

AGENDA
CITY COUNCIL MEETING
May 13, 2011

9:00 a.m.

I. CALL TO ORDER AND ROLL CALL

II. CITIZEN COMMENTS

III. ADOPT AGENDA

IV. CONSENT AGENDA

** All items listed with asterisks (**) are considered routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Council member, City staff or citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

V. **APPROVAL OF MINUTES

- A. Board of Equalization and Appeal Minutes of April 12, 2011
- B. Regular City Council Meeting Minutes of April 12, 2011
- C. Continuation of the Board of Equalization and Appeal and Special City Council Meeting Minutes of April 29, 2011

**VI. PRESENTATIONS/PUBLIC HEARINGS
RECOGNITIONS/PROCLAMATIONS**

VII. ENGINEERING

- A. Update on TH 56 /60 Reconstruction Project

VIII. LEGAL

- A. CMMPA Transmission Owner Services and Asset Assignment Agreement
 - 1. Resolution 2011-11: A Resolution Approving the Transmission Owner Services and Asset Assignment Agreement with CMMPA
- B. Liquor License Renewal
 - 1. Kenyon Country Club
 - 2. VFW Club

IX. FINANCIAL

- **A. April 2011 Treasurer's Report
- **B. Payment of Claims: Check #54815 through #54915 and #1506E through #1522E

X. OLD BUSINESS

- A. Old Kenyon High School Building
 - 1. Asbestos & Hazardous Waste Assessment
 - 2. Update from Public Input Meeting

XI. NEW BUSINESS

- A. Memorial Day Parade Permit
- B. KABA Beautification Project
- C. Veterans Park Proposal
- D. Resolution 2011-10: A Resolution Approving County Project within Municipal Corporate Limits
- E. Declare 1980 Ford Dump Truck as Excess Property
- F. Approve Hiring of Lifeguards & Pool Manager
 - 1. Aubrie Ades; Lifeguard
 - 2. Regan Ades; Assistant Manager / WSI
 - 3. Kristin Brinkhaus; WSI
 - 4. Kayleigh Christensen; Lifeguard
 - 5. Paige Gilster; Lifeguard
 - 6. Sarah Hildebrandt; Lifeguard
 - 8. Jonathan Horn; Lifeguard
 - 9. Corrina Jost; Lifeguard
 - 10. Tara Larish; Assistant Manager / WSI
 - 11. Alexandra Miller; Lifeguard
 - 12. Isaac Nystuen; Lifeguard
 - 13. Freddie Rolstad; Lifeguard
 - 13. Roxy Rolstad; Lifeguard / Pool Manager
- G. Approve Hiring of Police Officer Mark Mandelkow
- H. Luis Tellez (Taco Express) Lot Use Agreement

XII. OTHER BUSINESS

- A. Schedule of Upcoming Meetings:
 - 1. Joint City / KMU Audit Presentation: Wed., May 18th @ 5:30 p.m. at City Hall

XIII. COUNCIL AND STAFF GENERAL COMMENTS

- 10:30 a.m. XIV. ADJOURNMENT**

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chris Heineman, City Administrator
RE: Meeting of May 13, 2011

Attached please find the agenda and related materials for Friday's meeting.

I. CALL TO ORDER AND ROLL CALL

II. CITIZEN COMMENTS

III. ADOPT AGENDA

MOTION NEEDED

IV. CONSENT AGENDA

The Consent Agenda contains the following items for approval:

Board of Equalization and Appeal Minutes of April 12, 2011
Regular City Council Meeting Minutes of April 12, 2011
Continuation of the Board of Equalization and Appeal and Special City Council Meeting
Minutes of April 29, 2011
April 2011 Treasurer's Report
Payment of Claims

MOTION NEEDED

V. APPROVAL OF MINUTES

Consent Agenda Item

VI. PRESENTATIONS/PUBLIC HEARINGS

There are no presentations scheduled for the April City Council meeting.

VII. ENGINEERING

Joe Palen will be in attendance at this meeting.

Update on T.H. 56/60 Reconstruction Project

A meeting with MN DoT regarding contaminated soils was held on April 29th, and there was a public informational meeting on this project on May 1st, with MN DoT, County and staff participating. Joe and I will update you on the current status of this project.

VIII. LEGAL

Scott Riggs will be in attendance at this meeting.

CMPMA Transmission Owner Services and Asset Assignment Agreement

Included in your packet is the background information on the Brookings – Twin Cities Transmission Project Agreement, the MISO-Approved Transmission Owner, and the Transmission Owner Services and Asset Assignment Agreement.

Resolution 2011-11: A Resolution Approving the Transmission Owner Services and Asset Assignment Agreement with CMPMA

MOTION NEEDED

Liquor License Renewal

Kenyon Country Club

VFW Club

Annual liquor license renewals. The seller / server verification certification is in effect for these license renewals.

MOTION NEEDED

IX. FINANCIAL

April 2011 Treasurer's Report - Consent Agenda Item

Payment of Claims – Consent Agenda Item

X. OLD BUSINESS

Old Kenyon High School Building

Asbestos & Hazardous Waste Assessment

Field Asset Services completed their assessment, and this information was a part of the public input meeting.

Update from Public Input Meeting

There was a public input meeting on Tuesday of this week. This is included on the agenda to provide an opportunity for further Council discussion.

XI. NEW BUSINESS

Memorial Day Parade Permit

Annual Parade for Monday, May 30th.

MOTION NEEDED

KABA Beautification Project

Darren Peters of Peter's Patio & Landscape is proposing to offer decorative planters to local businesses. Each pot is 24" wide and 19" tall, and is a sandstone color. The finished height would be 4' – 5' overall, and contain a low maintenance shrub rose or a mix of perennials and annuals. Pots would be placed near the store or curb, and be in place during the summer and taken down in October. The cost would vary between KABA members and nonmembers. Sidewalk obstruction licenses would need to be obtained for businesses

that do not already have them. In an effort to promote this project, you may wish to consider waiving the \$10 fee for the sidewalk obstruction license for any who participate in this project.

MOTION MAY BE NEEDED

Veterans' Park Proposal

Mac McDonald will be at the meeting to talk about the placement of additional flags at Veterans' Park. The Color Guard would like to put up flags for the six branches of the military, and they would be placed in a horseshoe-shaped manner (see drawing provided in your packet). Eventually, the group would be erecting three flag poles that will hold the American flag, POW flag and State of MN flag. Based on MN DoT ROW research for the up-coming project, it was discovered that the Veterans' Park site is currently owned by the State of MN. We hope to resolve that issue in the near future so the new flag poles can be erected this year.

MOTION NEEDED

Resolution 2011-10: A Resolution Approving County Project within Municipal Corporate Limits

This resolution is required for the CSAH 12 project within the City limits.

MOTION NEEDED

Declare 1980 For Dump Truck as Excess Property

The Public Works department would like to use the proceeds from the sale of this unused piece of equipment to help finance the purchase of a bobcat.

MOTION NEEDED

Approve Hiring of Lifeguards & Pool Manager

Roxy Rolstad has conducted interviews for the position, and there are four new lifeguards on this list. All others are returning employees.

MOTION NEEDED

Approve Hiring of Police Officer Mark Mandelkow

Officer Mandelkow currently works as a full-time police officer in Red Wing. He is filling a "casual" part-time police officer position, and will be available to work for our department several days per month.

MOTION NEEDED

Luis Tellez (Taco Express) Lot Use Agreement

Mr. Tellez has requested to renew this agreement for the coming season, and he will provide the dates of use at a later time.

MOTION NEEDED

XII. OTHER BUSINESS

SCHEDULE OF UPCOMING MEETINGS

Joint City / KMU Audit Presentation: Wed., May 18th @ 5:30 p.m. at City Hall

XIII. COUNCIL AND STAFF GENERAL COMMENTS

XIV. ADJOURNMENT

Please contact me, if you have any questions or require additional information.

Pursuant to due call and notice thereof, a Board of Equalization and Appeals meeting was duly held in the City Council Chambers at 6:05 p.m. on the 12th day of April, 2011. The following members were present: Mayor Diane Barrett, Council Members Fred Barsness, and Bryan Haugen, Absent: Brian Paulson and Richard Nielsen. Also present: City Administrator Chris Heineman and Administrative Assistant Pam Blow. Representing the Goodhue County Assessor's Office were Brian Ducklow and Mike Frankenberg.

Frankenberg noted that the purpose of this meeting is to discuss the valuation for 2011 assessments, payable in 2012 only, and no prior year values can be considered. A new appraisal system is in place for all land values in the City this year, and this will equalize those values with the previous cost schedules. There were twelve good sales in the City of Kenyon, with a ratio of assessed value to the sale price at 91%.

Don Broin

66.400.0050

This property is located at 603 Forest Street, and it went up \$2,100 in value, so it now is valued at \$146,600. Frankenberg noted that likely the increase is due to the new appraisal system, and is not market driven. Assessor's office will view the property after the meeting today.

John Kirlin and Ramona Meyer

66.260.0050

This property is located at 502 Forest Street. The assessor's office visited this property last year, and the value of the property for 2012 is \$144,000. Kirlin had an appraisal done, and the appraised value is \$103,000. Frankenberg will review the appraisal and look at comparables used.

Ron Peterson

66.460.0341

Peterson purchased the property at 631 Front Street on a foreclosure for \$30,000. The assessor's office has reduced the value for 2012 from \$171,700 to \$138,200 after viewing the site. Frankenberg noted that the square footage of the house (2976 sq. ft.) and the small yard contributed to determining the reduced value. In addition, this property is situated next to a commercial property, and normally a house this size would be worth more. The Board discussed this valuation at the end of the meeting, and recommended reducing the land value and the structure value to equal \$120,300.

Ruben Ramirez

66.540.0720

This property is located at 223 Langford Avenue, and was evaluated last year. The value went from \$80,800 to \$82,500 and there have been no improvements to the property. Frankenberg noted that the change in value is because of equalization.

Katherine Schwasinger

66.100.0520 and 66.240.0060

This property is located at 408 Gunderson Boulevard, and the concern is the change for the small parcel that went from \$1,600 to \$5,200. Frankenberg noted that the change in value of the land is due to the new equalization system. If both parcels are looked at together and include the structure, the value went from \$82,600 to \$85,400. For the land only on the two

parcels, the value went from \$31,600 to \$31,700. Schwasinger would not be able to do a lot combination to correct this situation but would need to apply for a replat (subdivision), because the parcels are located in different plats. If she sold her property, however, the sale would likely include both parcels because the garage is located on both parcels.

James Miner

66.240.0170 and 66.660.0301

Miner's property is located at 28 Front Street. Miner's property went from \$144,500 to \$146,900, and this increase is likely due to the equalization process. Miner questioned the ½ acre parcel that is land-locked and not buildable. Frankenberg noted that this parcel's value could revert to the previous year.

Council member Richard Nielsen joined the meeting at 7 p.m.

Wallace Voxland

66.360.0300

This property is located at 103 4th Street, and it increased \$1,700 in value. Frankenberg will look at this property.

David Wickum

66.540.0620 and 66.540.0410

The properties are located at 132 Langford and 15 Red Wing Avenue respectively, and assessor's office will evaluate both properties.

Dean Musgjerd

66.530.0050

This property is located at 430 Huseeth Street, and Musgjerd had it independently appraised at the end of 2010. The appraised value is \$215,000 and used six comparable properties. Musgjerd is questioning the assessed value. Frankenberg has looked at this property, and will come up with a recommendation for the Board.

Tom Thunhorst for Mike & Tanya Short

66.620.0050

This property is located at 330 6th Street, and was purchased in 2004 for \$142,000. The value has increased from \$175,900 to \$180,700, and Thunhorst noted that it has been overvalued. The assessor's office will look at the property.

Gerald & Diane Barrett

66.540.0090, 66.540.0120 and 66.540.0230

The first property considered is a bare lot, and went from \$12,200 to \$24,700. The second property increased by \$3,000. The third property is located at 1000 Pine Street, and the value increased by \$10,000 for the land and building. Frankenberg will look at all properties, and his recommendation will be given to the Goodhue County Board for review.

Jerry Bartel

66.180.0052

Bartel's property is located at 101 Park lane, and is zoned agricultural. The value for land and building is over \$300,000. Frankenberg will look at the property.

Christopher Heineman

66.540.1010

This property is located at 222 Langford Avenue, and it was looked at today by Frankenberg's office.

Rodney Rauk

66.180.0060

This property is located at 2 Deer Ridge Road, and it was looked at by Frankenberg's office.

James Miner Jr.

66.66-160-0220

This property is located at 326 Trondheim Road, and it was looked at today by the assessor's office.

Harvey Fossum

66.200.0020

This property is located at 322 Bergen Circle, and it is for sale below the current assessed value. The assessor will look at the property.

The Board of Equalization will reconvene on Friday, April 29, 2010 at 9 a.m.

There being no further business, Barrett recessed the Board at 8:00 p.m.

Pam Blow, Administrative Assistant

Diane Barrett, Mayor

Pursuant to due call and notice thereof, a City Council Meeting was duly held in the City Council Chambers at 8:12 p.m. on the 12th day of April 2011. The following members were present: Mayor Diane Barrett; Council Members Fred Barsness, Richard Nielsen, and Bryan Haugen. Absent: Brian Paulson. Also present: City Administrator Chris Heineman, Engineer Joe Palen, City Attorney Scott Riggs, and Administrative Assistant Pam Blow.

CITIZEN COMMENTS

None

AGENDA

Additions: / VI / Proclamations / A / Proclamation for Loyalty Day on May 1, 2011; / VIII / Legal / A / CMMPA Update; / XI / New Business / E / Personnel Committee Recommendation. Remove: / B / Ordinance 68 Third Series. Motion by Haugen, seconded by Nielsen to approve the agenda as amended. Motion carried 4-0-0.

CONSENT AGENDA

Motion by Barsness, seconded by Haugen to approve the Consent Agenda, which includes payment of check numbers 54669 through 54783; 1483E through 1505E; and additional checks 54784 through 54793. Motion carried 4-0-0.

PROCLAMATION

A Proclamation for Loyalty Day on May 1, 2011

Barrett read the proclamation naming May 1, 2011 Loyalty Day in the City of Kenyon.

ENGINEERING

Update on TH 56/60 Reconstruction Project

Televising the sewer line on 2nd Street by the bridge was completed recently. Palen recommends that this line be adopted and put on the maintenance schedule. This pipe has been mapped accurately as a result of this project, and other than a sag in the pipe near the Pearl Creek bridge, the line was in good condition. Because of the right-of-way (ROW) issues that MN DoT has with the sidewalk along the north side of 2nd Street between Red Wing and Langford, the City of Kenyon will be responsible for the entire cost of this section. Goodhue County has agreed to bid that portion of the project in conjunction with their CSAH 12 completion. The City will need to acquire the ROW for the sidewalk area prior to construction in 2012. Bonestroo is on schedule to submit the 100% plan for the T.H. 56 project on April 18th. On May 2nd, there will be a public meeting with MN DoT, Goodhue County and the City from 5 – 7 p.m. at City Hall.

Approve Payment of Invoices Relating to T.H. 56 /60 Project

Payments to American Engineering Testing, Goodhue County Abstract and Empire Pipe Services were approved as a part of the consent agenda, and Barrett noted the amounts that are to be paid.

Resolution 2011-09: Establishing Procedures Relating to Compliance with Reimbursement Bond Regulations under the Internal Revenue Code

This resolution will allow us to group fees incurred this year for the T.H. 56 project with any financing that may occur in 2012. Motion by Haugen, seconded by Nielsen to approve Resolution 2011-09. Motion carried 4-0-0.

LEGAL

CMMPA Update

According to Riggs, revisions for other agencies that own transmission lines already have been made and a final agreement should be ready for approval at the May meeting. The investment amount for the CapX project has not been calculated at this time.

NEW BUSINESS

Ordinance 67, Third Series: An Ordinance Amending Sections 1200.01, 1200.03 and 1200.37 as to the Training and Verification of Sellers / Servers of Intoxicating Beverages in the City of Kenyon

Chief Lee Sjolander stated that this ordinance will put in place a system to verify that sellers / servers of alcoholic beverages are up-to-date on their training. This ordinance would apply to all liquor license holders, and including temporary liquor licenses as well. Motion by Barsness, seconded by Nielsen to approve Ordinance 67, Third Series. Motion carried 4-0-0 with a roll call vote.

Amendment to Resolution 2011-01: A Resolution to Establish License Fees and Compensation

Goodhue County will be charging a fee for verification and training of servers / sellers of intoxicating beverages. This amendment adds the \$100 verification fee to the schedule. Motion by Haugen, seconded by Barsness to approve the revision to Resolution 2011-01. Motion carried 4-0-0.

Demolition Permit for Bryan Haugen

Haugen has a block house and garage to be removed. Motion by Barsness, seconded by Nielsen to approve the permit. Motion carried 3-0-1 with Haugen abstaining.

Sidewalk Obstruction License for Kenyon Floral Impressions

Motion by Nielsen, seconded by Haugen to approve the license. Motion carried 4-0-0.

Personnel Committee Recommendation

According to Barrett, the Personnel Committee met on April 11th regarding the vacancy on the Police Department, and it is their recommendation to advertize for two permanent part-time positions. Barrett noted that using two part-time officers rather than a full-time officer could save considerably on salary and benefits. A final decision on how to fill the vacancy will be based on the number and caliber of applications received. Motion by Nielsen, seconded by Haugen to approve advertizing for two permanent part-time police officers. Motion carried 4-0-0.

OTHER BUSINESS

Schedule of Upcoming Meetings

Preliminary Audit Review: Thursday, April 14th @ 9 a.m. at City Hall

Kenyon EDA Meeting: Tuesday, April 26th @ 8 a.m. at City Hall

Public Info Mtg. for T.H. 56 Project: Monday, May 2nd from 5 – 7 p.m.

Goodhue County Board: Tuesday, May 3rd @ 9 a.m. in Kenyon

Public Input Meeting for Old Kenyon High School: Tuesday, May 10th @ 7 p.m. at K-W High School Auditorium

Board of Equalization Continuation: Friday, April 29th @ 9 a.m. at City Hall

COMMENTS

Haugen noted that the Board of Equalization meeting earlier tonight ran long, so it affected the start of this meeting.

Heineman noted that there will be a City clean-up day on May 7 or May 21, and Ron Grose will haul away items. Further details will be coming soon. The Goodhue County Hazardous Waste cleanup is on May 11th from 3 – 6 p.m. at the Pool parking lot.

Motion by Haugen, seconded by Barsness to adjourn at 8:45 p.m. Motion carried 4-0-0.

Pursuant to due call and notice thereof, the continuation of the Board of Equalization and Appeals meeting and a Special City Council meeting was duly held in the City Council Chambers at 9:00 a.m. on the 29th day of April, 2011. The following members were present: Mayor Diane Barrett, Council Members Fred Barsness, Bryan Haugen, and Brian Paulson. Absent: Richard Nielsen. Also present: City Administrator Chris Heineman and Administrative Assistant Pam Blow. Representing the Goodhue County Assessor's Office was Mike Frankenberg.

Barrett opened the continuation of the Board of Equalization and Appeals at 9:00 a.m.

Dean Musgjerd

66.530.0050

This property is located at 430 Huseth Street, and Musgjerd addressed the Board regarding Frankenberg's recommendation to value his property at \$246,200 for 2011. Musgjerd distributed a handout that listed comparable home sales and two listings for property similar to his. Frankenberg noted that his valuation was based on sales figures from 10/1/09 to 9/30/10, and that the Vanguard system for calculating values is a tool that uses comparable sales, quality and condition. Barsness owns a home on Huseth Street, and noted that if the value is adjusted too far below the recommendation of the Assessor's office, that more homeowners may object to their values next year. Motion by Haugen, seconded by Paulson to adjust the 2011 assessed value for Musgjerd's property to \$232,100. Motion carried 3-0-1, with Barsness abstaining.

The Assessor has recommended the following changes:

Don Broin

66.400.0050

603 Forest Street – from \$146,600 to \$144,600

John Kirilin and Ramona Meyer

66.260.0050

502 Forest Street – From \$144,100 to \$127,700

Ron Peterson

66.460.0341

631 Front Street - from \$138,200 to \$120,300.

James Miner

66.660.0301

½ acre parcel – from \$2,300 to \$1,100

Wallace Voxland

66.360.0300

103 4th Street – from \$137,500 to \$127,600

David Wickum

66.540.0620

132 Langford Ave. – from \$77,600 to \$65,900

66.540.0410

15 Red Wing Avenue – from \$72,000 to \$59,800

Tom Thunhorst

66.620.0050

330 6th Street – from \$180,700 to \$162,400

Rodney Rauk

66.180.0060

2 Deer Ridge Road – from \$183,000 to \$173,900

James Miner Jr.

66.66-160-0220

326 Trondheim Road – from \$165,800 to \$149,900

Harvey Fossum

66.200.0020

322 Bergen Circle – from \$168,600 to \$149,700

Motion by Haugen, seconded by Paulson to accept the recommended changes for all properties as noted above. Motion carried 4-0-0.

Gerald & Diane Barrett

66.540.0090, 66.540.0120 and 66.540.0230

Goodhue County Board to determine.

Jerry Bartel

66.180.0052

Bartel has been out of town, and Frankenberg will look at the property and make recommendations to the Goodhue County Board.

Christopher Heineman

66.540.1010

Goodhue County Board to determine.

There being no further business, Barrett closed the Board of Equalization and Appeal at 9:50 a.m.

Police Department Staffing

According to Heineman, there have been fifty-nine applications received to date for the part-time position posting for the Police Department. One alternative to accommodate the five minute response time and being a city resident for on-call, would be to renovate the office space in the ambulance building. There is a restroom and shower facility already in the building, and the renovation would cost approximately \$750 to convert the space. The EDA (who owns the building) addressed this at their recent meeting, and thought this was a reasonable amount and would support the change. Interviews of potential candidates will be done as soon as possible, and Heineman suggested that Council may want to consider one part-time position become full-time in the near future. Chief Sjolander noted that if a candidate already works as a police officer, we would not have the expense of the psychiatric evaluation and background checks because we could get those from the current employer. Sjolander further stated that the department will get reimbursed for a full-time officer's bullet-proof vest, but not for a part-time officer. One recommendation was to hire a full-time officer, but have

no benefits during the probationary period. Heineman suggested that Officer Harvey's salary be reviewed at the next Personnel Committee Meeting.

There being no further business, motion by Paulson, seconded by Barsness to adjourn the meeting at 10:28 a.m. Motion carried 4-0-0.

Pam Blow, Administrative Assistant

Diane Barrett, Mayor

TRANSMISSION OWNER SERVICES AND ASSET ASSIGNMENT AGREEMENT

Between the City of Kenyon and Central Minnesota Municipal Power Agency

Background Information

Brookings – Twin Cities Transmission Project Agreement

Recently the Utilities Commission and City Council approved the Brookings – Twin Cities Transmission Project Agreement dated February 14, 2011 on behalf of the Kenyon Municipal Utility. Through that agreement Kenyon is participating in the ownership of a share of the Brookings, SD to the Hampton, MN transmission line. As a transmission owner Kenyon will be able to seek recover of their investment in transmission through the Midwest Independent Transmission System Operator (MISO). Depending on the investment amount, cost recovery can offset the rates paid to MISO for MISO transmission service. Receiving revenue for the ownership of transmission assets will be beneficial as transmission rates double over the next ten years. Keeping transmission rates low will help the municipal utility stay competitive with the local cooperatives and IOUs that are also investing in CapX transmission projects and reducing their transmission costs and therefore their rates.

MISO approved Transmission Owner

Investing in transmission assets is a big step in hedging Kenyon's costs in the future. In order to seek recovery from MISO, Kenyon needs to be represented in MISO by a Transmission Owner (TO) that is approved by the MISO Board of Directors. The Central Minnesota Municipal Power Agency (CMMPA) under the direction of the CMMPA Board of Directors, of which Kenyon is a member, directed CMMPA to implement the usage of MISO transmission service in 2011 and directed CMMPA to become a TO in MISO which was approved by MISO in August 2007.

Transmission Owner Services and Asset Assignment Agreement

The current agreement under consideration by the Kenyon Municipal Utilities Commission and City Council is the Transmission Owner Services and Asset Assignment Agreement dated April 20, 2011. This agreement allows CMMPA to act as the designated TO with MISO on behalf of Kenyon. The agreement assigns Kenyon's transmission capacity rights to CMMPA so that CMMPA can file for and receive MISO tariff revenues for the assigned transmission capacity and pass the tariff revenues through to Kenyon. This agreement covers CMMPA-Owned Projects such as the CapX Brookings – Twin Cities Transmission line project as well as any City-owned transmission facilities that Kenyon would want to seek recovery on in the future.

Under this agreement CMMPA will act as Kenyon's agent for:

- the development and submittal of MISO required information including the annual Attachment O and Attachment GG
- preparation and submittal of FERC filings
- participation in transmission planning and related committee activities

- submittal of proposed modification related to CMMPA projects and Kenyon's transmission facilities
- coordination with MISO to the design, procurement, installation and construction of improvements, additions and modifications to CMMPA projects and Kenyon's transmission facilities assigned to CMMPA under this agreement
- performance of studies and analysis and the compilation and provision of data and information in connection with evaluations of requests for interconnection and transmission service impacts of CMMPA projects and Kenyon's transmission facilities
- Communication concerning the operational status of CMMPA projects and Kenyon's transmission facilities

Further Information

For further information on the terms for assignment of Kenyon's Brookings – Twin Cities transmission assets to CMMPA go to Article 2 of the agreement. Article 3 lays out the terms for the assignment of other city owned assets that Kenyon would like to seek recovery on in the future. The terms for Transmission Owner Services provided under this agreement are contained within Article 4.

CMMPA TRANSMISSION
OWNER SERVICES AND ASSET
ASSIGNMENT AGREEMENT IS A
SEPARATE ATTACHMENT TO
THIS AGENDA PACKET.

**RESOLUTION 2011-11
CITY OF KENYON
COUNTY OF GOODHUE
STATE OF MINNESOTA**

**A RESOLUTION APPROVING THE TRANSMISSION OWNER SERVICES
AND ASSET ASSIGNMENT AGREEMENT WITH THE CENTRAL MINNESOTA
MUNICIPAL POWER AGENCY (CMMPA)**

BE IT RESOLVED by the City Council of the City of Kenyon, (hereinafter referred to as "City"), as follows:

Section 1. It was previously determined that it was in the best interest of the City to utilize the resources and services of the Central Minnesota Municipal Power Agency "CMMPA" to participate in the development and investment in the acquisition, construction, ownership and operation of high voltage transmission of electrical energy and capacity, negotiation of contracts, planning, including transmission needs studies, transmission arrangements, engineering and technical assistance.

Section 2: The City now wishes to properly update and supplement its relationship with CMMPA and also authorize the administration by CMMPA of the City's participation in and receipt of revenues from such transmission projects as are approved by the City and the City's own qualifying transmission facilities which it designates for administration by CMMPA, if any.

Section 3: The City does hereby approve the Transmission Owner Services and Asset Assignment Agreement with the Central Minnesota Municipal Power Agency dated the 20th day of April, 2011.

Section 4: The CMMPA Transmission Owner Services and Asset Assignment Agreement is hereby approved in the form presented at this meeting. The Mayor and City Administrator are hereby authorized and directed to execute such Transmission Owner Services and Asset

Assignment Agreement for and on behalf of the City, the same to be exclusively evidenced by such execution.

Adopted this 13th day of May, 2011.

Diane Barrett, Mayor

ATTEST:

Christopher Heineman, City Administrator



Minnesota Department of Public Safety

Alcohol and Gambling Enforcement

444 Cedar Street, Suite 222

St. Paul, MN 55101

651-201-7507 • TTY 651-282-6555 • Fax 651-297-5259



RENEWAL OF LIQUOR, WINE, CLUB OR 3.2% LICENSES

No license will be approved or released until the \$20-Retailer ID Card fee is received by MN Liquor Control • (3.2% Licenses-exempt)

Licensee: Please verify your license information contained below. Make corrections if necessary and sign. City Clerk/County Auditor should submit this signed renewal with completed license and licensee liquor liability for the new license period. City Clerk/County Auditor are also required by M.S. 340A.404 S. 3 to report any license cancellation.

License Code ONSS License Period Ending 5/31/2011 ID# 25124
 City/County where license approved. Kenyon
 Licensee Name Kenyon Country Club Inc.
 Trade Name Kenyon Country Club
 Licensed Location address PO Box K/46000 Hwy 56 N
 City, State, Zip Code Kenyon, MN 55946
 Business Phone 507/789-6307

LICENSE FEES: Off Sale \$ 0.00 On Sale \$ 1000.00 Sunday \$ 200.00

By signing this renewal application, applicant certifies that there has been no change in ownership on the above named licensee. For changes in ownership, the licensee named above, or for new licensees, full applications should be used. See back of this application for further information needed to complete this renewal.

Applicant's signature on this renewal confirms the following: Failure to report any of the following will result in fines.

1. Licensee confirms it has no interest whatsoever, directly or indirectly in any other liquor establishments in Minnesota. If so, give details on back of this application.
2. Licensee confirms that it has never had a liquor license rejected by any city/township/county in the state of Minnesota. If ever rejected, please give details on the back of this renewal, then sign below.
3. Licensee confirms that for the past five years it has not had a liquor license revoked for any liquor law violation (state or local). If a revocation has occurred, please give details on the back of this renewal, then sign below.
4. Licensee confirms that during the past five years it or its employees have not been cited for any civil or criminal liquor law violations. If violations have occurred, please give details on back of this renewal, then sign below.
5. Licensee confirms that during the past license year, a summons has not been issued under the Liquor Liability Law (Dram Shop) MS 340A.802. If yes, attach a copy of the summons, then sign below.
6. Licensee confirms that Workers Compensation insurance will be kept in effect during the license period.

Licensee has attached a liquor liability insurance certificate that corresponds with the license period in city/county where license is issued. \$100,000 in cash or securities or \$100,000 surety bond may be submitted in lieu of liquor liability. (3.2% liquor licenses are exempt if sales are less than \$25,000 at on sale, or \$50,000 at off sale).

Licensee Signature _____ DOB _____ SS# _____ Date _____

(Signature certifies all above information to be correct and license has been approved by city/county.)

City Clerk/County Auditor Signature _____ Date _____

(Signature certifies that renewal of a liquor, wine or club license has been approved by the city/county as stated above.)

County Attorney Signature _____ Date _____

County Board issued licenses only (Signature certifies licensee is eligible for license).

Police/Sheriff Signature _____ Date _____

(Signature certifies licensee or associates have not been cited during the past five years for any state/local liquor law violations (criminal/civil). Report violations on back, then sign here.



Minnesota Department of Public Safety

Alcohol and Gambling Enforcement

444 Cedar Street, Suite 222

St. Paul, MN 55101

651-201-7507 • TTY 651-282-6555 • Fax 651-297-5259



RENEWAL OF LIQUOR, WINE, CLUB OR 3.2% LICENSES

No license will be approved or released until the \$20 Retailer ID Card fee is received by MN Liquor Control • (3.2% Licenses exempt)

Licensee: Please verify your license information contained below. Make corrections if necessary and sign. City Clerk/County Auditor should submit this signed renewal with completed license and licensee liquor liability for the new license period. **City Clerk/County Auditor are also required by M.S. 340A.404 S. 3 to report any license cancellation.**

License Code MCLONSL License Period Ending 6/30/2011 # 993
City/County where license approved. Kenyon

Licensee Name VFW 141
Trade Name Conrad Osthum Post
Licensed Location address
601 2nd St/Box 51
City, State, Zip Code Kenyon, MN 55946
Business Phone 507/789-5691

LICENSE FEES: Off Sale \$ 0.00 On Sale \$ 300.00 Sunday \$ 0.00

By signing this renewal application, applicant certifies that there has been no change in ownership on the above named licensee. For changes in ownership, the licensee named above, or for new licensees, full applications should be used. See back of this application for further information needed to complete this renewal.

Applicant's signature on this renewal confirms the following: Failure to report any of the following will result in fines.

1. Licensee confirms it has no interest whatsoever, directly or indirectly in any other liquor establishments in Minnesota. If so, give details on back of this application.
2. Licensee confirms that it has never had a liquor license rejected by any city/township/county in the state of Minnesota. If ever rejected, please give details on the back of this renewal, then sign below.
3. Licensee confirms that for the past five years it has not had a liquor license revoked for any liquor law violation (state or local). If a revocation has occurred, please give details on the back of this renewal, then sign below.
4. Licensee confirms that during the past five years it or its employees have not been cited for any civil or criminal liquor law violations. If violations have occurred, please give details on back of this renewal, then sign below.
5. Licensee confirms that during the past license year, a summons has not been issued under the Liquor Liability Law (Dram Shop) MS 340A.802. If yes, attach a copy of the summons, then sign below.
6. Licensee confirms that Workers Compensation insurance will be kept in effect during the license period.

Licensee has attached a liquor liability insurance certificate that corresponds with the license period in city/county where license is issued. \$100,000 in cash or securities or \$100,000 surety bond may be submitted in lieu of liquor liability. (3.2% liquor licenses are exempt if sales are less than \$25,000 at on sale, or \$50,000 at off sale).

Licensee Signature _____ DOB _____ SS# _____ Date _____

(Signature certifies all above information to be correct and license has been approved by city/county.)

City Clerk/County Auditor Signature _____ Date _____

(Signature certifies that renewal of a liquor, wine or club license has been approved by the city/county as stated above.)

County Attorney Signature _____ Date _____

County Board issued licenses only (Signature certifies licensee is eligible for license).

Police/Sheriff Signature _____ Date _____

(Signature certifies licensee or associates have not been cited during the past five years for any state/local liquor law violations (criminal/civil). Report violations on back, then sign here.



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REPORT

**DEMOLITION INSPECTION
REPORT**

*Former Kenyon High School
401 Forest Street
Kenyon, MN 55946*

April 20, 2011

DEMOLITION INSPECTION REPORT

SUBJECT PROPERTY

*Former Kenyon High School
401 Forest Street
Kenyon, MN 55946
Project No. 11079*

PREPARED FOR

*City of Kenyon
709 2nd Street
Kenyon, MN 55946*

PREPARED BY

*Field Environmental Consulting, Inc.
8612 Eagle Creek Parkway
Savage, Minnesota 55378
Tel: (952) 746-5880 Fax: (952) 746-5882*

April 20, 2011

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- D. Hazardous Materials Inventory Table
- E. Certifications

1.0 INTRODUCTION

Field Environmental Consulting, Inc. (FIELD CONSULTING) was authorized by the City of Kenyon to conduct a pre-demolition inspection of the former high school building located at 401 Forest Street, Kenyon, MN. It is FIELD CONSULTING's understanding that the building will be demolished, with the possible exception of the 1962 Addition Gymnasium.

1.1 Purpose

The purpose of the inspection was to identify the presence of asbestos-containing building materials (ACBM's), damaged Lead-based Paint (LBP), and potential PCB, chlorofluorocarbons (CFCs), and mercury-containing devices, household hazardous waste, and other items requiring special handling and disposal prior to any proposed demolition activities.

1.2 Scope Of Services

FIELD CONSULTING conducted the demolition inspection in accordance with State of Minnesota and applicable federal regulations. The inspection was conducted by Mr. Jordan Curzon, Mr. Charlie Losby, and Mr. Brian Delmore, Minnesota-Certified Asbestos Inspectors. Mr. Curzon and Mr. Delmore are also Minnesota-Certified Lead Risk Assessors. The inspection was conducted between April 4 and April 12, 2011 and was comprised of the following components:

- Visual inspection of accessible areas to identify suspect ACBMs, determination of "friability" by touching, estimation of quantities of materials, and assessment of the condition of ACBMs.
- Collection of bulk samples of suspect ACBMs from representative areas and homogenous material types in accordance with MDH and EPA regulations.
- Laboratory analysis of bulk samples by a NVLAP accredited laboratory for asbestos content by polarized light microscopy using EPA Method 600/R-93/116.
- Testing of damaged painted, stained, and/or varnished building components utilizing a Niton XLp 300 series X-Ray Fluorescent (XRF) Spectrum Analyzer (Serial #24679).
- Inventory of identified potential PCB, chlorofluorocarbons (CFCs), and mercury-containing devices, household hazardous waste, and other items requiring special handling and disposal prior to any proposed renovation/demolition activities.
- Preparation of a demolition inspection report to include sample analysis results, sample locations, estimated quantities of friable and non-friable ACBMs, estimated quantities of damaged lead-based paint, and quantities and locations of hazardous materials.

1.3 Limitations and Exceptions

In addition to the limitations set forth within the industry Standard of Care, this report is subject to the following:

- Physical Obstructions to Visual Observations – Destructive sampling techniques were utilized. However, observations within a limited number of enclosed building areas, wall cavities, and tunnel runs were not feasible due to time constraints and/or safety concerns. However, based on existing observations, FIELD CONSULTING believes that all ACBMs, damaged LBP, and hazardous materials were identified.
- Limiting Weather Conditions – None
- Unidentifiable Conditions – This assessment follows industry-standard best practices. Information obtained from visual observations is assumed to be reliable. However, the potential exists that even with adherence to these practices, unidentifiable ACBMs, LBP, or hazardous materials may exist on the subject property that could not be identified within the scope of the assessment or that were not reasonably identifiable from readily available information.

1.4 User Reliance

The Demolition Inspection Report was prepared exclusively for the use or benefit of those listed on the Title Page of this report. Reliance or use by any other third party without explicit written authorization from FIELD CONSULTING will be at the third party's own risk. No warranties or representations, expressed or implied, are made to any such third party.

2.0 INSPECTION PROCEDURES

2.1 Asbestos-containing Building Materials

Inspection and Physical Assessment

Accessible areas of the buildings were visually inspected to identify suspect friable and non-friable ACBMs. Estimation of quantities of suspect ACBMs was determined by visual field observations. Friability was determined by touch in accordance with state and federal regulations.

Sampling Protocol

Identified suspect ACBMs were grouped into homogeneous sampling areas. A homogeneous sampling area is defined as an area that contains a suspect friable or non-friable ACBM that is uniform in texture, color, date of application, and appears identical in all respects.

Bulk samples were collected from representative areas within the identified homogeneous sampling areas and sealed into "zip-Lock" polyethylene bags. Materials were wetted prior to sampling to minimize release of asbestos fibers. Sample locations of friable materials were sealed with an EPA approved encapsulant. The number of samples collected from each homogeneous sampling area was conducted in accordance with EPA regulations. Generally, at least one sample of each suspect material was collected. Additional samples were collected from larger homogeneous sampling areas, where appropriate, in accordance with EPA protocol.

Laboratory Analysis

Bulk samples were submitted to EMSL Analytical, Inc. for analysis of asbestos content by polarized light microscopy using EPA Method 600/R-93/116. A copy of the laboratory analytical report is provided as Appendix B of this report.

In accordance with EPA guidelines, bulk samples from each homogeneous sampling area were analyzed until positive. EPA guidelines indicate that once one sample within a sample set from a homogeneous sampling area is determined to contain greater than one percent asbestos, then the material within the homogeneous area is considered to be asbestos-containing and analysis of the remaining samples is terminated.

Federal EPA and State of Minnesota regulations define ACBMs as building materials containing greater than one percent asbestos by microscopic visual estimation by area. EPA regulations require that any sample found to contain less than ten percent asbestos by visual estimation methods must be assumed to contain greater than one percent asbestos unless confirmed to be less than one percent asbestos utilizing point counting analytical methods

2.2 **Lead-based Paint**

Inspection and Physical Assessment

Accessible areas were visually inspected to identify damaged suspect lead-based painted surfaces. The condition of the surface was also determined by visual observation.

All damaged common surface coatings in each of the three identified building additions (i.e., dated 1916, 1938, and 1962) were tested. FIELD CONSULTING completed three hundred fifty-seven (357) XRF scans on building components and calibrations during the course of the inspection.

Sampling Protocol

The sampling strategy for the inspection was observing and testing of damaged surface coatings from representative areas of the building additions.

XRF readings were collected by placing the scanner on the test surface and exposing the suspect lead paint film to gamma radiation. At the conclusion of each test, typically 5-10 seconds in length, the XRF scanner shutter is closed and the lead concentration is displayed in milligrams per square centimeter (mg/cm^2). XRF test results for lead-based paint are categorized as positive if the test readings are $1.0 \text{ mg}/\text{cm}^2$.

For the purposes of this report the sides of the site building will be identified as follows:

- Side A: North
- Side B: East
- Side C: South
- Side D: West

Prior to starting the inspection each morning, at the midday break and again at the completion of each day the XRF scanner was calibrated utilizing calibration standards. XRF test data and field observations were recorded on the XRF, including sample location, building component, and condition of the paint film. Several surface coatings were observed to be in fair to poor condition, specifically railings and floor paints in the warehouse and basement. The remaining painted surfaces sampled were intact. Lead-based paint should be handled appropriately by any renovation contractor that may disturb these surfaces during the renovation project.

No soil samples were collected as part of this lead-based paint inspection.

2.3 **Hazardous Materials**

FIELD CONSULTING conducted a visual walk-through of the building to identify and inventory hazardous materials that require special handling and disposal prior to renovation/demolition activities. Identified hazardous materials were categorized into the following groupings:

- PCB-containing devices, including fluorescent light ballasts and transformers
- Mercury – containing devices, including fluorescent lamps, thermostats, and mercury-switches
- Refrigerants (CFCs – chlorofluorocarbons), including air conditioners, refrigerators, freezers, and water coolers
- Miscellaneous hazardous waste, including fertilizers, paints, machinery or engine parts, and batteries.

3.0 FINDINGS AND OBSERVATIONS

3.1 Asbestos-containing Materials

A total of 78 samples were collected from the buildings and submitted to the laboratory for analysis. The laboratory conducted 102 analyses of the submitted samples. State and federal regulations require testing of all layers of suspect materials. The additional laboratory analyses were due to multiple layers present in several of the samples. Building materials found to contain asbestos or assumed to be asbestos-containing and classified as ACMs are summarized below. The inventory of all building materials sampled, asbestos content, friability, visual appearance, and quantity, are presented in Appendix A.

1916 Original Building

- Black Roof Edge Flashing
- Black Roof Membrane
- Black Roof Penetrations
- Window Glaze
- Fire Door
- 9"x9" Grey and Tan Floor Tile and Black Mastic
- 9"x9" Tan with Brown Streaks Floor Tile
- 9"x9" Red with Black and White Streaks Floor Tile and Black Mastic
- 9"x9" Grey with Peach, Black, and White Streaks Floor Tile and Black Mastic
- 9"x9" Tan with White and Brown Streaks Floor Tile and Black Mastic
- Millboard Pipe Insulation and Fittings
- Air Cell Pipe Insulation and Fittings
- Preformed Insulation and Fittings
- Pipe Fittings on Fiberglass Insulation
- Grey and White Specks Sheet Vinyl Flooring and Mastic
- Brown Sheet Vinyl Flooring and Mastic
- Black Transite Electrical Panel Fuses
- Transite Window Panels
- Black Tack Board Mastic

1938 Addition

- Black Roof Edge Flashing
- Black Roof Penetrations
- Exterior Window Caulk
- Preformed Insulation and Fittings
- Textured Ceiling Material
- Grey Wood Panel Mastic

1962 Addition

- Black Roof Edge Flashing
- Black Roof Penetrations
- Grey Exterior Roof Patch Caulk
- Grey/Black/Silver Exterior Wall Flashing Caulk
- Light Grey Exterior Louvre Caulk
- Exterior Window Caulk
- Tan/White Exterior Window Glaze
- White Cabinet Backing
- Tan/Light Brown Chalkboard Mastic
- Brown Carpet Mastic
- 9"x9" Tan with White and Brown Streaks Floor Tile
- 9"x9" Red with White Streaks Floor Tile
- 9"x9" Green with Cream Streaks Floor Tile
- 9"x9" Light Beige Floor Tile
- 9"x9" Multi-colored Floor Tile and Black Mastic
- 9"x9" Light Beige and Brown Checks Floor Tile and Black Mastic
- Boiler Gaskets
- Boiler Burner Gaskets
- 1'x4' Light Blankets
- 4" Light Blankets
- 2'x2' Light Blankets
- Preformed Insulation and Fittings
- Pipe Fittings on Fiberglass Insulation
- Safe Door Insulation
- Textured Ceiling Material
- Sink Undercoating
- Black Electrical Panel Transite

The remaining suspect materials were found to contain asbestos at concentrations of 1% or less. A full laboratory analytical report is included in Appendix B.

EPA regulations require removal of all friable or damaged non-friable or non-friable ACBMs that would become friable during renovation/demolition activities by a licensed asbestos abatement contractor prior to activities that would disturb the material.

3.2 Lead-based Paint

The U.S. Environmental Protection Agency, the HUD Agency, the Minnesota Department of Health, and the Minnesota Pollution Control Agency identify lead-based paint as paint containing 1.0 mg/cm² or more of lead. A total of three hundred fifty seven (357) XRF readings and calibrations were collected from the site building. Readings for the following surfaces were found to be above the 1.0 mg/cm² threshold and as such, these surfacing coatings were determined to be lead-based paint.

LEAD-BASED PAINT COATED COMPONENTS				
Component	Color	Substrate	Locations	Damaged Amount (Square Feet)
Pillar	Light Green	Concrete	1916 2 nd Floor Landing, North Pillar	60
Stair Step Faces	Red	Concrete	1916 2 nd Floor Central Steps to Carpeted Offices	500
Walls	Pink	Plaster	1916 2 nd Floor Girl's Restroom	1,000
Walls	Yellow	Plaster	1916 3 rd Floor Library South Storage Room	210
Walls	Yellow	Plaster	1916 3 rd Floor Girl's Restroom	1,000
Walls	Green	Plaster	1916 3 rd Floor Boy's Restroom	1,000
Walls	Yellow, Green, Blue	Plaster	1938 Auditorium North and South Walls and Divider Wall	800
Door Frame	Brown	Wood	1938 Weight Room Office Door Frame	10

Readings on the remaining tested surfaces did not exceed the 1.0 mg/cm² threshold and as such, these surfacing coatings are not considered to be lead-based paint. The inventory of all building components tested, their location, color, visual condition, and lead content are presented in the XRF Results which are included in Appendix C.

It should be noted that lead at concentrations below 1.0 mg/cm² may also be found in surface coatings at the subject property. Work performed on such surfaces may generate airborne lead. The Minnesota Occupational Safety & Health Administration (MNOSHA) requires contractors to perform negative exposure assessments of airborne lead concentrations where the work being performed may create an occupational exposure to lead.

3.2 Hazardous Materials

FIELD CONSULTING inspected the building for hazardous materials that require special handling and disposal prior to demolition activities. The identified materials included mercury containing thermostats, televisions, fire extinguishers, oil containing door closers, emergency strobe lights, miscellaneous paints, thinners, cleaners, insecticides, as well as several other miscellaneous waste materials. The full inventory of identified materials and components are presented in Appendix D.

4.0 STANDARD OF CARE

The services performed by FIELD CONSULTING have been conducted with that level of care and skill ordinarily exercised by reputable members of the profession, practicing in the same locality under similar budget and time constraints.

No asbestos-containing material inspection can completely eliminate uncertainty regarding the presence of components that contain asbestos. The level of due diligence and procedures utilized by FIELD CONSULTING are intended to reduce, but not eliminate, potential uncertainty regarding the presence of asbestos. Therefore, the determinations in this report should not be construed as a guarantee that all asbestos-containing materials present in the subject property have been included in this report.

No warranty or guarantee, expressed or implied, is made regarding the findings, conclusions, or recommendations contained in this report.

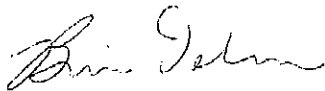
FIELD CONSULTING appreciates the opportunity to perform this Asbestos-containing Material Inspection and we look forward to future opportunities to work together again.

PREPARED and REVIEWED BY:

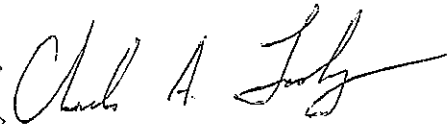
Field Environmental Consulting, Inc.



Jordan Curzon
MN Asbestos Inspector
License #AI11581



Brian Delmore
MN Lead Risk Assessor
License #LR3959



Charles Losby
MN Asbestos Inspector
License #AI37008



Stephen Field
President
MN Asbestos Inspector
License #AI2318

LICENSE NO. 2011-02

License Fee: waived

**Parade Permit
STATE OF MINNESOTA**

**CITY OF KENYON
GOODHUE COUNTY**

Whereas, the *Memorial Day Association* has complied with all the requirements of said Ordinances necessary for obtaining this License:

Now, Therefore, By order of the Kenyon City Council, and by virtue hereof, said *Memorial Day Association* is hereby licensed and authorized to have a parade originating at Spring and Second Street, East on Second Street to Slee Street, then North to Kenyon Cemetery, beginning at 10:30 a.m. on **Monday, May 30, 2011**, subject to all the conditions and provisions of said Ordinances.

**Given under my hand and the corporate seal of the City of Kenyon
This 13th day of May A.D. 2011.**

Attest: _____

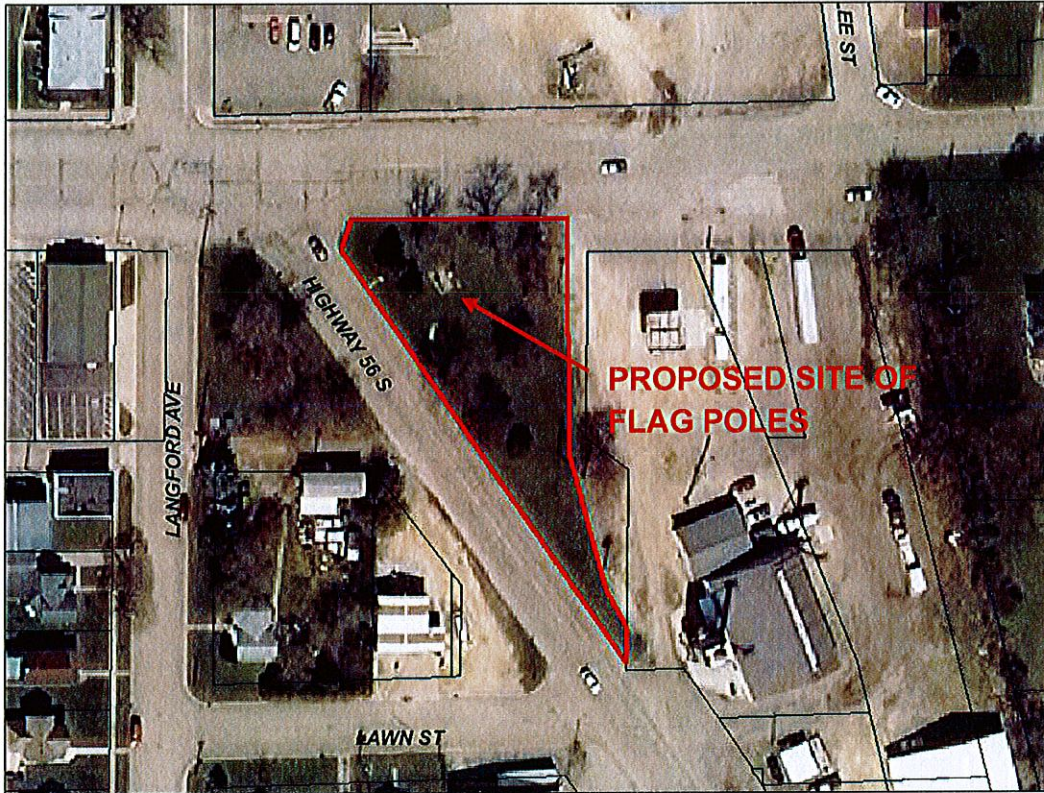
Chris Heineman

City Administrator

Mayor

Diane Barrett

KENYON VETERANS MEMORIAL PARK – FLAG POLE MONUMENT PLAN



Park Site

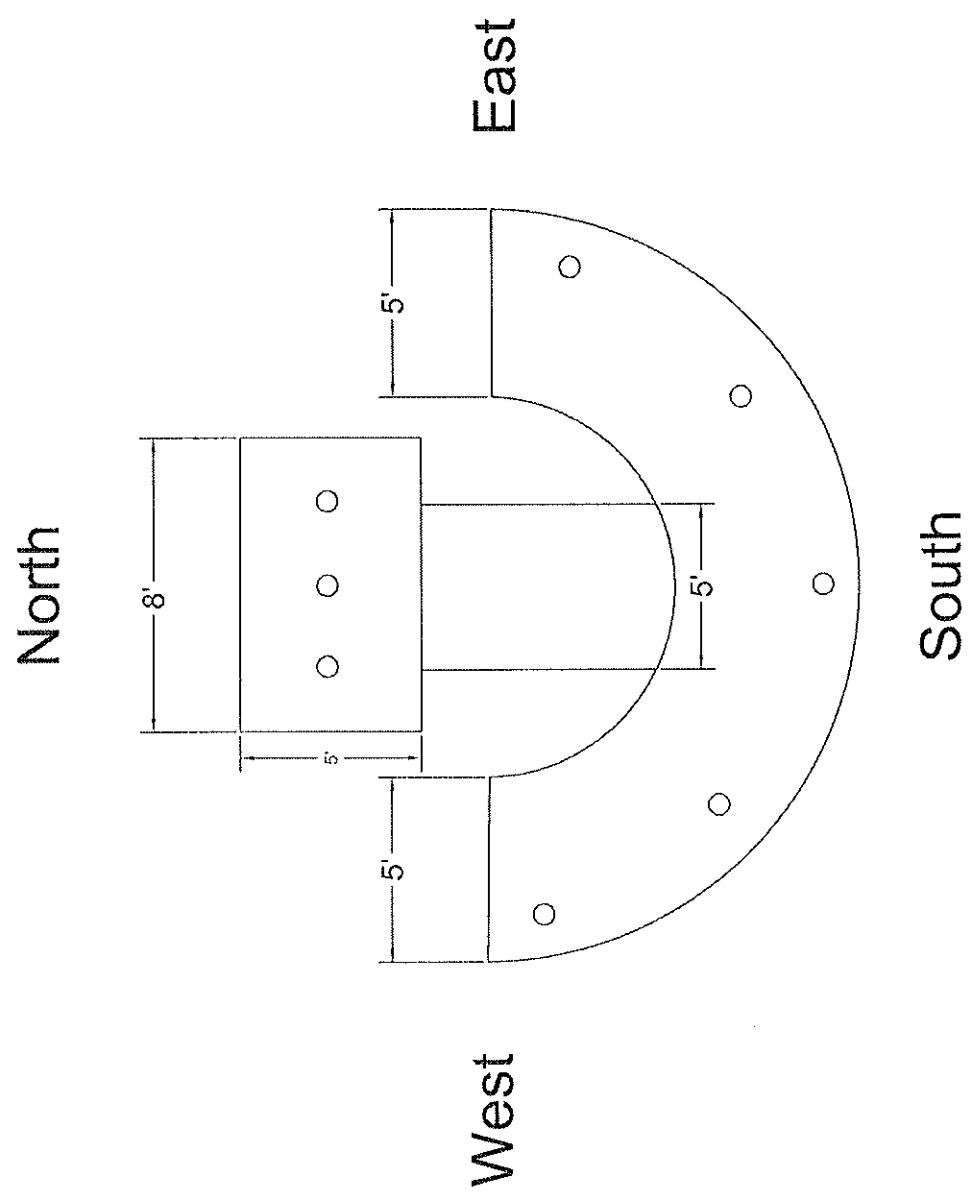
2010 Imagery, Goodhue County GIS



Park Site

Goodhue County Picture, 2011

KENYON VETERANS MEMORIAL PARK FLAG POLE PLAN



**RESOLUTION 2011-10
CITY OF KENYON
COUNTY OF GOODHUE
STATE OF MINNESOTA**

**A RESOLUTION APPROVING COUNTY PROJECT WITHIN MUNICIPAL
CORPORATE LIMITS**

WHEREAS, plans for Project No.'s. 25-612-011 and 25-612-012 showing proposed alignment, profiles grades and cross-sections for the construction, reconstruction or improvement of County State-Aid Highway No. 12 within the limits of the City as a State Aid Project have been prepared and presented to the City; and

NOW THEREFORE, BE IT RESOLVED, that said plans be in all things approved.

Adopted by the Kenyon City Council on this 13th day of May, 2011.

Diane Barrett
Mayor

ATTEST:

Christopher P. Heineman
City Administrator

LIMITED USE AGREEMENT

THIS LIMITED USE AGREEMENT (the "Agreement") is entered into as of May 13, 2011, by and between the CITY OF KENYON, a Minnesota municipal corporation (the "City") and MR. LUIS F. TELLEZ (the "Applicant").

RECITALS

- A. The City of Kenyon is the owner of the Kenyon Municipal Liquor Store (645 2nd Street) and adjacent vacant lot in the City of Kenyon described as follows: Parcel Number: 66-520-0380; Lot 009, Block 004; Plat 66520 Overholts Addition (the vacant lot is hereinafter referred to as the "Property").
- B. The Applicant desires to use a portion of the Property as designated by the City for the purpose of operating a mobile food unit.

AGREEMENT

1. **Offer and Acceptance of Agreement.** Subject to the terms and conditions of this Agreement, the City and the Applicant agree that the Applicant may operate a mobile food unit on the Property owned by the City described above.
2. **Consideration.** In consideration for the right to conduct business on the Property, the Applicant shall pay two hundred fifty dollars (\$250.00).
3. **Use and Scope of Agreement Premises.** Subject to the conditions set forth herein, the non-exclusive limited use of the Property is hereby granted to Luis Tellez for the purpose of operating a mobile food unit. This limited use is subordinate to any and all rights of City in the Property. City reserves the right to the use of the Property herein granted non-exclusively to the Applicant for the City's own purposes.

The non-exclusive limited use of the Property includes the following conditions:

- A. The mobile food unit may be on site from 12:00 p.m. Thursdays until 12:00 a.m. Saturdays from May 14, 2010 through November 1, 2010.
- B. The mobile food unit must be located on the south-east portion of the lot away from 2nd Street.
- C. A Certificate of Liability Insurance must be provided, naming the City of Kenyon as an additional insured.
- D. Applicant agrees to comply with applicable City, County, and/or State Codes.
- E. The Property must be kept clear of debris and waste.

- F. Applicant is responsible for all costs associated with operation of the mobile food unit.
- G. Applicant agrees to remove the mobile food unit immediately at the request of the City.

4. **Indemnification.** The Applicant shall at all times indemnify and hold harmless the City from any and all claims for damages, including costs and attorney fees, arising from or by the use of the Property or pursuant to this Agreement, provided, however, that nothing in this Agreement shall be construed to waive any rights that the City has against the Applicant under this Agreement. Nothing in this Agreement shall be construed as a waiver by the City of any limitations on liability to which the City is entitled pursuant to Minnesota Statutes Chapter 466 or otherwise.

5. **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of the Agreement shall not be binding upon either party except to the extent incorporated in the Agreement.

6. **Modification of Agreement.** Any modification of this Agreement or additional obligation assumed by any party in connection with this Agreement shall be binding only if evidenced in writing signed by the parties to be affected by said modification or additional obligation.

7. **Assignability of Agreement.** It is expressly agreed that Mr. Luis F. Tellez shall not have the right to assign any rights under this Agreement except on the prior, express, and written consent of the City.

8. **Termination.** The City or the Applicant may terminate this Agreement at any time for any reason, or for no reason at all, by providing written notice to the other party. Upon termination of this Agreement, the Applicant shall remove the mobile food unit from the Property.

9. **Notice.** Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by mail or delivered personally; and

- A. in the case of the Applicant, is addressed or delivered personally to the Applicant at 5407 510th Street Path, Kenyon, MN 55946 and
- B. In the case of the City, is addressed or delivered personally to the City at City of Kenyon, 709 2nd Street, Kenyon, MN 55946.

