



City Council Agenda

Monday, March 30, 2009

6:00 p.m.

City Council Chambers

(Times are Approximate)

- 6:00 p.m. **1. Roll Call**
- Voting & Seating Order for March: Pust, Ihlan, Johnson, Roe, Klausing
- 6:02 p.m. **2. Approve Agenda**
- 6:05 p.m. **3. Public Comment**
- 6:10 p.m. **4. Council Communications, Reports, Announcements and Housing and Redevelopment Authority Report**
- a. Quarterly Housing and Redevelopment Authority Report
- 6:20 p.m. **5. Recognitions, Donations, Communications**
- a. Proclamation of Arbor Day
- b. Accept and Recognize Goodmanson Construction for sponsorship of the New Year's Eve Celebration at the Roseville Skating Center
- c. Accept and Recognize General Donations to the City
- 6:30 p.m. **6. Approve Minutes**
- a. Approve Minutes of the March 23, 2009 City Council Meeting
- 6:35 p.m. **7. Approve Consent Agenda**
- a. Approve Payments
- b. Approve Business Licenses
- c. Approve General Purchase and Sale of Surplus Items Exceeding \$5,000
- d. Approve Amendments to the 2008 Budget
- 6:45 p.m. **8. Consider Items Removed from Consent**

9. General Ordinances for Adoption

10. Presentations

11. Public Hearings

12. Business Items (Action Items)

13. Business Items – Presentations/Discussions

- 6:55 p.m. a. Discuss Professional Services Policy
7:15 p.m. b. Consider Adjustments to the 2009 Budget
7:35 p.m. c. 2030 Comprehensive Plan Status and Next Steps
7:55 p.m. d. Discuss Twin Lakes Property Maintenance Code Enforcement
8:10 p.m. e. Discuss 2009 Utility Rates
- 8:30 p.m. **14. City Manager Future Agenda Review**
- 8:35 p.m. **15. Councilmember Initiated Items for Future Meetings**
- 16. Adjourn**

Some Upcoming Public Meetings.....

Tuesday	Apr 7	6:30 p.m.	Parks & Recreation Commission
Wednesday	Apr 8	6:30 p.m.	Planning Commission
Monday	Apr 13	6:00 p.m.	City Council Meeting
Tuesday	Apr 14	7:00 p.m.	Human Rights Commission
Monday	Apr 20	6:00 p.m.	City Council Meeting
Tuesday	Apr 21	6:00 p.m.	Housing & Redevelopment Authority
Monday	Apr 27	6:00 p.m.	City Council Meeting
Tuesday	Apr 28	6:30 p.m.	Public Works, Environment & Transportation Commission

All meetings at Roseville City Hall, 2660 Civic Center Drive, Roseville, MN unless otherwise noted.

Date: 3/30/09

Item: 4.a

Quarterly HRA Report

No Attachment

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 3/30/09
Item No.: 5.a

Department Approval

City Manager Approval



Item Description: Arbor Day Proclamation

BACKGROUND

As a part of our Tree City USA membership, each year the City of Roseville proclaims a specific day as Arbor Day in order to recognize the importance of trees and to promote their proper care and the planting of many additional appropriate tree species to replace the thousands that have been lost over the years.

POLICY OBJECTIVE

This is consistent with the policy adopted many years ago of annually proclaiming Arbor Day.

FINANCIAL IMPACTS

None

STAFF RECOMMENDATION

Staff recommends that April 24th, 2009 be named Roseville Arbor Day.

REQUESTED COUNCIL ACTION

Motion adopting the proclamation

Prepared by: Lonnie Brokke, Director of Parks and Recreation

Attachments: A. Arbor Day Proclamation

PROCLAMATION

ARBOR DAY

April 24, 2009

WHEREAS, Roseville's trees have been a significant element of our Community because of their beauty and importance to our environment; and

WHEREAS, Trees are an increasingly vital resource for Roseville, enriching our lives by purifying air and water, helping to conserve soil and energy, in serving as recreational settings and wildlife habitat of all kinds; and

WHEREAS, Activities such as construction damage and pollution as well as drought and disease have damaged and destroyed many trees and are therefore in need of replacement, and

WHEREAS, The City of Roseville needs to positively impact our world environment by helping to attack the problem of global warming by locally planting trees and insuring that these trees are nurtured and protected; and

WHEREAS, Trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, Trees, wherever they are planted, are a source of joy and spiritual renewal.

WHEREAS, Our citizens need to be encouraged to care for our trees and plant as many other trees as possible;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Roseville does hereby proclaim April 24th, 2009 as Arbor Day in the City of Roseville.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Roseville to be affixed this 24th day of April, 2009.

Craig Klausing, Mayor

(SEAL)

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 3/30/09
Item No.: 5.b

Department Approval

City Manager Approval



Item Description: Recognize Goodmanson Construction Inc. for their generous sponsorship of the 2008 New Year's Eve Celebration at the Roseville Skating Center.

BACKGROUND

The City of Roseville Parks and Recreation Department is extremely fortunate to have numerous sponsors of all different levels throughout the year to assist in the provision of programs, services and facilities for our community.

For the 15th year in row the Roseville Skating Center has hosted an annual New Years Eve Celebration. Some years with an anchor sponsor, others with the City of Roseville being the sole sponsor.

For the fourth year in a row, Cami, Merl and Rick Goodmanson, local business owners of Goodmanson Construction Inc., without hesitation, once again agreed to be the anchor sponsor of the annual Roseville Skating Center New Year's Eve Celebration on Ice with a \$4,000 cash contribution. In addition, Goodmanson Construction Inc. gathered over 60 prize packs from over 25 different companies valued at over \$1,300.00, incurred \$800 worth of staffing costs to assist with control, safety and various other tasks throughout the night and promoted the event by distributing 7,000 flyers throughout the community.

The 2008 Skating Center New Year's Eve Celebration, "presented by Goodmanson Construction" added some new attractions and brought back some of the favorites from years past that included; a magic show and face painting in the banquet rooms which was a huge hit with the younger crowd and parents who wanted to warm up. Mascots "Mudonna" of the St. Paul Saints Baseball team, Sharkie from Underwater Adventures, and the RAHS Raider was walking around taking pictures with the crowd. Cartoon characters Elmo and Shrek were also extremely popular. Nearly 2,000 people from Roseville and around the entire metropolitan area attended the party. With the assistance of Goodmanson Construction Inc., we were able to once again provide a safe, fun and affordable place for people to spend their New Years Eve.

These types of contributions greatly enhance the quality of life in Roseville and for that we truly appreciate the Goodmansons and Goodmanson Construction Inc. for their help and generous contribution.

29 **POLICY OBJECTIVE**

30 The policy is consistent with the approved budget goals that the department works to leverage outside
31 funding sources for the support of the operations of departmental activities.

32 **FINANCIAL IMPACTS**

33 The contribution positively affects the City of Roseville Parks and Recreation budget by obtaining
34 additional funding.

35 **STAFF RECOMMENDATION**

36 Based upon the significant financial contribution, staff recommends that the City Council recognize
37 Goodmanson Construction Inc. for their generous and significant sponsorship of the 2008 New Years Eve
38 Celebration at the Roseville Skating Center.

39 **REQUESTED COUNCIL ACTION**

40 Recognize Cami, Merl and Rick Goodmanson and Goodmanson Construction Inc. for their generous and
41 significant sponsorship of and contribution to the 2008 New Years Eve Celebration at the Roseville Skating
42 Center.

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Prepared by: Kevin Elm, Recreation Supervisor

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 3/30/09
Item No.: 5.c

Department Approval

City Manager Approval



Item Description: Acceptance and Recognition of General Donations to the City of Roseville

BACKGROUND

Over the years the City of Roseville has received many donations from citizens and program participants. These gifts have been in the form of both materials and monies. When staff is notified of a potential donation, they first make a determination of whether to recommend acceptance based on the suitability of the item for the city. An acceptance request is then forwarded to the City Council.

POLICY OBJECTIVE

The following is the City of Roseville's policy regarding the acceptance of donations:

- Minnesota Statute requires all donations to be officially accepted by the City Council.
- The staff will not solicit donations.

Donors will be informed that no conditions or promises of future favorable city action on their behalf may be attached to the gift

FINANCIAL IMPACTS

Approved donations for budgeted items may result in a budget reduction and an improved status of Roseville Parks and Recreation.

STAFF RECOMMENDATION

Staff recommends acceptance and recognition of these donations

REQUESTED COUNCIL ACTION

Motion authorizing acceptance and recognition of the following donations:

<u>DONOR</u>	<u>ITEM</u>	<u>Value</u>
Richard (Dick) Klaus	Cash to paint Shirly Klaus Pavilion @ Arboretum	\$1,595
David May	Catalpa Trees	\$1,553
Milton Demos	Cash for Bench –memory of June	\$1,200
Florence Wertz	Cash for Bench	\$1,000
Mary Ann Hess- Allison, Robert, Rebecca and Richard Hess	Cash for Programs	\$ 400

28			
29			
30	Lake Owasso Garden Club	Cash for Arboretum	\$ 100
31	Roseville Citizens Forum	Cash for Facilities	\$ 300
32	North Suburban Gavel Club	Cash for Facilities	\$ 500
33	North Suburban Golden K Kiwanis	Cash for Scholarships	
34		and Youth Wellness Program	\$1,350
35	North Suburban Evening Club	Cash for HANC and Scholarships	\$ 500
36	Anonymous	Cash for Program Supplies	\$ 200

37

38

Prepared by: Lonnie Brokke, Director of Parks and Recreation

Date: 3/30/09

Item: 6.a

Minutes of 3/23/09

No Attachment

REQUEST FOR COUNCIL ACTION

Date: 3/30/2009
Item No.: 7.a

Department Approval

City Manager Approval

Christopher K. Miller

W. J. Mahinen

Item Description: Approval of Payments

BACKGROUND

State Statute requires the City Council to approve all payment of claims. The following summary of claims has been submitted to the City for payment.

Check Series #	Amount
ACH Payments	\$128,452.46
54644-54715	\$182,216.19
Total	\$310,668.65

A detailed report of the claims is attached. City Staff has reviewed the claims and considers them to be appropriate for the goods and services received.

POLICY OBJECTIVE

Under Mn State Statute, all claims are required to be paid within 35 days of receipt.

FINANCIAL IMPACTS

All expenditures listed above have been funded by the current budget, from donated monies, or from cash reserves.

STAFF RECOMMENDATION

Staff recommends approval of all payment of claims.

REQUESTED COUNCIL ACTION

Motion to approve the payment of claims as submitted

Prepared by: Chris Miller, Finance Director

Attachments: A: n/a

Accounts Payable

Checks for Approval

User: mjenson

Printed: 03/24/2009 - 2:13 PM

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
0	03/17/2009	Police Forfeiture Fund	Professional Services	Caribou Coffee- ACH	Debriefing	29.04
0	03/17/2009	Community Development	Training	International Code Council-ACH	Time Management Class-Munson	125.00
0	03/17/2009	Community Development	Training	International Code Council-ACH	IBC Construction, Code Admin-Proulx	250.00
0	03/17/2009	Police Forfeiture Fund	Professional Services	Subway-ACH	Sandwiches	83.53
0	03/17/2009	General Fund	Contract Maintenance	Grainger-ACH	Station Building Supplies	7.30
0	03/17/2009	Community Development	Training	Minnesotas Bookstore-ACH	Construction Code & Licensing Book	31.84
0	03/17/2009	Information Technology	Operating Supplies	Micro Center-ACH	Hard Drives-DPM Server	299.30
0	03/17/2009	Grass Lake Water Mgmt. Org	Operating Supplies	Papa John's-ACH	Pizza	46.53
0	03/17/2009	General Fund	Training	MECA- ACH	Erosion Control Conference-Findell	275.00
0	03/17/2009	General Fund	Operating Supplies	Holiday Inn-ACH	Accommodation	100.05
0	03/17/2009	Recreation Improvements	Dale Street Bridge Capital	Board of Aelslagid-ACH	Certificate Renewal	180.00
0	03/17/2009	General Fund	Operating Supplies	LMC*Laerdal Medical-ACH	Bacteria Filters	135.24
0	03/17/2009	General Fund	Use Tax Payable	LMC*Laerdal Medical-ACH	Sales/Use Tax	-8.25
0	03/17/2009	Water Fund	Memberships & Subscriptions	American Water Works-ACH	Membership Renewal	1,704.00
0	03/17/2009	General Fund	Training	Rocco's Pizza-ACH	Food for Monthly Dept Meeting	100.76
0	03/17/2009	Sanitary Sewer	Clothing	Red Wing Shoes-ACH	Safety Footwear	140.50
0	03/17/2009	Recreation Fund	Operating Supplies	Amcon Block-ACH	Handicap Parking Sign Holders	399.38
0	03/17/2009	General Fund	Training	Inside The Tape-ACH	Crime Scene Mgmt. Class-Scheider	275.00
0	03/17/2009	Water Fund	Water Meters	Suburban Ace Hardware-ACH	Meter Van Supplies	36.79
0	03/17/2009	P & R Contract Maintenance	Operating Supplies	Twin City Saw-ACH	Saw Supplies	21.40
0	03/17/2009	General Fund	Training	Rainbow Foods-ACH	Monthly Dept Meeting Supplies	26.22
0	03/17/2009	General Fund	Operating Supplies	EMP-ACH	Respirator	58.02
0	03/17/2009	Police - DWI Enforcement	Professional Services	Ultimate Electronics-ACH	LCD HDTV	1,587.23
0	03/17/2009	Police - DWI Enforcement	Professional Services	Ultimate Electronics-ACH	LCD HDTV	1,583.13
0	03/17/2009	Telecommunications	Furniture and Fixtures	CWOL.com-ACH	Analog to Digital Video Converter	514.76
0	03/17/2009	Telecommunications	Use Tax Payable	CWOL.com-ACH	Sales/Use Tax	-31.41
0	03/17/2009	General Fund	Operating Supplies	USCutter-ACH	Cutter Blades for Sign Making Machine	23.41
0	03/17/2009	General Fund	Use Tax Payable	USCutter-ACH	Sales/Use Tax	-1.42
0	03/17/2009	General Fund	Training	Allied Parking-ACH	Parking During FEMA Class	8.00
0	03/17/2009	General Fund	Training	D Brians Deli-ACH	Lunch During FEMA Training	10.64
0	03/17/2009	Housing & Redevelopment	Operating Supplies	Zoomballoon.Com-ACH	Balloons	223.65

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
0	03/17/2009	Housing & Redevelopment	AUse Tax Payable	Zoomballoon.Com-ACH	Sales/Use Tax	-13.65
0	03/17/2009	Recreation Fund	Operating Supplies	RadioShack-ACH	AC Converter	58.70
0	03/17/2009	Recreation Fund	Operating Supplies	RadioShack-ACH	AC Converter-Return	-58.70
0	03/17/2009	General Fund	Other Improvements	Buy.com- ACH	DVD Duplicator	529.51
0	03/17/2009	General Fund	Use Tax Payable	Buy.com- ACH	Sales/Use Tax	-32.31
0	03/17/2009	Recreation Fund	Operating Supplies	Office Max-ACH	Wall Sign Holders	26.86
0	03/17/2009	Recreation Fund	Office Supplies	Office Depot- ACH	Stock Supplies	48.29
0	03/17/2009	General Fund	Op Supplies - City Hall	Office Depot- ACH	Batteries for Wireless Microphone	8.01
0	03/17/2009	General Fund	Operating Supplies	Target- ACH	Coffee	14.37
0	03/17/2009	General Fund	Training	Allied Parking-ACH	Parking During FEMA Class	8.00
0	03/17/2009	General Fund	Vehicle Supplies	PTS Tool Supply-ACH	Erasers, Bit Set	112.35
0	03/17/2009	Recreation Fund	Operating Supplies	Michaels-ACH	Frames	47.94
0	03/17/2009	Recreation Fund	Office Supplies	Cub Foods- ACH	Table Covers	7.94
0	03/17/2009	Recreation Fund	Operating Supplies	Target- ACH	After School Supplies	7.76
0	03/17/2009	Recreation Fund	Operating Supplies	Wolff Fording Inc- ACH	Costume Exchange Shipping Charge	26.62
0	03/17/2009	Recreation Fund	Use Tax Payable	Wolff Fording Inc- ACH	Sales/Use Tax	-1.62
0	03/17/2009	General Fund	Operating Supplies	EMP-ACH	Masks	107.02
0	03/17/2009	License Center	Office Supplies	Liberty Photo-ACH	Passport Folders	133.42
0	03/17/2009	License Center	Use Tax Payable	Liberty Photo-ACH	Sales/Use Tax	-8.14
0	03/17/2009	General Fund	Training	Subway-ACH	Lunch During Training Class	6.21
0	03/17/2009	P & R Contract Maintenance	Operating Supplies	North Hgts Hardware Hank-ACH	Tape Rule, Cutters	14.78
0	03/17/2009	Recreation Fund	Operating Supplies	UPS Store-ACH	Shipping to Daktronics	13.15
0	03/17/2009	Information Technology	Contract Maintenance	Local Link, Inc.-ACH	Hosting, Domain Names	87.50
0	03/17/2009	Golf Course	Training	MNLA-ACH	Low Voltage Irrigation Class	149.00
0	03/17/2009	Recreation Fund	Operating Supplies	Northland Visions-ACH	Open House & Wetland Prog. Materials	20.82
0	03/17/2009	Recreation Fund	Operating Supplies	United Noodles-ACH	Open House Materials	30.73
0	03/17/2009	General Fund	Training	Subway-ACH	Lunch During FEMA Training	3.94
0	03/17/2009	General Fund	Other Improvements	Crucial.Com-ACH	1GB 200PIN	76.80
0	03/17/2009	Info Tech/Contract Cities	St. Anthony Computer Equip	Crucial.Com-ACH	16 512MB 200 PIN	683.03
0	03/17/2009	Housing & Redevelopment	AOperating Supplies	Quality Logo Products, Inc-ACH	Tape Measure Key Chains	44.32
0	03/17/2009	Housing & Redevelopment	AOperating Supplies	Quality Logo Products, Inc-ACH	Credit	-25.00
0	03/17/2009	Recreation Fund	Office Supplies	Office Max-ACH	Paper	38.91
0	03/17/2009	P & R Contract Maintenance	Operating Supplies	North Hgts Hardware Hank-ACH	Plexi Glass	74.11
0	03/17/2009	P & R Contract Maintenance	Operating Supplies	Twin City Saw-ACH	Saw Supplies	124.27
0	03/17/2009	Recreation Fund	Operating Supplies	Home Depot- ACH	Towels, Tape	66.18
0	03/17/2009	Recreation Fund	Operating Supplies	Leo's Dancewear-ACH	Dance Costumes	67.50
0	03/17/2009	Recreation Fund	Operating Supplies	Red Rooster Auto Supply-ACH	Hose	5.06
0	03/17/2009	General Fund	Contract Maintenance	Grainger-ACH	Station Building Supplies	135.71
0	03/17/2009	General Fund	Contract Maintenance	Grainger-ACH	Station Building Supplies	182.50
0	03/17/2009	General Fund	Contract Maintenance	Grainger-ACH	Credit	-182.50
0	03/17/2009	General Fund	Contract Maintenance	Grainger-ACH	Station Building Supplies	10.66
0	03/17/2009	Water Fund	Operating Supplies	Suburban Ace Hardware-ACH	Oil Compressor	5.33
0	03/17/2009	Water Fund	Operating Supplies	Suburban Ace Hardware-ACH	Valve	12.80

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
0	03/17/2009	Info Tech/Contract Cities	Arden Hills Computer Equipment	Buy.com- ACH	Laser Fax	591.75
0	03/17/2009	Info Tech/Contract Cities	Use Tax Payable	Buy.com- ACH	Sales/Use Tax	-35.17
0	03/17/2009	General Fund	Operating Supplies	Home Depot- ACH	Towels	8.44
0	03/17/2009	P & R Contract Maintenance	Operating Supplies	Dey Appliance-ACH	Nature Center Heater	374.78
0	03/17/2009	Police - DWI Enforcement	Professional Services	McNards-ACH	Patrol Room Picture Hanging Supplies	25.01
0	03/17/2009	Recreation Fund	Operating Supplies	Party America-ACH	Birthday Party Supplies	16.51
0	03/17/2009	Sanitary Sewer	Operating Supplies	North Hgts Hardware Hank-ACH	Lift Station Supplies	8.52
Check Total:						11,892.66
0	03/19/2009	Recreation Fund	Operating Supplies	Becker Arena Products, Inc.	Twine for Lacing Goals White	33.02
0	03/19/2009	Recreation Fund	Operating Supplies	R & R Specialties Inc	Impeller, Pump	71.49
0	03/19/2009	Equipment Replacement Fund	Rental - Copier Machines	Ricoh Customer Finance Corp	Copier at Nature Center.	471.46
0	03/19/2009	General Fund	Vehicle Supplies	Zarnoth Brush Works, Inc.	Broom Refills	1,707.41
0	03/19/2009	General Fund	Professional Services	Ratwik, Roszak & Maloney, PA	Legal Services Feb 2009	10,063.64
0	03/19/2009	General Fund	Professional Services	Ratwik, Roszak & Maloney, PA	Legal Services Feb 2009	716.50
0	03/19/2009	Community Development	Professional Services	Ratwik, Roszak & Maloney, PA	Legal Services Feb 2009	635.50
0	03/19/2009	Community Development	Professional Services	Ratwik, Roszak & Maloney, PA	Legal Services Feb 2009	1,923.97
0	03/19/2009	Recreation Fund	Professional Services	Ratwik, Roszak & Maloney, PA	Legal Services Feb 2009	1,642.18
0	03/19/2009	Recreation Fund	Professional Services	Caitlin Bean	Assistant Dance Instructor	64.00
0	03/19/2009	Recreation Fund	Professional Services	Julie Risinger	Assistant Dance Instructor	72.00
0	03/19/2009	Recreation Fund	Professional Services	Rebecca Fandrich	Assistant Dance Instructor	49.00
0	03/19/2009	Recreation Fund	Professional Services	Alaina Bean	Assistant Dance Instructor	66.00
0	03/19/2009	Recreation Fund	Operating Supplies	Eric Boettcher	Volunteer Dinner Flowers	68.36
0	03/19/2009	Housing & Redevelopment A	Transportation	Jeanne Kelsey	Reimbursement	
0	03/19/2009	Housing & Redevelopment A	Training	Jeanne Kelsey	Mileage Reimbursement	55.00
					Sensible Land Use Coalition Event	96.00
					Reimb.	
0	03/19/2009	Recreation Fund	Printing	Roseville Area Schools	Copy Charges-Jan 2009	534.05
0	03/19/2009	Housing & Redevelopment A	Advertising	George Hornik	H & G Final Design Work	2,438.00
0	03/19/2009	Information Technology	Transportation	Shaun Shaver	Mileage Reimbursement	101.20
0	03/19/2009	Street Construction	Contractor's Payments	MIDWEST ASPHALT CORP	Neighborhood 10	8,866.07
0	03/19/2009	Street Construction	Contractor Payments	MIDWEST ASPHALT CORP	Mill & Overlay	38,043.50
0	03/19/2009	Storm Drainage	Contractor's Payments	MIDWEST ASPHALT CORP	M & O Storm	916.87
0	03/19/2009	Water Fund	Contractor's Payments	MIDWEST ASPHALT CORP	Watermain	3,471.43
0	03/19/2009	Sanitary Sewer	Contractor's Payments	MIDWEST ASPHALT CORP	Sanitary Sewer	668.01
0	03/19/2009	Street Construction	Contractor's Payments	MIDWEST ASPHALT CORP	Arden Hills	111.41
0	03/19/2009	Recreation Fund	Transportation	Jeff Evenson	Mileage Reimbursement	69.85
0	03/19/2009	License Center	Rental	Gaughan Properties	Motor Vehicle Rent-April 2009	2,500.00
0	03/19/2009	License Center	Rental	Gaughan Properties	Motor Vehicle Rent-April 2009	1,700.00
0	03/19/2009	General Fund	211402 - HCMA - Medical Exp.		Flexible Benefit Reimbursement	2,500.00
0	03/19/2009	General Fund	211402 - HCMA - Medical Exp.		Flexible Benefit Reimbursement	913.61
0	03/19/2009	Information Technology	Contract Maintenance	Electro Watchman, Inc.	Security System at License Center	127.80
0	03/19/2009	Recreation Fund	Operating Supplies	E-Z Sharp Inc	Skate Clamp Adjusting Dial	11.52

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
0	03/19/2009	P & R Contract Maintenance	Operating Supplies	North Heights Hardware Hank	Nails	0.77
0	03/19/2009	Recreation Fund	Operating Supplies	North Heights Hardware Hank	Rubber Washer, Wrench, Tape	29.20
0	03/19/2009	General Fund	Vehicle Supplies	McMaster-Carr Supply Co	Ball Bearing	22.24
0	03/19/2009	General Fund	Use Tax Payable	McMaster-Carr Supply Co	Sales/Use Tax	-1.35
0	03/19/2009	General Fund	Motor Fuel	Kath Fuel Oil Service, Inc.	2009 Blanket PO for Fuel	11,159.02
0	03/19/2009	P & R Contract Maintenance	Professional Services	Praxair Distribution -	Ind. High Press	177.11
0	03/19/2009	Golf Course	Merchandise For Sale	Spartan Promotional Group	Golf Supplies for Resale	254.87
0	03/19/2009	Recreation Fund	Professional Services	Metro Volleyball Officials	Volley Officiating	556.50
0	03/19/2009	General Fund	Vehicle Supplies	Factory Motor Parts	Air Filter	15.50
0	03/19/2009	General Fund	Vehicle Supplies	Factory Motor Parts	Air Filter	20.34
0	03/19/2009	General Fund	Vehicle Supplies	Factory Motor Parts	ACD	2.85
0	03/19/2009	General Fund	Contract Maint. - City Hall	Adam's Pest Control Inc	Regular Service	106.50
0	03/19/2009	General Fund	Contract Maint. - City Hall	Adam's Pest Control Inc	Regular Service	73.37
0	03/19/2009	General Fund	Contract Maintenance	Adam's Pest Control Inc	Regular Service	56.44
0	03/19/2009	General Fund	Contract Maint. - City Garage	Adam's Pest Control Inc	Regular Service	106.50
0	03/19/2009	License Center	Contract Maintenance	Quicksilver Express Courier	Delivery Charges	151.62
0	03/19/2009	P & R Contract Maintenance	Utilities	Xcel Energy	P & R	2,823.07
0	03/19/2009	General Fund	Utilities	Xcel Energy	Fire Station #2	835.32
0	03/19/2009	Water Fund	Utilities	Xcel Energy	Water	4,552.16
0	03/19/2009	General Fund	Office Supplies	Unisource Worldwide-No Central	Copy Paper	390.86
0	03/19/2009	Golf Course	Vehicle Supplies	MTI Distributing, Inc.	Bedknives	306.29
0	03/19/2009	General Fund	Contract Maintenance	Ancom Communications, Inc.	Technical Service	16.50
0	03/19/2009	Recreation Fund	Operating Supplies	Catco Parts & Service Inc	Gasket	13.67
0	03/19/2009	Recreation Fund	Operating Supplies	Sysco Mn	Condiments, Paper Goods	439.28
0	03/19/2009	General Fund	Operating Supplies	Sysco Mn	Condiments, Paper Goods	212.82
0	03/19/2009	Golf Course	Operating Supplies	Sysco Mn	Condiments, Paper Goods	311.79
0	03/19/2009	Golf Course	Merchandise For Sale	Sysco Mn	Condiments, Paper Goods	477.60
0	03/19/2009	Telecommunications	Printing	Greenhaven Printing	March/April Newsletters	6,123.75
0	03/19/2009	Telecommunications	Use Tax Payable	Greenhaven Printing	Sales/Use Tax	-373.75
0	03/19/2009	Solid Waste Recycle	Printing	Greenhaven Printing	March/April Newsletters	1,555.96
0	03/19/2009	Solid Waste Recycle	Use Tax Payable	Greenhaven Printing	Sales/Use Tax	-94.96
0	03/19/2009	Housing & Redevelopment A	Advertising	Greenhaven Printing	March/April Newsletters	852.00
0	03/19/2009	Housing & Redevelopment A	Use Tax Payable	Greenhaven Printing	Sales/Use Tax	-52.00
0	03/19/2009	Recreation Fund	Operating Supplies	Grainger Inc	Lamp	27.86
0	03/19/2009	Recreation Fund	Memberships & Subscriptions	DMX Music	Skating Center Music	143.25
0	03/19/2009	General Fund	Op Supplies - City Hall	Eagle Clan Enterprises, Inc	Roll Towels, Green Foam	565.51
0	03/19/2009	General Fund	Op Supplies - City Hall	Eagle Clan Enterprises, Inc	Urinal Blocks	28.75
0	03/19/2009	General Fund	Office Supplies	Innovative Office Solutions	Office Supplies	265.90
0	03/19/2009	General Fund	Operating Supplies	Innovative Office Solutions	Office Supplies	443.55
0	03/19/2009	General Fund	Office Supplies	Innovative Office Solutions	Office Supplies	65.05
0	03/19/2009	General Fund	Office Supplies	Innovative Office Solutions	Office Supplies	1,088.53
0	03/19/2009	General Fund	Office Supplies	Innovative Office Solutions	Office Supplies	218.79
0	03/19/2009	General Fund	Office Supplies	Innovative Office Solutions	Office Supplies	87.22
0	03/19/2009	Recreation Fund	Office Supplies	Innovative Office Solutions	Office Supplies	386.62

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
0	03/19/2009	Community Development	Office Supplies	Innovative Office Solutions	Office Supplies	213.34
0	03/19/2009	License Center	Office Supplies	Innovative Office Solutions	Office Supplies	76.49
0	03/19/2009	Information Technology	Contract Maintenance	Berbee Info Networks, Inc.	Anti-Spam, Anti-Virus	1,118.25
Check Total:						116,559.80
54644	03/17/2009	Police - DWI Enforcement	Professional Services	St. Boni Motor Sports	Down Payment on ATV	1,000.00
Check Total:						1,000.00
54645	03/19/2009	General Fund	Right of way Permit	Access Communications Inc	Right of Way Permit Refund	960.00
Check Total:						960.00
54646	03/19/2009	General Fund	Operating Supplies	AE Sign Systems	Stamped Name Tags	699.70
Check Total:						699.70
54647	03/19/2009	Recreation Fund	Operating Supplies	AIM Electronics Inc.	Ribbon Cables	39.93
54647	03/19/2009	Recreation Fund	Use Tax Payable	AIM Electronics Inc.	Sales/Use Tax	-2.43
Check Total:						37.50
54648	03/19/2009	General Fund	Vehicle Supplies	All Wheels Financial, Inc/WDL	Filters	113.12
Check Total:						113.12
54649	03/19/2009	Golf Course	Merchandise For Sale	Callaway Golf	Items for Resale	455.85
54649	03/19/2009	Golf Course	Merchandise For Sale	Callaway Golf	Items for Resale	42.35
54649	03/19/2009	Golf Course	Merchandise For Sale	Callaway Golf	Items for Resale	78.35
Check Total:						576.55
54650	03/19/2009	Golf Course	Merchandise For Sale	Capitol Beverage Sales, LP	Beverages for Resale	323.10
Check Total:						323.10
54651	03/19/2009	General Fund	Clothing	Cintas Corporation #470	Uniforms	216.05
54651	03/19/2009	P & R Contract Maintenance	Clothing	Cintas Corporation #470	Uniforms	2.66
54651	03/19/2009	General Fund	Clothing	Cintas Corporation #470	Credit	-131.04
54651	03/19/2009	General Fund	Clothing	Cintas Corporation #470	Uniforms	34.30
54651	03/19/2009	P & R Contract Maintenance	Clothing	Cintas Corporation #470	Uniforms	2.66

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
Check Total:						124.63
54652	03/19/2009	General Fund	Contract Maintenance Vehicles	Clarey's Safety Equipment Inc	Air Compressor	420.78
Check Total:						420.78
54653	03/19/2009	Information Technology	Telephone	Comcast Cable	High Speed Internet	45.59
Check Total:						45.59
54654	03/19/2009	Sanitary Sewer	Operating Supplies	Continental Research Corp	O.J.D>	224.64
Check Total:						224.64
54655	03/19/2009	Recreation Fund	Advertising	Dex Media East LLC	Advertising	39.58
54655	03/19/2009	Golf Course	Advertising	Dex Media East LLC	Advertising	39.59
Check Total:						79.17
54656	03/19/2009	Water Fund	Accounts Payable	RONALD DOLLE	Refund check	28.96
Check Total:						28.96
54657	03/19/2009	License Center	Contract Maintenance	ECR Software Corp.	Catapult Support & Upgrade	3,993.75
54657	03/19/2009	License Center	Use Tax Payable	ECR Software Corp.	Sales/Use Tax	-243.75
Check Total:						3,750.00
54658	03/19/2009	Recreation Fund	Operating Supplies	Lynn Erickson	Reimbursement for Tennis Balls	351.00
Check Total:						351.00
54659	03/19/2009	Recreation Fund	Motor Fuel	Ferrellgas	Rental	15.97
Check Total:						15.97
54660	03/19/2009	Sanitary Sewer	Operating Supplies	General Industrial Supply Co.	Tape Measure	23.32
Check Total:						23.32

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
54661	03/19/2009	Housing & Redevelopment A	Professional Services	Greater Metropolitan Housing C	2009 Housing Resource Center Services	30,000.00
Check Total:						30,000.00
54662	03/19/2009	Recreation Fund	Operating Supplies	Ice Skating Institute	Patches	145.06
54662	03/19/2009	Recreation Fund	Use Tax Payable	Ice Skating Institute	Sales/Use Tax	-8.85
Check Total:						136.21
54663	03/19/2009	General Fund	Memberships & Subscriptions	Intl Public Management Assn	Membership Dues	105.00
Check Total:						105.00
54664	03/19/2009	Contracted Engineering Svcs	Deposits	J.W. Moore Inc	Escrow Reimb. for Moore's McCarrons Pres	14,908.00
Check Total:						14,908.00
54665	03/19/2009	Golf Course	Day League Registration	Marlys Janal	Golf League Refund	16.00
Check Total:						16.00
54666	03/19/2009	General Fund	Vehicle Supplies	Kath Auto Parts	Dex-Cool Antifreeze	70.23
Check Total:						70.23
54667	03/19/2009	Recreation Fund	Non Fee Program Revenue	Pamela Klentz	Moon Walk Class Reimbursement	4.00
Check Total:						4.00
54668	03/19/2009	Recreation Fund	Professional Services	Jessica Kohs	Assistant Dance Instructor	63.00
Check Total:						63.00
54669	03/19/2009	Housing & Redevelopment A	Professional Services	Adam Konczewski	Pictures for the Living Smarter Event	225.00
Check Total:						225.00
54670	03/19/2009	Recreation Improvements	Other Improvements	Krech Iron Works, Inc.	Stair railing at Arboretum	965.95
54670	03/19/2009	Recreation Improvements	Use Tax Payable	Krech Iron Works, Inc.	Sales/Use Tax	-58.95

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
54670	03/19/2009	Recreation Improvements	Other Improvements	Krech Iron Works, Inc.	Fence for Evergreen Park	3,727.50
54670	03/19/2009	Recreation Improvements	Use Tax Payable	Krech Iron Works, Inc.	Sales/Use Tax	-227.50
Check Total:						4,407.00
54671	03/19/2009	Water Fund	Accounts Payable	LARDANI	Refund check	24.73
Check Total:						24.73
54672	03/19/2009	Housing & Redevelopment A	Advertising	Lillie Suburban Newspaper Inc	Inserts	1,020.00
54672	03/19/2009	Housing & Redevelopment A	Advertising	Lillie Suburban Newspaper Inc	Progress-CI	639.00
54672	03/19/2009	Housing & Redevelopment A	Advertising	Lillie Suburban Newspaper Inc	ROP Event	1,121.20
Check Total:						2,780.20
54673	03/19/2009	Recreation Fund	Fee Program Revenue	Xiacher Lor	Shelter Refund	11.00
54673	03/19/2009	Recreation Fund	Fee Program Revenue	Xiacher Lor	Shelter Refund	15.00
54673	03/19/2009	Recreation Fund	Fee Program Revenue	Xiacher Lor	Shelter Refund	136.06
54673	03/19/2009	Recreation Fund	Sales Tax Payable	Xiacher Lor	Shelter Refund	10.94
Check Total:						173.00
54674	03/19/2009	Water Fund	Memberships & Subscriptions	ROBERT LUGER	Class A Drivers License Reimbursement	19.00
Check Total:						19.00
54675	03/19/2009	Water Fund	Accounts Payable	ANDREW & DOROTHY LUKASZE	Refund check	54.74
Check Total:						54.74
54676	03/19/2009	Water Fund	Accounts Payable	JOSEPH MCKENZIE	Refund check	37.93
Check Total:						37.93
54677	03/19/2009	Sanitary Sewer	Memberships & Subscriptions	Lyle Miller	Class B License Reimbursement	11.00
Check Total:						11.00
54678	03/19/2009	Recreation Fund	Professional Services	Megan Miner	Assistant Dance Instructor	112.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
Check Total:						112.00
54679	03/19/2009	Recreation Fund	Professional Services	Minnesota Premier Publications	MN Parent Listing	220.00
Check Total:						220.00
54680	03/19/2009	Golf Course	Memberships & Subscriptions	MN Dept of Labor & Industry	Power Limited Tech License-McDonagh	30.00
54680	03/19/2009	P & R Contract Maintenance	Memberships & Subscriptions	MN Dept of Labor & Industry	Power Limited Tech License-Schlusser	30.00
Check Total:						60.00
54681	03/19/2009	Recreation Fund	Professional Services	Jack Moran	Run for the Roses Internet Posting	10.00
Check Total:						10.00
54682	03/19/2009	Recreation Fund	Operating Supplies	Muska Lighting Center	Lamps	106.12
Check Total:						106.12
54683	03/19/2009	General Fund	Memberships & Subscriptions	NFPA	Membership Renewal-Loftus	150.00
Check Total:						150.00
54684	03/19/2009	General Fund	Contract Maint. - City Hall	Nitti Sanitation Inc.	Regular Service	306.00
54684	03/19/2009	General Fund	Contract Maintenance	Nitti Sanitation Inc.	Regular Service	176.80
54684	03/19/2009	General Fund	Contract Maint. - City Garage	Nitti Sanitation Inc.	Regular Service	550.80
54684	03/19/2009	General Fund	Contract Maintenance	Nitti Sanitation Inc.	Regular Service	108.80
54684	03/19/2009	Golf Course	Contract Maintenance	Nitti Sanitation Inc.	Regular Service	217.60
54684	03/19/2009	Recreation Fund	Contract Maintenance	Nitti Sanitation Inc.	Regular Service	448.80
54684	03/19/2009	P & R Contract Maintenance	Contract Maintenance	Nitti Sanitation Inc.	Regular Service	1,033.60
Check Total:						2,842.40
54685	03/19/2009	Recreation Fund	Operating Supplies	Northern Power Products Inc.	Carb Repair Kit	38.67
Check Total:						38.67
54686	03/19/2009	Recreation Fund	Rental	On Site Sanitation, Inc.	Regular Service	40.47
54686	03/19/2009	P & R Contract Maintenance	Rental	On Site Sanitation, Inc.	Regular Service	40.47
54686	03/19/2009	P & R Contract Maintenance	Rental	On Site Sanitation, Inc.	Regular Service	40.47

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
54686	03/19/2009	P & R Contract Maintenance	Rental	On Site Sanitation, Inc.	Regular Service	40.47
54686	03/19/2009	P & R Contract Maintenance	Rental	On Site Sanitation, Inc.	Regular Service	40.47
Check Total:						202.35
54687	03/19/2009	Sanitary Sewer	Accounts Payable	WILLIAM ORR	Refund check	10.79
Check Total:						10.79
54688	03/19/2009	Recreation Fund	Fee Program Revenue	Joe Patri	Firearm Safety Class Refund	12.00
Check Total:						12.00
54689	03/19/2009	Recreation Fund	Fee Program Revenue	Gale Pederson	Jonas Brothers Party Refund	36.00
54689	03/19/2009	Recreation Fund	Fee Program Revenue	Gale Pederson	Jonas Brothers Party Refund	2.00
Check Total:						38.00
54690	03/19/2009	Water Fund	Memberships & Subscriptions	Kyle Petersen	Class B License Reimbursement	11.00
Check Total:						11.00
54692	03/19/2009	Equipment Replacement	FunRental - Office Machines	Pitney Bowes	Lease Payment on Postage Machine	1,158.00
Check Total:						1,158.00
54693	03/19/2009	Recreation Fund	Contract Maintenance	Printers Service Inc	Ice Knife Sharpening	298.00
Check Total:						298.00
54694	03/19/2009	Water Fund	Professional Services	Quality Restoration Services,	Road Work Signs	124.27
Check Total:						124.27
54695	03/19/2009	Telephone	St. Anthony Telephone	Qwest	Telephone Service	289.62
54695	03/19/2009	Telephone	St. Anthony Telephone	Qwest	Telephone Service	171.51
54695	03/19/2009	Telephone	Telephone	Qwest	Telephone Service	639.00
54695	03/19/2009	Telephone	Telephone	Qwest	Telephone Service	639.00
54695	03/19/2009	Telephone	Telephone	Qwest	Telephone Service	639.00
54695	03/19/2009	Telephone	Telephone	Qwest	Telephone Service	85.75
54695	03/19/2009	Telephone	Telephone	Qwest	Telephone Service	639.00
54695	03/19/2009	Telephone	Telephone	Qwest	Telephone Service	137.19

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
54695	03/19/2009	Telephone	Telephone	Qwest	Telephone Service	331.12
54695	03/19/2009	Telephone	NSCC Telephone	Qwest	Telephone Service	178.89
Check Total:						3,750.08
54696	03/19/2009	General Fund	Operating Supplies	Sam's Club	Supplies	408.01
Check Total:						408.01
54697	03/19/2009	General Fund	Memberships & Subscriptions	SHRM	Membership Renewal-Bacon	160.00
Check Total:						160.00
54698	03/19/2009	P & R Contract Maintenance	Professional Services	Wayne Skogstad	License Reimbursement	11.00
Check Total:						11.00
54699	03/19/2009	Storm Drainage	Telephone	Sprint	Cell Phones	25.25
54699	03/19/2009	P & R Contract Maintenance	Telephone	Sprint	Cell Phones	25.25
54699	03/19/2009	Information Technology	Telephone	Sprint	Cell Phones	50.51
Check Total:						101.01
54700	03/19/2009	TIF District #17-Twin Lakes	Contractor Payments	SRF Consulting Group, Inc.	Professional Services Through 1/31/09	1,203.21
Check Total:						1,203.21
54701	03/19/2009	P & R Contract Maintenance	Training	St. Paul-Ramsey Cty Public Hea	Certified Pool Operator Course Reg.	85.00
Check Total:						85.00
54702	03/19/2009	General Fund	Operating Supplies	Staples Business Advantage	Toner	186.80
Check Total:						186.80
54703	03/19/2009	General Fund	Professional Services	Sheila Stowell	Human Rights Commission Minutes	143.75
54703	03/19/2009	General Fund	Professional Services	Sheila Stowell	Human Rights Commission Minutes	4.79
54703	03/19/2009	General Fund	Professional Services	Sheila Stowell	City Council Meeting Minutes	281.75
54703	03/19/2009	General Fund	Professional Services	Sheila Stowell	Mileage Reimbursement	4.79

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
Check Total:						435.08
54704	03/19/2009	P & R Contract Maintenance	Operating Supplies	Suburban Ace Hardware	Box Switch	12.33
54704	03/19/2009	Recreation Fund	Operating Supplies	Suburban Ace Hardware	Rope, Electrical Supplies	10.20
54704	03/19/2009	Recreation Fund	Operating Supplies	Suburban Ace Hardware	Rubber Shop Kit	4.04
Check Total:						26.57
54705	03/19/2009	Water Fund	Water - Roseville	Title Advantage	Reimbursement-Water Bill Overpayment	300.00
Check Total:						300.00
54706	03/19/2009	General Fund	Vehicle Supplies	Toll Gas & Welding Supply	Industrial Cyls	18.42
Check Total:						18.42
54707	03/19/2009	General Fund	Vehicle Supplies	Tousley Ford Inc	Bushing, Indicator	23.74
Check Total:						23.74
54708	03/19/2009	Water Fund	Professional Services	Twin City Water Clinic, Inc.	Water Analysis Feb 2009	400.00
Check Total:						400.00
54709	03/19/2009	Recreation Fund	Operating Supplies	UPS	Shipping	14.19
Check Total:						14.19
54710	03/19/2009	General Fund	Training	US Bank	Petty Cash Reimbursement	40.00
54710	03/19/2009	General Fund	Miscellaneous	US Bank	Petty Cash Reimbursement	14.59
54710	03/19/2009	General Fund	Transportation	US Bank	Petty Cash Reimbursement	7.00
54710	03/19/2009	Police - DWI Enforcement	Operating Supplies	US Bank	Petty Cash Reimbursement	40.00
54710	03/19/2009	General Fund	Training	US Bank	Petty Cash Reimbursement	20.00
54710	03/19/2009	Police - DWI Enforcement	Operating Supplies	US Bank	Petty Cash Reimbursement	9.50
54710	03/19/2009	General Fund	Operating Supplies	US Bank	Petty Cash Reimbursement	9.50
54710	03/19/2009	General Fund	Training	US Bank	Petty Cash Reimbursement	7.00
54710	03/19/2009	General Fund	Training	US Bank	Petty Cash Reimbursement	5.00
54710	03/19/2009	Boulevard Landscaping	Operating Supplies	US Bank	Petty Cash Reimbursement	20.00
54710	03/19/2009	Police - DWI Enforcement	Operating Supplies	US Bank	Petty Cash Reimbursement	22.00
54710	03/19/2009	General Fund	Professional Services	US Bank	Petty Cash Reimbursement	20.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Description	Amount
Check Total:						214.59
54711	03/19/2009	Water Fund	Professional Services	Valley-Rich Co., Inc.	Tractor Breaker	1,218.50
54711	03/19/2009	Water Fund	Professional Services	Valley-Rich Co., Inc.	Tractor Breaker	758.00
54711	03/19/2009	Water Fund	Professional Services	Valley-Rich Co., Inc.	Tractor Breaker, Lowboy	2,083.00
54711	03/19/2009	Water Fund	Professional Services	Valley-Rich Co., Inc.	Small Hoe Breaker, Lowboy	1,328.00
54711	03/19/2009	Water Fund	Professional Services	Valley-Rich Co., Inc.	Tractor Breaker, Lowboy	1,155.00
Check Total:						6,542.50
54712	03/19/2009	Golf Course	Advertising	Valpak	Premium Coated Coupon	418.01
54712	03/19/2009	Golf Course	Use Tax Payable	Valpak	Sales/Use Tax	-25.51
Check Total:						392.50
54713	03/19/2009	Sanitary Sewer	Payments to Contractors	Veit & Company, Inc.	Blanket PO for Sanitary Sewer Lining Pro	99,380.45
Check Total:						99,380.45
54714	03/19/2009	Golf Course	Operating Supplies	The Vernon Company	Birdie Pins	655.26
Check Total:						655.26
54715	03/19/2009	Water Fund	Professional Services	Water Conservation Service, In	Locate Watermain Leaks	705.10
Check Total:						705.10
Report Total:						310,668.64

REQUEST FOR COUNCIL ACTION

Date: 03-30-09
Item No.: 7.b

Department Approval

City Manager Approval

Chris Miller

Item Description: Approval of 2009 Business Licenses

BACKGROUND

Chapter 301 of the City Code requires all applications for business licenses to be submitted to the City Council for approval. The following application(s) is (are) submitted for consideration

Massage Therapist License

Kieran J. McManimon

@ Body, Mind, & Soul Healing & Wellness Spa

1740 Lexington Avenue

Roseville MN 55113

POLICY OBJECTIVE

Required by City Code

FINANCIAL IMPACTS

The correct fees were paid to the City at the time the application(s) were made.

STAFF RECOMMENDATION

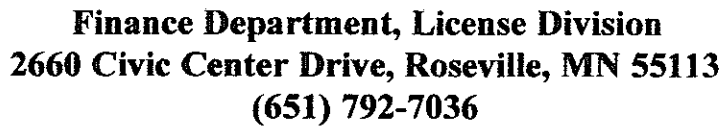
Staff has reviewed the application(s) and has determined that the applicant(s) meet all City requirements.

REQUESTED COUNCIL ACTION

Motion to approve the business license application(s) as submitted.

Prepared by: Chris Miller, Finance Director

Attachments: A: Applications



New License X Renewal _____

For License year ending June 30 _____

1. Legal Name Kieran Joseph McManimon
2. Home Address _____
3. Home Telephone _____
4. Date of Birth _____
5. Drivers License Number _____
6. Email Address _____
7. Have you ever used or been known by any name other than the legal name given in number 1 above?
Yes _____ No X If yes, list each name along with dates and places where used.

8. Name and address of the licensed Massage Therapy Establishment that you expect to be employed by.

8. Name and address of the licensed Massage Therapy Establishment that you expect to be employed by.
Body, Mind, & Soul Healing and Wellness Spa 1740 Lexington Ave.
Roseville, MD 55113

9. Attach a certified copy of a diploma or certificate of graduation from a school of massage therapy including a minimum of 600 hours in successfully completed course work as described in Roseville Ordinance 116, massage Therapy Establishments.

10. Have you had any previous massage therapist license that was revoked, suspended, or not renewed?
 Yes No ☒ If yes explain in detail.

License fee is 75.00

Make checks payable to City of Roseville

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 3/30/09
Item No.: 7.c

Department Approval

City Manager Approval

Christopher K. Miller

W. J. Mahinen

Item Description: Request for Approval of General Purchases or Sale of Surplus Items
Exceeding \$5,000

BACKGROUND

City Code section 103.05 establishes the requirement that all general purchases and/or contracts in excess of \$5,000 be approved by the Council. In addition, State Statutes require that the Council authorize the sale of surplus vehicles and equipment.

General Purchases or Contracts

City Staff have submitted the following items for Council review and approval:

Department	Vendor	Item / Description	Amount
Parks	Upper Cut Tree Service	Diseased and Hazardous tree removal	\$ 25,000.00
Parks	Muska Electric	Electrical upgrades @ Amphitheatre (a)	15,690.00
Parks	Sieco Construction	Repairs to Amphitheatre (a)	10,840.00
Parks	Metro Sound & Light	Sounds system @ Amphitheatre (a)	11,328.82
Parks	Prowire Inc.	Alarm system @ Amphitheatre (a)	\$ 1,916.34

(a) A portion of these costs will be paid by the Central Park Foundation

Sale of Surplus Vehicles or Equipment

City Staff have identified surplus vehicles and equipment that have been replaced and/or are no longer needed to deliver City programs and services. These surplus items will either be traded in on replacement items or will be sold in a public auction or bid process. The items include the following:

Department	Item / Description
n/a	n/a

POLICY OBJECTIVE

Required under City Code 103.05.

FINANCIAL IMPACTS

Funding for all items is provided for in the current operating or capital budget.

19 **STAFF RECOMMENDATION**

20 Staff recommends the City Council approve the submitted purchases or contracts for service and, if
21 applicable, authorize the trade-in/sale of surplus items.

22 **REQUESTED COUNCIL ACTION**

23 Motion to approve the submitted list of general purchases, contracts for services, and if applicable the
24 trade-in/sale of surplus equipment.

25

26

Prepared by: Chris Miller, Finance Director

Attachments: A: None

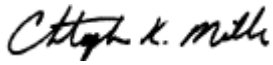
27

REQUEST FOR COUNCIL ACTION

Date: 03/30/09
Item No.: 7.d

Department Approval

City Manager Approval



Item Description: Approve Amendments to the 2008 Budget

BACKGROUND

The City annually adopts budgets on the basis set forth by State Statute, and generally accepted accounting principles. Although the City adopts a single all-encompassing budget, additional measures are necessary to show that all expenditures within the General Fund and certain Special Purpose Funds are within budget appropriations, when presented in the annual financial statements.

The legal level of budgetary control (i.e. the level at which expenditures may not legally exceed appropriations) has been established at the fund level, as opposed to line-item or individual programs. It is recognized that the City's Department Heads, under the approval of the City Manager, may make transfers of appropriations within the department. However, if the expenditures exceed the total fund budget, a budget amendment must be shown.

It's worth noting, that these types of year-end adjustments are typical for local governments like Roseville given the size and scope of operations. Rather than make numerous budget adjustments throughout the year and incur the significant administrative costs of monitoring the budget on a daily basis, it is customary to reflect the changes in one all-encompassing adjustment. The year-end budget adjustments typically reflect reallocated or additional costs that are offset by unbudgeted grants, fees, or other revenues.

The following budget amendment to the 2008 **General Fund** budget is submitted for consideration:

- 1) \$75,000 in Public Safety expenditures which included; \$15,000 in purchases of turnout gear for the Fire Department, and \$60,000 in Police department purchases paid for out of donations and/or forfeiture funds.
- 2) \$185,000 in Public Works expenditures which included; \$78,000 in additional motor fuel and street maintenance materials due to price fluctuations, and \$107,000 in engineering consulting services provided to the Cities of Arden Hills and Falcon Heights. Consulting services costs were offset by added fees.

29 The following budget amendment to the 2008 **Recreation Fund** budget is submitted for consideration:

30

31 1) \$38,000 for additional salaries expense. The 2008 personnel costs included two non-recurring
32 charges that were not budgeted for. They included paying for a 27th pay period due to the calendar
33 of pay periods (normally we have 26), as well as the one-time severance paid to a long-standing
34 employee that retired late in the year. Cash reserves in the Recreation Fund were available to pay
35 for the added expense.

36 **POLICY OBJECTIVE**

37 Where applicable, budget amendments are made to comply with State Statutes.

38 **FINANCIAL IMPACTS**

39 There are no current year financial impacts. The budget amendments are necessary to demonstrate that
40 previously incurred expenditures are within the adopted budget. Any changes in expected expenditure
41 trends are incorporated into future budgets.

42 **STAFF RECOMMENDATION**

43 Staff has prepared the requested budget amendments and considers them reasonable, within an expected
44 range of adjustment, and in accordance with all applicable State Statutes. It is recommended that the
45 budget amendments be approved. The City's Auditors are tentatively scheduled to make a formal
46 presentation on the 2008 financial statements at the May 11, 2008 Council Meeting.

47 **REQUESTED COUNCIL ACTION**

48 Motion to approve the year-end amendments to the 2008 Budget.

49

Prepared by: Chris Miller, Finance Director

Attachments: A: Excerpts of the 2008 financial statements. The amendments have been incorporated in the column
marked 'final' budget.

50

CITY OF ROSEVILLE, MINNESOTA
RECREATION FUND
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
For the Year Ended December 31, 2008

	Budget		Actual	Variance with Final Budget
	Original	Final		
REVENUES				
General property taxes	\$ 1,787,335	\$ 1,787,335	\$ 1,702,654	\$ (84,681)
Intergovernmental revenue	0	0	27,789	27,789
Charges for services	1,640,310	1,642,570	1,564,056	(78,514)
Rentals	50,000	50,000	67,579	17,579
Donations	45,900	45,900	50,367	4,467
Special assessments	0	0	1,430	1,430
Investment income	1,140	1,140	20,874	19,734
Miscellaneous	46,800	46,800	74,942	28,142
Total revenues	<u>3,571,485</u>	<u>3,573,745</u>	<u>3,509,691</u>	<u>(64,054)</u>
EXPENDITURES				
Current				
Personal services	2,218,080	2,256,080	2,265,146	(9,066)
Supplies & materials	262,290	262,290	263,740	(1,450)
Other services & charges	1,049,375	1,049,375	1,040,812	8,563
Capital outlay	44,000	44,000	41,164	2,836
Total expenditures	<u>3,573,745</u>	<u>3,611,745</u>	<u>3,610,863</u>	<u>882</u>
Net change in fund balances	(2,260)	(38,000)	(101,172)	(64,936)
Fund balance - beginning	<u>502,935</u>	<u>502,935</u>	<u>502,935</u>	<u>0</u>
Fund balance - ending	<u>\$ 500,675</u>	<u>\$ 464,935</u>	<u>\$ 401,763</u>	<u>\$ (64,936)</u>

The notes to the financial statements are an integral part of this statement.

REQUEST FOR COUNCIL ACTION

Date: March 30, 2009

Item No.: 13.a

Department Approval

City Manager Approval



Item Description: Discussion of Professional Services Contracts

BACKGROUND

At the January 12, 2009, Council meeting, the Council discussed the current Professional Services Policy. There were questions about the current policy of limiting service to six consecutive years.

Following the discussion, the Council rejected all bids for Civil Attorney and Prosecuting Attorney services and extended the existing the current services through 2008 at the same terms for those provided in 2008.

The Council did not make changes to the current policy.

POLICY OBJECTIVE

To have a policy concerning professional services contract that ensures the residents of Roseville get the best representation for a competitive price

FINANCIAL IMPACTS

None

REQUESTED COUNCIL ACTION

Discuss the proposed professional services contract changes.

Prepared by: Bill Malinen, City Manager

Attachments: A: 2008 Staff Timeline to consider legal services contracts
B: 1/12/09 RCA and Proposed Professional Services Policy
C: 1/12/09 City Council Meeting Minutes
D: 2/28/09 email from Mike Hill
E: Professional Services Policy

2008 Timeline / Process

Consider Legal Services Contracts

Staff Guide

Dates Projected Actual		Action	Outcome
July 08	July 08	Reviewed 1999, 2002 and 2005 Legal Services RFQ processes	<i>Confirmed the following process for 2008</i>
8/1/08	7/31/08	Survey two City Professional Groups (Communications & HR) Copy of Recent RFP/RFQ? Current Attorney(s)? Satisfied? Copy of Contracts?	<i>a. Communications Group Response: Red Wing</i> <i>b. HR Group Responses: New Hope & Apple Valley</i> <i>(low response thought to be a result of few RFQs done for legal services; civil and prosecuting attorneys seem to serve cities for long periods of time)</i>
8/01/08	8/08/08	Update Mailing List	<i>Updated Mailing list (Web and Phone) -obtained names of firms currently under contract with similar communities</i>
8/08/08	8/12/08	Update RFQ Update Cover Letter	<i>Updated RFQ and Cov Letter</i>
8/18	8/18/08	Council Review of Professional Services Policy	<i>Council Reviews Policy, Determines OK</i>
8/19	8/21/08	Mail RFP/RFQ – deadline for response: 9/17/08	<i>Actual date mailed: 8/21/08</i>
8/19/08	8/19- 8/26/08	Advertise	<i>Posted on our Web site; Advertised on LMNC Web; and Published in legal newspaper (8/26)</i>
9/12/08	9/12/08	Establish Rating Criteria	<i>Rating Criteria established</i> <i>Civil: Rating of 1-10 in 8 areas</i> <i>Prosecutor: Rating of 1-4 in 7 areas</i> <i>Rating of 1-5 in 8 areas</i>
9/12/08	9/12/08	Select Interview teams	<i>Interview Teams selected</i> <i>Civil: (7) Malinen; Bacon; Brokke; Gasaway; Miller; Paschke; & Schwartz,</i> <i>Prosecutor: (4) Sletner; Mathwig; Rosand; & Trudgeon</i>
9/12/08	9/12/08	Develop Interview Questions	<i>Interview Questions written, reviewed twice by Directors and finalized.</i>
9/17/08	9/17/08	Deadline	<i>Received:</i> <i>4 RFQs for Civil Attorney</i> <i>5 RFQs for Prosecuting Attorney</i>
9/19/08	9/17/08	Review & Rate Firms	<i>All firms deemed qualified to interview</i>

9/22/08	9/22/08	Invite Firms to Interview	Invited all Firms to interview
10/06/08	10/06/08	Interview Firms	<i>Interviewed all Firms</i>
10/06/08	10/06/08	Debrief and Rate Firms	<i>Debriefed and Rated Firms:</i>
			5 Prosecuting; 4 Civil Prosecuting (160 points possible) Hellmuth & Johnson 82.0 Kelly & Lemmons 89.0 MacMillan & Wallace 91.5 Knaak & Kantrud 99.5 Jensen Bell Converse& Erickson 148.0 Civil: (560 points possible) Kelly & Lemmons 249.0 Knaak & Kantrud 360.5 Jensen Bell Converse& Erickson 448.0 Ratwik Roszak & Maloney 481.0
10/13/08	10/10/08	Preliminary Info to Council	Delivered RFQs to Council ☐ City Manager Memo re: confidentiality of info ☐ RFQ as mailed ☐ Mailing list ☐ Responses from all firms ☐ This process
10/20/08	10/20/08	City Manager Recommendation to Council	Council requested more info
10/27/08	11/24/08	Council Confirms Recommendation - failed	Motion to approve failed. Council requested more info
	12/04/08	Kelly & Lemmons withdraws proposal	4 Prosecuting; 3 Civil Prosecuting (160 points possible) Hellmuth & Johnson 82.0 Kelly & Lemmons 89.0 MacMillan & Wallace 91.5 Knaak & Kantrud 99.5 Jensen Bell Converse& Erickson 148.0 Civil: (560 points possible) Kelly & Lemmons 249.0 Knaak & Kantrud 360.5 Jensen Bell Converse& Erickson 448.0 Ratwik Roszak & Maloney 481.0
	1/07/09	Councilmember Johnson email Professional Services Policy Requested Council Action	RCA to Council 1/12/09
1/12/09		Council rejected all proposals and extended current legal agreements for 12 months.	Letters to all that responded advising them of the council decision to reject all proposals and extend current contracts 12 months.
1/27/09		Prepared extension agreement with same terms as 2008.	Received signed extensions.

Rev 8/14/08; 8/22/08; 10/09/08; 10/13/08; 1/08/09, 1/27/09

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 1/12/09

Item No.: 13.a

Department Approval

City Manager Approval



Item Description: Discuss Professional Services Policy

BACKGROUND

Council has previously discussed the Professional Services Policy. Councilmember Johnson has requested a discussion on the policy and effect on current legal services agreements.

POLICY OBJECTIVE

Revisit policy for selecting and retaining professional services while balancing the best interests of the City.

BUDGET IMPLICATIONS

- 1) The current policy limits a firm from reappointment after providing services for two consecutive 3-year terms:
 - a. This could potentially keep the City from procuring the best contract, and
 - b. Upon yearly review, Council has the right to extend or not extend the contract based upon performance and existing relationship
- 2) It may be to the City's advantage to limit the contract term to one year to:
 - a. Allow more flexibility in the budget, and
 - b. Allow a more fluid approach to professional services contracts

REQUESTED COUNCIL ACTION

Motion to remove language from the Professional Services Policy that limits service to six consecutive years; and

Consider extending legal service contracts for one year (2009) at the same terms as 2008.

Prepared by: Bill Malinen
 Attachments: A: Proposed Professional Services Policy

Background

The City of Roseville retains outside professional services in the areas of:

- ☐ Legal (Prosecution, Civil, Economic Development, and Bond Counsel)
- ☐ Appraisal
- ☐ Planning and Landscape Design
- ☐ Audit
- ☐ Engineering, Architectural, and Environmental

Agreements for the above services have been through contracts either for specific projects or services, or a given period of time. For legal services, written agreements are completed annually.

Purpose

It is desirable to ~~amend the current~~ maintain consistent methods of selecting and retaining consulting services to:

- ☐ Consolidate significant professional service policies into one uniform policy
- ☐ Provide Citywide consistency in the procedure of selecting and retaining professional services
- ☐ Ensure public confidence in process integrity by limiting the amount of time professional services are provided
- ☐ Ensure a fresh perspective and new approach to professional services
- ☐ Ensure a regular, consistent fiscal review of professional services

Policy

It is the policy of the City to employ a consistent practice for selecting and retaining professional services. Contracts for professional services shall be for no more than three (3) years, and include a review process. ~~Consulting firms shall be engaged for a period of not more than two (2) consecutive three (3) year periods. After six (6) years, they shall not be allowed to renew consulting services for a period of three (3) years.~~ If deemed in the City's best interests, the City Manager may continue professional services for longer than six (6) years. If the need arises, the City Manager may solicit proposals and select firms for special projects or services. Contracts will be reviewed on a case by case basis.

Selection of all firms shall be approved by the City Council.

Consulting firms:

- ☐ Shall commit to the principles of the Professional Code of Ethics for their profession and the City of Roseville Code of Ethics for Public Officials
- ☐ May contact only designated Roseville City staff
- ☐ Will not represent any individual or corporation involved in litigation against the City of Roseville

Procedure

1. The City Manager or designated staff will invite firms to submit proposals for providing professional services to the City of Roseville. The proposals shall include the following:

- ☐ Description of firm
- ☐ Technical qualifications
- ☐ Work experience
- ☐ Prior city experience
- ☐ References
- ☐ Fee schedule for all personnel

2. The City Manager will appoint a Selection Committee that will interview firms, if necessary. The Committee will recommend to the City Council that firms are to be selected. A proposed contract will be included with the recommendation.

3. The City Council will select the firms and approve the contracts at a regular Council meeting.

Implementation

All service areas will be on the same time cycle effective in 2000. This can best accommodate overlap and service areas, and provide additional consistency.

13. Business Items – Presentations/Discussions

a. Discuss Professional Services Policy

City Manager Malinen briefly discussed the Request for Council Action dated January 12, 2009 as initiated by the request of Councilmember Johnson for discussion of the policy and the effect on current legal services agreements.

Councilmember Johnson indicated that his rationale for this discussion was the six year sunset provision that could prohibit us from providing a best case scenario for the public; and opined that he would also like an annual review built into the policy to facilitate ongoing dialogue on performance.

Mayor Klausing clarified that there were two different and potential motions or actions for the City Council to consider.

Public Comment

John Kysylyczyn, 3083 N Victoria Street

Mr. Kysylyczyn questioned the future bid process; negotiating lower rates with current providers; and, commented on the professional services policy.

Councilmember Ihlan opined, on the issue of whether to extend the existing legal services contracts, she was under the impression that the City Council continued in the middle of that discussion of proposals from the end of last year, with the Council having requested additional information from staff related to the City Manager's recommendation. Councilmember Ihlan questioned if this item had been noticed as a future discussion item for tonight's agenda; and offered her willingness to have further discussions on the policy itself, but not taking action on appointment of a new City Attorney and/or Prosecuting Attorney at tonight's meeting.

City Manager Malinen advised that staff was not in receipt of any letter of resignation from the City's incumbent legal firms at this time; and was confident that cost savings could be negotiated with either or both of those firms following City Council ratification of his recommendation to retain the incumbents.

City Manager Malinen advised that he had suggested a process for annual review of legal services in previous discussions, and suggested incorporating that into policy revisions.

City Manager Malinen advised that staff had put together the Request for Council Action based on Councilmember Johnson's discussion requests and staff's perceived intent of those discussion points.

Councilmember Pust advised that she was cognizant of two different issues: that of extending legal service contracts for a year, recognizing some advantages in reviewing the current RFP process that provided only four bidders; and another issue in a broader review of the exiting policy. Councilmember Pust opined that she had concerns in making a decision on the two incumbent service providers without allowing the other bidders similar opportunities. Councilmember Pust recognized that both incumbent firms, when asked, had offered to keep their rates level for 2009; and suggested that the other providers needed to be provided fair consideration as well.

Councilmember Pust advised that she had consistently noted that there was no reason for language that incumbent firms couldn't rebid after six years; acknowledged that the overall policy may need review and revision; and noted that the City Council was always obligated to get the best deal for the City in any situations, even if that indicated retaining the same provider. Councilmember Pust suggested several changes to the existing policy, including striking language stating that only designated City staff could be contacted; and striking language regarding submitting RFP's if firms had already served the City for six years.

Councilmember Roe acknowledged those revisions, and noted that he had several others as well if that was part of tonight's discussion. Councilmember Roe questioned the contract period and/or annual fiscal review; noted that the current pol-

icy applied to a whole range of professional service contracts, and care needed to be given that those be considered in the discussion; and that the current policy had numerous inconsistencies that needed to be addressed.

Councilmember Roe spoke in support of a best value for legal services, based on review and performance criteria versus achievement, and suggested that the discussion include: 1) What purpose are we trying to achieve? and 2) How to implement those purposes.

Councilmember Johnson noted the need to review language proposed to be stricken under the purpose statement to provide for an annual review of professional services.

Further discussion included terms of current legal contracts having expired at the end of 2008; and fairness to all firms having bid.

Mayor Klausing opined that negotiating with current providers on a one year extension was appropriate.

Councilmember Ihlan, on the issue of extending contracts, opined that it was completely inappropriate to take that action tonight without additional information available and further review of the other proposals.

Councilmember Ihlan, on the issue of policy, noted that the Council had repeatedly stated their desire to achieve the best deal for the City; and opined that to do so required vigorous competition in the open market. Councilmember Ihlan questioned perceptions in the legal community and reasons for so few bids being received for legal services, or not wanting to bid against incumbents due to perceptions of entrenched relationships or insider arrangements and politicized decisions. Councilmember Ihlan further opined that by opening bids for other firms, and limiting years of service, it allowed for market competition and ensured public confidence through a competitive, open market system, and provided fresh perspectives. Councilmember Ihlan spoke in support of revised policy language that incumbents could rebid after a one year hiatus.

Councilmember Pust advised that she could support a one year extension with current legal providers, if she were assured that the process was fair to other bidders; thus her recommendation that action not be taken at tonight's meeting to allow all bidders equal opportunity, but recognizing that the best deal for the City is not always based on price, but also quality and expertise of the services provided. Councilmember Pust shared concerns that enough providers were not bidding, suggesting that this indicated the current process and policy needed to be reviewed; however, she also recognized that government clients were served by a subset of attorneys willing to do this less profitable work.

Mayor Klausing suggested that the Council extend current legal services for one year, allowing additional time for review of the existing policy language and further discussions during that time. Mayor Klausing opined that Councilmembers had received the packet materials allowing for sufficient review time of this agenda item, and allowing them to make an informed decision.

Councilmember Pust reiterated her opinion that the City was bound by statutorily-defined competitive bidding, allowing the same opportunity for all bidders; and questioned if the City was opening themselves up for process arguments from other bidders by extending the incumbents' contracts at tonight's meeting.

Mayor Klausing agreed to disagree, opining that this was not the case for the lowest bidder, but acting on the City Manager's recommendation.

Councilmember Roe opined the need for a less arbitrary way to achieve the objectives beyond the original policy language and six year limitation. Councilmember Roe noted that the City had the right to reject all bids; extend the current contracts for a year; and start from scratch going forward following further policy discussion.

Klausing moved, Roe seconded, rejecting all bids for City Civil Attorney and Prosecuting Attorney services; and extension of current incumbent services for an additional one year period through 2009 at the same terms as those provided in 2008.

Councilmember Ihlan requested that the City Council have access to all proposals before considering such action; opining that this would determine how she would argue the motion.

City Manager Malinen provided copies of the original proposals and related materials for Councilmember Ihlan's review.

Recess

Mayor Klausing recessed the meeting at 8:21 p.m. and reconvened at 8:34 p.m.

Councilmember Ihlan, following her review of the proposals, spoke against the motion; and for the record, provided her summary of each firm's bid, and her perception of the performance of the incumbents. Councilmember Ihlan opined that the City Council had not given careful consideration to opportunities to save money, even with the current economic and budgetary concerns, and needed to seriously consider such savings in the competitive marketplace. Councilmember Ihlan further opined her concerns with performance of the attorney firms, specifically the Civil attorney, and more specifically to their advise on various Twin Lakes redevelopment issues, and subsequent court decisions contrary to that advice. Councilmember Ihlan opined that, by the City being sued by their own residents on Twin Lakes issues, as well as the Acorn Road situation, with the Court

deciding in favor of the residents, it indicated that the City Council was not doing their jobs, nor that their civil attorney was providing prudent and accurate legal advice. Councilmember Ihlan noted that the Council majority, exclusive of her lack of support, had concurred with that legal advice to the detriment of the community itself; in addition to subsequent majority agreement for financial settlements, costing the City's taxpayers additional monies.

Councilmember Ihlan spoke in opposition to any motion to extend contracts, specific to the City's civil attorney, opining that it did not serve the public or City's interest to extend this contract.

City Manager Malinen briefly reviewed the process for City ratification of the City Manager's recommendations for legal services; and spoke in support of the City Council's action extending the contract, based on the process to-date, and allowing for reconsideration and revision of the current policy. City Manager Malinen opined that, from staff's perspective and review of proposals, they were satisfied with the incumbent firms. City Manager Malinen further opined that, while lawsuits and appeals were not something anyone wanted to go through, at the end of the day, everyone from a staff perspective felt comfortable with the level of services received by the City.

Following further City Council discussion, and confirming receipt of applicable waivers from each firm to discuss data deemed private under the Data Practices Act, it was majority City Council consensus that all bids received, in their entirety, be made part of these minutes for public review and information.

Further discussion included costs quoted and/or reduced for 2009; quality analysis of existing bids; and analysis of performance included in the process.

Mayor Klausing spoke in support of the motion; opining that the legal advice provided to a client doesn't guarantee final results; and performance of the City's civil attorney was not determined by a standard that their advice was always upheld 100% by the court system.

Mayor Klausing reiterated past observations among Councilmembers that each individual did indeed take their jobs and the best interest of the community into consideration with each of their decisions, but that it was unrealistic that each member be in total agreement with all decisions. Mayor Klausing reiterated that if a Councilmember reached a different conclusion than their colleagues, that didn't mean they took their responsibility less seriously.

Councilmember Pust advised that her analysis would have lead to her support of the incumbent firms; however, noted that she would be voting against the motion, due to her concerns regarding the process itself.

Roll Call

Ayes: Roe; Johnson; and Klausing.

Nays: Ihlan and Pust.

Motion carried.

From: Bill Malinen
Sent: Thursday, March 26, 2009 2:48 PM
To: Margaret Driscoll
Subject: FW: Professional Services Policies

Please include this in the Council packet for their information.

-----Original Message-----

From: Mike Hill [mailto:mdhill23@comcast.net]
Sent: Saturday, February 28, 2009 11:54 AM
To: Bill Malinen
Cc: Douglas Root
Subject: Professional Services Policies

We understand the Development and Bond Council legal services are now handled on an Ad Hoc basis rather than by contract. We feel the policies should be changed to reflect this.

We understand written agreements are no longer done annually, and again we think the policies should be changed to reflect this.

We recommend eliminating the wording "After (6) years, they shall not be allowed to renew consulting services for a period of three (3) years". We feel the provision in the policies stating "Selection of all firms shall be approved by the City Council" gives the City Administrator and City Council authorization to handle the contracts.

Mike Hill
Roseville Citizens League

Professional Services Policy

Background

The City of Roseville retains outside professional services in the areas of:

- ☐ Legal (Prosecution, Civil, Economic Development, and Bond Counsel)
- ☐ Appraisal
- ☐ Planning and Landscape Design
- ☐ Audit
- ☐ Engineering, Architectural, and Environmental

Agreements for the above services have been through contracts either for specific projects or services, or a given period of time. For legal services, written agreements are completed annually.

Purpose

It is desirable to amend the current methods of selecting and retaining consulting services to:

- ☐ Consolidate significant professional service policies into one uniform policy
- ☐ Provide Citywide consistency in the procedure of selecting and retaining professional services
- ☐ Ensure public confidence in process integrity by limiting the amount of time professional services are provided
- ☐ Ensure a fresh perspective and new approach to professional services
- ☐ Ensure a regular, consistent fiscal review of professional services

Policy

It is the policy of the City to employ a consistent practice for selecting and retaining professional services. Contracts for professional services shall be for three (3) years, and include a review process. Consulting firms shall be engaged for a period of not more than two (2) consecutive three (3) year periods. After six (6) years, they shall not be allowed to renew consulting services for a period of three (3) years. If deemed in the City's best interests, the City Manager may continue professional services for longer than six (6) years. If the need arises, the City Manager may solicit proposals and select firms for special projects or services. Contracts will be reviewed on a case by case basis.

Selection of all firms shall be approved by the City Council.

Consulting firms:

- ☐ Shall commit to the principles of the Professional Code of Ethics for their profession and the City of Roseville Code of Ethics for Public Officials
- ☐ May contact only designated Roseville City staff
- ☐ Will not represent any individual or corporation involved in litigation against the City of Roseville

1
2 Procedure

3 1. The City Manager or designated staff will invite firms to submit proposals for
4 providing professional services to the City of Roseville. The proposals shall
5 include the following:
6

- 7 ☐ Description of firm
8 ☐ Technical qualifications
9 ☐ Work experience
10 ☐ Prior city experience
11 ☐ References
12 ☐ Fee schedule for all personnel
13

14 2. The City Manager will appoint a Selection Committee that will interview firms, if
15 necessary. The Committee will recommend to the City Council that firms are to
16 be selected. A proposed contract will be included with the recommendation.
17

18 3. The City Council will select the firms and approve the contracts at a regular
19 Council meeting.
20

21 Implementation

22 All service areas will be on the same time cycle effective in 2000. This can best
23 accommodate overlap and service areas, and provide additional consistency.
24

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 3/30/09
Item No.: 13.b

Department Approval

City Manager Approval

Christopher K. Miller

W. J. Mahinen

Item Description: Consider Adjustments to the 2009 Budget

BACKGROUND

On December 15, 2008, the City Council adopted the Final 2009 Budget. As with previous year's budgets, the 2009 Budget carried a number of revenue and expenditure assumptions which are based on prior years' results, expected trends, and projections based on inputs from a variety of sources. Among the assumptions made was that the City would receive from the State of Minnesota, approximately \$400,000 in Market Value Homestead Credit (MVHC) in 2009. These monies are used to support police, fire, streets, parks & recreation, and administrative and finance functions.

At the time the 2009 Budget was adopted, it was acknowledged that the State of Minnesota was facing a projected budget shortfall but the magnitude of that shortfall and its impact on MVHC was unknown. The fate of the City's MVHC aid is still unknown, but all indications suggest that the City will lose its allotment for 2009 and possibly beyond.

In recognition of the expected loss of MVHC, it is prudent for the City to publicly acknowledge the impact and to make budget adjustment as necessary. While the Council can choose to take any number of actions in response to this, it is suggested that the Council first give consideration to the following options in offsetting the loss:

- 1) Use cash reserves
- 2) Make temporary or short-term budget cuts
- 3) Make structural or long-term budget cuts

Each of these options is discussed further below.

Cash Reserves

MVHC revenues are deposited into the tax-supported programs; primarily the General and Parks & Recreation Funds. For 2009, the City could choose to offset the loss in MVHC by using reserves from these funds. However, both of these funds have cash reserves that are already below industry-recommended levels, as well as the amounts prescribed in the Council-adopted Cash Reserve Policy. In total, the General and Parks & Recreation Funds are approximately \$3 million below recommended levels. Using reserves further will only weaken these Funds' ability to generate interest earnings and respond to contingencies and unforeseen circumstances.

33
34 Temporary or Short-Term Budget Cuts

35 The Council could choose to use short-term measures such as leaving employee positions temporarily
36 vacant, reducing overtime, delaying vehicle and equipment purchases, or reducing Staff training and
37 conferences.

38
39 However, this would have the effect of spreading an increased workload over less Staff, and effectively
40 prohibiting the City from realizing the optimal value of its vehicles and equipment. While this approach
41 may offset the loss of MVHC for 2009, it would not necessarily provide a viable option beyond 2009. In
42 short, it would not be sustainable.

43
44 Structural or Long-Term Budget Cuts

45 Finally, the Council could choose structural or long-term measures such as; organizational restructuring
46 that result in the elimination of employee positions, eliminating programs and services, or reducing service
47 levels.

48
49 This option presents the most viable option for ensuring financial and operational sustainability. It will
50 better equate the public's ability or willingness to pay for services with the actual demand for those
51 services.

52
53 Potential 2009 Budget Cuts

54 In recognition of the expected loss in MVHC in 2009, and possibly beyond, City Staff has compiled a list of
55 potential spending cuts. These cuts are summarized in *Attachment A*. Bear in mind, that the proposed cuts
56 were based on the premise that the impact from the loss of MVHC should be borne by each department on a
57 proportionate basis based on the 2009 Budget. This represents only one of several formulas that could be
58 used.

59
60 City Staff will be present at the meeting to address any Council inquiries and impacts from any spending
61 cuts.

62 **POLICY OBJECTIVE**

63 It is recommended that the City publicly acknowledge the expected loss of MVHC and its potential impact.

64 **FINANCIAL IMPACTS**

65 The City expects to lose \$400,000 in MVHC in 2009, and possibly beyond; creating a budget shortfall in
66 the property tax-supported programs.

67 **STAFF RECOMMENDATION**

68 Not applicable.

69 **REQUESTED COUNCIL ACTION**

70 City Staff is seeking direction on whether to make cost-cutting adjustments to the 2009 Budget.

71
Prepared by: Chris Miller, Finance Director
Attachments: A: Summary of Potential 2009 Budget Reductions
B: Staff Memos

**Attachment A –
List of Potential 2009 Budget Reductions**

The table below summarizes the potential 2009 Budget Reductions.

Division / Function	Item	Budget Reduction/ Savings
City Council	Advertising	\$ 500
City Council	Conferences	1,000
City Council	Employee recognition	500
City Council	Worksession expenses	200
Human Rights Commission	General expenses	250
Ethics Commission	General expenses	250
Administration	Citywide employee training	4,000
Administration	Employee career dev. training	3,000
Administration	Position advertising	5,000
Administration	Professional services	5,000
Administration	Temporary employees	3,000
Elections	Supplies and materials	960
Legal	Professional services	5,675
Contingency	Reduced contingency	6,967
Finance / Accounting	Reduced reception desk duties	16,260
Central Services	Reduced color copying	2,253
Insurance	Reduced internal charges	2,357
Building Maintenance	Professional services	20,000
Engineering	ROW, erosion control mgmt.	20,000
Street Maintenance	6-month vacancy in Staff position	31,148
Parks & Recreation	Staff reorganization, reduction of 1.5 FTE's	75,000
Parks & Recreation	Program and service level cuts	36,000
Parks & Recreation	Reduce PIP	6,000
Pathway Maintenance	Program and service level cuts	4,124
Boulevard Maintenance	Program and service level cuts	1,767
	Subtotal	\$ 251,211

**Attachment A –
List of Potential 2009 Budget Reductions**

Division / Function	Item	Budget Reduction/ Savings
Police	Leave Police Officer position vacant	\$ 64,539
Police	Lost citation revenue	5,994
Police	Reduction of 2 CSO positions	35,390
Police	Family Violence Network	6,050
Police	Explorer Program	1,285
Police	Junior Badges	1,000
Police	McGruff	1,600
Police	Digital Interview Room equipment	20,000
Police	National Night Out	2,000
Police	City Hall Open House materials	600
Police	Citizen Park Patrol Shirts	300
Police	LEC Range	1,500
Police	Professional services	19,644
Police	Hiring physical / psych tests	2,725
Police	IAWP Conference	1,675
Police	Administrative tickets	1,304
Police	All Other Conferences	8,755
Fire	Reduce on-duty staffing	48,448
	Subtotal	\$ 222,809
	Grand Total	\$ 474,020

As the tables above indicate, City Staff have identified in excess of \$400,000 in recognition of the last-minute cuts that were made to various operating budgets late last year, but were not subject to the same cost-cutting allocation formula that is being used for these purposes.



William J. Malinen, City Manager
February 20, 2009

Dear Bill,

Given the state of the economy, the uncertainty of the future and the financial condition of the City of Roseville, Roseville Parks and Recreation is optimistic about being part of the solution to stabilize for a brighter future. Part of the following recommendations will make the requested reductions and positively position the department for the future and suggests hiring front line employees back as future resources allow.

You have requested a plan and related impacts for the \$117,000 share of the MVHC reduction given to Parks and Recreation. My understanding is that the City of Roseville is in a financial condition that requires restructuring, reallocating, reducing and/or eliminating throughout all departments. Given community expectations and demands, it has been very difficult to reduce an already lean operation. It is our intent to reduce and adjust in areas that would result in the least impact to the community and will gain efficiencies along the way.

It is extremely important to implement the proposed program immediately as we are approaching our busiest season of the year. In many ways, the program has begun by default.

The Parks and Recreation Department materials and supplies budget has continually been challenged with no inflationary consideration so the majority of the proposal is personnel related. The majority of the savings comes from a complete reorganization of the department operations. We are confident that the proposed new structure will gain efficiencies, realize the necessary savings and will allow for the best and most efficient use of the current staff, their talents (see attached before and after structure) and other resources.

The Plan and the Impacts

The proposed plan is anticipated to be fully implemented by March 15, 2009 and:

- 1) Allows for increased efficiencies
- 2) Reduces staffing for operations by 3120 FTE hours
- 3) Overall increases responsibilities and duties of existing employees
- 4) Modifies some programs and services
- 5) Affects every single department employee
- 6) Is all interrelated
- 7) Makes long term structural changes necessary to meet the Parks and Recreation Departments \$117,000 given share of the MVHC reduction

The specific categories and amounts totaling \$117,000 are as follows:

<u>ITEM AND IMPACT</u>	<u>ANNUAL SAVINGS</u>
<i>1). Staff Reorganization</i>	<i>\$75,000</i>
• Reduces 3120 FTE hours (1 ½ FTE) • Assistant Director position focuses on Recreation and Business operations • Park Project Coordinator position changes to Planning, Facilities and Maintenance Superintendent • Recreation Superintendent position changes to Supervisor • Golf Course Superintendent responsibilities are expanded to serve entire department in area of expertise and special projects • Program/Marketing position reduced from 1 FTE to ¾ beginning July 1st, 2009 • A Customer Service Position reduced from ¾ to ½ time • A Customer Service Position will be left vacant • A Parkkeeper position will be changed to Park Foreman • A Parkkeeper position will be left vacant to be filled as resources allow • Staff will no longer have an office at HANC and duties will be expanded to serve entire recreation division • Working with Leadership St. Paul to enhance volunteer model • Focus will be more on day to day operations rather than special projects • Clear priorities for staff will be set allowing for little discretion • Uncertainty of volunteer involvement without a staff presence at HANC • Project and event management time will be scrutinized • Positively positions department for the future	
<i>2). Program and service cutbacks and operation adjustments</i>	<i>\$36,000</i>
• Renegotiated custodial services contract ○ New provider • City Hall Campus - evening/weekend after hours reduced ○ City Hall campus facilities open T, W, & Th ○ Other times will require city wide FT staff to take responsibility ○ Less public meeting/gathering space available • Skate Park changed from Tier 2 to Tier 1 ○ Will be a non supervised, non admission skate park ○ Will allow RSC FT maintenance employees to help with park maintenance • HANC Part Time staffing reduced ○ Part of reorganization plan ○ All programs to cover all direct costs ○ Possible reduction in programs based upon program minimums • Portable restroom reduction ○ Community concern ○ Change in level of service • Eliminate 4th of July daytime activities ○ Loss of community heritage ○ Will still have evening program with fireworks assuming no cost assistance from other departments is available	

- No staff or program during the daytime on the 4th of July
- Reduction of the availability of neighborhood outdoor rinks
 - Strategically reduce # of warming houses maintained –will winterize those not in use
 - Focus on programmed rinks and less community drop in opportunities
 - Promote more key checkouts
 - Second reduction in 4 years
- Community program brochure
 - Transition in house production
 - Added duty to already full plate of someone
 - Need additional training and software

3). *PIP cutback*

\$6,000

- Less upkeep projects, improvement needs keep building
- Since 2004 the amount cut from the PIP budget is \$421,000

Unknown at this time is the interdepartmental assistance, i.e. emergency personnel at events, etc. If this is decided as a cut by Department Directors, City Manager and City Council, it puts it out of the control of Parks and Recreation and we will be forced to either look at other alternatives or adjust appropriately.

Other considerations include current and future sponsorships and contributions as a result of diminished service and or general economic conditions. We will monitor this closely.

Because we are well into 2009, I am anticipating that area #2 above “*Program and service cutbacks and operation adjustments*” will not experience the entire savings amount in 2009 but will stabilize in the future. The use of reserve funds to balance the delay in decision making is appropriate and recommended. The planned implementation will be systematic and over time. General staff responsibilities have been outlined; others will be developed along the way.

To eliminate confusion and to provide clear staff direction, I have scheduled meetings with each division beginning February 26th to explain the plan and an all staff meeting has been scheduled on March 12th, 2009 to bring the plan to full implementation on March 15th, 2009.

Overall, I am concerned, optimistic, anxious and excited all at the same time. There will be bumps along the way and I am certain all will understand. Finally, I am extremely proud of our team of employees, each and every one, for sincerely assisting with a positive and helpful attitude and maintaining their commitment to the Community and to Roseville Parks and Recreation.

Sincerely,



Lonnie Brokke
Director Parks and Recreation



Public Works Maintenance Department

Memo

To: Bill Malinen, City Manager
From: Duane Schwartz, Public Works Director
Date: March 25, 2009
Re: 2009 MVHC Budget Reduction Impacts

Potential 2009 MVHC Public Works Department Budget Adjustments

- | | |
|--|----------|
| 1. Reduce Building Maintenance Professional Services | \$20,000 |
| This is possible due to new janitorial contract. | |
| 2. Reduce Engineering/Admin Budget due to permit fees | \$20,000 |
| ROW and Erosion Control permit revenue is adequate to this level. | |
| 3. Keep open current vacant maintenance position until 2010 military leave returns | \$31,000 |
| Total | \$71,000 |

The remaining vacant maintenance worker salary/ benefit dollars (\$20,000) will be used to backfill certain critical operations with skilled temporary labor.

It is anticipated the individual on military leave will rejoin staff in February 2010 in the current vacant position so no layoff will be required.

This plan allows for current programs to continue at near current levels as reduced by 2009 approved budget.

We anticipate the need to reorganize our ROW management program for 2010 to gain efficiency and reduce duplication. Permit fee revenue and utility funds will be necessary to accomplish without tax impact.

MEMORANDUM

DATE: February 27, 2009

TO: Bill Malinen, City Manager

FROM: Richard B. Gasaway, Fire Chief

RE: Budget Reduction Plan

To achieve the \$48,000 reduction necessary to balance the 2009 budget, we propose reducing the on-duty part-time shift staffing by 12 shift hours per day (a day is defined as a 24-hour period). A reduction of 12 hours each day equates to the elimination of seven part-time shifts per week (one shift each 24-hour period). This would be accomplished by having one scheduled position working less hours each shift. The affected employee would be rotated each week so each firefighter is impacted by reduced hours plan. Each shift will maintain a minimum of staffing of four firefighters. Thus, if the fifth scheduled firefighter were to report off, the shift would run with four and no firefighter's hours would be reduced for that shift (because of the savings would be achieved from the fifth firefighter reporting off). Part-time firefighters working nighttime shifts would end their shift at 10:00pm (versus working until 6:00am). Part-time firefighters working daytime shifts would start their shift at 10:00am (versus 6:00am). This equates to a 12-hour reduction in part-time staffing each 24-hour period, between the hours of 10:00pm and 10:00am.

As proposed, this plan is expected to create a budget savings: \$48,647.

Impact:

Currently, there are five firefighters scheduled to be on-duty 24 hours-a-day. The personnel are split into two crews; a crew of two on the medical response vehicle and a crew of three on the fire engine. When a medical call is received, it is the nature and severity of the call that determines which crew (or if both crews) will respond. If there is a report of a medical call, only the medical crew will respond. If there is a second medical call while the first medical call is being handled (this happens about 30% of the time) then the engine crew will respond to the second medical call. If the medical call sounds critical (cardiac arrest, non-breather, unconscious, vehicle accident, etc.) then both crews may respond because of the labor-intensive nature of providing medical care to critical patients. When a patient is critical, one of the on-duty firefighters may ride down to the hospital with Allina. If there is a report of a fire, both crews respond.

The hours of 10:00pm to 10:00am were chosen for the staffing reduction because this timeframe represents the least busy hours of the day for fires and medical emergencies. Roughly one-third of emergency calls occur during the hours when staffing will be reduced. The exposure from reduced staffing during these hours is reduced because evening hours represents the time when the highest number of firefighters are available for callbacks from home.



Memo

To: Bill Malinen, City Manager
From: Chris Miller, Finance Director
Date: January 28, 2009
Re: 2009 Budget Reductions Related to the Loss of MVHC

Bill,

You recently asked the Department Heads to identify potential budget cuts in recognition that the City is likely to lose approximately \$400,000 annually in general-purpose state aid; also known as Market Value Homestead Credit reimbursement or MVHC. Based on a formula that distributes the impact of the loss of MVHC on a proportionate basis of each division's operation budget, the Finance Department would have to accommodate the following budget reductions to the 2009 Budget:

- ❖ Finance/Accounting - \$16,261
- ❖ Central Services - \$2,254
- ❖ Insurance - \$2,357

Based on a cursory review, it is proposed that the reductions would come from:

- ❖ Reduced color printing and copying for City documents
- ❖ Use of Insurance Fund reserves
- ❖ A 0.25 FTE reduction in the Finance/Accounting area

The proposed budget reductions and subsequent impacts are discussed in greater detail below.

Central Services Division

The Central Services division reduction of \$2,254 can be accommodated by a reduction in the amount of printing costs – specifically, a 50% reduction in the amount of color copies that are typically made over the course of the year. The savings would come from reduced color toner purchases and maintenance charges which are tied directly to the number of copies made. Color toner and copies cost 5 times as much as black and white copies do.

This would likely have the greatest impact on publications produced by the Parks & Recreation Department, but would also have some impact on other departments as well.

Insurance Division

The Insurance Services division reduction of \$2,357 can be accommodated by a reduction in the General Fund's share of the City's property/liability coverage. But because the City's insurance premiums are fixed for 2009, this will require the use of reserves held in the City's Insurance Fund to offset this reduction.

The Fund currently has a balance of approximately \$700,000, so the impact will be negligible in the short term. However, in the future the General Fund's portion of the City's property/liability coverage will need to increase to an amount commensurate with the annual premiums.

Finance/Accounting Division

The vast majority of duties and responsibilities of the Finance/Accounting division are performed in conjunction with Federal, State, and Local (City Code) mandates; and/or in recognition of generally accepted accounting principles. In short, the Department provides very little discretionary-type services. We must also recognize that many of the services provided by the Department are funded by specific revenue sources, which makes it problematic when considering budget reductions in revenue-generating programs.

The following table summarizes the functions performed in the Finance/Accounting division as well as any applicable program revenue:

Finance Division Functions

<u>Function</u>	<u>FTE's</u>	<u>Hours</u>	<u>Cost</u>	<u>Cost Per Hour</u>	Less <u>Program Revenue</u>	Net <u>Cost (Surplus)</u>
Payroll	0.83	1,716	\$ 60,975	\$ 35.53	\$ -	\$ 60,975
Purchase Orders	0.03	52	2,475	47.60	-	2,475
Business Licensing (a)	0.40	832	31,150	37.44	(300,000)	(268,850)
Accounts Payable	0.63	1,300	41,603	32.00	-	41,603
Accounts Receivable	0.03	52	2,150	41.35	-	2,150
Utility Billing	0.98	2,028	62,805	30.97	(62,805)	-
Receptionist / Cash Receipts	1.00	2,080	64,355	30.94	-	64,355
General Acctg / Financial Reporting	1.38	2,860	136,775	47.82	-	136,775
Risk Management	0.50	1,040	62,150	59.76	-	62,150
Treasury Management (b)	0.25	520	34,875	67.07	(300,000)	(265,125)
Debt Management (c)	0.13	260	19,575	75.29	(30,000)	(10,425)
Budget and Capital Planning	0.50	1,040	78,150	75.14	-	78,150
Contract Admin (JPA's, wireless leases)	0.13	260	19,375	74.52	(19,375)	-
Economic Development (d)	0.13	260	19,575	75.29	(5,000)	14,575
Contracted Services - Lake Elmo	0.13	260	8,751	33.66	(14,400)	(5,649)
Total	7.00	14,560	\$ 644,738	\$ 44.28	\$ (731,580)	\$ (86,842)

Comments

- (a) Total revenues derived from business licensing = \$350,000. Approximately \$50,000 is used for Police background and compliance checks and calls to the establishment, the remaining is shown here.
- (b) Total interest earnings = \$1.7 million annually with portfolio management oversight. Absent this oversight, it is estimated the earnings would only be \$1.5 million.
- (c) Through conduit debt financing, the City earns on average, \$30,000 per year.
- (d) The City typically charges a 5% admin fee for managing TIF projects. The amount shown above relates only to the portion attributable to the Finance Staff

As the table above indicates, the functions performed in the Finance/Accounting division generate over \$730,000 annually in program-related revenues. This translates into an annual divisional surplus of approximately \$86,000 that is used to offset other tax-supported programs. It could be argued however, that a portion of the program revenues ought to be allocated to other operational costs as well.

It can also be argued that the surplus monies from the City's License Center (approximately \$200,000 annually), which is managed by Finance Department Staff, ought to be included in the revenues shown in the table as well. In practice however, those monies are used to support other General Fund operations.

If the Finance/Accounting division is tasked with reducing its budget by \$16,261 it would have to do so in those areas that do NOT generate any program revenue. Otherwise, the City might find itself unable to perform the tasks that generate those revenues, thereby increasing the City's budget challenges further. As a result, we need to first look at identifying budget reductions in the following non-revenue areas:

- ❖ Payroll
- ❖ Purchase orders
- ❖ Accounts payable
- ❖ Accounts receivable
- ❖ Receptionist / cash receipts
- ❖ General accounting / financial reporting
- ❖ Risk management
- ❖ Budgeting & capital planning

However, as noted above, many of these functions are performed as a requirement under federal or state law. The duties associated with the City's payroll, accounts payable, cash receipts, risk management and accounting and financial reporting functions are required by law (and not surprising, are also required under generally accepted accounting principles). Therefore, the only functions that remain truly discretionary include:

- ❖ Accounts receivable
- ❖ Purchase orders
- ❖ Receptionist
- ❖ Budgeting & capital planning

In total, these functions cost approximately \$100,000 annually and entail approximately 1,560 hours of staff time. The budgeting and capital planning function is performed by the City's Finance Director (a salaried individual) and comprises 1,040 staff hours. This leaves 520 hours remaining for the other listed functions which are performed by hourly employees. To accommodate \$16,261 in budget cuts the Department must cut approximately 385 staffing hours from hourly employees, or 8 hours per week.

Alternatively, the Department could through attrition downgrade various positions in the department and/or look to reduce costs in non-personnel areas. However, non-personnel costs in the Finance/Accounting division only amount to \$9,680 annually and would necessitate the complete elimination of all; office supplies, phones and other office equipment, training and conferences, and professional memberships. Therefore, it is impractical to make \$16,261 in budget cuts without reducing staff.

Absent a voluntary reduction, the elimination of 385 staffing hours would require the forced reduction in hours involving one or more current employees. However, these employees would be entitled to unemployment payments for the lost wages which would reduce the budget savings by 60% in the first year.

The reduction in staff would not in of itself eliminate the accounts receivable, purchase orders, and receptionist duties. The City would have to change its accounting and purchasing policies to no longer require purchase orders and to no longer track whether billed accounts were actually paid on an on-going basis. Instead, salaried individuals would have to absorb these functions as part of their year-end closing duties. This would weaken the City's internal controls, and delay the collection of unpaid accounts which would subsequently result in less interest earnings.

In addition, the City could no longer house an individual at the reception desk full-time. This would necessitate a change in how the City receives in-bound phone calls and may require individuals to walk down to the finance area to receive a receipt. It may also require greater directional signage in the main lobby area. Finally, it could have an impact on those departments that have service counters near the lobby as customers seek assistance in finding various locations within the building or seek answers to general inquiries.

Final Comments

While the budget reductions described above are relatively small, the cuts could jeopardize the Department's ability to generate revenues not only to support the Finance Department, but other departments as well.

In addition, the City needs to be mindful of the cumulative effects of staffing reductions and reduced skillsets. The Finance Division has steadily reduced its workforce and downgraded its professional requirements since the late 1980's. At its staffing highpoint, the Division had 10 FTE's, whereas today we have 7. In 2002 the Finance Division had 8 employees, 7 of which were professional level, 4-year degree required positions. Today, the Division has 7 employees, only 3 of which are at a professional level. Personnel changes since 2002 include:

- ❖ Eliminated a full-time Accountant position
- ❖ Downgraded the Accounting Supervisor position to an Accountant position
- ❖ Downgraded a professional-level position (Payroll) to a technician level
- ❖ Downgraded a professional-level position (Accounts Payable) to a technician level
- ❖ Downgraded a professional-level position (Utility Billing) to a technician level

These staffing changes are unprecedented compared to other City Departments. And while they've produced significant on-going savings, it has left the Division with diminished skillsets and capabilities.

In the past decade, the Finance/Accounting Division has eliminated or reduced a number of tasks and responsibilities to accommodate these staffing changes. Some of those tasks include:

- ❖ Reduced internal audits of City purchases and payroll timekeeping
- ❖ Reduced emphasis on managing the City's investment portfolio
- ❖ Elimination of monthly financial reporting to City Departments
- ❖ Elimination of non-payment utility billing reminders
- ❖ Elimination of on-site audits of lawful gambling operations
- ❖ Elimination of quarterly financial reports related to the City's lawful gambling operations

Absent staffing increases it is unlikely that these tasks could be reinstituted.

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 03/30/2009

Item No.: 13.c

Department Approval



City Manager Approval



Item Description: 2030 Comprehensive Plan Status Update and Next Steps

1.0 BACKGROUND

- 1.1 On January 26, 2009, the Roseville City Council granted preliminary approval of the 2030 Comprehensive Plan and staff has submitted the plan to the Metropolitan Council for its review of the plan. It is anticipated that the agency will complete its review and that the plan will be brought back to the City Council for final adoption in spring 2009.
- 1.2 State statutes require that cities review their official controls as part of the decennial comprehensive plan updating process and, if necessary, revise these control to make them consistent with their comprehensive plan; the statute allows nine months from the date of final plan adoption to complete this task. The official controls identified in Chapter 11 of Roseville's Comprehensive Plan are zoning, subdivision, and related ordinances, public ways and public property, and master plans.
- 1.3 In preparation for the review of the zoning code, the City has allocated \$35,000 in its 2009 budget from the Community Development Enterprise Fund to hire a consultant to assist with the revision of the City's Zoning Code. Staff foresees the consultant serving as the zoning expert to help frame the overall code and having City staff undertake much of the code writing.
- 1.4 Staff has prepared a draft request for qualifications (Attachment A) and has taken it to the Planning Commission for its review. On February 4, 2009, the Planning Commission unanimously passed a motion recommending that the City Council authorize staff to send the request for qualifications to consulting firms. Attachment B are the meeting minutes from the Planning Commission meeting.
- 1.5 Chapter 11 of the 2030 Comprehensive Plan identifies that the City Council needs to determine if any of the pre-2009 master plans should be addressed in the updated comprehensive plan. It states: "For master plans adopted before 2009, the City Council shall review each plan and determine whether each one should be addressed in the Comprehensive plan, and if so, how it will be addressed in the Comprehensive Plan pursuant to this policy."

2.0 POLICY OBJECTIVES

- 2.1 Undertaking a thorough review and updating of the City's official controls at this time will provide an opportunity to better link them to the community goals and objectives identified in both the 2030 Comprehensive Plan and Imagine Roseville 2025.

30 **3.0 FISCAL IMPACTS**

31 3.1 The hiring of a consultant was part of the 2009 Community Development budget; \$35,000 was
32 allocated for this purpose. There are not any other anticipated fiscal impacts due to this project.

33 **4.0 STAFF RECOMMENDATIONS**

34 4.1 Zoning Code Update: The City of Roseville’s has not undertaken a comprehensive update or
35 revision of its zoning code since its adoption in May 1959. Over time this code has had
36 innumerable revisions to maintain functionality. The result of this is a code that is oftentimes
37 difficult to understand, internally inconsistent, and unwieldy to administer.

38 4.1.1 Staff is recommending that the update to the zoning code should implement “form-
39 based” or a hybrid-style code for all or a subset of the zoning districts instead of
40 traditional Euclidian zoning. (The current code is a Euclidean-type code). The 2030
41 Comprehensive Plan categorized future land uses based on the desired scale of new
42 development, not on a specific set of uses. The regional business, community business,
43 and neighborhood business lend themselves to utilizing form-based code, which instead
44 of relying on a series of regulations on use should be regulated by a set of design
45 regulations that achieve the desired outcomes for the specific district. A restaurant,
46 coffee shop, or retail store could be in any of these categories, but the key to achieving
47 the neighborhood-, community-, or regional-type development is how the buildings
48 housing these uses are designed and integrated into the public realm. Attachment C is
49 background information on form-based code.

50 4.1.2 Staff recommends a two-step request for qualifications/request for proposal process for
51 this project. Attachment A is a draft request for qualifications document, which includes
52 a project timeline. Upon receipt qualification packages, staff will review the submission
53 and select up to five firms from which to seek a full proposal. A request for proposal will
54 be prepared at a later date and brought to the City Council for approval. Based on the
55 proposal packages and interviews, the City Council would authorize the hiring of the
56 preferred consultant.

57 4.1.3 Staff also recommends significant involvement of both the Planning Commission and
58 City Council with the update of the zoning code. Working with the consultant, staff
59 envisions breaking the code into related segments (e.g. residential districts, commercial
60 districts, environmental regulation, etc.). The consultant and staff would work together
61 to create draft sections and bring them to the Planning Commission and City Council for
62 review and discussion. Based on the input from both bodies, revisions would be made
63 and a formal public hearing would be held with the Planning Commission and brought to
64 the City Council for formal adoption.

65 4.2 Master Plan Review: Past Roseville Comprehensive Plans have included, through adoption, an
66 assortment of related planning documents (e.g. master plans, streetscape plans, and roadway
67 plans). At this time, the 2030 Comprehensive Plan does not include any of these documents;
68 however, as described in Item 1.5 of this report, it does set forth a process for the City Council
69 to specifically review pre-2009 master plans for potential inclusion on the Comprehensive Plan.
70 The following are the documents that are directed to be reviewed: Twin Lakes Business Park
71 Master Plan, 1998 James Addition Report, Arona/Hamline Master Plan, City Center Plan, and
72 Cornerstone Program.

73 4.2.1 The City Council should undertake determining if and how each of these documents
74 should be addressed in a future revision to the Comprehensive Plan after final adoption
75 of the plan. Staff proposes that it review each of these plans for consistency with the
76 adopted Comp Plan and make recommendations to the Council as to their continued
77 relevance today. Upon determination of relevancy, staff would return to the Council with
78 a recommendation as to how to integrate key items of the plan into the Comprehensive
79 Plan.

80 **5.0 REQUESTED COUNCIL ACTION**

81 5.1 By motion, authorize staff to seek qualifications from consultants to assist with the preparation
82 of revisions to the City's Zoning Code.

83
84 Prepared by: Jamie Radel, Economic Development Associate

Attachments: A. Draft Request for Qualifications
B. February 4, 2009 Planning Commission Minutes
C. Background information on form-based code

Zoning Ordinance Update *Request for Qualifications*

City of Roseville, Minnesota

1. Introduction

The City of Roseville is seeking qualifications from consulting teams experienced in the creation and revision of municipal zoning codes. The City has not undertaken a comprehensive rewriting of its zoning code since its adoption in May 1959. Over the last 50 years, innumerable revisions have been cobbled on to the original ordinance; however, the cumulative effect of this process is the creation of a code that is difficult to understand and often cumbersome to administer. A copy of the existing zoning code can be found at www.ci.roseville.mn.us/DocumentView.asp?DID=46.

The goal of this project is to have a zoning code that:

- Promotes high quality residential renovation and development, creative infill projects, and innovative commercial and industrial redevelopment to allow the community to prosper into the future
- Advances the City's efforts to become a more environmentally sustainable community
- Integrates design standards through all zoning districts
- Creates a code that is can be understood by the general public, administrable by City staff and elected officials, and is constant with the City's 2030 Comprehensive Plan

To achieve these goals, the City anticipates that the zoning code must undergo a significant revision, including reorganization of the code, creation of new zoning districts, amendments to existing districts, and an overhaul of the environmental management sections. As part of this updating process, the City would like to explore the use of form-based or a hybrid code in order to better regulate design and land use within several of the future land use categories. As part of its 2030 Comprehensive Plan, the City has created several new future land use categories including Community Mixed Use, Neighborhood Commercial, Community Commercial, Regional Commercial, and Office. As defined, these new categories shift the City's future land use focus from a description of use to a description of development scale and form.

As Roseville is located within the jurisdiction of the Metropolitan Council, the City must make its zoning code consistent with its adopted plan within nine months of its final approval; final approval of the Comprehensive Plan is expected to occur during spring 2009.

2. General Scope of Services

The scope of the project can be summarized in to three main categories:

- General review of the Zoning Code
- Code revision and development
- Code adoption process

A detailed scope of services will be provided as part of the request for proposal process.

The City has budgeted \$35,000 to undertake this work in its 2009 budget. It is anticipated that city staff will work closely with the selected consulting team throughout the revision process in order to complete it in a cost-effective manner.

3. Selection Process and Tentative Timeline

Submittals will be reviewed by a selection committee comprised of city staff. The committee will select a short list of individuals/teams from which to request a full proposal. Qualified individuals/teams will have extensive experience in writing and implementing zoning code, demonstrated experience in both traditional Euclidean and form-based code development, and the ability to work affectively with city staff, advisory commissions, and city councils.

Qualifications Due:	April 15, 2009
Review of Qualifications:	April 16- 21, 2009
Recommendation to Council:	April 27, 2009
RFP to Selected Firms:	April 28, 2009
Proposal Due:	May 22, 2009
Interviews:	May 1-5, 2009
Recommendation to Council:	June 15, 2009
Complete Work:	Winter 2010

4. Submission Requirements and Deadline

The qualifications package is limited to 20 pages and must include:

- A description of the team and the team's capacity to complete the work within the required timeframe
- Project descriptions of similar projects
- Resumes of team members

Send 5 copies and an electronic version of the qualifications package to:

Patrick Trudgeon
Community Development Director
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

All qualification packages must be received by 4:30 p.m. on Friday, March 13, 2009.

9. Contact Information

If you have questions regarding the request for qualifications, please contact Community Development Director Patrick Trudgeon at pat.trudgeon@ci.roseville.mn.us or at (651) 792-7071.

Extract of February 4, 2009, City of Roseville Planning Commission Meeting

- a. **PROJECT FILE 0017: Review a Request for Qualifications (RFQ) to be sent to several consultants in preparation for rewriting Roseville's Zoning Ordinance.**

Mr. Paschke provided staff's proposed process for a two (2) step Request for Qualifications (RFQ's) for hiring a consultant to assist staff and the Planning Commission with revision of the City's Zoning Code, in accordance with the updated Comprehensive Plan.

Discussion included the role of the Commission and applicable timetables for the consultant and Commission within the proposed work plan and to facilitate public hearings throughout the process and other business before the Commission; and the level of code amendments to be considered with some being more detailed or substantial than other

MOTION

Member Doherty moved, seconded by Member Bakeman to RECOMMEND TO THE CITY COUNCIL to authorize staff to seek qualifications from consultants to assist with the preparation of revisions to the city's zoning code.

Ayes: 7

Nays: 0

Motion carried.

LANDWR

Place Making with Form-Based Codes

MARY E. MADDEN AND
BILL SPIKOWSKI

“Form-based codes” are on the minds of developers, planning professionals, and even citizens.

Most references to them are enthusiastic, but some express fear and trepidation. What are these codes really about?

More user friendly than conventional zoning, form-based codes are written in plain English and make liberal use of matrices, diagrams, and other illustrations.

FORM-BASED CODES ARE land development regulations that emphasize the future physical form of the built environment. This alone sparks public interest in the arcane field of zoning codes. Other enthusiasm stems from a widespread distrust of today's fragmented processes for approving new development—the system is broken on many levels, and new approaches are desperately needed.

Form-based codes are becoming increasingly popular in communities seeking practical ways to grow smarter. Most zoning and subdi-

vision ordinances actually promote the sprawling development patterns that citizens oppose. Developers often agree with the citizens, yet find that mixed uses and pedestrian-friendly streets are difficult, if not illegal, to build.

Large cities have begun to consider form-based codes. In Denver, for instance, officials have started to rewrite their entire zoning code after discovering that it contains disincentives for the very types of development the city is seeking. Miami is in the midst of rewriting its entire code, using form-based

techniques on a larger scale than ever before attempted.

But even with the enthusiasm they currently generate, form-based codes often are not well understood. How exactly do they differ from other regulatory techniques? If a city wants to evaluate form-based coding, what do elected officials, developers, and planning staffers need to know?

The Basics

Form-based code is a new term for the evolving techniques that regulate the development of land for the purpose of achieving a specific urban form. Cities and counties across the country are finding that conventional zoning is not fulfilling this essential goal of town planning.

The failure of zoning to carry out physical plans for a community's future

Building Envelope Standards: Shopfront Colonnade Sites

Height

- The height of the principal building is measured in stories.
- Each principal building shall be at least four (4) stories in height, but no greater than ten (10) stories in height, except as otherwise provided on the site plan.

Building Height

Ground-Story Height

- The ground-story finished floor elevation shall be equal to, or greater than, the adjacent street sidewalk elevation up to a maximum finished floor elevation of eighteen (18) feet.
- The ground-story shall have at least fifteen (15) feet of clear vertical height (clear to ceiling) and a minimum clear height (clear to ceiling) of at least ten (10) feet.
- The maximum story height for the ground-story is twenty feet (20) feet.

Upper-Story Height

- The maximum second-story height for the ground-story is twenty feet (20) feet.
- As for upper stories (third and above), each upper story shall have an interior clear height (clear to ceiling) of at least twenty feet (20) feet.

Setback

- Buildings may occupy any portion of the lot behind the rear and side setbacks of any setbacks required by this Code.
- A continuous sidewalk area equal to at least fifteen percent (15%) of the total (100%) sidewalk area shall be provided on every lot. Such continuous sidewalk may be located anywhere behind the building setback line, either at grade or at least one (1) foot above grade.
- No part of any building, except overhanging eaves, balconies, or facades, shall overhang the sidewalk.

Side Lot Setbacks

On a lot where a common lot line is shared with a single-family residential zoning district, the principal building shall be setback at least ten (10) feet from the shared lot line.

Garage and Parking

- GARAGE ENTRANCE OR DRIVEWAYS shall be located at least twenty feet (20) feet away from any street corner or street entrance to the lot.
- GARAGE ENTRANCE shall have a clear height of no greater than fifteen (15) feet and a clear width exceeding twenty feet (20) feet.

Elements

- No window may face or direct views toward a common lot line that is shared with a single-family residential zoning district.
- No window may face or direct views toward a common lot line that is shared with a single-family residential zoning district.

Building Projections

- OVERHANGING EAVES, BALCONIES, AND SIGNAGE shall not project more than ten (10) feet from a building lot line.
- No part of any building, except overhanging eaves, balconies, or facades, shall project more than ten (10) feet from a building lot line.
- No part of any building, except overhanging eaves, balconies, or facades, shall project more than ten (10) feet from a building lot line.

Doors/Entrances

Functioning entry door shall be provided along sidewalk or street entrance to the lot.

Ground-Story

The ground-story shall have a minimum clear height of at least ten (10) feet.

Upper-Story

The upper stories shall have a minimum clear height of at least ten (10) feet.

Colonnades

Where designated on the REGULATORY PLAN, COLONNADES shall:

- Have a minimum height of at least ten (10) feet (measured from the sidewalk to the top of the arch).
- Have a minimum clear height of at least ten (10) feet (measured from the sidewalk to the top of the arch).
- Have a minimum clear height of at least ten (10) feet (measured from the sidewalk to the top of the arch).

Signage

Signage shall be located within the building envelope and shall not project more than ten (10) feet from the building lot line.

TES

should not be surprising, because zoning originated as a means to isolate and segregate land uses. Eighty years after the U.S. Supreme Court authorized local governments to zone land, zoning practice is still mired in solving problems of that era rather than the current one.

Some land uses must be segregated because they create excessive noise or truck traffic. However, many other land uses can coexist and benefit from their proximity to each other, yet are forbidden from doing so because the techniques of zoning by use have become so entrenched as to seem utterly natural to citizens and elected officials alike.

One key to the harmonious mixing of land uses is to arrange them on streets and blocks that function together to create an attractive “public realm.” This realm may be a dignified park or plaza, but it is most often a street of moderate dimensions and traffic flow with sidewalks and rows of street trees.

In urban settings, frontyards are small or nonexistent; in less intensive settings, they are ample and effectively extend the public realm to include the frontyards on both sides. When buildings and the public realm are consistently shaped in this manner, the uses within individual structures are far less important than in conventional suburban configurations.

Form-based codes regulate the key aspects of urban form, such as the height of buildings, how close structures are to the street, and windows and doors on walls facing streets and other public spaces. They also govern the streets themselves so that the streets and buildings work together to create a desirable public realm—adding value to every property in the process.

Form-based codes are sometimes confused with design guidelines, which try to control how buildings look. Design guidelines emerged from the historic preservation world

Downtown Kendall

THIRTY-FIVE YEARS AGO, Dadeland Mall's first buildings emerged on Kendall Drive, a narrow country road just beyond the Miami metropolis. Fast-forward to today, when two transit stops are located within walking distance—but who would walk clear across a mall parking lot in the Florida heat?

Now that the region has sprawled as far as it can go toward the Everglades, great sites like the 338 acres (136.8 ha) that include the 1.4 million-square-foot (130,232-sq-m) Dadeland Mall seem wasted on a low-slung automobile-dominated pattern.

Redevelopment planning was instigated by a local business group, Chamber South. The resulting plan seemed unreal at the time. The parking lots and single-use apartment buildings were gone; the mall remained but was hidden behind new structures.

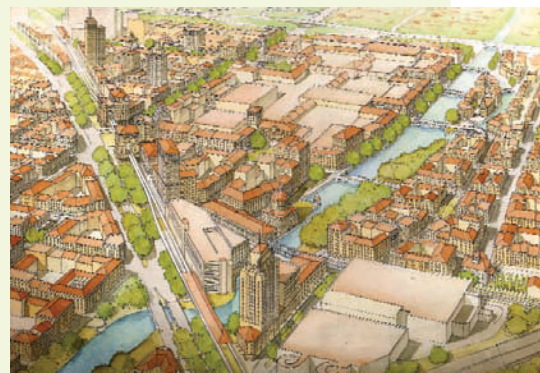
The master plan featured mixed-use buildings fronting on a network of interconnected streets, parking garages placed

and are well suited to evaluating how a renovation or new structure would fit into the context of a historic district. Design guidelines are also used to influence the architectural style of buildings in other contexts.

Design guidelines usually require laborious reviews by public agencies, eliminating the predictability that is the hallmark of a good regulation. Well-written form-based codes are more objective and easier to implement than design guidelines and they avoid most of the types of quarrels that erupt over architectural style.

Beyond Greenfield Development

Initially, form-based codes were developed as sets of instructions for developers to use when developing greenfield sites. Later, they were



The vision for downtown Kendall.

mid-block to replace the vast expanses of surface parking, and the transit stops becoming the focal points with the greatest intensity of development.

To implement this vision, a form-based code was adopted by officials of Miami-Dade County in 1999 to replace the prior suburban zoning. Downtown Kendall is now emerging from the ground, remarkably like the 1998 master plan.

adapted through the planned unit development (PUD) process as a regulatory tool for local governments to ensure that promised development patterns were carried out. Gaithersburg, Maryland, for example, used this approach to accommodate the development of the Kentlands during the late 1980s; there was no other regulatory technique available for creating new traditional neighborhoods in that city.

A dozen years ago, form-based codes began being used in redevelopment and revitalization scenarios. Coding techniques had to evolve once the interests of hundreds of different property owners would be affected. West Palm Beach, Florida, adopted a form-based code in 1994 for its entire downtown.

Columbia Pike

ARLINGTON COUNTY, VIRGINIA, has seen explosive development along the Metro (subway) corridors over the past 30 years, while Columbia Pike, the 3.5-mile (5.6-km) “Main Street” for the southern portion of the county, has languished.

Although it is a historic thoroughfare running from the Pentagon to the Arlington/Fairfax County line, its current form resembles strip commercial zones everywhere: an arterial that carries approximately 30,000 vehicles a day, varying in width from four to six lanes and lined primarily with parking lots and low buildings.

Columbia Pike was the most underdeveloped area in a county that is otherwise

built out. County leaders wanted to encourage economic development and also create a mixed-use pedestrian environment that would allow for future light rail or bus rapid transit.

During an intensive two-year visioning process, the county recognized that its regulations would never produce the desired results, a traditional Main Street. The effort led to the adoption of a form-based code in 2003.

The Columbia Pike code is optional—all existing zoning remains in place—with incentives such as expedited review to encourage its use. Since passage, the vast majority of development proposals have opted to use the new form-based code.

historic form of the older sections of town, rather than the sprawl around the edge, and to rebuild “better than before.”

The next frontier for form-based codes is to carry out regional planning. By extending the tools used to regulate urban form in small areas, regional development patterns can also be coded (for instance, laying out interconnected road networks and allowing for regional stormwater management). It is no longer credible to believe that incremental development decisions are sufficient to shape regional growth patterns.

Form-based codes focus on end results—the creation of desirable physical places. They are ideal for jurisdictions seeking a fundamental change in urban form and character—for instance, when redeveloping areas that have become obsolete or which were poorly planned at the outset.

Whether it is a greyfield conversion of a dead mall or revitalization of an aging commercial corridor, a shared physical vision for the desired character is the essential first step. Form-based codes quantify that vision into physical parameters that replace the pre-existing zoning standards.

Typically, the result is the regulation of private and public development to create valuable public spaces that did not exist before. For instance, overly wide streets can be converted into places where pedestrians and commerce can meet to their mutual benefit; new public spaces such as plazas can create centers of attention in homogeneous subdivisions.

Form-based codes can also be used for finer-grained projects, such as infill redevelopment downtown or in bypassed city neighborhoods, or as a tool for regulating new construction in historic districts. These codes can be written to protect the existing urban fabric, or they can serve to transform it.

National Trends

Cities and counties across the country are replacing parts of their conventional zoning with form-based codes, to enable local governments to carry out visionary place-making plans.

One prominent example is in unincorporated Dade County, Florida, where land around the Dadeland Mall, a regional shopping attraction, is being converted into a downtown for the sprawling community of Kendall.



Existing conditions produced by the conventional system along Columbia Pike.



The effect of new standards for the public realm and private building placement.



An illustrated vision for future private development.

In the wake of Hurricane Katrina, many coastal communities are discovering that their historic cores cannot be rebuilt after disaster strikes. The magnitude of the recovery effort

has led many of them to explore a model form-based code known as the SmartCode to sidestep the need for customized codes for each community. The goal is to re-create the

Another is Columbia Pike, where Arlington County, Virginia, officials seek to revitalize an aging commercial corridor that has seen little development over the past 40 years. Even under the current strong market conditions, redevelopment under existing zoning has proven virtually impossible.

In St. Lucie County, Florida, 28 square miles (72 sq km) on the outskirts of Fort Pierce have been planned by county officials for several new towns and villages. A new form-based code has just been adopted to ensure that the towns and villages are built with traditional neighborhoods while the surrounding countryside is preserved for agriculture and habitat restoration.

Municipal officials in Petaluma, California, have created a new vision for Central Petaluma, which has been dominated by freight transport along the Petaluma River and rail lines. A new form-based code has replaced the city's conventional zoning for the entire area and promotes narrower streets, wider sidewalks, and minimum building heights to create urban character near the historic downtown.

Advantages

More user friendly than conventional zoning, form-based codes are written in plain English and make liberal use of matrices, diagrams, and other illustrations.

Form-based codes are written to fulfill a specific physical vision for a place. Which neighborhood patterns should be retained and protected? Which are obsolete and should be replaced? These decisions need to be based on a broad public consensus.

This "upfront" agreement on the desired future, often reached through a public participation charrette or some other visioning method, allows for the creation of precise and objective codes that can remove much of the politics and uncertainty from the approval process.

A code with clear and concise rules can deliver predictability for both the developer and the community. For fundamental issues about the creation of public spaces, such as avoiding blank walls or parking lots along sidewalks, the rules are very strict. Other issues are truly less important for urban form, such as micromanagement of parking or of what uses can take place in each building

St. Lucie County

WAVES OF DEVELOPMENT across Florida are rendering many communities unrecognizable. As the wave began to displace valuable agricultural lands on the outskirts of Fort Pierce in St. Lucie County, it collided with local residents who understood the damage inherent in poorly planned, widely dispersed development.

After growth was temporarily stopped, residents began to realize it was the form of new development—not growth itself—that was their real concern.

Assisted by the Treasure Coast Regional Planning Council, the community and county officials agreed on a master plan for 28 square miles (72 sq km) of farmland. This plan included several new towns and villages surrounded by countryside that would be preserved for agriculture and habitat restoration. A central backbone system for water management would



Concept for Towns/Villages/Countryside plan in St. Lucie County.

replace the current system of straight-line agricultural canals that overdrain the land and pollute the Indian River Lagoon.

A new form-based code has just been adopted to ensure that the towns and villages are built with traditional neighborhoods while the surrounding countryside is permanently preserved through the transfer of development rights.

Central Petaluma

CITY OFFICIALS IN PETALUMA, California, have created a new vision for Central Petaluma, a 400-acre (162-ha) area adjacent to Petaluma's historic downtown.

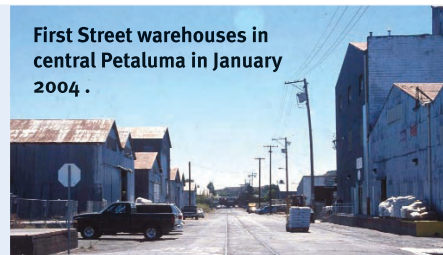
This plan would extend the form and character of the pedestrian-oriented downtown into an area historically occupied by industrial uses that depended on a river-based economy and transport system that no longer exists.

With other parts of Petaluma already built out, this area represented a unique opportunity for new development that could complement the historic downtown and connect it to the river.

Central Petaluma will contain a range of residential and commercial uses that can coexist in proximity to one another to create a lively urban environment. The historic Petaluma Depot would be restored for passenger service and become the bus transit center while the river itself becomes the focus of civic life.

A new form-based code, based on the model SmartCode, has replaced the city's conventional zoning for the entire area. Dif-

First Street warehouses in central Petaluma in January 2004.



First Street condos and warehouses in July 2006.



ferent sections of the site are coded for varying densities, minimum and maximum building heights, parking areas, and percentages of frontage types. The code clearly describes new streets, open spaces, roads, and even structures facing the river. Of greatest importance, the new code allows for the mixing of stores, homes, and workplaces as found in the historic downtown.

For More Information

- ▷ Form-based codes: www.formbasedcodes.org
- ▷ Downtown Kendall: doverkohl.com/project_detail_pages/kendall_new.html
- ▷ Columbia Pike: See “New Planning Tool Adopted,” *Urban Land*, June 2003, page 32
- ▷ St. Lucie County: tcrpc.org/departments/studio/st_lucie_charrette/implementation_schedule.htm
- ▷ Central Petaluma: cityofpetaluma.net/cdd/csp.html

over time; those rules are much more lenient than in today’s zoning codes.

A well-written form-based code avoids the typical scenarios facing developers:

- ▷ Wasting time and money on a concept that ends up being unacceptable to a community.
- ▷ Fearing to propose something desirable because too many variances or discretionary approvals would be required.
- ▷ Inquiring as to desirable uses on a site and being told with a shrug to come back with a proposal.

The guessing game is removed when a community writes what is desired into its codes. The new process can replace grueling public hearings in which each proposal is picked apart, redesigned from the dais, or sent back to the drawing board, only to end up with unexpected special conditions or outright denial influenced by whoever shows up at the final public hearing.

When consensus has been built at the beginning of the planning and coding process, and the rules are clear and concise, the approval process can be much quicker, if not absolutely streamlined. As Peter Park, Denver’s planning director, has asked, “Why shouldn’t Denver streamline permitting of development that matches what the city wants?”

Disadvantages

The advantages of form-based codes come with certain costs. Building consensus on a physical vision takes time, patience, and resources—and there is no guarantee of success.

Once a shared vision has been reached, it must be converted into objective code provisions that replace contradictory provisions in the existing ordinances. Without this step, a visionary plan stands little chance of influencing the future of a community.

It is a true test of patience and perseverance for elected officials to stay the course when the inevitable naysayers appear at the last minute and want to rethink the shared vision that they were too busy to help formulate. Developers, who stand to benefit from the new system, often remain silent or even block the new code’s path if they are focused only on their current project rather than the long-term vitality of the community.

Developers who are locked into old development patterns may also object to form-based codes. Change can be difficult; developers of conventional strip centers may admire more intense mixed-use buildings, but fear the risk of a different development pattern or fear out-of-town competitors with more experience with mixed-use buildings or traditional neighborhood development techniques.

The development approval process in much of the United States has proven to be antagonistic, expensive, unpredictable, and unsustainable. Form-based codes are crafted around consensus, straightforward to implement, and built on the ideal of creating places of enduring value. As Arlington developer David DeCamp stated when discussing the Columbia Pike experience, “It helps to begin with the end in mind.”

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Date:

May 9, 2008

Project Name:

Charrette for San Jose District, City of Bisbee

Attention:

City of Bisbee: John Charley, Community Development Director; Melanie Greene, Planning Assistant

A PRIMER ON FORM-BASED CODES

“A form-based code is one that is based primarily on “form”—urban form, including the relationship of buildings to each other, to streets and to open space, rather than based primarily on land use. “

A Form-Based Code is a development code that provides the developer/applicant greater flexibility in permitted land uses in exchange for more stringent regulations controlling urban form. These types of codes support mixed-use, pedestrian-friendly and mixed housing development more effectively than conventional codes do because they provide greater guidance on how buildings are expected to face the street, adjacent residential neighborhoods and open spaces. Form-Based Codes are becoming increasingly attractive to municipalities that want greater control over how buildings look and feel. Cities that have adopted Form-Based Codes include Bend and Portland in Oregon; Petaluma, Pleasant Hill, Palo Alto and Hercules in California.

A BRIEF COMPARISON OF CONVENTIONAL CODES AND FORM-BASED CODES

URBAN FORM GENERATING CHARACTERISTICS

CONVENTIONAL CODES

- Include extensive lists of permitted, prohibited and conditional uses by zone. Many land uses in conventional codes lists are outdated and do not reflect the nature of contemporary employment models or dwelling types
- Often disallow a mix of uses
- Prohibit adaptability of buildings to other uses over time
- On zoning maps, land use designations typically begin and end at the center of the street or Right of Way

FORM-BASED CODES

- Consider the building “walls” that frame the Right of Way (often referred to as the “public realm”) as one of the primary determinants of form
- Regulating plan zone designations typically transition at the back of the lot
- The same or similar development standards typically apply to both sides of the street
- Land uses allow a much broader range of uses within a zone or subarea; also allow a greater mix of uses
- Many uses are allowed if they meet performance standards

GRAPHICS AND PROCESS CHARACTERISTICS

CONVENTIONAL CODES

- Development standards are not illustrated and in many conventional codes the built result of the development standards is not fully understood and/or has never been tested or modeled
- Abstract, hard to understand development standards such as FAR (Floor Area Ratio) are used to measure development capacity on site but do not provide a very clear picture of development that results
- Zoning map, land use designations and development standards are the primary tools of the conventional code

FORM-BASED CODES

- Greater use of graphics to explain community goals and desired urban form to applicants, neighborhood groups and administrators
- A Regulating Plan replaces the conventional code zoning map and land use designations; development standards are keyed to the Regulating Plan
- Development standards and expected building form is illustrated in plans, sections, 3-D models and/or axonometrics, and photos
- Other innovative tools are used by some form-based codes such as Building Types, which codify historic and/or desirable building types. Codes that use this tool include NorthWest Crossing in Bend, Oregon and City of Ventura, California

What are the advantages of Form-Based Codes?

- Form-based codes are better at illustrating community plans and vision
- Building and street design is coordinated
- Urban form is more predictable
- A more gradual transition between adjacent areas with different development intensities is easier to achieve
- Can specify the tapering of height, bulk, massing and lot coverage of buildings toward residential and/or natural edges
- High density development is more carefully designed, attractive and compatible

What are the pitfalls of Form-Based Codes?

- Cities must consider what approving bodies will administer the code and whether current review processes and review bodies will be adequate; rarely is a form-based code able to be administered without some modification
- Some cities have legal restrictions against using illustrations to set development standards; in these cases the illustrations are used to augment text and numerical standards but are not legally binding

What is a Hybrid Code?

- One that incorporates the form-based code approach toward form, but uses the provisions, processes and standards from the current code
- Often take the form of a chapter within the code, similar to a special district or an overlay
- Hybrid codes cross reference other sections of the existing code for development standards such as parking dimensions or landscaping standards

- Hybrid codes are more integrated—not stand alone codes. Some “pure” form-based codes that have been adopted are stand alone codes and because of unresolved administration issues, they are optional for applicants; not mandatory

What are some Form-Based and Hybrid Code fatal flaws?

- When allowed land uses are too complex and don’t allow a mix of uses
- When there is an unresolvable difference between the development capacity allowed by existing zoning and future urban form goals. This is a particular problem with form-based and hybrid codes applied to infill areas
- When there is an unresolvable difference between the existing development standards and future urban form goals
- The vision and plan process must precede the making of a form-based or hybrid code

A BRIEF SUMMARY OF FORM-BASED CODE TYPES

In a form-based code, the development standards that dictate urban form are linked to a Regulating Plan. A Regulating Plan is similar to a zoning map, but with less emphasis on land uses and more emphasis on the building shape, street type and neighborhood character in each zone. Development standards define and shape the public realm by providing pre-set dimensions for every aspect of the site and building.

Form-based codes can take several forms:

- **Street-based** The Regulating Plan locates private realm development standards by street type; that is, the development standards for all site and building characteristics is governed by the site’s relationship to pre-defined street types. In addition to setting the private realm standards, the Regulating Plan defines elements within the public realm (e.g. sidewalks, travel lanes, on-street parking, street trees, street furniture, etc.). This type of form-based code can be useful for areas where streets have not yet been platted.
- **Frontage-based** The Regulating Plan locates private realm design standards by frontage type; that is, the development standards for all site and building characteristics is defined by the edge condition where it meets the primary street (frontage). Frontage-based FBCs may also define street type, but the development standards are not (or not always) tied to street type. This type of form-based code can be useful for areas where streets are already designed and/or built.
- **Street-Frontage Hybrid** Development standards are tied to specific frontage/street combinations.
- **Building Type-based** The Regulating Plan controls the locations of pre-defined building types. The development standards define the configurations, features, and functions of buildings.
- **Transect-based** The Regulating Plan articulates a cross section of street types, frontage types and/or building types along an urban/rural continuum to understand where different uses or building types fit or are inappropriate. The “pure” transect-based FBC uses the SmartCode transect with clearly defined zones from T1 to T6. This system was first created by DPZ (Duany Plater Zyberk).
- **Modified Transect** The concept of the transect is modified to correlate with the existing or zoned local urban to suburban characteristics.

IMPLEMENTATION OPTIONS

Form-based codes replace existing zoning codes and can be either mandatory or optional. There are several options for implementation

- **Integrated** A form-based code can be integrated into the existing code, applied as a “by right” designation to selected zones, and cross-referenced to existing code provisions, such as administrative procedures and/or land uses.
- **Optional parallel** Alternatively, it can take the form of an optional parallel code system--a self-contained special chapter with unique provisions, not cross-referenced to other parts of the code, available as an option in designated zones.
- **Floating zone** Finally, an FBC take the form of a floating zone (either integrated or optional/parallel) which is triggered by an application to rezone a property.

Form-based codes are often confused with design guidelines, however they are not discretionary. While they offer flexibility like design guidelines do, they do so by offering choices between objective standards, rather than by offering multiple ways of meeting an aspirational guideline.



FORM-BASED CODE EXAMPLES FOR SAN JOSE

NorthWest Crossing Prototype Catalogue, Bend, Oregon

This integrated, mandatory building-type-based code (adopted in 2002) has been used to build out an award-winning 500-acre mixed-use, mixed housing neighborhood on the west side of Bend.

Link:

http://www.northwestcrossing.com/Bend_Oregon_Real_Estate/Building_Guides/Prototype_Handbook/

Hercules, California

This integrated, mandatory street-based code (created in 2001) has been used to build out a new town in this California Bay Area town.

Link: <http://www.formbasedcodes.org/images/CentralHerculesFBC.pdf>

Columbia Pike Form-Based Code, Arlington County, Virginia

This integrated, mandatory street-based code (adopted about 2003) has been used to transform 3.5 miles of auto-oriented, region-serving highway to transit-oriented, pedestrian-friendly commercial mixed-use.

Link:

<http://www.arlingtonva.us/Departments/CPHD/Forums/columbia/current/CPHDForumsColumbiaCurrentCurrentStatus.aspx>

Loma Rica Ranch Specific Plan

This developer-driven form-based code, created in 2007, is a good example of how to use a form-based code to identify distinct, complementary neighborhoods. It includes an Architectural Standards section and a well-developed Open Space and Conservation section.

Link: http://www.cityofgrassvalley.com/services/departments/cdd/SDA_LomaRicaRanch.php

Santa Ana Renaissance Specific Plan, Santa Ana, California

This draft Form-Based Code provides a comprehensive example of form-based code approaches, including standards for open space network, streetscapes, building types and architecture.

Link: http://www.santa-ana.org/news/0710_renaissance.asp

OTHER RESOURCES

Form-Based Codes Institute (FBCI)

<http://www.formbasedcodes.org/>

Cleveland-Marshall College of Law



Research Paper 07-135
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Back to the Future: Is Form-Based Code an Efficacious Tool for Shaping Modern Civic Life?

By

Lolita Buckner Inniss

Associate Professor of Law

Working Paper

This paper can be downloaded without charge from
the Social Science Research Network electronic library:

<http://ssrn.com/abstract=962354>

Back to the Future: Is Form-Based Code an Efficacious Tool for Shaping Modern Civic Life?

Lolita Buckner Inniss*

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Abstract

This Essay serves as a critique of the New Urbanism in general and of form-based code in particular as a tool of the New Urbanism. It may be true that form-based code offers more flexibility than traditional zoning schemes and thus may offer some respite from acknowledged ills such as social and racial divisions created by exclusionary zoning and other tools, and from the relative inutility of single or limited use districts. However, I will argue that these benefits are eclipsed by some of the problems of form based code. Form-based code is frequently hailed as a “back to the future” approach to both urban and suburban living which will cure numerous

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ills such as the physical decay, racial segregation, and economic downturns that are endemic to many United States cities and towns, but it may not be an effective means of addressing the decline of civic life. This is first because form-based code, in advocating for norms to re-create the city of the past, seeks to implement by design what was essentially a spontaneous and self-generated form of social organization driven largely by economic concerns rather than social or political concerns. Next, Urbanism, which is purportedly at the heart of New Urbanist planning schemes such as form-based code, is itself a contested notion, subject to many alternate visions of the city of the past. As a result, the implementation of form-based code premised on New Urbanism may lead to an ersatz Urbanism. Finally, and perhaps most salient among the critiques I present, form-based code's reliance upon the "community" to formulate design standards through the charrette process has the potential to further isolate those who are already disadvantaged.

I. Introduction

Since the 1980s the notion of "New Urbanism" has taken hold as a theory for designing and redesigning towns and cities in the United States and elsewhere. New Urbanism argues for a return to the "traditional" pattern of cities, one that is characterized by mixed uses in densely populated neighborhoods that are pedestrian friendly and offer easy access to workplaces, shopping, and recreation all while maintaining a fixed and widely shared aesthetic sensibility.¹

This eclectic intermingling, it is argued, results in both economic and social vitality. The New Urbanism grows from Urbanism, a movement first seen in the 1920s and 1930s which sought to offer a systematic account of human settlement in dense "urban" living and commercial spaces as opposed to rural, suburban, or exurban areas.² Proponents of New Urbanism believe that this is because the vital mix that defined the cities of old is no longer in

¹ For a discussion of some of the explicit goals of New Urbanism, see Rutherford H. Platt, *Land Use and Society: Geography, Law, and Public Policy* 273-274 (2004).

² See, e.g., Lewis Mumford, *The City in History: Its Origins, Its Transformations, and Its Prospects* 2-10 (1968 Harvest Books) (1961). In his book Mumford seeks to return to the beginnings of the city and calls for an "organic" city in which technological innovation should not take precedence over the essential humanness of civilization: "... We need a new image of order, which shall include the organic and personal , and eventually embrace all the offices and functions of man." *Id.* at 4

place as a result of the implementation of Euclidean zoning schemes. In the case of newer towns, those founded purely on Euclidean principles of separation of use, New Urbanists assert that the vital mix was never there in the first place and that thus such places exist as soulless shells.³ The New Urbanist remedy for this municipal malaise is to put into place the elements deemed crucial for maintaining a thriving civic life.⁴ One recently developed mechanism for achieving the goals of New Urbanism is form-based code.⁵

Form-based code, known in its various incarnations as design-based zoning, community-based urban design, context-based design, smart growth code, or communicative action-based planning,⁶ is a land use regulatory and planning tool which is increasingly used to achieve the goals of New Urbanism in municipalities of various types, sizes, and locales.⁷ In turn, New Urbanism is founded on a core of Urbanism. Urbanism offered a distinct body of mechanisms for normative ordering in the civic environment which, in its earliest incarnations, was not

³ Jane Jacobs, *Great American Cities* 7 (1961). Jacobs, in referring to attempts at urbanization, writes of the “freshly-minted decadence of the new unurban urbanization.” *Id.* Such modern municipalities are further exemplified by monotony, sterility, and vulgarity. *Id.*

⁴ See, e.g. Patsy Healey, *The Communicative Turn in Planning Theory and Its Implications for Spatial Strategy Formation*, in *Readings in Planning Theory* 237 (Scott Campbell ed., 2002).

⁵ *Id.*

⁶ *Id.*

⁷ Some cities and towns that have recently adopted some aspects of form-based code as part of the zoning process include Syracuse, New York; Palo Alto, California; Arlington, Virginia; Petaluma, California; Huntersville, North Carolina; Louisville, Kentucky; and Emmaus, Pennsylvania. Many more are either considering adopting form-based codes or in the process of drafting such codes. See e.g. Jason Miller, *Smart Codes, Smart Places* National Association of Realtors Magazine Summer 2004, Available at <http://www.realtor.org/SG3.nsf/pages/summer04sm?OpenDocument>.

connected to government.⁸ Instead, the cities of old often spontaneously developed, with the buildings, streets, and neighborhoods themselves forming a type of “law.”⁹ Because creating the amenities necessary to implementing New Urbanism often requires substantial changes to infrastructure, form-based code is more frequently utilized in the design of new towns and undeveloped sections of towns and cities, or in efforts to infill or retrofit land in existing urban areas. Form-based code, however, unlike the Euclidean zoning¹⁰ codes that are at the base of most zoning and planning schemes in United States cities and towns,¹¹ focuses not on land use but on the character of development. Instead of attempting to segregate uses across

⁸ Sally Falk Moore, Legal Systems of the World: An Introductory Guide to Classifications, Typological Interpretations and Bibliographical Resources, in Law and the Social Sciences 11,15 (Leon Lipson & Stanton Wheeler eds., 1986).

⁹ According to Jacobs, the diversity was generated by the existence of certain design features which in effect generate “law”—the street, the neighborhood, the district, and ultimately the city are organs of self-government in the successful city. Jacobs, Great American Cities 117-122 (1961).

¹⁰ Euclidean zoning refers to the segregation of land uses into specified geographic districts and dimensional standards. This form of zoning was upheld by the United States Supreme Court in Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926). I address Euclid in further below *infra* at n. 49.

¹¹ Some municipalities implement performance zoning instead of or in addition to Euclidean zoning. Frederick W. Acker, Performance Zoning, 67 Notre Dame L. Rev. 363, 364 (1991). Performance zoning employs performance-based or goal-oriented criteria to establish review parameters for proposed development projects in any area of a municipality, such as how a particular project impacts adjacent lands and public facilities. *Id.* at 369. In its most unadulterated form, performance zoning allows for the broadest range of uses and creates a uniform system of performance standards throughout a particular municipality. *Id.* Other municipalities include incentive based zoning as a supplement to Euclidean zoning. See Jerold S. Kayden, The 1991 Bellagio Conference On U.S.-U.S.S.R. Environmental Protection Institution: Market-Based Regulatory Approaches: A Comparative Discussion Of Environmental And Land Use Techniques In The United States, 19 B.C. Env'tl. Aff. L. Rev. 565, 568-569 (1992). Incentive zoning is closely related to performance zoning, but is a system by which zoning incentives are provided to developers on the condition that specific physical, social, or cultural benefits are provided to the community. *Id.*

neighborhoods or entire towns, form-based codes look to the scale, shape, scope and specific details of a particular development project.

Also unlike Euclidean zoning codes, form-based codes are most often prescriptive rather than proscriptive or descriptive. Hence, form-based codes tell developers what they can and should build in fine detail rather than telling them what they cannot build or describing generally permitted uses. Because of the level of detail in such codes and the potential curtailment of rights that such codes may mean for property owners, a crucial aspect of the adoption of form-based code is community involvement. This involvement is carried out via the “charrette” process, a series of meetings at which community members and other interested parties are invited to voice their desires for a particular type of project.¹²

¹² Charrette (sometimes spelled “charette”) is an architectural term that refers to a collective workshop process undertaken by designers and planners to reach consensus on the design of a particular project and to sketch out the project’s preliminary form. See Nat’l Charrette Inst., What Is a Charrette?, <http://www.charretteinstitute.org/charrette.html> (last visited November 13, 2006). The charrette has been increasingly used to encourage participation in urban development schemes and has been, states on commentator, a very deliberate part of the federal governments decentralization scheme in federally-sponsored urban development. Audrey G. McFarlane, When Inclusion Leads to Exclusion: The Uncharted Terrain of Community Participation in Economic Development, 66 Brooklyn L. Rev. 861, 863 (2000). In the context of form-based code, the charrette usually involves lay members of a community interested in or affected by a project as well as design and planning professionals. Benjamin E. Northrup & Benjamin J. Bruxvoort Lipscomb, Country and City: The Common Vision of Agrarians and New Urbanists, in *The Essential Agrarian Reader: The Future of Culture, Community, and the Land* 191, 198-199 (Norman Wirzba ed., 2004). It is said to have been conceived in the development of Seaside, Florida, one of the first acknowledged New Urban communities. *Id.* For a general discussion of the charrette in form-based code processes see Charles J. Kibert, Construction Ecology 238-239 (2002); Kenneth Hall & Gerald Porterfield, Community by Design: New Urbanism for Suburbs and Small Communities 51 (2000). See also Thomas L. Daniels, Holding Our Ground: Protecting America’s Farms and Farmland 40 (1997).

This Essay serves as a critique of the New Urbanism in general and of form-based code in particular as a tool of the New Urbanism. It may be true that form-based code offers more flexibility than traditional zoning schemes and thus may offer some respite from acknowledged ills such as social and racial divisions created by exclusionary zoning and other tools, and from the relative inutility of single or limited use districts. However, I will argue that these benefits are eclipsed by some of the problems of form based code. Form-based code is frequently hailed as a “back to the future” approach to both urban and suburban living which will cure numerous ills such as the physical decay, racial segregation, and economic downturns that are endemic to many United States cities and towns, but it may not be an effective means of addressing the decline of civic life. I identify three reasons for this.

First, form-based code, in advocating for norms to re-create the city of the past, seeks to implement by design what was essentially a spontaneous and self-generated form of social organization driven largely by economic concerns rather than social or political concerns. Next, Urbanism, which is purportedly at the heart of New Urbanist planning schemes such as form-based code, is itself a contested notion, subject to many alternate visions of the city of the past. As a result, the implementation of form-based code premised on New Urbanism may lead to an ersatz Urbanism. Finally, and perhaps most salient among the critiques I present, form-based code’s reliance upon the “community” to formulate design standards through the charrette process has the potential to further isolate those who are already disadvantaged. While form based code is not intended as a tool to forward political interests in and of itself, in the context of urban planning the charrette may easily be transformed into a mechanism of “responsibilitization”—the politically inspired move away from formal systems and the thrust of

autonomy on those who previously lacked such autonomy. This may result in further isolating the most disadvantaged residents of towns and cities.

In order to illustrate the critiques I raise, I first consider the historic evolution from traditional land use planning schemes to zoning and planning and form-based code systems, and discuss some of the reasons for the evolution in land use planning devices. Next, I will discuss form-based code and the communal charrette process which is central to it. Finally, I illustrate my critique of communal planning with reference to a recent paradigm: the attempt to implement form based code principles in the rebuilding of New Orleans in the aftermath of Hurricane Katrina.

II. The Antecedents of United States Zoning and Urban Planning and the Rise of Form-Based Code

Traditional zoning schemes are land use regulatory tools which typically prescribe designated land uses within a community with an ultimate goal of restraining density and separating primary uses.¹³ Zoning is one of several legal devices for implementing the proposals and objectives for land development as outlined in a city's comprehensive plan, which is its statement of the city's goals, objectives, principles, guidelines, policies, standards, and strategies for the growth and development of the community. Notwithstanding its ubiquity as a tool of planners, zoning is, within the scope of Anglo-American law and urban planning theory,

¹³ Jay Wickersham, *Jane Jacobs's Critique of Zoning: From Euclid to Portland and Beyond*, 28 B.C. Envtl. Aff. L. Rev. 547, 553 (2001).

relatively new, having been first articulated near the end of the nineteenth century.¹⁴ Well before zoning arose as a planning tool, American cities were developed in response to market rather than social forces, and mechanisms for development were typically found in private law solutions. Zoning followed these private land use arrangements, and in the late twentieth century, with the bloom well off the rose of zoning, there arose New Urbanist devices such as form based code.

A. The Economic Impetus of City Formation

Until the late nineteenth century, much of the population of the United States lived outside of the cities in relatively low density rural areas. Only five United States cities, New York, Philadelphia, Baltimore, Boston, and Charleston, had populations over 20,000, and these cities developed around ports that supported commerce.¹⁵ Most of the persons living in early American cities were associated in some respect to the manufacture, marketing, and distribution of goods which were the *raison d'être* of the cities.¹⁶ As one commentator has observed, urbanization was structured around an ideological and cultural paradigm called “privatism,” where the focus was on the accretion of individual wealth.¹⁷ United States cities were created, organized, and to a great extent defined, not as communities of social or political participation, but as a “fusion of money-

¹⁴ For a general discussion of the roots of planning, see Jon A. Peterson, *The Birth of City Planning in the United States, 1840-1917* 1-28 (2003).

¹⁵ Alexander von Hoffman & John Felkner, Joint Center For Housing Studies, Harvard University No. W02-1, *The Historical Origins and Causes of Urban Decentralization in the United States* 4 (Cambridge, Massachusetts 2002), available at http://www.jchs.harvard.edu/publications/communitydevelopment/von_hoffman_w02-1.pdf.

¹⁶ *Id.*

¹⁷ Timothy J. Gilfoyle, *Urbanization*, in *A Companion to 19th-Century America* 152, 156 (William L. Barney ed., 2001).

making, accumulating citizens.”¹⁸ This meant that much of the land in urban and near-urban areas in the United States was owned or controlled by either an “old money” elite or by wealthy tradesmen and shopkeepers.¹⁹ These persons occupied the most usable, desirable, and ultimately most expensive land at the center of cities.²⁰ Poorer persons who managed to live in the city occupied side alleys and less desirable lowlands or thoroughfares at the sufferance of the wealthy.²¹ Because making improvements to the built environment was often considered a private concern, the poor had little voice in the development of the cityscape and received few of the benefits of such development.²² For example, in much of nineteenth century Chicago, physical improvements were the responsibility of individual property owners, and thus landless citizens were often without amenities such as sidewalks and sewers.²³ There were no fixed, clearly articulated standards of development but rather ad hoc solutions achieved via private arrangements among land owners.

B. Private Land Use Agreements as Planning Devices

Members of the urban land owning classes frequently relied in the first instance upon the implicit understandings of their class regarding land use standards.²⁴ If these informal agreements failed, they also had access to the formal legal tools that had long been a part of

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Priscilla Ferguson Clement, *Welfare and the Poor in the 19th Century City: Philadelphia 1800 to 1854* 24-25 (1985).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

Anglo-American jurisprudence: express private agreements and nuisance law to police land use. Private land use agreements typically contained prescriptions on actions related to land or placed affirmative duties upon the parties in relation to their control or ownership of land, and were usually seen in the form of easements or covenants which could be invoked in the event of a breach.²⁵ Nuisance law generally allowed persons to address harmful actions by neighbors or others which were not covered by pre-existing agreements.²⁶ These traditional land use control mechanisms had significant limits, however, which became all too obvious in the dawn of the twentieth century.

First, private land use agreements were not always in place before a problem arose and hence could not be called upon to resolve such problems. Next, even though using nuisance law required no prior agreement between the parties, there were some land uses which, while objectionable to others, did not meet the traditional standard for nuisance.²⁷ A nuisance occurs when one landowner uses her land so as to unreasonably interfere with another landowner's use and enjoyment of her land.²⁸ The key is reasonableness, which varies from case to case and is highly fact-specific. Uses that merely offend the aesthetic sensibilities of one party are not necessarily nuisances, a limitation which often substantially reduced the potency of the nuisance

²⁵ Michael D. Bayles, *Principles of Law: A Normative Analysis* 111-113 (1987).

²⁶ William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth Century America* 61-62 (1996); *see also* Bayles, *supra* note 25, at 235-236.

²⁷ *See e.g.*, Jesse Dukeminier & James E. Krier, *Property* 951-952 (2002) citing Elmer S. Forbes, *Rural and Suburban Housing*, in *Proceedings of the Second National Conference on Housing* (1912) (discussing the harms caused by the locating of Chinese laundries, garages, and other unpleasantness near the expensive homes of wealthy landowners).

²⁸ Bayles, *supra* note 25, at 235-236.

doctrine. This was of particular concern to the traditional landed classes since, in the period near the turn of the nineteenth century, many social codes that often kept the urban poor and working classes well away from the rich were broken. This meant that some wealthy landowners were confronted with behaviors by nearby landowners that, while possibly annoying or even offensive to certain personal or community norms, were not actionable.

Next, in the large cities with industrial or commercial concerns in close proximity to carriage trade areas or exclusive residential areas, the annoyances sometimes arose not from nearby landowners but from those whose proximity allowed them to simply pass by. For example, merchants on New York's Fifth Avenue decried the possibility that the immigrant masses employed in nearby businesses could walk on the streets at lunchtime, destroying the exclusive character of their businesses, and in the view of the merchants, reducing property values accordingly.²⁹ Nuisance law could offer no remedy for such problems. In addition, because nuisance is a post hoc remedy and can only be invoked after a problem arises, and because it is highly fact specific, it was difficult for landowners to predict when or if their own actions would be the subject of nuisance claims.³⁰ This uncertainty left landowners who sought to put their land to new or different uses facing the possibility that the projects in which they invested could be halted by the application of nuisance law.

Finally, besides these limits of private land use arrangements, by the early twentieth century, notions of the permanence of social class, the concentration and retention of wealth in a

²⁹ Peter Hall, *Cities of Tomorrow* 61 (2002).

³⁰ Dukeminier *supra* note 27, at 952.

relative few, and social exclusivity, gave way, if not factually then ideologically, to broad notions of equality not only in social relations but in legal relations.³¹ This was especially true as it concerned land ownership and use. The firmly fixed but invisible geographic boundaries and land use norms that had for generations divided rich from poor and immigrant strivers from old money aristocrats and wealthy merchants were quickly dissolving in the stew of modern urban life. These limits to traditional law, combined with the widespread socioeconomic transformation seen at the beginning of the twentieth century meant that a new mechanism was required to control land use. This new mechanism was zoning. New York is generally said to have had the first city-wide zoning code, adopted in 1916.³² A number of cities soon followed suit, and much of the zoning enabling legislation originally adopted prior to 1924 was based on the New York general city enabling act.³³

C. The Rise of Zoning Codes

Zoning codes were in many cases meant to counter the ills of the urban environment in the United States which arose from the Second Industrial Revolution, dating from roughly 1850 until the beginning of the nineteenth century.³⁴ This period was heralded by unprecedented

³¹ This transition from status bound relations to greater personal legal autonomy for the individual is perhaps most famously summed up by English jurist Henry Sumner Maine who in 1861 described this process as the move from status to contract. John R. Sutton, *Law/Society: Origins, Interactions, and Change* 26-31 (2001). Sutton also reflects upon the work of Emile Durkheim, Auguste Comte, Ferdinand Tonnies, and other middle and late nineteenth century social and legal theorists who considered the effects of urbanization and modernization on social and legal relations. *Id.* at 31-34.

³² John Barry Cullingworth, *The Political Culture of Planning: American Land Use Planning in Comparative Perspective* 16 (1993).

³³ *Id.* at 27.

³⁴ See e.g. Stephanie B. Kelly, *Community Planning: How To Solve Urban Environmental Problems* 68 (2004); see also Paul Wheeler, *An Architectural Perspective on the Future of the*

innovation, technological advances, and notions of limitless abundance.³⁵ It was also characterized by previously unseen levels of pollution and other environmental degradation.³⁶ This was, moreover, a time of seismic socioeconomic change, vastly altered mores, and an associated anomie, all of which caused the period to be described by various commentators as both the beginning of and the beginning of the end of the “American” way of life.³⁷ This vast schism in the perceptions of early twentieth century life grew largely from the growth in social mobility that accompanied the changes of this period.³⁸ While social mobility was arguably one of the hallmarks of life in the United States because it resulted in a broadening of the middle class and the rise of a new wealthy class, social mobility was at the same time the bane of many members of the long established landed upper classes. Explicit, legislated urban planning was a means of mediating the burgeoning class conflict in American cities.³⁹ Because some of the world’s older cities had already begun to confront this challenge, many looked to Europe for answers and especially to the land use mechanism being developed in parts of England which came to be known as the Garden Cities movement.

Workplace, in *Building the Knowledge Economy: Issues, Applications, Case Studies* 1131 (Paul Cunningham et al. eds., 2003).

³⁵ Thomas C. Shevory, *Body/Politics: Studies in Reproduction, Production, and (Re)Construction* 24 (2000).

³⁶ Kelly, *supra* at note 34.

³⁷ Barry W. Johnson & Martha Briton Eller, *Federal Taxation of Inheritance and Wealth Transfers*, in *Inheritance and Wealth in America* 66 (Robert Keith Miller & Stephen J. McNamee eds., 1998).

³⁸ *Id.*

³⁹ *Id.*

The Garden Cities movement, developed by English social reformer Ebenezer Howard, is said to have served as the ideological roots of planning and ultimately of zoning.⁴⁰ Howard developed his proposals to improve the lives of London inhabitants, advocating for a resettling of some of London's inhabitants into small, new towns in the countryside where they could avoid the harsh, crowded conditions of the large city. These new cities were characterized by an effusion of single family houses, surrounded by gardens. Howard's idea had several unique aspects. First, it called for a strict segregation of uses and a permanent belt of open land which would limit the growth of the new city.⁴¹ It dispensed with private ownership and called for municipal ownership of the entire tract, which would then be distributed via leaseholds to inhabitants.⁴² It further called for limits on population, the development of industries able to support the population, and made provision for the founding of new communities as original garden cities became fully inhabited.⁴³

A number affluent, influential, and socially conscious Americans helped to bring Howard's ideas to the attention of American city planners. Many of these the planners adopted some of Howard's ideas in their efforts to design the new city of the twentieth century.⁴⁴ One result was the creation of the City Beautiful movement, premised on the notion that civic

⁴⁰ See generally Ebenezer Howard, *Garden Cities of Tomorrow* (F.J. Osborn ed., M.I.T. Press 1965; originally published in 1902 as *Garden Cities of Tomorrow*; first published in 1898 as *Tomorrow: A Peaceful Path to Real Reform*).

⁴¹ Lewis Mumford, Introduction: The Garden City Idea and Modern Planning, *in* Howard, *supra* note 40, at 29, 34.

⁴² *Id.* at 35

⁴³ *Id.*

⁴⁴ Peterson, *supra* note 14, at 232.

revitalization, and ultimately social progress, could be achieved by beautification and sanitation regimes with attention to landscape design, municipal improvement and civic configuration, also captured some of Howard's ideas.⁴⁵ The most noteworthy of Howard's ideas to be embraced by American civic planners, which was also in many ways the culmination of the City Beautiful movement, was the adoption of segregated uses and the preference for single family homes.⁴⁶ Inspired by Howard's ideas, and in response to concerns with building uniformity, public health, safety and welfare, starting in the late 1800s in the United States, cities and towns began to develop zoning codes.⁴⁷ Zoning has been hailed as the single most important innovation promoted by American planners in the years prior to World War I.⁴⁸ In 1926, the legality of zoning was established in *Village of Euclid v. Ambler Realty*.⁴⁹

In *Euclid*, Ambler Realty Company, which owned land in the Village of Euclid, Ohio, situated just outside of Cleveland, Ohio, sought to enjoin the Village of Euclid from enforcing a comprehensive zoning ordinance. Euclid's zoning ordinance rendered one portion of Ambler's tract useable for only single or two family homes, another portion for single or two family homes

⁴⁵ William H. Wilson, The Ideology, Aesthetics and Politics of the City Beautiful Movement, in *The Rise of Modern Urban Planning, 1800-1914* 165, 166 (Anthony Sutcliffe ed., 1980).

⁴⁶ Peterson *supra* note 14, at 308.

⁴⁷ *Id.* at 308-309.

⁴⁸ *Id.* at 308

⁴⁹ 272 U.S. 365 (1926). For a broad discussion of the *Euclid* case and of Euclidean zoning in general, see Richard Chused, Symposium On The Seventy-Fifth Anniversary Of Village Of Euclid v. Ambler Realty Co.: Euclid's Historical Imagery, 51 Case W. Res. 597 (2001).

and limited auxiliary uses,⁵⁰ and only a third portion open to a broad number of residential, commercial, and industrial uses.⁵¹ Ambler alleged that it had held the land for a number of years for the purposes of developing it as industrial land, and that if put to industrial use the land would be worth four times as much than if it was zoned residential.⁵² Thus, Ambler argued, the zoning constituted an unconstitutional taking under the Fourteenth Amendment of the United States Constitution.⁵³

At the trial court, the United States District Court for the Northern District of Ohio held that the ordinance was unconstitutional and void, and enjoined its enforcement.⁵⁴ Euclid sought review. The United States Supreme Court upheld the zoning as based on the Village's inherent police power.⁵⁵ While the Court found that the exact line between the legitimate and illegitimate use of the police power could not be clearly delineated as it varies with facts and circumstances, the Court nonetheless held that zoning can be based on more than the narrow prevention of common law nuisance.⁵⁶ The Court held that before a zoning ordinance can be declared unconstitutional, the provisions must be clearly arbitrary and unreasonable, having no substantial

⁵⁰ Euclid at 380-381. Permitted auxiliary uses included churches, schools, cultural, and recreational use.

⁵¹ *Id.*

⁵² *Id.* at 384-385.

⁵³ *Id.* at 385.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Euclid at 388 citing *Welch v. Swasey*, 214 U.S. 91 (1909); *Hadachek v. Los Angeles*, 239 U.S. 394 (1915); *Reinman v. Little Rock*, 237 U.S. 171 (1915); *Cusack v. City of Chicago* 242 U.S. 525, 529-530 (1917). Before Euclid, cases had supported the municipal use of the police power to prohibit uses which could cause nuisances.

relationship to the public health, safety, morals, or general welfare. *Euclid* settled the constitutionality of comprehensive zoning. Since *Euclid*, zoning ordinances bear the presumption of validity. When they are subject to challenge, it is only under the rational basis standard. In the aftermath of *Euclid*, legislated land use via zoning quickly became the norm in United States towns and cities.

While zoning was not meant to supplant private land use arrangements, in many instances it did just that, offering broad, legislatively created standards which were often used in lieu of and not in addition to private land use arrangements. It was ostensibly a collectivist approach to the system of land use planning whereby some of the “sticks,” or parts of the sticks, in the famed “bundle of sticks” metaphor of property rights are transferred to a municipal entity for reallocation to the entire community.⁵⁷ However, zoning represents contradictory norms and impulses, as it may be viewed at once as elitist and embracing a communitarian ethic. This is because zoning’s preference for separation of uses, particularly dividing residential from commercial or industrial, and low density residential uses from high density uses made it a versatile tool for enshrining race-based privilege and perpetuating disadvantage.⁵⁸

Indeed, in the earliest days of zoning, communities often implemented blatantly racist zoning schemes, the first of which was seen in Baltimore, Maryland in 1910 in an ordinance

⁵⁷ One observer describes zoning’s effect on the common law bundle of sticks as being akin to a set of quivers that constrain the sticks. John G. Francis & Chuck Easttom, *Land Wars: The Politics of Property and Community* 113 (2003). Yet another commentator conceived of the bundle as consisting of green sticks and red sticks as part of a traffic signal metaphor, with green sticks representing rights or “go”, and red sticks signifying “stop” or duties. Rutherford H. Platt, *Land Use and Society: Geography, Law, and Public Policy* 93-100 (1996).

⁵⁸ Jane M. Jacobs & Ruth Fincher, *Cities of Difference* 52 (1998).

which zoned for all white or all black blocks.⁵⁹ A number of American cities followed suit.⁶⁰ Though there were a number of challenges to the practice, these challenges met with mixed success.⁶¹ Finally, the practice of explicitly racial zoning was struck down in *Buchanan v. Warley*,⁶² wherein the United States Supreme Court held that a Louisville, Kentucky ordinance requiring residential segregation based on race violated the Fourteenth Amendment of the United States Constitution. Unlike prior state court rulings that had overturned racial zoning ordinances on takings clause grounds due to those ordinances' failures to grandfather land owned prior to enactment, the Court in *Buchanan* ruled that the motive of the Louisville ordinance, race, was an insufficient purpose to make the law constitutional.⁶³ In the aftermath of *Buchanan*, however, cities often sought to create legally defensible racial zoning ordinances.⁶⁴

In recent decades, as obvious displays of racial bias have become not only illegal but socially unacceptable, traditional zoning schemes have eschewed explicit racial references. Nonetheless, modern zoning schemes still frequently served as tools of social exclusion. This is especially true when implemented in newer towns and suburbs where they have the effect of excluding persons based on socioeconomic status with requirements such as minimum lot sizes

⁵⁹ Christopher Silver, The Racial Origins of Zoning in American Cities, in *Urban Planning and the African American Community* 23, 27 (June Manning Thomas & Marsha Ritzdorf eds., 1997).

⁶⁰ Racial zoning was seen throughout the South in cities such as in Richmond, Virginia, Charlotte, North Carolina and Atlanta, Georgia. It was also implemented in Northern cities such as Chicago, Illinois and in the far West in some California cities. *Id.* at 25-28.

⁶¹ Some state court rulings overturned racial zoning ordinances on takings clause grounds due to those ordinances' failures to grandfather land owned prior to enactment.

⁶² 245 U.S. 60 (1917).

⁶³ *Id.* at 82.

⁶⁴ Silver, *supra* at 32.

which have the effect of increasing the cost of housing so that it is beyond the means of lower-income households.⁶⁵

In the years since the widespread adoption of zoning as the principal tool of city planners, there has been a sea change in the challenges facing the American city. First, in a number of older American cities in the Northeast and Midwest, a significant problem is growing depopulation rather than overcrowding.⁶⁶ Next, many cities, rather than remaining centers for capital production and accumulation, have become post-industrial specters of their former selves, often largely populated by members of racial and ethnic minority groups employed in low-wage

⁶⁵ See *e.g.* S. Burlington County NAACP v. Mount Laurel, 336 A.2d 713 (N.J. 1975) (hereinafter Mt. Laurel I); S. Burlington County NAACP v. Mount Laurel, 456 A.2d 390 (N.J. 1983) (hereinafter Mt. Laurel II). In Mt. Laurel I, the New Jersey Supreme Court ruled that municipalities had a constitutional obligation to provide a "fair share" of low- and moderate-income housing. The decision responded to a variety of zoning practices in rural and suburban communities that were designed to exclude affordable housing from these areas. The court found that exclusionary zoning went against the communities' obligations to provide for the welfare of not only the town but the general region. In Mt. Laurel II, the New Jersey Supreme Court discussed the fact that municipalities were failing to address the sorts of exclusionary zoning practices which had been the basis of Mt. Laurel I. Hence, the New Jersey Supreme Court reaffirmed the principles of the earlier decision and required municipalities to implement a variety of "affirmative" governmental mechanisms. One of the most noteworthy aspects of the decision was the Court's provision of a "builder's remedy," which allowed builders or landowners who wanted to provide low- and moderate-income housing in a jurisdiction to sue a municipality to obtain approval notwithstanding existing zoning standards for an area.

⁶⁶ See M. Christine Boyer, *Dreaming the Rational City: The Myth of American City Planning* 237 (1986). The "rust belt" phenomenon, the deindustrialization, decay and depopulation of older United States cities has been produced by a number of factors, among them the loss of manufacturing jobs and their partial replacement by knowledge-intensive white collar jobs often requiring post-secondary education. John D. Kasarda, *Cities as Places Where People Live and Work: Urban Change and Neighborhood Distress*, in *Interwoven Destinies: Cities and the Nation* 81, 83 (Henry Cisneros ed., 1993). This has meant that already present poorly educated inner city residents were excluded from employment. *Id.* The decline of these Northeastern and Midwestern cities has, however, to a great extent been paralleled by the almost exponential growth of "sun belt" cities in the South and Southwest. Eli Ginzberg, *The Changing Urban Scene: 1960-1990 and Beyond*, in *Interwoven Destinies: Cities and the Nation* 31, 35-37 (Henry Cisneros ed., 1993).

clerical, retail or nonunionized manufacturing or altogether unemployed.⁶⁷ In many of America's oldest cities, thriving middle-class communities of the early and mid-twentieth century have given way to an ever-burgeoning group of have-nots. In an effort to diagnose and treat the malady of the declining American urban area, New Urbanist planners have increasingly turned to the pre-zoning city of the past as a model. Form-based code is one mechanism for this look backward.

D. Form-based Code as New Urbanist Tool

Form-based code is part of a broader movement in planning theory which focuses on “communication, collaboration, mediation and diversity.”⁶⁸ Indeed, in recent years the use of words such as “radical”⁶⁹ or “insurgent”⁷⁰ in association with planning schemes has signaled a fundamental alteration in the way that planning functions are carried out. Governmental authorities will no longer exercise an exclusive monopoly over the process;⁷¹ rather, the idea is

⁶⁷ Boyer *supra* at 271. Consider the example of Cleveland, Ohio, which was once hailed as one of the wealthiest cities in the United States. See e.g. Herbert Harwood, *Invisible Giants: The Empires of Cleveland's Van Sweringen Brothers* 1 (2003). Cleveland was the birthplace and longtime home to John D. Rockefeller, Sr., the founder of the Rockefeller empire. See generally Ron Chernow, *Titan: The Life of John D. Rockefeller, Sr.* (1998). Despite this glorious past, Cleveland was ranked the poorest city in the United States in 2004 and again in 2006. See Diane and Galnincea Suchetka, Barbara, *Cleveland: Poorest Big City in the U.S.*, *The Plain Dealer*, August 30, 2006; Robert L. Smith & Dave Davis, *Cleveland No.1 in Big-City Poverty*, *Sports Final Edition*, National A1 (2004).

⁶⁸ John Friedmann, *The Prospect of Cities* 101 (2002).

⁶⁹ See e.g. John Friedmann, *Planning in the Public Domain: From Knowledge to Action* 412 (1987).

⁷⁰ Leonie Sandercock, *Cosmopolis II: Mongrel Cities in the Twenty-First Century* 47 (2003).

⁷¹ Friedmann, *The Prospect of Cities* *supra* note 68, at 101.

to include a broad cross-section of the populace at the ground level.⁷² These ideas have been propagated by a number of planning experts.⁷³ Though form-based code is seen in various iterations in United States municipalities, it is typified by the presence of most or all of the following fixed characteristics: a controlling regulating plan, a framework of urban regulations, regulations defining streets and related passageways, landscape regulations, and finally architectural regulations.⁷⁴ Perhaps the most defining features of form-based code are its design-based rather than use-based standard for development and its reliance on the community in conjunction with city officials and planning professionals to articulate the nature of the design.⁷⁵ This means that the characteristics which define a form-based code regime are often presented as “empty boxes” to be filled at the discretion of the multiple actors involved in reaching consensus. Form-based code, with its attention to detail on the most local level, appears to be the ultimate tool of the New Urbanism movement. New Urbanism, however, is a movement which is itself subject to critique because of its uncertain foundations and unsubstantiated claims.

New Urbanism, while seemingly a single strand of American planning founded upon assertions about the nature and scope of “traditional” American Urbanism, is actually a compilation of multiple viewpoints and approaches to civic planning.⁷⁶ New Urbanism

⁷² *Id.*

⁷³ See e.g. Sandercock, *supra* note 70.

⁷⁴ Robert J. Sitkowski & Ohm. Brian W., Formed Based Land Development Regulations, *The Urban Lawyer*, Winter 2006, at 163.

⁷⁵ Kenneth Hall & Gerald Porterfield, *Community by Design: New Urbanism for Suburbs and Small Communities* 51 (2000).

⁷⁶ Emily Talen, *New Urbanism and American Planning: The Conflict of Cultures* 4-5 (2005).

represents an effort to create a fuller and more nuanced framework for urban living.⁷⁷ This has often meant calls for a return to the United States cities and towns of the pre-zoning nineteenth century, where, for example, much of the population lived in or around a defined center in densely built enclaves. Walking was one of the principal means of transportation, and most jobs were within city limits. These burghs, we are given to understand, were exemplary in both form and function. New Urbanism mediates for a return to this traditional way of living by implementing zoning and planning norms that will create or recreate such communities. Though sometimes known by other names such as Neotraditional Planning, Traditional Neighborhood Development, Transit-based Development, and even New Suburbanism, in every incarnation New Urbanism extols the virtues of the cities and towns of former times.⁷⁸ There are numerous critiques of Urbanism which have been launched in the years since the inception of the movement.⁷⁹ Three of these critiques are particularly salient. First, it is not clear that there is a single type of traditional Urbanism. Next, traditional urban form was for the most part serendipitous, arising more in response to the economic needs, geographic positioning and demographic characteristics of the particular urban locale. Finally, it is not clear that the New Urbanist vision adequately addresses the way that people want to live now.

1. Multiple Strands of Urbanism

There is perhaps no single variety of “traditional” Urbanism back to which the New Urbanism may hearken. Urbanism has, according to one scholar, suffered a continual crisis of

⁷⁷ *Id.*

⁷⁸ J. Barry Cullingworth & Roger Caves, *Planning in the USA: Policies, Issues, and Processes* 138 (2003).

⁷⁹ See Talen *infra* note 76.

definition.⁸⁰ Most would agree that the broad concept of Urbanism described life in the city environment as opposed to suburban or rural life. But there the consensus ends. It has been argued that Urbanism, rather than being descriptive of one movement, is really an amalgam of multiple and sometimes competing “cultures.”⁸¹ One of these cultures calls for attention to the built environment on a micro scale, focusing, for example, on particular recreational spaces or educational facilities.⁸² Another form of Urbanism looked to macro-developmental approaches for the creation and maintenance of the urban environment, with attention to broad land use norms or on large-scale local and regional transit systems.⁸³ Some views on Urbanism have actually been *exurban* in view, looking to the areas beyond the city as the ultimate in desirable human habitats.⁸⁴ Finally, some types of Urbanism have been more ecologically focused, and have looked to ways to reconcile the built environment with the natural environment.⁸⁵

To recognize the existence of competing impulses ever-present in the Urbanism movement, which sometimes threatened to undermine the very reason for such a movement, one need only consider that the great names in urban planning, such as Ebenezer Howard, Frank Lloyd Wright, and Le Corbusier, were themselves staunchly opposed to the cities of their times.

⁸⁰ Talen, *supra* note 76, at 1.

⁸¹ Emily Talen describes the “connections and conflicts” between what she sees as the various approaches to urbanism in the United States as “cultures. Talen, *supra* note 76, at 2.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

All three envisioned urban utopias that would constitute radical reconstructions of the city so as to eliminate features that they believed to be baneful, such as high density and mixed uses.⁸⁶

Yet, these very features are now extolled as virtues of the “traditional” urban environment and the goal of most New Urbanist planning.

2. Accidental Urbanism

Even where specific notions of traditional Urbanism can be articulated as the basis of a distinct New Urbanism, it is important to recognize that regardless of form, traditional Urbanism, was, for the most part, accidental. The irony of New Urbanism is that it trades on the accidental development of the past and attempts to make it manifest via an explicit, highly stylized planning scheme such as form-based code. With New Urbanism, as with some of the urban utopia movements of the late nineteenth and early twentieth centuries, the past is appropriated to legitimate the roots of what was and is a very new endeavor. New Urbanism seeks to rationalize a desire for that which was never necessarily intended to exist in any particular form.⁸⁷ So-called best practices in urban planning and urban living are often based on revisionist high points of the past which glide over flaws in order to sustain the myth of our ideal urban past.⁸⁸ Perhaps most damning to the goal of reinstating the urban past is that it is none too clear that this represents the way that people in current cities want to live.

⁸⁶ Robert Fishman, *Urban Utopias in the Twentieth Century: Ebenezer Howard, Frank Lloyd Wright, Le Corbusier* 3-4 (1982).

⁸⁷ Robert Freestone, *Learning From Planning's Histories*, in *Urban Planning in a Changing World: The Twentieth Century Experience* 1,2 (Robert Freestone ed., 2000).

⁸⁸ *Id.*

3. New Urbanism and the Way We Want to Live

The operative assumption, and one even born out by periodic polls conducted in various regions, is that the New Urbanism represents the way that Americans want to live.⁸⁹ There is little proof, however, that the various constituencies of today's cities, suburban towns or larger, inner ring suburbs hanker for a particular New Urban vision or for any at all. As one scholar has written, the ideology of New Urbanism is both "utopian" and "deeply fraught."⁹⁰ This is reflected in a rhetoric which assumes that the United States in general and its cities in particular are populated by like-minded persons who share a desire for "community" but who "have only the dimmest idea of what that means in terms of physical design."⁹¹ Though the New Urbanism movement pulls within its fold persons from varying social, economic, and racial backgrounds, it is none too clear that the "traditional" city that they all remember is the same one. "Well-founded" communities, it has been pointed out, often exclude, frequently by defining themselves against others and ultimately serve as barriers to rather than sources of social change.⁹² Though rarely acknowledged, the collective memory out of which new Urbanism has been created is contested and contingent.

To summarize, urban land use planning in the United States began as a mostly private system of land use regulation which, after the turn of the nineteenth century, ultimately evolved

⁸⁹ Peter Calthorpe & William Fulton, *The Regional City: New Urbanism & the End of Sprawl* 130 (2001).

⁹⁰ David Harvey, *The Spaces of Utopia*, in *Between Law and Culture: Relocating Legal Studies* 105 (David Theo Goldberg et al. eds., 2001).

⁹¹ James Howard Kunstler, *Home From Nowhere: Remaking Our Everyday World for the 21st Century* 194 (1996).

⁹² Harvey, *supra* note 90, at 105.

into widespread zoning schemes that all but replaced private land use schemes as a means of planning. Form-based code, a principal tool of New Urbanism, represents the next step in the evolution of land use planning; like zoning, this tool comes at time of massive social and economic change in the American urban environments. In such a context, the word community becomes even more a contested notion. For this reason, one of the most noteworthy features of the form based code, the community consultative process via the charrette, becomes a subject for significant critique.

III. The Charrette and the Nature of the “Community” in the Process of Developing the Form-Based Code

In writing about the communal nature of the city and the development of neighborhoods, Jane Jacobs expressed skepticism about the notion held by traditional planners that there was a sufficient commonality between people living in the same geographical area of a city so as to assume them to be allies for purposes of creating and maintaining successful cities.⁹³ She suggested, for example, that the several thousand residents of a particular section of a large city have no “innate degree of natural cross connection”⁹⁴ such as that presumed by traditional planners, and that hence, city planning which seeks to foster the growth of neighborhoods can have only limited success.⁹⁵ These observations remain true, and the differences between and among the residents in any particular section of a city remain one of the biggest challenges to

⁹³ Jacobs, *Great American Cities*, at 114-116.

⁹⁴ *Id.* at 115

⁹⁵ *Id.*

promoting communal interactions or obtaining communal consensus. As Jacobs understood, there is not necessarily a pre-existing body of persons who make up the community. Instead, there are often interest groups and these interest groups may serve as proxies for the community as a whole even while actively excluding some elements of the community.⁹⁶ Such groups may wield power in ways that corrupt or deform processes of group decision-making. Moreover, the decision to vest individuals in a community with a significant amount of neighborhood design autonomy may be politically inspired. It is for these reasons that the role of the charrette in implementing design-based code should be the subject of some concern.

A. The Multiple Strands of “Community” and the Charrette as a Tool of an Entrenched Elite

As some experts on form-based code have observed about traditional planning tools, there are assumptions, sometimes unstated, made about a wide set of communal and societal relations such as gender, racial, economic, and familial interactions.⁹⁷ These assumptions become embedded as norms in the framework of such planning processes and systems, and shift the balance of power resulting in the domination and marginalization of some groups. A shift to form-based code’s charrette process comprised of “rational” face-to-face meetings has the risk of replicating existing power dynamics, since the dominant are often better equipped to manage and

⁹⁶ Community Practice: Theories and Skills for Social Workers, David A Hardcastle, Patrice R. Powers and Stanley Wencour 112 (1997). As another observer wrote in 1953, it would be “naïve” to assume that club or community groupings will “open their membership to many elements in the community, including Negro citizens, labor, women and others.” Floyd Hunter, Community Power Structure: A Study of Decision Makers 259 (1969 University of North Carolina Press)(1953). These observations often prove as true now as they did in the middle of the last century.

⁹⁷ Sandercock, *supra* note 70.

control such processes. Because form-based code focuses on localized developments and the character of those developments, it potentially allows empowered elites not only to retain control of the planning process but to custom tailor their own neighborhoods without concern for the needs of the broader municipality. In the absence of a strong central municipal government to manage community design with an eye towards broad societal concerns such as environmental impact, the charrette could become a means of further disempowering the already disenfranchised.⁹⁸

The charrette process used in form-based code schemes is an example of what several planning scholars call “collaborative planning” or “communicative planning.” Such processes rely upon what has been called “inclusive argumentation.” One of the significant concerns of turning over a neighborhood to the form-based code process is whether such a process can or will take into account broader concerns such as environmental impact and infrastructure needs as well as issues of social equity and differential access to power. It has been observed, for example, that planning and zoning are not disconnected from political and social context, notwithstanding the effusions of “supply side” planning theorists who view such endeavors as essentially unproblematic.⁹⁹

⁹⁸ A number of scholars have written about the way that the privilege is often maintained in legal and law-like systems in the face of “delegalizing” or “deformalizing” processes. *See e.g.* Richard Abel, *Delegalization: A Critical Review of Its Ideology, Manifestations and Social Consequences*, in *Alternative Legal Forums and Alternatives to Law* 27 (Erhard Blankenburg et al. eds., 1980); *see also* Marc Galanter, *Why the Haves Come Out Ahead*, 9 *Law and Society Review* 95 (1974).

⁹⁹ Freestone at 2.

In the area of planning, there has long been insufficient attention to and a deep ambivalence about what is in many cases a clear cut differential in power or access to power.¹⁰⁰ Hence, what is needed is a focus on what has been described as the “dark side” of traditional land use planning.¹⁰¹ This would mean, for example, considering “demand side” planning concerns, acknowledging and even engaging the disorder of actual planning and design outcomes, and the lived experiences of participants in such processes. There is, in contrast to the utopian, apolitical and idealized history of zoning and planning, a “noir” history, one which addresses the very real fact that planning has been, and continues to be in a number of cases, a tool of social oppression.¹⁰² This is frequently true because planning projects are driven by elites.

B. Fears of “Responsibilitization” and the Establishment of “Government at a Distance”

¹⁰⁰ Bent Flyvbjerg, Bringing Power to Planning Research: One Researcher's Story, in Planning in a Global Era 117 (Andy Thornley & Yvonne Rydin eds., 2003).

¹⁰¹ Yiftachel *supra* at 396.

¹⁰² *Id.*; see also Oren Yiftachel, Planning and Social Control: Exploring the "Dark Side," 12 Journal of Planning Literature 395 (1998). As Yiftachel writes,

Most accounts of planning neglect to explain its frequent application for purposes of (deliberate) social control, as expressed in the oppression of peripheral groups. This is not to claim, of course, that planning is inherently regressive, but rather that its well-documented progressive potential should also be understood as having a more sinister accompanying 'dark side'. This dark side is particularly evident when planning is used by 'ethnic states' as part of their territorial policies, but is also rife in western societies governed by formal democratic principles of governance. *Id.* at 395

Control by elites remains a problem in the case of a relatively new planning or regulatory tool such as form-based code. This is true because form-based code relies upon what has been called “responsibilitization”—the politically inspired imposition of autonomy upon those who had previously lacked such autonomy.¹⁰³ Responsibilitization is seen in a number of areas, such as criminal enforcement via third party policing.¹⁰⁴ It is part of a broader societal move away from Keynesian welfarism,¹⁰⁵ which was exemplified by provision of services, and towards neo-liberal governance.¹⁰⁶ The key feature of neo-liberal governance is the way in which individuals are incorporated into the process of managing their own lives as an enterprise via rational

¹⁰³ Jane I. Collins, Transnational Labor Process and Gender Relations: Women in Fruit and Vegetable Production in Chile, Brazil and Mexico, in *Perspectives on Las Américas: A Reader in Culture, History, and Representation* 160, 167 (Félix V. Rodríguez & Matthew C Guttman eds. 2003).

¹⁰⁴ Lorraine Mazerolle & Janet Ransley, *Third Party Policing* 52 (2006). One frequently discussed form of responsibilitization is third party policing. Third party policing is a style of policing involving many different persons or entities, such as private individuals or community groups, who exercise regulatory control. *Id.* at 2. Those involved may be willing or unwilling partners. *Id.* This is because included within the regulatory framework for such policing schemes are mechanisms for the police to coerce participation by the threat of civil or administrative sanctions for the failure to participate. Kristian Williams, *Our Enemies In Blue: Police And Power In America* 241-242 (2004). Continued crime after the implementation of this form of responsibilitization is often seen not as a failure of police but of the citizens who are made “partners” in third party policing. *Id.* In like manner, turning planning processes over to citizens, particularly those ill-equipped to manage such processes, may easily make citizens rather than government liable for planning failure.

¹⁰⁵ John Maynard Keynes was a social democrat who greatly influenced the formation of the welfare state after World War II as a direct affront to the economic liberalism that had flourished in the United States from the 1800s until the early 1900s. Keynes’s theories challenged the notion that economic liberalism, characterized by an unrestrained market, little government intervention in economic and social policy, and reliance upon individual private initiative, was best for the success of a nation. See e.g. Sanford F. Schram, *Praxis for the Poor: Piven and Cloward and the Future of Social Science in Social Welfare* 213 (2002).

¹⁰⁶ *Id.* at 23

decision making.¹⁰⁷ Neo-liberalism engages in the “valorization of the self-actualized subject.”¹⁰⁸ This goal is typically achieved by two dominant modes of neoliberal practice: "government at a distance" wherein there is top-down reform of state apparatuses based on a market model.¹⁰⁹ This reform generally takes the form of deregulation and privatization.¹¹⁰ The second takes a bottom-down approach which centers on building the "social capital" of the individual.¹¹¹

The government at a distance model tries to improve government by partnering with private actors and bringing market behavioral and discursive practices into the government. An example of this is the way in which public school boards have had to be "competitive" and have called superintendents "CEOs."¹¹² The social capital model operates at the level of the individual and civil society and encourages individuals, and the communities to which they belong, to be responsible, autonomous and ultimately self-governing.¹¹³ Through such programs

¹⁰⁷ Alizon Draper & Judith Green, Food Safety and Consumerism: Constructions of Choice and Risk, in *Welfare of Food: Rights and Responsibilities in a Changing World* 54, 66 (Elizabeth Dowler & Catherine Jones Finer eds., 2003).

¹⁰⁸ Sean Patrick Eudaily, *The Present Politics of the Past: Indigenous Legal Activism and Resistance to (Neo)Liberal Governmentality* 52 (2004), citing Mitchell Dean, *Governmentality: Power and Rule in Modern Society* 155 (1999).

¹⁰⁹ Eudaily, *supra* note 108, at 52.

¹¹⁰ *Id.*, *citing* Bradford at 204.

¹¹¹ *Id.* *citing* Dean at 152.

¹¹² A number of large urban school districts have renamed their school superintendents CEOs (Chief Executive Officers), apparently in an effort to bring some of the virtues of private industry into what are often dysfunctional public school systems. *See e.g.* Virginia P. Collier et al., *The Superintendent as CEO: Standards-Based Performance* 1-3 (2005).

¹¹³ Eudaily, *supra* note 108, at 53.

neo-liberal government can achieve its objectives all while reducing its commitment to formal governance and resource provision.¹¹⁴ Form-based code closely resembles this social capital model and thus may be located in the arsenal of neo-liberal weaponry for revising government.

Form-based code, like many other neoliberal tools, typically implies the resituating of the boundaries between public responsibility and private duty, the citizen as client and customer in a marketplace responsible for their own happiness, success, and health.¹¹⁵ In such regimes, elites with education, money, and experience in formal processes are often able to take charge of the design process, resulting in the same sorts of outcomes that urban renewal undertaken under a broad neoliberal scheme wrought: fewer communities of color, fewer poor people, and fewer services for the members of those communities who remained after such processes were implemented.¹¹⁶

Because zoning and planning schemes are developed in a political process which is theoretically accessible to all, and because such schemes are broadly applicable to a municipality and because of its emphasis on health, safety, and welfare, zoning may also be viewed as broadly democratic and communitarian. In seventy-plus years since zoning schemes have been in use, the latter view seems to have won out in an ideological sense. This is in part because in many large urban areas, those who were historically disenfranchised such as racial minorities have taken control of the civic governments responsible for zoning and planning. It is just now, however, that zoning is in some circles is becoming suspect and disfavored. Form-based code

¹¹⁴ *Id.*

¹¹⁵ Peter Brand & Michael J. Thomas, *Urban Environmentalism* 94 (2005).

¹¹⁶ Rachel Weber, *Extracting Vale From the City: Neoliberalism and Urban Development*, in *Spaces of Neoliberalism* 172, 183-187 (Neil Brenner & Nick Theodore eds., 2003).

has the potential to allow those without official political power in a city to control their own small fiefdom without effecting widespread changes to the benefit of all. A case in point is the city of New Orleans in the aftermath of Hurricane Katrina.

B. The Form-Based Code Process and the Case of Hurricane Katrina

On August 29, 2005, Hurricane Katrina, a massive category four¹¹⁷ storm, hit New Orleans, Louisiana and the surrounding Gulf Coast area, causing a level of destruction not experienced in the area in decades.¹¹⁸ Approximately eighty percent of New Orleans was flooded., with some of the most severe damage occurring in the Lower Ninth Ward, Central City, and the Seventh Ward, all areas heavily populated by African-Americans.¹¹⁹ In the period since Hurricane Katrina, poor black victims have been the slowest to return to New Orleans.¹²⁰ There are a number of the reasons for inability of poor black Katrina victims to return to New

¹¹⁷ Hurricane intensity is measured on the Saffir-Simpson Hurricane Scale. The scale ranges from 1 to 5, with 1 having the least intensity and wind speeds between 74 and 95 miles per hour, and 5 being the most intense with wind speeds greater than or exceeding 156 miles per hour. Hurricane Katrina was a Category 4 storm at 140 miles per hour. For a discussion of the development and use of the Saffir-Simpson Hurricane Scale, see Judith A. Howard & Ernest Zebrowski, *Category 5: The Story of Camille, Lessons Unlearned from America's Most Violent Hurricane* 211-235 (2005).

¹¹⁸ Prior to Katrina, the last storm to cause significant damage to New Orleans was Hurricane Betsy in 1965. However, it is generally asserted that no storm besides Katrina has wielded such destructive force in the United States since the 1928 Okeechobee hurricane, also known as the San Felipe hurricane, which killed over 3,000 people in Florida and Puerto Rico, and many hundreds more on the Caribbean island of Guadeloupe. The Okeechobee hurricane caused over 800 million dollars in damage in today's dollars. See generally Eliot Kleinberg, *Black Cloud: The Great Florida Storm of 1928* (2003).

¹¹⁹ New Orleans is divided into 17 wards. The Ninth ward, located in the easternmost downriver portion of the city is the largest of these wards and is arguably the most famous ward.

¹²⁰ William H. Frey & Audrey Singer, *Katrina and Rita Impacts on Gulf Coast Populations: First Census Findings*, in *The Brookings Institution: Cities and Suburbs* (last modified 2006, June) (last visited November 28, 2006) <http://www.brookings.edu/metro/pubs/20060607_hurricanes.htm>. Full report on file with the author.

Orleans.¹²¹ Perhaps chief among them is the absence of habitable dwellings, which has been exacerbated by the failure of local authorities to take full charge of the planning process and thereby create a framework for rebuilding.

Recently New Orleans officials chose to forego traditional comprehensive planning seen under a Euclidean zoning scheme in favor of a planning process that will delegate responsibility to fifteen planning teams who will be guided by groups of residents from various parts of New Orleans.¹²² Although the grand scheme calls for all of the individual neighborhood plans to be incorporated into a single master plan at some point, thus far there are no comprehensive guidelines being promulgated for the design of the neighborhoods. In the absence of new, broadly applicable standards, residents are free to rebuild in exactly the same manner that caused many properties to sustain serious and in some cases irreparable damage.¹²³ Groups of residents, while ostensibly empowered to affect their own neighborhoods or their own houses, are not empowered to undertake the sort of broad structural and environmental remediation needed to avoid future disasters.¹²⁴

Moreover, even if such consultations were able to reflect the views of the broader constituency, there is some concern that residents would avoid doing so in lieu of promoting

¹²¹ For a fuller discussion of the housing-related problems of poor blacks in New Orleans in the Aftermath of Hurricane Katrina, see Lolita Buckner Inniss, *A Domestic Right of Return? Race, Rights and Residency in New Orleans in the Aftermath of Hurricane Katrina*, forthcoming ____ Boston College Third World Law Journal (2007).

¹²² Nicolai Ouroussoff, *In New Orleans, Each Resident is Master of the Plan to Rebuild*, N.Y. Times (New York), August 8, 2006, The Arts, at B1.

¹²³ *Id.*

¹²⁴ *Id.*

their own parochial concerns based on commonalities like race, class, and economic status.¹²⁵ Indeed, it has been observed that community consultations in the context of civic planning are rarely able to capture the views of the most disempowered groups.¹²⁶ This last point is one of particular concern in New Orleans. New Orleans was a hotbed of race and class divisions before the hurricane and certainly remains so afterward. Moreover, New Orleans city planning processes, like those in many United States Southern cities, had long been dominated by elites; this was due in part to those cities' antebellum social structures.¹²⁷ It has been asserted that one of the principal reasons that post-Hurricane New Orleans opted for the community guided plan was that efforts to develop a comprehensive city-wide plan were challenged for failing to take into account racial and economic diversity.¹²⁸ By delegating the responsibility for planning to the resident-led design teams, the city was able to abdicate the broader responsibility that it would have had under a traditional Euclidean scheme.

Though a number of areas sustained significant damage in Hurricane Katrina and in Hurricane Rita, the storm that came less than a month later, some of the greatest damage occurred in low-lying predominantly black areas such as the Lower Ninth Ward and the Seventh Ward.¹²⁹ These areas also had the highest rates of poverty and the fewest resources in

¹²⁵ Ourousoff *supra*.

¹²⁶ John Friedmann, *The Prospect of Cities*, *supra* note 68, at 101.

¹²⁷ David R. Goldfield, *Planning For Urban Growth in the Old South*, in *The Rise of Modern Urban Planning, 1800-1914* 11, 12-15 (Anthony Sutcliffe ed., 1980).

¹²⁸ Ourasoff *supra*.

¹²⁹ New Orleans is divided into seventeen wards. The Ninth Ward, located in the easternmost downriver portion of the city, is the largest of these wards and is arguably the most famous ward.

general.¹³⁰ Many of the residents are little equipped to undertake the necessary measures to plan for the rebuilding of their neighborhoods. Already it has been observed that residents in affluent neighborhoods have been the best organized and thus best able to take advantage of the form-based process.¹³¹ This suggests that the neighborhoods that suffered disproportionately in Hurricane Katrina because of location and infrastructure disadvantages may risk having those same disadvantages carried over in the form-based code process. Yet, because such processes are to a great extent self-regulated, there is no central authority to whom they can turn for relief.

IV. Conclusion

There is no doubt that form-based code may hold promise for the revitalization of old cities and for the creation of new ones. Jane Jacobs, a critic of traditional planning and zoning schemes, announced at the outset of *The Death and Life of Great American Cities* that the book was intended as “an attack on current city planning and rebuilding.”¹³² Writing in 1961, Jacobs was speaking of the highly formulaic Euclidean-based zoning that was at the heart the planning schemes in United States cities, and of the explicit goals of such schemes were manifold – slum clearance followed by the creation more middle and upper income housing areas, and cultural,

The Seventh Ward, located near downtown New Orleans extending from Esplanade Avenue to Elysian Fields, is one of the lesser known areas of New Orleans, yet one of the hardest hit by the flooding in the aftermath of Hurricane Katrina. See Rod Amis, *Katrina and the Lost City of New Orleans* 64- (2005)

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¹³¹ Ourossoff at B1

¹³² Jacobs, *Great American Cities*, *supra* note ____ at 1.

civic, and commercial centers to serve the new populations.¹³³ Such explicit civic planning, wrote Jacobs, often failed.¹³⁴ This was because it failed to take into account that there was order underlying even the seeming unplanned disorder of successful cities, order that resulted from “an intricate and close grained diversity of uses.”¹³⁵ Form based is a New Urbanist tool whose goal is to reinstate form and utility based cityscapes of the pre-zoning period of American cities.

Form-based code, however, attempts to reproduce traditional city diversity in all of its meanings by moving away from a formal rational legal system¹³⁶ of traditional Euclidean zoning and planning and towards a more substantively rational law¹³⁷ growing out of self-government. Form-based code, however, is not “un-planning, it is alternate planning by persons who in many cases may not be accountable. As such it offers a flawed answer to the problems of a more formal, centralized zoning and planning regime. As Arthur Stinchcombe writes in *When Formality Works*,¹³⁸ there is an increased assault upon formality in legal and social systems because of misconceptions about how formality functions.¹³⁹ Formality in the context of traditional zoning is not the source of ill-functioning cities, social exclusion or the skewed power dynamics that are often seen in American cities . Rather, these ills and especially the creation

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ Jacobs, *Great American Cities*, at 14.

¹³⁶ Formal rationality refers to a system of law which creates and applies a body of universal rules to a particular area of endeavor. See Gunther Teubner, *Substantive and Reflexive Elements in Modern Law*, 17 *Law and Society Review* 239, 240 (1983), citing Rheinstein 1954 64, 39

¹³⁷ Substantively rational law achieves a specific purpose or goal. *Id.* at 240, citing Rheinstein, 63, 303.

¹³⁸ Arthur L. Stinchcombe, *When Formality Works: Authority and Abstraction in Law and Organizations* (2001).

¹³⁹ *Id.* at 2

and maintenance of privilege are accomplished myriad means. What New Urbanists fail to acknowledge is that form-based code, all while promoting an ethic of neighborhood self-government, may itself be co-opted as a tool for perpetuating disadvantage.

Pat Trudgeon

From: Pat Trudgeon
Sent: Monday, March 09, 2009 3:19 PM
To: [REDACTED]
Subject: Twin Lakes Code Enforcement

Twin Lakes Property
Maintenance Code
Enforcement

Hello, I am Patrick Trudgeon, Roseville's Community Development Director. Thank you for passing along your concerns regarding the state of the properties in the Twin Lakes area. It is something that we are aware and monitor as we are able, but your input is valuable as we are not out there all of the time.

Let me first state that City takes violations very seriously and works with all property owners to correct the violations. If a response to our requests for code compliance are not adequate, the City has the ability to abate the problem and/or issue a citation and charge the offending property owner in court. City attention toward the maintenance and upkeep of the properties within Twin Lakes has experienced a series of fits and starts within the past couple of years. Due to expected pending development, the buildings and properties were left in a vacant state, which in turn has led to code violations over time. Being a unique redevelopment area within the City, it is important to provide some background on our efforts in Twin Lakes to hopefully provide context for the matter.

In 2005-06, the City began eminent domain actions to acquire parcels in Twin Lakes for the redevelopment project. As a result of that action, businesses started moving out of the area and property owners cut-off utilities and moth-balled the buildings. Once that occurred, the City started noticing junk being dumped on the property and vandalism (including graffiti) occurring on the property.

In response, the City made inspections in the Spring of 2007 and sent out letters to the property owners noting the violations and requesting compliance and clean-up of the property. At that same time, the Twin Lakes project was unraveling and lawsuits were threatened from the property owners (i.e. that they lost business due to city action). John Stark, the CD Director at the time made a decision to hold off on pro-active enforcement at that time until the future of Twin Lakes became more clear. However, the City still responded to dangerous and immediate problems on the site.

Unfortunately, the Twin Lakes situation did not come any clearer in the next year and with the transition in the leadership of the department, there was not clear direction on the overall cleanup of the area. At the time I can aboard, McGough had proposed a multi-story office campus on the PIK site. Preliminary approval was given last March and final approvals seemed imminent, with construction starting in 2009. Unfortunately, that never occurred.

Nevertheless, there were code enforcement efforts made during that time. Below is a listing of what occurred.

- In 2007, we had 11 active code enforcement cases. All of the cases involved multiple violations, but each one had tall grass violations (over 8" high). Other cases had junk and debris piles on the property. All grass and junk and debris violations were corrected. Several of the cases also had buildings that were unsecured (i.e. open doorways and windows). These items were never satisfactorily corrected.
- In 2008, the City opened 7 code enforcement cases. Similar to 2007, several of the cases dealt with tall grass. Four of the cases involved improper snow storage and unplowed trails. All of these cases were corrected. One case dealt with broken glass in a building, which the City abated.
- In 2009, thru February, we have had 3 code enforcement cases, all dealing with snow not being

plowed from the trails.

As the City is in the process of acquiring roads, at least one building will come down (Indianhead accessory building) and potentially one more will need to be removed (Cummings).

The background and context provided above is not meant to be an excuse for the state of the properties, but I wanted to share the reasons why the properties remain a problem. At this point, I believe we cannot expect that the market will redevelop the Twin Lakes property anytime soon. Therefore, staff will continue to work with the property owners to enforce the codes and keep a safe and clean area out in Twin Lakes. With spring coming and thus greater access and visibility of the sites, I have instructed the Code Enforcement staff to undertake a systematic inspection of the properties within Twin Lakes and note code any violations. With the results of the inspections, the City will contact the property owners and inform them what violations exist and what corrective action should be undertaken.

Once again, thank you for sharing your concerns about the properties within Twin Lakes. If you have any other questions and/or comments, I would be happy to help you.

Pat

Patrick Trudgeon, AICP
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Community Development Director
2660 Civic Center Drive
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pat.trudgeon@ci.roseville.mn.us
www.ci.roseville.mn.us

Date: 3/09/09
Item: 15.a
TL Property Mtnc
Code Enforcement

From: Amy Ihlan [amy@briollaw.com]
Sent: Wednesday, February 25, 2009 11:19 AM
To: Bill Malinen
Cc: Margaret Driscoll; *RVCouncil
Subject: Item Request for Future Agenda -- Twin Lakes Property Maintenance Code Enforcement

Dear Bill and Council,

In light of the e-mail we just received from Ed and Kelly Jaros (see below), I would like to add an agenda item as soon as possible for a future a council meeting, to have council discussion and direction to staff on two issues:

1. Enforcement of city property maintenance codes on derelict buildings in Twin Lakes area
2. Considering strategies to require property owners to demolish vacant and unusable buildings that are creating a nuisance and/or public health and safety issues.

Thanks,

Amy

Amy J. Ihlan
Briol & Associates, PLLC
3700 IDS Center
80 S. 8th St.
Minneapolis, MN 55402
(612)337-8410
Amy@Briollaw.com

Please visit us on the web at www.briollaw.com

-----Original Message-----

From: support@civicplus.com [mailto:support@civicplus.com]
Sent: Wednesday, February 25, 2009 10:32 AM
To: city.council@ci.roseville.mn.us;
margaret.driscoll@ci.roseville.mn.us; bill.malinen@ci.roseville.mn.us
Subject: Online Form Submittal: Contact City Council

The following form was submitted via your website: Contact City Council

Subject: Graffiti, Storm Water runoff containment structures rotting etc on vacant bldg site of former trucking facility near Langton Lake Park

Name:: Ed Jaros

Address:: 1858 County Road C2 W

City:: Roseville

State: : MN

Zip:: 55113

How would you prefer to be contacted? Remember to fill in the corresponding contact information.: Email

Home Phone Number::

Daytime Phone Number::

Email Address:: [REDACTED]

Please Share Your Comment, Question or Concern: Dear Roseville City Council Members,

We are writing to you concerning the vacant buildings that remain at the site of the former trucking facility that backs up to Langton Lake Park. Since these buildings have been vacated there has been much graffiti showing up on the buildings. This can only indicate that persons who we don't want in our neighborhoods are in fact spending time here defacing our city.

Vacant buildings such as these are hazardous. Small children may wander into these properties, they are an attraction to kids as well as vandals, possibly drug deals or gangs or vagrants. Stray animals and rodents may find it inviting as well. At the very least they are an eyesore to people who live in the community. Some of the doors are open and the fence along the park is broken down at least in one area.

Are there any ordinances that require building owners to keep their properties in reasonable repair and prevent them from becoming an eyesore and detracting from our community? Who wants to live down the street from a rundown old building covered by graffiti? Not me, but I do.

There are other issues as well. The storm water run off containment structures are rotting away, the runoff - most likely containing oil, grease and diesel fuel from past maintenance and storage activities goes directly into Langton Lake. Last spring there was such a torrent of water (and who knows what else) running off the property that it eroded a hole through the asphalt of the parking lot. There have also been issues with weeds growing tall and not being mowed. I am sure if I did not mow my lawn someone from the city would tell me I need to.

We would like to email some pictures illustrating some views of these properties taken from one of our great parks that we are so proud of. Please let us know who to email pictures to. There doesn't appear to be a place to attach pictures on your site here.

Thank you for your attention to this matter.

Regards,

Ed and Kelly Jaros
1858 County Road C2 West
Roseville, MN 55113

Additional Information:

Form submitted on: 2/25/2009 10:32:14 AM

Submitted from IP Address: [REDACTED]

Form Address: <http://www.cityofroseville.com/forms.asp?FID=115>







ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 03/09/09

Item No.: 13.a

Department Approval

City Manager Approval

*Christopher K. Miller**W. J. Mahinen*

Item Description: Discussion on the 2009 Utility Rates

BACKGROUND

On November 17, 2008, the City Council adopted the 2009 Utility Rates. With this action, the Council adopted a new rate structure that was designed to achieve two newly-established outcomes. They included:

- ❖ Providing long-term financial sustainability for the City's water, sewer, and stormwater operations
- ❖ Encouraging water conservation in conjunction with the goals and strategies outlined in the City's Imagine Roseville 2025 initiative, as well as a new State Law.

Since adopting the new rates, the City has expectedly received a number of inquiries on the impact of the new rates, and whether the conservation measures will achieve the desired outcome. Copies of these inquiries are attached. The remainder of this report addresses these inquiries.

Desired Outcome #1 – Ensuring Financial Sustainability

The 2010-2019 Financial Plan identifies a funding gap of over \$18 million over the next 10 years for the planned replacement of City water and sewer infrastructure. Simply put, the 'base fee' portion of the City's rate structure has proven to be inadequate in funding this need. It is an accepted practice to structure the base fee in such a manner that can account for fixed costs such as capital replacements. It is also widely accepted that similar customers, such as single-family households, be charged the same base fee because the cost of providing infrastructure to the home is relatively the same.

Historically however, and for reasons that aren't entirely known, the City's base fee was set at a level that was insufficient in generating enough revenue to maintain and replace the infrastructure. The difference had to be made up with the revenue derived from 'usage fees'. However, this practice creates inequities in how the City's infrastructure is funded. Because infrastructure funding is now tied to usage, those that consume a lot of water are paying a greater share for the infrastructure than those that consume relatively little.

In other words, an implicit (hidden) subsidy was in place. In effect, 4-person households were subsidizing the costs for 2-person households. Under this scenario, if higher volume households began reducing water consumption, funding for infrastructure replacement would be diminished and the financing gap noted above would increase.

To remedy this financial uncertainty and disparity, the City adjusted its base fee to ensure that it had the necessary funds to replace the infrastructure when needed. And because the cost of providing water and sewer service to each home is relatively the same, the base fee was applied equally to all homes - as it was done in the past. Having transparency and equity was considered an important factor in ensuring that households realized true savings as they adjusted their consumption behavior. With this action the City was able to reduce the usage rate which now reflects only the direct cost of actually pumping water to the home.

Desired Outcome #2 – Encourage Water Conservation

As noted above, the 2009 Rate Structure was designed to encourage water conservation in such a way that would not only reflect the goals and strategies outlined in the Imagine Roseville 2025 initiative, but also to adhere to a new state law that required water service providers to encourage water conservation.

It should be noted that the 2009 conservation-based rates are designed primarily to address **excessive** water usage. It is not unusual to see a 4 or 5 person household use 20-30,000 gallons per quarter for general use such as personal hygiene or cooking (as evidenced by the household's winter usage). In recognition of this, the 2009 rate structure was designed to encourage conservation without unduly penalizing households for basic water use.

The new law did not mandate how each service provider should structure their rates, but it did offer examples that are commonly in use, such as using increasing block rates and seasonal rates. The new rate structure adopted by the Council employs both of those measures.

In analyzing customer usage behaviors, it was evident that Roseville residents were already consuming less water than residents in many other communities. This was presumably due to the fact that relatively few residential properties in Roseville have irrigation systems, which is in contrast to some 2nd and 3rd ring suburbs. It could also stem from having a relatively smaller population per household.

Because many Roseville residents have already implemented water conservation measures, it is conceivable that the new conservation-based rate structure may produce a relatively small amount of water reduction in Roseville. At this time, we cannot determine the effectiveness of the changes. We would need to observe consumption behavior over a longer period of time, perhaps 2 years or longer. Even then, it will be problematic in pinpointing the effectiveness of the change. For example, it will be difficult to ascertain whether a particular household curbed its summer usage because it was making a conscious effort to conserve water used for irrigation purposes, or because we simply had more rain.

2009 Rate Structure

The 2009 rate structure for households with comparisons to 2008 is as follows:

Water Base Rate – per quarter

Category	2008 Base Rate	2009 Base Rate
Residential	\$ 13.00	\$ 27.75
Residential – Sr. Rate	7.90	18.00

Water Usage Rate

Category	2008 Usage Rate	2009 Usage Rate
Residential; Up to 30,000 gals./qtr	\$ 2.35	\$ 1.85
Residential; Over 30,000 gals./qtr – winter rate	2.35	2.00
Residential; Over 30,000 gals./qtr – summer rate	2.35	2.10

Sanitary Sewer Base Rate

Category	2008 Base Rate	2009 Base Rate
Residential	\$ 13.35	\$ 23.35
Residential – Sr. Rate	8.30	14.55

Sanitary Sewer Usage Rate

Category	2008 Usage Rate	2009 Usage Rate
Residential	\$ 1.55	\$ 1.20

The 2009 rate structure employs two significant changes; a tiered or increasing block, water rate, and a summer usage rate. The tiered water rate is designed to encourage households to take year-round measures such as; installing water-saving devices, and taking shorter showers. Having a higher summer usage rate should encourage households to reduce the water used for irrigation purposes.

POLICY OBJECTIVE

An annual review of the City's utility rate structure is consistent with governmental best practices to ensure that each utility operation is financially sound. In addition, moving to a conservation-based rate structure is consistent with the goals and strategies identified in the Imagine Roseville 2025 initiative, and complies with new state laws.

FINANCIAL IMPACTS

The impacts from the 2009 rate structure will vary significantly depending on each households water usage. *Attachment B* presents 4 different scenarios based on varying usage. For lower-volume users, the percentage increase is higher than for moderate or high volume users. The reason for this is because of the elimination of the implicit subsidy that was in place under the old rate structure. Eliminating this subsidy (inequity) was mentioned above and is explained in greater detail in *Attachment A*, which is an article that was recently posted on the City's website and was delivered to individual homes via their utility bill.

STAFF RECOMMENDATION

Not applicable.

102 **REQUESTED COUNCIL ACTION**
103 Not applicable. For information purposes only

104
Prepared by: Chris Miller, Finance Director
Attachments: A: Supplemental Explanation of Rate Changes
B: 2009 Rate Structure Financial Impact Scenarios
C: Minnesota DNR Pamphlet on Conservation Rates (by request of Councilmember Ihlan)
D: Correspondence from Senator Marty's Office
E: Correspondence from Councilmember Roe

105
106 Council Member Roe:
107 Attachment A: Roe 2/25/09 email "More on Conservation Rate Proposal" with two charts
108
109 Council Member Ihlan:
110 Attachment A: Ihlan 3/04/09 memo "Water Billing Structure and How to Achieve Conservation Rates"
111 B: 11/17/08 RCA "Adopting the 2009 Utility Rate Adjustment"

2009 Utility Rate Changes

In the January/February 2009 issue of the Roseville City News, an article was published regarding the City's change to a conservation-based rate structure. This article has generated some questions from residents who wanted to learn more about the impacts on homeowners. The information presented below addresses those questions and provides additional information on how the new rate structure works.

The change to a conservation-based rate structure was in response to requirements set forth under a new State Law, but also reflects the societal belief that water is a limited resource and as such, the City ought to encourage conservation measures. The concept of encouraging water conservation was also emphasized by citizens and stakeholders during the Imagine Roseville 2025 process.

Under the new rate structure, a typical home would see an increase of 5% from 2008; as measured over an entire calendar year. This is comparable to increases in prior years. However, those households that typically have less-than-average water usage, say 10-15,000 gallons per quarter, will see a higher percentage increase. This paradox did not go unnoticed by City Officials. The reason is due to an implicit subsidy that was present under the old rate structure. In short, higher-volume users subsidized lower-volume users – and had been for decades. For some homeowners, the subsidy amounted to \$10 per quarter or more. Under a conservation-based rate structure, this subsidy must be eliminated. To explain further, we must look at how the City accounts for its water and sewer operations.

Like most municipalities, the City incurs both fixed and variable costs in providing water and sewer services to homeowners. The City's rate structure was designed to recoup these costs using both a fixed or 'base' fee that is charged equally to all homeowners, as well as a variable or 'usage' fee that fluctuates depending on how much water each household uses.

Conceptually, the base fee should be set at an amount that is commensurate with the cost of simply ensuring that water and sewer services is available; i.e., to maintain existing water and sewer mains. Historically however, and for reasons that aren't entirely known, the City's base fee was set at a level that was insufficient in generating enough revenue to maintain these mains including those that lead up to individual homes. The difference had to be made up with the usage fee.

This rate-setting practice doesn't necessarily present a problem as long as households continue to use the same amount of water they always have. However, under a conservation-based rate structure households are encouraged to use less water, which in turn means that they will pay less in usage fees. But because the usage fees helped defray the costs to maintain and replace water and sewer infrastructure, a decline in water consumption would result in fewer monies available to replace that infrastructure. To avoid this, the City needed to increase the base fee to an amount that was sufficient to meet the City's infrastructure needs. At the same time, this enabled the City to lower the usage fee because it no longer had to help fund infrastructure and could now be used exclusively to pay for the variable costs.

With the 2009 Utility Rate Structure, the City's base fee now reflects the true cost of making water and sewer service available, and the usage fee reflects the sole cost of actually purchasing the water and treating the wastewater. With these changes, the savings realized from homeowners' water conservation efforts will now be transparent.

For most homeowners the 2009 Rate structure will amount to an increase of approximately \$5-15 on your quarterly bill, assuming your household consumption is unchanged. Homeowners can minimize this increase by employing water conservation measures such as; fixing any water leaks, reducing the water used for lawn and garden irrigation, taking shorter showers, and installing newer household appliances that are designed to minimize water use.

If you have any further questions on the impact of these rate changes, please contact Chris Miller, Finance Director by email at: chris.miller@ci.roseville.mn.us, or by phone at: 651-792-7031.

City of Roseville
Impact of New Rate Structure

Scenario #1

<u>Service</u>	<u>Rate</u>	2008			
		Qtr 1 <u>Charge</u>	Qtr 2 <u>Charge</u>	Qtr 3 <u>Charge</u>	Qtr 4 <u>Charge</u>
Water - base fee	\$ 13.00	\$ 13.00	\$ 13.00	\$ 13.00	\$ 13.00
Water - usage fee - under 30K gals.	2.35	28.20	28.20	70.50	70.50
Water - usage fee - over 30K gals.	2.35	-	-	11.75	11.75
Sanitary Sewer - base fee	13.35	13.35	13.35	13.35	13.35
Sanitary Sewer - usage fee	1.55	18.60	18.60	52.70	52.70
Total Charges		\$ 73.15	\$ 73.15	\$ 161.30	\$ 161.30

Cumulative Charges \$ 468.90

	<u>Usage</u>
Usage - 1st Quarter (1,000's)	12
Usage - 2nd Quarter	12
Usage - 3rd Quarter	34
Usage - 4th Quarter	34
Average	23

<u>Service</u>
Water - base fee
Water - usage fee - under 30K gals.
Water - usage fee - over 30K gals.
Sanitary Sewer - base fee
Sanitary Sewer - usage fee
Total Charges

2009 Old Rate Structure					
<u>Rate</u>	Qtr 1	Qtr 2	Qtr 3	Qtr 4	<u>Charge</u>
	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	
\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65
2.47	29.61	29.61	74.03	74.03	74.03
2.47	-	-	12.34	12.34	12.34
14.02	14.02	14.02	14.02	14.02	14.02
1.63	19.53	19.53	55.34	55.34	55.34
	\$ 76.81	\$ 76.81	\$ 169.37	\$ 169.37	

Cumulative Charges \$ 492.35
\$ Difference 23.45
% Difference 5.0%

2009 New Rate Structure					
<u>Rate</u>	Qtr 1	Qtr 2	Qtr 3	Qtr 4	<u>Charge</u>
	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	
\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75
1.85	22.20	22.20	55.50	55.50	55.50
2.10	-	-	10.50	10.50	10.50
23.35	23.35	23.35	23.35	23.35	23.35
1.20	14.40	14.40	40.80	40.80	40.80
	\$ 87.70	\$ 87.70	\$ 157.90	\$ 157.90	

Cumulative Charges \$ 491.20
\$ Difference 22.30
% Difference 4.8%

City of Roseville
Impact of New Rate Structure

Scenario #2

<u>Service</u>	<u>Rate</u>	2008			
		Qtr 1	Qtr 2	Qtr 3	Qtr 4
		<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>
Water - base fee	\$ 13.00	\$ 13.00	\$ 13.00	\$ 13.00	\$ 13.00
Water - usage fee - under 30K gals.	2.35	21.15	21.15	61.10	61.10
Water - usage fee - over 30K gals.	2.35	-	-	-	-
Sanitary Sewer - base fee	13.35	13.35	13.35	13.35	13.35
Sanitary Sewer - usage fee	1.55	13.95	13.95	40.30	40.30
Total Charges		\$ 61.45	\$ 61.45	\$ 127.75	\$ 127.75

Cumulative Charges \$ 378.40

	<u>Usage</u>
Usage - 1st Quarter (1,000's)	9
Usage - 2nd Quarter	9
Usage - 3rd Quarter	26
Usage - 4th Quarter	26
Average	18

<u>Service</u>
Water - base fee
Water - usage fee - under 30K gals.
Water - usage fee - over 30K gals.
Sanitary Sewer - base fee
Sanitary Sewer - usage fee
Total Charges

2009 Old Rate Structure					
<u>Rate</u>	<u>Charge</u>	Qtr 1	Qtr 2	Qtr 3	Qtr 4
		<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>
\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65
2.47	22.21	22.21	64.16	64.16	64.16
2.47	-	-	-	-	-
14.02	14.02	14.02	14.02	14.02	14.02
1.63	14.65	14.65	42.32	42.32	42.32
	\$ 64.52	\$ 64.52	\$ 134.14	\$ 134.14	

Cumulative Charges \$ 397.32
\$ Difference 18.92
% Difference 5.0%

2009 New Rate Structure					
<u>Rate</u>	<u>Charge</u>	Qtr 1	Qtr 2	Qtr 3	Qtr 4
		<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>
\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75
1.85	16.65	16.65	48.10	48.10	48.10
2.10	-	-	-	-	-
23.35	23.35	23.35	23.35	23.35	23.35
1.20	10.80	10.80	31.20	31.20	31.20
	\$ 78.55	\$ 78.55	\$ 130.40	\$ 130.40	

Cumulative Charges \$ 417.90
\$ Difference 39.50
% Difference 10.4%

City of Roseville
Impact of New Rate Structure

Scenario #3

<u>Service</u>	<u>Rate</u>	2008			
		Qtr 1	Qtr 2	Qtr 3	Qtr 4
		<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>
Water - base fee	\$ 13.00	\$ 13.00	\$ 13.00	\$ 13.00	\$ 13.00
Water - usage fee - under 30K gals.	2.35	14.10	14.10	39.95	39.95
Water - usage fee - over 30K gals.	2.35	-	-	-	-
Sanitary Sewer - base fee	13.35	13.35	13.35	13.35	13.35
Sanitary Sewer - usage fee	1.55	9.30	9.30	26.35	26.35
Total Charges		\$ 49.75	\$ 49.75	\$ 92.65	\$ 92.65

Cumulative Charges \$ 284.80

	<u>Usage</u>
Usage - 1st Quarter (1,000's)	6
Usage - 2nd Quarter	6
Usage - 3rd Quarter	17
Usage - 4th Quarter	17
Average	12

<u>Service</u>
Water - base fee
Water - usage fee - under 30K gals.
Water - usage fee - over 30K gals.
Sanitary Sewer - base fee
Sanitary Sewer - usage fee
Total Charges

2009 Old Rate Structure					
<u>Rate</u>		Qtr 1	Qtr 2	Qtr 3	Qtr 4
		<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>
\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65
2.47	14.81	14.81	41.95	41.95	
2.47	-	-	-	-	
14.02	14.02	14.02	14.02	14.02	
1.63	9.77	9.77	27.67	27.67	
		\$ 52.24	\$ 52.24	\$ 97.28	\$ 97.28

Cumulative Charges \$ 299.04
\$ Difference 14.24
% Difference 5.0%

2009 New Rate Structure					
<u>Rate</u>		Qtr 1	Qtr 2	Qtr 3	Qtr 4
		<u>Charge</u>	<u>Charge</u>	<u>Charge</u>	<u>Charge</u>
\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75
1.85	11.10	11.10	31.45	31.45	
2.10	-	-	-	-	
23.35	23.35	23.35	23.35	23.35	
1.20	7.20	7.20	20.40	20.40	
		\$ 69.40	\$ 69.40	\$ 102.95	\$ 102.95

Cumulative Charges \$ 344.70
\$ Difference 59.90
% Difference 21.0%

City of Roseville
Impact of New Rate Structure

Scenario #4

<u>Service</u>	<u>Rate</u>	2008			
		Qtr 1 <u>Charge</u>	Qtr 2 <u>Charge</u>	Qtr 3 <u>Charge</u>	Qtr 4 <u>Charge</u>
Water - base fee	\$ 13.00	\$ 13.00	\$ 13.00	\$ 13.00	\$ 13.00
Water - usage fee - under 30K gals.	2.35	35.25	35.25	70.50	70.50
Water - usage fee - over 30K gals.	2.35	-	-	28.20	28.20
Sanitary Sewer - base fee	13.35	13.35	13.35	13.35	13.35
Sanitary Sewer - usage fee	1.55	23.25	23.25	65.10	65.10
Total Charges		\$ 84.85	\$ 84.85	\$ 190.15	\$ 190.15

Cumulative Charges \$ 550.00

	<u>Usage</u>
Usage - 1st Quarter (1,000's)	15
Usage - 2nd Quarter	15
Usage - 3rd Quarter	42
Usage - 4th Quarter	42
Average	29

<u>Service</u>
Water - base fee
Water - usage fee - under 30K gals.
Water - usage fee - over 30K gals.
Sanitary Sewer - base fee
Sanitary Sewer - usage fee
Total Charges

2009 Old Rate Structure					
<u>Rate</u>	Qtr 1 <u>Charge</u>	Qtr 2 <u>Charge</u>	Qtr 3 <u>Charge</u>	Qtr 4 <u>Charge</u>	
\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65	\$ 13.65	
2.47	37.01	37.01	74.03	74.03	
2.47	-	-	29.61	29.61	
14.02	14.02	14.02	14.02	14.02	
1.63	24.41	24.41	68.36	68.36	
	\$ 89.09	\$ 89.09	\$ 199.66	\$ 199.66	

Cumulative Charges \$ 577.50
\$ Difference 27.50
% Difference 5.0%

2009 New Rate Structure					
<u>Rate</u>	Qtr 1 <u>Charge</u>	Qtr 2 <u>Charge</u>	Qtr 3 <u>Charge</u>	Qtr 4 <u>Charge</u>	
\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75	\$ 27.75	
1.85	27.75	27.75	55.50	55.50	
2.10	-	-	25.20	25.20	
23.35	23.35	23.35	23.35	23.35	
1.20	18.00	18.00	50.40	50.40	
	\$ 96.85	\$ 96.85	\$ 182.20	\$ 182.20	

Cumulative Charges \$ 558.10
\$ Difference 8.10
% Difference 1.5%

Conservation Rates

Minnesota Statutes, section 103G.291, was amended in 2008 to include a requirement for public water suppliers serving more than 1,000 people to adopt a water rate structure that encourages conservation:

Minnesota Statutes, section 103G.291, subd. 4. **Conservation rate structure required.** (a) For the purposes of this section, "conservation rate structure" means a rate structure that encourages conservation and may include increasing block rates, seasonal rates, time of use rates, individualized goal rates, or excess use rates. The rate structure must consider each residential unit as an individual user in multiple-family dwellings.

(b) To encourage conservation, a public water supplier serving more than 1,000 people in the metropolitan area, as defined in section 473.121, subdivision 2, shall use a conservation rate structure by January 1, 2010. All remaining public water suppliers serving more than 1,000 people shall use a conservation rate structure by January 1, 2013.

(c) A public water supplier without the proper measuring equipment to track the amount of water used by its users, as of the effective date of this act, is exempt from this subdivision and the conservation rate structure requirement under subdivision 3, paragraph (c).

In addition, *Minnesota Statutes*, section 103G.291, was further amended to read:

Subd. 3. **Water supply plans; demand reduction.** (c) Public water suppliers serving more than 1,000 people must employ water use demand reduction measures, including a conservation rate structure, as defined in subdivision 4, paragraph (a), unless exempted under subdivision 4, paragraph (c), before requesting approval from the commissioner of health under section 144.383, paragraph (a), to construct a public water supply well or requesting an increase in the authorized volume of appropriation. Demand reduction measures must include evaluation of conservation rate structures and a public education program that may include a toilet and showerhead retrofit program.

Public water suppliers serving more than 1,000 residents will need to adopt a conservation rate structure before requesting well construction approval for a public water supply well or before requesting an increase in permitted volume for their water appropriation permit.

Examples of Conservation Rates:

Below are examples of rate structures that encourage conservation. Many variations and combinations of these examples are possible.

NOTE: Rate structures often include a service charge (base rate) and a volume based charge. Service charges may cover fixed costs (capital improvements) and the volume charge is often for operation and maintenance costs. Volume charges usually use units of 1,000 gallons or 100 cubic feet (748 gallons).

Increasing Block Rates: Cost per unit increases as water use increases within specified "blocks" or volumes. The increase in cost between each block should be significant enough (25% or more and 50% between the last two steps) to encourage conservation.

Example:

0-6,000 gallons	= \$2.50/1000 gallons.
6,000-12,000 gallons	= \$3.15/1000 gallons.
12,000-24,000 gallons	= \$4.00/1000 gallons.
Above 24,000 gallons	= \$6.00/1000 gallons.

Seasonal Rates: The rate per unit increases in the summer to encourage the efficient use of water during peak demand periods caused by outdoor water uses. Seasonal rates can take the form of a surcharge added to the normal rate or a separate fee schedule for winter and summer periods.

Example:

Surcharge method	- \$1.00/1000 gallons is added on top of the regular fee schedule for all water use between May 1 and October 1.
------------------	--

Time of Use Rates: Water rates are higher at times of the day when water use demands are high. This rate requires specialized meters that can monitor water use during specified segments of time, for instance, every 15 minutes.

Example: Water rates are reduced by \$0.75 for customers that agree not to use water for certain purposes or over a set volume of water during certain times of the day or periods of high water demands.

Individualized Goal Rate (Water Budget Rate): A rate with tailored allocations developed for each customer. The rates increase as the allocation is used or exceeded by the customer. The allocation is generally based upon winter or January use.

Example: A family of four used 6,200 gallons in January. Summer use is higher than January use so a factor is applied to determine a summer allocation ($1.5 \times 6,200$ gallons = 9,300 gallons).
 0-6,000 gallons = \$2.50/1000 gallons.
 6,000-9,300 gallons = \$2.75/1000 gallons.
 9,300-18,600 gallons = \$4.00/1000 gallons. (Allocation is exceeded.)
 Above 18,600 gallons = \$6.00/1000 gallons.

Excess Use Rates: Cost per unit increases greatly above an established level in order to trigger a strong price signal that discourages excessive use. This rate is similar to an increasing block rate but with much higher charges for the larger volume blocks.

Example: 0-6,000 gallons = \$2.50/1000 gallons
 6,000-12,000 gallons = \$3.15/1000 gallons
 12,000-24,000 gallons = \$5.00/1000 gallons (Excessive Use Rate)
 Above 24,000 gallons = \$7.50/1000 gallons (Excessive Use Rate)

Multiple-Family Dwellings: Total water use in a multiple-family dwelling, which has only one water meter for the entire dwelling, may exceed that of a single-family dwelling. The statute does not require individual water meters for each residential unit within a multiple-family dwelling; however, the required conservation rate at which the multiple-family dwelling's water use is billed must consider the number of residential units within that multiple-family dwelling.

Example: A four-plex uses a total of 18,000 gallons per month or approximately 4,500 gallons per residential unit. Water use for each residential unit falls within the first block (0-6,000 gallons) of the above Excess Use Rate example. A rate of \$2.50/1000 gallons would apply up to a total use of 24,000 gallons for the multiple-family dwelling. Thereafter, the rate increases according to the rate schedule, always considering each residential unit as an individual user.

Non-conservation rate examples:

Declining (Decreasing) Block Rates: The cost per unit of water (cubic foot or gallon) decreases as the water use increases beyond the basic block. This rate structure provides no incentive to conserve because the cost of water per unit decreases with increased use.

Flat Rates: A set fee allows the use of an indefinite amount of water. This rate structure is used where water is unmetered and provides no incentive to conserve water because cost is unrelated to volume used.

Uniform Rates: The cost per unit is the same regardless of the volume used. This rate structure is considered conservation neutral.

Service Charge (Base Rate) that includes a Minimum Water Volume: The inclusion of a minimum volume of water in the service charge (base rate) discourages conservation especially if the minimum volume exceeds average customer usage.

Senator
John Marty

Senate
State of Minnesota

February 23, 2009

Mayor Klausing and Roseville City Council
2660 Civic Center Drive
Roseville, MN 55113

RE: New Utility Billing Formula

Dear Mayor Klausing and City Council Members:

A recent letter to Roseville residents included with water bills mentions a state environmental law requiring municipalities across Minnesota to promote water conservation through rate structure and uses this law as justification for the new rate structure chosen by the city. However, the change in rates move the city further away from a conservation-based system than the old rates, in **direct violation** of the law's intent. In effect, the cost increases fall disproportionately on the shoulders of residential customers who conserve while wasteful consumers and larger commercial customers may actually see their bills decrease.

The intent of Minnesota's new water conservation law is to protect our one of our most precious natural resources by increasing costs as usage goes up. The Department of Natural Resources says that is achieved by creating a billing system with multi-tiered rates with a 25% to 50% rate difference between **each** tier. In this area, Roseville's new structure fails on all accounts: 1. there are only two billing levels, 2. commercial customers are excluded from usage-based rates, and 3. the difference between the two tiers is nominal.

Furthermore, small-volume consumers see only a nominal savings if they are in the lowest category because a disproportional amount of their bill is a flat fee, subverting the financial incentive to save water. In this case, the large fixed-rate makes small-users pay far more per 1000 gallons used than larger customers (please see attached chart). Under the new rate structure a residential customer in Roseville using 5000 gallons pays \$7.40 per 1000 gallons of water. In contrast, a customer using 50,000 gallons pays only \$2.55 per gallon. This directly violates the intent of the state law.

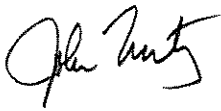
As you can see in the attached chart, customers that use more than 50,000 gallons or more per billing period will actually see their bills decrease under the new system. This is because the majority of the increases were applied to the flat rate instead of the usage-based rate.

I strongly urge the City of Roseville to remedy these issues so that the rate system encourages conservation of resources instead of encouraging wasteful use. Among the city's options would be to

1. create more usage-tiers,
2. increase the difference between each tier to at least 25% to 50%, and/or
3. reduce the revenue collected from the base-rate while increasing the revenue collected from tiered-consumption rates.

Again, I hope the city will revise the new rate structure to protect our environment and water resources.

Sincerely,

A handwritten signature in black ink, appearing to read "John Marty". The signature is stylized with a large, looped "J" and a cursive "Marty".

John Marty

2009

5,000				10,000				20,000				30,000 Winter				50,000 Winter				100,000 Winter			
Flat Fee	Usage Fee	Total Cost	Per Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per Gallon Cost
\$ 27.75	\$ 9.25	\$ 37.00	\$ 7.40	\$ 27.75	\$ 18.50	\$ 46.25	\$ 4.63	\$ 27.75	\$ 37.00	\$ 64.75	\$ 3.24	\$ 27.75	\$ 60.00	\$ 87.75	\$ 2.93	\$ 27.75	\$ 100.00	\$ 127.75	\$ 2.55	\$ 27.75	\$ 200.00	\$ 227.75	\$ 2.28
\$ 18.00	\$ 9.25	\$ 27.25	\$ 5.45	\$ 18.00	\$ 18.50	\$ 36.50	\$ 3.65	\$ 18.00	\$ 37.00	\$ 55.00	\$ 2.75	\$ 18.00	\$ 60.00	\$ 78.00	\$ 2.60	\$ 18.00	\$ 100.00	\$ 118.00	\$ 2.36	\$ 18.00	\$ 200.00	\$ 218.00	\$ 2.18
Non-Residential																							
\$ 27.75	\$ 12.00	\$ 39.75	\$ 7.95	\$ 27.75	\$ 24.00	\$ 51.75	\$ 5.18	\$ 27.75	\$ 48.00	\$ 75.75	\$ 3.78	\$ 27.75	\$ 72.00	\$ 99.75	\$ 3.33	\$ 27.75	\$ 132.50	\$ 160.25	\$ 3.21	\$ 27.75	\$ 265.00	\$ 292.75	\$ 2.93
\$ 35.00	\$ 12.00	\$ 47.00	\$ 9.40	\$ 35.00	\$ 24.00	\$ 59.00	\$ 5.90	\$ 35.00	\$ 48.00	\$ 83.00	\$ 4.15	\$ 35.00	\$ 72.00	\$ 107.00	\$ 3.57	\$ 35.00	\$ 132.50	\$ 167.50	\$ 3.35	\$ 35.00	\$ 265.00	\$ 300.00	\$ 3.00
\$ 55.00	\$ 12.00	\$ 67.00	\$ 13.40	\$ 55.00	\$ 24.00	\$ 79.00	\$ 7.90	\$ 55.00	\$ 48.00	\$ 103.00	\$ 5.15	\$ 55.00	\$ 72.00	\$ 127.00	\$ 4.23	\$ 55.00	\$ 132.50	\$ 187.50	\$ 3.75	\$ 55.00	\$ 265.00	\$ 320.00	\$ 3.20
\$ 105.00	\$ 12.00	\$ 117.00	\$ 23.40	\$ 105.00	\$ 24.00	\$ 129.00	\$ 12.90	\$ 105.00	\$ 48.00	\$ 153.00	\$ 7.65	\$ 105.00	\$ 72.00	\$ 177.00	\$ 5.90	\$ 105.00	\$ 132.50	\$ 237.50	\$ 4.75	\$ 105.00	\$ 265.00	\$ 370.00	\$ 3.70
\$ 210.00	\$ 12.00	\$ 222.00	\$ 44.40	\$ 210.00	\$ 24.00	\$ 234.00	\$ 23.40	\$ 210.00	\$ 48.00	\$ 258.00	\$ 12.90	\$ 210.00	\$ 72.00	\$ 282.00	\$ 9.40	\$ 210.00	\$ 132.50	\$ 342.50	\$ 6.85	\$ 210.00	\$ 265.00	\$ 475.00	\$ 4.75
\$ 420.00	\$ 12.00	\$ 432.00	\$ 86.40	\$ 420.00	\$ 24.00	\$ 444.00	\$ 44.40	\$ 420.00	\$ 48.00	\$ 468.00	\$ 23.40	\$ 420.00	\$ 72.00	\$ 492.00	\$ 16.40	\$ 420.00	\$ 132.50	\$ 552.50	\$ 11.05	\$ 420.00	\$ 265.00	\$ 685.00	\$ 6.85

2008

5,000				10,000				20,000				30,000				50,000				100,000			
Flat Fee	Usage Fee	Total Cost	Per 1000 Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per 1000 Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per 1000 Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per 1000 Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per 1000 Gallon Cost	Flat Fee	Usage Fee	Total Cost	Per 1000 Gallon Cost
\$13.00	\$ 11.75	\$ 24.75	\$ 4.95	\$13.00	\$ 23.50	\$ 36.50	\$ 3.65	\$ 13.00	\$ 47.00	\$ 60.00	\$ 3.00	\$ 13.00	\$ 70.50	\$ 83.50	\$ 2.78	\$ 13.00	\$ 117.50	\$ 130.50	\$ 2.61	\$ 13.00	\$ 235.00	\$ 248.00	\$ 2.48
\$7.90	\$ 11.75	\$ 19.65	\$ 3.93	\$7.90	\$ 23.50	\$ 31.40	\$ 3.14	\$ 7.90	\$ 47.00	\$ 54.90	\$ 2.75	\$ 7.90	\$ 70.50	\$ 78.40	\$ 2.61	\$ 7.90	\$ 117.50	\$ 125.40	\$ 2.50	\$ 7.90	\$ 235.00	\$ 242.90	\$ 2.42
Non-Residential																							
\$17.05	\$ 11.75	\$ 28.80	\$ 5.76	\$17.05	\$ 23.50	\$ 40.55	\$ 4.05	\$ 17.05	\$ 47.00	\$ 64.05	\$ 3.20	\$ 17.05	\$ 70.50	\$ 87.55	\$ 2.91	\$ 17.05	\$ 117.00	\$ 134.05	\$ 2.68	\$ 17.05	\$ 235.00	\$ 252.05	\$ 2.52
\$25.50	\$ 11.75	\$ 37.25	\$ 7.45	\$25.50	\$ 23.50	\$ 49.00	\$ 4.90	\$ 25.50	\$ 47.00	\$ 72.50	\$ 3.62	\$ 25.50	\$ 70.50	\$ 96.00	\$ 3.20	\$ 25.50	\$ 117.00	\$ 142.50	\$ 2.85	\$ 25.50	\$ 235.00	\$ 260.50	\$ 2.61
\$50.95	\$ 11.75	\$ 62.70	\$ 12.54	\$50.95	\$ 23.50	\$ 74.45	\$ 7.44	\$ 50.95	\$ 47.00	\$ 97.95	\$ 4.90	\$ 50.95	\$ 70.50	\$ 121.45	\$ 4.04	\$ 50.95	\$ 117.00	\$ 167.95	\$ 3.36	\$ 50.95	\$ 235.00	\$ 285.95	\$ 2.86
\$102.10	\$ 11.75	\$ 113.85	\$ 22.77	\$102.10	\$ 23.50	\$ 125.60	\$ 12.56	\$ 102.10	\$ 47.00	\$ 149.10	\$ 7.46	\$ 102.10	\$ 70.50	\$ 172.60	\$ 5.75	\$ 102.10	\$ 117.00	\$ 219.10	\$ 4.38	\$ 102.10	\$ 235.00	\$ 337.10	\$ 3.37
\$204.10	\$ 11.75	\$ 215.85	\$ 43.17	\$204.10	\$ 23.50	\$ 227.60	\$ 22.76	\$ 204.10	\$ 47.00	\$ 251.10	\$ 12.56	\$ 204.10	\$ 70.50	\$ 274.60	\$ 9.15	\$ 204.10	\$ 117.00	\$ 321.10	\$ 6.42	\$ 204.10	\$ 235.00	\$ 439.10	\$ 4.39
\$408.15	\$ 11.75	\$ 419.90	\$ 83.98	\$408.15	\$ 23.50	\$ 431.65	\$ 43.17	\$ 408.15	\$ 47.00	\$ 455.15	\$ 22.76	\$ 408.15	\$ 70.50	\$ 478.65	\$ 15.96	\$ 408.15	\$ 117.00	\$ 525.15	\$ 10.50	\$ 408.15	\$ 235.00	\$ 643.15	\$ 6.43

----- Forwarded Message -----

From: "dan roe" <dan.roe@comcast.net>

To: "bill malinen" <bill.malinen@ci.roseville.mn.us>

Sent: Tuesday, February 24, 2009 5:49:32 PM GMT -06:00 US/Canada Central

Subject: Water rate structure

Bill,

As I reflected on Senator Marty's letter and attachment, as well as my thoughts on the issue, a couple of conclusions came to mind:

First, I think we should, as a policy matter, target more than only 10-15% of residential water users for higher rates under our rate structure. We should target all of the above-average users with the increased rates. Then, over time we should, as the average continues to (hopefully) decrease with usage, look at decreasing the break point in our rate structure.

Second, I think it IS unfair that a small number of high users actually pay less in total in 2009 under the new rate structure than in 2008 (for the same usage). That is because we are trying to collect more \$\$ overall to cover predicted infrastructure costs, and all should participate in that.

Finally, in order to achieve the 2 objectives above, the math tells me that we should look at a break-point of 20,000 gallons/quarter rather than 30,000. (Closer to the average of 22,000.) We should also, on the basis of having all users pay at least about 5% more in order to be fair, change the upper tier winter rate from \$2.00/1000 gallons to \$2.40. The summer rate can still be a 10% premium on that rate, or \$2.65/1000 gallons.

As I run a couple of examples on this basis, the total amount paid by users in 2009 versus 2008 goes up for all users. The 2008-2009 change is the same for below-average users as it is under our adopted rates, but for those users over average they will still see an increase over 2008, rather than the current situation where their cost per quarter actually goes down. The table below is strictly winter rates.

Usage/qtr: Total Cost	2009 Current Total Cost 2008 Total Cost	My 2009 Proposed
5000gal	\$37 (\$12.25 or 50% incr)	\$37 (\$12.25 or
50% incr)	\$24.75	
10000gal	\$46.25 (\$9.75 or 27% incr)	\$46.25 (\$9.75 or 27%
incr)	\$36.50	
15000gal	\$55.50 (\$7.25 or 15% incr)	\$55.50 (\$7.25 or 15%
incr)	\$48.25	
20000gal	\$64.75 (\$4.75 or 8% incr)	\$64.75 (\$4.75 or
8% incr)	\$60.00	
25000gal	\$74.00 (\$2.25 or 3% incr)	\$76.75 (\$5.00 or
7% incr)	\$71.75	
30000gal	\$83.25 (\$0.50 or 0% incr)	\$88.75 (\$5.25 or
6% incr)	\$83.50	

35000gal incr)	\$93.25 (\$2.00 or 2% DEC) \$95.25	\$100.75 (\$5.50 or 6%
40000gal incr)	\$103.25 (\$3.75 or 4% DEC) \$107.00	\$112.75 (\$5.75 or 5%
45000gal incr)	\$113.25 (\$5.50 or 5% DEC) \$118.75	\$124.75 (\$6.00 or 5%
50000gal incr)	\$123.25 (\$7.25 or 6% DEC) \$130.50	\$136.75 (\$6.25 or 5%
55000gal incr)	\$133.25 (\$9.00 or 6% DEC) \$142.25	\$148.75 (\$6.50 or 5%

Granted, if only 10%-15% of users use more than 30,000 gallons per quarter, only a relative few would be impacted by my suggested change. However, out of fairness, they SHOULD have an increase, rather than a decrease, between 2009 and 2008.

Also, as we move into future years, I would like to have more analysis of applying a conservation rate structure to non-residential users, since they should have incentives to conserve water as well. (Besides the summer premium.)

Lastly, I would appreciate a staff analysis of how the language in the statute dealing with multi-family housing rates is met by our structure, or might have to be adjusted. I don't know whether our multi-family buildings use single large meters that fall under non-residential rates, or if there are small meters for each unit, based on our terminology in the rate structure of "residential" versus "non-residential." If they have large meters, do the equivalent block rates work out in conformance with statute?

Please include this suggestion with the information that we consider at our March 9th discussion of the conservation water rates. (Including any staff analysis.) If the table in this email comes out garbled, let me know and I can send a PDF or something.

Thanks,

Dan Roe
Roseville City Councilmember
Phone 651-487-9654
Email dan.roe@comcast.net

Chris Miller

From: Bill Malinen
Sent: Wednesday, February 25, 2009 11:21 AM
To: Chris Miller
Subject: FW: more on conservation rate proposal

Attachments: rate comparison chart.pdf



rate comparison
chart.pdf (13 ...

Please review and comment.

-----Original Message-----

From: dan.roe@comcast.net [mailto:dan.roe@comcast.net]
Sent: Wednesday, February 25, 2009 9:32 AM
To: Bill Malinen
Subject: more on conservation rate proposal

Bill,

Per the attached charts, I have slightly revised my proposal to shift the break point between tiers from 20,000 gallons/qtr to 25,000 gallons/qtr.

That is because, at 20,000 gal/qtr, the summer rate differential from 2008 gets to be 8% to 11% for average to high users, which is, I think, too great of a differential.

By changing the break point to 25,000 gal/qtr, the winter differential for those users goes down to 3% to 5%, but with the summer differential of up to 7% this should average to something more around 5% for those users over the course of a year.

As always, feel free to let me know if either you or the staff have any questions or comments on my proposal.

I look forward to the discussion on the 9th.

Regards,

Dan Roe
Roseville City Councilmember
Phone 651-487-9654
Email dan.roe@comcast.net

WATER RATES
Conservation Rate Structure Analysis

Residential Rates

	<u>2008</u>	<u>2009</u>	<u>% diff</u>	<u>2009 Roe1</u>	<u>% diff</u>	<u>2009 Roe2</u>	<u>% diff</u>
Base Rate	\$13.00	\$27.75		\$27.75		\$27.75	
Per 1000 gal - Tier I	\$2.35	\$1.85		\$1.85		\$1.85	
Per 1000 gal - Tier II (winter)	\$2.35	\$2.00	8%	\$2.40	30%	\$2.40	30%
Per 1000 gal - Tier II (summer)	\$2.35	\$2.10	5%	\$2.65	10%	\$2.65	10%
Tier I / Tier II Break Point (gal)	0	30,000		20,000		25,000	

Winter Comparison

<u>Quarterly Usage (gallons)</u>	<u>2008 Total</u>	<u>2009 Total</u>	<u>(\$ diff)</u>	<u>(% diff)</u>	<u>2009 Roe1</u>	<u>(\$ diff)</u>	<u>(% diff)</u>	<u>2009 Roe2</u>	<u>(\$ diff)</u>	<u>(% diff)</u>
0	\$13.00	\$27.75	\$14.75	113%	\$27.75	\$14.75	113%	\$27.75	\$14.75	113%
2500	\$18.88	\$32.38	\$13.50	72%	\$32.38	\$13.50	72%	\$32.38	\$13.50	72%
5000	\$24.75	\$37.00	\$12.25	49%	\$37.00	\$12.25	49%	\$37.00	\$12.25	49%
7500	\$30.63	\$41.63	\$11.00	36%	\$41.63	\$11.00	36%	\$41.63	\$11.00	36%
10000	\$36.50	\$46.25	\$9.75	27%	\$46.25	\$9.75	27%	\$46.25	\$9.75	27%
12500	\$42.38	\$50.88	\$8.50	20%	\$50.88	\$8.50	20%	\$50.88	\$8.50	20%
15000	\$48.25	\$55.50	\$7.25	15%	\$55.50	\$7.25	15%	\$55.50	\$7.25	15%
17500	\$54.13	\$60.13	\$6.00	11%	\$60.13	\$6.00	11%	\$60.13	\$6.00	11%
20000	\$60.00	\$64.75	\$4.75	8%	\$64.75	\$4.75	8%	\$64.75	\$4.75	8%
22500	\$65.88	\$69.38	\$3.50	5%	\$70.75	\$4.88	7%	\$69.38	\$3.50	5%
25000	\$71.75	\$74.00	\$2.25	3%	\$76.75	\$5.00	7%	\$74.00	\$2.25	3%
27500	\$77.63	\$78.63	\$1.00	1%	\$82.75	\$5.13	7%	\$80.00	\$2.38	3%
30000	\$83.50	\$83.25	(\$0.25)	0%	\$88.75	\$5.25	6%	\$86.00	\$2.50	3%
32500	\$89.38	\$88.25	(\$1.13)	-1%	\$94.75	\$5.38	6%	\$92.00	\$2.63	3%
35000	\$95.25	\$93.25	(\$2.00)	-2%	\$100.75	\$5.50	6%	\$98.00	\$2.75	3%
37500	\$101.13	\$98.25	(\$2.88)	-3%	\$106.75	\$5.63	6%	\$104.00	\$2.88	3%
40000	\$107.00	\$103.25	(\$3.75)	-4%	\$112.75	\$5.75	5%	\$110.00	\$3.00	3%
42500	\$112.88	\$108.25	(\$4.63)	-4%	\$118.75	\$5.88	5%	\$116.00	\$3.13	3%
45000	\$118.75	\$113.25	(\$5.50)	-5%	\$124.75	\$6.00	5%	\$122.00	\$3.25	3%
47500	\$124.63	\$118.25	(\$6.38)	-5%	\$130.75	\$6.13	5%	\$128.00	\$3.38	3%
50000	\$130.50	\$123.25	(\$7.25)	-6%	\$136.75	\$6.25	5%	\$134.00	\$3.50	3%

WATER RATES
Conservation Rate Structure Analysis

Residential Rates

	<u>2008</u>	<u>2009</u>	<u>% diff</u>	<u>2009 Roe1</u>	<u>% diff</u>	<u>2009 Roe2</u>	<u>% diff</u>
Base Rate	\$13.00	\$27.75		\$27.75		\$27.75	
Per 1000 gal - Tier I	\$2.35	\$1.85		\$1.85		\$1.85	
Per 1000 gal - Tier II (winter)	\$2.35	\$2.00	8%	\$2.40	30%	\$2.40	30%
Per 1000 gal - Tier II (summer)	\$2.35	\$2.10	5%	\$2.65	10%	\$2.65	10%
Tier I / Tier II Break Point (gal)	0	30,000		20,000		25,000	

Summer Comparison

<u>Quarterly Usage (gallons)</u>	<u>2008 Total</u>	<u>2009 Total</u>	<u>(\$ diff)</u>	<u>(% diff)</u>	<u>2009 Roe1</u>	<u>(\$ diff)</u>	<u>(% diff)</u>	<u>2009 Roe2</u>	<u>(\$ diff)</u>	<u>(% diff)</u>
0	\$13.00	\$27.75	\$14.75	113%	\$27.75	\$14.75	113%	\$27.75	\$14.75	113%
2500	\$18.88	\$32.38	\$13.50	72%	\$32.38	\$13.50	72%	\$32.38	\$13.50	72%
5000	\$24.75	\$37.00	\$12.25	49%	\$37.00	\$12.25	49%	\$37.00	\$12.25	49%
7500	\$30.63	\$41.63	\$11.00	36%	\$41.63	\$11.00	36%	\$41.63	\$11.00	36%
10000	\$36.50	\$46.25	\$9.75	27%	\$46.25	\$9.75	27%	\$46.25	\$9.75	27%
12500	\$42.38	\$50.88	\$8.50	20%	\$50.88	\$8.50	20%	\$50.88	\$8.50	20%
15000	\$48.25	\$55.50	\$7.25	15%	\$55.50	\$7.25	15%	\$55.50	\$7.25	15%
17500	\$54.13	\$60.13	\$6.00	11%	\$60.13	\$6.00	11%	\$60.13	\$6.00	11%
20000	\$60.00	\$64.75	\$4.75	8%	\$64.75	\$4.75	8%	\$64.75	\$4.75	8%
22500	\$65.88	\$69.38	\$3.50	5%	\$71.38	\$5.50	8%	\$69.38	\$3.50	5%
25000	\$71.75	\$74.00	\$2.25	3%	\$78.00	\$6.25	9%	\$74.00	\$2.25	3%
27500	\$77.63	\$78.63	\$1.00	1%	\$84.63	\$7.00	9%	\$80.63	\$3.00	4%
30000	\$83.50	\$83.25	(\$0.25)	0%	\$91.25	\$7.75	9%	\$87.25	\$3.75	4%
32500	\$89.38	\$88.50	(\$0.88)	-1%	\$97.88	\$8.50	10%	\$93.88	\$4.50	5%
35000	\$95.25	\$93.75	(\$1.50)	-2%	\$104.50	\$9.25	10%	\$100.50	\$5.25	6%
37500	\$101.13	\$99.00	(\$2.13)	-2%	\$111.13	\$10.00	10%	\$107.13	\$6.00	6%
40000	\$107.00	\$104.25	(\$2.75)	-3%	\$117.75	\$10.75	10%	\$113.75	\$6.75	6%
42500	\$112.88	\$109.50	(\$3.38)	-3%	\$124.38	\$11.50	10%	\$120.38	\$7.50	7%
45000	\$118.75	\$114.75	(\$4.00)	-3%	\$131.00	\$12.25	10%	\$127.00	\$8.25	7%
47500	\$124.63	\$120.00	(\$4.63)	-4%	\$137.63	\$13.00	10%	\$133.63	\$9.00	7%
50000	\$130.50	\$125.25	(\$5.25)	-4%	\$144.25	\$13.75	11%	\$140.25	\$9.75	7%

MEMORANDUM

TO: MEMBERS OF THE ROSEVILLE CITY COUNCIL
FROM: AMY IHLAN
SUBJECT: WATER BILLING STRUCTURE AND HOW TO ACHIEVE
CONSERVATION RATES
DATE: MARCH 4, 2009

Based on the DNR's guidelines and the suggestions from Senator John Marty, I would like to have council discussion and direct staff to formulate amendments to the city's water billing structure to comply with state law requiring a billing structure "that encourages conservation." To create a conservation rate structure that meets state law requirements, we need to consider the following amendments to our new utility billing rates:

1. Create additional usage tiers or "blocks" with greater cost increases between blocks. The DNR Conservation Rate guidelines state that:

The increase in cost between each block should be significant enough (25% or more and 50% between the last two steps) to encourage conservation.

Roseville's residential billing rates include only two usage "blocks", and the increase in cost between them is less than 10%, not significant enough to encourage conservation by the DNR's standards. We should consider creating more usage blocks with significant cost increases between them, so that residents who conserve water and stay within the lower usage tiers will be rewarded by paying significantly less than residents who don't. For example, we could look at rate structures that create additional usage blocks under 30,000 gallons, with the highest rate for usage of more than 30,000 gallons (and increasing by at least 50% over the next highest rate).

2. There are no usage blocks for commercial properties. We should also create a tiered usage block rate structure for commercial properties that meets DNR guidelines. If there is a large disparity in water use among business, the tiers should reflect the range of usage so that small users pay significantly less than large users do.

It's questionable whether a higher summer rate will be any kind of meaningful incentive to conserve for commercial property owners. Is there any evidence that commercial water usage tends to increase in the summer by the same percentage that residential use increases?

3. We might also want to review the base rates in light of the DNR's statement that:

Rate structures often include a service charge (base rate) and a volume based charge. Service charges may cover fixed costs (capital improvements) and the volume charge is often for operation and maintenance costs.

Given that we are more than doubling base rates, we should make sure that we are raising them no more than necessary to cover capital costs. Maintenance and operating costs can properly be funded by the volume/usage rates.

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 11/17/08
Item No.: 12.a

Department Approval

City Manager Approval

Christopher L. Miller

W. J. Mahonen

Item Description: Adopting the 2009 Utility Rate Adjustments

BACKGROUND

Over the past several months, City Staff has been reviewing the City's utility operations to determine whether rate adjustments are necessary for 2009. In addition, Staff has also assessed the changes necessary to implement a conservation-based rate structure. The analysis included the City's water, sanitary sewer, storm water drainage, and solid waste recycling operations.

The analysis entailed a review of:

- ☐ Fixed costs including personnel, supplies and maintenance, and depreciation
- ☐ Variable costs including the purchase of water from the City of St. Paul, water treatment costs paid to the Metropolitan Council, and recycling contractor costs.
- ☐ Capital replacement costs
- ☐ Current customer base, rates, and rate structure

On September 15, 2008, the City Council adopted the 2009 Preliminary Budget for each of the operations noted above. The remainder of this report summarizes the rate adjustment necessary to accommodate the budget, and scheduled capital replacements over the next 10 years.

Water Operations: The City's water operation provides City customers with safe potable water, as well as on-demand water pressure sufficient to meet the City's fire protection needs. The City purchases its water supply from the City of St. Paul, which remains the single largest operating cost to the water operation. It is estimated that our wholesale water purchase costs will increase approximately 3-4%. In addition, the City's internal operating costs are expected to increase by approximately 5% due to higher motor fuel, insurance, and other operating costs.

To facilitate a change to a conservation-based rate structure, significant changes in the water rates need to occur. In essence, the portion of the rates designed to offset the City's fixed water costs need to increase substantially. However, the variable rate portion can be lowered. Greater detail is provided below.

The Water Fund is in a relatively weak financial position compared to other utility funds and even the City's General Fund. Sustained increases in water rates will be needed for the foreseeable future to improve this condition.

33 Sanitary Sewer Operations: The City maintains a sanitary sewer collection system to ensure the general
34 public's health and general welfare. The single largest operating cost to the sanitary sewer operation is the
35 treatment costs paid to the Metropolitan Council Environmental Services Division (MCES). The MCES
36 has notified us that our treatment costs are expected to increase by approximately 4% in 2009. In addition,
37 the City's internal operating costs are expected to increase by approximately 5% reflecting higher motor
38 fuel, insurance, and other operating costs.

39
40 Like the water operation; to facilitate a change to a conservation-based rate structure, significant changes in
41 the sanitary sewer rates need to occur. The portion of the rates designed to offset the City's fixed sanitary
42 sewer costs need to increase substantially, whereas the variable rate portion can be lowered.

43
44 The Sanitary Sewer Fund is in good financial condition which has allowed for lower-than-inflation rate
45 increases over the last 5 years. However, planned capital replacements over the next 10 years will
46 necessitate a rate increase in 2009.

47
48 Storm Water Drainage Operations: The City provides for the management of storm water drainage to
49 prevent flooding and pollution control, as well as street sweeping and the leaf pickup program. The storm
50 sewer costs are expected to be higher than in previous years, due to an increase in the planned capital
51 replacement of stormwater systems, as well as higher costs for motor fuel, depreciation, and other operating
52 costs.

53
54 Like the Sanitary Sewer Fund, the Storm Water Drainage Fund is in good financial condition which has
55 allowed for lower-than-inflation rate increases over the last 5 years. However, planned capital
56 replacements over the next 10 years will necessitate rate increases in 2009.

57
58 Recycling Operations: The recycling operation provides for the contracted curbside recycling pickup
59 throughout the City. The primary operating cost is the amounts paid to a contractor to pickup recycling
60 materials. Thanks to strong revenue sharing dollars being recouped, no rate increase will be needed for
61 2009 for single family homeowners. However, based on current amounts charged by Eureka for multi-
62 family homes, a rate increase will be needed.

63 64 Water Conservation Measures

65 Based on an analysis of the City's water customers, it appears that the Roseville residents are already
66 consuming less water than residents in many other communities. This is likely due to the fact that
67 relatively few residential properties in Roseville have irrigation systems, which is in contrast to some 2nd
68 and 3rd ring suburbs. It may also be the result of having a relatively lower population per household.
69 However, there are additional measures that can be taken to encourage water conservation even further.

70
71 To provide an even greater incentive to conserve water, Staff is recommending two changes to the City's
72 water rate structure; a tiered water rate structure, and a summer usage rate

73
74 Currently, all water users pay the same rate regardless of the amount they use. It is recommended that a
75 tiered rate be implemented that would charge residential users that consume in excess of 30,000 gallons per
76 quarter, a 10% rate premium. Based on current customer behavior, this would impact 10-15% of the City's
77 residential customers. A tiered rate for commercial customers is not recommended given the large disparity
78 in usage among those customers. A tiered water rate would encourage households to take year-round
79 measures such as; installing water-saving devices, and taking shorter showers.

It is also recommended that the City implement a summer usage rate that would also carry a 10% premium. For residential properties, this would apply for all usage in excess of 30,000 gallons per quarter during the summer months. By applying it only to usage in excess of 30,000 gallons, we ensure that those households that do not water their lawn aren't penalized by paying more for general household use. For commercial properties, it would apply to all usage during the summer months. A summer usage rate would encourage both residential and commercial properties to reduce the water used for irrigation purposes.

POLICY OBJECTIVE

An annual review of the City's utility rate structure is consistent with governmental best practices to ensure that each utility operation is financially sound. In addition, moving to a conservation-based rate structure is consistent with the goals and strategies identified in the Imagine Roseville 2025 initiative.

FINANCIAL IMPACTS

Based on the 2009 Preliminary Budget and the Staff-recommended rate increases, a typical homeowner will pay approximately \$130 per quarter, an increase of \$6.35 or 5%. Additional detail is shown in the tables below.

Based on the 2009 recommended rates, the following impact will be realized on an average users' quarterly utility bill.

Single Family Homes

Service	2008	2009	\$ Change	% Change
Water – base fee	\$ 13.00	\$ 27.75	\$ 14.75	
Water – usage fee	51.70	40.70	(11.00)	
Sanitary Sewer – base fee	13.35	23.35	10.00	
Sanitary Sewer – usage fee	34.10	26.40	(7.70)	
Storm Sewer	5.45	5.75	0.30	
Recycling	5.90	5.90	-	
Total	\$ 123.50	\$ 129.85	\$ 6.35	5.1 %

** Based on an average consumption of 22,000 gallons per quarter.

Single Family Homes – with Utility Discount

Service	2008	2009	\$ Change	% Change
Water – base fee	\$ 7.90	\$ 18.00	\$ 10.10	
Water – usage fee	35.25	27.75	(7.50)	
Sanitary Sewer – base fee	8.30	14.55	6.25	
Sanitary Sewer – usage fee	23.25	18.00	(5.25)	
Storm Sewer	5.45	5.75	0.30	
Recycling	5.90	5.90	-	
Total	\$ 86.05	\$ 89.95	\$ 3.90	4.5 %

** Based on an average consumption of 15,000 gallons per quarter.

Discount is approximately 38% less than the standard rate.

Commercial Property

Service	2008	2009	\$ Change	% Change
Water – base fee	\$ 25.50	\$ 55.00	\$ 29.50	
Water – usage fee	470.00	480.00	10.00	
Sanitary Sewer – base fee	29.15	51.00	21.85	
Sanitary Sewer – usage fee	550.00	550.00	-	
Storm Sewer	252.45	266.40	13.95	
Recycling	-	-		
Total	\$ 1,327.10	\$1,402.40	\$ 75.30	5.7 %

** Based on an average consumption of 200,000 gallons per quarter, with a 1 ½" meter, and occupying 3 acres.

STAFF RECOMMENDATION

Based on the increasing costs noted above, and in an effort to implement a conservation-based rate structure, Staff is recommending rate adjustments as shown in the attached resolution.

REQUESTED COUNCIL ACTION

Adopt the attached resolution establishing the 2009 Utility Rates.

Prepared by: Chris Miller, Finance Director
Attachments: A: Resolution establishing the 2009 Utility Rates

EXTRACT OF MINUTES OF MEETING OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE

* * * * *

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota was duly held on the 17th day of November, 2008 at 6:00 p.m.

The following members were present:
and the following were absent:

Member introduced the following resolution and moved its adoption:

RESOLUTION _____

RESOLUTION ESTABLISHING THE 2009 UTILITY RATES

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Roseville, Minnesota, the water, sanitary sewer, storm drainage, and recycling rates be established for 2009 in accordance with Schedule A attached to this Resolution.

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

WHEREUPON, said resolution was declared duly passed and adopted.

148 State of Minnesota)
149) SS
150 County of Ramsey)

151
152 I, undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of
153 Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes
154 of a regular meeting of said City Council held on the 17th day of November, 2008 with the original thereof
155 on file in my office.

156
157 WITNESS MY HAND officially as such Manager this 17th day of November, 2008.

158
159
160
161
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165

City Manager

William J. Malinen

Seal

Schedule A

Water Base Rate

Category	2008 Base Rate	2009 Base Rate
Residential	\$ 13.00	\$ 27.75
Residential – Sr. Rate	7.90	18.00
Non-residential		
1.0" Meter	17.05	27.75
1.5" Meter	25.50	35.00
2.0" Meter	50.95	55.00
3.0" Meter	102.10	105.00
4.0" Meter	204.10	210.00
6.0" Meter	\$ 408.15	\$ 420.00

Water Usage Rate

Category	2008 Usage Rate	2009 Usage Rate
Residential; Up to 30,000 gals./qtr	\$ 2.35	\$ 1.85
Residential; Over 30,000 gals./qtr – winter rate *	2.35	2.00
Residential; Over 30,000 gals./qtr – summer rate **	2.35	2.10
Non-Residential – winter rate	2.35	2.40
Non-Residential – summer rate **	\$ 2.35	\$ 2.65

* Residential high water usage rate is 10% higher than basic rate

** Summer rate is 10% higher than highest winter rate for each property category

Sanitary Sewer Base Rate

Category	2008 Base Rate	2009 Base Rate
Residential	\$ 13.35	\$ 23.35
Residential – Sr. Rate	8.30	14.55
Residential – Multi family	9.20	16.10
Non-residential		
5/8" Meter	9.75	17.05
1.0" Meter	19.50	34.15
1.5" Meter	29.15	51.00
2.0" Meter	48.60	85.05
3.0" Meter	97.30	170.30
4.0" Meter	194.70	340.75
6.0" Meter	\$ 389.40	\$ 681.45

Sanitary Sewer Usage Rate

Category	2008 Usage Rate	2009 Usage Rate
Residential	\$ 1.55	\$ 1.20
Non-residential	\$ 2.75	\$ 2.75

Stormwater Rates

Category	2008 Flat Rate	2009 Flat Rate
Single Family & Duplex	\$ 5.45	\$ 5.75
Multi-family & Churches	42.05	44.40
Cemeteries & Golf Courses	4.20	4.45
Parks	12.65	13.35
Schools & Comm. Centers	21.05	22.20
Commercial & Industrial	\$ 84.15	\$ 88.80

Note: Stormwater rates are based on a per lot basis for single-family and duplex properties, and on a per acre basis for all other properties.

Recycling Rates

Category	2008 Flat Rate	2009 Flat Rate
Single Family	\$ 5.90	\$ 5.90
Multi Family (per unit)	\$ 3.25	\$ 4.00

Meter Security Deposit

Category	2008 Flat Rate	2009 Flat Rate
5/8" Meter	\$ 75.00	\$ 75.00
1.0" Meter	120.00	120.00
1.5" Meter	300.00	300.00
2" Meter	\$ 400.00	\$ 400.00

Larger meters and hydrant meters are evaluated on the basis of meter cost and consumption. A deposit is computed accordingly.