



City of Afton
PLANNING COMMISSION AGENDA

August 3, 2015
6:30 pm
(Please note early start time)

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
 - Barbara Ronningen (Chair)
 - Sally Doherty
 - Kitty Kilmer
 - Kris Kopitzke
 - Mark Nelson
 - Judy Seeberger
 - Lucia Wroblewski
 - Scott Patten
 - Jim Langan
- 4. APPROVAL OF AGENDA**
- 5. APPROVAL OF MINUTES**
 - a. July 6, 2015 Meeting Minutes
- 6. REPORTS AND PRESENTATIONS – None**
- 7. PUBLIC HEARINGS**
 - a. Ordinance Amendment Regarding Sewer Regulations
 - b. Solar Energy Systems Ordinance Amendment
- 8. NEW BUSINESS**
 - a. Lower St. Croix River Bluffland and Shoreland Management Ordinance Amendment
 - b. PC Training Opportunities –
 1. St. Croix Workshop-on-the-Water – August 6, 2015
 2. GTS Land Use Planning Workshops – Summer & Fall 2015
 3. LMC On-line Training
 - c. Reminder that the next Planning Commission meeting will be held on Monday, August 31
- 9. OLD BUSINESS**
 - a. Draft City Council Minutes - Update on City Council Actions
- 10. ADJOURN**

This agenda is not exclusive. Other business may be discussed as deemed necessary.

A quorum of the City Council or Other Commissions may be present to receive information.

CITY OF AFTON
DRAFT PLANNING COMMISSION MINUTES
July 6, 2015, 6:30 PM

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4
5 1. **CALL TO ORDER** – Chair Barbara Ronningen called the meeting to order at 6:31 p.m.

6
7 2. **PLEDGE OF ALLEGIANCE** – was recited.

8
9 3. **ROLL CALL** – Present: Doherty, Nelson, Seeberger, Kopitzke, Langan and Chair Ronningen. **Quorum present.** Excused Absence: Patten and Kilmer. Wroblewski arrived at 6:34 p.m.

10
11
12 **ALSO IN ATTENDANCE** – City Administrator Ron Moorse, Deputy Clerk Kim Swanson Linner and Council
13 Liaison alternate Mayor Richard Bend.

14
15 4. **APPROVAL OF AGENDA** – Items 9b and 9a from Old Business were moved up to Items 6a and 6b
16 respectively, to accommodate the applicants and their representatives whose applications were continued from
17 the June 1, 2015 to this meeting.

18
19 **Motion/Second: Ronningen/Doherty. To approve the July 6, 2015 Planning Commission agenda as
20 amended. Motion carried 6-0-1 (Wroblewski abstained, as she was absent for the discussion.)**

21
22 5. **APPROVAL OF MINUTES** –

23 a. June 1, 2015 Planning Commission Meeting Minutes – Minor typos were as follows: Line 56, add word
24 “...driveway is allowed on a maximum...”; Line 207, should not have a number as it was a comment by the
25 applicant representative; Line 236, “PH” should be “pH”; Line 293, delete “for smaller lots” and insert “...may
26 be too great for unscreened arrays.” Lines 307 through 317 appeared to be from last month’s minutes and should
27 be deleted.

28
29 **Motion/Second: Kopitzke/Nelson. To approve the June 1 4, 2015 Planning Commission Meeting minutes
30 as amended. Motion carried 6-0-1 (Abstained: Langan, as he was not in attendance.)**

31
32 6. **REPORTS AND PRESENTATIONS** – none.

33
34 [Items 9b and 9a from Old Business were moved up to Items 6a and 6b respectively.]

35
36 a. Bruce Paddock Variance Application for the Property on 33rd Street with PID# 22.028.20.14.0064 –
37 Administrator Moorse summarized the Bruce Paddock application for a variance to the minimum lot size
38 requirement to enable the parcel on 33rd Street with PID# 22.028.20.14.0064 to be approved as a buildable lot,
39 which was continued from the June 1, 2015 Planning Commission meeting. He reviewed that the minimum lot
40 size for the VHS district is 22,500 square feet, which is commonly three historically platted 50 foot by 150 foot
41 parcels (7,500 sq. ft. each) combined to create one parcel. The Paddock parcel is made up of two historically
42 platted parcels of 7,500 square feet each, plus 4,384 square feet of vacated 33rd St. right-of-way, for a total of
43 19,384 square feet. Moorse reviewed that the Planning Commission found that the survey showed that a house
44 and garage could be located on slopes less than 12% and could meet setbacks. However, they felt it was unclear
45 whether a driveway serving the house could meet the side yard setbacks and be located on land with slopes less
46 than 12%. The applicant submitted a revised survey showing a driveway that is on land with slopes less than
47 12%, with the exception that a portion of the west edge of the driveway would encroach on an existing retaining
48 wall which is shown on the survey as an area with slope greater than 12%. However, the land west of the
49 retaining wall, which would be disturbed if the retaining wall was moved to accommodate the driveway, has a
50 slope less than 12%.

51
52 Planning Commission Discussion

53 Commissioners noted concerns that the driveway as shown was not set back from the property line the
54 required 10 feet. It was also not clear if the retaining walls would be maintained or removed, which left the 12%
55 slope issue unanswered.

56 Moose reminded that this variance does not contain a particular plan to build; it is only to determine
57 whether it is a buildable lot which meets the substandard sized lot variance requirements in the VHS zoning
58 district.

59
60 **Motion/Second: Ronningen/Doherty. To recommend denial to the City Council of the Bruce Paddock**
61 **variance application for the property on 33rd Street with PID # 22.028.20.14.0064 with the following.**
62

63 **Findings**

- 64 1. **The lot is too small, being 3,000 square feet less than the minimum required VHS parcel.**
- 65 2. **The lot contains a significant amount of slopes greater than 12%.**
- 66 3. **The driveway fails to meet the 10 foot setback from property lines.**
- 67 4. **The retaining wall next to the driveway is problematic.**

68
69 **Motion carried 4-1-2 (Nay-Kopitzke; Abstain-Seeberger (had stepped away during discussion) and**
70 **Wroblewski (was unsure whether requirements were adequately met).**
71

72 b. Bill Scheel Application for a Minor Subdivision at 13404 15th Street and the property with PID #
73 08.028.20.14.0001 – Administrator Moose summarized the proposed Minor Subdivision application to create
74 three lots on the property at 13404 15th Street South and the property with PID 08.028.20.14.0001; that the
75 property, while a large lot, is currently nonconforming due to having less than 300 feet of frontage on a public
76 road. The subdivision would result in three conforming lots. He noted that at its June 1, 2015 meeting, the
77 Planning Commission had questions and concerns about two of the proposed lots crossing a quarter-quarter
78 section line, and the potential impact on density. The Commission requested revised surveys that clearly
79 showed the current lots vs. the proposed lots and the relationship of the current and proposed lots to the quarter-
80 quarter section line.

81 The City Attorney was asked whether the zoning code allows lot lines to cross quarter-section section lines
82 to which he advised that, while the Ag Preserve Zone requirements prohibit lot lines from crossing quarter-
83 quarter section lines, the Ag Zone requirements do not include a similar prohibition. In addition, staff has
84 reviewed the Comprehensive Plan, and did not find any language restricting property lines from crossing
85 quarter-quarter section lines. There is a concern about a density greater than the 3 lots per quarter-quarter section
86 allowed in the Ag Zone. The proposed subdivision would result in five lots in two quarter-quarter sections.
87 However, the boundaries of two of the lots would extend across a quarter-quarter section line. This could result
88 in more than three dwelling units in a quarter-quarter section if a house was built in the portion of the lot in the
89 quarter-quarter section that already contained three dwelling units. Moose advised that this potential could be
90 prevented by placing conditions on the subdivision, such as:

- 91 1. The approval to allow a subdivision with lots crossing quarter-quarter section lines shall not be used
92 at any time to allow the density of either of the quarter-quarter sections to exceed three lots per
93 quarter-quarter section.
- 94 2. A dwelling unit on a lot can be placed only in the quarter-quarter section in which the majority of
95 the lot area is located.

96 Moose explained that commissioners, at the June meeting, wanted to know if there were any non-
97 conforming lots adjacent to the property proposed for subdivision. He indicated there is an existing 3-acre
98 developed lot to the east of the subject property and a large lot to the east of the 3-acre lot that does not have
99 access to a public road, which would require that 10th Avenue to be extended to the east to enable that lot to be
100 developable.

101
102 **Planning Commission Discussion**

103 Nelson asked the applicant if any of the adjacent lots were under common ownership by the Scheels.

104 The applicant indicated they were not.
105

106 **Motion/Second: Kopitzke/Doherty. To recommend approval to the City Council of the Bill Scheel**
107 **application for a Minor Subdivision at 13404 15th Street and the property with PID # 08.028.20.14.0001,**
108 **with the following:**
109

110 **Findings**

- 111 1. The subdivision meets all subdivision requirements.
- 112 2. The subdivision would enlarge the property with PID 08.028.20.14.0001 to enable it to meet
113 the requirement for 300 feet of frontage on a public road.
114

115 **Conditions:**

- 116 1. The approval to allow a subdivision with lots crossing quarter-quarter section lines shall not
117 be used at any time to allow the density of either of the quarter-quarter sections to exceed
118 three lots per quarter-quarter section.
- 119 2. A dwelling unit on a lot can be placed only in the quarter-quarter section in which the
120 majority of the lot area is located.
- 121 3. Easements as required by the City Engineer shall be granted.
- 122 4. Scenic easements shall be placed on all slopes greater than 18%.
- 123 5. The applicant shall execute a scenic easement agreement.
- 124 6. Park dedication requirements shall be satisfied at the time of final subdivision approval in
125 accordance with Section 12-1270 of the Subdivision Ordinance.
126

127 **Motion carried 6-0-1 (Abstain-Langan, as he was not in attendance for last month's discussion.)**
128

129 **7. PUBLIC HEARINGS**

130 a. Shelly and Brad Holz Variance Application at 4206 River Road – Chair Ronningen opened the Public
131 **Hearing at 7:06 p.m.**

132 Administrator Moore reviewed the variance application for the Holz property, to tear down an existing
133 two-story home that is substandard in its setback from River Road and from the Ordinary High Water Line of
134 the St. Croix River. The house meets the setback from the St. Croix River bluffline. The house backs up to a
135 long steep slope. The Holz proposal is to tear down the existing house and build a new two-story house that has
136 an increased setback from River Road and the OHWL. The proposed house would be expanded to the north and
137 south sides, and a portion would be expanded to the rear. The house is connected to the "201" community septic
138 system, so a septic drainfield is not required. The proposed house would be screened from view from the river
139 during leaf-on conditions, is below the 35 foot maximum height allowed and would meet the 10% impervious
140 maximum coverage.

141 Moore indicated the zoning requirements not met include the south and north side expansions propose
142 grading on slopes greater than 12% and a retaining wall at the rear of the house will be built several feet into the
143 steep slope, which also involves grading in slopes greater than 12%. Portions of the proposed house are five feet
144 higher than the existing roof height. Zoning Code Section 12-580. C.4 provides that a substandard house shall
145 not be increased in height. The proposed house will increase the setback from road centerline from 89 to 92 feet,
146 but will still not meet the required 105 foot setback. The proposed house will increase the setback to the
147 Ordinary High Water Line of the St. Croix River from 172 to 177 feet, but will not meet the required 200 foot
148 setback. Therefore, the Holz' are requesting four variances:

- 149 1. A variance to allow a 92 foot front yard setback vs. the required 105 foot setback.
- 150 2. A variance to allow a 177 foot setback from the Ordinary High Water Line of the St. Croix River vs.
151 the required 200 foot setback.
- 152 3. A variance to allow grading in areas with slopes greater than 12%.
- 153 4. A variance to allow the roof height to be 5 feet higher than the roof of the existing house.

154 Moose pointed out the list of St. Croix Bluffland and Shoreland regulations required to be addressed in
155 making decisions on proposals, in addition to the three variance factors used to determine practical difficulty.

156 Moose indicated that the City Engineer's review indicated rain gardens are generally not recommended in
157 areas of steep slopes, that other site options are limited, and that further solutions for drainage and stormwater
158 management be developed, reviewed and approved.

159 Applicant Shelly Holz summarized their two-year process that they have developed with thoughtful
160 planning to deal with the problems of the existing home and that they are proposing to make a more energy
161 efficient home, while staying inconspicuous in the riverway, making no change to neighborhood character, and
162 to use the property in a reasonable manner with the practical difficulties of the lot. She described that currently
163 stormwater runs down the hill and driveway to River Road, then down to the river. They propose installing a
164 rain garden in the southeast corner of the house to capture about one-third of the drainage from the roof.

165 Janel Woodfill, 4242 River Road, commented that she received the public hearing notice in the mail and
166 could not find the materials on the website.

167
168 **Motion/Second: Wroblewski/Nelson. To close the Public Hearing at 7:20 p.m. Motion carried 7-0-0.**

169
170 Planning Commission Discussion

171 Ronningen pointed out the memo from the WSB engineer indicating work needed on stormwater
172 management for the property.

173 Wroblewski mentioned she had visited the site after the significant rainfall. She appreciated the planning
174 they are doing to correct drainage to the river.

175 Langan wanted clarification on the house foundation (slab on grade) and the elevations of the river
176 compared to the proposed house slab.

177 The applicant's architect gave the elevations indicating the house will be about 45 to 50 feet above the
178 ordinary river level.

179 Doherty commented that she looks to properties being "less non-conforming" over time and felt the owners
180 are doing the best job they can to make the conditions "less bad" than the existing. Setbacks, while improving,
181 still don't meet the requirements. She stated that the new roof orientation, while being 5 feet taller, will not
182 direct runoff straight to the river, and the roof slope is less steep, so it is making the situation better.

183 Ronningen confirmed that the property will be hooked up to the new Village septic system.

184 Nelson wanted clarification on the 2-1/2:12 roof slope.

185 The architect reviewed the design of the roof meeting the building code and energy standards.

186
187 **Motion/Second: Doherty/Kopitzke. To recommend approval to the City Council for the Shelly and Brad
188 Holz to tear down an existing non-conforming house and construct a new home requiring four variances
189 at 4206 River Road, that make the property "less non-conforming" and including the comments from the
190 Engineer that the stormwater management plan needs additional work and approval so that the
191 watershed requirements are satisfied, and with the following findings and conditions.**

192
193 Findings

194 Several unique features of the parcel were listed:

- 195 1. It comprised of unusually steep terrain and it appears that the amount of grading is
196 reasonable and the proposed new roofs will reduce the impact from stormwater runoff.
- 197 2. Screening of the property is significant and there is no impairment to the river.
- 198 3. There appears to be a reasonably level area for the new home.
- 199 4. It was requested that the DNR memo be submitted prior to the City Council meeting.

200
201 Conditions

- 202 1. City Engineer shall review and approve grading, drainage and erosion control plans.
- 203 2. City Engineer shall review and approve retaining wall design.

- 204 3. City Engineer specifications and recommendations for all work shall be met for the duration
205 of the permit.
206 4. The grading plan shall be constructed according to plans approved by the City Engineer. Silt
207 fences or other types of erosion control shall be properly installed prior to construction; and
208 shall be maintained in good condition until the construction is complete.
209 5. House color shall be earth tone.
210 6. The house shall be constructed according to the plans dated May 28, 2015, the site plan dated
211 May 27, 2015 and the survey dated May 29, 2015, subject to revisions as required or approved
212 by the City Engineer.
213 7. Existing vegetative screening shall be maintained, with the exception of one large tree to be
214 removed on the southern property line.

215
216 **Motion carried 7-0-0.**

217
218 b. Valley Branch Watershed District request for Conditional Use Permit for two ravine stabilization
219 projects at properties northeast of 30th Street and Trading Post Trail with PIDs 21.028.20.21.0001,
220 16.028.20.34.0002, 16.028.20.43.0004 and 21.028.20.12.0001, and east of Neal Avenue and north of Valley
221 Creek Trail on properties with PIDs 17.028.20.21.0002, 17.028.20.12.0001 and 17.028.20.13.0004 – Chair
222 **Ronningen opened the Public Hearing at 7:34 p.m.**

223 Administrator Moose summarized the application from Valley Branch Watershed District (VBWD)
224 proposing to complete two ravine stabilization projects, one at the northeast corner of Trading Post Trail and
225 30th Street, and one east of Neal Avenue and north of Valley Creek Trail. Both locations are steep ravines that
226 experience substantial erosion during significant rain events. The proposed projects will stabilize the ravines,
227 prevent erosion and help protect the water quality of Valley Creek. Moose noted that the VBWD does not own
228 any of the properties involved in the ravine stabilization project; they are in the process of obtaining easements
229 from the property owners to allow the work. The City of Afton has already approved the easement over the
230 City's property near Trading Post Trail and 30th Street. Moose noted the City Engineer reviewed the plans for
231 the project and had several questions about the design for the VBWD engineer, who addressed the questions
232 with the design logic and expected performance.

233 VBWD's engineer, Jennifer Koehler, from Barr Engineering, gave additional background on the two ravine
234 stabilization projects in identifying and completing these types of erosion control projects.

235 Linda Stephan, 2783 and 2771 Trading Post Trail, commented that she received the notice in the mail and
236 could not find any detailed information on the city website. She commented on the properties and other erosion
237 control measures that have been installed prior to this project.

238 Deputy Clerk wanted clarification on residents not finding the public hearing information on the city
239 website. It was determined that the public notices should include the date the packet will be posted to the
240 website, or when information will otherwise be available in City Hall.

241
242 **Motion/Second: Doherty/Wroblewski. To close the public hearing at 7:41 p.m. Motion carried 7-0-0.**

243
244 **Motion/Second: Ronningen/Doherty. To recommend approval to the City Council for the Valley Branch**
245 **Watershed District request for a Conditional Use Permit for a two ravine stabilization projects at**
246 **properties northeast of 30th Street and Trading Post Trail with PIDs 21.028.20.21.0001,**
247 **16.028.20.34.0002, 16.028.20.43.0004 and 21.028.20.12.0001, and east of Neal Avenue and north of Valley**
248 **Creek Trail on properties with PIDs 17.028.20.21.0002, 17.028.20.12.0001 and 17.028.20.13.0004, with the**
249 **following conditions:**

250
251 **Conditions**

- 252 1. All appropriate provisions of the Afton Code of Ordinances shall be complied with for the
253 duration of the permit.
254 2. Grading plans shall be reviewed and approved by the City Engineer.

- 255 3. **City Engineer specifications and recommendations for all work shall be met for the duration**
- 256 **of the permit.**
- 257 4. **The grading plan shall be constructed according to plans approved by the City Engineer. Silt**
- 258 **fences or other types of erosion control shall be properly installed prior to construction; and**
- 259 **shall be maintained in good condition until the construction is complete.**
- 260 5. **Non-compliance with the conditions of this permit shall be considered a violation, and may**
- 261 **result in revocation of this permit.**
- 262 6. **Compliance with conditions of this permit shall be monitored on a periodic basis.**
- 263 7. **Construction shall begin within one year of the date of issuance of this permit or the permit**
- 264 **shall become null and void.**
- 265 8. **All necessary easements to enable the project work shall be acquired.**
- 266 9. **The applicant shall limit erosion wherever possible and at no cost to the City of Afton.**
- 267

268 **Motion carried 7-0-0.**

269
270 c. Larry Best/Chrome-X, LLC Sketch Plan Review Application at 13900 Hudson Road – Chair Ronningen
271 **opened the Public Hearing at 7:43 p.m.**

272 Administrator Moose summarized the application proposing to build a set of luxury storage garages at
273 13900 Hudson Road which includes six storage unit buildings each with sixteen garages and a separate
274 community building. The individual garages are proposed to be sold to individual owners through a
275 condominium ownership structure. A similar use was proposed in 2004. The proposal was approved with a
276 Special Use Permit (now called a Conditional Use Permit) but was never built. The proposed general use –
277 enclosed storage as a principal use - is allowed as a conditional use, however, a number of elements of the
278 proposed use are unique and different from common enclosed storage uses. In this proposal, each garage is to be
279 separately owned, and the interior of each garage will be custom-improved by the owner, which could include
280 an area for storage, display, a restroom and minor maintenance of a vehicle, as well as other customized
281 improvements and furnishings. Moose advised the commission that because the proposal involves multiple
282 buildings on one lot, and also involves a condominium ownership structure, it has some similarities to a
283 Subdivision/Planned Unit Development.

284 Moose reported that the City Engineer memo indicated that while the concept plan includes a stormwater
285 pond, it does not appear to be sized sufficiently to control runoff. The memo also identified a number of other
286 requirements that need to be met by the final grading and drainage plan, such as: erosion and sediment control;
287 impervious surface in excess of one acre triggers MPCA requirement to provide 1-inch of volume control; the
288 runoff rate has increased from existing and the pond design is inadequate; and, any wetland protection
289 requirements.

290 Moose indicated that as a sketch plan review, it is an opportunity for the Planning Commission to ask
291 questions about the use, the layout of the buildings on the lot, the grading and drainage plan, etc, and provide
292 feedback regarding the use and to guide the detailed planning that would be reflected in a CUP application.
293 During the review process for the 2004 SUP application, the following areas of questions and concerns were
294 raised: Hours of operation; Bathroom facilities and septic; Noise; Number of units; Storm water management;
295 Common building – meeting space, bathrooms; Hazardous materials - floor drains, holding tanks and pumping;
296 Concern that people will live in the units or store a motor home and live in it; Traffic; Adequate parking;
297 Landscaping/screening; Lighting; Car wash facility – is it allowed and how is the wastewater disposed of?; On-
298 going monitoring and enforcement of conditions; Is the proposed use properly defined as “Enclosed storage as a
299 principal use”?

300 Applicant Larry Best indicated this luxury storage garage model is being used elsewhere in the state and
301 country. Chanhassen has a similar facility and they hold events called “Cars and Coffee” to which the public is
302 invited. They indicate it is very popular and parking can be a problem. However, they have had no issues of
303 owners living in the units, as it is a very high-end clientele.

304 Nancy Kafka, Executive Director of Belwin Conservancy, spoke, as the property abuts Belwin property and
305 also Lake Edith. She was unclear how garages could be “luxury storage” and wondered what the facility would
306 look like; she commented that the plan proposal looked very dense for the size of the parcel.

307
308 **Motion/Second: Nelson/Kopitzke. To close the Public Hearing at 7:52 p.m. Motion carried 7-0-0.**

309
310 Planning Commission Discussion

311 Commissioners commented that, while the concept had some exciting points and opportunities for Afton,
312 they had a number of concerns:

- 313 1. The amount of impervious surface shown on the plans was questioned, it was noted that the I1.b
314 zone allows 35% maximum impervious surface, and the plans appeared to have much in excess of
315 35% impervious.
- 316 2. It was noted that commerce is prohibited from taking place.
- 317 3. It appeared the driveways as shown are crossing slopes of 13 – 25%, which would require a
318 variance.
- 319 4. Commissioners wanted clarification on what each unit is provided. Applicants explained they come
320 plumbed with water, heat and sewer; they will have a drain and waterproof waste trap, which is
321 regulated by the Minnesota Pollution Control Agency (MPCA).
- 322 5. If the garages would hold “public or planned events” that would need to be identified in the
323 Conditional Use Permit application.
- 324 6. “Unmonitored” storage and keeping or disposing of hazardous materials/waste was a concern.
325 Commissioners asked if there would be a “site manager” who would monitor what goes in and out
326 of the garages, and/or what materials are hazardous.
- 327 7. Commissioners were concerned about the condominium concept and who would be the ultimate,
328 “owner” or responsible party. Who would be the governing body for oversight of enforcement,
329 maintenance of buildings and infrastructure and compliance of unit owners.
- 330 8. Commissioners questioned where wells and septic would be located, as there didn’t seem to be
331 enough property to accommodate those. It was suggested that toilets be limited to the Community
332 Building. It was noted that a “community septic system” is allowed under a Conditional Use Permit.
- 333 9. Hazardous materials being dumped into a septic system was a concern. Commissioners noted that
334 the facility in Chanhasen has more utility infrastructure to handle this type of use. Afton does not.
- 335 10. Commissioners indicated that the impervious surface should be reduced to an allowed amount;
336 groundwater must be protected; and, storage and/or disposal of hazardous materials must be
337 monitored. They felt the applicant must provide proof of protection of groundwater and of proper
338 storage and/or disposal of hazardous waste.

339
340 **As a sketch plan review the Planning Commission provided feedback to applicant Larry Best/Chrome-X,
341 LLC for Luxury Storage Garages at 13900 Hudson Road. No further action was needed.**

342
343 **d. Sewer Ordinance Amendment – Chair Ronningen opened the Public Hearing at 8:28 p.m.**

344 Administrator Moorse summarized that at the June 1, 2015 meeting the Planning Commission reviewed a
345 draft sewer ordinance amendment and provided substantial feedback which has been incorporated into this
346 Public Hearing document. Moorse indicated the Commission raised a question about discharging hot tub and
347 pool water into the sanitary sewer system. The sewer amendment consultant indicated her understanding is that
348 the hot tub and pool water can be discharged to a yard or a stormwater system, to prohibit discharging the
349 volume of water into the sanitary sewer system.

350 Commissioners chose to continue the public hearing to the next meeting.

351
352 **Motion/Second: Ronningen/Seeberger. To continue the Public Hearing for the sewer ordinance
353 amendment to the August 3, 2015 Planning Commission meeting. Motion carried 7-0-0.**

355 8. NEW BUSINESS – none.

356

357 9. OLD BUSINESS –

358

359 a. [Item 9a was moved to Item 6b.]

360

361 b. [Item 9b was moved to Item 6a.]

362

363 c. Residential Solar Array Ordinance – Administrator Moose explained that the Model Solar Ordinance
364 has been updated with commissioner comments and reformatted to be consistent with city ordinances.
365 Commissioners reviewed the draft solar ordinance, correcting typos and requesting changes to be incorporated.

366

367 **The draft Solar Array Ordinance will be updated and a Public Hearing will be held at the August 3 PC**
368 **meeting.**

369

370 d. PC Training Opportunities – Staff brought training opportunities to commissioners’ attention:

371

1. St. Croix Workshop-on-the-Water, August 6, 2015 and

372

2. Summer and Fall 2015 Land Use Planning Workshops by GTS Educational Events.

373

374 e. Draft City Council Minutes - Update on City Council Actions – Chair Ronningen reported the actions by
375 Council approving the Minor Subdivision application for FOC, LLC and approving the variance for one
376 driveway for the 30th Street property for Matt Twomey.

377

378 10. ADJOURN –

379

380 **Motion/Second: Nelson/Wroblewski. To adjourn the meeting at 9:04 p.m. Motion carried 7-0-0.**

381

382 Respectfully submitted by:

383

384

385

386 _____
Kim Swanson Linner, Deputy Clerk

387

388 **To be approved on August 3, 2015 as (check one): Presented: _____ or Amended: _____**

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Planning Commission Memo

Meeting: August 3, 2015

To: Chair Ronningen and members of the Planning Commission
From: Ron Moorse, City Administrator
Date: July 27, 2015
Re: Sewer Ordinance Amendment – **Public Hearing**

Background

At the June 1, 2015 Planning Commission meeting, a draft sewer ordinance amendment was presented and reviewed. The Planning Commission provided substantial feedback, and the feedback has been reflected in the attached sewer ordinance amendment. A public hearing was noticed for the ordinance amendment for the July 6 Planning Commission meeting. Due to a large agenda, the hearing was opened but continued to the August 3 Planning Commission meeting. Breanne Rothstein, of WSB, will attend the Commission meeting to address any additional questions or concerns regarding the ordinance.

PLANNING COMMISSION RECOMMENDATION REQUESTED:

Motion regarding a recommendation concerning the sewer ordinance amendment.

ARTICLE II ZONING

DIVISION 2 ADMINISTRATION

Sec. 12-83. Septic permits.⁵⁸

A. No building permit for any use requiring on-site sewage treatment and disposal shall be issued until a septic permit has first been issued by the building official.

B. A septic permit shall be issued only after proof is furnished by the applicant that a suitable on-site sewage treatment and disposal system can be installed on the applicant's lot. ~~In the Historic Village Septic Treatment Service Area, no new permits will be issued for Individual Septic Treatment System. However, in the VHS zoning districts the City will provide utility easements on suitable city property, as far as practical, for existing buildings with failing septic systems and no area for the installation of a standard septic system exists on the subject lot.~~ All septic systems shall conform to all of the requirements of the sanitary sewer disposal ordinance, Article IX of this chapter.

C. ~~Notwithstanding the procedures and regulations specified in Section 12-1953.~~ Existing on-site sewage treatment systems shall be evaluated to determine location, condition and function, and shall be brought into conformance with this article and the sanitary sewer disposal ordinance, Article IX of this chapter when:

- 1. An application for a building permit for construction of an addition onto the principal structure or a structural alteration of the principal structure is submitted to and approved by the building official.
- ~~2.~~ The use of a structure or property changes.
- ~~3.~~ A Conditional Use Permit for a duplex is granted by the City Council.
- 4. The building official deems it necessary to upgrade the existing system, based upon evidence of the system failing to function properly, failing to adequately treat sewage, or otherwise posing a hazard to the public health.
- ~~3-5.~~ Upon sale of transfer of the property.

D. ~~Notwithstanding the provisions specified in Section XXXX.~~ When an existing nonconforming septic system is required to be upgraded according to Section 12-83(C), the new on-site sewage treatment system shall be installed prior to the issuance of a building permit unless a financial guarantee equal to 125 percent of the cost of installing such a system and is valid for one year is issued to the City.

ARTICLE IX. SEWAGE¹

DIVISION 1. GENERALLY

Secs. 12-1901--12-1950. Reserved.

DIVISION 2. SEWER USE²

Subdivision I. Generally

¹Cross references—Zoning and water supply sanitary requirements for shoreline management, § 12-401 et seq.; Lower St. Croix River management requirements or sewage disposal, § 12-587; floodplain management on-site sewage treatment and water supply systems, § 12-1143. State law references—Authority to establish and maintain sewers, M.S.A. § 412.221, subd. 6; authority to build and construct sewers and sewage disposal plants, M.S.A. § 444.075.

²Cross references—Septic permits regarding zoning, § 12-83; sewers and subdivisions, § 12-1428.

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Industrial wastes means the solid, liquid, or gaseous waste resulting from industrial or manufacturing processes, trade or business, or from the development, recovery or processing of natural resources.

Industry means any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, categorized in Divisions A, B, D, E and I.

Large Subsurface Sewage Treatment System (LSTS) means a subsurface collection and sewage treatment system that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade and that is designed to receive sewage design flow of greater than 10,000 gallons per day.

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

Normal domestic strength wastes means wastes which are characterized by a per capita discharge of 75 gallons per day at a loading of 3200 mg per liter BOD, and 22500 mg per liter total-suspended-solidsTSS, and 50 mg per liter FOGO & G.

Q&G (also known as FOG) means oil and grease (or fat, oil and grease), a component of sewage typically originating from foodstuffs such as animal fats or vegetable oils or consisting of compounds of alcohol or glycerol with fatty acids such as soaps and lotions, typically expressed in mg/l, (also known as FOG or fat, oil and grease.)

Operation and maintenance means activities required to provide for the dependable and economical functioning of the treatment system, throughout the useful life of the treatment works, and at the level of performance for which the treatment works were constructed. Operation and maintenance includes replacement.

Other wastes means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, oil, tar, chemicals, offal, and all other substances except sewage or industrial waste.

Passive maintenance means a maintenance program for community sewage treatment systems whereby the community in which the treatment system is situated is responsible for conducting operation, maintenance and replacement in a manner acceptable to the City.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

~~*Public sewage treatment system* means any sewage treatment system owned or operated by a unit or agency of government.~~

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water, and groundwater are not intentionally discharged.

Sanitary waste means the liquid and water carried wastes discharged from sanitary plumbing facilities.

Sewer means a pipe or conduit for carrying sewage, industrial wastes or other waste liquids.

Sewer system means pipelines or conduits, pumping stations, forcemains, and all other devices and appliances appurtenant thereto, used for collecting or conducting sewage, industrial wastes or other wastes to a point of ultimate disposal.

Slug means any discharge of water, wastewater or industrial waste which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than 15 minutes, more than five times the average 24 hour concentration or flow during normal operation.

State Disposal System (SDS) Permit means any permit including any terms, conditions and requirements thereof issued by the MPCA pursuant to M.S.A. § 115.07 for a disposal system as defined by M.S.A. § 115.01, subd. 8.

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Suspended solids means solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

Toxic pollutant means the concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards pursuant to section 307(a) of the Clean Water Act.

Unpolluted water means clean water uncontaminated by industrial wastes, other wastes, or any substance which renders such water unclean or noxious or impure so as to be actually or potentially harmful or detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial or recreational uses; or to livestock, wild animals, birds, fish, or other aquatic life.

Wastewater facility means the structures, equipment, or processes required to collect, ~~carry away~~ convey, and treat domestic ~~and industrial~~ commercial wastes and dispose of the effluent ~~by means of Treatment System~~.

(Ord 08-2010, § 12-1952, 9/21/10)

Sec. 12-1952. Connection to Individual Subsurface Septic Treatment System (ISTS).

A. All improved properties not located in the Historic Village Sewage Treatment Service Area shall be connected to a compliant ISTS, per Minnesota Rules.

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Sec. 12-1953. Applicability: Connection to Large Subsurface Treatment System (LSTS).

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~~A. This article shall apply and be in effect for the stated purposes within the "201" study Historic Village Sewage Treatment Service Area, as shown in the Comprehensive Plan. Any property outside of the HVSTSA shall be connected to an individual subsurface sewage treatment system (ISTS) meeting the requirements of Section 12-83 of the Zoning Code ("Septic Permits") or to a community sewage treatment system approved under the authority of the City.~~

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A. The sewer permit fee and sewer connection charges shall be established by the City, as outlined in the City's fee schedule.

B. At the time the LSTS becomes available to properties within the HVSTSA, the City Engineer shall contact the property owner in writing notifying them of the availability of the LSTS and requesting completion of a sewer permit and to schedule a connection. Properties previously connected to the "201" community sewage treatment system or with existing ISTS which are failing to adequately treat sewage, posing a hazard to the public health or otherwise deemed by the City to be non-complaint shall connect within 60 days from when the sewer becomes available.

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B.C. All properties located in the HVSTSA shall be connected to the LSTS no later than December 31, 2024.

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~~A.D. Properties within the HVSTSA where construction is proposed for a new structure with a building drain requiring sewage treatment shall not be granted final building permit approval without the issuance of a sewer permit to connect to the LSTS system.~~

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E. The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the state building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9, shall apply.

~~1. In the event a property owner shall fail to connect to a sewer in compliance with this Ordinance, an official ten (10) day notice shall be served instructing the affected property owner to make the connection. If no action is taken at that time, the City will have said connection made and shall assess the cost against the benefited property.~~

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Sec. 12-1954. Inspections.

Inspections of ISTS or connections to LSTS as required to determine compliance with this article shall be performed by the City Administrator or his/her agent under the following circumstances:

- A. Duly authorized employees of the City shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. Those employees shall have no authority to inquire into processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries except as is necessary to determine the kind and source of the discharge to the public sewer.
- B. The owner or occupant of a property shall be responsible to provide access at reasonable times, to the City Administrator or his/her agent, for the purpose of performing inspections required under this article.
- C. While performing the necessary work on private property as referred to in Subsection (A) of this section, the authorized employees of the City shall observe all safety rules applicable to the premises.
- D. Fees for inspections, maintenance, or other services rendered under this article shall be as set by resolution of the City Council from time to time.

Sec. 12-1954. Enforcement

A. ~~The City Administrator and his/her agent City Clerk/Zoning Administrator shall be responsible for administration and enforcement of this article:~~

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~~B.A. The City Administrator, Clerk/Zoning Administrator or his/her agent shall be qualified and certified by the MPCA as competent in the design, evaluation and inspection of ISTS and connections to LSTS individual on-site sewage treatment systems and shall carry a current individual sewage treatment system certificate and a current class CD operators certificate.~~

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Sec. 12-1955. Appeals and variance requests.

- A. ~~The City Council shall hear and decide appeals and review any order, decision or determination made by the City Administrator and his/her agent clerk/Zoning Administrator regarding the enforcement of this article.~~
- B. The City Council shall hear and act upon all rate adjustment and variance requests.
- C. Any appeal of an administrative decision or determination may be filed by any person, department, bureau, town, city, county, or state which is aggrieved by the decisions.

Sec. 12-1956. Inspections.

~~Inspections as required to determine compliance with this article shall be performed by the City Administrator or his authorized agent under the following circumstances:~~

~~A. Duly authorized employees of the City shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this~~

article. Those employees shall have no authority to inquire into processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries except as is necessary to determine the kind and source of the discharge to the public sewer.

- B. The owner or occupant of a property shall be responsible to provide access at reasonable times, to the City Administrator or his agent, for the purpose of performing inspections required under this article.
- C. While performing the necessary work on private property as referred to in Subsection (A) of this section, the authorized employees of the City shall observe all safety rules applicable to the premises.
- D. Fees for inspections, maintenance, or other services rendered under this article shall be as set by resolution of the City Council from time to time.

Sec. 12-1957. Violations and penalties.

~~B.~~ It is hereby declared unlawful for any person to violate any term or provision of this article. Violation thereof shall be a misdemeanor. Each day that a violation is allowed to continue shall constitute a separate offense.

~~C.~~ Upon a violation or a threatened violation of this article, the City Administrator, in addition to other remedies, may request appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it shall be the duty of the City attorney to initiate such action.

~~A.~~ Any person found to be violating any provisions of this article shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the time period stated in such notice permanently cease all violation.

~~E.~~
~~B.~~ If no action is taken at that time, the City will take corrective action, including, but not limited to, making a connection to the LSTS, and shall assess the cost against the benefited property.

~~F.C.~~ Any person who shall continue any violation beyond the time limit provided for in the written notice shall be guilty of a misdemeanor and on conviction thereof shall be fined in the amount not exceeding \$700.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

~~G.D.~~ Any person violating any of the provisions of this article shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation.

~~H.E.~~ Any taxpayer of the City may institute mandamus proceedings in district court to compel specific performance by the proper official or officials of any duty required by this article.

Secs. 12-1958--12-1980. Reserved.

Subdivision II. Use of Public Sewage Treatment Systems

Sec. 12-1981. Unlawful surface discharge.

It shall be unlawful to discharge to any natural outlet within the City or any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article and the City's National Pollutant Discharge Elimination System (NPDES) SDS permit.

Sec. 12-1982. Unlawful connection to public sewage treatment system, permit.

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Commented [MP1]: I believe state law was changed in recent years allowing a maximum of \$1,000 per day. Would the city want to increase this?

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~~A. It shall be unlawful for any person to connect a building sewer to any public sewerage the large subsurface treatment system in the HVSTSA without first obtaining a sewer permit from the City. The City shall permit new connections and flow increases only if there is additional available capacity in the particular public sewerage treatment system being considered. No new construction will be permitted to connect for two years following start up of each public sewerage treatment system.~~

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~~Sec. 12-1983. Lawful connections to public sewers.~~

~~New connections will be allowed, with a city permit, according to the following conditions:~~

- ~~A. Where an existing on-site septic sewer system is failing and where the property in question has frontage on the public sewerage treatment system located in the HVSTSA, a new connection may shall be permitted if capacity is available in all components of the public sewerage treatment system.~~
- ~~B. New connections to any current or future the public sewerage treatment systems will be permitted for new construction if capacity is available in the particular public sewerage treatment system over what is needed to accommodate all the existing structures.~~
- ~~C. New connections shall be constructed according to the specifications of the City's permit for such connection. The permit conditions for new building sewer connections to public sewerage treatment systems shall be as follows:~~

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~~1. Applications for permits shall be made by the owner or authorized agent and shall state the location, name of owner, street number of the building to be connected, and how occupied. No person shall extend any private building or property for which the service connection permit has been given. The application shall contain an acknowledgment by applicants that the system, although owned by the City, was designed by a professional engineer to specifications established by the City and state and federal government and was constructed primarily with state and federal funds as an accommodation to applicants who had failed septic systems and could not comply with septic standards in any other manner are limited due to the development density of the area.~~

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~~2. All applicants shall also agree not to seek damages or indemnification from the City for loss or injury resulting from back-up or other functioning or nonfunctioning of the system, unless the City has failed or refused to comply with the maintenance standards contained in this article.~~

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~~2. There shall be two classes of building sewer permits:~~

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- ~~a. For residential and commercial service; and,~~
- ~~b. For service to establishments producing industrial wastes.~~

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~~In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment for the City. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.~~

Commented [MP2]: Division 4 Service charges indicates permanent or commercial. This should be consistent I would think.

Commented [MP3]: Here we do still have industrial mentioned. Should this be here still or not?

~~4. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.~~

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~~A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.~~

~~5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City to meet all requirements of this article.~~

~~6. The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the state building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9, shall apply.~~

~~Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. The property owner shall provide and maintain such lifting mechanism as required at no expense to the City.~~

~~D.A. The fee for new connections shall be established by the City from time to time.~~

Sec. 12-1984. Unlawful discharge to LSTS public sewers.

No person shall discharge or cause to be discharged directly or indirectly any waste which, by volume or strength or nature, may harm the wastewater treatment LSTS facility or cause obstruction to the free flow in sewers or endanger life or cause a nuisance.

A. No person shall discharge or cause to be discharged directly or indirectly any stormwater, groundwater, roof runoff, subsurface drainage, waste from on-site disposal systems, unpolluted cooling or processing water to any sanitary sewer the LSTS except as permitted by the City.

A-B. No person shall connect a sump pump to the LSTS. Unlawful connections shall be subject to penalty, per city's fee schedule.

B-C. Stormwater and all other unpolluted water shall be discharged to a storm sewer if available or to the ground surface, and as allowed by MPCA, except that unpolluted cooling or processing water may be discharged to a storm sewer or natural outlet upon approval and the issuance of a discharge permit by the MPCA.

C-D. No person shall discharge or cause to be discharged directly or indirectly to any treatment system the following substances:

1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
2. Any water or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the wastewater treatment works.
3. Any water or waste having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and people.
4. Solid or viscous substances, either whole or ground, in quantities or of such size capable of causing obstruction to the flow in the sewers, or other interference with the proper continuation of the wastewater facilities such as, but not limited to, ashes, cinders, disposable diapers, glass grinding or polishing wastes, stone cuttings or polishing wastes, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, sanitary napkins, paper dishes, cups, milk containers, and other paper products.
5. Noxious or malodorous liquids, gases, or substances which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repairs.

Commented [BR4]: This whole section is moot because their comp plan does not allow "public systems" We were careful to call it a large subsurface sewage system.

Commented [DH5]: Expand here or assessment policy

6. Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, including wastes which may adversely affect⁴ the permeability of soils, such as dairy products and blood.
- D. No person shall discharge or cause to be discharged directly or indirectly the following described substances to ~~the LSTS~~~~any public sewers~~ unless in the opinion of the City such discharge will not harm the wastewater facilities, nor cause obstruction to free flow in ~~sewers~~~~the LSTS~~, nor otherwise endanger life, limb, or public property, nor constitute a nuisance. In forming its opinion as to the acceptability of the wastes, the City may give consideration to such factors as the materials or construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment facilities, the City's SDS permit, and other pertinent factors. The City may make such determination either on a general basis or as to discharges from individual users or specific discharges, and may prohibit certain discharges from individual users because of unusual concentrations or combinations which may occur. The substances ~~prohibited are~~~~include~~:
1. Any liquid or vapor having a temperature in excess of 150 degrees Fahrenheit (65 degrees Celsius).
 2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of ~~5400~~ milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees Celsius). Any garbage that has not been ground or comminuted to such degree that all particles will be carried freely in suspension under flows normally prevailing in the public sewers, with no particles greater than one-half inch in any dimension. Commercial sources shall have a grease interceptor internal or external prior to discharge. FOG must be intercepted prior to discharge.
 3. Any water or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not; substances not intended for use in household cleaning, including but not limited to solvents, pesticides, flammables, photo finishing chemicals, paint, and dry-cleaning chemicals, and medicines.
 - ~~3-4. Chemically treated hot tub and all pool water; floor drains from garages.~~
 - ~~4-5.~~ Any water or wastes containing phenols or other taste or odor producing substances which constitute a nuisance or hazard to the structures, equipment, or personnel of the sewage works, or which interfere with the treatment required to meet the requirements of the state or federal government, or any other public agency with proper authority to regulate the discharge from the sewage treatment plant.
 - ~~5-6.~~ Any radioactive wastes or isotopes of such half-life or concentration that they are not in compliance with regulations issued by the appropriate authority having control over their use or may cause damage or hazards to the treatment works or personnel operating it.
 - ~~6-7.~~ Any water or wastes having a pH in excess of 9.5.
 - ~~7-8.~~ Materials which exert or cause:
 - a. Unusual concentrations of suspended solids, (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD or chemical oxygen demand in such quantities as to constitute a significant load on the wastewater treatment facilities.
 - d. Unusual volume of flow or concentration of waste constituting a slug.

Sec. 12-1985. Pretreatment, control and refusal of extraordinary wastes.

- A. If any water or wastes are discharged, or are proposed to be discharged directly or indirectly to the ~~LSTS~~~~public sewers~~, which water or wastes do not meet the standards set out in or promulgated under this section, or which in the judgment of the City may have a deleterious effect upon the treatment facilities, processes, equipment, or receiving waters or which otherwise create a hazard to life, or constitute a public nuisance, the City may take all or any of the following steps:
 1. Refuse to accept the discharges.
 2. Require control over the quantities and rates of discharge.

⁴ Amendment 02-2009, 4/21/2009

3. Require pretreatment to an acceptable condition for the discharge to the public sewers.
 4. Require payment to cover the added cost of handling or treating the wastes.
- B. The design and installation of a plant or equipment for pretreatment or equalization of flows shall be subject to the review and approval of the City, and subject to the requirements of 40 CFR 403, entitled Pretreatment Standards, and the state pollution control agency.
1. Grease, oil, and mud interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Section 12-1984, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection.
 2. Where preliminary treatment, flow equalization, or interceptors are required for any water or waste, they shall be effectively operated and maintained continuously in satisfactory and effective condition by the owner at his expense and shall be available for inspection by the City at all reasonable times.
 3. When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure and equipment, when required, shall be constructed at the owner's expense in accordance with plans approved by the City and shall be maintained by the owner so as to be safe and accessible at all times.
 4. All measurements, tests, and analyses of the characteristics of water and waste to which reference is made in this article shall be determined in accordance with 40 CFR 136 Guidelines Establishing Test Procedures for the Analysis of Pollutants; the latest edition of Standard Methods for the Examination of Water and Wastewater and shall be determined at the control structure provided, or upon suitable samples taken at such control structure. If no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effluent constituents and their effect upon the treatment works and to determine the existence of hazards to life, health and property. Sampling methods location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the City.
 5. The owner of any property serviced by a building sewer carrying industrial wastes shall, at the discretion of the City, be required to provide laboratory measurements, tests, and analyses of waters or wastes to illustrate compliance with this article and any special condition for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the City. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the federal, state, and local standards are being met. The owner shall bear the expense of all measurements, analyses and reporting required by the City. At such times as deemed necessary the City reserves the right to take measurements and samples for analysis by an outside laboratory.
 6. New connections to the sanitary sewer system shall be prohibited unless sufficient flow capacity is available in all downstream facilities.
 7. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern, providing that national categorical pretreatment standards and the City's NPDES and/or state disposal system permit limitations are not violated.

Secs. 12-1986--12-2005. Reserved.

Subdivision III. Use of Individual Sewage Treatment Systems⁵

⁵Cross reference—Buildings and building regulations, § 12-1771 et seq.

Sec. 12-2006. Reserved.⁶

Secs. 12-2007--12-2040. Reserved.

Subdivision IV. Maintenance

Secs. 12-2041 – 12-2044. Reserved.⁷

Secs. 12-2045 -- 12-2075. Reserved.⁸

DIVISION 3. SEWAGE TREATMENT⁹

Secs. 12-2076 -- 12-2200. Reserved.

DIVISION 4. WASTEWATER SERVICE CHARGE SYSTEM

Subdivision I. Charges Established.

1. Sewer Utility Charge. The City of Afton hereby establishes a Wastewater-Service-Sewer Utility Charge System whereby revenue collected from users of the LSTS wastewater treatment facilities will be used to offset all expenditures incurred for administration, annual operation and maintenance and equipment replacement.
2. Sewer Connection Charge. The City of Afton hereby establishes a Sewer Connection Charge whereby a one-time connection fee will be collected from new properties to cover the costs related to capital investments in the LSTS. New properties shall include any properties connected to the LSTS that were not originally assessed for the construction, including those newly created lots through lot split or subdivision.

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Sec. 12-2201. User Categories.

Users of the "River Road 201" wastewater facilities Historic Village Sewage Treatment service area of the City of Afton shall be classified into one of the following categories:

E. Residential User

G.A. Seasonal Commercial User

Sec. 12-2202. Equivalent Residential Units.

Wastewater charges will be established based on Equivalent Residential Units (ERU). One ERU is defined as a unit of wastewater volume of 24025 gallons per day with a theoretical waste strength of 3200 mg/l of BOD₅ and 20025 mg/l of total suspended solids TSS, and 50 mg/L FOG. The assignment of ERUs will be made by the City. Seasonal-Commercial properties will have multiple units as identified by the City Administrator or his/her agent City Clerk/Zoning Administrator or his agent will have a value of sixty percent (60%) of an equivalent year-round unit.

⁶Ord 08-2010, § 12-2006, 9/21/2010

⁷Ord 08-2010, § 12-2041 through 12-2044, 9/21/2010

⁸Ord 1997-9, 1/13/98

⁹Ord 1997-9, 1/13/98; Ord 08-2010, § Article IX, Division 3, 9/21/10

A. ~~Equivalent Residential Units at a volume of 24025 gallons per day Normal Domestic Strength Wastewater will be assigned by the City according to the following table: to residential parcels:~~

Sewage Flows		
No. of Bedrooms	in gal. per day	ERUs
1-2	225	1.0
3	300	1.3
4	375	1.7
5	450	2.0
6	525	2.3
7	600	2.7

~~Non-residential users shall be assigned ERUs according to ESTIMATES OF COMMERCIAL, INDUSTRIAL, AND RECREATIONAL WASTEWATER FLOWS as printed in the City of Afton Historic Village EU Map on file with the City Clerk. On Site Sewage Treatment Manual, which is printed annually by the University of Minnesota Agricultural Extension Service and the Minnesota Pollution Control Agency.~~

Commented [MP6]: is this the map that shows the district? Being referred to as Historic Village Sewage Treatment Service Areas. If changed needs to be consistent throughout, if this is a different map/document may want to define what this is.

~~B.A.~~ Users may appeal the number of ERUs assigned to a particular connection by installing and maintaining, at their own expense, water meters of a type approved by the City. Such meters shall be equipped with remote registering recorders located at an accessible site on the owner's¹⁰ property.

~~C.B.~~ The City may, at its discretion require non-residential users to install water meters for the purpose of determining wastewater volume. The City may require residential connections to install water or wastewater meters within the HVSTSA as part of a comprehensive program to install meters throughout the City's water system. When so required, such meters shall be of a type approved by the City and equipped with remote registering recorders, and located at an accessible site on the owner's property.

Sec. 12-2203. Annual User Charge Rates.

~~In accordance with Federal and State requirements, each user will be notified annually at the beginning of each calendar year of the User Charge Rates attributed to wastewater treatment services. At the beginning of each calendar year, the city will update its user charge rates as part of the city Fee Schedule approval.~~

Sec. 12-2204. Records.

In accordance with Federal and State requirements, the City Administrator will be responsible for maintaining all records necessary to document with the Wastewater Service Charge System adopted.

Secs. 12-2205-12-2210. Reserved.

Subdivision II. Determination of Charges.

Sec. 12-2211. Recovery of Costs.

It is the intent of this Ordinance that the wastewater service charges shall cover the costs of operating and maintaining the wastewater systems, and that costs are recovered from all users in a proportionate manner. The City shall maintain a proper system of accounts suitable for determining the operation and maintenance and equipment replacement costs of the collection and treatment facilities. These costs shall be reviewed at regular annual intervals. The City shall determine whether or not sufficient revenue is being generated for the effective operation and maintenance and management of the wastewater system, and that user charges are being distributed proportionately to all users. Any inequities and/or shortages shall be corrected by adjusting the rates accordingly by resolution of the City.

¹⁰ Amendment 02-2009, 4/21/2009

Sec. 12-2212. Determination of User Charge.

All users shall be charged ~~an~~ semi-annual wastewater service charge in accordance with the methodology described below:

$$\frac{Cs/ERU = \frac{Com + Cr}{No. of ErU's}}$$

Where Cs = Wastewater Service Charge per year
Com = Operation and Maintenance Charge per year
Cr = Equipment Replacement Charge per year

Commented [DH7]: Semi-annual fee?

Sec. 12-2213. ~~Semi-Annual~~ Fees and Payments.

All users of the wastewater treatment facilities shall be charged semi-annually for sewer service based on the number of equivalent residential units assigned to each ~~and based on whether the unit is seasonal or year round~~. Payment shall be rendered in full within 30 days of the billing date.

Sec. 12-2214. Septic Tank Effluent Pumping Surcharge.

An additional fee shall be charged to users of the community sewage treatment system who, for whatever reason, require septic tank pumping more frequently than once in two years. The surcharge for such frequent pumping shall be at the same rate, either per tank or per gallon, as established by contract for the routine pumping of each septic tank on the community sewage treatment system.

Sec. 12-2215. Fees for Unusual Wastes.

If a user discharges ~~toxic pollutants or~~ wastes of unusual strength or character to the treatment facilities which cause or increase the operation and maintenance costs, he/she shall be ordered either to install pretreatment facilities or pay for the extra costs of treating the wastes. This decision will be made by the City, prior to ~~at~~ the time the user begins to discharge extra strength wastes.

Sec. 12-2216. Toxic or Incompatible Waste Clean-Up.

Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the costs of restoring wastewater treatment services, clean-up and restoration of ground and surface water and environs, and sludge disposal, shall be borne by the discharger(s) of said wastes, at no expense to the City.

Sec. 12-2217. Establishment of Special Accounts.

The City hereby establishes a Wastewater Service Fund into which all revenue collected from users will be deposited for disbursements into the general operating fund and the replacement fund. For the purpose of community and cost accounting records, this fund is designated as an income account. Revenue sufficient to insure adequate replacement shall be held in the replacement fund separate from the operation and maintenance fund proportionately to each fund.

Secs. 12-2218 – 12-2225. Reserved.

Subdivision III. Administration.

Sec. 12-2226. Applicability.

This Ordinance shall apply and be in effect for the stated purposes within the "201" study areas Historic Village Sewage Treatment service area in the City of Afton.

Sec. 12-2227. Enforcement.

- A. The City Administrator shall be responsible for administration and enforcement of this Ordinance.
- B. The City Administrator or his/her agent shall be qualified and certified by the MPCA as competent in the design, evaluation and inspection of the following sewage treatment systems as overseen or regulated by the City:
 - a. a—Large Subsurface/Sewage Treatment Systems, and shall carry a current Large Subsurface/Sewage Treatment System certificate and a current class C operators certificate.
 - b. Individual on-site sewage treatment systems, and shall carry a current Individual Sewage Certificate and a current Class D Operations Certificate.
 - a.c. Public-Community Sewage Treatment Systems if any are established in the future.

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Sec. 12-2228. Appeals and Variances.

- A. The City shall hear and decide appeals and review any order, decision or determination made by the City Administrator regarding the enforcement of this Subdivision.
- B. The Board of Adjustment & Appeals shall hear and act upon all rate adjustment and variance requests.
- C. Any appeal of an administrative decision or determination may be filed by any person, department, bureau, town, city, county, or state which is aggrieved by a decision.

Secs. 12-2229 – 12-2235. Reserved.

Subdivision IV. Enforcement.

Sec. 12-2236. Violations and Penalties.

Any bill not paid four (4) weeks after date of billing shall be declared delinquent and a past-due notice shall be issued to the billed party. The past-due notice shall contain an additional charge to cover the costs of the rebilling. Additional delinquent notices including their respective charges shall be sent at eight (8) and twelve (12) weeks after the billing date. Should a bill still be delinquent after one hundred twenty (120) days, the City may elect to take the following actions.

- A. Whenever wastewater service charge bills become delinquent, the amount due shall be certified to the County Auditor for inclusion with the following year's tax statement.
- B. Lien. Whenever wastewater treatment bills become delinquent the same shall become and constitute a lien upon the real estate to which sewer service is supplied. Statements rendered for such charge shall be deemed notice to all parties, whether or not the person charged with the statement is the property served. The claim for lien shall be made in the¹¹ form of a sworn statement setting forth:
 - 1. a description of the real estate, sufficient for the identification thereof, upon or for which the sewage service was supplied;
 - 2. the amount of money due for such sewage service; and
 - 3. the date or dates when such amount or amounts became delinquent. If all amounts shown due remain unpaid after recording as provided by state statutes, the City may foreclose the lien in the same manner and with the same effect as the foreclosing of mortgages on real estate.

B.C. Civil Action. In the alternative of levying a lien, the City may, at its discretion, file suite in a civil action to collect such amounts as are delinquent and due against the occupant or user of the real estate and

¹¹ Amendment 02-2009, 4/21/2009

shall collect, as well, all attorney's fees incurred by the City in filing the civil action. Such attorney's fees shall be fixed by order of the court.

Sec. 12-2237. Interest on Unpaid Balances.

In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being served by the treatment works shall be liable for interest upon all unpaid balances at the rate set forth in the City's Fee Schedule of ~~twelve percent (12%) per annum~~.

Sec. 12-2238. Permit Revocation and Service Disconnection.

The City reserves the right to revoke discharge permits and to disconnect service to any user whenever wastewater treatment becomes delinquent.

Sec. 12-2239. Effective Date.

This Ordinance takes effect upon passage and publication.

Sec. 12-2240 – 12-2300. Reserved.

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Planning Commission Memo

Meeting: August 3, 2015

To: Chair Ronningen and members of the Planning Commission
From: Ron Moorse, City Administrator
Date: July 27, 2015
Re: Solar Energy Systems Ordinance Amendment – **Public Hearing**

Background

At its June 1, and July 6, 2015 meetings, the Planning Commission provided substantial input regarding revisions to the draft language of the solar energy systems ordinance. The Commission directed staff to finalize the solar energy ordinance amendment reflecting the Commission's input, and to schedule a public hearing for the ordinance. Based on direction from the Planning Commission, the ordinance has been placed into a final form, including placing it into the zoning code where it best fits, and putting it into a format that matches its placement in the code. The ordinance amendment is attached. A public hearing has been noticed for the August 3 Planning Commission meeting.

PLANNING COMMISSION DIRECTION REQUESTED:

Motion regarding a recommendation regarding the solar energy systems ordinance amendment.

ORDINANCE 03-2015

CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING SECTIONS 12-132 AND 12-134 AND ADOPTING SECTION 12-230 OF THE AFTON CITY CODE RELATING TO SOLAR ENERGY SYSTEMS

BE IT ORDAINED by the City Council of the City of Afton hereby amends the following sections of the Afton Code of Ordinances: Section 12-132 and Section 12-134, and adopts Section 12-230 relating to Solar Energy Systems, as shown below.

DELETE Sec. 12-132. F.2.

F. *Height.*

1. No structure except those for public utilities, wind generators, farm buildings, churches and other places of worship shall exceed a height of 35 feet. The maximum height limitations for churches and other places of worship shall be as follows:
 - a. A maximum height of thirty-five (35) feet for the occupied area of the structure;
 - b. A maximum height of fifty (50) feet for the structural elements;
 - c. A maximum height of sixty (60) feet for the following non-structural elements: spires or steeples, belfries or bell towers, cupolas, crosses or other religious symbols or decorative elements;
2. ~~No structure shall be erected that will block solar access for existing principal structures or infringe on the solar access of the buildable area of a vacant lot or parcel.~~

ADD the deleted text to Sec. 12-230. D.2.a. (as shown below).

ADD the following to Sec. 12-134. Uses.

	Agricultural	Rural	VHS-	VHS-	Light Industrial	Light Industrial	Light Industrial	Marine Service
	(A)	Residential	Residential	Commercial	(I1-A)	(I1-B)	(I1-C)	(MS)
		(R)	(VHS-R)	(VHS-C)				
<u>Solar, accessory to principal use</u>	A	A	A	A	A	A	A	A

ADOPT the following new section as shown:

Sec. 12-230. Solar Energy Systems.

- A. *Scope.* This article applies to all solar energy installations in the City of Afton.
- B. *Purpose.* Consistent with the City Comprehensive Plan, the intent of this Section is to allow reasonable capture and use, by households, businesses, and property owners, of their solar energy resource, and encourage the development of renewable energy businesses, consistent with community development standards. The City of Afton has adopted this ordinance for the following purposes:

1. Comprehensive Plan Goals. To meet the goals of the Comprehensive Plan and preserve the health, safety and welfare of the City's citizens by promoting the safe, effective and efficient use of active solar energy systems installed to reduce the on-site consumption of fossil fuels or utility-supplied electric energy. The following solar energy standards specifically implement the following goals:
 - a. **Goal** – Encourage the use of local renewable energy resources, including appropriate applications for wind, solar, and biomass energy.
 - b. **Goal** – Promote sustainable building design and management practices in residential, commercial, and industrial buildings to serve the needs of current and future generations.
 2. Green House Gas Reduction (GHG). Solar energy is an abundant, renewable, and nonpolluting energy resource and its conversion to electricity or heat will reduce our dependence on nonrenewable energy resources and decrease the Green House Gas (GHG) emissions and other air and water pollution that results from the use of conventional energy sources.
 3. Local Resource. Solar energy is an under-used local energy resource. Encouraging the use of solar energy will diversify the community's energy supply portfolio and limit exposure to fiscal risks associated with fossil fuels.
 4. Improve Competitive Markets. Solar energy systems offer additional energy choice to consumers and will improve competition in the electricity and natural gas supply market.
- C. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where expressly defined in another section, article or the context clearly indicates a different meaning.

Building-integrated Solar Energy Systems - An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Community Solar - A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minn. Statutes 216B.1641 or successor statute. A community solar system may be either an accessory or a principal use.

Grid-intertie Solar Energy System - A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Off-grid Solar Energy System - A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Passive Solar Energy System - A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic System - A solar energy system that converts solar energy directly into electricity.

Renewable Energy Easement, Solar Energy Easement - An easement that limits the height or location, or both, of permissible development on burdened land on which the easement is placed in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the land on which the easement is placed, as defined in MN Statute 500.30 Subd. 3 or most recent version.

Renewable Energy System - A solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.

Roof Pitch - The final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

Solar Access - Unobstructed ~~access~~ use of the solar resource (see definition below) on a lot or building, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

Solar Collector - A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Collector Surface - Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

Solar Daylighting - A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

Solar Energy - Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy Device - A system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization. Passive solar energy systems are designed as a solar energy device, such as a trombe wall, and not merely a part of a normal structure such as a window.

Solar Energy System - A device or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of sunlight for space heating or cooling, generation of electricity, water heating, or providing daylight for interior lighting.

Solar Farm - A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

Solar Heat Exchanger - A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar Hot Air System - An active solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically uses a vertically mounted collector on a south-facing wall.

Solar Hot Water System (also referred to as Solar Thermal) - A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar Mounting Devices - Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

Solar Resource - A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

Solar Storage Unit - A component of a solar energy device that is used to store solar generated electricity or heat for later use.

- D. *General requirements.* All solar energy systems shall comply with all applicable local, state and federal regulatory codes including all electrical, building and plumbing code requirements.
1. *Permitted accessory use.* Active solar energy systems shall be allowed as accessory to the primary land use in all zoning districts in which structures of any sort are allowed and are designed to supply energy for the primary use.
 2. *Solar Access.* The City encourages solar access to be protected in all new subdivisions and allows for existing solar to be protected consistent with Minnesota Statutes.
 - a. No structure shall be erected that will block solar access for existing principal structures or infringe on the solar access of the buildable area of a vacant lot or parcel.
 - b. *Right to Solar Access.* No homeowners' agreement, covenant, common interest community, or other contract between multiple property owners shall forbid installation of solar energy systems or create design standards that effectively preclude solar energy installations.
 - c. *Easements Allowed.* The City has elected to allow solar easements to be filed, consistent with Minnesota Stat. Chapter 500 Section 30. Any building owner can purchase an easement across neighboring properties to protect access to sunlight. The easement is purchased from or granted by owners of neighboring properties and can apply to buildings, trees, or other structures that would diminish solar access.
 - d. *Subdivision Solar Easements.* The City may require new subdivisions to identify and create solar easements when solar energy systems are implemented as a condition of a PUD, subdivision, conditional use, or other permit, as specified in Section 8 of this ordinance.
 3. *Safety Conditions.* All applicable health and safety standards shall be met.
 4. *Required Permits.* Building Permits, Electrical Permits and/or Plumbing Permits are required to construct and install solar energy systems in the City of Afton, whether residential or commercial and whether ground-, pole-, building-, or roof-mounted. Electrical Permits are through the State of Minnesota. Building and Plumbing Permit applications shall include:
 - a. "To-scale" horizontal and vertical (elevation) drawings of the solar energy system, including:
 - i. For a Pitched Roof Mounted System - the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
 - ii. For a Flat Roof Mounted System - the distance to the roof edge or parapets on the building, identifying the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof and/or parapet.
 - b. Site drawing showing the type and locations of the systems and their placement on the property, including required setbacks and property lines.
 5. *Interconnection agreement.* All electric solar energy systems that are connected to the electric distribution or transmission system through the existing service of the primary use on the site shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Solar energy systems connected directly to the distribution or transmission system must obtain an interconnection agreement with the interconnecting electric utility. Off-grid systems are exempt from this requirement.
- E. *Standards.* All solar energy systems are subject to the accessory use standards for the district in which it is located, including, but not limited to, setback, height, and coverage limits.
1. *Aesthetic.* Solar energy systems are subject to the following aesthetic standards:

- a. Residential installations must be designed to blend into the architecture of the building.
 - b. Commercial installations. Commercial solar systems shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.
 - c. The color of the solar collector is not required to be consistent with other roofing materials.
 - d. Active solar energy systems that do not meet the aesthetic standards will require a Conditional Use Permit.
2. *Size.* For residential applications, under no circumstances shall a solar array exceed 40 kW.
3. *Height.*
- a. Building- or Roof-mounted systems. Shall not exceed the maximum height allowed in any zoning district.
 - i. Shall be no higher than twenty-four (24) inches above the roof.
 - ii. For purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed, except that solar energy systems shall not be required to be screened.
 - b. Ground- or Pole-mounted systems. Shall not exceed 20 feet in height when oriented at maximum tilt.
4. *Set-backs.* Active solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located.
- a. Building- or Roof-mounted systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - b. Ground- or Pole-mounted systems. Must be set back from the property line the same distance as required for other accessory structures and may not extend into the side- or rear-yard setback when oriented at minimum design tilt.
5. *Impervious Coverage.* The surface area of pole- or ground-mount systems must comply with the City's overall impervious coverage requirements.
- a. Impervious coverage will be calculated based on the footprint of the system at minimum tilt.
 - b. Building- or Roof-mounted systems. Shall allow for adequate roof access to the south-facing or flat roof upon which the panels are mounted.
 - c. Ground- or Pole-mounted system. The collector surface of any foundation, compacted soil, or other component of the solar installation is considered impervious surface.
 - d. Vegetated ground under the collector surface shall be used to mitigate stormwater runoff.
6. *Glare.* All solar energy systems shall minimize glare so as not to affect adjacent or nearby properties.
- a. Measures to minimize glare include selective placement of the system, screening on the north and/or sides of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.
7. *Historic Buildings.* Solar energy systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) will require an administrative permit and a design review by the Heritage Preservation Commission (HPC).

F. *Zoning District and Lot Size requirements.*

1. *VHS districts:*
 - a. A total solar panel square footage of 150 square feet or 1% of the total square footage of the lot, whichever is less.
 - b. Must meet City of Afton historical preservation standards.
 - c. Requires an administrative permit and design review by the Heritage Preservation Commission (HPC).

2. *RR and Ag districts:*
 - a. *On lots up to 10 acres:*
 - i. If not fully screened:
 - (1) A maximum height of 15 feet at maximum vertical tilt and a total panel square footage of 300 square feet, at the required setback.
 - ii. If fully screened:
 - (1) A maximum height of 20 feet and a total panel square footage of 1,000 square feet, subject to being fully screened from public roads and neighboring properties, and subject to statutory and/or public utility power generation restrictions.
 - b. *On lots 10 to 20 acres:*
 - i. If not fully screened:
 - (1) A maximum height of 15 feet at maximum vertical tilt and a total panel square footage of 300 square feet, at the required setback.
 - (2) A maximum height of 15 feet and a total panel square footage of 500 square feet if setback 200 feet from all property lines, subject to statutory and/or public utility power generation restrictions.
 - ii. If fully screened:
 - (1) A maximum height of 20 feet and a total panel square footage of 1,000 square feet, subject to statutory and/or public utility power generation restrictions, at the required setback.
 - c. *On lots 20 acres or greater:*
 - i. If not fully screened:
 - (1) A maximum height of 20 feet at maximum vertical tilt and a total panel square footage of 300 square feet, at the required setback.
 - (2) A maximum height of 20 feet and a total panel square footage of 500 square feet if setback 200 feet from all property lines, subject to statutory and/or public utility power generation restrictions.
 - (3) A maximum height of 20 feet and a total panel square footage 750 square feet if setback 250 feet from all property lines, subject to statutory and/or public utility power generation restrictions.
 - ii. If fully screened:
 - (1) A maximum height of 20 feet and a total panel square footage of 2,000 square feet if fully screened, subject to statutory and/or public utility power generation restrictions, at the required setback.

G. *Standards for specific solar uses.*

1. *Community solar energy systems.* Roof or ground-mount solar energy systems, may be either accessory or primary use, designed to supply energy for off-site uses on the distribution grid, consistent with Minn. Statutes 216B.1641 or successor statute.
 - a. Rooftop community systems are permitted only in the Industrial districts.
 - b. Ground-mount community solar energy systems are allowed only in the Industrial districts and are allowed as conditional uses.
 - c. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
 - d. All structures must comply with setback, height, and coverage limitations for the district in which the system is located.

- e. Ground-mount systems must comply with all required standards for structures in the district in which the system is located.
2. *Solar farms.*
- a. Solar farms are only allowed in the Industrial districts.
 - a. Solar farms require a Conditional Use Permit.
 - b. Solar farms are subject to the City's stormwater management and erosion and sediment control provisions and National Pollutant Discharge Elimination System (NPDES) permit requirements.
 - c. Foundations. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
 - d. Power and communication lines. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the City in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Zoning Administrator.
 - e. Site Plan Required. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the City. The site plan should also show all zoning districts, and overlay districts.
 - f. Aviation Protection. For solar farms located within 500 feet of an airport or within the A or B safety zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.
 - g. Agricultural Protection. Solar farms must comply with site assessment or soil identification standards that are intended to protect agricultural soils.
 - h. Proper Maintenance. All solar installations shall be maintained according to industry standards and shall be in working order for the duration of its useful life.
 - i. Discontinuation and Decommissioning. A decommissioning plan shall be required to ensure that facilities are properly removed if they are known to be dysfunctional or are discontinued after their useful life. Decommissioning of solar panels must occur in the event they are not in use for six (6) consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet the provisions of the City's Solid Waste Ordinance. The City may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

<p>City of Afton 3033 St. Croix Trl, P.O. Box 219 Afton, MN 55001</p>
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Planning Commission Memo

Meeting: August 3, 2015

To: Chair Ronningen and members of the Planning Commission

From: Ron Moorese, City Administrator

Date: July 27, 2015

Re: Ordinance Amendment Regarding the Lower St. Croix Bluffland and Shoreland Management Ordinance

Background

The St. Croix Bluffland and Shoreland Ordinance includes a number of inconsistencies, outdated language, and conflicts with the City's regular zoning requirements. It is important that these items be corrected to provide clarification and avoid future conflicts. At its July 21, 2015 meeting, the City Council discussed some of these items and referred the ordinance to the Planning Commission for correction and clarification through an ordinance amendment. An outline of the items to be corrected is provided below. Staff is requesting direction from the Planning Commission regarding the correction of these items. The corrections will then be prepared in the form of an ordinance amendment for Planning Commission review, a public hearing and a recommendation from the Planning Commission to the City Council.

Items for Correction

Section 12-132. Minimum requirements, allows up to 20% or 4,350 s.f. whichever is greater, of impervious coverage in the VHS zoning districts, . Section 12.637. Minimum district dimensional requirements in the St. Croix Bluffland District, has the following impervious coverage language: "10% of 4,350 s.f., whichever is greater." This is a typo, and should say 10% or 4,350, whichever is greater. The 10% is also inconsistent with the 20% allowed in the VHS districts.

Sec. 12-832. Certification by the commissioner, requires that "before any zoning district or ordinance amendment or variance becomes final, the Council shall forward the decision to the commissioner. The commissioner of natural resources shall certify in writing that the proposed action complies with the intent of the Wild and Scenic Rivers Acts and the master plan for the Lower St. Croix River in the manner specified in department of natural resources (DNR) regulations, including Mn Rules, § 6105.0540. " The DNR no longer has the authority to certify City variance actions. Staff recommends the variance certification language be deleted from the ordinance.

Sections 12-578 Existing Codes and 12-707 Prohibited Uses have a number of inconsistencies/conflicts.

Sec. 12-578 indicates that ... "Any provisions of the zoning ordinance, article II of this chapter, relating to the Lower St. Croix Riverway shall remain in full force and effect except as they may be contrary to the provisions of this article...". However, Sec. 12-707 indicates "...All uses not authorized in the local zoning ordinances" are prohibited. Sec. 12-578 includes a number of uses allowed with a conditional use permit that are prohibited in the VHS districts by the zoning ordinance, article II. These include the following:

- Institutional and medical housing
- Multiple family dwellings with central sewer

- Planned unit developments
- Townhouses with central sewer

Staff recommends these uses be deleted from the St. Croix Bluffland ordinance to eliminate the inconsistency/conflict.

Sec. 12-706. Conditionally Permitted Uses.

In the VHS district, the Conditionally Permitted Uses listed in Section 12-578(C) may be permitted as special uses, in accordance with Section 12-578(B). The term “special uses” should be changed to “conditional uses” because the term “special use” is no longer used in the zoning ordinance article II.

Sec. 12-831. Administrative Procedure

This section requires that application materials related to variances and CUP’s be sent to the Minnesota/Wisconsin Boundary Area Commission. It also requires that notices of applications be sent to the City Council of any City within two miles of the affected property. These requirements are beyond statutory requirements for land use applications.

Sec. 12-707. Prohibited uses.

Section 12-707 is a listing of prohibited uses. Item E reads as follows: “Downstream from Stillwater in rural districts”. This appears to be a portion of a sentence that does not include the specific use that is prohibited downstream from Stillwater. Staff will try to determine what specific use should be included in this sentence.

Additional Language Revision in the Floodway District Ordinance

Along with the revisions to the St. Croix Bluffland ordinance, the Planning Commission may want to include a revision to the Floodway District Ordinance. Section 12-1001, Permitted uses (in the Floodway District), is a list of permitted uses. These include shooting preserves, target ranges and trap and skeet ranges. These uses are specifically prohibited in Sec. 12-134 Uses. These uses should be deleted from Section 1001.

Additional Language Revisions

If the Planning Commission members have noticed additional elements of the ordinance language that need to be revised, these could be added to the ordinance amendment.

Schedule Public Hearing

With direction from the Planning Commission, staff will draft an ordinance amendment and publish notice for a public hearing at the August 31 Planning Commission meeting.

Planning Commission Direction Requested:

Motion regarding directing staff to draft a Lower St. Croix Bluffland and Shoreland Management and Floodway District ordinance amendment, and publish notice for a public hearing at the August 31, 2015 Planning Commission meeting.

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Planning Commission Memo

Meeting: August 3, 2015

To: Chair Ronningen and members of the Planning Commission
From: Ron Moore, City Administrator
Date: July 29, 2015
Re: Training Opportunities for Planning Commission Memebers

Several training opportunities are available this summer and fall:

St. Croix River Workshop

The popular St. Croix River Workshop will be held on August 6, 2015. Because of the limited availability and short timeline, attendees were asked to register themselves in anticipation of Council approving reimbursement of \$20 per person. At this time, one Planning Commissioner and two City Council members have registered for this workshop.

The League of MN Cities offers a Land Use Series online:

- Land Use Basics: Grasping the Ground Rules
- Creating the Ground Rules: Developing Land Use Plans and Laws

The cost of this training is \$30 per course per person. The training can be done at a convenient time on-line. The Planning Commission has 2-4 commissioners that may wish to take this training.

GTS Educational Events offers workshops from time to time. They are offering Land Use Planning Workshops this fall. The Planning Commission felt it important to have several attend the "Comprehensive Planning ---Not the Same Old, Same Old" full day workshop on October 28 in Bloomington. The cost is \$110 per person.

Funding Authorization

The Council has authorized funding for the St. Croix Workshop– on-the–Water and the League of Minnesota Cities on-line workshops, and for three Planning Commission members to attend the GTS Comprehensive Planning workshop.

PLANNING COMMISSION DIRECTION REQUESTED:

Advise staff regarding member interest in the training opportunities.

PROCEEDINGS OF THE AFTON CITY COUNCIL
CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA

DRAFT City Council Special Meeting Minutes
July 16, 2015
Afton City Hall
3033 St. Croix Trail
Afton, MN 55001
1:00 P.M.

11 **1. THE SPECIAL COUNCIL MEETING WAS CALLED TO ORDER** at 1:00 P.M. by Mayor Bend.

12 **2. ROLL CALL:** Nelson, Ross, Richter, Palmquist and Mayor Bend. **Quorum Present.**

13
14 **ALSO PRESENT:** City Engineers Diane Hankee, Todd Hubmer, Jamie Wallerstadt; City Attorney Fritz
15 Knaak City Administrator Ron Moorsee; and, Deputy Clerk Kim Swanson Linner.

16 **3. APPROVAL OF AGENDA** - for the July 16, 2015 Special City Council Meeting.

17 **Motion /Second: Richter/Palmquist. To approve the agenda of the July 16, 2015 Special City Council**
18 **Meeting as presented. The motion carried 5-0-0.**

19 **4. CITY COUNCIL BUSINESS –**

20 **a. Downtown Improvement Project (including but not limited to the following)**

21 1) Design Revisions Reflecting State Archeologist Recommendations – Engineer Todd Humber
22 presented four options for the readjustment of the “south” pond in order to not impact undisturbed areas of the
23 rattlesnake effigy mound and to maintain a 20 foot buffer from the effigy.

24 Option A split the pond into two ponds; one of the areas still crossed the effigy mound which the City
25 would rather not do, even though it is at an area which shows disturbed soils.

26 Option B moves the levee to the east, and would be more costly, as additional wetland easements are
27 necessary and new geotechnical data would be needed. There would also be more delays for regulatory agency
28 reviews and approvals for the change.

29 Option C moves the pond to the north with the current alignment, however, it necessitates taking out the
30 white pine which was designated for protection. This would have minimal if any cost changes, it is the least
31 disruptive (except for the white pine), needs no additional acquisitions and would have no delays.

32 Option D pushes the pond further to the south, but it would still cross the same portion of the effigy
33 mound as in Option A.

34 **The City Engineers were looking for Council feedback to move forward. Council wanted the Engineers to**
35 **bring cost options to the Tuesday, July 21, 2015 meeting.**

36 i. PFA Funding Requirements – Engineer Hubmer distributed a proposal from Blondo Consulting
37 for a scope of work and fees to accomplish the Federal Section 106 Cultural Resources Study, which is required
38 for the Wastewater Collection System, Road Reconstruction and Stormwater Collection System projects in order
39 to receive federal funds of the Green Project Reserve through the MN Public Facilities Authority.

40 2) Project Cost Shares and Overhead (Engineering, Legal, Financing) – Engineer Diane Hankee
41 presented an additional proposal and estimated fees for Wenck in the amount of \$188,000 and for WSB in the
42 amount of \$265,690 to complete professional engineering services for the Downtown Improvement Project in
43 providing design and bidding services to be completed by December, 2015.

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53 **Council requested that Administrator Moore disseminate all the contracts from WSB and Wenck for**
54 **services to date, in order for Council to make a decision at the Tuesday, July 21, 2015 meeting.**

55
56 Engineer Hubmer walked through a Project Funding Summary for the Downtown Village Improvements Project.

57
58 3) Project Schedules – Engineer Hankee walked through the anticipated schedule for the 2015 Treatment
59 Site Forcemain and Lift Station Project. Bid advertising is scheduled for August 10, 2015, bid opening on
60 September 4, 2015, awarding the construction contract on September 15, 2015 and beginning construction on
61 September 21, 2015. Substantial completion and system testing would be in May 2016, with final completion and
62 restoration in July 2016.

63 Bend asked if any of the deadlines had variables, such as: Could the 106 process delay the schedule? Would
64 significant flooding cause delays?

65 Hubmer responded that nothing should hold up this year's construction. If the city had spring flooding, they
66 could take the project schedule out of sequence, but construction contracts routinely deal with "acts of God"
67 which flooding, etc. are considered.

68
69 4) Enhancement Package – Stormwater Grant -
70

71 **b. Downtown Improvement Project Design recommendations and budget – Resolution 2015-53 –**
72 Engineer Hankee reviewed Resolution 2015-52 which detailed the City's Design Review Committee
73 recommendations: width of streets, access to businesses during and after construction, 33rd Street as a community
74 focal point and levee opening to the St. Croix River, handicapped parking for City Hall, changes to the south
75 storage pond, and parking on local roadways.

76 1) Pike Avenue after downtown improvements - Council had considerable discussion about Pike
77 Avenue, being that it is the detour for St. Croix Trail during the County project, and what it will be turned back to
78 once construction is complete.

79
80 **Council asked for verification on the County paying for the return of Pike Avenue to a local road, they**
81 **wanted alternatives and costs for Pike Avenue and asked for the criteria that would be used for a trail**
82 **segment.**

83
84 2) 33rd Street Design – Mayor Bend placed two email comments into the meeting record. Comments
85 were about the proposed 33rd Street improvement, which commented mostly benefits the Afton House properties;
86 the funds which engineers diverted from the legal fund to the downtown improvement projects without Council
87 approval; the exorbitant increase in the city's cost of the improvements, up from an initial cap of \$1.2 million, and
88 a total project cost from an initial \$9 million to its current estimate of \$18 million; a public restroom building
89 proposed at Town Square Park; and the City paying for bringing better internet service to all residents of Afton.

90 It was noted that the City's proposal for 33rd Street may change according to the results of the condemnation
91 hearing scheduled at court on Friday, July 17, 2015.

92
93 3) City Hall Parking Americans with Disabilities Act (ADA) Compliance issue – Since Afton City Hall
94 was constructed in the mid-1980's, prior to the inception of the ADA in January 1992, the City Hall did not need
95 to comply with ADA requirements. Engineer Hankee reported that the proposed improvement of constructing a
96 City Garage to house public works and the sheriff's deputies will require ADA accessible parking and routes to
97 access City Hall. She provided four options, with three of the options cutting into the steeper slope to the west of
98 City Hall. One option showed handicapped parking to the east, but a concept sketch provided of a new city garage
99 was located in the same area.

100
101 **Council requested accessible parking options incorporating the city garage concept sketch.**

102
103 **c. St. Croix Trail Roadway Improvement Project in Downtown Afton – Streetscape – Resolution**
104 **2015-52** – Engineer Hankee reviewed a resolution detailing the streetscape items to be added to the St. Croix Trail

105 Roadway Improvement Project, which will receive 3% of the total project costs to be paid by Washington County.
106 The resolution reviewed that the project expects to remove existing gas street lights, boulevard trees, and
107 sidewalks. The resolution advised that the Design Review Committee (DRC) prioritized streetscape items of
108 which the top three were: street lights, banded concrete sidewalk to maintain the historic architecture, and
109 boulevard trees. Hankee explained that Council at their last work session discussed all of the DRC's desired
110 streetscape items including if some items could be added at a later date. Engineers advised that replacing street
111 lights and installing the banded concrete sidewalk are more cost effective if completed with the project
112 construction. They explained that additional desired landscaping such as boulevard trees, plantings, benches, and
113 trash receptacles can be added through a separate contract to be bid in 2016.

114 Council preferred to wait for the results of the Downtown Improvement Project bids before it makes further
115 decisions regarding landscaping. Therefore, the engineers were directed to adjust the bid quantities to meet the 3%
116 budget match.

117 It was noted that the County expects to provide \$300,000 towards the streetscaping within the project, any
118 additional costs would be borne by the City.

119 Council did not come to consensus about putting in additional items. Two items from the committee
120 recommendation that were high priority to include because they would be "touchable" items residents could see
121 they received for the money; they were \$50,000 of boulevard trees and \$10,000 of banded concrete crosswalks at
122 two locations across St. Croix Trail, instead of painted pavement crosswalks.

123
124 **Council requested getting the original breakdown of streetscape items from the City Engineer prior to the**
125 **Council meeting on July 21, 2015.**
126

127 **d. High Speed Internet Access** – Council Member Stan Ross presented the issues and options that the High
128 Speed Internet Access Committee had found in identifying unserved and underserved areas of Afton. They
129 identified options, costs and funding sources for proposing expansion of high speed internet service to residents of
130 Afton. The Committee identified that the further the distance to a junction box (DSLAM) the less access to
131 service one would have. The Committee approached both Comcast and CenturyLink to determine what they could
132 provide. Comcast would have to string all new wires; CenturyLink already has lines to each home in Afton that
133 has a land line. CenturyLink provided three options for the City to consider. In addition, they volunteered to write
134 a grant to the Minnesota Office of Broadband (MOB) which has funds for unserved and underserved cities.
135 According to the MOB all of Afton is considered "underserved" so there is a great possibility that Afton will get
136 some money, if not all, that is requested in a grant.

137 Several Afton residents were in attendance and many who could not attend sent emails requesting that
138 Council approve the internet access upgrades for residents of Afton.

139 Council discussed at length the three options. In each, CenturyLink proposed that the state grant would cover
140 50%, CenturyLink would provide 25% and Afton would provide 25% of the service build-out. Council preferred
141 Option 3 which would have CenturyLink installing 14 additional DSLAMs throughout Afton to bring everyone to
142 the most recent standard of 10 Mbps (megabits per second). Approximate cost would be \$500,000, with the grant
143 providing up to \$250,000 and with CenturyLink and Afton each providing 25% or \$125,000. CenturyLink has
144 committed to covering any project overages.

145 The City Attorney advised that the expenditure is within the purview of the city, and the city has the option of
146 assessing benefitting properties through the 429 public purpose process, according to criteria in state statute.
147 Other funding options would be to levy the amount, which would be approximately \$104 for one year for an
148 average property, and could be discussed with the 2016 Budget. Council also wanted to know if the Cable
149 Commission funds could be utilized. The biggest consideration is that the grant applications are due to the MOB
150 by September 15, so it is very time-sensitive.

151
152 **Motion/Second: Palmquist/Ross. To authorize a Letter of Intent to work with CenturyLink in applying for**
153 **a grant with the Minnesota Office of Broadband for Option 3, which proposes CenturyLink install 14**
154 **additional DSLAMs throughout Afton to bring everyone to the most recent standard of 10 mbps for**
155 **internet access. The grant request would be for \$500,000, with MOB providing 50%, up to \$250,000, and**

156 CenturyLink and Afton providing 25% or \$125,000 each. CenturyLink has committed to covering any
157 project overages. Motion carried 5-0-0.
158

159 Council noted that the specifics for the internet access build-out project will be based on the grant
160 received and city funding options within the 2016 Budget.
161

162 e. Afton House Easement Acquisition (Closed Session) – Notes by Administrator Moorse.
163

164 Motion/Second: Bend/Richter. To move into a Closed Session at 4:46 p.m. Motion carried 5-0-0.
165

166 Motion/Second: Bend/Richter. To come out of Closed Session at 5:31 p.m. Motion carried 5-0-0.
167

168 Motion/Second: Bend/Richter. To provide direction regarding the Afton House easement. Motion carried
169 4-1-0.
170

171 5. ADJOURN – Motion/Second: Nelson/Ross. To adjourn the meeting at 5:32 p.m. Motion carried 5-0-0.
172

173 Respectfully submitted by:
174

175
176 _____
177 Kim Swanson Linner, Deputy Clerk
178

179
180 And for the CLOSED SESSION
181

182
183 _____
184 Ronald J. Moorse
185

186
187 Approved by Council (on August 18, 2015) as (check one): Presented: _____ Amended: _____
188

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190 Signed by Mayor Richard Bend _____ Date _____

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**PROCEEDINGS OF THE AFTON CITY COUNCIL
CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

**DRAFT City Council Regular Meeting Minutes
July 21, 2015
Afton City Hall
3033 St. Croix Trail
Afton, MN 55001
7:00 P.M.**

1. **THE SPECIAL COUNCIL MEETING WAS CALLED TO ORDER** at 7:01 P.M. by Mayor Bend.

2. **ROLL CALL:** Nelson, Ross, Richter, Palmquist and Mayor Bend. **Quorum Present.**

ALSO PRESENT: City Engineers Diane Hankee and Todd Hubmer, City Attorney Fritz Knaak, Planning Commission Vice Chair Judy Seeberger, City Administrator Ron Moore and Deputy Clerk Kim Swanson Linner.

3. **APPROVAL OF AGENDA** - for the July 21, 2015 Regular City Council Meeting – The items were added to the agenda: Item 9C9, Accountant Tom Niedzwiecki attendance at Regular Council Meetings; Item 9C10, Meeting with John Linc Stine, the head of the MN Pollution Control Agency (MPCA); Item 10F, City Attorney Knakk report was switch with 10G, City Administrator Moore report, so that the City Attorney's attorney/client priveledge discussion could go into a Closed Session.

Motion/Second: Palmquist/Richter. To approve the agenda of the July 21, 2015 Regular City Council Meeting as amended. Motion carried 5-0-0.

4. **APPROVAL OF MINUTES** -

A. Minutes of the June 16, 2015 City Council Work Session –

Motion /Second: Richter/Bend. To approve the minutes of the June 16, 2015 City Council Work Session as presented. Motion carried 5-0-0.

B. Minutes of the June 16, 2015 Regular City Council meeting –

Motion/Second: Richter/Bend. To approve the minutes of the June 16, 2015 Regular City Council Meeting as presented. Motion carried 5-0-0.

5. **PUBLIC INPUT** – none.

6. **REPORTS/PRESENTATIONS** -

A. Sheriff's Monthly Report – none in attendance; IRC Report on file.

B. Lower St. Croix Fire District – none in attendance; Nelson and Bend reported.

C. Jim Bougie, Finance Committee Report – not in attendance.

7. **CONSENT AGENDA** -

A. Just and Correct Claims

B. 4M Fund Transfer - JUNE - **Resolution 2015-51**

Motion/Second: Richter/Palmquist. To approve the Consent Agenda as presented, including Resolution 2015-51. ROLL CALL: All Ayes. Motion carried 5-0-0.

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8. CITY COUNCIL BUSINESS -

A. Planning Commission Report –

1. Bruce Paddock Variance Application for the property on 33rd Street with PID# 22.028.20.14.0064 – Resolution 2015-54 – Administrator Moose summarized the Bruce Paddock variance request to the minimum lot size requirement for the parcel on 33rd Street to be approved as a buildable lot. The minimum lot size requirement in the VHS is 22,500 square feet, which is commonly three historically platted 50 foot by 150 foot parcels (7,500 sq. ft. each) combined to create one parcel. The Paddock parcel is made up of two historically platted parcels of 7,500 square feet each, plus 4,384 square feet of vacated 33rd St. right-of-way, for a total of 19,384 square feet. Moose reviewed the five standards to be used in reviewing VHS variance applications:

1. The principal structure, including a garage for a residential parcel, must be able to meet all required setbacks, including creek and bluff setbacks.
2. A commercial property must have sufficient area for off-street parking.
3. If two contiguous substandard parcels could be combined and not meet the 22,500 sq. ft. size requirement, they are not separately buildable.
4. The capacity of the planned wastewater treatment system needs to be taken into consideration prior to granting a variance for buildability.
5. If a need is demonstrated, the expiration period of the variance may be extended beyond one year.

Vice Chair Seeberger reported that the Planning Commission had reviewed a site plan showing the driveway on the property line and showed a building pad on land with slope less than 12%, however a portion of the west edge of the driveway encroached on an existing retaining wall shown on the survey as an area with slope greater than 12% and the applicant did not speak to how that issue would be handled if the lot was buildable.

Moose reported that the Planning Commission recommended, on a vote of 4-1-2, to deny the variance based on the following findings:

1. The lot is too small, being 3,000 square feet less than the minimum required VHS parcel.
2. The lot contains a significant amount of slopes greater than 12%.
3. The driveway fails to meet the 10 foot setback from property lines.
4. The retaining wall next to the driveway is problematic.

Council Discussion

Palmquist felt the driveway setback question had been answered at the Planning Commission meeting.

Richter felt if there could be a variance to the minimum lot size, perhaps the city should revise the minimum lot size. He asked what size under the minimum would be acceptable. He commented that Rural Residential has a nominal size allowed, which is a percentage of the lot acreage. Should the city set a similar standard for the VHS?

Chris Johnson, legal representative for Paddock, commented that the property was platted and buildable years ago. The reason for this request is that the property owner would like to connect to the sewer, but the lot needs to be designated a buildable lot.

Bend commented that lots even though buildable “years ago” need to conform to current city regulations.

Nelson felt that this vacant lot in the VHS should be allowed to be buildable, as the levee project is the chance to revitalize the Village.

Bend reminded that the Planning Commission and Council decided not to change the VHS ordinance, but to look at lots on a case by case basis. He felt if there are lots in the VHS that can be used, they should, however, he is unwilling to disregard the Planning Commission recommendation.

Motion/Second: Palmquist/Nelson. To APPROVE the Bruce Paddock request for a minimum lot size variance request for a property on 33rd Street with PID# 22.028.20.14.0064 to be designated a buildable lot, per Resolution 2015-54 as presented. ROLL CALL: Ayes- Nelson, Palmquist; Nays-Richter, Ross, Bend. Motion failed 2-3-0.

Motion/Second: Bend/Palmquist. To send the Bruce Paddock amended application with the revised survey back to the Planning Commission to consider for a minimum lot size variance for the property on 33rd Street with PID# 22.028.20.14.0064 in order to be designated as a buildable lot.

106 Nelson felt that was unnecessary; that Council should be able to come to a decision.

107
108 **Bend withdrew the motion.**

109
110 **Motion/Second: Richter/Bend. To DENY the Bruce Paddock request for a minimum lot size variance for a**
111 **property on 33rd Street with PID# 22.028.20.14.0064 to be designated a buildable lot, per Resolution 2015-**
112 **54, as presented. ROLL CALL: Ayes-Richter, Ross, Bend; Nays- Nelson, Palmquist. Motion carried 3-2-0.**
113

114 2. Bill Scheel Application for minor subdivision at 13404 15th Street, PID #s 08.028.20.21.0003 and
115 08.028.20.14.0001- Resolution 2015-55 – Administrator Moose described the Bill Scheel application for a
116 Minor Subdivision to create three lots on the property at 13404 15th Street South and a property with PID
117 08.028.20.14.0001. The property with PID 08.028.20.14.0001, while a large lot, is currently nonconforming due
118 to having less than 300 feet of frontage on a public road. The subdivision would result in three conforming lots.
119 At the June meeting the Planning Commission had questions and concerns about the proposed lots crossing a
120 quarter-quarter section line, and concerns about the potential impact on density. Moose reported that the City
121 Attorney advised, for the July Planning Commission meeting, that the zoning code allows lot lines to cross
122 quarter-section section lines and that, while the Ag Preserve Zone requirements prohibit lot lines from crossing
123 quarter-quarter section lines, the Agriculture Zone requirements do not include a similar prohibition. The
124 proposed subdivision would result in five lots in two quarter-quarter sections. However, the boundaries of two of
125 the lots would extend across a quarter-quarter section line. This could result in more than three dwelling units in a
126 quarter-quarter section if a house was built in the portion of the lot in the quarter-quarter section that already
127 contained three dwelling units. Staff proposed placing conditions on the subdivision to eliminate the density
128 concern. Moose reported that the Planning Commission recommended approval of the application based on the
129 original layout of the lots and the following findings and conditions:
130

131 Findings

- 132 1. The subdivision meets all subdivision requirements.
- 133 2. The subdivision would enlarge the property with PID 08.028.20.14.0001 to enable it to meet the
134 requirement for 300 feet of frontage on a public road.

135
136 Conditions

- 137 1. The approval to allow a subdivision with lots crossing quarter-quarter section lines shall not be used at
138 any time to allow the density of either of the quarter-quarter sections to exceed three lots per quarter-
139 quarter section.
- 140 2. A dwelling unit on a lot can be placed only in the quarter-quarter section in which the majority of the lot
141 area is located.
- 142 3. Easements as required by the City Engineer shall be granted.
- 143 4. Scenic easements shall be placed on all slopes greater than 18%.
- 144 5. The applicant shall execute a scenic easement agreement.
- 145 6. Park dedication requirements shall be satisfied at the time of final subdivision approval in accordance
146 with Section 12-1270 of the Subdivision Ordinance.

147
148 Vice Chair Seeberger reported that the Planning Commission's concern about the proposed subdivision lots
149 crossing quarter-quarter sections which could result in a higher density than allowed. They took the City
150 Attorney's analysis, did the density math, and were satisfied with the conditions that staff added to limit density in
151 both quarter-quarter sections.

152
153 Council Discussion

154 Bend commented that the Natural Resources and Groundwater Committee (NRGC) is charged with reviewing
155 protections to natural features and groundwater and the obligation can be satisfied by the time of final
156 subdivision. If land is recommended to be dedicated or preserved, such as linking parcels for a wildlife corridor,

157 the city could have the opportunity to create those corridors over time and the recommendation should go to the
158 Parks Committee.

159 Palmquist reminded that the Parks Committee is charged with recommending whether the park dedication
160 will be a land or a cash dedication. The Parks Committee has been getting parcels that are useless for park land.
161 They could take the recommendation for land dedication into consideration for park, open space or recreation
162 corridors.

163
164 **Motion/Second: Bend/Nelson. To approve Resolution 2015-55 with a provision that the NRGC to review
165 whether the city should take land or cash as a park dedication.**

166
167 Council Discussion

168 The applicant stated that they were unaware of the additional process to go before the NRGC. Bend
169 confirmed the NRGC would meet next month and that their review would be determined by the final subdivision.

170 Richter asked the thought process for pushing the lots over the quarter-quarter section lines.

171 Applicant said the width to depth would not have complied if they didn't go over the quarter-quarter section
172 lines, according to City Code.

173
174 **ROLL CALL: Ayes-Richter, Bend; Nays-Palmquist, Nelson, Ross. Motion failed 2-3-0.**

175
176 **Motion/Second: Palmquist/Nelson. To adopt the Bill Scheel Minor Subdivision at 13404 15th Street, PID #s
177 08.028.20.21.0003 and 08.028.20.14.0001 per Resolution 2015-55 as presented. ROLL CALL: Ayes-Nelson,
178 Ross, Richter, Palmquist; Nays-Bend. Motion carried 4-1-0.**

179
180 3. Shelly and Brad Holz Variance Application at 4206 River Road – Resolution 2015-56 –
181 Administrator Moose summarized the variance application for the Holz property which currently has a two-story
182 house that is substandard in terms of its setback from River Road and its setback from the Ordinary High Water
183 Line of the St. Croix River. The house backs up to a long steep slope. The house meets the setback from the St.
184 Croix River bluffline. The Holz's propose to tear down the existing house and build a new two-story house that
185 has an increased setback from the Road and the OHWL. The house is connected to the "201" community septic
186 system, so a septic drainfield is not required. He reviewed the zoning requirements that are currently not met by
187 the existing house. The four variances requested will therefore improve the non-conforming conditions:

- 188 1. A variance to allow a 92 foot front yard setback vs. the required 105 foot setback.
- 189 2. A variance to allow a 177 foot setback from the Ordinary High Water Line of the St. Croix River vs. the
190 required 200 foot setback.
- 191 3. A variance to allow grading in areas with slopes greater than 12%.
- 192 4. A variance to allow the roof height to be 5 feet higher than the roof of the existing house.

193 Moose reported that the City Engineer has reviewed the grading and drainage plans, and has been working with
194 the property owners' architect on a drainage plan that could include rock swales on the north and south sides of
195 the house in addition to raingardens on the southeast and northeast corners of the house, with the goal of capturing
196 the run-off from a one-inch rainfall event. The City Engineer has also reviewed and approved the retaining wall
197 plans. He noted the letter from Jenifer Sorenson, DNR hydrologist, is supportive of the proposal and application
198 and encourages engineering review of the grading and drainage plans. The Planning Commission recommended,
199 on a vote of 7-0-0, approval of the variance application, based on the findings and conditions.

200
201 **Motion/Second: Palmquist/Ross. To approve the Shelly and Brad Holz variance application to construct a
202 new home at 4206 River Road per Resolution 2015-56 as presented, with the following findings and
203 conditions. ROLL CALL: All Ayes. Motion carried 5-0-0.**

204
205 Findings

206 Several unique features of the parcel were:

- 207 1. It is comprised of unusually steep terrain and it appears that the amount of grading is reasonable
208 and the proposed new roofs will reduce the impact from stormwater runoff.

- 209 2. Screening of the property is significant and there is no impairment to the river.
- 210 3. There appears to be a reasonably level area for the new home.
- 211 4. The DNR is supportive of the proposal.
- 212 5. The proposal preserves the scenic and recreational resources of the St. Croix Riverway, especially
- 213 in regard to the view from and use of the river.
- 214 6. The proposal maintains safe and healthful conditions.
- 215 7. The proposal includes a drainage plan for the prevention and control of water pollution, including
- 216 sedimentation.

217
218 **Conditions**

- 219 1. City Engineer shall review and approve grading, drainage and erosion control plans.
- 220 2. City Engineer shall review and approve retaining wall design.
- 221 3. City Engineer specifications and recommendations for all work shall be met for the duration of the
- 222 permit.
- 223 4. The grading plan shall be constructed according to plans approved by the City Engineer. Silt fences
- 224 or other types of erosion control shall be properly installed prior to construction; and shall be
- 225 maintained in good condition until the construction is complete.
- 226 5. House color shall be earth tone.
- 227 6. The applicant shall comply with all conditions as may be specified by the Department of Natural
- 228 Resources and the applicable watershed.
- 229 7. The house shall be constructed according to the plans dated May 28, 2015, the site plan dated May
- 230 27, 2015 and the survey dated May 29, 2015, subject to revisions as required or approved by the
- 231 City Engineer.
- 232 8. Existing vegetative screening shall be maintained, with the exception of one large tree to be
- 233 removed on the southern property line.

234
235 **ROLL CALL: All Ayes. Motion carried 5-0-0.**

236
237 4. Valley Branch Watershed District Conditional Use Permit Application for Two Ravine Stabilization
238 Projects at multiple properties northeast of 30th Street and Trading Post Trail and east of Neal Avenue and north
239 of Valley Creek Trail – Resolution 2015-57 – Administrator Moose summarized the Valley Branch Watershed
240 District (VBWD) proposal for two ravine stabilization projects, one at the northeast corner of Trading Post Trail
241 and 30th Street, and one east of Neal Avenue and north of Valley Creek Trail. Both locations experience
242 substantial erosion during significant rain events. The project will stabilize the ravines, prevent erosion and help
243 protect the water quality of Valley Creek. The City Engineer reviewed the grading plans for the project and all of
244 the City Engineer’s questions about the grading plans were adequately answered by the VBWD engineer, and the
245 City Engineer has approved the plans. Planning Commission vote of 7-0-0 recommending approval.

246
247 **Motion/Second: Palmquist/Nelson. To approve the Valley Branch Watershed District Conditional Use**
248 **Permit for Two Ravine Stabilization Projects at properties northeast of 30th Street and Trading Post Trail**
249 **with PIDs 21.028.20.21.0001, 16.028.20.34.0002, 16.028.20.43.0004 and 21.028.20.12.0001, and east of Neal**
250 **Avenue and north of Valley Creek Trail on properties with PIDs 17.028.20.21.0002, 17.028.20.12.0001 and**
251 **17.028.20.13.0004, per Resolution 2015-57 and based on conditions as listed in the resolution. ROLL**
252 **CALL: All Ayes. Motion carried 5-0-0.**

253
254 5. Larry Best/Chrome-X, LLC Sketch Plan Review Application at 13900 Hudson Road – Administrator
255 Moose summarized the sketch plan review by Planning Commission and the comments made: pollution
256 problems were to be addressed by MPCA, they need to minimize impervious coverage on the property. The
257 applicant will need to submit the full Conditional Use Permit (CUP) application to go forward.

258 Vice Chair Seeberger reported that the Planning Commission took a while to get their heads around the
259 concept. Many concerns were brought up. But some commissioners thought the concept of luxury garages would
260 be a “cool” development for Afton.

261 Nelson thought a previous application in 2004 had the same concerns for hazardous waste and if too nice,
262 people may start living in the units.

263 Richter remembered concerns about excessive water usage. He asked about the denial of this application in
264 the past.

265 Moose and Bend indicated they found paperwork to indicate it had been approved.

266 Richter stated it was approved by a previous Council, but the applicant did not start the project in the twelve
267 month time period allowed. The applicant brought the application before the Council after the time had elapsed,
268 but Council denied giving an extension of approval.

269
270 **B. Engineering Report -**

- 271 1. 2015 Seal Coat and Crack Seal Projects – Quotes to come in August
272 2. St. Croix Trail Roadway Improvement Project in Downtown Afton, Streetscape - Resolution 2015-52

273 –
274
275 **Motion/Second: Palmquist/Nelson. To adopt Resolution 2015-52 as amended. ROLL CALL: All Ayes.**
276 **Motion carried 5-0-0.**

- 277
278 3. Downtown Improvement Project Design – Resolution 2015-53 –
279

280 **Motion/Second: Palmquist/Nelson. To approve a Resolution distributed by Palmquist for 26 lights,
281 bumpouts with banded concrete for \$15/sf instead of \$20/sf, and trees amended to reduce by 20%. ROLL
282 CALL: Ayes-Nelson, Ross, Palmquist; Nays-Richter, Bend. Motion carried 3-2-0.**

283
284 **C. Administration –**

- 285 1. High Speed Internet Access Expansion Options and Funding Options –
286

287 **Council took unanimous action at their 7-16-15 SP CC meeting to approve CenturyLink submitting a grant
288 to MOB for providing HIS to all of Afton.**

- 289
290 2. Ordinance Amendment to move “Chickens on < 5 acres” to Livestock Sec. 12-188 (M) – Ordinance
291 02-2015 –
292

293 **Motion/Second: Bend/Palmquist. To adopt Ordinance 02-2015 as presented moving existing . ROLL
294 CALL: All Ayes. Motion carried 5-0-0.**

- 295
296 3. St. Croix Bluffland and Shoreland Ordinance inconsistencies in impervious surface requirements and
297 eliminate DNR certification from ordinance –
298

299 **Motion/Second: Richter/Palmquist. To refer the St. Croix Bluffland and Shoreland Ordinance
300 inconsistencies in impervious surface to the PC. Motion carried 5-0-0.**

- 301
302 4. Joint Powers Agreement between City Attorney and Washington County Sheriff for accessing state
303 databases for prosecutions – Resolution 2015-58 –
304

305 **Motion/Second: Richter/Bend. To approve Resolution 2015-58 authorizing a Joint Powers Agreement with
306 the City of Afton on behalf of the City Attorney and the Washington County Sheriff’s Office to access BCA
307 databases. ROLL CALL: All Ayes. Motion carried 5-0-0.**

- 308
309 5. Cedar Bluff Subdivision Vacation of Unneeded Drainage Easement on Block 1 Lot 17 - Resolution
310 2015-59 –
311

312 **Motion/Second: Palmquist/Richter. To adopt Resolution 2015-59 vacating the storm sewer easement**
313 **crossing Block 1 Lot 17 of Cedar Bluff plat. ROLL CALL: All Ayes. Motion carried 5-0-0.**
314

- 315 6. Training opportunities for Council, PC and Staff (St. Croix Workshop-on-the Water and 2015 GTS
316 Summer and Fall Land Use Workshops) –
317

318 **Motion/Second: Palmquist/Richter. To approve training opportunitites. Motion carried 5-0-0.**
319

- 320 7. Schedule Council Work sessions – Mid-year financial review, 2016 budget, City Administrator
321 Performance Evaluation –
322

- 323 8. Hire Seasonal Maintenance Worker –
324

325 **Motion/Second: Hire Seasonal Maintenance and cleaning.**

326 **Motion/Second: at \$12.50 per hour.**
327

- 328 9. Consider City Accountant, Tom Niedzwiecki attendance at Regular City Council meetings –
329 10. The head of MPCA, John Linc Stine, asked to meet with Mayor Bend -
330

331 **D. Committee Reports -**

- 332 1. Public Works
333 2. Personnel
334 3. Parks
335 4. HPC/DR
336

337 **10. COUNCIL, CONSULTANT AND STAFF REPORTS, ANNOUNCEMENTS AND UPDATES**

- 338 **A.** Ward 1 Council Member Palmquist
339 **B.** Ward 2 Council Member Richter
340 **C.** Ward 3 Council Member Ross
341 **D.** Ward 4 Council Member Nelson
342 **E.** Mayor Bend
343 **F.** City Attorney Knaak
344 **G.** City Administrator Moorse
345 **H.** Afton House Inn Easement Acquisition – Discussion needed to go into a Closed Session.
346

347 **Motion/Second: to go into CLOSED SESSION at .**

348 **Motion/Second: to come out of CLOSED SESSION at .**
349

350
351 **11. ADJOURN – Motion/Second: Nelson/Ross. To adjourn the meeting at 10:57 p.m. Motion carried 5-0-**
352 **0.**
353

354 Respectfully submitted by:
355
356
357

358 _____
359 Kim Swanson Linner, Deputy Clerk

360 And for the CLOSED SESSION
361
362

363 _____

364 Ronald J. Moorese

365
366 **Approved by Council (on August 18, 2015) as (check one): Presented: _____ Amended: _____**

367
368
369 **Signed by Mayor Richard Bend _____ Date _____**