



AGENDA OF THE REGULAR MEETING OF
THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
January 9, 2018
7:00 P.M.

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.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

OPEN PUBLIC FORUM

ANNOUNCEMENTS

- A. Street snow removal feedback should be sent to info@cityofbirchwood.com.
- B. We are in need of a representative for the WBLCD. Contact City Hall if interested.
- C. We are social, follow us on Facebook/Twitter and/or register for the email listserv.

ADMINISTRATIVE PRESENTATION

- A. Sheriff Report* (p. 3)
- B. BoldPlanning Software Report* (p. 4)

CITY BUSINESS – CONSENT AGENDA

- A. Approve Regular Meeting Minutes from December 12, 2017* (pp. 5-12)
- B. Approve Treasurer's Report* (pp. 13-24)
- C. Approve Resolution 2018-01, Designating the White Bear Press as the Official Newspaper for Publication* (p. 25)
- D. Approve Resolution 2018-02, Naming U.S. Bank and the 4M Fund as Official Depositories of Municipal Funds* (p. 26)
- E. Approve Resolution 2018-03, Accepting a Cash Donation from Artists Group Members* (p. 27)
- F. Approve NYFS Agreement and Rate Increase* (p. 28)
- G. Approve Resolution 2017-34 Dog Park Committee* (pp. 29-30)
- H. Approve Resolution 2018-04 & Employment Contract with Administrator Tobin Lay*(pp. 31-37)
- I. Approve Second Reading & Adopt Ordinance 2017-10-02 Public Right-of-Way* (pp. 38-59)
- J. Approve Resolution 2017-33 Summary Publication of Ordinance 2017-10-02* (pp. 60-61)
- K. Approve Amended Fee Schedule* (p. 62)

* Denotes items that have supporting documentation provided

- L. Re-appoint Committee Members and Commissioners to Committees / Commissions* (p. 63)
- M. Approve Council Member Assignments* (p. 64)

CITY BUSINESS – REGULAR AGENDA

- A. City Project No. 2017-1 Sanitary Sewer Rehabilitation Improvement* (pp. 65-70)
 - a. Review and Discuss Proposed Assessment Rolls
 - b. Approve Resolution 2018-05 Ordering Public Hearing on Proposed Assessment
 - c. Approve Insituform Contract for City Project No. 2017-1 Sanitary Sewer Rehab
Time Budget: 15 Minutes
- B. Second Reading of Water Utility Rate Increase* (pp. 71-72)
 - a. Public Hearing
 - b. Council Deliberation and Approval of Resolution 2018-06
Time Budget: 15 Minutes
- C. Second Reading Ordinance 2017-12-01 - City Code Section 805 Amendments* (pp. 73-78)
 - a. Public Hearing
 - b. Council Deliberation and Approval
Time Budget: 20 Minutes
- D. Second Reading Ordinance 2015-06-02 Deer Feeding Prohibition* (pp. 79-81)
 - a. Council Deliberation and Approval
Time Budget: 10 Minutes
- E. First Reading Building Completion Code* (pp. 82-83)
 - a. Council Deliberation and Approval
 - b. Order Public Hearing for February 13, 2018
Time Budget: 15 Minutes
- F. Reschedule August City Council Meeting* (p. 84)
 - a. Council Deliberation and Date Selection
Time Budget: 5 Minutes
- G. Council Member Reports:
- H. City Administrator's Report
 - a. Lift Station Generator Maintenance
Time Budget: 5 Minutes

ADJOURN

* Denotes items that have supporting documentation provided

MEMORANDUM

DATE: January 9, 2018

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



Birchwood Village

Dear Mayor and Council Members,

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

Date	Time	ICR #	ID#	Street Name	Complaint
12/04/17	10:57:50	117043195		HALL AV	RECEIPT# 170004428
12/05/17	9:38:41	117043354		BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/05/17	9:44:43	117043355	1294	BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/06/17	11:55:48	117043518	0120	BIRCHWOOD	SCHOOL BUS STOP ARM VIOL
12/06/17	14:26:15	117043553		WILDWOOD AV	RECEIPT# 170004465
12/08/17	10:13:27	117043793	0151	BIRCHWOOD CT	EXTRA PATROL REQUEST
12/11/17	10:09:31	117044120	1294	BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/11/17	11:11:44	117044135	1294	BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/11/17	11:18:35	117044138	1294	BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/11/17	11:36:06	117044143		HALL AV	RECEIPT# 170004526
12/11/17	13:26:09	117044166	0088	BIRCHWOOD CT	FOUND PROPERTY
12/13/17	7:55:14	117044390	1294	BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/13/17	8:06:23	117044391	1294	BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/13/17	8:11:24	117044392	1294	BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/13/17	8:18:46	117044396	1294	BIRCHWOOD AV	APPLICANT - PRE-EMPLOYMENT BAC
12/13/17	8:40:23	117044400	1294	BIRCHWOOD AVE	APPLICANT - PRE-EMPLOYMENT BAC
12/13/17	12:58:35	117044434		EAST COUNTY LIN	RECEIPT# 170004567
12/13/17	13:06:31	117044436		EAST COUNTY LIN	RECEIPT# 170004569
12/13/17	19:09:16	117044477	0084	BIRCHWOOD CT	MEDICAL LEVEL 1
12/18/17	11:51:11	117045031	0151	HALL AV	EXTRA PATROL REQUEST
12/18/17	17:49:41	117045084	1226	JAY ST	MEDICAL LEVEL 1
12/22/17	14:24:00	117045625	0190	WILDWOOD AV	INFORMATION
12/23/17	13:46:23	117045740	0063	BIRCHWOOD CT	MISSING DOG INFORMATION
12/24/17	8:55:40	117045803	1277	CEDAR ST	POS INJURED DEER
12/26/17	14:56:25	117045987	1226	EAST CO LINE RD	MEDICAL LEVEL 3
12/27/17	10:41:20	117046089	0094	WHITE PINE LN	FRAUD REPORT
12/28/17	14:18:30	117046297	1226	EAST CO LINE RD	MEDICAL LVL 3
12/31/17	8:06:48	117046565	0151	CEDAR ST	MEDICAL LEVEL 1 *RESTACK*

Total ICRs Processed: 28

Regards,
Tobin Lay

Tobin Lay

From: Randy LaFoy
Sent: Tuesday, January 02, 2018 10:36 PM
To: Tobin Lay
Subject: Fwd: Mtg. Invite - EOP and COOP software demo

Follow Up Flag: Follow up
Flag Status: Flagged

Tobin,

Just an FYI to include in the info part of our packets.

Randy

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

From: **Kelli Matzek**
Date: Tue, Jan 2, 2018 at 10:55 AM
Subject: RE: Mtg. Invite - EOP and COOP software demo
To: Randy LaFoy

Mr. LaFoy,

The county is in the process of drafting a contract between Washington County and the consultant BoldPlanning that includes giving software access to the cities and townships. The cities do not need to directly be a part of that process. After the contract is approved by the County Board (Jan/Feb), we will move forward with a JPA with the cities and townships. I am currently in the later stages of drafting a Joint Powers Agreement (JPA) for the cities to enter into with the county.

If you have additional questions, please let me know.

Kelli Matzek

Washington County Sheriff's Office

Emergency Management Deputy Director

[\(651\) 430-7636](tel:6514307636)

Kelli.Matzek@co.washington.mn.us

**CITY OF BIRCHWOOD VILLAGE
REGULAR CITY COUNCIL MEETING
DECEMBER 12, 2017**

MINUTES

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

STAFF PRESENT: City Administrator Tobin Lay, City Engineer Steve Thatcher & City Attorney Alan Kantrud.

OTHERS PRESENT: Brian McGinnis, Alan Mitchell, Larry Walker, Charles Moore, John Waller, Ron Malles, Houstoun Clinch and others.

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

AGENDA APPROVAL:

Mayor Wingfield: Proposed adding a recent buckthorn removal memorandum from Mr. Bryan Pynn of the Washington Conservation District to the agenda under her Council Member report.

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

OPEN PUBLIC FORUM:

- A. **Brian McGinnis (194 Wildwood Avenue):** Noted concern about the language of the City Council Liaison material in the agenda packet.

ANNOUNCEMENTS:

- A. Happy Holidays!
- B. The opening of the ice rink has been postponed due to warm weather. Please watch the city website for updates.
- C. Please send all street snow removal feedback to: info@cityofbirchwood.com.
- D. The city needs a representative for the White Bear Lake Conservation District (WBLCD). Please contact City Hall if interested.
- E. The Community Club Christmas Party will be held on December 20th from 5:30 p.m. to 7:30 p.m. at City Hall. Everybody is welcome. Thanks to volunteers Carter and Amy Johnson, Sarah Nephew and Angela Churchill.
- F. Please follow us on Facebook and Twitter or register for the email listserv.

ADMINISTRATIVE PRESENTATION:

- A. Sheriff Report
- B. Leaf Pickup Results
- C. Roads Committee Update: Minutes and Email

CITY BUSINESS – CONSENT AGENDA:

- A. Approval of Regular Meeting Minutes from November 14th, 2017
- B. Approval of Workshop Minutes from November 14th, 2017
- C. Approval of Treasurer's Report
- D. Approval of Resolution 2017-35, Designating Polling Place
- E. Approval of Resolution 2017-27, Hiring and Appointment of City Treasurer-Deputy Clerk
- F. Approval of Road Signs at Birchwood Ave. & Cedar St.

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

CITY BUSINESS – REGULAR AGENDA:

A. Truth in Taxation & Adoption of Final Levy and Budget

a. Public Hearing.

Alan Mitchell (23 Oakridge Drive): Asked budget questions about music in the park and legal expenses. He also asked about any amount being sought by the City of White Bear Lake regarding the lake level lawsuit.

Brian McGinnis (194 Wildwood Avenue): Asked several questions about the way the budget had been laid out and offered suggestions for improving the format. He also asked about seal coating expenses in the budget.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.

b. Review of Proposed 2018 Levy and Budget.

Mayor Wingfield: Explained in detail the proposed 8% increase in this year's budget and how it is accounted for. She also explained that this budget is for the general levy fund and does not account for special fund expenses such as seal coating expenses that come from the Capital Improvement Fund and music in the park that come from the Parks Fund. She thanked Mr. Lay for his work in effectively managing the budget in the face of change and addressed some of the questions raised during the public hearing. Donations or user fees are other potential ways to increase funds for special events such as music in the park. This item may be up for further discussion but is not a levy item.

Administrator Lay: Explained that he had followed the established format with this budget. He answered that actual annual expenditures could be included in future budgets if that was the desire of the Council.

c. Resolution 2017-28, Final Levy Adoption

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

d. Resolution 2017-29, Final Budget Adoption

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE FINAL BUDGET. ALL AYES. MOTION PASSED.

B. Resolution 2017-30, Certification of Delinquent Utility Accounts to the County

a. Public Hearing

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.

b. Council Deliberation & Consideration of Approval

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER MALVEY TO APPROVE THE CERTIFICATION. ALL AYES. MOTION PASSED.

C. City Project No. 2017-1, Sanitary Sewer Rehabilitation Improvement

a. Award Contract for Construction & Review and Consider Approving Resolution 2017-31, Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment

Steve Thatcher (City Engineer): He presented and explained two bids that were received for the sewer-lining project. The lowest bid was from Insituform but does not include a “performance and payment bond”. Insituform is willing to provide this bond, if requested. He answered questions from the Council regarding the bids and bonds.

Mayor, Councilmembers and Attorney Kantrud: Discussed the Insituform bid and performance and payment bonds at length and decided to decline the option at this time. It was discovered that there is no anticipated timeline because the work is done based on footage of lined pipe. Change orders are common and subject to approval and would not impact what you assess the homeowners. Assessment is based on a report by the appraiser who sets maximum amount. Also for this project: A tax ID number is needed and any signees must be decided upon to sign the document.

Steve Thatcher: Proposed having Council review and approval of assessment in January and hold a public hearing on the assessment in February. Typically one month given to pay assessment without interest. Wouldn't go on tax statement till Jan 2019 and at that time interest accrual begins.

Administrator Lay: The document states on page 42, “the first of installments is to be paid upon January 2018”.

Steve Thatcher: This will need to be changed to January 2019.

Mayor Wingfield: Clarified that this is the date when it becomes certified and payable over the next 5 years. It can be paid in full at any time, like a mortgage. Interest will commence after January 2019.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER LAFOY TO ADOPT RESOLUTION 2017-31 AS AMENDED. ALL AYES. MOTION PASSED.

Mayor Wingfield: Wants to be clear that the motion passed does not include the performance bond.

Attorney Kantrud: Recommended that the bid be approved and work awarded, but with the stipulation of a review and approval of the binding contract in the form of, for example the consent agenda, at the next city council meeting.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER MALVEY TO APPROVE THE BID AND AWARD CONTRACT TO INSITUFORM WITH A BINDING CONTRACT TO BE PRESENTED FOR APPROVAL AT THE NEXT COUNCIL MEETING. ALL AYES. MOTION PASSED.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO CAP THE CONTRACT'S APPROVAL AMOUNT AT NOT TO EXCEED \$67,975.15. ALL AYES. MOTION PASSED.

b. Review and Consider Approving Resolution 2017-32, Transferring Funds

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER MALVEY TO APPROVE RESOLUTION 2017-32, TRANSFERRING FUNDS. ALL AYES. MOTION PASSED.

D. Manhole Repair – Discovered During Sewer Line TV

Steve Thatcher: He asked to table this another month in order to continue investigation.

Mayor Wingfield: Knowing this is not a time sensitive issue and that it is more affordable to do work in summer rather than winter. An extension of this investigation is warranted.

E. Parks Committee Update & Recommendations

Houstoun Clinch (Parks Committee): Directed city council to page 52 which summarizes the follow up parks survey.

Mayor and Council Members: Discussed survey language and security at length and made several amendments. Mr. Clinch will email Administrator Lay the language changes to the instructions.

MOTION MADE BY COUNCILMEMBER MALVEY AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE PARKS COMMITTEE TO PROCEED WITH THEIR FOLLOW-UP PAPER / ONLINE SURVEY AS AMENDED IN TONIGHT'S MEETING. ALL AYES. MOTION PASSED.

Mayor Wingfield: Asked about status of deer feeding issues being looked at by the Committee. We would like something in writing stating that we have spoken with the DNR, this is what can be done and this is the best we can do.

Houstoun Clinch: Spoke about the work done so far by the Committee related to deer feeding. He also posed a question about removing an unresponsive committee member. Can a committee member do this or must it occur through a city council member?

Mayor Wingfield: Asked the Committee to bring something in writing to the council on this topic.

Administrator Lay: Parks Committee Bylaws are silent on removing unresponsive committee members. Recommends the Committee present a recommendation to the Council for removal if that is their desire.

F. Second Reading & Final Vote Ordinance 2017-10-02. Public Right of Way

a. Public Hearing

Alan Mitchell (23 Oakridge Drive): Concerned about size, ambiguities and inconsistencies of the Public Right of Way (ROW) Ordinance. He asked several questions and offered language to enhance the document.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.

b. Council Deliberation & Vote

Alan Mitchell (23 Oakridge Drive), Mayor Wingfield, Council Members and Attorney Kantrud: Discussed at length concerns about the ordinance language including length and ambiguity.

Councilmember Malvey: Asked Attorney Kantrud to respond to Mr. Mitchell's questions and ask other questions that she had regarding this ordinance.

Attorney Kantrud: The ordinance has been vetted. He acknowledged that Mr. Mitchell made some great points but stated he has not been tasked with reviewing Mr. Mitchell's memo as it was sent out after meeting in November. He stated that the ordinance is used actively in a number of communities locally for years including the City of Maplewood.

Mayor Wingfield: Suggested that Councilmember Malvey sit down with Attorney Kantrud and hammer out Mitchell's questions.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER MALVEY TO TABLE THIS MOTION IN ORDER TO REFER DOCUMENTATION CONCERNS TO THE CITY ATTORNEY WITH A FINAL PROPOSAL TO BE PRESENTED UPON THE NEXT CITY COUNCIL MEETING. ALL AYES. MOTION PASSED.

c. Council Approval of Amended Fee Schedule

Tabled

d. Council Approval of Resolution 2017-33, Summary Publication

Attorney Kantrud: Recommended not to pass this language until the ROW Ordinance has been passed. Stated that a summary and full redlined publication will be available online. He concluded by stating that in his opinion the summary is appropriate and no changes are needed.

G. First Reading of Water Utility Rate Increase

a. Council Deliberation & Consideration of Approval

Mayor Wingfield: Summarized the utility rates as proposed by the Water/Utility Committee. Rates have not increased since 2015. No change is proposed for sewer rates but a 7% increase is recommended for the water rates. Sewer has been reliable, anticipated a reduction in costs but the sewer lining project suggests that there be no change in costs.

b. Order Publication of Notice for Public Hearing

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE WATER USAGE RATE INCREASE OF 7% FOR 2018, SET TO BEGIN MARCH 2018 WITH A PUBLIC HEARING ON THE TOPIC SET FOR JANUARY 2018. ALL AYES. MOTION PASSED.

H. Second Reading & Final Vote Ordinance 2017-10-01, Zoning Administration Amendment

a. Council Deliberation & Vote

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADOPT THE FULL ORDINANCE AS PRESENTED. ALL AYES. MOTION PASSED.

Mayor Wingfield: For the public's information the board of appeals portion of this code is being stricken to eliminate any conflict with other sections, as had been discussed previously.

I. Second Reading & Final Vote Ordinance 2017-01-01, Impervious Surface Amendment

a. Council Deliberation & Vote

Administrator Lay: Only one change made at the direction of the council. Amendments were made last month to paragraph 3.

Mayor Wingfield: Proposed the language be changed to: "the variance shall not be valid unless the applicant properly records the variance at the property records at Washington County and a copy of the recording is properly returned to the city for verification". Administrative and payment responsibilities will belong to the benefactor.

MOTION WAS MADE BY COUNCILMEMBER MALVEY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADOPT ORDINANCE 2017-01-01, AS AMENDED. ALL AYES. MOTION PASSED.

J. City Code Section 805 Amendment – First Reading

Mayor Wingfield: Introduced changes that she recommends to Section 805 and reasons these changes should be made.

Mayor, Councilmembers & Attorney Kantrud: Discussed the amendment at length and made changes.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE FIRST READING, AS AMENDED AND TO ORDER A SECOND READING AND PUBLIC HEARING IN JANUARY 2018. ALL AYES. MOTION PASSED.

K. Council Member Reports

a. Mayor Wingfield

i. Buckthorn Removal

She would like approval to apply for volunteer assistance through the Washington Conservation District to remove buckthorn at Bloomquist Park. Mayor does not seek a motion but received the council's approval to proceed.

ii. Docks Committee Update

Mayor Wingfield: Provided an update on Docks Committee meetings. They are working on updates to City Code and Docks Association Bylaws.

iii. Joint Parks Committee Meeting

Mayor Wingfield: Recommends the Council meet with the Parks Committee to discuss results of the surveys; maybe sometime in March.

iv. Committee Liaison Duties

Mayor Wingfield: Presented guidance she had received from the League of MN Cities about Council liaisons. She was pointed to language from neighboring communities, as presented in the packet, and asks Council review by January.

Councilmember LaFoy: Asked that it be run by committees with liaisons, such as Parks and Roads.

Councilmember Malvey: Stated that February or March would be more sensible as some committees will not meet in remainder of December.

v. Leadership Training

Mayor Wingfield: Requested the City assist with the cost of her attending a leadership training course recommended by Larry Walker.

Councilmember LaFoy: Supports these types of training; these sorts of programs were once frequently provided and paid for by the City.

Councilmember Malvey: Had also explored this program at length and agreed it looks like a great program.

MOTION BY COUNCILMEMBER LAFOY SECONDED BY COUNCILMEMBER MALVEY TO PAY HALF OF THE LEADERSHIP TRAINING FEE. ALL AYES. MOTION

b. Councilmember Woolstencroft

i. Dog Park Committee Update – Resolution 2017-34

Councilmember Woolstencroft: Thanked Committee Members for their work on the Dog Park Committee.

c. Councilmember LaFoy

i. BoldPlanning Software Report

Councilmember LaFoy: Briefly explained new software presented by the Sheriff. Participation with the software is free. Many other cities and townships locally are using it. Councilmember LaFoy commits to the data entry part of the program for now, but this responsibility will likely fall to the Deputy Clerk.

L. City Administrator’s Report

Administrator Lay: Nothing to report.

ADJOURN:

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER MALVEY TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 8:58 PM.

ATTEST:

Mary Wingfield
Mayor

Tobin Lay
City Administrator - Clerk

For the Period : 12/12/2017 To 1/4/2018

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$742,731.07	\$1,795.41	\$81,558.54	\$662,967.94
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00
Comp Plan Grant	\$4,460.00	\$0.00	\$0.00	\$4,460.00
Tree Canopy Care	\$0.00	\$0.00	\$0.00	\$0.00
Special Rev Projects	\$3,664.59	\$0.00	\$0.00	\$3,664.59
Spec Rev - Warm House	\$40.00	\$0.00	\$0.00	\$40.00
REIMBURSED CONTRACTED SERVICES	(\$7,285.26)	\$0.00	\$0.00	(\$7,285.26)
Birchwood In Re-hab Bond	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Re-hab 2008 Debt	\$13,220.20	\$0.00	\$0.00	\$13,220.20
CAPITAL PROJECT FUNDS (401 through 499)	\$0.00	\$0.00	\$0.00	\$0.00
Capital Improvement Projects	\$0.00	\$0.00	\$0.00	\$0.00
Capital Project PW	\$66,233.91	\$0.00	\$0.00	\$66,233.91
Water	\$41,682.62	\$0.00	\$10,323.19	\$31,359.43
Sewer	\$20,951.72	\$35,000.00	\$1,082.43	\$54,869.29
Transit System	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00
Engineering Services	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$885,698.85	\$36,795.41	\$92,964.16	\$829,530.10

City of Birchwood Village

Receipts Register

1/4/2018

Fund Name: All Funds

Date Range: 12/12/2017 To 01/04/2018

<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>
12/26/2017	Peterson	171734173	Permit	(12/26/2017) -	N Building Permits (Excludes surcharge)	100-32210-	\$ 128.00
12/26/2017	Werra	171734174	Permit	(12/26/2017) -	N Building Permits (Excludes surcharge)	100-32210-	\$ 668.75
12/26/2017	LMCIT	171734175	2017 Dividend	(12/26/2017) -	N Refund-Reimbursemt-Dividend	100-36240-	\$ 492.00
12/26/2017	Art Group	171734176	Donation - Cash	(12/26/2017) -	N Contributions and Donations from Private Sources	100-36230-	\$ 100.00
12/26/2017	MN State	171734177	Court Fines	(12/26/2017) -	N State and Misc fees	100-34170-	\$ 246.66
12/26/2017	Kixmoeller	171734178	Animal License	(12/26/2017) -	N Animal Licenses	100-32240-	\$ 10.00
12/26/2017	Seibert	171734179	Animal License	(12/26/2017) -	N Animal Licenses	100-32240-	\$ 10.00
12/26/2017	Aakre	171734180	Animal License	(12/26/2017) -	N Animal Licenses	100-32240-	\$ 10.00
12/26/2017	White	171734181	Animal License	(12/26/2017) -	N Animal Licenses	100-32240-	\$ 10.00
12/26/2017	Donnell	171734182	Animal License	(12/26/2017) -	N Animal Licenses	100-32240-	\$ 10.00
12/26/2017	Hullsieck	171734183	Animal License	(12/26/2017) -	N Animal Licenses	100-32240-	\$ 10.00

Fund Name: All Funds

Date Range: 12/12/2017 To 01/04/2018

<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>
12/26/2017	Werra	171734184	Boat Lift Storage	(12/26/2017) -	N Lift Storage	100-32265-	\$ 100.00
							\$ 100.00
12/28/2017	City of Birchwood Village	171734185*	Transfer from General Fund to 605.	(12/28/2017) -	N Transfers from other Funds	605-39205-	\$ 35,000.00
Total for Selected Receipts							\$ 35,000.00
							\$ 36,795.41

Fund Name: All Funds

Date Range: 12/12/2017 To 01/04/2018

<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>
12/12/2017	Kantrud, Alan	29860*	Attorney Fees 2017	N	Legal Services	100-41601-300-	\$ 2,065.00
		29860					\$ 2,065.00
12/12/2017	Manship Plumbing & Heating Inc	29861	Monthly Standby/locates/services	N	Water Utility	601-43180-314-	\$ 670.00
		29861					\$ 670.00
12/28/2017	Payroll Period Ending 12/28/2017	29862		N	Clerk - Treasurer	100-41401-100-	\$ 277.05
		29862					\$ 277.05
12/28/2017	Payroll Period Ending 12/22/2017	29863		N	Parks	100-45207-100-	\$ 423.50
		29863					\$ 423.50
12/28/2017	Payroll Period Ending 12/22/2017	29864		N	Clerk - Treasurer	100-41401-100-	\$ 1,575.80
		29864					\$ 1,575.80
12/28/2017	Payroll Period Ending 12/28/2017	29865		N	Parks	100-45207-100-	\$ 110.00
		29865					\$ 110.00
12/28/2017	Payroll Period Ending 12/28/2017	29866		N	Parks	100-45207-100-	\$ 16.60
		29866					\$ 16.60
12/28/2017	Payroll Period Ending 12/28/2017	29867		N	Parks	100-45207-100-	\$ 127.92
		29867					\$ 127.92
12/28/2017	Payroll Period Ending 12/28/2017	29868		N	Parks	100-45207-100-	\$ 29.28
		29868					\$ 29.28
12/28/2017	Payroll Period Ending 12/28/2017	29869		N	Parks	100-45207-100-	\$ 95.00
		29869					\$ 95.00
12/28/2017	Payroll Period Ending 12/28/2017	29870		N	Parks	100-45207-100-	\$ 308.53
		29870					\$ 308.53
12/28/2017	Payroll Period Ending 12/28/2017	29871		N	Parks	100-45207-100-	\$ 36.94
		29871					\$ 36.94
12/28/2017	Payroll Period Ending 12/28/2017	29873		N	Parks	100-45207-100-	\$ 145.64
		29873					\$ 145.64

Date Range: 12/12/2017 To 01/04/2018

Date	Vendor	Check #	Description	Void	Account Name	F-A-O-P	Total
12/28/2017	Rydeen, James	29874	Reimbursement - Ice Rink Supplies, City Hall	N	General Government Buildings and Plant Parks	100-41940-220-	\$ 5.14
		29874				100-45207-400-	\$ 22.20
							\$ 27.34
12/28/2017	Lay, Tobin	29875	Reimbursement - Holiday Cards, Ice Melt.	N	Office Operations Supplies	100-41911-230-	\$ 22.31
		29875					\$ 22.31
12/28/2017	Payroll Period Ending 12/28/2017	29876		N	Parks	100-45207-100-	\$ 785.43
		29876					\$ 785.43
12/28/2017	City of Birchwood Village	TRF122817*	Transfer to 605	N	Transfer To Governmental Fund	100-49360-720-	\$ 35,000.00
		TRF122817					\$ 35,000.00
01/03/2018	Wingfield, Mary	29877	Reimbursement for Supplies Stamps	N	City Training and Development	100-41914-310-	\$ 175.00
		29877	Leadership training Course			605-41430-200-	\$ 215.60
							\$ 390.60
01/03/2018	Steve Dean Tree Trimming	29878	Removed diseased trees on city property	N	Tree Removal	100-43135-314-	\$ 2,100.00
		29878					\$ 2,100.00
01/03/2018	Manship Plumbing & Heating Inc	29879	Monthly Standby/locates/services	N	Water Utility	601-43180-314-	\$ 790.00
		29879					\$ 790.00
01/03/2018	Press Publications	29880*	Legal Notice Publications x32	N	Ordinances and Proceedings	100-41130-351-	\$ 266.56
		29880*				100-41130-351-	\$ 47.04
		29880*				100-41130-351-	\$ 705.60
		29880*				100-41130-351-	\$ 1,070.53
		29880*				100-41130-351-	\$ 47.04
		29880*				100-41130-351-	\$ 128.56
		29880*				100-41130-351-	\$ 48.21
							\$ 2,313.54
01/03/2018	Birch	29881*	Snow Plow Services 12/4, 12/7, 12/11, 12/20, 12/28/17.	N	Ice and Snow Removal	100-43125-314-	\$ 665.00
		29881*				100-43125-314-	\$ 112.50
		29881*				100-43125-314-	\$ 225.00

Fund Name: All Funds

Date Range: 12/12/2017 To 01/04/2018

Date	Vendor	Check #	Description	Void	Account Name	F-A-O-P	Total
		29881*				100-43125-314-	\$ 585.00
		29881	Total For Check				\$ 1,587.50
01/03/2018	Office Depot	29882*	Printer Paper - 4 ream	N	Office Operations Supplies	100-41911-200-	\$ 34.76
		29882	Total For Check				\$ 34.76
01/03/2018	Office Depot	29883*	Printer Paper - Laminated Pouches	N	Office Operations Supplies	100-41911-200-	\$ 5.38
		29883	Total For Check				\$ 5.38
01/03/2018	City of White Bear Lake	29884	Water Billing 09/10/2017 - 12/08/2017	N	Water Utility	601-43180-314-	\$ 6,987.14
		29884	Total For Check				\$ 6,987.14
01/03/2018	Gopher State One Call	29885*	Locates (4 Tickets)	N	Utility Locates	605-42805-314-	\$ 5.40
		29885	Total For Check				\$ 5.40
01/03/2018	Washington County Sheriff	29886*	JUL-DEC 2017 Police Services	N	Police	100-42101-314-	\$ 25,447.66
		29886	Total For Check				\$ 25,447.66
01/03/2018	TSE, INC	29887*	Janitorial Services x4	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
		29887	Total For Check				\$ 25.00
01/03/2018	Tennis Sanitation, LLC	29888*	Recycling Contract Nov-Dec 2017	N	Recycle	100-43300-314-	\$ 1,656.00
		29888	Total For Check				\$ 1,656.00
01/03/2018	Allstream	29889*	Analog Phone Line 12/23/17 to 01/22/18	N	General Government Buildings and Plant	100-41940-320-	\$ 45.82
		29889	Total For Check				\$ 45.82
01/03/2018	City of Roseville	29890*	December 2017 IT Services	N	General Government Buildings and Plant	100-41940-320-	\$ 329.67
		29890	Total For Check				\$ 50.63
01/03/2018	Lyle Signs, Inc.	29891*	Traffic Signs x2	N	Street Signs	100-43155-210-	\$ 92.82
		29891	Total For Check				\$ 92.82
01/03/2018	St. Anthony Village	29892*	Q4 2017 UB Admin	N	Financial Administration	601-41501-314-	\$ 1,876.05

Fund Name: All Funds
 Date Range: 12/12/2017 To 01/04/2018

Date	Vendor	Total For Check	Check #	Description	Void	Account Name	F-A-O-P	Total
01/03/2018	Leeves, Robert	29893	29893	Council Meeting Recording 12/12/17	N	Cable Eqpmt and Service	100-41950-314-	\$ 60.00
		Total For Check	29893					\$ 60.00
01/03/2018	Northeast Youth & Family Services	29894*	29894*	Partnership - 2018 Entire Year	N	Grants	100-41905-435-	\$ 1,449.00
		Total For Check	29894					\$ 1,449.00
01/03/2018	City of White Bear Lake	29895	29895	December 2017 Fire Services	N	Fire	100-42201-314-	\$ 1,599.76
		Total For Check	29895					\$ 1,599.76
01/03/2018	AirFresh Industries, Inc.	29896*	29896*	***VOID\$162.50***Rental Monthly Units X2 (11/01/17 - 11/30/17)	Y	Parks	100-45207-314-	\$ -
		Total For Check	29896					\$ -
01/03/2018	White Bear Locksmith	29897*	29897*	3 Lock Rekeys. 25 Keys Cut - Warming House	N	Office Operations Supplies	100-41911-220-	\$ 25.00
		Total For Check	29897					\$ 153.81
								\$ 178.81
01/03/2018	Payroll Period Ending 01/03/2018	29898	29898		N	Mayor	100-41310-100-	\$ 1,010.25
		Total For Check	29898					\$ 1,010.25
01/03/2018	PERA	EFT010218	EFT010218	Employee Retirement - Tobin	N	Clerk - Treasurer	100-41401-121-	\$ 274.40
		Total For Check	EFT010218					\$ 274.40
01/03/2018	Xcel Energy	EFT010318A*	EFT010318A*	Electric for Street Lights	N	Street Lighting	100-43160-380-	\$ 1,240.98
		Total For Check	EFT010318A					\$ 1,240.98
01/03/2018	Xcel Energy	EFT010318B*	EFT010318B*	Gas for Generator	N	Sewer Utility	605-43190-383-	\$ 27.98
		Total For Check	EFT010318B					\$ 27.98
01/03/2018	Xcel Energy	EFT010318C*	EFT010318C*	Electric for Lift Stations / Warming House	N	General Government Buildings and Plant	100-41940-380-	\$ 237.70
		Total For Check	EFT010318C*					\$ 43.85
								\$ 246.87
								\$ 160.98
								\$ 425.60
		Total For Check	EFT010318C					\$ 1,115.00

Fund Name: All Funds

Date Range: 12/12/2017 To 01/04/2018

Date	Vendor	Check #	Description	Void	Account Name	F-A-O-P	Total
01/03/2018	MN Department of Labor and Industry	EFT010318D	Building State Surcharge 12-2017	N	Building Inspections Administration	100-42401-437-	\$ 46.66
	Total For Check	EFT010318D					\$ 46.66
01/03/2018	MN Department of Labor and Industry	EFT010318E	Building Surcharge 09-2015	N	Building Inspections Administration	100-42401-437-	\$ 66.26
	Total For Check	EFT010318E					\$ 66.26
01/03/2018	MN Department of Labor and Industry	EFT010318F	Building Surcharge 06-2014	N	Building Inspections Administration	100-42401-437-	\$ 22.53
	Total For Check	EFT010318F					\$ 22.53
01/03/2018	MN Department of Labor and Industry	EFT010318G	Building Surcharge 03-2014	N	Building Inspections Administration	100-42401-437-	\$ 28.09
	Total For Check	EFT010318G					\$ 28.09
01/03/2018	MN Department of Labor and Industry	EFT010318H	Building Surcharge 12-2012	N	Building Inspections Administration	100-42401-437-	\$ 49.12
	Total For Check	EFT010318H					\$ 49.12
01/03/2018	MN Department of Labor and Industry	EFT010318I	Building Surcharge 09-2012	N	Building Inspections Administration	100-42401-437-	\$ 57.11
	Total For Check	EFT010318I					\$ 57.11
01/03/2018	MN Department of Labor and Industry	EFT010318J	Building Surcharge 12-2011	N	Building Inspections Administration	100-42401-437-	\$ 177.65
	Total For Check	EFT010318J					\$ 177.65
01/04/2018	AirFresh Industries, Inc.	29899	Rental Monthly Units x1 (11/01/17 - 11/30/17)	N	Parks	100-45207-314-	\$ 81.25
	Total For Selected Checks	29899					\$ 92,964.16

As on 1/4/2018

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	0.00	0.00	0.00
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Total Disbursements	0.00	0.00	0.00
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		3,664.59	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		0.00	
Cash Balance as of 01/04/2018		3,664.59	

As on 1/4/2018

Capital Project PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	0.00	0.00	0.00
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Total Disbursements	0.00	0.00	0.00
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		66,233.91	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		0.00	
Cash Balance as of 01/04/2018		66,233.91	

As on 1/4/2018

Water	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Other Financing Sources:			
Total Other Financing Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Disbursements:			
Financial Administration			
Contracted Services	<u>0.00</u>	<u>1,876.05</u>	<u>(1,876.05)</u>
Total Acct 415	<u>0.00</u>	<u>1,876.05</u>	<u>(1,876.05)</u>
Water Utility			
Contracted Services	<u>0.00</u>	<u>7,777.14</u>	<u>(7,777.14)</u>
Total Acct 431	<u>0.00</u>	<u>7,777.14</u>	<u>(7,777.14)</u>
Total Disbursements	<u>0.00</u>	<u>9,653.19</u>	<u>(9,653.19)</u>
Other Financing Uses:			
Total Other Financing Uses	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Beginning Cash Balance		41,012.62	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		<u>9,653.19</u>	
Cash Balance as of 01/04/2018		31,359.43	

As on 1/4/2018

Sewer

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Other Financing Sources:			
Total Other Financing Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Disbursements:			
Postage/Postal Permits			
OFFICE SUPPLIES (201 through 209)	0.00	215.60	(215.60)
Total Acct 414	<u>0.00</u>	<u>215.60</u>	<u>(215.60)</u>
Utility Locates			
Contracted Services	0.00	5.40	(5.40)
Total Acct 428	<u>0.00</u>	<u>5.40</u>	<u>(5.40)</u>
Sewer Utility			
Utility Services (381 through 389)	0.00	833.45	(833.45)
Utility Services: Gas Utilities	0.00	27.98	(27.98)
Total Acct 431	<u>0.00</u>	<u>861.43</u>	<u>(861.43)</u>
Total Disbursements	<u>0.00</u>	<u>1,082.43</u>	<u>(1,082.43)</u>
Other Financing Uses:			
Total Other Financing Uses	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Beginning Cash Balance		55,951.72	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		<u>1,082.43</u>	
Cash Balance as of 01/04/2018		54,869.29	

RESOLUTION 2018-01

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

A RESOLUTION DESIGNATING THE WHITE BEAR PRESS AS THE OFFICIAL
NEWSPAPER FOR PUBLICATION FOR ALL CITY LEGAL NOTICES

BE IT RESOLVED, by the City Council of the City of Birchwood Village that:

The White Bear Press is designated as the official newspaper for all City of
Birchwood Village legal notices.

I certify that the City of Birchwood Village adopted the above Resolution on this
9th day of January, 2018.

Mary Wingfield, Mayor

ATTEST:

Tobin Lay
City Administrator-Clerk

RESOLUTION 2018-02

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

**A RESOLUTION NAMING U. S. BANK, N.A. AND THE MINNESOTA MUNICIPAL
MONEY MARKET FUND (A/K/A “4M FUND”) AS THE OFFICIAL DEPOSITORIES
OF MUNICIPAL FUNDS**

SECTION 1. RESOLVED, that U. S. Bank, N.A. and the Minnesota Municipal Money Market Fund (a/k/a “4M Fund”) are hereby designated as depositories for the funds of the City of Birchwood Village. The City Treasurer is authorized to deposit city funds therein.

SECTION 2. RESOLVED ALSO, that before any deposits are made that exceed the amount that is guaranteed by the Federal Deposit Insurance Corporation (FDIC), the depository must supply to the City a corporate surety bond in the amount of at least 10 percent more than the amount on deposit at the depository’s cutoff hour. The bond is subject to the approval of the City Council. The surety bond must be conditioned to repay the above amount or any part thereof upon proper demand therefore and to perform such other duties in connection with the deposit as the council may require.

SECTION 3. RESOLVED FURTHER, that, in lieu of the above bond, the depository may furnish collateral in the manner and to the extent permitted by law. All such collateral must be approved by the City Council and accompanied by a written assignment providing that, upon default, the financial institution shall release to the City on demand, free of exchange or any other charges, the collateral pledged.

SECTION 4. RESOLVED FURTHER, all collateral must be placed in safekeeping in a restricted account at either a Federal Reserve Bank or in an account at a trust department of a commercial bank or other financial institution that is not owned or controlled by the financial institution that is furnishing the collateral. The selection must be approved by the City Council. In case of default upon the part of the depository, the City Council shall have full power and authority to sell such collateral or as much as may be necessary to realize the full amount due the city over such federal guarantee.

This designation is effective until subsequently rescinded by the Birchwood Village City Council.

I certify that the City of Birchwood Village adopted the above Resolution on this 9th day of January, 2018.

Mary Wingfield, Mayor

Attest:

Tobin Lay
City Administrator-Clerk

RESOLUTION 2018-03

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

**A RESOLUTION ACCEPTING A CASH DONATION FROM
BIRCHWOOD MONDAY PAINTERS GROUP**

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Birchwood Village that:

The City Council accepts the cash donations of \$100.00 from members of the Birchwood Monday Painters Group.

I certify that the City of Birchwood Village adopted the above Resolution on this 9th day of January, 2018.

Mary Wingfield, Mayor

ATTEST:

Tobin Lay, City Administrator-Clerk

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Approve NYFS Agreement & Rate Increase



Birchwood Village

Dear Mayor and Council Members,

With the new year comes a new partnership agreement with Northeast Youth & Family Services (NYFS). The City has a long standing agreement with NYFS to provide our residents with mental health, diversion services, and senior services.

The rate for this agreement in 2018 will be \$1,449; \$20 (1.4%) increase over 2017 but \$85 lower than 2016. This increase is due to a new standard annual adjustment (CPI-U).

The agreement (not included in the packet) is identical to last year's; except for the rate.

Request/Recommendation

Staff requests Council approve the NYFS agreement and authorize Mayor Wingfield and City Administrator Lay to sign the agreement. Thanks!

Regards,
Tobin Lay

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Approve Resolution 2017-34 Dog Park Committee



Birchwood Village

Dear Mayor and Council Members,

During last month's Council meeting, the enclosed Resolution 2017-34 was discussed but no action was taken. To make the business official, please approve the enclosed resolution to terminate the Dog Park Committee and to recognize the members of that Committee for their service.

Request/Recommendation

Staff requests Council approve enclosed Resolution 2017-34 to:

- 1) terminate the Dog Park Committee and
- 2) recognize the members of the Dog Park Committee for their service.

Thanks!

Regards,
Tobin Lay

RESOLUTION 2017-34

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

**A RESOLUTION TO TERMINATE THE BIRCHWOOD DOG PARK
COMMITTEE AND RECOGNIZE MEMBERS OF THE COMMITTEE FOR
SERVICES PROVIDED**

At a regular meeting of the City Council of the City of Birchwood Village held on Tuesday, December 12, 2017, at Birchwood City Hall, 207 Birchwood Avenue, Birchwood, Minnesota, with the following members present: Mayor Mary Wingfield, Councilmembers Megan Malvey, Randy LaFoy, Trilby White, and Kevin Woolstencroft, and the following absent: none, the Birchwood City Council resolved:

WHEREAS, The City Council of the City of Birchwood Village formed the Birchwood Dog Park Committee during the January 10, 2017 City Council meeting, appointing seven committee members, for the purpose of pursuing research, reviewing options, and making recommendations to City Council about a dog park(s); and

WHEREAS, The results of a recent dog park survey mailed to Birchwood residents along with the quarter three utility billing did not support a recommendation to build a city dog park at this time; and

WHEREAS, The members of the Dog Park Committee recommend the City Council of the City of Birchwood Village terminated the Dog Park Committee at this time; and

WHEREAS, The Dog Park Committee Bylaws require an action by the City Council of the City of Birchwood Village to terminate the Dog Park Committee.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Birchwood Village that:

The City Council terminates the Dog Park Committee and publically recognizes and appreciates members of the Birchwood Dog Park Committee for their dedication, efforts, and for accepting the call to serve the community in this capacity.

I certify that the City of Birchwood Village adopted the above Resolution on this 9th day of January, 2018.

ATTEST:

Mary Wingfield, Mayor

Tobin Lay, City Administrator-Clerk

MEMORANDUM

DATE: January 9, 2018

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



Birchwood Village

Dear Mayor and Council Members,

During the October 2017 Council meeting, I informed Council Members that I needed more time to consider the employment contract before agreeing to enter into the agreement. The Council extended my Interim Administrator position 90 days (to January 2018), with plans to approve the employment contract during the January 9, 2018 Council meeting.

After careful consideration, I request the Council now approve the enclosed contract with amendments (as redlined) to the notice & severance time requirements (reducing the period from 6 months to 3).

This contract has been discussed many times since July 2017, both in regular City Council meetings, special City Council meetings, and in Personnel Committee meetings. The City Attorney has considered recommendations and feedback from Council Members and the community many times over this period.

Enclosed is the Administrator employment contract as recommended by the City Attorney and the Personnel Committee. It includes all amendments made by the City Council over the past six months. Also enclosed is resolution 2018-04, naming me as the City Administrator.

Request/Recommendation

Staff requests Council:

- 1) approve the employment contract as presented;
- 2) approve accompanying Resolution 2018-04: Naming Tobin Lay City Administrator; and
- 3) authorize Mayor Wingfield and Acting Mayor LaFoy to endorse the employment contract.

Thanks!

Regards,
Tobin Lay

RESOLUTION 2018-04

**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, January 9, 2018, 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 January 1, 2018.

Voting in Favor:

Voting Against:

Resolution duly seconded and passed this 9th day of January, 2018.

Mary Wingfield, Mayor

Attest:

Tobin Lay
City Administrator-Clerk

EMPLOYMENT AGREEMENT

AGREEMENT made this ~~12TH-9TH~~ day of ~~SEPTEMBER~~JANUARY, ~~2017~~2018, 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. It is understood that this position also encompasses the responsibilities and duties of the City Clerk as defined by Minnesota statute with the minimum responsibilities as prescribed in Minn. Stat. § 412.151.

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-January 1, 2017~~2018, ending ~~July-December 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 in lieu of any city payment of such, the city shall pay employee \$500 per month for insurance compensation.

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 is a Full Time Equivalent (FTE) position and shall require a minimum of 40 hours per week with office hours as set by the Council. It is also understood that the position requires attendance at evening meetings and occasional weekend meetings. It is understood by Employee that additional compensation and compensatory time (PTO) shall not be allowed for such additional expenditures of time; employee enjoys no overtime payment. 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. Employee shall give reasonable notice to

Employer when electing to telecommute and shall strive to not do so during official office hours as prescribed and shall remain available at all times by phone when doing so.

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/last scheduled regular paycheck, a severance payment equivalent to ~~Six-Three~~ 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) or following a finding by the City Council that there is pattern of violations of this Agreement, City Personnel Policies, or the non-performance of duties assigned or required, then Employer shall have no obligation to pay the termination/severance benefits.

If Employee voluntarily resigns his position with Employer, Employee agrees to give the Employer ~~one hundred and eighty~~ ninety (~~180~~90) days advance notice. If there is less than ~~one hundred and eighty~~ ninety (~~180~~90) 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.

14. **GOVERNING LAW.** The Agreement shall be governed in all respects by the laws of the United States of America and by the laws of the State of Minnesota, excluding Minnesota's conflict of law provisions.

15. **SEVERABILITY.** Should any provisions at the Agreement be held by a court of law to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of the Agreement shall not be affected or impaired thereby.

16. **WAIVER.** The waiver by Employer of a breach of any provision of the Agreement by Employee shall not operate or be construed as a waiver of any other or subsequent breach by Employee.

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 Acting Mayor

ORDINANCE 2017-10-02

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

**AN ORDINANCE TO ADOPT SECTION 309 INTO CITY CODE TO ADMINISTER
AND REGULATE THE PUBLIC RIGHT-OF-WAY**

The City Council of the City of Birchwood Village hereby witnesseth that 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 to maintain the safe maintenance and passage there-through:

THE COUNCIL OF BIRCHWOOD VILLAGE ORDAINS:

In General, **Chapter 309**, City of Birchwood Village, County of Washington, Minnesota, “Public Right-of-Way” is herewith adopted into city code. Any and all previously adopted sections or ordinances which may appear contrary or in conflict with this ordinance are hereby replaced or modified by this code.

309.010 **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 Ordinance 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 Ordinance, persons disturbing and obstructing the ROW will bear a fair share of the financial responsibility for its integrity. This Ordinance also provides for recovery of the City's costs associated with managing its ROW.

309.020

EXEMPTIONS.

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 or as identified herein.

309.030

DEFINITIONS.

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

1. **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.
2. **Applicant** – Any person or entity requesting permission to excavate or obstruct a ROW.
3. **City** - means the corporate municipality, its elected officials, its manager and/or appointed employees to include the ROW Engineer (309.030.29) Director of Public Works or his/her designee, City of Birchwood Village, Minnesota.
4. **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 Ordinance, including other costs the City may incur in managing the provisions of this Ordinance.
5. **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.
6. **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.
7. **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.
8. **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.
 9. **Director** - the City's ADMINISTRATOR or designee.
 10. **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.
 11. **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.
 12. **Engineer** – the City's Appointed or approved Engineer or Engineering Firm.
 13. **Equipment** - any tangible asset used to install, repair or maintain facilities in any ROW.
 14. **Excavate** - to dig into remove or physically disturb or penetrate any part of a ROW.
 15. **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.
 16. **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.
 17. **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.
 18. **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.
 19. **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.
 20. **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.
 21. **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 ~~replacement is certified by the City Engineer as such upon completion is included in the City's five-year project plan~~.

22. **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 ~~official City Map 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.
23. **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 Ordinance.
24. **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.
25. **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
26. **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.
27. **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- ~~Engineer plates 1 to 13, which are attached hereto and incorporated herein.~~
28. **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.
29. **ROW Engineer** – that person or persons appointed, directed and empowered by the City of ~~Birchwood Landfall~~-Village to administrate the management of the Office of the Right-of-Way Engineer and those necessary responsibilities empowered by the City ROW Ordinance.
30. **ROW Permit** - either an excavation permit or obstruction permit, or both, depending on the context required by this Ordinance.
31. **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.
32. **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.
33. **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.

34. **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.

309.040

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 by the City from time to time 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 309.040, 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 Birchwood Village
 7. Persons acting as agents, contractors or subcontractors for a registrant who has properly registered in accordance with this Section.
- 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) & (2): All 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. 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.

309.050

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 ~~its 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 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.

309.060

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, other than as described in section 309.060.H, 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; 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 from time by the City which is 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 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.
- 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 Ordinance and applicable regulations and will pay to the City any costs incurred by the City in performing work pursuant to this Ordinance. 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 Ordinance. 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 Engineer's 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 that 50% of the Administrative Fees. 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.

309.070

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.

309.080

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:
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 that 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.
 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.~~22. Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.
- ~~24.~~23. No road surface damaging lugs, cleats or equipment may be used or driven upon paved city street surfaces.
- ~~25.~~24. Dirt, trash or other debris must be periodically removed during construction.
- ~~26.~~25. 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 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.
- 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 Ordinance.
 - g. Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Ordinance.
 - 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 Ordinance.
 - 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 Ordinance
 - 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 Ordinance.
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 Ordinance, 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 or Federal law. Telecommunication providers shall be responsible for payment of property taxes attributable to their equipment in the public ROW.

309.090

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~~ to the satisfaction of the ROW Engineer.
- 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 or its Engineer.

If permit holder fails to act within the 7 working day period the City shall at its discretion have the work performed and the security shall be used to reimburse the City for its actual and administrative costs associated with the correction(s).

309.100

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.

309.110

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 is or would be interfered with. Any physical observation of such obstruction shall be grounds to revoke a permit without further proceedings.

309.120 **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 Ordinance.
- B. The applicant is subject to revocation of a prior permit issued pursuant to this Ordinance.
- 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 Ordinance.
- 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.

309.130 **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 Ordinance 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.

309.140 **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.

309.150

REVOCAION 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 Ordinance.
- 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 Ordinance, 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.

309.160

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 or Administrator. 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.

309.170

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 for review, 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.

309.180

RELOCATION OF FACILITIES.

A ROW user shall promptly and at its own expense, with due regard for seasonal working conditions, remove and relocate their 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.

309.190 **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.

309.200 **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, a public easement for 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.

309.210 **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.

309.220 **INDEMNIFICATION AND LIABILITY.**

By registering with the City or by accepting a permit granted under this Ordinance, 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.

309.230 **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 (White Bear Lake) with the City and this Ordinance, the terms of the franchise or Water Service ~~agreement~~ Agreement shall prevail.

309.240 **SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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 White Bear Lake
White Bear Township

EFFECTIVE DATE: This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

Adopted by the City of Birchwood Village City Council this 9th day of January, 2018

Mary Wingfield
Mayor

Attest:

Tobin Lay
City Administrator-Clerk

RESOLUTION 2017-33

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

**A RESOLUTION APPROVING SUMMARY PUBLICATION OF ORDINANCE
NO. 2017-10-02, AN ORDINANCE TO ADMINISTER AND REGULATE THE PUBLIC
RIGHT-OF-WAY**

WHEREAS, the City of Birchwood Village is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City has adopted Ordinance No. 2017-10-02, which administers and regulates the public right-of-way; and

WHEREAS, the new ordinance is lengthy and would be costly for the City to publish in its entirety as required by law for the adoption of an ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village, Minnesota, as follows:

1. Because the terms of Ordinance 2017-10-02 are lengthy, the City may publish the attached summary of the Ordinance as allowed by statute, and need not publish the entire ordinance. The attached summary clearly informs the public of the intent and effect of the Ordinance. Summary publication has been approved by at least a 4/5 vote of the City Council.
2. The effective date of the Ordinance amendments shall be upon their publication by summary as required by law.

Voting in Favor:

Voting Against:

Resolution duly seconded and passed this 9th day of January, 2018.

Mary Wingfield, Mayor

Attest:

Tobin Lay, City Administrator-Clerk

Please be advised that the City of Birchwood has duly-passed the following 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 TO MAINTAIN THE SAFE MAINTENANCE AND PASSAGE THERE-THROUGH.

The following is a SUMMARY of the Ordinance:

On January 9, 2018 the City adopted an Ordinance to provide for the management of its Rights of Way by requiring activities conducted in them to be permitted by the City. The Ordinance provides for the application and permitting of any activity that occurs in the City's ROW and security that the disruption be restored to pre-disruption status. The Ordinance describes the activities that require permitting and the process by which a permit may be obtained.

PLEASE BE ADVISED, this is not the full text of the Ordinance passed and the published material is only a summary. The full text is available for public inspection at the City of Birchwood, 207 Birchwood Avenue, Birchwood, MN or delivered upon request electronically or by U.S. Mail.

Summary complies with Minn. Stat. §§ 331A.05 subd. 8. & 412.191 subd 4.

CITY OF BIRCHWOOD VILLAGE 2018 FEE SCHEDULE

GENERAL FEES

Compact Disk.....	\$1.00 per disk
Copies (Black and White).....	\$0.10 per page 8 ½ x 11 and 8 ½ x 14 \$0.20 per page 11 x 17
Copies (Color).....	\$0.50 per page
Dog License.....	\$10.00 bi-annual; \$3.00 late fee if paid after February 15
Chicken License.....	\$10.00 for two years, w/ \$3.00 late fee if paid after Feb. 15
-Replacement Dog Tag.....	\$1.00
Facsimile.....	\$1.00 first page; \$0.50 each additional page
Hall Rental.....	\$25.00 plus \$100.00 refundable deposit
Postage & Envelopes for Mailings & Public Hearing Notices.....	\$0.11 plus postage
Returned Check.....	\$30.00

DOCK ASSOCIATION FEES

Boat Lift Storage.....	\$100.00 per lift
Dock Association Boat Slip Permit.....	\$200.00 per slip
Dock Association Dock Permit.....	\$100.00 per dock
Dock Application Review Fee.....	\$150.00

PLANNING AND ZONING FEES

Comprehensive Plan Amendment Application Fee.....	\$500.00
Conditional Use Permit Application Fee.....	\$400.00
Home Occupation Permit Application Fee.....	\$100.00
Interim Use Permit Application Fee.....	\$400.00
Planned Unit Development Application Fee.....	\$650.00
Rezoning Application Fee.....	\$650.00
Subdivision: Minor Subdivision/Lot Split Application Fee.....	\$225.00
Subdivision Preliminary Plat Application Fee.....	\$450.00
Street Vacation.....	\$150.00
Variance Application Fee.....	\$300.00
Zoning Permits: Shed, Driveway, or Fence.....	\$30.00
<u>Right-of-Way Permit Application Fee.....</u>	<u>\$250.00</u>
<u>-(plus time and materials for Engineer's review time extending beyond two hours)</u>	

SMALL CRAFT STORAGE FEES

Annual Small Craft Permit.....	\$10.00
Use of Small Craft Rack Without a Permit.....	\$25.00
Small Craft Removal Fee.....	\$50.00

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Re-appoint Committee Members



Dear Mayor and Council Members,

After reviewing the current appointments to each of the City's committees and commissions, I make the following recommendations regarding appointments to those committees/commissions:

Planning Commission

Section 303 was recently replaced and the new 303 drastically changed the term requirements for the Planning Commission. Accordingly, I recommend that the Council request the Planning Commission discuss how to stagger their terms and bring a recommendation for your consideration and re-appointment at the February City Council meeting.

Parks and Natural Resources Committee

Because the Parks Committee was re-staffed all at once last May, every member currently shares the same expiration date of July 2020. Accordingly, I recommend the Council request the Parks Committee discuss how to stagger their terms and bring a recommendation for your consideration and re-appointment at the February City Council meeting.

Roads and Streets Committee

The Roads Committee shares a similar dilemma with the Parks Committee – its members were appointed in large groups and share common expiration dates. Accordingly, I recommend the Council request the Roads Committee discuss how to stagger their terms and bring a recommendation for your consideration and re-appointment at the February City Council meeting.

Additionally, when Councilmember Mark Anderson resigned from the City Council and the Roads Committee last year, the City Council appointed Mayor Wingfield to replace him on the Roads Committee. After speaking with the Mayor and given her heavy assignment load on the Council, I recommend the Council consider appointing the Mayor as a co-liaison to the Committee, along with Councilmember Woolstencroft, rather than having her serve as a full committee member.

Request/Recommendation

Staff requests Council:

- 1) Request the Planning Commission, Parks Committee and Roads Committee discuss and provide a recommendation to the City Council in February about how to stagger their respective membership terms; and
- 2) Re-assign Mayor Wingfield as a co-liaison to the Roads Committee rather than as a full committee member.

Thanks!

Regards,
Tobin Lay

City Council Assignments

Mary Wingfield	Randy LaFoy	Megan Malvey	Trilby White	Kevin Woolstencroft
Water / Utility Committee Liaison	Acting Mayor	Parks Committee Liaison	Parks Committee Liaison	Roads Committee Liaison
Intergovernmental Relations	Public Safety	Capital Improvement Plan	Recycling & Garbage	Assistant Weed Inspector
Volunteer Coordinator	Personnel Committee	Stormwater Drainage & Rain Gardens	City Buildings	
Roads Committee Liaison	Cable Commission	Birchwood Dock Ass'n Liaison	Planning Commission Liaison & Comprehensive Plan	
Weed Inspector	Website Task Force Liaison			
Docks Committee				
Personnel Committee				

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: City Project No. 2017-1 Sanitary Sewer Rehab



Birchwood Village

Dear Mayor and Council Members,

Enclosed is the proposed assessment roll for City Project No. 2017-1, to complete relining of the City's sewer lines. Also enclosed is a sample of the notice that will be mailed to each of the property owners listed on the assessment roll.

Please review the enclosed documents and approve enclosed Resolution 2018-05 to order the public hearing for the assessments to be held at the February 13, 2018 regular City Council meeting.

City Engineer Steve Thatcher is present at this meeting to answer any questions about the proposed assessment roll.

Additionally, the Council approved Insituform's bid last month and requested a contract be presented at tonight's meeting for approval. Enclosed is a very simple contract offered by Insituform. City Attorney Kantrud is present at this meeting to speak on this contract if so desired.

Request/Recommendation

Staff requests Council:

- 1) Review and discuss enclosed proposed assessment roll and sample notice mailer;
- 2) Approve Resolutions 2018-05 to order the assessment public hearing for February 13th;
- 3) Discuss and/or approve the enclosed contract with Insituform.

Thanks!

Regards,
Tobin Lay

Project Areas:

Birchwood Avenue (house no. 219 & 619-701)
 Birchwood Courts (house no. 424-439)
 Jay Street (house no. 286-303)
 Oakridge Drive (house no. 20-32)
 White Pine Lane (house no. 8 & 10-20)

City of Birchwood Village
Sanitary Sewer Rehabilitation Improvement
Cured-In-Place Pipe Lining
City Project No. 2017-1

CREATED: 1/4/2018
 UPDATED: N/A

Property Proposed to be Assessed

#	PID	Name	Property Address	Interest Start Date	Repayment Period	Interest Rate	Principle Amount	Total of Annual Payments
1	3003021210075	HARTZEL NICHOLAS J	219 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
2	3003021420034	O'HARA MICHAEL D & JULIE J	619 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
3	3003021420041	HUNTLEY STEPHEN & KATHLEEN B	620 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
4	3003021420040	HAYDEN DENNIS J & DAVID M PRUNTY	624 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
5	3003021420058	EVANS ANDREA	654 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
6	3003021420027	BELKNAP ROBERT H & JOYCE A T	700 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
7	3003021420043	LOOSBROCK JEREMY I & GINA A	701 BIRCHWOOD AVE, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
8	3003021240007	ANDERSON TIMOTHY W & SUZANNE L	424 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
9	3003021240017	SEIBERT MAUREEN L	425 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
10	3003021240008	JACKOLA ANDREW & ALICIA	426 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
11	3003021240009	CYRIL E KAPSNER TRS ETAL	428 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
12	3003021240016	MCTAVISH SANDRA L	429 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
13	3003021240010	MANKE ROBERT L & KATHLEEN M	430 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
14	3003021240011	HANSON MIKE	432 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
15	3003021240015	HUNDER BRIAN A	433 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
16	3003021240012	CASTILLO JOSEPH H & ELIZABETH L	434 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
17	3003021240014	PARKER LYDIA L	437 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
18	3003021240013	TREPANIER DAVID A TRS & PATRICIA A TREPANIER TRS	439 BIRCHWOOD CT, BIRCHWOOD MN	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
19	3003021420051	FELT RANDOLPH K & JACQUELINE B	286 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
20	3003021420052	FRENCH CHRISTOPHER J & JULIE A	287 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
21	3003021420050	CLINTON DIXON LIVING TRS	288 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
22	3003021420053	HUNT THOMAS & LINDSAY WYNNE	289 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
23	3003021420049	HULLSIEK WILLIAM & MARY	290 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
24	3003021420054	OAKINS GARY E & JUDITH A	291 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
25	3003021420048	WOOLSTENCROFT KEVIN L	292 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
26	3003021420055	TOFTE SCOTT A & BRENDA L	293 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
27	3003021420047	HEGEDUS NOEL D & JOZSEF Z	294 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
28	3003021420056	SHELDON BRUCE D & PATRICIA L	295 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
29	3003021420046	CUMMINS ROBERT B & MARY C	296 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
30	3003021420057	IRVINE ROGER T & TERIA A	297 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
31	3003021420045	WOOLSTENCROFT WILLIAM & EVANGELINE M	298 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
32	3003021420062	WEGNER CARL S & MARY ELLEN	303 JAY ST, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
33	3003021230013	SANDSTROM CHARLES T & SUZANN	20 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
34	3003021230001	MCCOY DANIEL J & ANDREA L	21 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
35	3003021230012	SCHULER CURTIS J & RACHEL L	22 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
36	3003021230002	ALAN R MITCHELL & SHARILYN A MITCHELL TRS	23 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
37	3003021230011	ANDERSON GREGORY L & MAUREEN B	24 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
38	3003021230003	SIKORSKI WILLIAM H JR	25 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
39	3003021230010	OLSON JEFF	26 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
40	3003021230004	LOREN MELISSA & JOSHUA NERLIEN	27 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
41	3003021230009	BARTON KEITH L & KATHLEEN S	28 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
42	3003021230005	BYERLY ANTHONY R & NICOLE T	29 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
43	3003021230008	BRUNNER JAY A & KATHERINE K CAVANOR	30 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
44	3003021230006	DAVID A NIETZ REV TRS ETAL	31 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
45	3003021230007	SIMANSKI MARK A & JULIE A OTTO	32 OAKRIDGE DR, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
46	3003021240033	ALECKSON CHRISTINE & JEFFREY	8 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
47	3003021240034	JOHNSON TYLER J & GRETCHEN M	10 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
48	3003021240043	BOWAR EUGENE M & SANDRA J	11 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
49	3003021240020	STANGL THOMAS J & BARBARA J	14 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
50	3003021240021	CREAGH BENJAMIN J & CHRISTINE L	16 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
51	3003021240044	STOCKWELL JAMES R & PEGGY K	17 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
52	3003021240022	TELLIER DIDIER Y	18 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70
53	3003021240023	MOLITOR JOSEPH M & JULIE A	20 WHITE PINE LN, BIRCHWOOD MN 55110	March 15, 2018	5 years	4.0%	\$628.30	\$725.70

Sample Assessment Notice

P.I.D.# _____ NAME _____
 _____ PROPERTY _____
 _____ ADDRESS _____
 BIRCHWOOD, MN 55110

Interest Start Date: _____ March 15, 2018 _____
 Repayment Period: _____ 5 years _____
 Interest Rate: _____ 4.0% _____
 Legal Description: _____ LAKEWOOD PARK 2ND DIVISION Lot 4 Block 3 _____
 _____ LOT 4 AND 5 BLOCK 3 LAKEWOOD PARK 2ND _____
 _____ DIVISION BIRCHWOOD CITY _____

The amount to be specially assessed against your particular lot, piece, or parcel of land is calculated as follows:

Assessments: **Amount:**
 a. Sanitary Sewer Cured-In-Place Pipe Lining \$628.30

YEAR	ANNUAL PAYMENT	PRINCIPAL PAYMENT	INTEREST PAYMENT	PRINCIPAL REMAINING
2018				\$628.30
2019	\$161.17	\$116.00	\$45.17	\$512.30
2020	\$141.13	\$120.64	\$20.49	\$391.66
2021	\$141.13	\$125.47	\$15.67	\$266.19
2022	\$141.13	\$130.49	\$10.65	\$135.71
2023	\$141.13	\$135.71	\$5.43	(\$0.00)

\$725.70 = Total of Annual Payments

The special assessment principal amount is **\$628.30** . Assessment may be prepaid in full to the City of Birchwood within 30 days of adoption of assessment roll (by March 15, 2018 assuming assessment roll is adopted on February 13, 2018) with no accrued interest being charged.

The principal is spread over 5 years at 4.0% interest. After March 15, 2018 but prior to November 15, 2018, the payable amount including interest from March 15, 2018 (or when final assessment roll is adopted) to December 31, 2018 will already be on the tax rolls. The prepayment amount to the City is the balance owing for 2018 . (Your tax statement payable 2019 to the County Treasurer will already have the first annual payment amount of **\$161.17** on it.)

Balance owing on assessments may be prepaid at any time (principal remaining column) prior to November 15th of each year. If not prepaid, the annual payment to the right of the year on the payment schedule above will be on your property tax statement. Partial prepayments not have been authorized by City Ordinance. Please call city hall for the amount or for answering your questions - 651-426-3403.

S:\Administrator\Sewer_Water\Sewer\2017 Sewer Lining\[Master Assessment Mailer.xlsx]SA

**THE NOTICE AND ASSESSMENT ROLL IS THE ONLY NOTICE THAT WILL BE MAILED.
 NO BILL WILL BE SENT.**

RESOLUTION 2018-05

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

**RESOLUTION FOR HEARING ON PROPOSED ASSESSMENT
2017 SANITARY SEWER REHABILITATION IMPROVEMENT
CITY PROJECT NO. 2017-1**

WHEREAS, by a resolution passed by the city council on December 12, 2017, the city clerk, with the assistance of the city consulting engineer, was directed to prepare a proposed assessment of the cost of 2017 Sanitary Sewer Rehabilitation Improvement (City Project No. 2017-1). The proposed improvement includes the installation of sanitary sewer cured-in-place piping, and

WHEREAS, the clerk has notified the council that such proposed assessment has been completed and filed in his/her office for public inspection,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BIRCHWOOD VILLAGE, MINNESOTA:

1. A hearing shall be held at 7:00 p.m. on February 13, 2018 in the city hall located at 207 Birchwood Avenue, Birchwood, Minnesota to pass upon such proposed assessment. All persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.
2. The city clerk is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and he/she shall state in the notice the total cost of the improvement. The city clerk shall also cause mailed notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearing.
3. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City of Birchwood Village, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessment. An owner may at any time thereafter, pay to the Washington County the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.

Adopted by the City Council this 9th day of January, 2018.

Mary Wingfield, Mayor

Attest: Tobin Lay, City Administrator-Clerk

SECTION 00500

AGREEMENT

THIS AGREEMENT, made this, 13th day of, December 2017, by
and between, City of Birchwood Village, hereinafter
called "OWNER"
and INSITUFORM TECHNOLOGIES USA, LLC. doing business as
(~~an individual,~~) or (a partnership,) or (a corporation) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements herein after mentioned:

1. The CONTRACTOR will commence and complete the construction of
Cured-In-Place-Pipe (CIPP)
2. The CONTRACTOR will furnish all of the materials, supplies, tools, equipment, labor and other services necessary for the construction and completion of the PROJECT described herein.
3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within 30 calendar days and will substantially complete the same within 90 calendar days unless the period for completion is extended otherwise by the OWNER.
4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$ 67,975.15 or as shown in the QUOTE DATED November 28, 2017.
5. The term "CONTRACT DOCUMENTS" MEANS and includes the following:
 - (A) This Agreement
 - (B) QUOTE DATED November 28, 2017
6. No payment or performance bond will be required by the OWNER for this Agreement
7. This Agreement shall be binding upon all parties' herto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their
duly authorized official, this Agreement in (1) copy of which
(Number of Copies)

shall be deemed an original on the date first above written.

OWNER:

City of Birchwood Village
By: _____
Name: The Honorable Mary Wingfield
(Please Type)
Title: Mayor

(SEAL)

ATTEST

Name: Tobin Lay
(Please Type)
Title: City Administrator

CONTRACTOR:

INSITUFORM TECHNOLOGIES USA, LLC.

By Jana Lause
Name Jana Lause, Contracting & attesting Officer
(Please Type)

Address 17988 Edison Avenue
Chesterfield, MO 63005

Employer Identification

Number 43-1319597

END OF SECTION

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: 2018 Water and Sewer Rates



Birchwood Village

Hello Mayor and Council Members,

Last month the Council reviewed and approved the first reading of the below utility rates for 2018 and ordered a public hearing to take place tonight on the subject. Enclosed is Resolution 2018-06 setting the new water utility rates. Below are the proposed rates and the explanation given by Mayor Wingfield last month:

QUOTE

Water Utility Rates Approved by the Water/Utility Committee

	Usage by 100 Cubic Ft		2017	2018
Flat fee	NA	NA	\$ 15.00	\$ 15.00
Tier 1	1	800	2.30	2.46
Tier 2	801	2,000	2.65	2.84
Tier 3	2,001	4,000	3.05	3.26
Tier 4	4,001	10,000	3.51	3.76
Tier 5	10,000	999,999	4.03	4.31

The Birchwood Utility Committee met this past month to review the sewer and water rates for 2018. A one-year water main break surcharge was instituted this past summer to recover costs from an unusually high number of breaks this past winter. The water fund is back in the black and so the surcharge will be removed as planned after the March 2018 billing.

Our last water rate increase was in 2015. The quarterly Water Utility base fee will again remain unchanged. The cost of water has gone up since 2015 and the committee decided to increase the Water usage rate by 7% to cover that cost. We also discussed the fact that the City of White Bear Lake may adjust rates to cover their costs in the lake level lawsuit. We will keep the city council informed when that is determined.

The sewer fund was also reviewed. The fund is fiscally sound and has been increasing of late, however, the city will be paying about \$60,000 for the final phase of the sewer lining project. It was recommended the city maintain the rates the current level with the belief the fund will recover those sums in the next couple of years. This approach would save the city from seeking a bond and the expenses generated from that process.

UNQUOTE

Request/Recommendation

Staff requests Council:

- 1) Hold the public hearing; and
- 2) Approve enclosed Resolution 2018-06 setting the new water utility rates

Thanks!

**CITY OF BIRCHWOOD VILLAGE
STATE OF MINNESOTA**

RESOLUTION 2018-06

**A RESOLUTION SETTING THE WATER UTILITY RATES FOR THE
CITY OF BIRCHWOOD VILLAGE**

WHEREAS, the City of Birchwood Village held a public hearing at the January 9, 2018 City Council meeting to receive input from residents regarding a water utility rate increase; and

WHEREAS, the increase in water utility rates would allow for the City of Birchwood Village to cover expected water related expenses in 2018; and

WHEREAS, the water utility rates will increase in accordance to the schedule below:

	Usage by 100 Cubic Ft		2017	2018
Flat fee	NA	NA	\$ 15.00	\$ 15.00
Tier 1	1	800	2.30	2.46
Tier 2	801	2,000	2.65	2.84
Tier 3	2,001	4,000	3.05	3.26
Tier 4	4,001	10,000	3.51	3.76
Tier 5	10,000	999,999	4.03	4.31

NOW THEREFORE BE IT RESOLVED, the City Council of the City of Birchwood Village approves the water utility rates for the City of Birchwood Village.

Adopted this 9th day of January, 2018.

Mary Wingfield, Mayor

Attest:

Tobin Lay
City Administrator-Clerk

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Ordinance 2017-12-01 Section 805 Amendments



Birchwood Village

Dear Mayor and Council Members,

Last month, Mayor Wingfield proposed amendments to existing City Code Section 805, which governs financing and assessments for public improvements. The Council deliberated the proposal, approved the first reading and ordered a public hearing for tonight's meeting.

Enclosed is Section 805 showing the changes as approved last month (redlined).

Request/Recommendation

Staff requests Council:

- 1) Hold the public hearing on this matter;
- 2) Discuss and approve amendments to Section 805.

Thanks!

Regards,
Tobin Lay

805 PUBLIC IMPROVEMENTS FINANCING AND ASSESSMENT ORDINANCE

805.010. PURPOSE. The purpose of this ordinance is to establish procedures to guide the City of Birchwood Village in employing its authority under Minnesota State law, Chapter 429.010 to 429.111 which provides that a municipality shall have the power to make public improvements such as sanitary sewer, storm sewers, water supply and storage, and water distribution facilities, street improvements including grading curb and gutter, surfacing, sidewalks, street lighting, and recreational facilities.

The statute further defines that the cost of any improvement may be assessed upon property benefited by the improvement based upon the benefits received whether or not the property abuts on the improvement and whether or not any part of the cost of the improvement is paid from other funding sources. The law is not specific on how these benefits are to be measured or how the costs are to be apportioned, but rather makes it incumbent upon the municipality to determine with assistance of the City Engineer, City Attorney, appraisers or other qualified personnel, a fair and equitable method of cost sharing among the properties benefited along with assuring that the financial risk to the community is minimized. However, in no case shall the recommended assessment exceed the benefit(s) conferred to the property from the said improvement.

805.020. DEFINITIONS. For the purpose of this ordinance the words below shall have the meanings given to them in this section.

1. Improvements. Improvement shall mean a public improvement such as, but not limited to, the construction or reconstruction of streets, including curbs and gutters, the construction or reconstruction of storm sewers, installation and maintenance of street lighting systems and other similar projects described herein.

2. Mean. Mean refers to the total improved street footage divided by the number of properties assessed.

3. Residential Streets. All streets in Birchwood are classified residential streets.

805.030. IMPROVEMENT AND ASSESSMENT PROCESS. Public improvements and assessments as envisioned within this ordinance shall be governed by the provisions of Minnesota Statutes Chapter 429.

~~805.040. RESERVED FOR FUTURE USE.~~

~~805.050. RESERVED FOR FUTURE USE.~~

~~805.060. CLASSIFICATION OF LOCAL IMPROVEMENT PROJECTS.~~

~~1. In General. Improvements are divided into the two classes specified in the following subdivisions according to their respective benefits to the City as a whole and to property specially served by the improvement:~~

~~Class A. Class A improvements are those which are of general benefit to the City at large, and include but are not limited to:~~

- ~~a. public buildings~~
- ~~b. public parks, playgrounds or recreational facilities~~
- ~~c. street lighting systems~~
- ~~d. off-street parking facilities~~
- ~~e. bicycle and recreational trails~~

~~Class B. Class B improvements are those which are primarily, if not exclusively, of benefit to property abutting or in the area of the improvement, and include but are not limited to:~~

- ~~a. construction and reconstruction of sidewalks~~
- ~~b. construction and reconstruction of storm sewers~~
- ~~c. construction and reconstruction of residential streets, including curbs and gutters~~
- ~~d. construction and reconstruction of city water~~
- ~~e. construction and reconstruction of city sewer~~

~~805.065. FINANCING CLASS A IMPROVEMENTS. It is the policy of the City of Birchwood Village to finance Class A improvements from general City funds and not from special assessments.~~

~~805.070. FINANCING CLASS B IMPROVEMENTS. It is the policy of the City of Birchwood Village to finance Class B improvements by the methods prescribed in 805.090–805.100 below. Any improvement authorized, or allowed by Minnesota Statutes, Chapter 429 and not placed in Class A, or B, or by 805.030 above, shall be financed as the Council determines to be most feasible and equitable in each case.~~

~~805.090. ASSESSMENT RULES FOR CLASS B IMPROVEMENTS:~~

~~1. Storm Sewers. One hundred percent (100%) of the cost of constructing and reconstructing storm sewers shall be assessed against the property in the area served by the sewer as determined by the City Engineer on the basis of the square footage of the property so served. The properties to be assessed shall be determined by the Engineer on the basis of benefit, using topographical maps and other pertinent data. Any monies obtained from outside sources will be deducted from the total assessment before determining the amount to be assessed.~~

~~2. Residential Street Construction and Reconstruction. One hundred percent (100%) of the cost of construction or reconstruction of residential streets shall be assessed to abutting property on the basis of front footage. See 805.095 for calculation of assessments.~~

~~3. Water Main/Service—Construction. One hundred percent (100%) of the cost of constructing water lines shall be assessed against the benefited property served by the water as determined by the City Engineer. See 805.095 for calculation of assessments.~~

~~4. Water Main—Reconstruction. Fifty percent (50%) of the cost of reconstructing the water main shall be assessed against the property in the area served by the water main as determined by the City Engineer per connection to the property so served. The properties to be assessed shall be determined by the Engineer on the basis of benefit, using topographical maps and other pertinent data. Any monies obtained from outside sources will be deducted from the total assessment before determining the amount to be assessed. See 805.100 for calculation of assessments.~~

~~5. Sanitary Sewer Main/Service—Construction. One hundred percent (100%) of the cost of constructing sewer lines shall be assessed against the benefited property served by the sewer as determined by the City Engineer. See 805.095 for calculation of assessments.~~

~~6. Sanitary Sewer Main—Reconstruction. Fifty percent (50%) of the cost of reconstructing sewers shall be assessed against the property in the area served by the sewer as determined by the City Engineer per connection to the property so served. The properties to be assessed shall be determined by the Engineer on the basis of benefit, using topographical maps and other pertinent data. Any monies obtained from outside sources will be deducted from the total assessment before determining the amount to be assessed. See 805.100 for calculation of assessments.~~

~~7. Sidewalks. One hundred percent (100%) of the cost of construction or reconstruction of sidewalks shall be assessed to abutting property. See 805.095 for calculation of assessments.~~

~~805.080. WATER AND SANITARY SEWER SYSTEMS. The cost of reconstruction of any sanitary sewer main or water main or building of any new sewer pumping system or installation of any new water monitoring system shall be paid from the city sanitary sewer enterprise fund. The City Council may decide to recoup the reconstruction cost by a surcharge against each sanitary sewer user account or by an increase in the user rates until such enterprise fund is sufficiently replenished.~~

~~805.085. WATER SYSTEM. The cost of reconstruction of any water main or installation of any new water monitoring system shall be paid from the city water enterprise fund. The City Council may decide to recoup those costs by a surcharge against each water user account or by an increase in the user rates until such enterprise fund is sufficiently replenished.~~

805.095. CALCULATION OF ASSESSMENT ON THE BASIS OF FRONT FOOTAGE. ~~The An~~ assessment for abutting property shall be determined by dividing the total cost for each project by the assessable front feet. The cost per front foot is then multiplied by the

number of lineal feet of each lot to determine the assessment. ~~In any event, the assessment shall not exceed the benefit conferred to the property.~~

~~805.100. CALCULATION OF ASSESSMENT PER CONNECTION. The assessment for benefited property shall be determined by dividing the total cost for each project by the number of connections that will benefit from the project.~~

805.110. SPECIAL RULES.

1. Front Footage. Shall mean the linear front footage of the assessable parcel as recorded by Washington County Assessor.

2. Adjusted frontage. When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment. Where a lot falls into more than 1 category below, the method used to calculate front footage will be decided by the City Council upon consideration of all relevant evidence, including the recommendation of the City Engineer.

a. front footage shall be measured at the property building setback line on cul de sacs and irregular shaped lots.

b. for corner lots or multiple frontage lots - lots with more than one side of abutting frontage, the front footage shall be the long side plus one-half (1/2) the short side.

c. on corner lots and multiple frontage lots where one or more frontage is not improved, only the improved frontage shall be assessed. Similar projects being done -in subsequent years on the unimproved sides, will be assessed an amount to be determined by the Council with consideration given to previous improvements on other frontages and all other relevant factors bearing upon the current proposed assessment.

d. equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the sub-division for pie-shaped lots and irregular shaped lots where other rules do not apply.

e. where a lot consists of a combination of rectangular and pie-shaped or irregular portions, the equivalent front footage shall be determined as the sum of the straight front footage plus the remainder in accordance with applicable rules.

f. City property frontage is assessed on the same basis as all other parcels. The City will redistribute the City's share to all properties. (Wildwood Park and Hall's Marsh not included).

g. Parcels gaining access via easements across other parcels will be charged the mean front footage of those included in the project but in no case a greater amount than their front footage, to the extent that a benefit has been conferred.-

h. Parcels with no direct access except via unimproved street right-of-way will be charged the mean front footage of those included in the project, to the extent that a benefit has been conferred.-

~~805.120. FEDERAL, STATE AND COUNTY AID USE. If the City receives financial assistance from the federal, state or county governments to defray a portion of the cost of a street improvement project, such aid may be used to reduce the project costs.~~

805.130. EFFECTIVE DATE. This ordinance shall be effective from and after its passage and publication according to law.

(FORMERLY TITLED SECTION 612) “AMENDED BY ORDINANCE 2004-3 AND 2004-4; MARCH 9, 2004.”

(CHANGING NUMBER TO 805) “AMENDED BY ORDINANCE 2012-09, May 8, 2012”

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Ordinance 2015-06-02 Deer Feeding Prohibition



Birchwood Village

Dear Mayor and Council Members,

In November, the Council discussed whether Ordinance 2015-06-02, Deer Feeding Prohibition, required any additional Council action to become effective.

Subsequent to that meeting, staff reviewed the relevant portions of the Oct & Nov 2015 City Council meeting to determine what actions had been completed. After discussing the findings with City Attorney Kantrud, staff makes the following recommendations to properly adopt the Ordinance.

Recommendation/Request

Staff requests Council adopt proposed Ordinance 2015-06-02 (enclosed) by:

- 1) Approving its second reading and publication in the White Bear Press.

Thanks!

Regards,
Tobin Lay

ORDINANCE 2015-06-02

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

**AN ORDINANCE ENACTING SECTION 620 OF CITY CODE IN BIRCHWOOD
VILLAGE TO PROHIBIT FEEDING DEER**

WHEREAS, the City of Birchwood Village seeks to eliminate the feeding of deer in the city.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Birchwood Village hereby enacts Section 620 of City Code as follows:

620.010 PURPOSE: This Ordinance is enacted to protect, preserve, and promote the health, safety and welfare of the citizens of the City through the management of recreational feeding of white tailed deer within the City as part of a comprehensive strategy to reduce or eliminate negative impacts experienced as a result of an increasing deer population in the City.

620.020 FEEDING DEER PROHIBITED.

1. Prohibited acts: It shall be unlawful to intentionally place or permit to be placed on the ground or within five feet of the ground surface, any grain, fodder, salt licks, fruit, vegetables, nuts, hay, or other edible materials which may reasonably be expected to result in deer feeding, unless such items are screened or protected in a manner that prevents deer from feeding on them. Placement of live trees or plants that are rooted in the ground or in pots, baskets, or planters shall not be considered a violation of this subdivision.
2. Exceptions: The prohibition in 620.020(1) above shall not apply to:
 - A. Veterinarians, city animal control officers, or county, state, or federal game officials who are acting in the course of their duties and who have deer in custody or under their management
 - B. Persons authorized to implement a deer management program approved by the City Council.
 - C. Persons trapping, taking, or feeding deer pursuant to a permit issued by the Minnesota Department of Natural Resources.
 - D. Persons feeding birds using self enclosed feeding devices or containers or:
 - E. Persons using straw, hay, or straw related materials for erosion

control, mulching, gardening, or other landscape purposes.

620.030 ENFORCEMENT: Violation of this section is a petty misdemeanor punishable by a fine up to \$300. Each act of violation and each day a violation occurs or continues shall constitute a separate offense.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 9th day of January, 2018

Mary Wingfield
Mayor

Attest:

Tobin Lay
City Administrator-Clerk

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Mary Wingfield, Mayor
SUBJECT: Building Completion Code



Birchwood Village

This addresses the need to ensure building projects do not linger excessively long with unfinished exteriors. Our building inspector has noted that other cities have such a code to ensure reasonable progress on exterior completion.

The language was taken from the Maplewood city code. It requires exterior completion within 6 months, but grants an additional 6 month extension. St Paul just requires completion within one year. They accomplish the same thing; however, the Maplewood code nudges the builder along to ensure it is actually completed within the year.

This seems to be a more effective manner to ensure compliance within a twelve month period

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enclosed: proposed new code

PROPOSED NEW CODE under Chapter 203 City Building Regulations

203.035 EXTERIOR COMPLETION. The exterior finish on all residential dwellings and their accessory buildings shall be completed within six months of the date the permit is issued. Refinishing of existing buildings shall be completed within six months of the start of the work. Any owner of a dwelling who does not comply with this section shall have six months from the date of written notification of such to bring the dwelling to compliance. Tarpaper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish. The building official may grant a 90-day extension if there is an unusual hardship, such as bad weather. Further time extensions must be approved by the city council.

Maplewood City Code

Sec. 12-6. - Exterior completion.

The exterior finish on all residential dwellings and their accessory buildings shall be completed within six months of the date the permit is issued. Refinishing of existing buildings shall be completed within six months of the start of the work. Any owner of a dwelling who does not comply with this section shall have six months from the date of written notification of such to bring the dwelling to compliance. Tarpaper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish. The building official may grant a 90-day extension if there is an unusual hardship, such as bad weather. Further time extensions must be approved by the city council.

St Paul language on website...

In addition, exterior work done on a one or two-family dwelling (including garages) must be completed within one year from the date issued.

MEMORANDUM

DATE: January 9, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Reschedule August 2018 City Council Meeting



Birchwood Village

Dear Mayor and Council Members,

The regularly scheduled City Council meeting for August 2018 lands on the same day as the 2018 Primary Elections. Accordingly, the City Council meeting should be rescheduled to another night in August. Below are proposed dates that do not conflict with other City Hall events:

- Wednesday August 15
- Thursday August 16
- Tuesday August 21
- Wednesday August 22

Request/Recommendation

Staff requests Council select a new date for the August 2018 City Council meeting. Thanks!

Regards,
Tobin Lay