

CITY OF FALCON HEIGHTS
Regular Meeting of the City Council
City Hall
2077 West Larpenteur Avenue

AGENDA
July 13, 2011

- A. CALL TO ORDER:
- B. ROLL CALL: LINDSTROM ____ HARRIS ____ GOSLINE ____
LONG ____ MERCER-TAYLOR ____
MILLER ____
- C. PRESENTATIONS:
1. Seth Reasoner, Eagle Scout Project Presentation
- D. APPROVAL OF MINUTES: June 22, 2011
- E. PUBLIC HEARINGS:
- F. CONSENT AGENDA:
1. General Disbursements through 6/29/2011: \$4,291.95
Payroll through 6/28/2011: \$20,565.70
2. City License Renewal
3. Establish Mileage Reimbursement Rate for 2011
4. Appointment to St. Paul Regional Water Services Board of Managers
- G: POLICY ITEMS:
1. Amendment to Zoning Code relating to Variances
2. Approval of 2011-12 City Council Goals
3. Acceptance of Construction Bid for Community Park Tennis Courts
- H. ADDENDUM:
1. Resolution Regarding Ramsey County/Minnesota Vikings Sales Tax Proposals
2. Livable Communities Demonstration Account Grant Application
3. Ordinance Allowing for Electrical Inspections
- I. INFORMATION/ ANNOUNCEMENTS:
- J. COMMUNITY FORUM:
- K. ADJOURNMENT:

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Regular Meeting of the City Council
City Hall
2077 West Larpenteur Avenue

AGENDA
June 22, 2011

- A. CALL TO ORDER:
- B. ROLL CALL: LINDSTROM _X_ HARRIS _X_ GOSLINE _X_
LONG _X_ MERCER-TAYLOR _X_
MILLER _X_
- C. PRESENTATIONS:
1. John Choi, Ramsey County Attorney
2. Shane Stennes, University of Minnesota Climate Action Plan
3. Annual MS4 Update - Tim Pittman, Director of Parks and Public Works
- D. APPROVAL OF MINUTES: June 8, 2011 Approved
- E. PUBLIC HEARINGS:
- F. CONSENT AGENDA: Pam Harris Approval Moved 5-0

1. General Disbursements through 6/16/2011: \$78,303.89
Payroll through 6/15/2011: \$17,540.15
2. City License Renewal
- G: POLICY ITEMS:
1. 2012-13 Police Contract Chuck Long Approval Moved 5-0
2. Award of Bid 2011 Crackseal & Sealcoat Beth Mercer-Taylor Approval Moved 5-0
3. Performance Measurement Program Keith Gosline Approval Moved 5-0
4. Acceptance of Construction Bid for Community Park Tennis Courts Tabled
- H. INFORMATION/ANNOUNCEMENTS:
- I. COMMUNITY FORUM:
- J. ADJOURNMENT: 8:45pm



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|-----------------------------------|
| Meeting Date | July 13, 2011 |
| Agenda Item | Consent F1 |
| Attachment | General Disbursements and Payroll |
| Submitted By | Roland Olson, Finance Director |

| | |
|----------------------------|--|
| Item | General Disbursements and Payroll |
| Description | General Disbursements through 6/29/2011: \$4,291.95 Payroll through 6/28/2011: \$20,565.70 |
| Budget Impact | |
| Attachment(s) | General Disbursements and Payroll |
| Action(s) Requested | Staff recommends that the Falcon Heights City Council approve general disbursements and payroll. |

PACKET: 00575 JUN 29 PAYABLES

VENDOR SET: 01 City of Falcon Heights

SEQUENCE : ALPHABETIC

DUE TO/FROM ACCOUNTS SUPPRESSED

| -----ID----- | | | GROSS | P.O. # | | |
|----------------|-----------|--------------------------------|----------|--------------------|------------------------|--------------|
| POST DATE | BANK CODE | -----DESCRIPTION----- | DISCOUNT | G/L ACCOUNT | -----ACCOUNT NAME----- | DISTRIBUTION |
| ===== | | | | | | |
| 01-00255 | | AMERICAN OFFICE PRODUCTS | | | | |
| I-118288 | | NAME PLATE | 16.28 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | NAME PLATE | | 101 4112-70100-000 | SUPPLIES | 16.28 |
| | | === VENDOR TOTALS === | 16.28 | | | |
| ===== | | | | | | |
| 01-00295 | | AVR, INC | | | | |
| I-47860 | | CONCRETE FOR SIDEWALKS | 879.58 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | CONCRETE FOR SIDEWALKS | | 412 4412-92022-000 | SIDEWALK PANELS | 879.58 |
| | | === VENDOR TOTALS === | 879.58 | | | |
| ===== | | | | | | |
| 01-00869 | | BENEFIT EXTRAS, INC | | | | |
| I-40219 | | JUNE MONTHLY FELX ADM | 30.00 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | JUNE MONTHLY FELX ADM | | 101 4112-89000-000 | MISCELLANEOUS | 30.00 |
| | | === VENDOR TOTALS === | 30.00 | | | |
| ===== | | | | | | |
| 01-03112 | | CAREFREE LAWN | | | | |
| I-33872-IN | | IRRIGATION BOX REPLACEMENT | 140.00 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | IRRIGATION BOX REPLACEMENT | | 101 4132-87010-000 | BOULEVARD MAINTENANCE | 140.00 |
| | | === VENDOR TOTALS === | 140.00 | | | |
| ===== | | | | | | |
| 01-03089 | | CASH | | | | |
| I-201106272901 | | REC SPORTS SUPPLIES/POSTAGE | 60.21 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | REC SPORTS SUPPLIES | | 201 4201-70100-000 | SUPPLIES | 31.59 |
| | | COOKING CLASS FARMERS MKT SUPP | | 201 4201-70100-000 | SUPPLIES | 10.00 |
| | | CERTIFIED MAIL | | 101 4112-70500-000 | POSTAGE | 18.62 |
| | | === VENDOR TOTALS === | 60.21 | | | |
| ===== | | | | | | |
| 01-00936 | | CITY OF ST PAUL | | | | |
| I-201106272910 | | H2O AND S.S. | 342.80 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | H2O | | 101 4131-85040-000 | WATER | 72.49 |
| | | S.S. | | 101 4131-85070-000 | SEWER | 24.70 |
| | | H2O | | 101 4141-85040-000 | WATER | 150.36 |
| | | S.S. | | 101 4141-85070-000 | SEWER | 95.25 |
| | | === VENDOR TOTALS === | 342.80 | | | |

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VENDOR SET: 01 City of Falcon Heights

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DUE TO/FROM ACCOUNTS SUPPRESSED

| -----ID----- | | | GROSS | P.O. # | | |
|----------------|-----------|--------------------------------|----------|--------------------|--------------------------|--------------|
| POST DATE | BANK CODE | -----DESCRIPTION----- | DISCOUNT | G/L ACCOUNT | -----ACCOUNT NAME----- | DISTRIBUTION |
| ===== | | | | | | |
| 01-03247 | | CUB FOODS | | | | |
| I-201106272905 | | COOKING CLASS SUPPLIES | 42.59 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | COOKING CLASS SUPPLIES | | 201 4201-70100-000 | SUPPLIES | 19.07 |
| | | COOKING CLASS SUPPLIES | | 201 4201-70100-000 | SUPPLIES | 23.52 |
| | | === VENDOR TOTALS === | 42.59 | | | |
| ===== | | | | | | |
| 01-05171 | | FRA DOR INC | | | | |
| I-201106272897 | | BLACK DIRT | 20.00 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | BLACK DIRT | | 101 4131-70110-000 | SUPPLIES | 20.00 |
| | | === VENDOR TOTALS === | 20.00 | | | |
| ===== | | | | | | |
| 01-05115 | | GOPHER STATE ONE CALL | | | | |
| I-14055 | | MAY LOCATES | 199.00 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | MAY LOCATES | | 601 4601-88030-000 | LOCATES | 199.00 |
| | | === VENDOR TOTALS === | 199.00 | | | |
| ===== | | | | | | |
| 01-05242 | | HEAT MIZER GLASS INC | | | | |
| I-20842 | | REPLACE GLASS ON ENTRY DOOR | 470.56 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | REPLACE GLASS ON ENTRY DOOR | | 101 4131-87010-000 | CITY HALL MAINTENANCE | 470.56 |
| | | === VENDOR TOTALS === | 470.56 | | | |
| ===== | | | | | | |
| 01-05052 | | JOHNSON-POWERS, DAN | | | | |
| I-201106272900 | | HAZMAT INSTRUCTOR TNG | 462.50 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | HAZMAT INSTRUCTOR TNG | | 101 4124-61540-000 | HAZMAT COMPENSATION | 462.50 |
| | | === VENDOR TOTALS === | 462.50 | | | |
| ===== | | | | | | |
| 01-05585 | | METROPOLITAN AREA MANAGEMENT A | | | | |
| I-201106272904 | | MEETING EXPENSE | 20.00 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | MEETING EXPENSE | | 101 4112-86100-000 | CONFERENCES/EDUCATION/AS | 20.00 |
| I-587 | | MEETING EXP | 20.00 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | MEETING EXP | | 101 4112-86100-000 | CONFERENCES/EDUCATION/AS | 20.00 |
| | | === VENDOR TOTALS === | 40.00 | | | |

PACKET: 00575 JUN 29 PAYABLES

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DUE TO/FROM ACCOUNTS SUPPRESSED

| -----ID----- | | | GROSS | P.O. # | | |
|----------------|----------------------------|--------------------------------|----------|--------------------|--------------------------|--------------|
| POST DATE | BANK CODE | -----DESCRIPTION----- | DISCOUNT | G/L ACCOUNT | -----ACCOUNT NAME----- | DISTRIBUTION |
| ===== | | | | | | |
| 01-01002 | JUSTIN MILLER | | | | | |
| I-201106272899 | | JUNE MILEAGE REIMB | 91.80 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | JUNE MILEAGE REIMB | | 101 4112-86010-000 | MILEAGE & PARKING | 91.80 |
| | | === VENDOR TOTALS === | 91.80 | | | |
| ===== | | | | | | |
| 01-05843 | MN NCPERS LIFE INSURANCE | | | | | |
| I-201106272909 | | JULY/11 INSURANCE | 32.00 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | JULY/11 INSURANCE | | 101 21709-000 | OTHER PAYABLE | 31.20 |
| | | JULY/11 INSURANCE | | 206 21709-000 | OTHER PAYABLE | 0.80 |
| | | === VENDOR TOTALS === | 32.00 | | | |
| ===== | | | | | | |
| 01-07263 | NEXTEL COMMUNICATIONS, INC | | | | | |
| I-201106272895 | | CELL PHONE | 173.46 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | CELL PHONE | | 101 4121-85015-000 | CELL PHONE | 60.40 |
| | | CELL PHONE | | 101 4131-85015-000 | CELL PHONE | 12.11 |
| | | CELL PHONE | | 101 4131-85015-000 | CELL PHONE | 21.57 |
| | | CELL PHONE | | 101 4132-85015-000 | CELL PHONE | 7.29 |
| | | CELL PHONE | | 602 4602-85015-000 | CELL PHONES | 20.00 |
| | | CELL PHONE | | 601 4601-85015-000 | CELL PHONE | 52.09 |
| | | === VENDOR TOTALS === | 173.46 | | | |
| ===== | | | | | | |
| 01-06065 | OXYGEN SERVICE COMPANY | | | | | |
| I-201106272903 | | COMPRESSED AIR | 86.57 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | COMPRESSED AIR | | 101 4124-70100-000 | SUPPLIES | 86.57 |
| | | === VENDOR TOTALS === | 86.57 | | | |
| ===== | | | | | | |
| 01-06185 | RAMSEY COUNTY | | | | | |
| I-EMCOM 1226 | | MAY FLEET RADIO SUPPORT | 80.64 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | MAY FLEET RADIO SUPPORT | | 101 4124-86800-000 | RADIO MESB/FLEET SUPPORT | 80.64 |
| | | === VENDOR TOTALS === | 80.64 | | | |

PACKET: 00575 JUN 29 PAYABLES

VENDOR SET: 01 City of Falcon Heights

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DUE TO/FROM ACCOUNTS SUPPRESSED

| -----ID----- | | | GROSS | P.O. # | | |
|----------------|-----------|--------------------------------|----------|--------------------|------------------------|--------------|
| POST DATE | BANK CODE | -----DESCRIPTION----- | DISCOUNT | G/L ACCOUNT | -----ACCOUNT NAME----- | DISTRIBUTION |
| ===== | | | | | | |
| 01-05228 | | SEA LIFE MINNESOTA | | | | |
| I-201106272896 | | EVENT AT ICE CREAM SOCIAL | 492.01 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | EVENT AT ICE CREAM SOCIAL | | 101 4116-89010-000 | SPECIAL EVENTS | 492.01 |
| | | === VENDOR TOTALS === | 492.01 | | | |
| ===== | | | | | | |
| 01-06483 | | SENTRY SYSTEMS, INC. | | | | |
| I-640373 | | QTRLY PANIC BUTTON SVC | 96.25 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | QTRLY PANIC BUTTON SVC | | 101 4131-87100-000 | PANIC BUTTON SECURITY | 96.25 |
| | | === VENDOR TOTALS === | 96.25 | | | |
| ===== | | | | | | |
| 01-05303 | | MICHELLE TESSER | | | | |
| I-201106272902 | | REIMB: SOCCER NETS/ SUPPLIES | 159.54 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | REC SPORTS CLASS SUPPLIES | | 201 4201-70100-000 | SUPPLIES | 8.48 |
| | | 2 SOCCER NETS | | 101 4141-70100-000 | SUPPLIES | 151.06 |
| I-201106272906 | | REC CLASS SUPPLIES | 75.56 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | REC CLASS SUPPLIES | | 201 4201-70100-000 | SUPPLIES | 75.56 |
| I-201106272907 | | MILEAGE REIMBURSMENT | 136.48 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | 2 ND QTR MILEAGE REIMB | | 101 4112-86010-000 | MILEAGE & PARKING | 136.48 |
| | | === VENDOR TOTALS === | 371.58 | | | |
| ===== | | | | | | |
| 01-07250 | | TRETSVEN, DAVE | | | | |
| I-201106272898 | | SHOP DOLLIES FOR EQUIPMENT | 128.33 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | SHOP DOLLIES FOR EQUIPMENT | | 101 4131-70110-000 | SUPPLIES | 128.33 |
| | | === VENDOR TOTALS === | 128.33 | | | |
| ===== | | | | | | |
| 01-05870 | | XCEL ENERGY | | | | |
| I-201106272908 | | ELECT | 35.79 | | | |
| 6/27/2011 | APBNK | DUE: 6/27/2011 DISC: 6/27/2011 | | 1099: N | | |
| | | ELECT | | 101 4121-85020-000 | ELECTRIC | 7.64 |
| | | ELECT | | 101 4132-85020-000 | STREET LIGHTING | 28.15 |
| | | === VENDOR TOTALS === | 35.79 | | | |
| | | === PACKET TOTALS === | 4,291.95 | | | |

| EMP # | NAME | AMOUNT |
|---------|---------------------|----------|
| 01-0013 | PETER C LINDSTROM | 316.68 |
| 01-0016 | PAMELA M HARRIS | 283.05 |
| 01-0019 | KEITH P GOSLINE | 283.05 |
| 01-1002 | JUSTIN J MILLER | 2,581.03 |
| 01-1010 | MICHELLE C TESSER | 1,409.75 |
| 01-1012 | JESSICA A ANDERSON | 430.33 |
| 01-1136 | ROLAND O OLSON | 1,301.57 |
| 01-1038 | DEBORAH K JONES | 1,678.69 |
| 01-0086 | RICHARD H HINRICHS | 251.78 |
| 01-0097 | PATRICK GAFFNEY | 99.07 |
| 01-1145 | ANTHONY N SCARDIGLI | 1,124.31 |
| 01-1030 | TIMOTHY J PITTMAN | 1,883.44 |
| 01-1033 | DAVE TRETSEVEN | 1,470.69 |
| 01-1143 | COLIN B CALLAHAN | 1,062.48 |
| 01-2129 | KIRSTEN M SKUNDBERG | 399.64 |
| 01-2133 | KATHRYN J BEHM | 87.74 |
| 01-2148 | LEANN M BENSON | 314.78 |
| 01-2170 | ERIC W LEPPINK | 363.75 |
| 01-2186 | ALLISON N DAVITT | 842.89 |
| 01-2190 | ROBERT W JOHNSON | 452.32 |
| 01-2192 | STEPHEN T KU | 92.43 |

TOTAL PRINTED: 21 16,729.47

6-28-2011 8:43 AM PAYROLL CHECK REGISTER
 PAYROLL NO: 01 City of Falcon Heights

PAGE: 1
 PAYROLL DATE: 6/28/2011

| EMP NO | EMPLOYEE NAME | TYPE | CHECK DATE | CHECK AMOUNT | CHECK NO. |
|--------|--------------------------|------|------------|--------------|-----------|
| 0017 | MERCER-TAYLOR, ELIZABETH | R | 6/28/2011 | 280.26 | 077916 |
| 0018 | LONG, CHARLES E | R | 6/28/2011 | 283.05 | 077917 |
| 0034 | KURHAJETZ, CLEMENT | R | 6/28/2011 | 618.94 | 077918 |
| 0095 | POESCHL, MICHAEL J | R | 6/28/2011 | 99.07 | 077919 |
| 0105 | FEHRENBACH, ANTON M | R | 6/28/2011 | 96.38 | 077920 |
| 1034 | PITTMAN, GERALD J | R | 6/28/2011 | 898.36 | 077921 |
| 2164 | MILLER, ALLISON | R | 6/28/2011 | 324.02 | 077922 |
| 2185 | TOMLINSON, KELLY R | R | 6/28/2011 | 482.19 | 077923 |
| 2187 | MIELKE, LUKE J | R | 6/28/2011 | 179.63 | 077924 |
| 2188 | HART, KIMBERLY D | R | 6/28/2011 | 116.13 | 077925 |
| 2189 | HOWELL, RYAN D | R | 6/28/2011 | 266.23 | 077926 |
| 2191 | REASONER, KAITLYN C | R | 6/28/2011 | 191.97 | 077927 |

6-28-2011 8:43 AM PAYROLL CHECK REGISTER
 PAYROLL NO: 01 City of Falcon Heights

PAGE: 2
 PAYROLL DATE: 6/28/2011

*** REGISTER TOTALS ***

| | | |
|--------------------------------|----|-----------|
| REGULAR CHECKS: | 12 | 3,836.23 |
| DIRECT DEPOSIT REGULAR CHECKS: | 21 | 16,729.47 |
| MANUAL CHECKS: | | |
| PRINTED MANUAL CHECKS: | | |
| DIRECT DEPOSIT MANUAL CHECKS: | | |
| VOIDED CHECKS: | | |
| NON CHECKS: | | |
| ----- | | |
| TOTAL CHECKS: | 33 | 20,565.70 |



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|--|
| Meeting Date | June 22, 2011 |
| Agenda Item | Consent F2 |
| Attachment | |
| Submitted By | Michelle Tesser, Assistant to the City Administrator |

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|----------------------------|--|
| Item | City License Applications |
| Description | <p>The following individuals have applied for a <u>Tree Trimming License</u> for 2011. Staff has received the necessary documents for licensure.</p> <p style="text-align: center;">1. Gosiak Tree Service</p> <p>The following individuals have applied for a <u>Mechanical License</u> for 2011. Staff has received the necessary documents for licensure.</p> <p style="text-align: center;">1. Hi-Tech Heating & Air</p> |
| Budget Impact | |
| Attachment(s) | N/A |
| Action(s) Requested | Staff recommends that the Falcon Heights City Council approve the 2011 City License Applications |



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|--------------------------------|
| Meeting Date | July 13 , 2011 |
| Agenda Item | Consent F3 |
| Attachment | |
| Submitted By | Roland Olson, Finance Director |

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|----------------------------|---|
| Item | Establish Mileage Reimbursement Rate for 2011 |
| Description | The business mileage reimbursement rate allowed by the IRS was 51 cents per mile effective January 1, 2011. The IRS is adjusting the standard mileage rates to better reflect the recent increase in gas prices. Starting July 1, motorists who use their personal vehicles for business will be able to use 55.5 cents per mile for mileage reimbursement. |
| Budget Impact | Increase the mileage reimbursement rate to be 55.5 cents per mile effective July 1, 2011. |
| Attachment(s) | n/a |
| Action(s) Requested | Staff recommends establishing the mileage reimbursement rate for the city to match the rate allowed by the IRS to be 55.5 cents per mile effective July 1, 2011. |



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|-----------------------|
| Meeting Date | July 13, 2011 |
| Agenda Item | Consent F4 |
| Attachment | |
| Submitted By | Mayor Peter Lindstrom |

| | |
|----------------------------|---|
| Item | Appointment to St. Paul Regional Water Services Board of Managers |
| Description | As one of the suburban cities that receive water from St. Paul Regional Water Services (SPRWS), the City of Falcon Heights is included in a cycle to appoint representatives to their governing board of managers. Our current appointment of Falcon Heights resident Jim Bykowski expires at the end of 2011, and we are responsible for another appointment for 2012-13. SPRWS has asked that we approve our appointment as soon as possible so they can begin their planning for next year. Mr. Bykowski has indicated his preference to be appointed to another term. |
| Budget Impact | N/A |
| Attachment(s) | |
| Action(s) Requested | I recommend that the Falcon Heights City Council appoint Jim Bykowski to a term on the St. Paul Regional Water Services Board of Managers for 2012-13. |



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|---|
| Meeting Date | July 13, 2011 |
| Agenda Item | Policy G1 |
| Title | Ordinance amending the Falcon Heights variance code to be consistent with new Minnesota statute |
| Submitted By | Deborah Jones, Staff Liaison to the Planning Commission |

| | |
|----------------------------|---|
| Description | Amendment to Zoning Code relating to Variances |
| Background | <p>The 2010 Minnesota Supreme Court decision on <i>Krummenacher vs. the City of Minnetonka</i> had a major impact on the ability of cities to grant variances, requiring a much stricter standard than had been the practice for many years. As the League of Minnesota Cities Legislative Update put it, the Court</p> <p><i>narrowly interpreted the definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test is not whether the proposed use is reasonable, but rather whether there is reasonable use in the absence of the variance. This is a much stricter standard, which considerably limits variance opportunities.</i></p> <p>In April 2011, the Governor signed into law a new statute that returns to the “reasonable manner” understanding that was in use before the Krummenacher ruling. (http://www.lmc.org/page/1/variancebill.jsp) During the interim Falcon Heights did not have any variance cases.</p> <p>Falcon Heights city code needs to be kept consistent with state law. The proposed ordinance, draft provided by City Attorney Roger Knutson, will bring the code up to date with respect to this change.</p> <p>On Tuesday, June 28, 2011, the Falcon Heights Planning Commission held a public hearing on this proposed amendment to the zoning chapter with notice published in the Roseville Review two weeks prior, on June 14. No input was received from the public. The Planning Commission voted unanimously to recommend approval of the proposed amendment.</p> |
| Budget Impact | None |
| Attachment(s) | <ul style="list-style-type: none"> • Proposed ordinance 11-01 amending Section 113-415 (clean copy and with mark-up showing changes) • Existing Section 113-62 Variances • Minnesota H.F. 52, effective May 6, 2011 • Reference materials from the League of Minnesota Cities |
| Action(s) Requested | <ul style="list-style-type: none"> • Approve Ordinance 11-01 |

**AN ORDINANCE AMENDING CHAPTER 113
OF THE CITY CODE CONCERNING VARIANCES**

THE CITY COUNCIL OF THE CITY OF FALCON HEIGHTS ORDAINS:

SECTION 1. Section 113-62 of the Falcon Heights City Code is amended to read:

Sec. 113-62. Variances.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Practical difficulties mean the same as that term defined in Minn. Stats. § 462.357, as may be amended, meaning that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include but are not limited to, inadequate access to direct sunlight for solar energy systems.

Variance means a modification of or variation from the provisions of this chapter consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this chapter.

(b) *Purpose.* The purpose of this section is to provide the procedure and criteria for variances.

c) *Application.*

(1) Any owner of property or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a variance, or the duly authorized agent of such appellant, may make application for a variance. The application shall be made on forms prepared by the zoning administrator.

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- Deleted: undue hardship if a reasonable use of the property exists under the terms of this chapter.
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- Deleted: , except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited.
- Deleted: for deviations from the literal provisions of this chapter in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.

(2) The application shall contain the legal description of the property, the zoning district in which it is located, a brief statement of the reasons the variance is requested, a statement of the ownership interest therein of the applicant and the names and addresses of the owners of all abutting property as listed on the current real estate tax rolls. The application shall be verified.

(d) USE Variances prohibited. Variances may not be approved for a use that is not allowed in the zoning district where the property is located.

Deleted: No variance may be granted for a use of any property different from that permitted by this chapter.

(e) *Review criteria.* The city council shall not approve any variance request unless they find that failure to grant the variance will result in practical difficulties on the applicant, and, as may be applicable, all of the following criteria have been met:

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(1) The variance would be in harmony with the general purposes and intent of this Chapter.

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(2) The variance would be consistent with the comprehensive plan.

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(3) That, there are practical difficulties in complying with this Chapter.

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(4) That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.

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(4) That the requested variance is the minimum action required to eliminate the practical difficulties.

Deleted: (2) That the conditions upon which an application for a variance is based is unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.¶

(5) Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes § 216C.06, Subdivision 14, when in harmony with this Chapter. Variances may be approved for the temporary use of a one family dwelling as a two family dwelling.

¶ (3) That the purpose of the variance is not based exclusively upon a financial hardship, or a desire to increase the value or income potential of the parcel of land.¶

¶ (4) That the alleged difficulty or hardship is caused by this chapter and has not been created by any persons having an interest in the parcel of land and is not a self-created hardship.¶

(f) *Conditions.* The city may attach conditions to the grant of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

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(g) *Procedure.*

(1) All applications for variances shall be referred to the planning commission for study and recommendation to the city council.

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(2) Within 60 days, the planning commission shall forward its recommendations to the city council; if no recommendation is transmitted within 60 days after referral of

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the application for variance to the planning commission, the city council may take action without further awaiting such recommendation.

(3) Variances are granted or denied by motion of the city council.

(h) *Termination.* The violation of any condition of the variance shall [be the basis for the City Council, following a hearing, to](#) terminate the variance. If the property is not used or improvements substantially begun within a period of one year after the decision granting the variance, unless the variance decision provides otherwise, the variance shall be terminated. Unless the city council specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this section shall expire without further action by the planning commission or the city council, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one-year period, the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by city council. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review and approval of the zoning administrator. Should a second extension of time, or any extension of time longer than one year, be requested by the applicant, it shall be presented to the planning commission for a recommendation and to the city council for a decision.

SECTION 2. EFFECTIVE DATE: This ordinance shall take effect from and after its passage.

ADOPTED this _____ day of _____, 2011, by the City Council of Falcon Heights, Minnesota.

CITY OF FALCON HEIGHTS

BY: _____
Peter Lindstrom, Mayor

ATTEST:

Justin Miller, City Administrator/Clerk

ORDINANCE NO. _____

CITY OF FALCON HEIGHTS
RAMSEY COUNTY, MINNESOTA

**AN ORDINANCE AMENDING CHAPTER 113
OF THE CITY CODE CONCERNING VARIANCES**

THE CITY COUNCIL OF THE CITY OF FALCON HEIGHTS ORDAINS:

SECTION 1. Section 113-62 of the Falcon Heights City Code is amended to read:

Sec. 113-62. Variances.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Practical difficulties mean the same as that term defined in Minn. Stats. § 462.357, as may be amended, meaning that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include but are not limited to inadequate access to direct sunlight for solar energy systems.

Variance means a modification of or variation from the provisions of this chapter consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this chapter.

(b) *Purpose.* The purpose of this section is to provide the procedure and criteria for variances.

(c) *Application.*

(1) Any owner of property or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a variance, or the duly authorized agent of such appellant, may make application for a variance. The application shall be made on forms prepared by the zoning administrator.

(2) The application shall contain the legal description of the property, the zoning district in which it is located, a brief statement of the reasons the variance is requested, a statement of the ownership interest therein of the applicant and the names and addresses of the owners of all abutting property as listed on the current real estate tax rolls. The application shall be verified.

(d) *USE Variances prohibited.* Variances may not be approved for a use that is not allowed in the zoning district where the property is located.

(e) *Review criteria.* The city council shall not approve any variance request unless they find that failure to grant the variance will result in practical difficulties on the applicant, and, as may be applicable, all of the following criteria have been met:

(1) The variance would be in harmony with the general purposes and intent of this Chapter.

(2) The variance would be consistent with the comprehensive plan.

(3) That, there are practical difficulties in complying with this Chapter. .

(4) That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.

(4) That the requested variance is the minimum action required to eliminate the practical difficulties.

(5) Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes § 216C.06, Subdivision 14, when in harmony with this Chapter. Variances may be approved for the temporary use of a one family dwelling as a two family dwelling.

(f) *Conditions.* The city may attach conditions to the grant of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(g) *Procedure.*

(1) All applications for variances shall be referred to the planning commission for study and recommendation to the city council.

(2) Within 60 days, the planning commission shall forward its recommendations to the city council; if no recommendation is transmitted within 60 days after referral of

the application for variance to the planning commission, the city council may take action without further awaiting such recommendation.

(3) Variances are granted or denied by motion of the city council.

(h) *Termination.* The violation of any condition of the variance shall be the basis for the City Council, following a hearing, to terminate the variance. If the property is not used or improvements substantially begun within a period of one year after the decision granting the variance, unless the variance decision provides otherwise, the variance shall be terminated. Unless the city council specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this section shall expire without further action by the planning commission or the city council, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one-year period, the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by city council. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review and approval of the zoning administrator. Should a second extension of time, or any extension of time longer than one year, be requested by the applicant, it shall be presented to the planning commission for a recommendation and to the city council for a decision.

SECTION 2. EFFECTIVE DATE: This ordinance shall take effect from and after its passage.

ADOPTED this _____ day of _____, 2011, by the City Council of Falcon Heights, Minnesota.

CITY OF FALCON HEIGHTS

BY: _____
Peter Lindstrom, Mayor

ATTEST:

Justin Miller, City Administrator/Clerk



Minnesota Senate

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KEY: ~~stricken~~ = removed, old language. underscored = added, new language.

[List versions](#)



H.F. No. 52, 1st Unofficial Engrossment - 87th Legislative Session (2011-2012) Posted on Apr 14, 2011

- 1.1 A bill for an act
- 1.2 relating to local government; providing for variances from city, county, and town
- 1.3 zoning controls and ordinances;amending Minnesota Statutes 2010, sections
- 1.4 394.27, subdivision 7; 462.357, subdivision 6.
- 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.6 Section 1. Minnesota Statutes 2010, section 394.27, subdivision 7, is amended to read:
- 1.7 Subd. 7. **Variances; hardship practical difficulties**. The board of adjustment shall
- 1.8 have the exclusive power to order the issuance of variances from the ~~terms requirements~~
- 1.9 of any official control including restrictions placed on nonconformities. Variances shall
- 1.10 only be permitted when they are in harmony with the general purposes and intent of the
- 1.11 official control ~~in cases when there are practical difficulties or particular hardship in~~
- 1.12 ~~the way of carrying out the strict letter of any official control, and when the terms of~~
- 1.13 ~~the variance variances~~ are consistent with the comprehensive plan. "~~Hardship~~" as used
- 1.14 ~~in connection with the granting of a variance means the property in question cannot be~~
- 1.15 ~~put to a reasonable use if used under the conditions allowed by the official controls; the~~
- 1.16 ~~plight of the landowner is due to circumstances unique to the property not created by the~~
- 1.17 ~~landowner; and the variance, if granted, will not alter the essential character of the locality.~~
- 1.18 Variances may be granted when the applicant for the variance establishes that there
- 1.19 are practical difficulties in complying with the official control. "Practical difficulties,"
- 1.20 as used in connection with the granting of a variance, means that the property owner
- 1.21 proposes to use the property in a reasonable manner not permitted by an official control;
- 1.22 the plight of the landowner is due to circumstances unique to the property not created by
- 1.23 the landowner; and the variance, if granted, will not alter the essential character of the
- 1.24 locality. Economic considerations alone shall do not constitute a hardship if a reasonable
- 2.1 use for the property exists under the terms of the ordinance practical difficulties. Practical
- 2.2 difficulties include, but are not limited to, inadequate access to direct sunlight for solar
- 2.3 energy systems. Variances shall be granted for earth sheltered construction as defined in
- 2.4 section 216C.06, subdivision 14, when in harmony with the official controls. No variance
- 2.5 may be granted that would allow any use that is ~~prohibited~~ not allowed in the zoning
- 2.6 district in which the subject property is located. The board of adjustment may impose
- 2.7 conditions in the granting of variances to, A condition must be directly related to and must
- 2.8 bear a rough proportionality to the impact created by the variance ~~insure compliance~~
- 2.9 and to protect adjacent properties and the public interest. The board of adjustment may
- 2.10 consider the inability to use solar energy systems a "hardship" in the granting of variances.
- 2.11 **EFFECTIVE DATE.**This section is effective the day following final enactment.
- 2.12 Sec. 2. Minnesota Statutes 2010, section 462.357, subdivision 6, is amended to read:
- 2.13 Subd. 6. **Appeals and adjustments.** Appeals to the board of appeals and
- 2.14 adjustments may be taken by any affected person upon compliance with any reasonable

- 2.15 conditions imposed by the zoning ordinance. The board of appeals and adjustments has
- 2.16 the following powers with respect to the zoning ordinance:
- 2.17 (1) To hear and decide appeals where it is alleged that there is an error in any
- 2.18 order, requirement, decision, or determination made by an administrative officer in the
- 2.19 enforcement of the zoning ordinance.
- 2.20 (2) To hear requests for variances from the ~~literal provisions of the ordinance~~
- 2.21 ~~in instances where their strict enforcement would cause undue hardship because of~~
- 2.22 ~~circumstances unique to the individual property under consideration, and to grant such~~
- 2.23 ~~variances only when it is demonstrated that such actions will be in keeping with the spirit~~
- 2.24 ~~and intent of the ordinance. "Undue hardship" as used in connection with the granting of a~~
- 2.25 ~~variance means the property in question cannot be put to a reasonable use if used under~~
- 2.26 ~~conditions allowed by the official controls, requirements of the zoning ordinance including~~
- 2.27 ~~restrictions placed on nonconformities. Variances shall only be permitted when they are in~~
- 2.28 ~~harmony with the general purposes and intent of the ordinance and when the variances are~~
- 2.29 ~~consistent with the comprehensive plan. Variances may be granted when the applicant for~~
- 2.30 ~~the variance establishes that there are practical difficulties in complying with the zoning~~
- 2.31 ~~ordinance. "Practical difficulties," as used in connection with the granting of a variance,~~
- 2.32 ~~means that the property owner proposes to use the property in a reasonable manner not~~
- 2.33 ~~permitted by the zoning ordinance; the plight of the landowner is due to circumstances~~
- 2.34 ~~unique to the property not created by the landowner; and the variance, if granted, will not~~
- 2.35 ~~alter the essential character of the locality. Economic considerations alone shall do not~~
- 3.1 ~~constitute an undue hardship if reasonable use for the property exists under the terms of~~
- 3.2 ~~the ordinance. Undue hardship also includes practical difficulties. Practical difficulties~~
- 3.3 ~~include, but is are not limited to, inadequate access to direct sunlight for solar energy~~
- 3.4 ~~systems. Variances shall be granted for earth sheltered construction as defined in section~~
- 3.5 ~~216C.06, subdivision 14 , when in harmony with the ordinance. The board of appeals and~~
- 3.6 ~~adjustments or the governing body as the case may be, may not permit as a variance any~~
- 3.7 ~~use that is not permitted allowed under the zoning ordinance for property in the zone~~
- 3.8 ~~where the affected person's land is located. The board or governing body as the case~~
- 3.9 ~~may be, may permit as a variance the temporary use of a one family dwelling as a two~~
- 3.10 ~~family dwelling. The board or governing body as the case may be may impose conditions~~
- 3.11 ~~in the granting of variances to insure compliance and to protect adjacent properties. A~~
- 3.12 ~~condition must be directly related to and must bear a rough proportionality to the impact~~
- 3.13 ~~created by the variance.~~
- 3.14 **EFFECTIVE DATE.**This section is effective the day following final enactment.

Please direct all comments concerning issues or legislation
to your [House Member](#) or [State Senator](#).

For Legislative Staff or for directions to the Capitol, visit the [Contact Us](#) page.

[General questions or comments.](#)

last updated: 04/15/2009

Sec. 113-62. Variances.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Undue hardship means the same as that term defined in Minn. Stats. § 462.357, as may be amended, meaning that the property in question cannot be put to a reasonable use if used under the conditions allowed by this chapter, the plight of the landowner is due to circumstances unique to the property not caused by the landowner, and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute an undue hardship if a reasonable use of the property exists under the terms of this chapter. Undue hardship may also include inadequate access to direct sunlight for solar energy systems.

Variance means a modification of or variation from the provisions of this chapter consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this chapter, except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited.

- (b) *Purpose.* The purpose of this section is to provide for deviations from the literal provisions of this chapter in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.
- (c) *Application.*
- (1) Any owner of property or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a variance, or the duly authorized agent of such appellant, may make application for a variance. The application shall be made on forms prepared by the zoning administrator.
 - (2) The application shall contain the legal description of the property, the zoning district in which it is located, a brief statement of the reasons the variance is requested, a statement of the ownership interest therein of the applicant and the names and addresses of the owners of all abutting property as listed on the current real estate tax rolls. The application shall be verified.
- (d) *Variances prohibited.* No variance may be granted for a use of any property different from that permitted by this chapter.
- (e) *Review criteria.* The city council shall not approve any variance request unless they find that failure to grant the variance will result in undue hardship on the applicant, and, as may be applicable, all of the following criteria have been met:
- (1) That, because of the particular physical surroundings, shape, or topographical conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
 - (2) That the conditions upon which an application for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable,

generally, to other property within the same zoning classification.

- (3) That the purpose of the variance is not based exclusively upon a financial hardship, or a desire to increase the value or income potential of the parcel of land.
 - (4) That the alleged difficulty or hardship is caused by this chapter and has not been created by any persons having an interest in the parcel of land and is not a self-created hardship.
 - (5) That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.
 - (6) That the requested variance is the minimum action required to eliminate the hardship.
 - (7) That it does not involve a use which is not allowed within the respective zoning district.
- (f) *Conditions.* The city may attach such conditions to the grant of the variance as it shall determine will be necessary or desirable to bring it within the purpose and intent of the chapter.
- (g) *Procedures.*
- (1) All applications for variances shall be referred to the planning commission for study and recommendation to the city council.
 - (2) Within 60 days, the planning commission shall forward its recommendations to the city council; if no recommendation is transmitted within 60 days after referral of the application for variance to the planning commission, the city council may take action without further awaiting such recommendation.
 - (3) Variances are granted or denied by motion of the city council.
- (h) *Termination.* The violation of any condition of the variance shall terminate the variance. If the property is not used or improvements substantially begun within a period of one year after the decision granting the variance, unless the variance decision provides otherwise, the variance shall be terminated. Unless the city council specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this section shall expire without further action by the planning commission or the city council, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one-year period, the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by city council. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review and approval of the zoning administrator. Should a second extension of time, or any extension of time longer than one year, be requested by the applicant, it shall be presented to the planning commission for a recommendation and to the city council for a decision.

(Code 1993, § 9-15.03)

State law references: Variances, Minn. Stats. § 462.357, subd. 6(2).

Secs. 113-63--113-82. Reserved.



Gov. Dayton Signs Variance Legislation into Law

The changes, which are now in effect, may require some cities to change ordinances or statutory cross-references.

(Published May 11, 2011)

The League and a long list of allies are finally able to celebrate having a fix in place to restore city variance authority. After a long and contentious session working on resolving this issue, the final version of HF 52 was supported by the League and passed unanimously by the Legislature.

On May 5, Gov. Dayton signed **2011 Minnesota Laws, Chapter 19** ([Link to: https://www.revisor.mn.gov/laws/?id=19&doctype=chapter&year=2011&type=0](https://www.revisor.mn.gov/laws/?id=19&doctype=chapter&year=2011&type=0)), amending **Minnesota Statutes, section 462.357, subdivision 6** ([Link to: https://www.revisor.mn.gov/statutes/?id=462.357](https://www.revisor.mn.gov/statutes/?id=462.357)) to restore municipal variance authority in response to *Krummenacher v. City of Minnetonka*, 783 N.W.2d 721 (Minn. June 24, 2010). The law also provides consistent statutory language between **Minnesota Statutes, chapter 462** ([Link to: https://www.revisor.mn.gov/statutes/?id=462](https://www.revisor.mn.gov/statutes/?id=462)) and the county variance authority of **Minnesota Statutes, section 394.27, subdivision 7** ([Link to: https://www.revisor.mn.gov/statutes/?id=394.27](https://www.revisor.mn.gov/statutes/?id=394.27)).

In *Krummenacher*, the Minnesota Supreme Court narrowly interpreted the statutory definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test is not whether the proposed use is reasonable, but rather whether there is a reasonable use in the absence of the variance. The new law changes that factor back to the “reasonable manner” understanding that had been used by some lower courts prior to the *Krummenacher* ruling.

The new law was effective on May 6, the day following the governor’s approval. Presumably it applies to pending applications, as the general rule is that cities are to apply the law at the time of the decision, rather than at the time of application.

The new law renames the municipal variance standard from “undue hardship” to “practical difficulties,” but otherwise retains the familiar three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character. Also included is a sentence new to city variance authority that was already in the county statutes: “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan.”

So in evaluating variance requests under the new law, cities should adopt findings addressing the following questions:

- Is the variance in *harmony with* the purposes and intent of the *ordinance*?
- Is the variance *consistent with* the *comprehensive plan*?
- Does the proposal put property to use in a *reasonable manner*?
- Are there *unique circumstances* to the property not created by the landowner?
- Will the variance, if granted, alter the *essential character* of the locality?

Some cities may have ordinance provisions that codified the old statutory language, or that have their own set of standards. For those cities, the question may be whether you have to first amend your zoning code before processing variances under the new standard. A credible argument can be made that that the statutory language pre-empts inconsistent local ordinance provisions. Under a pre-emption theory, cities could apply the new law immediately without necessarily amending their ordinance first. In any regard,

it would be best practice for cities to revisit their ordinance provisions and consider adopting language that mirrors the new statute.

In addition, the new law clarifies that conditions may be imposed on granting of variances if those conditions are directly related to and bear a rough proportionality to the impact created by the variance.

If you have questions about how your city should approach variances under this new statute, you should discuss it with your city attorney or contact **Jed Burkett**, LMC land use attorney, at jburkett@lmc.org (*Link to: <mailto:jburkett@lmc.org>*) or (651) 281-1247, or **Tom Grundhoefer**, LMC general counsel, at tgrundho@lmc.org (*Link to: <mailto:tgrundho@lmc.org>*) or (651) 281-1266.

Read the current issue of the Cities Bulletin (*Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>*)

Your LMC Resource

Contact Craig Johnson

IGR Representative

(651) 281-1259 or (800) 925-1122

cjohnson@lmc.org (*Link to: <mailto:cjohnson@lmc.org>*)

Contact Tom Grundhoefer

General Counsel

(651) 281-1266 or (800) 925-1122

tgrundho@lmc.org (*Link to: <mailto:tgrundho@lmc.org>*)

Contact Jed Burkett

Land Use Attorney

(651) 281-1247 or (800) 925-1122

jburkett@lmc.org (*Link to: <mailto:jburkett@lmc.org>*)



State Supreme Court Narrowly Interprets Variance Authority

The court ruling holds cities to a much stricter standard, which considerably limits variance opportunities.

(Published Jul 21, 2010)

The Minnesota Supreme Court recently issued a decision that changed the longstanding interpretation of the statutory standard for granting zoning variances.

In the case of *Krummenacher v. City of Minnetonka*, the Supreme Court narrowly interpreted the definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test is not whether the proposed use is reasonable, but rather whether there is reasonable use in the absence of the variance. This is a much stricter standard, which considerably limits variance opportunities.

The decision

The City of Minnetonka issued a variance to a residential property owner permitting the expansion of a legal, non-conforming garage. The city, relying on a 1989 Court of Appeals decision, concluded that the grant of the variance was reasonable. The city’s decision was challenged by an adjacent property owner. Both the District Court and the Minnesota Court of Appeals agreed that the city’s decision was appropriate. On June 24 the Minnesota Supreme Court reversed the Court of Appeals and found the city’s decision impermissible.

The Supreme Court examined the statutory definition of “undue hardship” in *Minnesota Statutes, section 462.357* ([Link to: https://www.revisor.mn.gov/statutes/?id=462.357](https://www.revisor.mn.gov/statutes/?id=462.357)), and concluded that city authority to issue a variance is limited to those very rare cases where the property cannot be put to “a reasonable use” without the variance. This establishes a high threshold for both the city and the property owner when considering variance requests.

The Supreme Court reviewed the parallel county authority that allows for a variance in situations of “practical difficulties” or “hardship.” The Supreme Court found that the city authority was more limited because it did not contain the “practical difficulties” provision. The court explicitly recognized that it was changing a longstanding standard that cities have relied on in considering variance requests. In particular, the court specifically rejected a 1989 Court of Appeals interpretation of the phrase “undue hardship,” which allowed for the grant of a variance in circumstances where the “property owner would like to use the property in a reasonable manner that is prohibited by the ordinance.”

The Supreme Court stated that “unless and until the Legislature takes action to provide a more flexible variance standard for municipalities, we are constrained by the language of the statute to hold that a municipality does not have the authority to grant a variance unless the applicant can show that her property cannot be put to a reasonable use without the variance.”

Impact of the decision

Because of the far-reaching nature of the decision, there are probably at least four responses that cities should think about—at least until a legislative correction can be achieved:

- The city should re-evaluate the criteria that it has historically used in deciding whether or not to grant a variance. The Supreme Court’s decision limits a city’s discretion. The ruling limits the authority to circumstances where the property owner can demonstrate that there is not a reasonable use of the property absent the variance grant.
- In circumstances where the city council believes the grant of a variance is appropriate, the city should take great care to make detailed finding describing why the grant of the variance is necessary to provide the property owner with a reasonable use of his or her property. What constitutes a reasonable use of property is not defined and may differ depending on the unique circumstances of the property and attributes of various communities.
- If a city routinely grants variances, this may be an indicator that it may want to re-examine its zoning code to ensure that standards, setbacks, uses, and other requirements are consistent with the city council’s current vision for the community. In short, the court’s decision should act as an encouragement to cities to review their land use practices.
- Cities may want to build greater flexibility into their existing conditional use permit, planned unit development, and setback regulations to explicitly afford greater latitude to allow “variance-like” approvals under the zoning code. For instance, a city might establish alternative setback requirements to allow for construction that is consistent with neighborhood attributes.

Legislative action

The restrictive court decision has caused a number of League members to call for a legislative response. The decision, its impact, and a possible legislative response will be discussed in the League’s Improving Service Delivery Policy Committee this summer. It is anticipated that the League will support a legislative change to provide cities with greater flexibility—perhaps something similar to the county authority.

Read the current issue of the Cities Bulletin (*Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>*)

Your LMC Resource

Contact Tom Grundhoefer General Counsel

(651) 281-1266 or (800) 925-1122

tgrundho@lmc.org (*Link to: <mailto:tgrundho@lmc.org>*)



VARIANCES

Frequently Asked Questions
(Reflects 2011 law change)

What is a variance?

A variance is a way that a city may allow an exception to part of a zoning ordinance. It is a permitted departure from strict enforcement of the ordinance as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits). A variance allows the landowner to break a dimensional zoning rule that would otherwise apply.

Who grants a variance?

Minnesota law provides that requests for variances are heard by a body called the board of adjustment and appeals; in many smaller communities, the planning commission or even the city council may serve that function. A variance decision is generally appealable to the city council. For more information, see [Minn. Stat. § 462.357](#).

When can a variance be granted?

A variance may be granted if enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner “practical difficulties.” For the variance to be granted, the applicant must satisfy the statutory three-factor test for practical difficulties. If the applicant does not meet all three factors of the statutory test, then a variance should not be granted. Also, variances are only permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan. For more information, see [Minn. Stat. § 462.357](#).

What kind of authority is the city exercising?

A city exercises so-called “quasi-judicial” authority when considering a variance application. This means that the city’s role is limited to applying the legal standard of practical difficulties to the facts presented by the application. The city acts like a judge in evaluating the facts against the legal standard. If the applicant meets the standard, then the variance may be granted. In contrast, when the city writes the rules in zoning ordinance, the city is exercising “legislative” authority and has much broader discretion.

What is practical difficulties?

Practical difficulties is a legal standard set forth in law that cities must apply the when considering applications for variances. It is a three-factor test and applies to all requests for variances. To constitute practical difficulties, all three factors of the test must be satisfied. For more information, see [Minn. Stat. § 462.357](#).

This material is provided as general information and is not a substitute for legal advice.
Consult your attorney for advice concerning specific situations.

What are the practical difficulties factors?

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line, or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land, and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

Are there are other factors a city should consider?

Yes. State statute provides variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan. So, in addition to the three-factor practical difficulties test, a city evaluating a variance application should make findings as to (1) whether or not the variance is in harmony with the purposes and intent of the ordinance, and (2) whether or not the variance is consistent with the comprehensive plan.

What about economic considerations?

Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs or argue they will not receive expected revenue without the variance. State statute specifically notes that economic considerations alone cannot create practical difficulties. Rather, practical difficulties exists only when the three statutory factors are met.

What about undue hardship?

"Undue hardship" was the name of the three-factor test prior to a May 2011 change of law. Effective May 6, 2011 Minnesota Laws, Chapter 19, amended [Minn. Stat. § 462.357, subd. 6](#) to restore municipal variance authority in response to *Krummenacher v. City of Minnetonka*, 783 N.W.2d 721 (Minn. June 24, 2010). In *Krummenacher*, the Minnesota Supreme Court interpreted the statutory definition of "undue hardship" and held that the "reasonable use" prong of the "undue hardship" test was not whether the proposed use is reasonable, but rather whether there is a reasonable use in the absence of the variance.

What did the 2011 law change?

The 2011 law changed the first factor back to the “reasonable manner” understanding that had been used by some lower courts prior to the *Krummenacher* ruling. The 2011 law renamed the municipal variance standard from “undue hardship” to “practical difficulties,” but otherwise retained the familiar three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character. The 2011 law also provides that: “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan.”

Can a city grant a use variance?

Sometimes a landowner will seek a variance to allow a particular use of their property that would otherwise not be permissible under the zoning ordinance. Such variances are often termed “use variances” as opposed to “area variances” from dimensional standards. Use variances are not generally allowed in Minnesota—state law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located. For more information, see [Minn. Stat. § 462.357](#).

Is a public hearing required?

Minnesota statute does not clearly require a public hearing before a variance is granted or denied, but many practitioners and attorneys agree that the best practice is to hold public hearings on all variance requests. A public hearing allows the city to establish a record and elicit facts to help determine if the application meets the practical difficulties factors.

What is the role of neighborhood opinion?

Neighborhood opinion alone is not a valid basis for granting or denying a variance request. While city officials may feel their decision should reflect the overall will of the residents, the task in considering a variance request is limited to evaluating how the variance application meets the statutory practical difficulties factors. Residents can often provide important facts that may help the city in addressing these factors, but unsubstantiated opinions and reactions to a request do not form a legitimate basis for a variance decision. If neighborhood opinion is a significant basis for the variance decision, the decision could be overturned by a court.

What is the role of past practice?

While past practice may be instructive, it cannot replace the need for analysis of all three of the practical difficulties factors for each and every variance request. In evaluating a variance request, cities are not generally bound by decisions made for prior variance requests. If a city finds that it is issuing many variances to a particular zoning standard, the city should consider the possibility of amending the ordinance to change the standard.

When should a variance decision be made?

A written request for a variance is subject to Minnesota’s 60-day rule and must be approved or denied within 60 days of the time it is submitted to the city. A city may extend the time period for an additional 60 days, but only if it does so in writing before expiration of the initial 60-day period. Under the 60-day rule, failure to approve or deny a request within the statutory time period is deemed an approval. For more information, see [Minn. Stat. § 15.99](#).

How should a city document a variance decision?

Whatever the decision, a city should create a record that will support it. In the case of a variance denial, the 60-day rule requires that the reasons for the denial be put in writing. Even when the variance is approved, the city should consider a written statement explaining the decision. The written statement should explain the variance decision, address each of the three practical difficulties factors and list the relevant facts and conclusions as to each factor.

Can meeting minutes adequately document a variance decision?

If a variance is denied, the 60-day rule requires a written statement of the reasons for denial be provided to the applicant within the statutory time period. While meeting minutes may document the reasons for denial, usually a separate written statement will need to be provided to the applicant in order to meet the statutory deadline. A separate written statement is advisable even for a variance approval, although meeting minutes could serve as adequate documentation, provided they include detail about the decision factors and not just a record indicating an approval motion passed.

Can a city attach conditions to a variance?

By law, a city may impose a condition when it grants a variance so long as the condition is directly related and bears a rough proportionality to the impact created by the variance. For instance, if a variance is granted to exceed an otherwise applicable height limit, any conditions attached should presumably relate to mitigating the affect of excess height. For more information, see [Minn. Stat. § 462.357](#).

What happens to the variance once granted?

A variance once issued is a property right that “runs with the land” so it attaches to and benefits the land and is not limited to a particular landowner. A variance is typically filed with the county recorder. Even if the property is sold to another person, the variance applies.

Jed Burkett 2011/06



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|-----------------------------------|
| Meeting Date | July 13, 2011 |
| Agenda Item | Policy G2 |
| Attachment | Draft 2011-12 City Goals |
| Submitted By | Justin Miller, City Administrator |

| | |
|----------------------------|--|
| Item | Approval of 2011-12 City Council Goals |
| Description | <p>Each year, usually during June or July, the Falcon Heights City Council establishes their goals for the upcoming year. This process is done during the summer so that staff can incorporate any financial needs associated with those goals into the preliminary levy, which must be set by September 15th of each year.</p> <p>At the June 29th city council workshop, the attached list was developed by the city council. Staff has attempted to incorporate the desired changes into the attached "City of Falcon Heights 2011-12 Goals". Items that are in striketrough are items that either were completed or are no longer appropriate. Items in <u><i>underline italics</i></u> are new items brought forward by the city council.</p> <p>Once these are approved, a clean copy, along with a status dashboard, will be placed on the city's website.</p> |
| Budget Impact | N/A |
| Attachment(s) | 2011-12 City Council Goals |
| Action(s) Requested | Staff recommends approval of the 2011-12 City Council goals. |

City of Falcon Heights

2011-12 Goals

Purpose: To sustain this community as a great place to live, work and visit.

Goal 1: To protect the public health and safety.

Strategy 1: Provide public safety services to citizens.

Action Items:

- Provide a responsive, visible, police service utilizing community oriented policing model
- Provide a responsive, well-trained fire service
- Practice the emergency management plan
- Continue to offer training to prepare volunteers to assist with disaster response
- Maintain Community Emergency Response Teams (CERT) throughout the city
- Work with other cities, agencies and institutions in Ramsey County to practice and implement a county-wide emergency management inventory and plan
- Continue to use St. Paul for ambulance service
- Participate in the North Suburban Haz Mat Team
- ~~Develop a bicycle safety program~~
- Conduct proactive neighborhood crime prevention meetings as needed, including outreach to Falcon Heights Elementary, group homes and senior housing buildings.
- Promote services provided by SAPD such as premise checks, vacation checks and car seat safety/installations
- Monitor and evaluate rental licensing program
- ~~Adopt dangerous dog ordinance and response plan~~
- Pursue comprehensive analysis of fire department operations in order to maximize efficiency and use of resources
- Complete city council FEMA training courses in regards to the National Incident Management System (NIMS)

Strategy 2: Participate in initiatives designed to prevent crime and the need for emergency responses.

Action Items:

- Promptly remove graffiti from public buildings and provide removal materials for city businesses
- Expand opportunities for using technology to improve crime watch notification
- Communicate regularly with residents about Homeland Security and the emergency management plan
- ~~Support the work of the Neighborhood Commission and Neighborhood Liaisons~~

- Use traffic-calming tools including the speed monitoring trailer and warning signs
- Take steps to prevent hate crimes through the activities of the Human Rights Commission

Strategy 3: Participate in early intervention programs with juveniles.

Action Items:

- Support Northwest Youth and Family Services (NYFS)
- Continue referrals to NYFS through facilitating connections between NYFS and SAPD

Strategy 4: Protect the public health.

Action Item:

- Participate in Ramsey County public health emergency exercises
- Publicize mosquito control measures, including free tire pick-up by Metropolitan Mosquito Patrol, utilizing city council meetings and other publication methods.
- Continue education about preparing for pandemic flu ~~in this community~~
- Distribute free gun locks

Goal 2: To sustain and promote the assets of the city's unique neighborhoods and tax base including commercial, residential and open space uses for present and future generations.

Strategy 1: Maintain and enhance the neighborhood and community parks with updated facilities, recreation and community services.

Action Items:

- Maintain community landscaping ~~and investigate additional options, with an emphasis on native plant varieties~~
- Maintain a sound maintenance program for public facilities
- Focus on the quality, appearance, and longevity of public improvements
- Research opportunities for enhancing recreational resources at Falcon Heights Elementary School
- Support and continue to promote an Adopt-A-Park program
- Implement the Parks and Recreation Master Plan

Strategy 2: Work with businesses and homeowners to maintain a functional and desirable business and residential environment.

Action Items:

- Continue to review and communicate city code requirements to business and commercial property owners

- Maintain the desirability of neighborhoods through education and code enforcement
- Use non-profit organizations such as NYFS
- Communicate community standards through photos and code information on the website
- Publicize Falcon Heights businesses when appropriate, including a "Buy Local" campaign

Strategy 3: Maintain the City's infrastructure.

Action Items:

- Maintain and increase the pathways
- Maintain the sanitary sewers and storm sewers
- Continue with a boulevard tree program for replacement, maintenance and expansion
- Publicize the resources available through the Housing Resource Center
- Maintain streets and alleys in accordance with the Pavement Management Plan
- Sponsor buckthorn removal day with University Grove neighborhood and Lauderdale
- Review urban forestry programs in response to threats such as Emerald Ash Borer and continue to seek creative financing options to maximize city and resident resources
- ~~Approach the University of Minnesota about providing pedestrian opportunities for residents through research fields.~~

Strategy 4: Protect and enhance the physical land use characteristics of the community.

Action Items:

- Regularly review and update zoning code as necessary, including a review of ordinances that prohibit front porches
- Participate in planning discussions, and get the required planning expertise if needed to assure that University of Minnesota and State Fair land uses and future inter-government decisions do not negatively impact the City's neighborhoods
- Expand the use of the GIS system for land use planning and maintaining information on the city's land use and facilities
- Support environmental education programs and activities

Strategy 5: Pursue community and economic development opportunities and business retention activities.

Action Items:

- Be well informed with the necessary planning, engineering, financial and legal expertise when making land use decisions

- Offer local businesses opportunities to be included in new resident welcome packets and community activities
- Support redevelopment projects to allow for maximizing property tax generating opportunities
- Establish economic development plan for the entire city

Strategy 6: Expand pedestrian and bicycle opportunities.

Action Items:

- Be an active partner in the Active Living Ramsey County! (ALRC) initiative
- Complete North Suburban Connector trail project
- Participate in the 1000 Benches of Ramsey County program
- ~~Complete Larpenteur Avenue Streetscape project~~

Strategy 7: Promote the unique assets of Falcon Heights.

Action Items:

- Distribute the “Fun Facts About Falcon Heights Flyer”
- Develop city publications in alternate languages
- Promote the unique resources of the University of Minnesota St. Paul Campus

Goal 3: To expand opportunities for the interaction and involvement of citizens of all ages in their neighborhoods and community.

Strategy 1: Promote and participate in youth development.

Action Items:

- Continue the Junior Leaders program
- Include youth as commission members by contacting RAMS and RAHS
- Include youth in city meetings, trainings and courses
- Informally interact with youth when the opportunity arises
- Speak about local government at schools or youth related functions
- Recognize youth achievement at City Council meetings, in the newsletter, and through the Neil Kwong Youth Citizenship Awards, and the North Suburban Gavel Association
- Promote awareness of the Cable Commission scholarships and internships
- Encourage student participation in City Council Meetings
- Participate in the Kids Voting Program at precincts one and two through the Roseville Rotary Club
- Conduct a council meeting with students

Strategy 2: Host community/neighborhood events and activities.

Action Items:

- Sponsor Annual Ice Cream Social, Winterfest, Falcon Heights/Lauderdale 5K Fun Run, and Spring Together Event
- Encourage neighborhood gatherings
- Support the Neighborhood Block Parties and Night to Unite activities
- Support the Fire Department/Public Safety Open House
- Encourage volunteers to be involved in community planning activities
- Hold an annual food drive in conjunction with Falcon Heights Elementary School and other community partners
- ~~Review and explore existing and additional city sponsored events~~
- ~~Review city ordinance prohibiting retail activity in city parks~~

Strategy 3: Explore, create and provide an array of recreation programming.

Action Item:

- Provide recreation programming for all age groups
- Provide referrals for alternate programming
- Manage recreation programming on a seasonal basis
- Provide space for and promote the Falconeers Senior program
- Promote recreation scholarships and the Friends of the Park program
- ~~Investigate “splash pad” concept at Community Park~~
- Support and publicize cross country skiing opportunities at Les Bolstad Golf Course
- Investigate park and recreation agreement with neighboring cities to benefit our residents when enrolling in non-Falcon Heights programs

Strategy 4: Encourage citizens to participate in city government.

Action Items:

- Promote resident participation
- Promote, recruit, and publicize citizen participation in city council meetings, city commissions and task forces
- Develop volunteer programs to supplement city services, including a volunteer gardener program for city landscaping areas

Strategy 5: Build stronger community and neighborhood connections.

Action Items:

- Distribute the “Welcome to Falcon Heights” booklet
- Support and promote the Neighborhood Liaison Program
- Use conflict resolution resources for neighbors to use in resolving neighborhood conflicts
- Produce three newsletters per year
- ~~Distribute monthly Falcon Flyer and post to city website~~

- Support and expand the city’s website
- Promote and support the AARP Tax Assistance Program
- Continue implementation of “Aging-In-Place” in the City, including promotion of services such as NYFS senior chore program, meals on wheels, and block nurse programs.

Strategy 6: Maintain and promote our commitment to human rights and diversity.

Action Items:

- Promote diversity on our commissions
- Support the work of the Falcon Heights Human Rights Commission
- Promote outreach to the community’s youth in relation to human rights topics

Goal 4: To provide a responsive and effective city government.

Strategy 1: Communicate promptly and clearly with citizens, business owners and institutional representatives by anticipating information needs and quickly responding to questions.

Action Items:

- Provide a photo of new staff members and a description of jobs in the newsletter
- Publish a summary of the goals in the City’s newsletter and on the website
- Educate residents about the property tax
- Hold a budget hearing annually
- ~~Develop dashboard/monitoring process for city goals~~

Strategy 2: Maintain collaborative relationships with other entities.

Action Items:

- Participate in the U of M Campus/Community Advisory Committee and on the Stadium Area Advisory Group
- Maintain regular communication with the University of Minnesota, the Metropolitan Council, Ramsey County, the Minnesota State Fair, the Capital Region Watershed District, Rice Creek Watershed District, the cities surrounding Falcon Heights, and the State of Minnesota
- Convey city goals to the City’s representatives at the legislature, the Metropolitan Council and the County, as well as to neighboring communities
- Met Council presentation at future council meeting
- Participate in Northwest Youth and Family Service, North Suburban Communications Commission and CTV15, the Ramsey County League of Local Governments, *the League of Minnesota Cities*, *Metro Cities*, and the Regional Council of Mayors

- Encourage Council members and staff to participate in service and professional organizations
- Monitor redistricting process being conducted by the Minnesota Legislature

Strategy 3: Effectively manage the City's consulting and personnel resources.

Action Items:

- Evaluate the performance and work assignments of City employees through annual performance reviews
- Provide employees with affordable resources they require to efficiently and effectively do their jobs, including a training plan and technology resources
- Evaluate and review consultants' performances and fees
- Retain highly skilled and high-functioning employees
- Provide salaries and benefits that are competitive with cities of a similar size, scale, and scope

Strategy 4: Effectively manage the city's financial resources.

Action Items:

- Update and provide a well-researched five year capital improvement program
- Review and adjust fees and policies as part of the annual budgeting process
- Research and pursue new revenue sources, including grants
- Pursue conduit bonding opportunities
- Review and evaluate the City's long term financial needs and the City's current and future financial resources to meet these needs
- Continue to research and pursue new opportunities for reducing expenses by using more contracts and joint powers agreements to share equipment, personnel, and technology with other levels of government
- Maintain a contingency fund to be prepared for unexpected, but necessary, expenditures
- Retain highly skilled and high functioning employees
- Continue to meet the standards for the GFOA Award for Excellence in Financial Reporting
- Evaluate all city services in regards to costs, benefits, and opportunities to find efficiencies by partnering with adjacent cities or organizations
- Implement GASB 54 requirements (fund balance designations)
- Research possibility of parking meters in targeted areas of the city
- Research implementation of a park dedication ordinance for new developments
- Investigate incentive program to reduce storm water runoff

Strategy 5: Develop and expand an e-mail capability to communicate with residents

Action Items:

- Solicit e-mail addresses through the ~~Falcon Flyer~~ and newsletter, at the front desk, on the City website, and at community events
- Solicit new resident e-mail addresses
- Provide critical information in a timely manner utilizing city's list serv
- Develop and expand use of social networking sites such as Twitter and Facebook

Strategy 6: Expand the capability to conduct any city-to-resident transaction online

Goal 5: Provide for a clean, healthy, sustainable environment.

Strategy 1: Undertake efforts to maximize recycling.

Action Items:

- Research an incentive program to encourage recycling
- Conduct rain barrel workshop for city residents
- Conduct city-wide energy fair
- ~~Complete recycling contract negotiations~~

Strategy 2: Consider environmental benefits in city purchasing.

Action Items:

- Consider environmentally-friendly options in city vehicles and public works
- Change to energy-efficient, compact light bulbs
- Pursue bulk purchasing program for environmentally friendly products (i.e. solar water heaters, water saver toilets)

Strategy 3: Continue support of Community Garden.

Action Items:

- Continue publicity in newsletter, on website, and in the Falcon Flyer
- Continue Adopt-a-Crop program

Strategy 4: Create an inventory of greenhouse/global warming emissions.

- ~~Conduct comprehensive review of~~ Continue to update data regarding the city's carbon output, including identifying steps to reduce the overall carbon footprint of the city.
- Implement GreenStep Cities program
- Assist the University of Minnesota in their sustainability efforts



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|---|
| Meeting Date | July 13, 2011 |
| Agenda Item | Policy G3 |
| Attachment | Comprehensive bid list Adopt-a-court grant agreement |
| Submitted By | Michelle Tesser, Assistant to the City Administrator |

| | |
|----------------------------|---|
| Item | Acceptance of Construction Bid for Community Park Tennis Courts |
| Description | The Community Park tennis courts have been in poor condition for several years with heaved cracks beyond maintenance. In 2008, staff reviewed several options for improving the courts but was unable to receive grant funding since the improvements were short term. Since 2008, staff has budgeted for a complete tear down and new construction of the tennis courts. Staff requested construction bids on April 22, 2011. Attached is the list of construction bids received. |
| Budget Impact | The Parks and Recreation Capital fund has budgeted \$120,000 for the construction of the new tennis courts which is reflected in the 2011 CIP. This budgeted amount assumes receiving \$40,000 in grant funding for a net cost to the city of \$80,000. The engineer and construction bids were under the originally budgeted amount by \$17,000. USTA Northern has awarded the city with a \$3,200 adopt-a-court grant. USTA National has awarded the city with a \$17,000 facility assistance grant. Total grant award is \$20,200 with a total cost to the city of \$82,800. |
| Attachment(s) | Comprehensive bid list Adopt-a-court grant agreement |
| Action(s) Requested | Construction bond bids will expire on July 24, 2011. Staff recommends approving the Midwest Asphalt construction bid of \$90,250. |

DOCUMENT 00400

BID FORM

SUBMITTED BY:

Company: Midwest Asphalt Corp
Address: 5829 Baker Rd #420 Minnetonka Mn
Estimator: Paul K. Hoffer SS345
Phone Number: # 952-937-8033

SUBMITTED TO:

City of Falcon Heights
2077 W. Larpenteur
Falcon Heights, MN 55113
Attn: Michelle Tesser

FOR:

City of Falcon Heights
Community Park
Tennis Court Reconstruction Project

The undersigned, being familiar with the local conditions affecting the cost of the work and with the Contract Documents, including the Bid Solicitation, Instructions to Bidders, General and Supplementary Conditions, Divisions 1, 2, and 3: and Plans on file in the office of CEI Engineering Associates, Inc. in accordance with the provisions thereof, hereby proposes to furnish all labor, materials, and equipment necessary for:

Acknowledgement of Addenda:

Addendum # _____ Date Received: _____
Addendum # _____ Date Received: _____

BID ITEM ONE: Tennis Court Demolition and Reconstruction for the sum of:

Ninety thousand two hundred
Dollar and no/100 \$ 90,250.00

BID ITEM TWO: Two-Pole Light System for the sum of:

Forty-five thousand three
hundred mo/cos \$ 45,300.00

BID ITEM THREE: Four-Pole Light System for the sum of:

Fifty-two thousand six hundred
mo/cos \$ 52,600.00

UNIT PRICES

A. All unit prices, where applicable, shall include the removal of existing materials.

1. Unit Price One: Provide a unit price for the addition of removing existing poor subsoil's then placing and compacting limestone class 5 base aggregate.

\$ 43.75
per cubic yard

2. Unit Price Two: Provide a unit price for the addition or reduction of installing soil reinforcement fabric.

\$ 1.20
per square yard

In submitting this bid, it is understood that the right is reserved by the Owner to reject any and all bids and it is agreed that this bid may not be withdrawn for a period of 60 days after the date of the bid opening. The Owner reserves the right to accept any or all Bid Items regardless of the order listed. It is the Owner's intent to award the contract to one contractor.

All Addenda shall become part of the bid and the work, and shall be acknowledged above in the spaces provided.

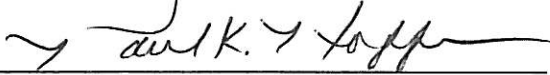
A bid shall be rejected if it contains any alteration or erasure unless the alteration or erasure is corrected as herein provided. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person signing the bid. The person signing the bid shall also file a certificate with the bid explaining the correction of the alteration or erasure.

Each bid must be accompanied by bid security as described in the Instructions to Bidders.

Midwest Asphalt Corp
Company

Paul K. Hoffer
Estimator / Project Manager

5929 Baker Rd #420
Address Minnetonka Mn
55345


Signature

952.937-8033
Phone Number

April 24, 2010
Date

Blair B. Bury
Principal

THE AMERICAN INSTITUTE OF ARCHITECTS



AIA Document A310

Bid Bond

BOND # RB0041129

KNOW ALL MEN BY THESE PRESENTS, that we **Midwest Asphalt Corporation**
P.O. Box 5477, Hopkins, MN 55343

(Here insert full name, and address or legal title of Contractor)

as Principal, hereinafter called the Principal, and **Granite Re, Inc.**
14001 Quailbrook Drive Oklahoma City, OK 73134

(Here insert full name, and address or legal title of Surety)

a corporation duly organized under the laws of the State of OK

as Surety, hereinafter called the Surety, are held and firmly bound unto **City Of Falcon Heights**

(Here insert full name, and address or legal title of Owner)

as Obligee, hereinafter called the Obligee, in the sum of

Five Percent of Amount Bid----- Dollars (\$ 5% of Amount Bid),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

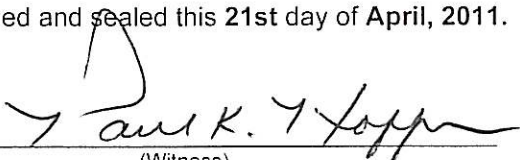
WHEREAS, the Principal has submitted a bid for

Community Park Tennis Court Reconstruction-Tennis Court Reconstruction

(Here insert full name, address and description of project)

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 21st day of April, 2011.



(Witness)

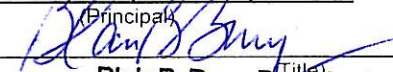


(Witness)

Midwest Asphalt Corporation

(Principal)

(Seal)



Blair B. Bury, President

Granite Re, Inc.

(Surety)

(Seal)



(Title)

Tom Lahl, Attorney-in-Fact

Pate Bonding, Inc.

1276 South Robert Street

West St. Paul, MN 55118

(651)457-6842

ACKNOWLEDGMENT OF PRINCIPAL (Individual)

State of _____)
County of _____)

On this _____ day of _____, in the year _____, before me personally come(s) _____, to me known and known to me to be the person(s) who (is) (are) described in and executed the foregoing instrument and acknowledge(s) to me that __ he __ executed the same.

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL (Partnership)

State of _____)
County of _____)

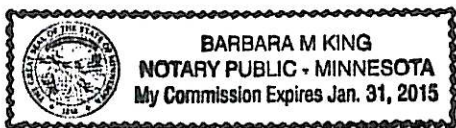
On this _____ day of _____, in the year _____, before me personally come(s) _____, a member of the co-partnership of _____ to me known and known to me to be the person who is described in and executed the foregoing instrument and acknowledges to me that he executed the same as for the act and deed of the said co-partnership.

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL (Corporation)

State of Mn)
County of Dennepin)

On this 25 day of April, in the year 2011, before me personally come(s) Blau B. Bury to me known, who, being duly sworn, deposes and says that he is the Pres. of the company the corporation described in and which executed the foregoing instrument; that he knows the seal of the said corporation; the seal affixed to the said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.



Barbara M. King
Notary Public

ACKNOWLEDGMENT OF SURETY

State of Minnesota)
County of Dakota)

On this 21st day of April, in the year 2011, before me personally come(s) Tom Lahl, Attorney(s)-in-Fact of Granite Re, Inc. with whom I am personally acquainted, and who, being by me duly sworn, says that he is (are) the Attorney(s)-in-Fact of Granite Re, Inc. company described in and which executed the within instrument; that he know(s) the corporate seal of such company; and that seal affixed to the within instrument is such corporate seal and that it was affixed by order of the Board of Directors of said company, and that he signed said instrument as Attorney(s)-in-Fact of the said company by like order.



Tom Lahl
Notary Public

GRANITE RE, INC.
GENERAL POWER OF ATTORNEY

Know all Men by these Presents:

That GRANITE RE, INC., a corporation organized and existing under the laws of the State of OKLAHOMA and having its principal office at the City of OKLAHOMA CITY in the State of OKLAHOMA does hereby constitute and appoint:

JONATHAN PATE; WANDA FRANZ; TOM LAHL; LISA M. FRANCOUR; JENNIFER BOYLES its true and lawful Attorney-in-Fact(s) for the following purposes, to wit:

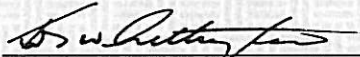
To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said GRANITE RE, INC. a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said GRANITE RE, INC. through us, its Board of Directors, hereby ratifies and confirms all and whatsoever the said:

JONATHAN PATE; WANDA FRANZ; TOM LAHL; LISA M. FRANCOUR; JENNIFER BOYLES may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said GRANITE RE, INC. has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary/Treasurer, this 14th day of January, 2008.

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)





Kenneth D. Whittington, President



Rodman A. Frates, Secretary/Treasurer

On this 14th day of January, 2008, before me personally came Kenneth D. Whittington, President of the GRANITE RE, INC. Company and Rodman A. Frates, Secretary/Treasurer of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said, that they, the said Kenneth D. Whittington and Rodman A. Frates were respectively the President and the Secretary/Treasurer of the GRANITE RE, INC., the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their name thereto by like order as President and Secretary/Treasurer, respectively, of the Company.

My Commission Expires:
May 9, 2008
Commission #: 00005708





Notary Public

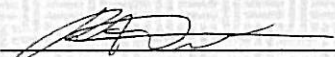
GRANITE RE, INC.
Certificate

THE UNDERSIGNED, being the duly elected and acting Secretary/Treasurer of Granite Re, Inc., an Oklahoma Corporation, HEREBY CERTIFIES that the following resolution is a true and correct excerpt from the July 15, 1987, minutes of the meeting of the Board of Directors of Granite Re, Inc. and that said Power of Attorney has not been revoked and is now in full force and effect.

“RESOLVED, that the President, any Vice President, the Secretary, and any Assistant Vice President shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the Company in the course of its business. On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the Company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking.”

IN WITNESS WHEREOF, the undersigned has subscribed this Certificate and affixed the corporate seal of the Corporation this 21st day of April, 2011.





Rodman A. Frates, Secretary/Treasurer



1001 W. 98th Street
Suite 101
Bloomington, MN 55431
www.northern.usta.com
P 952-887-5001
F 952-887-5061

May 9, 2010

Jeff Baill
President
612-338-6000 work
612-750-2912 cell

Roshan Rajkumar
1st Vice President

Dave Mathews
Vice President

Brian Biernat
Treasurer

Kathy Lundberg
Secretary

Brent Frueh
USTA Section Delegate

Mike Goldammer
Executive Director

Michelle Tesser
City of Falcon Heights
2077 W. Larpenteur Ave.
Falcon Heights, MN 55113

Dear Ms. Tesser,

Congratulations! On behalf of the USTA Northern Grants Committee, I am very pleased to inform you that **City of Falcon Heights has been awarded Adopt-A-Court Funding in the amount of \$3,200.** We congratulate you on your hard work in advocating for renovations at the Community ParkTennis Courts and hope that a USTA Northern grant will assist with local fundraising efforts. City of Falcon Heights exemplifies the type of commitment to promoting the game of tennis for which this program was established.

In order to receive payment, **please return a countersigned copy of this letter.** Grant funds must be used in accordance with the budget and project plan outlined in your Adopt-A-Court grant application. In addition, please work with the technical team at our national office to ensure that your courts are built to USTA specifications, including the inclusion of 10 and Under Tennis blended lines. Any funds not used for these purposes by the end of the 2012 construction season shall revert to USTA Northern.

Acceptance of this grant indicates that you agree to submit an accountability report upon completion of your project. Please take a look at this enclosed form now so that you will be prepared to provide necessary information. Grant accountability is due back to USTA Northern by **December 1, 2011.**

Your grant award will be sent to you this summer. Please notify us of any opportunities for a public check presentation, such as at a fundraising event or groundbreaking ceremony, so that we can attempt to send a USTA Northern representative.

We look forward to following the progress of your renovation and appreciate your efforts to promote community tennis. If you have questions or need further assistance, please do not hesitate to contact me at the USTA Northern office.

Sincerely,

Becky Cantellano
Director of Tennis Programs & Services

Accepted by: Michelle Tesser, Assistant to the City 5/10/11
Name, Title Administrator Date
City of Falcon Heights 2006301107
Organization EIN #

Proud Sponsors of USTA Northern





The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|-----------------------------------|
| Meeting Date | July 13, 2011 |
| Agenda Item | Addendum 1 |
| Attachment | Resolution 11-10 |
| Submitted By | Justin Miller, City Administrator |

| | |
|----------------------------|---|
| Item | Resolution Regarding Ramsey County/Minnesota Vikings Sales Tax Proposals |
| Description | As has been well documented in local press outlets, the Ramsey County Board of Commissioners is proposing a ½ cent sales tax in Ramsey County to help support the construction of a football stadium for the Minnesota Vikings in Arden Hills. Recently, cities in Ramsey County were sent a request from the City of St. Paul asking to oppose the sales tax proposal. The City of St. Paul approved a similar resolution last week. |
| Budget Impact | N/A |
| Attachment(s) | Resolution 11-10 |
| Action(s) Requested | If the City Council desires, a resolution opposing the proposed sales tax is attached. |

**CITY OF FALCON HEIGHTS
COUNCIL RESOLUTION**

July 13, 2011

No. 11-10

**A RESOLUTION OPPOSING THE IMPOSITION OF A ½ CENT SALES TAX IN RAMSEY
COUNTY FOR THE CONSTRUCTION OF A VIKINGS STADIUM IN ARDEN HILLS**

WHEREAS, the Falcon Heights City Council recognizes the social and economic value of the Minnesota Vikings Football team to the State of Minnesota; and,

WHEREAS, to preserve the Minnesota Vikings as a valuable State amenity, the Falcon Heights City Council understands the desire to find a solution to the Vikings' stated interest in developing a new stadium; and,

WHEREAS, a proposal has been put forth by the Minnesota Vikings and the Ramsey County Board of Commissioners to construct a new stadium in Arden Hills on the site of the former Twin Cities Army Ammunitions Plant (TCAAP); and,

WHEREAS, to finance the construction of this facility, the Ramsey County Board has proposed the imposition of a ½ cent sales tax collected in Ramsey County in an amount sufficient to generate \$350 million; and,

WHEREAS, the Falcon Heights City Council believes this sales tax is being proposed at a difficult time for cities such as Falcon Heights that are facing significant budget pressures due to loss of state aids and general economic conditions; and,

WHEREAS, it is unfair and inequitable for the residents and businesses of Falcon Heights to be asked to bear a disproportionate financial burden for the construction of a State and regional amenity, particularly when the benefit to Falcon Heights taxpayers is tangential at best;

NOW THEREFORE, BE IT RESOLVED, that the Falcon Heights City Council opposes the imposition of a ½ cent sales tax in Ramsey County to support the construction of a Vikings stadium in Arden Hills; and,

BE IT FURTHER RESOLVED, that the Falcon Heights City Council encourages the Governor, the Legislature, the Ramsey County Board, the Minnesota Vikings and other interested parties to consider options for constructing a stadium that minimize risk to the taxpayers, limit the level of public subsidy (particularly for the host community), and promote a fair, multi-jurisdictional participation for a State-wide amenity.

Moved by:

Approved by: _____
Peter Lindstrom, Mayor
July 13, 2011

LINDSTROM _____ In Favor
GOSLINE
HARRIS _____ Against
LONG
MERCER-TAYLOR

Attested by: _____
Justin Miller
City Administrator
July 13, 2011



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|-----------------------------------|
| Meeting Date | July 13, 2011 |
| Agenda Item | Addendum 2 |
| Attachment | Resolution 11-09 |
| Submitted By | Justin Miller, City Administrator |

| | |
|----------------------------|---|
| Item | Livable Communities Demonstration Account Grant Application |
| Description | <p>Within the past month, the Hermes Floral property has been placed on the market. Last week staff met with representatives from Hermes and NorthMarq Properties, the real estate broker for the project. They were very interested in learning about what the City of Falcon Heights envisioned for this site and were excited about moving forward with the project.</p> <p>At this meeting, both parties expressed interest in applying for a Livable Communities Demonstration Account (LCDA) Pre-Development Grant. This grant would assist the city and property owner in developing a plan for the site as they market it to prospective buyers. The deadline for the grant application is July 15th, so action by the city council would be needed at the July 13th meeting.</p> |
| Budget Impact | The grant requires a 25% match by the city, and staff has already inquired with NorthMarq about partnering with them for this expense. It is estimated that a planning project like this would cost an estimate \$20,000, so the city/developer portion would be around \$5,000. Approving this item tonight does not commit the city to fund the project at this time. |
| Attachment(s) | Resolution 11-09 |
| Action(s) Requested | Staff recommends that the Falcon Heights City Council adopt the attached Resolution 11-09 applying for a Livable Communities Demonstration Account Pre-Development Grant for the Hermes Floral property. |

**CITY OF FALCON HEIGHTS
COUNCIL RESOLUTION**

July 13, 2011

No. 11-09

A RESOLUTION IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES
DEMONSTRATION ACCOUNT FUNDING AND AUTHORIZING AN
APPLICATION FOR GRANT FUNDS

WHEREAS, the City of Falcon Heights is a participant in the Livable Communities Act's Housing Incentives Program for 2011 as determined by the Metropolitan Council, and is therefore eligible to apply for Livable Communities Demonstration Account funds; and

WHEREAS, the City has identified a proposed project within the City that meets the Demonstration Account's purposes and criteria and is consistent with and promotes the purposes of the Metropolitan Livable Communities Act and the policies of the Metropolitan Council's adopted metropolitan development guide; and

WHEREAS, the City has the institutional, managerial and financial capability to ensure adequate project administration; and

WHEREAS, the City certifies that it will comply with all applicable laws and regulations as stated in the grant agreement; and

WHEREAS, the City agrees to act as legal sponsor for the project contained in the grant application to be submitted on July 15, 2011; and

WHEREAS, the City acknowledges Livable Communities Demonstration Account grants are intended to fund projects or project components that can serve as models, examples or prototypes for development or redevelopment projects elsewhere in the region, and therefore represents that the proposed project or key components of the proposed project can be replicated in other metropolitan-area communities; and

WHEREAS, only a limited amount of grant funding is available through the Metropolitan Council's Livable Communities Demonstration Account during each funding cycle and the Metropolitan Council has determined it is appropriate to allocate those scarce grant funds only to eligible projects that would not occur without the availability of Demonstration Account grant funding.

NOW THEREFORE, BE IT RESOLVED, that after appropriate examination and due consideration, the governing body of the City:

1. Finds that it is in the best interests of the City's development goals and priorities for the proposed project to occur at this particular site and at this particular time.

2. Finds that the project component(s) for which Livable Communities Demonstration Account funding is sought:

- (a) Will not occur solely through private or other public investment within the reasonably foreseeable future; and
- (b) Will occur within two years after a grant award only if Livable Communities Demonstration Account funding is made available for this project at this time.

3. Represents that the City is undertaking reasonable and good faith efforts to procure funding for the project component for which Livable Communities Demonstration Account funding is sought but has not yet been able to find or secure from other sources funding that is necessary for project component completion within two years and states that this representation is based on the following reasons and supporting facts:

List reasons and supporting facts here:

- (a) The project site, Hermes Floral Company, was identified in the City's 2030 Comprehensive Plan (approved 2008) as a candidate for multi-family residential/mixed use redevelopment in order to meet the City's housing goals.
- (b) The Hermes property was one of four rezoned in August 2010 to allow mixed use multi-family residential use at densities up to 40 units per acre in Falcon Heights, implementing the comprehensive plan. The property was not then for sale.
- (c) The City first learned on June 22, 2011, that the Hermes property would become available for sale. The cooperation of the owner was enlisted on June 29, 2011, in investigating the feasibility of redevelopment options for the Hermes property.
- (d) Redevelopment of the Hermes site to provide significant new housing not only fits the types of projects supported by the Livable Communities Demonstration Account but is key to the vision articulated in the Falcon Heights Comprehensive Plan.
- (e) The imminence of the deadline for Livable Communities Demonstration Account funding and the importance of this development opportunity prompted initiation of this grant application before other sources of funding could be found or secured.

4. Authorizes its City Administrator to submit on behalf of the City an application for Metropolitan Council Livable Communities Demonstration Account grant funds for the project component(s) identified in the application, and to execute such agreements as may be necessary to implement the project on behalf of the City.

Moved by:

Approved by: _____
Peter Lindstrom, Mayor
July 13, 2011

LINDSTROM _____ In Favor
GOSLINE
HARRIS _____ Against
LONG
MERCER-TAYLOR

Attested by: _____
Justin Miller
City Administrator
July 13, 2011



The City That Soars!

REQUEST FOR COUNCIL ACTION

| | |
|---------------------|-----------------------------------|
| Meeting Date | July 13, 2011 |
| Agenda Item | Addendum 3 |
| Attachment | Ordinance 11-02 |
| Submitted By | Justin Miller, City Administrator |

| | |
|----------------------------|---|
| Item | Ordinance Allowing for Electrical Inspections |
| Description | <p>Falcon Heights, like many cities, contracts with the State of Minnesota for electrical inspections on all construction projects. Due to the state budget impasse and shutdown, all electrical inspections being conducted by the State have been halted. There are numerous projects in the city that are on hold due to this, and since the outlook for a speedy resolution is in doubt, alternate arrangements need to be made.</p> <p>According to state statute, and city may provide electrical inspections if an ordinance is passed by the city council. Our building inspector is not a licensed electrical inspector, so the city would need to contract with another person. Staff is in discussions with several options and hopes to have one lined up by the time this ordinance is considered.</p> |
| Budget Impact | None - permits fees will be handled between the contractor and inspector. |
| Attachment(s) | Ordinance 11-02 |
| Action(s) Requested | Staff recommends that the Falcon Heights City Council adopt the attached ordinance 11-02 allowing the City of Falcon Heights to conduct electrical inspections and to authorize staff to enter into a contract with Brian Nelson for the purposes of electrical inspections during the state shutdown. |

ORDINANCE NO. 11-01

CITY OF FALCON HEIGHTS
RAMSEY COUNTY, MINNESOTA

**AN ORDINANCE AMENDING CHAPTER 105
OF THE FALCON HEIGHTS CITY CODE CONCERNING
ELECTRICAL REGULATIONS**

THE CITY COUNCIL OF THE CITY OF FALCON HEIGHTS ORDAINS:

Section 1. Chapter 105 of the Falcon Heights City Code is amended by adding Article IV to provide as follows:

Article IV Electrical Regulations

105-70. Purpose; Application of this Section

(a) The purpose of this Section is to implement the provisions of the Minnesota State Building Code and Minnesota Rules Chapter 1315 which adopts the National Electrical Code.

(b) The provisions of this Section shall apply to all installations of electrical conductors, fittings, devices, fixtures hereinafter referred to as "electrical equipment", within or on public and private buildings and premises, with the following general exceptions. The provisions of this Section do not apply to the installations in mines, ships, railway cars, aircraft, automotive equipment or the installations or equipment employed by a railway, electric or communication utility in the exercise of its functions as a utility, except as otherwise provided in this Section.

(c) As used in this Section, "reasonably safe to persons and property" as applied to electrical installations and electrical equipment means safe to use in the service for which the installation or equipment is intended without unnecessary hazard to life, limb or property.

(d) For purposes of interpretation of the provisions of this Section, the most recently published edition of the National Electrical Code shall be prima facie evidence of the definitions and scope of words and terms used in this Section.

105-71. Electrical Inspector, Qualifications and Appointment

Creation; Qualifications: There is hereby created the office of Electrical Inspector. The person chosen to fill the office of Electrical Inspector shall be of good moral character, shall be possessed of such executive ability as is requisite for the performance of his duties and shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; shall be well versed in approved methods of construction for safety to persons and property; the statutes of the State relating to electrical work and any orders, rules and regulations issued by authority thereof; and the National Electrical Code as approved by the American Standards Association; shall have two (2) years' experience as an electrical inspector or five (5) years' experience in the installation of electrical equipment, or a graduate mechanical or electrical engineer with two (2) years of practical electrical experience.

(1) Licensed Inspector: The Electrical Inspector shall be a licensed master or journeymen electrician as defined under Minnesota Statutes.

(2) Duties of the Electrical Inspector: It shall be the duty of the Inspector to enforce the provisions of this Section. The Inspector shall, upon application, grant permits for the installation or alteration of electrical equipment, and shall make inspections of electrical installations, all as provided in this Section. The Inspector shall keep complete records of all permits issued, inspections and reinsertions made and other official work performed in accordance with the provisions of this Section.

a. No Financial Interest: It shall be unlawful for the Inspector to engage in the sale, installation or maintenance of electrical equipment, directly or indirectly, and the Inspector shall have no financial interest in any concern engaged in any such business.

b Authority of Electrical Inspector: The Inspector shall have the right during reasonable hours to enter any building or premises in the discharge of his official duties, or for the purpose of making any inspection, reinsertion or test of electrical equipment contained therein or its installation. When any electrical equipment is found by the Inspector to be dangerous to persons or property because it is defective or defectively installed, the person responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs required in the judgment of the Inspector to place such equipment in safe condition. If such work is not completed within fifteen (15) days or any longer period that may be specified by the Inspector

in said notice, the Inspector shall have the authority to disconnect or order discontinuance of electrical service to said electrical equipment. In cases of emergency where necessary for safety to persons and property, or where electrical equipment may interfere with the work of the Fire Department, the Inspector shall have the authority to disconnect or cause disconnection immediately of any electrical equipment.

105-72. Standards for Electrical Equipment Installation

- (a) All installations of electrical equipment shall be reasonably safe to persons and property and in conformity with the provisions of this Section and the applicable statutes of the State and all orders, rules and regulations issued by the authority thereof. All electrical equipment shall be listed and labeled by a testing agency.
- (b) Conformity of installations of electrical equipment with applicable regulations set forth in the current National Electrical Code as adopted by the Minnesota Rules shall be prima facie evidence that such installations are reasonably safe to persons and property. Noncompliance with the provisions of this Section or the National Electrical Code as adopted by the Minnesota Rules shall be prima facie evidence that the installation is not reasonably safe to persons and property.
- (c) The Electrical Inspector may, with approval of the Building Official, authorize installations of special wiring methods other than herein provided for.
- (d) Buildings or structures moved from without to within and within the limits of the City shall conform to all of the requirements of this Code for new buildings or structures.
- (e) Existing buildings or structures hereafter changed in use shall conform in all respects to the requirements of this Code for the new use.

105-73. Connections to Installations

- (a) It shall be unlawful for any person to make connections from a supply of electricity to any electrical equipment for the installation of which a permit is required or which has been disconnected or ordered to be disconnected by the Electrical Inspector.
- (b) The public or private utility providing services shall disconnect the same upon a written order from the Electrical Inspector, if the Inspector considers any electrical installation unsafe to life and property or installed contrary to this Code.

105-74. Permits and Inspectors

(a) **Permit Required:** An electrical permit is required for each installation, alteration, addition or repair of electrical work for light, heat and power within the limits of the City. Permits for the installation of electrical work in new structures shall only be issued to electrical contractors duly licensed by the State. Permits for the installation, alteration, addition or repair of electrical work in existing structures shall only be issued to electrical contractors duly licensed by the State or to resident owners of property where the work is to be done.

(b) **Public Service Corporation Exception:** No permit shall be required for electrical installations of equipment owned, leased, operated or maintained by a public service corporation which is used by said corporation in the performance of its function as a utility, except that such electrical installation shall conform to the minimum standards of the National Electrical Safety Code.

(c) **Ownership:** Ownership of any transmission or distribution lines or appurtenances thereto, including, but not limited to, transformers, shall not be transferred by a public service corporation to any person, except another franchised public service corporation dealing in electric energy for distribution and sale, without a permit first having been issued therefore by the City. Such permit shall be issued only after the facilities to be transferred have been inspected and approved as provided in this Section and upon payment of an inspection fee as set forth in this Section of the Section.

(d) **Application and Plans:** Application for such permit, describing the electrical work to be done, shall be made in writing, to the City by the person so registered to do such work. The application shall be accompanied by such plans, specifications and schedules as may be necessary to determine whether the electrical installation as described will be in conformity with all the legal requirements. The fees for electrical inspection as set forth in this Section shall accompany such application. If applicant has complied with all of the provisions of this Section, a permit for such electrical installation shall be issued.

(e) **Concealment:** All electrical installations which involve the concealment of wiring or equipment shall have a "rough-in" inspection prior to concealment, wherein the Inspector shall be duly notified in advance, excluding Saturday, Sunday and holidays.

(f) **Inspection Fees:**

1. **Permits Required:** Before commencing any installation of any work regulated by this Section, a permit therefore shall be secured from the Building Department and the fee for such permit paid. The fees schedule set forth in Minnesota Statutes § 326B.37 is adopted by reference and incorporated herein. No such permit shall be issued to do any of the work or make any installation

regulated by this Section except to persons licensed to do such work under the terms of this Section. Holders of a contractor's license shall not obtain permits for electrical work unless the work is supervised by them and is performed by workers employed by them or their firm.

2. Fees Double, When: Should any person begin work of any kind, such as set forth in this Section, or for which a permit from the Electrical Inspector is required by ordinance, without having secured the necessary permit therefore from the Inspector of Buildings either previous to or during the day of the commencement of any such work, or on the next succeeding day where such work is commenced on a Saturday or on a Sunday or a holiday, he shall, when subsequently securing such permit, be required to pay double the fees provided for such permit.

3. Additional Fees and/or Shortages: Additional fees and/or fee shortages must be received by the City within fourteen (14) days of written notice. If additional fees and/or fee shortages are not received within fourteen (14) days of notice, permits for electrical installations will not be accepted by the City until such time as the additional fees and/or fee shortages are received.

(g) Electrical Inspections:

1. At regular intervals, the Electrical Inspector shall visit all premises where work may be done under annual permits and shall inspect all electrical equipment installed under such a permit since the day of his last previous inspection, and shall issue a certificate of approval for such work as is found to be in conformity with the provisions of this Section, after the fee required has been paid.

2. When any electrical equipment is to be hidden from view by the permanent placement of parts of the building, the person installing the equipment shall notify the Electrical Inspector and such equipment shall not be concealed until it has been inspected and approved by the Electrical Inspector or until twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed from the time of such scheduled inspection; provided, that on large installations where the concealment of equipment proceeds continuously, the person installing the electrical equipment shall give the Electrical Inspector due notice and inspections shall be made periodically during the progress of the work.

3. If upon inspection, the installation is not found to be fully in conformity with the provisions of this Section, the Electrical Inspector shall at once forward to the person making the installation a written notice stating the defects which have been found to exist.

Section 2. This ordinance is effective immediately upon enactment.

ADOPTED this _____ day of _____, 2011, by the City Council of Falcon Heights, Minnesota.

CITY OF FALCON HEIGHTS

BY: _____
Peter Lindstrom, Mayor

ATTEST:

Justin Miller, City Administrator/Clerk