

Date	Time	ICR #	ID#	Street Name	Complaint
7/02/17	19:01:30	117022837	0074	WILDWOOD AV	ALARM
7/03/17	10:45:33	117022938	0178	BIRCHWOOD CT	DAMAGE TO PROPERTY
7/04/17	1:52:53	117023085	1264	WILDWOOD AV	CRIME PREVENTION: OPEN SHED/GA
7/04/17	9:22:37	117023103	0178	CITY OF BIRCHWO	PUBLIC ASSIST
7/09/17	10:22:35	117023836	0178	HALL AV	DIRECTED PATROL-STOP SIGN/SPEE
7/09/17	19:08:49	117023890	0074	WILDWOOD AV	MEDICAL LEVEL 1 (3RD PARTY)
7/10/17	19:30:17	117024052	0170	BIRCHWOOD CT	OFFICER INFORMATION
7/11/17	16:58:04	117024185	0091	OAKVIEW CT	SUSPICIOUS ACTIVITY *RESTA
7/11/17	20:50:06	117024218	1253	CEDAR ST	ROAD HAZARD
7/12/17	14:41:29	117024391	1208	BIRCHWOOD	PUBLIC ASSIST
7/13/17	7:45:19	117024489	1253	LAKE AV	SUSPICIOUS ACTIVITY
7/15/17	16:36:42	117024848	0118	HALL AV	TREE DOWN
7/16/17	10:05:25	117024934	0088	WILDWOOD AV	THEFT FROM A MOTOR VEHICLE
7/16/17	14:06:27	117024971	0178	HALL AV	DIRECTED PATROL-STOP SIGN
7/17/17	16:59:37	117025140	0084	WILDWOOD AV	TAMPERING WITH MOTOR VEHICLE
7/18/17	13:21:49	117025242	0178	LAKE AV	FOUND PROPERTY
7/18/17	22:04:54	117025326	0076	WILDWOOD AV	SUSPICIOUS ACTIVITY
7/19/17	9:21:34	117025369	0178	LAKE AV	TFMV
7/19/17	13:26:56	117025417	0178	BIRCHWOOD CT	PUBLIC ASSIST
7/19/17	16:14:29	117025439	1253	WILDWOOD AV	NEIGHBOR COMPLAINT
7/22/17	7:06:14	117025813	1253	WILDWOOD AV	FIGHT - NOW OVER
7/22/17	18:45:10	117025887	0118	CEDAR ST	PUBLIC ASSIST
7/22/17	20:28:32	117025896	0093	CEDAR ST	DOMESTIC
7/26/17	0:41:23	117026353	1264	WHITE PINE LN	CRIME PREVENTION: OPEN GARAGE
7/27/17	14:18:23	117026524	0178	EAST CO LINE RD	THEFT REPORT
7/28/17	4:51:50	117026604	1264	BIRCHWOOD AV	PUBLIC WORKS CONCERN
7/28/17	10:34:03	117026644	0063	LAKE AV	RESD ALARM
7/29/17	14:33:31	117026846	0088	WILDWOOD AV	DAMAGE TO PROPERTY
7/29/17	20:56:10	117026901	0999	WILDWOOD AV	MEDICAL INFORMATION
7/29/17	23:17:12	117026921	1202	EAST CO LINE RD	NOISE COMPLAINT
7/31/17	11:09:37	117027120	0197	WILDWOOD AV	LIFT ASSIST

Total ICRs Processed: 31

# DRAFT MEETING MINUTES

DATE: Tuesday, August 1, 2017

TIME: 6:00 PM

LOCATION: Birchwood City Hall

## Call to Order Birchwood Dog Park Committee

### Schad called meeting to order at 6:05 PM

**Meeting to Discuss:** Prep work and timelines for Public Forum as well as overall timelines for committee work

**Committee Members Present:** Kathy Blegen-Huntley, Tami Heart, Kellie Lund, Steve Schad,

**Committee Members Not Present:** All present

### Approval of Previous Minutes

Blegen-Huntley moved to approve July 11<sup>th</sup> minutes. Schad seconded. Motion passed

### Reports

No public comment received

Vacancy on committee should be filled by Council at August City Council meeting

Site drawings of the two proposed public spaces (behind City Hall and Bloomquist Park) were reviewed and discussed. Adjustments were discussed relative to the amount of detail that should be included.

Lund reviewed the preliminary numbers provided by Midwest Fence for both sites with two enclosures (incoming and outgoing), and with one enclosure for all traffic. Estimates to follow. Committee members are leaning towards one enclosure to reduce fencing costs. Galvanized chain link fencing is cheapest option with commercial grade materials.

The committee updated the following overall timelines for committee work:

1. Notice of public forum communicated through various channels
2. Public Forum – 8/22 6:00-7:00 at City Hall [**NOTE:** Meeting time was changed by committee chair Schad to 5:30-6:30 p.m. due to scheduling conflict with Parks committee.]
3. Community survey for initial input goes live 8/23
4. Committee summarizes input from forum and survey and finalizes proposal
5. Dog Park Proposal presented at October City Council meeting

### Unfinished Business – Action Steps

1. Schad will create a brief survey on Survey Monkey that will mirror the input sought at the public forum:
  - a. Pros and cons of both sites
  - b. Suggestions/input
2. Schad will send online survey address to Heart for inclusion on flyer
3. Heart will update flyer and send to Schad
4. Schad will forward flyer to City Clerk with request that clerk:
  - a. Place on bulletin board outside City Hall
  - b. Utilize info from flyer to announce public forum on front page of City website
  - c. Post flyer on committee page of City website

- d. Include public forum information in City email announcements
5. Heart will update drawings for presentation at public forum.
6. Blegen-Huntley will find out how to utilize 'music in the park'-style of road signs to help announce our public forum
7. Blegen-Huntley will work with Heart to create content of signage and get them placed and removed

#### Day of Public Forum

- Heart will bring large site drawings and tape to hang them
- Heart will bring a stack of small copies of site drawings for take-home purposes
- Lund will bring pens
- Blegen-Huntley will bring post-it notes of 2 colors
- Each committee member will bring a salty or sweet snack

Schad will discuss with City Attorney possible ADA requirements for off leash dog area

Lund will seek an estimate for clearing of fence lines

#### **Motions**

Lund moved to approve agenda. Seconded by Heart. Motion passed

#### **New Business**

None

#### **Announcements**

To fulfill our purpose as a committee we are obligated to review and consider all public spaces in the community. We are committed to a process that will include community member input and opportunities for discussion. The public forum for this purpose is August 22, 2017 6:00-7:00 p.m. City Hall

#### **Other Business**

- Next meeting Tuesday August 22, 2017 6:00-7:00 PM at City Hall (Public Forum)
- Next meeting draft agenda to include:
  - Call meeting to order
  - Public forum presentation of pilot concepts - Schad
  - Open public forum discussion
  - Self-guided optional site visits by community members
  - Public forum closing comments - Schad
  - Adjourn public forum
  - Committee approve 8/1/17 minutes
  - Committee schedule next meeting
  - Committee develop agenda for next meeting
  - Adjourn

#### **Adjournment**

Blegen-Huntley moved to adjourn; Schad seconded; passed unanimously at 7:45 PM

#### **SECRETARY APPROVAL:**

**Prepared by Secretary**

**Kellie Lund**

August 1, 2017

To: Tobin Lay for 8/8/17 council meeting packet

From: Megan Malvey

Re: Birchwood school district alignment research update

About twenty Birchwood residents, including council members Megan Malvey and Randy LaFoy, have expressed interest in helping to do research related to Birchwood school district alignment, specifically considering pursuit of an alignment change from White Bear Lake to Mahtomedi. The group has met a couple of times and created the following plan. The purpose of including this memo in the agenda packet for 8/8/17 is to provide an update to the council and to inform the council (and request approval if needed) about the plan to distribute an electronic survey as described for 1A, below.

Step 1 – Complete research regarding the impact to Birchwood residents if a school district alignment change from WBL to Mahtomedi was made. In addition the group will put together a vision/purpose statement regarding reasons why this is being pursued by some Birchwood community members.

- A. Mini-census of Birchwood current/future students – survey of Birchwood parents to understand how many students live in Birchwood, where they go to school today and where they have pursued enrollment
- B. Summary of Mahtomedi and WBL districts – locations, unique course offerings, extra-curricular activities, class sizes, number of students, % of residents/students and funding that Birchwood does/would represent to each district
- C. Real estate impact of a district alignment – impact on home values and on property taxes for Birchwood homeowners

Step 2 – Request small group discussion with school district representatives/boards (both districts) to discuss potential change and gauge support/opposition if the measure is pursued.

Step 3 - Survey of entire Birchwood community that provides the background research completed (steps 1A, 1B, 1C) and asks the entire community to provide their input on the proposal to pursue a school district alignment change. The survey in step 3 will be requested (in the future) to be electronic and paper copy, with a future water bill/newsletter distribution.

At this time, the group would like to distribute the survey in 1A via electronic means only. This would include a link to the survey on the Birchwood web page, an email to the Birchwood list serve that includes a link to the survey and a posting on the Birchwood city Facebook page (and unofficial Birchwood Facebook page). Additionally, those community members volunteering in this group would distribute electronically to community members who they know who have kids.

A copy of the survey questions for 1A are below. Please note that this survey is simply to determine how many kids live in Birchwood today and where they go to school. Birchwood community members (parents of kids as well as community members who don't have school age-kids) will have an opportunity to provide their opinion about the pursuit of a district alignment change later in the process. This is simply a kid/school "census."

## Birchwood student "census"

The purpose of this survey is to understand where Birchwood students attend school, where their parents would like them to attend school and ask parents of pre-K kids about their school preferences. Please complete the survey once for each child that lives in your household (in Birchwood). Results of this mini-census will be included along with background information about home values, taxes and other information so that the broader Birchwood community can provide input regarding the potential pursuit of a school district alignment change for Birchwood. All Birchwood community members will have an opportunity to provide input about if they support pursuit of a school district alignment change in a later survey. This is simply a means to determine the number of students living in Birchwood and the school district to which Birchwood students are enrolled today. If you have questions about this survey please contact Megan Malvey at [malvey.birchwood@gmail.com](mailto:malvey.birchwood@gmail.com)

\* Required

Indicate this child's grade level for the 2016-2017 school year  
(Fill the survey out separately for each Birchwood resident child  
in your household.) \*

Choose



Indicate the district where this child attended school in 2016-2017 \*

- White Bear Lake
- Mahtomedi
- Home School
- Child is not in school yet
- Other

If you indicated "other" in the last question, please type in the district where this child attended school for the 2016-2017 school year

Your answer \_\_\_\_\_

Please indicate your preference for the school district that this child attends (your preference for last year or your future preference)

- White Bear Lake
- Mahtomedi
- Home School
- Undecided
- Other

If you chose "other" for the last question, type in the district you would prefer that this child attend.

Your answer \_\_\_\_\_

If you have applied for open enrollment in the past for this child and have been denied, indicate the school district to which you applied for open enrollment.

White Bear Lake

Mahtomedi

Other

If you answered "other" for the last question, type in the school district to which this child was denied open enrollment.

Your answer \_\_\_\_\_

Indicate the number of school years that this child has been denied open enrollment to the district identified above

1 school year

2 school years

3 school years

More than 3 school years

Do you have any comments to add? Type in the student's name if you'd like to. Thank you!

Your answer \_\_\_\_\_

**SUBMIT**

Never submit passwords through Google Forms.

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Wifi Access Point Replacement



**Birchwood Village**

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Dear Mayor and Council Members,

Metro I-net has informed the City that our Cisco Wireless Access Point for City Hall will reach its manufacture end-of-life in 2018. This means that Cisco's operational support and Microsoft's operating system support will end next year.

Metro I-net will contact Birchwood when they begin rolling out the upgrade next year but they recommend we budget \$450 per access point for this upgrade. Birchwood only has one (1) wireless access point.

## **Conclusion**

If any Council Member is against replacing City Hall's wireless access point next year or has questions about this process, please let staff know during the upcoming budgeting workshop. Thanks!

Regards,  
Tobin Lay

## 2018 Equipment Replacements

### Cisco Wireless Access Points

Facility Wi-Fi is provided through a single, centrally managed Cisco Wireless Controller. The operating cost for the controller is recovered through the Supplemental Services chargeback and is currently \$75/year for each agency owned wireless access point (AP).

Like all network equipment, the manufacturer provides operational support for a defined period and at some point, support ends. This is the manufacturer's "end-of-life" (EOL) for the product. (Microsoft also ends support on operating systems.)

Cisco has ended the support for a significant number of the wireless access points currently on the shared Metro-INET network. It is necessary to replace all EOL access points to insure continuous operations of the Wi-Fi network. Retaining out of support access points affects our ability to update the controllers to support newer model access points.

The following charts provide an overview of the various access point models in use on the system and the end of support for these models. A summary count of your units is provided so please review your agency count. The standard replacement model is the AP2702I/E. The list price is \$1,030 however, we can usually find compatible access points for \$400-\$500 through Internet resellers. I recently found these on an overstock equipment website for \$363. I suggest splitting the difference and budgeting \$450 per access point.

Chart A: Unit Counts

Model	Unit Count	EOL
AIR-AP2702I-UXK9	1	2024
AIR-CAP1602E-A-K9	1	2022
AIR-CAP2602E-A-K9	4	2024
AIR-CAP2702I-A-K9	31	2024
AIR-CAP2702I-B-K9	3	2024
AIR-CAP3502I-A-K9	1	2026
AIR-CAP3702E-A-K9	3	2026
AIR-CAP3702I-B-K9	6	2026
AIR-LAP1042N-A-K9	40	2018
AIR-LAP1131AG-A-K9	22	2018
AIR-LAP1141N-A-K9	2	2018
AIR-LAP1142N-A-K9	82	2018
AIR-LAP1242AG-A-K9	15	2018
AIR-LAP1252AG-A-K9	3	2017
AP801GN-A-K9	1	2018

Chart B: Agency Counts – Replacement Year

		2018 Units	Annual Maint.	Replace By										
				2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	
AH	Arden Hills	3	\$ 225	0	3	0	0	0	0	0	0	0	0	0
ANO	Anoka	15	\$ 1,123	0	11	0	0	0	0	0	1	0	3	
BLN	Blaine	0	\$ -	0	0	0	0	0	0	0	0	0	0	
BV	Birchwood Village	1	\$ 75	0	1	0	0	0	0	0	0	0	0	
CCW	Coon Creek Watershed	1	\$ 75	0	1	0	0	0	0	0	0	0	0	
CFD	Centennial Fire	2	\$ 150	0	2	0	0	0	0	0	0	0	0	
CH	Columbia Heights Police	0	\$ -	0	0	0	0	0	0	0	0	0	0	
CLPD	Centennial Lakes Police	0	\$ -	0	0	0	0	0	0	0	0	0	0	
CP	Circle Pines	1	\$ 75	0	1	0	0	0	0	0	0	0	0	
CV	Centerville	0	\$ -	0	0	0	0	0	0	0	0	0	0	
EB	East Bethel	2	\$ 150	0	2	0	0	0	0	0	0	0	0	
FH	Falcon Heights	3	\$ 225	0	3	0	0	0	0	0	0	0	0	
FL	Forest Lake	17	\$ 1,272	0	16	0	0	0	0	0	1	0	0	
FRD	Fridley	0	\$ -	0	0	0	0	0	0	0	0	0	0	
GL	Gem Lake	1	\$ 75	0	1	0	0	0	0	0	0	0	0	
HL	Ham Lake	5	\$ 374	0	0	0	0	0	0	0	5	0	0	
HUGO	Hugo	4	\$ 299	0	4	0	0	0	0	0	0	0	0	
JLEC	Anoka JLEC	0	\$ -	0	0	0	0	0	0	0	0	0	0	
LAU	Lauderdale	1	\$ 75	0	1	0	0	0	0	0	0	0	0	
LC	Little Canada	5	\$ 374	0	3	0	0	0	0	0	1	0	1	
LCFD	Little Canada Fire	1	\$ 75	0	1	0	0	0	0	0	0	0	0	
LE	Lake Elmo	3	\$ 225	0	3	0	0	0	0	0	0	0	0	
LEX	Lexington	0	\$ -	0	0	0	0	0	0	0	0	0	0	
LJFD	Lake Johanna Fire	0	\$ -	0	0	0	0	0	0	0	0	0	0	
LL	Lino Lakes	15	\$ 1,123	1	9	0	0	0	0	0	4	0	1	
MAH	Mahtomedi	5	\$ 374	0	5	0	0	0	0	0	0	0	0	
MV	Mounds View	4	\$ 299	0	2	0	0	0	0	0	2	0	0	
MW	Maplewood	15	\$ 1,123	0	9	0	0	0	0	0	5	0	1	
MWMO	Mississippi Watershed	4	\$ 299	0	4	0	0	0	0	0	0	0	0	
NO	North Oaks	2	\$ 150	0	1	0	0	0	0	0	1	0	0	
NSAC	North Suburban Cable	3	\$ 225	2	1	0	0	0	0	0	0	0	0	
NSP	North St. Paul	19	\$ 1,422	0	16	0	0	0	0	0	3	0	0	
OAK	Oakdale	12	\$ 898	0	7	0	0	0	0	0	5	0	0	
RCL	Ramsey County Library	0	\$ -	0	0	0	0	0	0	0	0	0	0	
RCS	Ramsey County Sheriff	0	\$ -	0	0	0	0	0	0	0	0	0	0	
RV	Roseville	36	\$ 2,694	0	25	0	0	0	1	0	9	0	1	
RW	RWMWD	1	\$ 75	0	1	0	0	0	0	0	0	0	0	
SA	Saint Anthony	11	\$ 823	0	10	0	0	0	0	0	0	0	1	
SCC	Ramsey-Washington Cable	2	\$ 150	0	2	0	0	0	0	0	0	0	0	
SLP	Spring Lake Park Police	0	\$ -	0	0	0	0	0	0	0	0	0	0	
STF	Saint Francis	6	\$ 449	0	6	0	0	0	0	0	0	0	0	
VH	Vadnais Heights	12	\$ 898	0	10	0	0	0	0	0	0	0	2	
VLM	Vadnais Lakes Watershed	0	\$ -	0	0	0	0	0	0	0	0	0	0	
WBL	White Bear Lake	0	\$ -	0	0	0	0	0	0	0	0	0	0	
WBT	White Bear Twp	3	\$ 225	0	1	0	0	0	0	0	2	0	0	
		215	\$ 16,091	3	162	0	0	0	1	0	39	0	10	

**CITY OF BIRCHWOOD VILLAGE  
REGULAR CITY COUNCIL MEETING  
June 13, 2017**

**MINUTES**

**MEMBERS PRESENT:** Mayor Mary Wingfield; Council Members: Kevin Woolstencroft, Trilby White, Randy LaFoy and Megan Malvey.

**STAFF PRESENT:** Alan Kantrud, City Attorney; Tobin Lay, City Administrator

**OTHERS PRESENT:** Mark Greseth, Mike Evangelist, Nino Nardecchia, Mary Hauser, Alan Mitchell, Michelle Atakpu, Peter Schmitt, Steve Wolgamot, and Jennifer Haskamp

Mayor Wingfield called the regular meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

**AGENDA APPROVAL:**

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO APPROVE THE AGENDA. ALL AYES. MOTION PASSED.**

**OPEN PUBLIC FORUM:**

- A. **Steve Wolgamot:** He updated the Council on a recent funding bill that made its way through the State Legislature for the Lake Links Trail. He presented a certificate of Appreciation to the City of Birchwood for all of the help they received.
- B. **Mark Greseth (214 Wildwood Ave):** He spoke about needing clarification with the Docks Association and open dock spaces that are not being utilized.

**ANNOUNCEMENTS:**

- A. Marian Johnson across the Lake Swim will be held July 29 beginning at 7 am
- B. July 4 Parade will begin at 9:30 am beginning at 5 Birchwood Ave
- C. Music in the Park - every Sunday beginning at 6 pm
- D. Washington County has issued a health warning about lake swimming
- E. Cable Commission Alternate Director Opening - Application deadline June 30
- F. We are social, follow us on Facebook/ Twitter or register for the email listserv
- G. Free toilets and washers that are high energy with the rebate from the City of White Bear Lake

**PRESENTATIONS**

- A. ~~Open Meeting Law Policy Proposal from Alan Mitchell (moved to Councilmember Malvey's Report)~~
- B. Mayor's Update on Halls Marsh
- C. Sheriff Report
- D. Dog Park Committee Update/ Minutes
- E. ~~Upgrade City Hall Toilets (moved to Administrator's Report)~~

## CITY BUSINESS – CONSENT AGENDA

- ~~A. Approval of Regular Meeting Minutes from May 9, 2017~~
- ~~B. Approval of Treasurer's Report~~
- C. Approval to Request Attorney Kantrud Work on Right of Way Ordinance
- D. Resolution 2017-17: Authorizing Transfer of Funds
- E. Replace Check Valve at Lift Station
- F. Recycling Grant Contract

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE CONSENT AGENDA. ALL AYES. MOTION PASSED.**

**Mayor Wingfield:** She suggested that rather than cut checks for individual overpayments, the amount will roll over to the next quarter. Administrator Lay clarified that the accounts in discussion were closed accounts, so the overpayments will need to be paid.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE OF TREASURERS REPORT AS PRESENTED. ALL AYES. MOTION PASSED.**

## CITY BUSINESS - REGULAR AGENDA

- A. **Resolution 2017-18: Approving Solar Garden Subscription Agreement with US Solar**
  - 1. **Guest Presentation - Peter Schmitt (US Solar):** He briefly described the US Solar company and their role in providing solar energy for smaller cities. There is no financial commitment by the city. The benefit accrues by locking in to a flat energy rate.
  - 2. **Council Deliberation and Consideration of Approval:** The council members asked Peter Schmitt clarification questions. Currently US Solar is focusing on cities and school districts, but they are hoping to roll out a residential program by the end of the year. The program uses as many local resources (labor and materials) as they are able to.

**MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE OF THE SUBSCRIPTION AGREEMENT FOR A SOLAR GARDEN WITH US SOLAR AND AUTHORIZE THE MAYOR TO ENDORSE THE AGREEMENT, PENDING THE FINAL CONTRACT APPROVAL BY CITY ATTORNEY ALAN KANTRUD. ALL AYES. MOTION CARRIES.**

- B. **Comprehensive Plan Update**
  - 1. **Review Planning Commission Recommendation to Hire SHC, LLC to Consult:** Administrator Lay reviewed the necessity for a water plan within the Comprehensive Plan. He introduced Jennifer Haskamp; the consultant recommended by the planning commission and opened the recommendation for deliberation among the council.
  - 2. **Guest Presentation - Jennifer Haskamp (SHC):** She answered questions that the council members brought forward. She explained where the local water management plan aligns with the Comprehensive Plan but also where they differ in key aspects. She explained the benefits of her consulting help as well as working with other communities

for efficiency.

3. **Council Deliberation and Consideration of Approval and Vision:** There was discussion about the grant money that was provided and how to use that money efficiently without going over the \$10,000 grant amount.

**MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO AUTHORIZE ADMINISTRATOR LAY TO WORK WITH JENNIFER HASKAMP, DENNIS SONNEK, AND BRIDGET SPERL TO CREATE A PLAN THAT WILL BE REINTRODUCED IN THE JULY MEETING FOR FINAL APPROVAL FROM THE COUNCIL. ALL AYES. MOTION CARRIES.**

#### **C. Dock Association Review**

1. **Mike Evangelist Q&A:** He explained the current structure of the Dock Association, including the benefits of the association.
2. **Council Deliberation and Requests:** The council members questioned the community benefits of the Dock Association. There was discussion about why the association operates the docks rather than the city operating them for general public use. Everyone agreed there is no apparent reason why the City shouldn't operate the docks. The council members discussed creating a task force that will recommend how management of the docks can become more efficient.

**MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO CREATE A TASK FORCE CONSISTING OF MARK GRESETH, NINO NARDECCHIA, AND MIKE EVANGELIST, WITH COUNCILMEMBER MALVEY AS LIAISON, TO CREATE RECOMMENDATIONS FOR IMPROVING THE MANAGEMENT OF THE CITY DOCKS. ALL AYES. MOTION PASSED.**

#### **D. Roads Committee Update and Recommendations**

1. **Update:** Administrator Lay provided an update of the roads work that has been completed, including the Chip and Seal Process scheduled for the week of July 24, 2017.
2. **City Council Requests:** There was agreement among the council members to refer the speed issues along Birchwood Ave as well as Wildwood Ave to the Roads Committee. There was also discussion about people parking on the grass at Wildwood Park rather than parallel parking on the street. Councilmember LaFoy agreed to speak with neighbors to get conversation going, and the issue will be brought to the roads committee.

#### **E. Water Rate Increase**

1. **Review:** Administrator Lay reviewed the issue of using a surcharge for the water main breaks and explained that the City's attorney recommended increasing the water rate rather than create a surcharge.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO SCHEDULE AND PUBLISH A PUBLIC HEARING ABOUT A WATER RATE INCREASE AS PRESCRIBED BY SHELLEY RUCKERT AND APPROVED BY THE UTILITY COMMITTEE IN THE AUGUST COUNCIL MEETING. ALL AYES. MOTION CARRIES.**

#### **F. Council Member Reports**

1. **Mayor Wingfield:**
  - i. **Update on Birch Easement Rain Garden:** Currently everything is going well, and repairs/ updates are being considered with assistance from Washington County and RCWD.
  - ii. **Engineering Update Report Related to Sewers:** There is conflict between the assessments and the actual work done in the 2006 sewer relining project. These errors have resulted in delays in the current project as well as creating inequities for those that should have been assessed previously. The engineer is working to resolve these problems.
  - iii. **Staff Management/ Use of Office Staff:** Mayor Wingfield explained the issue of members of the community dictating how the office should be run, using time and financial resources that could be better spent catching up on work.
2. **Councilmember Malvey:**
  - i. **School District Realignment Update:** Councilmember LaFoy and Councilmember Malvey will be holding a meeting to discuss school district realignment topics in late June.
  - ii. **Parks Committee Update:** She provided an update on the Parks Committee.
  - iii. **Proposal to Discuss City Contracts at the July Town Hall/ Workshop:** She recommended the topic at the July town hall be on city contracts. There was discussion among council members to keep the topic broader; it was suggested the topic be about the vision for Birchwood for the Comp Plan.
  - iv. **Discussion Concerning the Open Meeting Law Proposal:** She recommended Council adopt the open meeting law policy proposed by Alan Mitchell. The Council decided that it will use the League of MN Cities as its resource to open meeting law matters rather than adopting a new policy.

**G. City Administrator's Report:**

1. **No Street Parking Along East County Line Rd.:** There was a request to make no street parking all along the road, rather than in select areas. Gene Ruehle with the roads committee is in agreement with this request.
2. **2020 U.S. Census - LUCA Volunteers Needed:** Volunteers will be needed for the preparation of the census.
3. **Request Special Taskforce:** Requested a task force to help organize the code book and another task force to help organizing the city website. Council members recommended including the city social media sites in the scope. They also decided to have council member White act as the liaison to the code book task force and councilmember LaFoy act as liaison to the website task force.
4. **Approve Steve Dean Tree Work at Wildwood Park:** The council approved having Steve Dean work on the spruce tree but no work to be done on the ash tree.
5. **Workers Comp Insurance Quote:**

**MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER MALVEY TO SELECT THE REGULAR PREMIUM OPTION (OPTION 1) WORKERS COMP INSURANCE. ALL AYES. MOTION PASSED.**

6. **Schedule Closed Meeting for Staff Review:** Meeting scheduled for July 10, 2017 at 6pm.
7. **Tree Disposal Policy Amendment:** Amendment to the pruning policy of public trees when they grow into private property.

**MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER WHITE TO AMEND THE PRUNING POLICY. ALL AYES. MOTION CARRIES.**

- 8. AC Unit for the Cable Room Update:** A new AC Unit is needed to keep the cable equipment cool and working well.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO AUTHORIZE ADMINISTRATOR LAY SPEND UP TO \$1,000 TO PURCHASE A NEW AC UNIT FOR THE CABLE ROOM. ALL AYES. MOTION CARRIES.**

- 9. Upgrade City Toilets:** Mayor Wingfield worried that any water-efficient toilets under \$200 (rebate limit) would not be effective and would cause more problems than any savings gained. Council decided not to upgrade the toilets at this time.

**H. City Attorney Report**

- 1. Flushable Wipes Lawsuit:** Brought the council up to date about the current lawsuit and waiting for information from the city as to how much has actually been spent on repairs.
- 2. Update on Sewer Relining Project:** There was discussion about the previous assessments that had been taken versus were not assessed and should have been.

**ADJOURN**

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 10:38 P.M.**

\_\_\_\_\_  
Mary Wingfield  
Mayor

ATTEST:

\_\_\_\_\_  
Tobin Lay  
City Administrator-Clerk

**CITY OF BIRCHWOOD VILLAGE  
SPECIAL CITY COUNCIL MEETING  
July 10, 2017**

**MINUTES**

**MEMBERS PRESENT:** Mayor Mary Wingfield; Council Members: Trilby White, Randy LaFoy and Megan Malvey. Councilmember Kevin Woolstencroft was absent.

**STAFF PRESENT:** Tobin Lay, City Administrator

**OTHERS PRESENT:** None

**Mayor Wingfield** called the special meeting to order at 6:00 p.m.

**CITY BUSINESS - REGULAR AGENDA**

**Mayor Wingfield:** She called for a motion to close the meeting after stating: “the purpose of the closed meeting is to talk about the performance review of Tobin Lay. This is his choice; by law he is entitled to have this in a private forum; he has chosen to do so.”

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO CLOSE THE MEETING FOR THE PURPOSES STATED. ALL AYES. MOTION PASSED.**

- A. Staff Performance Review:** This portion of the meeting was closed to discuss the performance review of Tobin Lay, Interim City Administrator.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO REOPEN THE MEETING TO THE PUBLIC. ALL AYES. MOTION PASSED.**

**Mayor Wingfield:** She explained that during the closed portion of the meeting the Council discussed the performance review of Tobin Lay.

- B. Staff Compensation and Employment Agreement:**

**Mayor Wingfield:** She explained to the Council that Tobin had spoken to her and Councilmember LaFoy, separately, about compensation figures. She was not aware of the terms discussed between Tobin and Councilmember LaFoy but explained the terms she had discussed with Tobin. She recommended that Council move forward with the salary rate and terms as explained and request City Attorney Kantrud work out the remaining details of the contract with Tobin directly.

**Councilmember LaFoy:** He agreed with the Mayor’s recommendation.

**Mayor and Council Members:** They discussed and asked questions about the recommendations.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO AUTHORIZE CITY ATTORNEY ALAN KANTRUD TO ENTER INTO CONTRACT NEGOTIATIONS WITH TOBIN LAY WITH SPECIFIC PARAMETERS THAT IT INCLUDE PAY UP TO \$65,000 ANNUALLY FOR TWO YEARS. COUNCIL MEMBERS WILL PROVIDE INFORMATION TO KANTRUD AS TO SPECIFICS THAT ANY COUNCIL MEMBER WOULD LIKE TO BE CONSIDERED. ATTORNEY KANTRUD WILL THEN COME FORWARD WITH A COMPREHENSIVE PACKAGE THAT IS SUITABLE FROM HIS PERSPECTIVE FOR BOTH THE CITY AND TOBIN LAY AT THE AUGUST 8, 2017 CITY COUNCIL MEETING TO BE APPROVED RETROACTIVE TO AUGUST 1, 2017. ALL AYES. MOTION PASSED.

**ADJOURN**

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 6:40 P.M.

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Mary Wingfield  
Mayor

ATTEST:

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Tobin Lay  
City Administrator-Clerk

**CITY OF BIRCHWOOD VILLAGE  
TOWN HALL MEETING  
July 11, 2017**

**MINUTES**

**MEMBERS PRESENT:** Mayor Mary Wingfield; Council Members: Kevin Woolstencroft, Trilby White, Randy LaFoy and Megan Malvey.

**STAFF PRESENT:** Tobin Lay, City Administrator

**OTHERS PRESENT:** Many Birchwood residents

**Mayor Wingfield** called the town hall meeting to order at 6:30 p.m.

**OPEN PUBLIC FORUM:**

- A. City staff and Council Members:** They explained the purpose of the town hall meeting and invited members of the audience to offer comments and/or suggestions. The Council is seeking feedback about what the vision should be for Birchwood as it looks forward to the future planning of the city. Specifically, the Planning Commission, Council Members, staff, and volunteers will be working on the 2040 Comprehensive Plan for the city, as is required by the Metropolitan Council every ten years.
- B. Members of the audience:** They spoke about the positives and negatives of living in Birchwood Village and offered suggestions of what they thought the city should be.

**ADJOURN**

**MAYOR WINGFIELD ADJOURNED THE MEETING AT 6:53 P.M.**

\_\_\_\_\_  
Mary Wingfield  
Mayor

ATTEST:

\_\_\_\_\_  
Tobin Lay  
City Administrator-Clerk

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Televising City Sewer Lines



**Birchwood Village**

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Dear Mayor and Council Members,

Regarding the sewer lining project: due to complications experienced by staff in gathering specific assessment info from the past sewer lining projects, City Engineer Thatcher recommends the sections of the City's sewer lines be televised to determine the specific areas that still need lining and the homes that will be affected by the assessment.

Assessment roles from the previous projects didn't include specific addresses of those assessed, just general street information of the streets to be lined. Accordingly, the lines need to be televised prior to any public hearing about the project.

Engineer Thatcher has reviewed quotes from several companies (previously shared with the Council at an earlier Council meeting) and recommends hiring Pipe Services Corp., Shakopee, MN, to televise the lines because they submitted the cheapest quote and are highly equipped to provide this service.

Pipe Services fee is estimated to be \$2,255.00 (\$0.55 per foot x 4,100 feet). The fee includes the cost to collect and dispose of debris. The fee does not include the cost of water they will use (via hydrants) because that is the normal practice for these services. If the City charges Pipe Services a fee for the water they use, Pipe Services will add it to their bill to the City.

Additionally, staff recommends Council authorize a staff member or an experienced City representative be present onsite throughout the entire televising project; either someone from Thatcher's engineering firm or John Manship.

A public hearing will also need to be held in either September or October, once the televising has been completed and preliminary assessment roles have been prepared.

## **Request/Recommendation**

Staff requests Council:

- 1) approve Pipe Services quote of up to \$2,255.00;
- 2) authorize Steve Thatcher to move forward with televising select sewer lines;
- 3) authorize staff to request and compensate either someone from Thatcher's firm or John Manship to be present onsite throughout the entire televising project;
- 4) approve the public hearing regarding the sewer lining project for the September or October regular city council meeting, whichever aligns with progress of the televising project;
- 5) authorize staff to publish the public hearing.

Thanks!

Regards,  
Tobin Lay

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Administrator Employment Contract



**Birchwood Village**

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Dear Mayor and Council Members,

During the July 10, 2017, Special City Council meeting, the City Council agreed on compensation items discussed at that meeting and authorized City Attorney Kantrud to negotiate remaining contract terms with the Administrator contract.

During the July 11, 2017, Regular City Council meeting, the City Council tabled approval of Resolution 2017-20: Naming Tobin Lay City Administrator to this August meeting.

### **Request/Recommendation**

Staff presents for your review the proposed employment contract negotiated between Attorney Kantrud and myself.

Staff requests Council:

- 1) approve the employment contract as presented;
- 2) accompanying Resolution 2017-20: Naming Tobin Lay City Administrator; and
- 3) authorize Mayor Wingfield and Acting Mayor LaFoy endorse the employment contract.

Thanks!

Regards,  
Tobin Lay

**RESOLUTION 2017-20**

**CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**NAMING CURRENT INTERIM CITY ADMINISTRATOR TOBIN LAY AS  
CITY ADMINISTRATOR**

At a regular meeting of the City Council of the City of Birchwood Village held on Tuesday, August 8, 2017, at Birchwood City Hall, 207 Birchwood Avenue, Birchwood, Minnesota, with the following members present: Mayor Mary Wingfield, Council Members Megan Malvey, Randy LaFoy, Trilby White, and Kevin Woolstencroft, and the following absent: none, the Birchwood City Council resolved:

**WHEREAS,** Current Interim City Administrator Tobin Lay has performed the Administrator duties since November 3, 2016; and

**WHEREAS,** Current Interim City Administrator Tobin Lay will serve as City Administrator for the City of Birchwood Village with the wage and benefits as set out in the Employment Agreement.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Birchwood Village hereby appointments Tobin Lay as City Administrator, effective August 1, 2017.

Voting in Favor:

Voting Against:

Resolution duly seconded and passed this 8<sup>th</sup> day of August, 2017.

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Mary Wingfield, Mayor

Attest:

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Tobin Lay  
City Administrator-Clerk

## EMPLOYMENT AGREEMENT

**AGREEMENT** made this 8TH day of AUGUST, 2017, by and between the CITY OF BIRCHWOOD VILLAGE, a Minnesota municipal corporation ("Employer"), and TOBIN LAY ("Employee").

The parties agree as follows:

1. **POSITION.** Employer agrees to employ Employee as its City Administrator. Employee agrees to serve as City Administrator in accordance with state statutes, City ordinances and the Code of Ethics of the International and Minnesota City/County Management Associations (which specifically calls for a two (2) year commitment to Employer by Employee) and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign.
2. **PENSION PLAN.** Employer shall contribute to PERA as required by State law for Employee or an alternate pension plan, if selected by Employee, authorized by State law.
3. **SALARY.** Employer shall pay Employee a salary of: \$ 65,000.00 per year starting August 1, 2017, ending July 31, 2019, subject to any renegotiation that may occur. Neither party anticipates requiring notice of the other party giving notice concerning the expiration of this agreement. Absent renegotiation, this Agreement shall naturally expire without further obligation from either party. Employer and Employee agree that a performance review will be conducted on Employee annually. The Employer agrees to increase compensation to the Employee annually in the amount commensurate to the rate of inflation as reported by the U.S. Department of Labor Employment Cost Index and to consider an additional increase in compensation to the Employee dependent upon the results of the performance evaluation.
4. **VACATIONS AND SICK LEAVE.** Effective upon execution of this agreement, Employee shall retain existing accrued vacation and sick leave, collectively

referred to as paid time off (PTO) or flex-time. In addition, Employee shall accrue 20 days of vacation and sick leave (PTO) annually. Employee shall be “paid” for any balance at the end of the year for any PTO time left up to 5 days (40 hours at the then-current rate-of-pay), unless Employee elects to carry-over the time of up to 5 days, in Employee’s sole discretion. Employee shall then have those additional hours to use as flex-time in the same way as if it were accumulated in the same way as stated above.

5. **HOLIDAYS.** Employer shall provide Employee the same holidays as are Federally recognized and observed.

6. **GENERAL INSURANCE.** Employer provide Employee no insurance benefits whatsoever and it is recognized that annual salary is intended to take into account the cost of Employee obtaining his own insurance (health and dental).

7. **DUES AND SUBSCRIPTIONS.** Employer shall budget and pay the professional dues and subscriptions for Employee which are deemed reasonable and necessary for Employee's continued participation in national, regional, state and local associations necessary and desirable for Employee's continued professional participation, growth and advancement, in the sole discretion of Employer. These shall include at least the payment of dues and subscriptions for Minnesota City/County Management Association (MCMA), Metropolitan Area Management Association (MAMA) and Minnesota Clerks & Finance Officers Association (MCFOA).

8. **PROFESSIONAL DEVELOPMENT.** Employer shall budget and pay necessary and reasonable registration, travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other committees thereof which Employee serves as a member. These shall include at least the payment of registration, travel and subsistence expenses for MCMA, MCFOA and League of Minnesota Cities (LMC) Annual

Conferences and LMC Safety & Loss Control Workshops. Employee shall use good judgment in his outside activities so he will not neglect his primary duties to the Employer and any program chosen must be approved in advance by Employer to be eligible for Employer to pay for said program.

9. **CIVIC CLUB MEMBERSHIP.** Employer recognizes the desirability of representation in and before local civic and other organizations. Employee is authorized to become a member of such civic clubs or organizations as deemed appropriate by Employee and Employer at Employer's sole discretion and expense.

10. **GENERAL EXPENSES.** Employer shall reimburse Employee reasonable miscellaneous job related expenses which it is anticipated Employee will incur from time to time when provided appropriate documentation at Employer's sole discretion.

11. **HOURS OF WORK.** It is understood that the position of City Administrator requires attendance at evening meetings and occasionally at weekend meetings. It is understood by Employee that additional compensation and compensatory time shall not be allowed for such additional expenditures of time. It is further understood that Employee may absent himself from the office to a reasonable extent in consideration of extraordinary time expenditures for evening and weekend meetings at other than normal working hours. Employer agrees to also allow for "tele-commuting" by Employee to allow for situations that may come up from time to time that compel Employee to work from home.

12. **TERMINATION BENEFITS.** In the event that Employee is terminated by the Employer during such time that Employee is willing and able to perform the duties of City Administrator, then in that event Employer agrees to pay Employee at the time of issuance of Employee's next scheduled regular paycheck a severance payment equivalent to Six months

aggregate salary, at Employee's then-current rate of pay and to continue to provide and pay for the benefits set forth in paragraph 7 for a period of no months following termination. However, in the event Employee is terminated because of good cause, specifically conviction for a felony, or conviction for an illegal act involving personal gain to Employee (e.g. theft, conversion or embezzlement), then Employer shall have no obligation to pay the termination/severance benefits.

If Employer at any time during the employment term reduces the salary or other financial benefits of Employee in a greater percentage than across-the-board reduction for all non-union employees, or if Employer refuses, following written notice, to comply with any other provisions of this Agreement benefiting Employee or Employee resigns following a formal suggestion by Employer that he resign, then Employee may, at his option, be deemed to be "terminated" on the effective date of Employee's resignation and the Employee shall also be entitled to receive the termination benefits set forth above.

If Employee voluntarily resigns his position with Employer, Employee agrees to give the Employer one hundred and eighty (180) days advance notice. If there is less than one hundred and eighty (180) days left in this employment contract term, the parties agree that the notice period shall default to sixty (60) days by either party for the remainder of the contract term. If Employee voluntarily resigns his position with Employer, there shall be no termination pay due to Employee.

13. **GENERAL CONDITIONS OF EMPLOYMENT.** Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employer to terminate the services of Employee at any time, for any reason, subject only to the provisions of this Agreement and statutory requirements. Furthermore, nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from his position with Employer, subject only to the provisions of this Agreement.

**IN WITNESS WHEREOF**, Employer has caused this Agreement to be signed and executed on its behalf by its Mayor, and Employee has signed this Agreement, in duplicate, the day and year first written above.

**EMPLOYER:**  
CITY OF BIRCHWOOD VILLAGE

**EMPLOYEE:**

**BY:** \_\_\_\_\_  
Its Mayor

\_\_\_\_\_  
Tobin Lay

**AND**

\_\_\_\_\_  
Its

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Consultant Agreement with SHC



**Birchwood Village**

---

Dear Mayor and Council Members,

During the June 13, 2017, Regular City Council meeting, Council considered the Planning Commission's recommendation to enter into contract with SHC for consulting services on the 2040 Comp Plan. The Council authorized Attorney Kantrud and me to negotiate with Jennifer Haskamp from SHC to this end.

Attorney Kantrud has worked out all the contract language with Jennifer and I have worked out a work plan with her that will keep our expenses for her services below the \$10,000 grant amount; both are enclosed along with Jennifer's price sheet.

### **Request/Recommendation**

Staff now requests Council:

- 1) Approve the enclosed consulting agreement with SHC; and
- 2) Authorize the Mayor and Administrator Lay to endorse the agreement.

Thanks!

Regards,  
Tobin Lay

**MASTER SERVICES AGREEMENT**  
BETWEEN SWANSON HASKAMP CONSULTING, LLC  
AND THE CITY OF BIRCHWOOD VILLAGE FOR PLANNING SERVICES RELATED TO  
THE 2040 COMPREHENSIVE PLAN UPDATE

The Agreement ("Agreement") is made as of June 13, 2017 and between, the City of Birchwood Village ("Client"), 207 Birchwood Avenue, Birchwood, MN 55110, and Swanson Haskamp Consulting, LLC ("SHC" or "Consultant"), 246 Albert Street S., Suite 2A, St. Paul, MN 55105, to provide Professional Planning Services ("Services") by SHC for the 2040 Comprehensive Plan Update project ("Project") as directed by the Client.

**Description of Services (Scope of Services)**

Jennifer Haskamp, President of SHC shall be the primary contact and project manager assigned to perform planning and project management services for the Project. SHC will work at the direction of City Staff to assist on the Project as requested. SHC will provide Services as described in the Attachment 2 Scope of Services.

**Standard of Care.**

SHC's services shall be performed based on the standard of reasonable professional care for services similar in scope, schedule, and complexity to the services being provided by SHC. All warranties, express or implied, under the Proposal or otherwise, in connection with SHC's services are expressly disclaimed.

**Period of Service**

This contract shall be effective from the date of execution by both parties through completion of the draft 2040 Comprehensive Plan, which is anticipated to be completed no later than December 31, 2018.

**Compensation**

SHC shall be paid for Services as described within the Scope of Services and Attachment 2, in relation to the Project in accordance with the following methods: on an hourly basis and as described per Attachment 1 Rate Schedule plus reimbursable expenses with a total budget not-to-exceed nine thousand dollars (\$9,000.00), where reimbursable expenses are described as but not limited to, plotting charges, Fed Ex, UPS, messenger delivery charges, and mileage, plus all taxes, fees, or stamps required by state federal, municipal or other government agencies. Any additional work not identified within the Scope of Services shall only be performed upon written authorization from Client, and such services billed according to Attachment 1.

Payments are due upon presentation of SHC's invoices, and the Client agrees to pay bills within 30 days of receipt. SHC and the Client shall work together to establish the method for reporting and submitting invoices to assist with the ease of monthly billing and budget management. Client hereby acknowledges that sufficient funds are currently available, or methods to obtain funds, are assigned to pay for the cost of the Project contemplated by the Agreement. SHC has the right, at its sole discretion, to stop work and withhold work product or Services, if payments have not been received within 30 days of invoicing date. If Payments are not made within 30 days, a service charge of one (1) percent per month (12% annum), or as permitted by law, will be charged on any unpaid balance. Service charges may be compounded.

If Client fails to make payments to SHC consistent with the Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at SHC's option, cause for suspension of performance of the Services under the Agreement. If SHC elects to suspend Services, prior to suspension of Services, SHC shall give seven days written notice to Client. In the event of a suspension of Services, SHC shall have no liability to Client for delay or damage caused to Client because of such suspension of Services. Before resuming Services, SHC shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of SHC's services. SHC's fees for the remaining Services and the time schedules shall be equitably adjusted.

In the event of termination not the fault of SHC, SHC shall be compensated for Services performed prior to termination, together with reimbursable expenses due and SHC shall deliver all completed deliverables based on the Services performed prior to termination.

**Client's Responsibilities**

Client shall provide full information in a timely manner regarding requirements for and limitations for successful execution of the Services, including objectives, schedule, constraints and criteria, requirements and relationships and any other pertinent information that will assist SHC in achieving the expectations of the Client.

The Client shall designate a representative authorized to act on the Client's behalf with respect to the Project and will serve as the Project point of contact throughout the duration of this contract. The Client, or such designated representative, shall render decisions in a timely manner pertaining to documents submitted by SHC to avoid unreasonable delay in the orderly and sequential progress of the Project.

## **Termination**

The Agreement may be terminated by either party at any time should the other party fail to perform in accordance with its terms through no fault of the party initiating the termination. Such termination shall be effective after giving ten days written notice. Client agrees to pay SHC for all Services provided up to the effective date of termination and SHC shall deliver all completed deliverables based on the Services performed prior to termination.

## **Miscellaneous**

### *Work Product*

The documents prepared by SHC for the Project are instruments of SHC's service for use solely with respect to the Client and, unless otherwise provided and agreed, SHC shall be deemed the author of these documents. All documents and related source-materials shall be the property of the Client, and both the Client and SHC shall retain all common law, statutory and other reserved rights, including the copyright. The Client and SHC shall be permitted to retain copies, including reproducible digital copies, of SHC's documents for the Client's information, reference and use in connection with the Services and other municipal planning purposes.

### *Claims and Consequential Damages*

SHC and Client waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's terminating in accordance with the termination clause.

Any claim, dispute or other matter in question arising out of or relating to the Project or breach thereof ("Claim") shall be resolved by litigation in the State or (assuming subject matter jurisdiction) Federal Court located in Washington County, Minnesota.

### *Interpretation and Severability*

Each provision of this Agreement is severable from the others. Should any provision of the Agreement be found invalid or unenforceable, such provision shall be ineffective only to the extent required by law, without invalidating the remainder of such provision or the remainder of the Agreement. Further, to the extent permitted by law, any provision found invalid or unenforceable shall be deemed automatically redrawn to the extent necessary to render it valid and enforceable.

### *Assignment*

The Client and SHC, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Client nor SHC shall assign this Agreement without the written consent of the other.

### *Team Relationship*

The Client and SHC agree to work together on the basis of trust, good faith and fair dealing, and shall take actions reasonably necessary to enable each other to perform this Agreement in a timely, efficient and economical manner.

### *Entire Agreement*

The terms and conditions set forth herein constitute the entire understanding of the parties relating to the services to be provided by SHC. Only a written instrument signed by both parties may amend the Agreement.

### *Governing Law*

The Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Minnesota, excluding its conflict of laws. SHC and Client expressly consent to the exclusive personal jurisdiction and venue of the Minnesota courts for all purposes relating to the Project.

**5. Authorized Agents**

The City of Birchwood shall appoint an authorized agent for the purpose of administration of this Agreement. Consultant is notified of the authorized agent of the City of Birchwood as follows:

Tobin Lay  
City Administrator, City of Birchwood  
207 Birchwood Avenue  
Birchwood, MN 55110

The City is notified of the authorized agent for the Consultant as follows:

Jennifer Haskamp  
Presidential & Principal Planner  
246 S. Albert Street, Suite 2A  
Saint Paul, MN 55105

**6. City and State Audit**

Pursuant to Minn. Stat. § 16C.05, subd. 5 (1998), the books, records, documents, and accounting procedures and practices of Consultant relative to this Agreement shall be subject to examination by the City and State Auditor. Complete and accurate records of the work performed pursuant to this Agreement shall be kept by Consultant for a minimum of six (6) years following termination of this Agreement for such auditing purposes. The retention period shall be automatically extended during the course of any administrative or judicial action involving the City of Birchwood regarding matters to which the records are relevant. The retention period shall be automatically extended until the administrative or judicial action is finally completed or until the authorized agent of the City notifies Consultant in writing that the records need no longer be kept.

**7. Indemnity**

Consultant agrees to defend, indemnify and hold the City, its employees and officials harmless from any claims, demands, actions or causes of action, including reasonable attorney's fees and expenses

resulting directly or indirectly from any negligent act or omission on the part of the Consultant, or its subcontractors, partners or independent contractors or any of their agents or employees, in the performance, non-performance or malfeasance in the performance of any of the work or services to be performed or furnished by the Consultant or the subcontractors, partners or independent contractors or any of their agents or employees under this Agreement.

City agrees to defend, indemnify and hold SHC, and its employees harmless from any claims, demands, actions or causes of action, including reasonable attorney's fees and expenses resulting directly or indirectly from any negligent act or omission on the part of the City, or any of their agents or volunteers, in the performance, non-performance or malfeasance in the performance of any of the work or services to be performed or furnished by the City, volunteers or its agents under this Agreement.

Consultant shall be responsible for the professional quality, technical accuracy of deliverables originated by the Consultant, and the coordination of all services furnished by Consultant under this Agreement. Consultant shall be able to reasonably rely on the technical accuracy of the information furnished by the City, its agents or volunteers and Consultant shall not be held responsible for the technical accuracy of such data. Consultant shall, without additional compensation, correct or revise any errors or deficiencies in Consultant's final reports and services if such errors or deficiencies were the technical responsibility of the Consultant under this agreement.

## **8. Indemnification and Insurance**

A. Indemnification. The Consultant agrees it will defend, indemnify and hold harmless the City, its officers and employees against any and all liability, loss, costs, damages and expenses which the City, its officers or employees may hereafter sustain, incur or be required to defend or pay arising out of the Consultant's performance or failure to adequately perform its obligations pursuant to this Agreement.

B. Insurance. Consultant agrees to maintain insurance to protect itself and the City under the indemnity provision set forth above and professional liability insurance. Consultant will carry Workers Compensation insurance as required by Minnesota statutes.

## **9. Subcontracts**

Consultant shall not subcontract any portion of the work to be performed under this Agreement nor assign this Agreement without prior written approval of the authorized agent of the City. Consultant shall ensure and require that any subcontractor agrees to and complies with all the terms of this Agreement. Any subcontractor of Consultant used to perform any portion of this Agreement shall report to and bill Consultant directly. Consultant shall be solely responsible for the breach, performance or nonperformance of any subcontractor.

**10. Force Majeure**

City and Consultant agree that Consultant shall not be liable for any delay or inability to perform this Agreement, directly or indirectly caused by or resulting from strikes, labor troubles, accidents, fire, flood, breakdowns, war, riot, civil commotion, lack of material, delays of transportation, acts of God or other cause beyond reasonable control of Consultant and the City.

**11. Data Practices**

Consultant, its agents, employees and any subcontractors of Consultant in providing all services hereunder, agree to abide by the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as amended, and Minn. Rules promulgated pursuant to Ch. 13. Consultant acknowledges that nature of the work will result in the exposure of the Consultant or their designee to confidential information. Reporting data shall be aggregated and not include confidential information whenever possible to preserve its confidential nature. However, the Consultant agrees to hold the City, its officers, department heads and employees harmless from any claims resulting from the Consultant's (or their employees designees or assigns) unlawful disclosure, failure to disclose, or use of data protected under state and federal laws.

**13. Independent Contractor**

It is agreed that nothing contained in this Agreement is intended or should be construed as creating the relationship of copartner, joint ventures, or an association with the City and Consultant. Consultant is an independent contractor and neither it, its employees, agents, subcontractors nor representatives shall be considered employees, agents or representatives of the City. Except as otherwise provided herein, Consultant shall maintain, in all respects, its present control over the means and personnel by which this Agreement is performed. All qualifications, educational requirements and fitness-for-duty on the part of the Consultant's hires shall be exclusively t From any amounts due Consultant, there shall be no deduction for federal income tax or FICA payments nor for any state income tax, nor for any other purposes which are associated with an employer/employee relationship unless otherwise required by law. Payment of federal income tax, FICA payments, state income tax, unemployment compensation taxes, and other payroll deductions and taxes are the sole responsibility of Consultant.

**14. Notices**

Any notices to be given under this agreement shall be given by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, addressed to Consultant at its address stated herein, and to the authorized agent of the City at the address stated herein.

In witness whereof, the parties hereto have made and executed the Agreement as of the day and first above written.

CITY OF BIRCHWOOD VILLAGE

SWANSON HASKAMP CONSULTING, LLC

\_\_\_\_\_

\_\_\_\_\_  
Jennifer Haskamp, President & Principal Planner 6/13/2017

Printed Name

Date



## Attachment 1: Rate Schedule

(2017)

<b>Service</b>	<b>Rate</b>
Principal Planner (Haskamp, SHC) <ul style="list-style-type: none"> <li>▪ Report &amp; Document Preparation/Review</li> <li>▪ Research and Analysis</li> <li>▪ Meeting Attendance</li> </ul>	\$120/Hour
Project Planner (Yahner, SHC) <ul style="list-style-type: none"> <li>▪ Meeting Attendance</li> <li>▪ Research and Analysis</li> </ul>	\$95/Hour
Hourly Rate - Technical Analysis <ul style="list-style-type: none"> <li>▪ GIS Mapping</li> <li>▪ Document Layout</li> <li>▪ Graphics</li> </ul>	\$90/Hour
Flat Meeting Rate <ul style="list-style-type: none"> <li>▪ Planning Commission Meeting Attendance</li> <li>▪ City Council Meeting Attendance</li> </ul>	\$250
Mileage rate (Standard IRS rate)	\$0.54/mile
Printing and Mailing Services**	Actual Expenses

*\*Billing will be submitted on an hourly rate up to the estimated costs, and billed per task. Authorization to exceed estimated costs will be obtained prior to completing any additional work.*

*\*\*\*Daily printing and small print will not be charged. Large scale or large quantity print jobs will be billed at actual expense rates.*

**ATTACHMENT 2: Scope of Services**

<b>Plan Component - Checklists</b>	<b>Roles &amp; Responsibilities</b>
<p><b>Land Use</b></p> <ul style="list-style-type: none"> <li>• Forecasts and Community Designation</li> <li>• Existing Land Use</li> <li>• Future Land Use</li> <li>• Density calculations</li> <li>• Staged Development &amp; Redevelopment</li> <li>• Natural Resources</li> <li>• Special Resource Protection</li> </ul>	<p>SHC Responsibility:</p> <ul style="list-style-type: none"> <li>• Mapping</li> <li>• Analysis</li> <li>• Drafting</li> <li>• Assist staff with meeting/engagement exercises to update land use component (i.e. help draft questions, discussions, worksheets, etc.)</li> </ul> <p>City Responsibility (Staff or Volunteer):</p> <ul style="list-style-type: none"> <li>• Provide digital, editable copies of existing plan documents</li> <li>• Facilitate meetings</li> <li>• Provide findings/results of meetings</li> </ul>
<p><b>Transportation</b></p> <ul style="list-style-type: none"> <li>• Transportation Analysis Zones</li> <li>• Roadways</li> <li>• Transit</li> <li>• Bicycling and Walking</li> <li>• Aviation</li> <li>• Freight</li> </ul>	<p>SHC Responsibility:</p> <ul style="list-style-type: none"> <li>• Mapping</li> <li>• Analysis for consistency with Land Use Plan</li> <li>• Assist with developing questions or other necessary engagement tool</li> <li>• Drafting</li> </ul> <p>City Responsibility (Staff or Volunteer):</p> <ul style="list-style-type: none"> <li>• Provide digital, editable copies of existing plan documents</li> <li>• Facilitate meetings (bike/pedestrian focused)</li> </ul>
<p><b>Wastewater</b></p> <ul style="list-style-type: none"> <li>• Areas Served by the Regional System</li> </ul>	<p>SHC Responsibility:</p> <ul style="list-style-type: none"> <li>• Mapping – assume this information is available from engineer, or other source</li> </ul> <p>City Responsibility:</p> <ul style="list-style-type: none"> <li>• Provide all available technical data, in any form</li> </ul>
<p><b>Surface Water and Water Supply</b></p> <ul style="list-style-type: none"> <li>• Executive summary, water resource management related agreements, and amendment process</li> <li>• Physical Environment and Land Use</li> <li>• Local Implementation Plan/Program</li> <li>• Local Water Supply Plan for Municipal Public Water Suppliers (if applicable)</li> </ul>	<p>SHC Responsibility:</p> <ul style="list-style-type: none"> <li>• Mapping (crossover from some land use components, etc.)</li> <li>• Drafting</li> <li>• Update existing plan and address RCWD requirements</li> </ul> <p>City Responsibility:</p> <ul style="list-style-type: none"> <li>• Provide all existing plans and document in</li> </ul>

<ul style="list-style-type: none"> <li>• Water Conservation &amp; Reuse</li> <li>• Assessing &amp; Protecting Source Water</li> <li>• Sub-Regional Collaboration</li> </ul>	<p>an editable, word file</p> <ul style="list-style-type: none"> <li>• Provide assistance with technical data, if available</li> <li>• Provide access/availability of engineering resource if needed</li> </ul>
<p><b>Parks &amp; Trails</b></p> <ul style="list-style-type: none"> <li>• Regional Parks and Trails</li> <li>• Local Parks and Trails</li> </ul>	<p>SHC Responsibility</p> <ul style="list-style-type: none"> <li>• Mapping</li> <li>• Drafting</li> <li>• Assistance with updating CIP, if applicable</li> <li>• Provide assistance, questions, etc., for any public engagement or surveys</li> </ul> <p>City Responsibility:</p> <ul style="list-style-type: none"> <li>• Provide electronic copies of all available data</li> <li>• Facilitate meetings related to topic</li> <li>• Guidance and update of CIP and implementation (SHC assists)</li> </ul>
<p><b>Housing</b></p> <ul style="list-style-type: none"> <li>• Existing housing needs</li> <li>• Projected housing need</li> <li>• Implementation plan</li> </ul>	<p>SHC Responsibility</p> <ul style="list-style-type: none"> <li>• Update tables, and data</li> <li>• Mapping</li> <li>• Drafting – integration of land use concepts, as needed</li> <li>• Provide discussion guidelines/assistance for engagement</li> </ul> <p>City Responsibility:</p> <ul style="list-style-type: none"> <li>• Meeting facilitation/discussion with Planning Commission and City Council</li> <li>• Provide technical assistance when needed</li> </ul>
<p><b>Resilience</b></p> <ul style="list-style-type: none"> <li>• Energy Infrastructure and Resources</li> </ul>	<p>SHC Responsibility</p> <ul style="list-style-type: none"> <li>• Assistance, as applicable</li> </ul> <p>City Responsibility:</p> <ul style="list-style-type: none"> <li>• Drafting</li> </ul>
<p><b>Economic Competitiveness</b></p> <ul style="list-style-type: none"> <li>• Redevelopment</li> </ul>	<p>SHC Responsibility</p> <ul style="list-style-type: none"> <li>• Not anticipated as a standalone section, to be addressed briefly within land use component</li> <li>• Provide questions, guidance for any public engagement/feedback</li> </ul>
<p><b>MEETING ATTENDANCE</b></p>	<p>SHC will attend the following, to be included within the not-to-exceed budget:</p> <ul style="list-style-type: none"> <li>• 2 Staff/Internal Meetings</li> <li>• 2 Planning Commission Meetings</li> <li>• 2 City Council Meetings</li> </ul>

# MEMORANDUM

DATE: August 8, 2017

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TO: Birchwood City Council  
FROM: Tobin Lay, City Administrator  
SUBJECT: Videographer Contract



**Birchwood Village**

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Dear Mayor and Council Members,

In May 2017, the City lost its long time videographer Kenny Ronnan. In June and July, videographer candidate Robert Leeves filmed the Regular City Council meetings and Town Hall meeting. Council Members agreed to review the work product in consideration of entering into agreement with Robert Leeves for ongoing videographer services.

City Attorney Kantrud and I have worked with Robert Leeves on the enclosed videographer contract and submit it to you now for your review and approval.

### **Request/Recommendation**

Staff requests Council:

- 1) Approve entering into agreement with Robert Leeves for videographer services as laid out in the enclosed agreement; and
- 2) Authorize Mayor Wingfield and Administrator Lay to endorse the enclosed videographer agreement.

Thanks!

Regards,  
Tobin Lay

**A G R E E M E N T**  
**BETWEEN THE CITY OF BIRCHWOOD VILLAGE**  
**AND**  
**ROBERT LEEVES**  
**FOR VIDEOGRAPHER SERVICES**

THIS AGREEMENT, made and entered into this 8<sup>th</sup> of August, 2017, by and between the CITY OF BIRCHWOOD VILLAGE, Washington County, Minnesota, herein referred to as "CITY," and Robert Leeves, herein referred to as "VIDEOGRAPHER."

**WHEREAS**, the CITY desires to contract with a videographer to record City Council meetings and special meetings; and

**WHEREAS**, the CITY has broadcast facilities and government access through the Ramsey Washington Suburban Cable Commission; and

**WHEREAS**, the VIDEOGRAPHER will provide recording services for the city.

**WHEREAS**, under the terms of this agreement, the VIDEOGRAPHER is an independent contractor.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. The CITY shall be responsible for providing and maintaining the broadcast equipment and facility. The CITY is responsible for establishing broadcast policies and procedures and meeting schedules. The CITY shall provide the VIDEOGRAPHER with the next year's meeting schedule each December.
2. The CITY shall provide training for the VIDEOGRAPHER on broadcast equipment. The CITY shall pay the VIDEOGRAPHER for initial training on the equipment at a rate of \$20 per hour, with a minimum of three hours.
3. For filming CITY meetings, VIDEOGRAPHER shall be paid at the rate of \$20 per hour, with a minimum payment of three hours for each scheduled meeting. The VIDEOGRAPHER may choose to renegotiate the rate of pay annually during the month of August and adjustments approved by the CITY will take effect the next CITY budget year.
4. VIDEOGRAPHER shall submit billing invoices to the City Administrator for services rendered, at least quarterly. The invoice shall list meeting dates, type of meeting, and actual hours worked.
5. VIDEOGRAPHER shall arrive at City Hall, 207 Birchwood Avenue, at least 30 minutes before the start of each scheduled meeting and open the production booth and set up and test mics and electronic equipment. Food and beverages are not allowed in the production booth. Upon departing, VIDEOGRAPHER shall shut down equipment in the production booth, put away mics and electronic equipment, turn off lights in the production booth, and secure the door to the production booth.
6. VIDEOGRAPHER shall be professional, accommodating, courteous, and timely at all times.
7. The CITY shall notify the VIDEOGRAPHER, via email, at least three business days in advance for any special broadcast coverage requirements or changes in the meeting schedule. The VIDEOGRAPHER shall notify the CITY, via email, at least three business days in advance in event that VIDEOGRAPHER is not available to film a meeting and the VIDEOGRAPHER shall contact substitute videographer Nick Anderson at 612-702-9131, 651-747-3822, or nickreadanderson@gmail.com or assist in finding another substitute videographer to film the meeting. If neither the VIDEOGRAPHER nor Mr. Anderson are available to film a meeting, the VIDEOGRAPHER shall contact the City Clerk at 651-426-3403 as soon as possible.

8. VIDEOGRAPHER is expected to respect the confidentiality of all closed meetings. Any communication, including that on social media, of said meetings is not permitted. All closed meetings shall be recorded as requested but not broadcast.
9. From time to time, the CITY may want to contract with the VIDEOGRAPHER to film and edit CITY sponsored videos, including Public Service Announcements, footage for the YouTube channel, training, etc., and / or to film and edit CITY sponsored events and programs. The CITY shall provide the VIDEOGRAPHER with specific details and ample time to prepare such videos. The CITY shall have final approval prior to videos being broadcast or posted on social media and the CITY shall own all completed videos requested by the CITY.
10. VIDEOGRAPHER shall notify the City Clerk of any changes or issues with AV equipment.
11. This Agreement shall remain in effect until terminated by either party by serving on the other party a thirty (30) day written notice of such intent to terminate by certified mail. Termination to be effective thirty (30) days after the letter to terminate is deposited in the United States mail.
12. Upon contract termination, VIDEOGRAPHER shall return all keys to the CITY.
13. Any notice required by this Agreement shall be sent as follows:

<p>TO CITY:</p> <p>City of Birchwood Village  207 Birchwood Avenue  Birchwood, MN 55110</p>	<p>TO VIDEOGRAPHER:</p> <p>Robert Leeves  3 Oakview Court  Birchwood, MN 55110</p>
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14. **Entire Agreement.** This Agreement contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written.
15. **Severability.** If any provision of this Agreement is deemed invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.
16. **Applicable Law.** The Agreement shall be governed by the laws of the State of Minnesota and brought in the County of Ramsey.
17. **Independent Contractor.**
  - A. Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee between the parties. VIDEOGRAPHER shall at all times remain an independent contractor with respect to the services to be provided under this agreement.
  - B. City shall be exempt from payment of all unemployment insurance, FICA, retirement, life and medical insurance, and workers' compensation insurance for any and all of VIDEOGRAPHER's employees and agents. Payment of insurance premiums, tax withholding, and all other benefits are strictly VIDEOGRAPHER's responsibility.
18. **Taxes and Insurance.** VIDEOGRAPHER shall be responsible for paying his own income taxes and social security taxes. In addition, VIDEOGRAPHER shall provide his own unemployment and worker's compensation insurance, and general liability insurance.

IN WITNESS WHEREOF, the parties hereto have made and executed this agreement the day and year first above written.

CITY OF BIRCHWOOD VILLAGE

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Videographer

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

City of Birchwood Village

Cash Control Statement

For the Period : 7/11/2017 To 8/2/2017

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$550,159.61	\$6,502.73	\$43,699.09	\$512,963.25
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00
Comp Plan Grant	\$5,000.00	\$0.00	\$0.00	\$5,000.00
Tree Canopy Care	\$0.00	\$0.00	\$0.00	\$0.00
Spec Project Elm Easement	\$0.00	\$0.00	\$0.00	\$0.00
Sewer 2004 Bonds	\$0.00	\$0.00	\$0.00	\$0.00
Special Rev Projects	\$4,465.02	\$200.00	\$565.43	\$4,099.59
Library	\$0.00	\$0.00	\$0.00	\$0.00
Spec Rev - Warm House	\$40.00	\$0.00	\$0.00	\$40.00
Reimbursed Contracted Services	(\$1,676.51)	\$0.00	\$0.00	(\$1,676.51)
General Debt Service (Identify)	\$0.00	\$0.00	\$0.00	\$0.00
Birchwood In Re-hab Bond	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Re-hab 2008 Debt	\$7,577.23	\$0.00	\$0.00	\$7,577.23
Municipal State Aid Streets - Construction	\$0.00	\$0.00	\$0.00	\$0.00
Open Spaces Acquisition (Optional)	\$0.00	\$0.00	\$0.00	\$0.00
Capital Project PW	\$68,203.91	\$0.00	\$0.00	\$68,203.91
Capital Projects	\$0.00	\$0.00	\$0.00	\$0.00
Cap Proj Catchbasin	\$0.00	\$0.00	\$0.00	\$0.00
Water	(\$20,419.61)	\$0.00	\$0.00	(\$20,419.61)
Sewer	\$82,838.49	\$0.00	\$2,922.12	\$79,916.37
Transit System	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00
Engineering Services	(\$1,360.00)	\$0.00	\$1,827.50	(\$3,187.50)
<b>Total</b>	<b>\$694,828.14</b>	<b>\$6,702.73</b>	<b>\$49,014.14</b>	<b>\$652,516.73</b>

City of Birchwood Village

Receipts Register

8/2/2017

Fund Name: All Funds

Date Range: 07/11/2017 To 08/02/2017

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
07/20/2017	Boy's Mechanical, Inc.	2018	429 Wildwood Ave Permit	(07/20/2017) -	N Building Permits	100-32211-	\$ 36.75
							<u>\$ 36.75</u>
07/20/2017	Elder- Jones	2019	Permit Fee	(07/20/2017) -	N Building Permits	100-32211-	\$ 84.43
							<u>\$ 84.43</u>
07/20/2017	Marsh Heating & Air Conditioning	2020	8 Oak Hill Court	(07/20/2017) -	N Building Permits	100-32211-	\$ 33.00
							<u>\$ 33.00</u>
07/20/2017	City of White Bear Lake	2021	Water Efficiency Rebate-6/21/17	(07/20/2017) -	N Refund-Reimbursemnt-Dividend	100-36240-	\$ 600.00
							<u>\$ 600.00</u>
07/27/2017	Huntley, Steve	2022	620 Birchwood Ave Building Permit	(07/27/2017) -	N Building Permits	100-32211-	\$ 256.86
							<u>\$ 256.86</u>
07/27/2017	White Bear Heating and Cooling	2023	HVAC Permit	(07/27/2017) -	N Building Permits	100-32211-	\$ 93.00
							<u>\$ 93.00</u>
07/27/2017	MN Management & Budget	2024	Court Fines	(07/27/2017) -	N Fines	100-35105-	\$ 46.66
							<u>\$ 46.66</u>
07/27/2017	MN Management & Budget	2025	State Aid	(07/27/2017) -	N State Grants and Aid	100-33422-	\$ 5,165.00
							<u>\$ 5,165.00</u>
08/01/2017	Will, Aaron	2026*	Boat Slip 2017	(08/01/2017) -	N Dock/Lift Permit Fee	210-32260-	\$ 200.00
							<u>\$ 200.00</u>
08/01/2017	Dabruzzi, Anthony	2027*	Zoning Permit	(08/01/2017) -	N Building Permits	100-32211-	\$ 30.00
							<u>\$ 30.00</u>

Fund Name: All Funds

Date Range: 07/11/2017 To 08/02/2017

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
08/01/2017	Rossbach Construction, INC.	2028	Building Permit	(08/01/2017) -	N Building Permits	100-32211-	\$ 157.03
							<u>\$ 157.03</u>
							<u>\$ 6,702.73</u>

Total for Selected Receipts

Fund Name: All Funds

Date Range: 07/11/2017 To 08/02/2017

Date	Vendor	Check #	Description	Void	Account Name	F-A-O-P	Total
07/17/2017	Legacy Celtic Music, LLC	29694	Muisc in the Park	N	Unallocated Expenditures	100-49201-440-	\$ 150.00
	<b>Total For Check</b>	<b>29694</b>					<b>\$ 150.00</b>
07/17/2017	AirFresh Industries, Inc.	29695	4th of July Parade	N	Parks	100-45207-314-	\$ 40.00
	<b>Total For Check</b>	<b>29695</b>					<b>\$ 40.00</b>
07/17/2017	Legacy Celtic Music, LLC	29696	Music in the Park	N	Unallocated Expenditures	100-49201-440-	\$ 150.00
	<b>Total For Check</b>	<b>29696</b>					<b>\$ 150.00</b>
07/17/2017	Xcel Energy	EFT071717	Electric for Street Lights	N	Street Lighting	100-43160-380-	\$ 1,179.58
	<b>Total For Check</b>	<b>EFT071717</b>					<b>\$ 1,179.58</b>
07/24/2017	Payroll Period Ending 07/24/2017	29697		N	Clerk - Treasurer	100-41401-100-	\$ 1,575.80
	<b>Total For Check</b>	<b>29697</b>					<b>\$ 1,575.80</b>
07/24/2017	Miller, Scottie	29698	Music in the Park 7/23/17	N	Unallocated Expenditures	100-49201-440-	\$ 150.00
	<b>Total For Check</b>	<b>29698</b>					<b>\$ 150.00</b>
07/24/2017	PERA	EFT072417	Employee Retirement- Tobin	N	Clerk - Treasurer	100-41401-121-	\$ 274.40
	<b>Total For Check</b>	<b>EFT072417</b>					<b>\$ 274.40</b>
08/01/2017	Payroll Period Ending 08/01/2017	29699		N	Supervision	100-45201-100-	\$ 1,208.67
	<b>Total For Check</b>	<b>29699</b>					<b>\$ 1,208.67</b>
08/01/2017	Thatcher Engineering, Inc	29700*	Variance Application and Sewer Lining Project	N	Engineer Service	100-41650-300-	\$ 680.00
		29700*					\$ 297.50
		29700*				703-41650-300-	\$ 1,827.50
	<b>Total For Check</b>	<b>29700</b>					<b>\$ 2,805.00</b>
08/01/2017	Payroll Period Ending 08/01/2017	29701		N	Clerk - Treasurer	100-41401-100-	\$ 583.89
	<b>Total For Check</b>	<b>29701</b>					<b>\$ 583.89</b>
08/01/2017	Fabulous Fairlanes	29702	Music in the Park 7-30-17	N	Unallocated Expenditures	100-49201-440-	\$ 150.00
	<b>Total For Check</b>	<b>29702</b>					<b>\$ 150.00</b>
08/01/2017	AVENET, LLC	29703	Annual Service Package GovOffice	N	Office Operations Supplies	100-41911-230-	\$ 425.00
	<b>Total For Check</b>	<b>29703</b>					<b>\$ 425.00</b>

Fund Name: All Funds

Date Range: 07/11/2017 To 08/02/2017

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
08/01/2017	Allstream	29704	Analog Phone Line	N	Phone/IT	100-41955-320-	\$ 37.50
	<b>Total For Check</b>	<b>29704</b>					<b>\$ 37.50</b>
08/01/2017	TSE, INC	29705	City Hall Janitorial Services X2 7/6/17 and 7/20/17	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
	<b>Total For Check</b>	<b>29705</b>					<b>\$ 25.00</b>
08/01/2017	MENARD'S - MAPLEWOOD	29706	Riverton Tank	N	General Government Buildings and Plant	100-41940-400-	\$ 809.94
	<b>Total For Check</b>	<b>29706</b>					<b>\$ 809.94</b>
08/01/2017	MN Department of Labor and Industry	29707	Building State Surcharge June 2017	N	Building Inspections Administration	100-42401-437-	\$ 97.89
	<b>Total For Check</b>	<b>29707</b>					<b>\$ 97.89</b>
08/01/2017	Danus, Claudio	29708	Pro-Rated Boat Slip Fee	N	MISCELLANEOUS	210-49001-810-	\$ 93.46
	<b>Total For Check</b>	<b>29708</b>					<b>\$ 93.46</b>
08/01/2017	Klimp, Dana	29709	Boat Slip Overpayment	N	MISCELLANEOUS	210-49001-810-	\$ 200.00
	<b>Total For Check</b>	<b>29709</b>					<b>\$ 200.00</b>
08/01/2017	Greseth, Mark	29710	Pro-Rated Boat Slip	N	MISCELLANEOUS	210-49001-810-	\$ 85.05
	<b>Total For Check</b>	<b>29710</b>					<b>\$ 85.05</b>
08/01/2017	Arlandson, John	29711	Pro-Rated Boat Slip Fee 2017	N	MISCELLANEOUS	210-49001-810-	\$ 93.46
	<b>Total For Check</b>	<b>29711</b>					<b>\$ 93.46</b>
08/01/2017	Colestock, Lianna	29712	Pro-Rated Boat Slip Fee 2017	N	MISCELLANEOUS	210-49001-810-	\$ 93.46
	<b>Total For Check</b>	<b>29712</b>					<b>\$ 93.46</b>
08/01/2017	LMCIT	29713	Annual Pay Plan 6/12/17 - 6/12/18	N	City Insurance	100-41945-361-	\$ 6,354.00
	<b>Total For Check</b>	<b>29713</b>					<b>\$ 6,354.00</b>
08/01/2017	Gopher State One Call	29714*	Locates (29 Tickets)	N	Utility Locates	100-42805-314-	\$ 35.10
	<b>Total For Check</b>	<b>29714</b>					<b>\$ 35.10</b>
08/01/2017	Leeves, Robert	29715	Council Meeting 7/11/17	N	Cable Eqmpt and Service	100-41950-314-	\$ 100.00
	<b>Total For Check</b>	<b>29715</b>					<b>\$ 100.00</b>
08/01/2017	Companion Animal Control LLC	29716	Animal Control - Qtr2, 2017	N	Animal Control	100-41916-314-	\$ 240.00

Fund Name: All Funds

Date Range: 07/11/2017 To 08/02/2017

Date	Vendor	Total For Check	Check #	Description	Void	Account Name	F-A-O-P	Total
08/01/2017	City of White Bear Lake	29717	29717	Fire Srvc - July 2017	N	Fire	100-42201-314-	\$ 240.00
		<b>Total For Check</b>	<b>29717</b>					\$ 1,599.84
08/01/2017	KEJ Enterprises	29718*	29718	Mowing June/July 2017	N	Lawn Care - Maintenance	100-45208-314-	\$ 1,750.00
08/01/2017	White Bear Township	29720*	29720	Lift Station Check / Repairs 7/20-7/21/2017	N	Sewer Utility	605-43190-314-	\$ 1,077.00
08/01/2017	White Bear Township	29721*	29721	Lift Station Check / Repairs (6/9-6/30/2017)	N	Sewer Utility	605-43190-314-	\$ 582.15
08/01/2017	White Bear Township	29722*	29722	Lift Station Check / Repairs (5/21-5/25)	N	Sewer Utility	605-43190-314-	\$ 469.00
08/01/2017	White Bear Township	29723*	29723	Lift Station Check / Repairs (4/26/2017)	N	Sewer Utility	605-43190-314-	\$ 149.50
08/01/2017	Washington County Sheriff	29724	29724	Jan- Jun 2017 Police Services	N	Police	100-42101-314-	\$ 25,447.66
08/01/2017	Xcel Energy	EFT080117A*	EFT080117A	Electric for Lift Stations/ Warming Station	N	General Government Buildings and Plant	100-41940-380-	\$ 152.76
		EFT080117A*	EFT080117A			Parks	100-45207-380-	\$ 12.61
		EFT080117A*	EFT080117A			Sewer Utility	605-43190-380-	\$ 413.44
		EFT080117A*	EFT080117A				605-43190-380-	\$ 194.18
		EFT080117A*	EFT080117A				605-43190-380-	\$ 36.85
		<b>Total For Check</b>	<b>EFT080117A</b>					\$ 809.84
08/01/2017	Xcel Energy	EFT080117B*	EFT080117B	Gas for Generator	N	Street Lighting	100-43160-380-	\$ 28.37
		<b>Total For Check</b>	<b>EFT080117B</b>					\$ 28.37
08/01/2017	PERA	EFT080117C	EFT080117C	Employee Retirement- Bailey	N	Clerk - Treasurer	100-41401-121-	\$ 108.58
		<b>Total For Check</b>	<b>EFT080117C</b>					\$ 108.58
08/02/2017	Leeves, Robert	29725	29725	New equipment training 8/2/17	N	Cable Eqpmt and Service	100-41950-314-	\$ 10.00

Fund Name: All Funds

Date Range: 07/11/2017 To 08/02/2017

Date   Vendor

Check #

Total For Check

Description

Void   Account Name

F-A-O-P

	<u>Total</u>
\$	10.00
\$	49,014.14

Total For Selected Checks

As on 8/2/2017

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Dock/Lift Permit Fee	0.00	700.00	700.00
<b>Total Acct 322</b>	<b>0.00</b>	<b>700.00</b>	<b>700.00</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>700.00</b>	<b>700.00</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Recreation			
Miscellaneous: Dues and Subscriptions	0.00	200.00	(200.00)
<b>Total Acct 451</b>	<b>0.00</b>	<b>200.00</b>	<b>(200.00)</b>
MISCELLANEOUS			
Refunds and Reimbursements	0.00	565.43	(565.43)
<b>Total Acct 490</b>	<b>0.00</b>	<b>565.43</b>	<b>(565.43)</b>
Unallocated Expenditures			
Community Events	0.00	300.00	(300.00)
<b>Total Acct 492</b>	<b>0.00</b>	<b>300.00</b>	<b>(300.00)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>1,065.43</b>	<b>(1,065.43)</b>
<b>Other Financing Uses:</b>			
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
Beginning Cash Balance		4,465.02	
Total Receipts and Other Financing Sources		700.00	
Total Disbursements and Other Financing Uses		1,065.43	
Cash Balance as of 08/02/2017		4,099.59	

As on 8/2/2017

Capital Project PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Total Revenues	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Other Financing Sources:</b>			
Transfers from other Funds	<u>0.00</u>	<u>68,203.91</u>	<u>68,203.91</u>
Total Acct 392	<u>0.00</u>	<u>68,203.91</u>	<u>68,203.91</u>
Total Other Financing Sources	<u>0.00</u>	<u>68,203.91</u>	<u>68,203.91</u>
<b>Disbursements:</b>			
Total Disbursements	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Other Financing Uses:</b>			
Total Other Financing Uses	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Beginning Cash Balance		0.00	
Total Receipts and Other Financing Sources		68,203.91	
Total Disbursements and Other Financing Uses		<u>0.00</u>	
Cash Balance as of 08/02/2017		68,203.91	

As on 8/2/2017

Water	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Water Fee	0.00	34,119.82	34,119.82
Penalty - Late Water/Sewer	0.00	169.35	169.35
State and Misc fees	0.00	1,051.11	1,051.11
<b>Total Acct 341</b>	<b>0.00</b>	<b>35,340.28</b>	<b>35,340.28</b>
Water Main Break	0.00	1,320.12	1,320.12
<b>Total Acct 349</b>	<b>0.00</b>	<b>1,320.12</b>	<b>1,320.12</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>36,660.40</b>	<b>36,660.40</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Financial Administration			
Operating Supplies (211 through 219)	0.00	481.69	(481.69)
Professional Services: Medical and Dental Fees	0.00	3,655.60	(3,655.60)
<b>Total Acct 415</b>	<b>0.00</b>	<b>4,137.29</b>	<b>(4,137.29)</b>
Water Utility			
Repair and Maintenance Supplies (221 through 229)	0.00	147.62	(147.62)
Professional Services: Medical and Dental Fees	0.00	23,542.99	(23,542.99)
Contracted Services	0.00	8,468.32	(8,468.32)
Miscellaneous (431 through 499)	0.00	1,124.00	(1,124.00)
Wtr/Swr Emergency			
Repair and Maintenance Supplies (221 through 229)	0.00	600.00	(600.00)
Professional Services: Medical and Dental Fees	0.00	14,083.82	(14,083.82)
Sewer Utility			
Sewer - Wastewater Charge	0.00	29,930.39	(29,930.39)
Refunds and Reimbursements	0.00	11.92	(11.92)
<b>Total Acct 431</b>	<b>0.00</b>	<b>77,909.06</b>	<b>(77,909.06)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>82,046.35</b>	<b>(82,046.35)</b>
<b>Other Financing Uses:</b>			
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Beginning Cash Balance</b>		<b>24,966.34</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>36,660.40</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>82,046.35</b>	
<b>Cash Balance as of 08/02/2017</b>		<b>(20,419.61)</b>	

As on 8/2/2017

Sewer	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Penalty - Late Water/Sewer	0.00	354.62	354.62
Sewer Fee	0.00	55,240.05	55,240.05
<b>Total Acct 341</b>	<b>0.00</b>	<b>55,594.67</b>	<b>55,594.67</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>55,594.67</b>	<b>55,594.67</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Postage/Postal Permits			
OFFICE SUPPLIES (201 through 209)	0.00	137.75	(137.75)
<b>Total Acct 414</b>	<b>0.00</b>	<b>137.75</b>	<b>(137.75)</b>
Sewer Utility			
Operating Supplies (211 through 219)	0.00	26.71	(26.71)
Professional Services: Medical and Dental Fees	0.00	1,304.88	(1,304.88)
Contracted Services	0.00	2,277.65	(2,277.65)
Utility Services (381 through 389)	0.00	6,649.10	(6,649.10)
Refunds and Reimbursements	0.00	0.18	(0.18)
<b>Total Acct 431</b>	<b>0.00</b>	<b>10,258.52</b>	<b>(10,258.52)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>10,396.27</b>	<b>(10,396.27)</b>
<b>Other Financing Uses:</b>			
Transfer To Governmental Fund			
Interfund Transfers	0.00	25,194.03	(25,194.03)
<b>Total Acct 493</b>	<b>0.00</b>	<b>25,194.03</b>	<b>(25,194.03)</b>
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>25,194.03</b>	<b>(25,194.03)</b>
<b>Beginning Cash Balance</b>		<b>59,912.00</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>55,594.67</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>35,590.30</b>	
<b>Cash Balance as of 08/02/2017</b>		<b>79,916.37</b>	