



The City Council of the City of St. Charles welcomes you to its Regular Meeting of Tuesday, April 12, 2022 at 6:00 p.m. at 830 Whitewater Avenue, City Council Chambers, St. Charles, Minnesota.

ITEM	ACTION REQUESTED
1. Call to Order	
2. Pledge of Allegiance	
3. April 12, 2022 Agenda	APPROVE
4. Meeting Minutes	APPROVE
-March 8, 2022	
-March 22, 2022	
5. April Payables	APPROVE
6. Notices and Communications (if applicable)	INFORMATION
7. Reports of Boards and Committees:	INFORMATION
7a. Administrator's Report, Nick Koverman	
7b. Public Works Superintendent Report, Kyle Karger (TBD)	
7c. Chief of Police Report, Jose Pelaez	
7d. Ambulance Report, Josh Smith (TBD)	
7d. Library Board Report, David Kramer	
7e. Park Board, Dave Braun	
7f. School Board, John Steffel	
8. MainStreet Live Request	APPROVE
9. STORM Police Department Training	INFORMATION
10. EMT Hiring Recommendation	APPROVE
11. Pay Request No. 3 (Pearson Bros).	APPROVE
12. Property Pin Practice	INFORMATION

UNSCHEDULED PUBLIC APPEARANCES: Members of the audience may address any item not on the agenda. State Statute prohibits the City Council from discussing an item that is not on the agenda, but the City Council does listen to your concerns and has staff follow up on any questions you raise.

ADJOURNMENT

***Attachment. Questions? Contact Nick Koverman at St. Charles City Hall at 932-3020 or by email at nkoverman@stcharlesmn.org.**



MEMORANDUM for the CITY COUNCIL of St. Charles for
Tuesday, April 12, 2022

8. MainStreet Live Request. Enclosed is a proposed request that the St. Charles Park Board will review Monday. Additional information will be presented Tuesday evening.

9. STORM Police Department Training. Officer Myles Wolters and Chief Pelaez will be present to provide a brief review of the new Use of Force standard.

10. EMT Hiring Recommendation. It is recommended that Tom Countryman and Katie Kramer be hired as EMTs after successfully completed their interviews.

11. Pay Request No. 3 (Pearson Brothers Inc.). A request for payment No. 3 is included for the 2021 Chip Seal project in the amount of \$17,636.34.

12. Property Pin Practice. Please see the enclosed memo and information.

**MINUTES of the ST. CHARLES CITY COUNCIL
for Tuesday, March 8, 2022 held at 6:00 p.m. at
830 Whitewater Avenue,
St. Charles, Minnesota**

MEMBERS PRESENT:

Councilmen:

Mayor John Schaber

Dave Braun

John Steffel

Wayne Getz

David Kramer

STAFF PRESENT: Cris Gastner (EDA Director) and Nick Koverman (City Administrator).

OTHERS IN ATTENDANCE: Dan Pearson and Stephanie Nuttall.

1. ESTABLISH QUORUM/CALL TO ORDER

Quorum was established with Mayor Schaber calling the meeting to order at 6:00 p.m.

2. PLEDGE of ALLEGIANCE

3. APPROVAL of the AGENDA:

Motion to approve the agenda.

Motion to approve: **Dave Braun**

No further discussion.

Motion carried.

4. Meeting Minutes

February 8, 2022

Motion to approve: **John Steffel**

No further discussion.

Motion declared carried.

February 22, 2022

Motion to approve: **David Kramer**

No further discussion

Motion declared carried.

5. March Payables. No questions were asked.

Motion to approve: **Wayne Getz**

No further discussion.

Motion declared carried.

6. Notices and communications: None.

7. Reports of Boards and Committee:

Various reports were given.

8. Resolution #06-2022 Setting Public Hearing Proposal TIF 1-10 NRB Metals. EDA Director Cris Gastner was present to discuss the request to set a public hearing for the consideration of a proposed TIF project for NRB Metals. Gastner relayed that this mechanism had been used previously to assist in a past expansion project and the process had worked out the way it should have. The full project will be vetted at a future EDA meeting and presented to Council for consideration, but the action requested would set the process in motion as notices would be sent to Winona County and the School District regarding the proposed project. The meeting would be set for May 10, 2022 but should the project not receive approval

the date could be cancelled. With no further questions a motion and second was requested and received to approve the resolution as presented for setting the public hearing date.

Motion to approve: **Wayne Getz**

Seconded by: **John Steffel**

No further discussion.

Motion carried.

9. Pine Ridge 2nd Security Interest / Development Agreement Request. Cris Gastner presented the next topic of discussion highlighting that in 2021 a development request for a 12-lot subdivision was received and since the City had not done a development in 20 years that staff worked with city legal counsel to draft a development agreement that reflected the current practices, guidelines and requirements for developments. It was noted that since the early 2000s many cities found themselves responsible for unfinished developments and foreclosed developments leaving the city responsible for completing these projects. Through the guidance of Flaherty & Hood, a development agreement was drafted and presented to Council for approval. As part of the updated guidelines, it was advised that a letter of security for 125 percent of the construction cost be provided during the construction period. This guideline was adopted and the 2021 development used the proposed agreement and all of the standards and requirements. Through discussion with local developer Dan Pearson, the mayor, Clm. Getz and staff, Mr. Pearson wanted to request that the letter of security be waived. Following these discussions, it was determined that presenting his information to the Council for consideration would be a next logical step as staff is looking for direction. Dan Pearson addressed the Council and relayed that he has been building developments in town since 1993. He relayed that the requirement of the security interest would add several thousand dollars to the price of each lot and that in the current climate, every bit that he has to come up with on the front end, makes it more difficult. He relayed that currently of the 12 lots he would be planning with the Pine Ridge 2nd, he does not have any of the lots pre-sold which is much different from past developments. With material pricing rising at an alarming pace, the letter of credit would tie up assets that he feels is unnecessary. He relayed that this added cost could make or break the development and asked the Council to waive this requirement. Clm. Steffel asked the reasoning again behind the requirement and Admin. Koverman restated the reasons expressed earlier in the discussion. Mr. Pearson relayed that he believed if something were to happen to the project that the City would not own or be responsible, but rather the bank would own project. Mayor Schaber thanked Mr. Pearson for his time and relayed that if there were any additional questions, to please contact Admin. Koverman or Mr. Gastner.

10. St. Charles Rehabilitation Request #01-2022. Mr. Gastner relayed that a rehabilitation loan request for \$5,000 was received from the St. Charles Bakery. After being reviewed by the review committee and the EDA, a recommendation was received to approve the forgivable loan/grant. Gastner reminded that Council had authorized \$15,000 of the EDA levy amount to invest into the program. The applicant had secured financing for the remaining portion of the project that would see the front and side refaced. No other questions were asked. A motion to approve the request was moved.

Motion to approve: **Dave Braun**

No further discussion.

Motion carried.

11. Library Assistant Recommendation. Mayor Schaber briefly reviewed the request to approve Julie Boyum to the position of library assistant as per the recommendation of Step 2 (\$19.09). A motion was made to approve the recommendation and hiring of Julie Boyum effective April 4, 2022.

Motion to approve: **David Kramer**

No further discussion.

Motion carried.

12. St. Charles Ambulance Director Recommendation. Mayor Schaber and Admin. Koverman presented the recommendation from the interview committee and St. Charles Ambulance Department to offer the newly created ambulance director position to Josh Smith. Admin. Koverman reviewed his qualifications and skills that would be applicable to the position. The recommendation was to hire Mr. Smith at Step 4 (\$72,282). With no further questions, a motion to approve the hiring of Mr. Smith was moved.

Motion to approve: **Wayne Getz**
No further discussion.
Motion carried.

13. 2022 SRTS Application Letter of Denial. Admin. Koverman highlighted the letter received regarding the news that the Safe Routes To School application for the proposed 2023 high school crossing had been denied. An email from the coordinator relayed that more applications were received than funding allowed. Admin. Koverman relayed that a great deal of conversation with the MnDOT Region VI office had taken place and that in discussions with Supt. Apse, that they believed coming up with a plan to move forward in 2023 as we have current support might be to our advantage despite not receiving funding through the state. The general consensus of the Council agreed with the idea and more discussions will be held.

14. Customer Service Specialist Job Description Update. Admin. Koverman presented the updated job description for consideration. As part of the succession planning, it was anticipated that Cassie Smith would be promoted to the deputy clerk position. That job description is currently being reviewed and will be presented at an upcoming meeting. Through talking with staff, an internal candidate has expressed interest regarding the open vacancy and it has been the city's policy to promote current members when and if appropriate. A motion to approve the updated description was moved.

Motion to approve: **David Kramer**
No further discussion.
Motion carried.

15. Resolution #08-2022 Accepting a Donation from REC. A donation was made for \$500.00 toward the purchase of four flower planters. Additional moneys had been received from other groups to support the purchase. A motion was made to accept the resolution as presented.

Motion to approve: **John Steffel**
No further discussion.
Motion carried.

16. Advertisement of the Summer Park /Rec Job list. Mayor Schaber relayed the summer job listing and requested a motion to approve advertisement. A motion was so moved.

Motion to approve: **Dave Braun**
No further discussion.
Motion carried.

17. 2022 Summer Park/Rec Brochure. The Summer Park/Rec brochure was briefly reviewed and a motion to approve the brochure was moved.

Motion to approve: **Wayne Getz**
No further discussion.
Motion carried.

18. Ambulance Recommendation for EMT. A recommendation to hire Austin Foreman was received from the ambulance interview committee contingent upon the interview and receiving a successful background check. As Mr. Foreman is currently working toward serving on the fire department, the committee felt it was appropriate to move the recommendation forward. A motion to approve the recommendation contingently was moved.

Motion to approve: **David Kramer**
No further discussion.
Motion carried.

19. Resolution #07-2022 Re-Establishing Precinct and Polling Place. A resolution was presented to re-establish the precinct and polling place as a result of the redistricting in the state. A motion was made to approve the resolution as presented.

Motion to approve: **David Kramer**
No further discussion.
Motion carried.

Unscheduled Public Appearances. None.

Motion to adjourn at 6:38 p.m.: **Wayne Getz**

No further discussion.

Motion carried.

ATTEST

John Schaber, Mayor

Nick Koverman, City Administrator

**MINUTES of the ST. CHARLES CITY COUNCIL
for Tuesday, March 22, 2022 held at 6:00 p.m. at
830 Whitewater Avenue,
St. Charles, Minnesota**

MEMBERS PRESENT:

Councilmen:

Mayor John Schaber

Dave Braun

John Steffel

Wayne Getz

David Kramer (absent)

STAFF PRESENT: Cris Gastner (EDA Director), and Nick Koverman (City Administrator)

OTHERS IN ATTENDANCE: Stephanie Nuttall, and Dan Pearson (Pearson Builders Inc.)

1. ESTABLISH QUORUM/CALL TO ORDER

Quorum was established with Mayor Schaber calling the meeting to order at 6:00 p.m.

2. PLEDGE of ALLEGIANCE

3. APPROVAL of the AGENDA:

Motion to approve: **Dave Braun**

No discussion.

Motion carried.

4. Notices and communications. None

5. Review of Financials. No questions or comments. A motion was made to approve the financials as presented.

Motion to approve: **Wayne Getz**

No further discussion.

Motion carried.

6. Josh Smith—SC Ambulance Director. Mr. Smith introduced himself and thanked the Council for the opportunity and shared a brief description of his history and work experience. Council thanked him for his time.

7. Pine Ridge 2nd Development / Security Agreement Discussion. Following the discussion from the previous meeting, Mayor Schaber asked if Council had any further thoughts on the requirements of the security agreement. Mayor Schaber presented a proposal of a sliding scale that would give credit to past developments and reduce the amount of security required such as 0=125 percent, 1-2 developments=100 percent, 3-4 developments=75 percent, 5-6 developments=50, and 7-8 developments=25 percent. Clm. Kramer had sent a proposal to Mayor Schaber as well that outlined that in lieu of 125 percent security, the city would define a “legacy developer” and if someone would qualify, that only a 5 percent security requirement would be necessary while writing into the development agreement that in the event of a default the city would have the right of first refusal to purchase the property. Mayor Schaber relayed that the proposal was similar to the federal bailout strategy offered to large car companies, and that this strategy would allow for the community to possibly receive some equity back. Mayor Schaber expressed Clm. Kramer’s concern with tying in security requirements based on a number of lots and that it may have unintended consequences of possibly instituting a subdivision lot cap. Clm. Braun relayed that he liked the idea of a legacy developer and that Mr. Pearson has been a long-time developer within the community. Mayor Schaber again reviewed the idea of the sliding scale that he proposed and relayed that the city is of course trying to balance the risk. Admin. Koverman relayed that the thought for the policy/guidelines instituted should be given that would be applicable to any developer and that the risk that the city is looking

to mitigate are from pieces unknown to the developer or city and not necessarily related upon Developer A or Developer B. Discussion was then held to developers who have developed outside of city limits and it was the consensus that because the city did not have history they would be treated as a new developer. Discussion was then held to how many lots within a subdivision would essentially qualify if the sliding scale idea was used. Admin. Koverman relayed that if the sliding scale was to be used that in looking at the "subdivisions" most if not all were divided into phases that ranges from ten to the mid-twenties. Mr. Pearson confirmed that he had done phases as high as twenty-two. EDA Director Cris Gastner interjected that if the sliding scale was to be used that the Council consider a shorter scale for simplicity sake such as 0 phases=125, 1=100, 2=75, 3=50, 4=25. Council then discussed in terms of a default or inability to perform that the developer would then start back at zero. It was asked if the city attorney had been queried yet, and Admin. Koverman relayed that while he had some discussion with F&H, he was waiting for Council direction before submitting it to the attorneys. As the Council returned to the discussion of what qualified as the number of lots within a phase, various numbers were expressed and when asked Mr. Pearson expressed that he thought six might be more reasonable. Clm. Steffel asked about the other forms of security and Mr. Pearson relayed that he had heard of a life insurance policy being used. Mayor Schaber asked for any additional comment. Hearing none, staff will work with the city attorney to review the idea/concept of the sliding scale discussed and bring it back to a future meeting.

8. Deputy Clerk Description/Promotion. 9. Customer Service Specialist Promotion. 10.

Administrative Assistant Job Posting. Admin. Koverman relayed that the succession plan discussed over the last several years upon the retirement of Deputy City Clerk Janell Dahl was that Cassie Smith would be promoted from within to that position. A revised job description was presented and with Mrs. Smith's tenure with the City for 10 years, a recommendation to promote her to the 4th step (\$62,440) of the scale was presented. Similarly, Shelly Schossow has been with the City for over 3 years as Administrative Assistant. Given her experience and ability it was recommended to promote her to the position of Customer Service Specialist that works to support Park & Rec and the police department in addition to providing backup coverage. An updated job description was presented for consideration. The recommendation is to promote Mrs. Schossow to Step 2 (\$48,260) of that scale. Admin. Koverman relayed that a letter would be provided and each member similar to other promotions would activate a 6-month probationary period. Along with these promotions, the revised Administrative Assistant job description was presented and a request to advertise was made. Clm. Braun asked if the position was still necessary. Admin. Koverman relayed that he is always mindful of workload and that given all of the various programs and support the office provides, that all of the positions within the office are necessary. Clm. Getz concurred that it would be difficult for him to know but trusts that staff are being utilized to their full potential. Mayor Schaber concurred with Clm. Getz' perspective as he visits the office frequently and sees firsthand how the office operates. A motion was made to approve the two requested promotions and advertise for the open administrative assistant position. Each promotion would have a start date of May 2.

Motion to approve: **John Steffel**

No further discussion.

Motion declared carried.

11. Resolution #09-2022 Donation from SCACF. Mayor Schaber presented the resolution for a donation from SCACF toward the purchase of flower planters. A motion was made to approve the donation.

Motion to approve: **Wayne Getz**

No further discussion.

Motion declared carried.

12. SB Desktop and Server Upgrade. Admin. Koverman presented a proposed request to replace 11 desktop units (\$12,129.74) that were 5+years old as well as the server (\$7,952.81) that was similar in age. Staff recommendation was to utilize funds from the ARP funds as it would be an eligible expense. All Councilmembers agreed it was a good use of funds and a motion was made to approve the purchase.

Motion to approve: **Dave Braun**

No further discussion.

Motion declared carried.

13. HBC VOIP Phone System. A quote was received for an updated Voice Over IP phone system for the City Hall and Police Station. Currently the City's analogue system has various restrictions and the proposal will provide more flexibility at the same cost or it is believed will be slightly less per month. Mayor Schaber relayed the benefits of VOIP service and called for a motion to approve. A motion was made to approve the proposal as presented.

Motion to approve: **Dave Braun**

No further discussion.

Motion declared carried.

14. Resolution #10-2022 Accepting a Donation (St. Charles Township). A donation was received for the St. Charles Ambulance in the amount of \$1,000.00 from St. Charles Township. A motion was made to approve the donation.

Motion to approve: **John Steffel**

No further discussion.

Motion declared carried.

15. Ambulance EMT Hiring. Admin. Koverman relayed that a recommendation to hire Sarah Ferden was requested. A motion was made to approve the hiring.

Motion to approve: **Wayne Getz**

No further discussion.

Motion declared carried.

UNSCHEDULED PUBLIC APPEARANCES

None.

A motion to adjourn at 6:48 p.m.

Motion to approve: **Wayne Getz**

No further discussion.

Motion carried.

John Schaber, Mayor

ATTEST:

Nick Koverman, City Administrator

MINNESOTA AUTHOR TOUR @ THE ST. CHARLES PUBLIC LIBRARY



Kim Todd - May 2, 6:30pm

Kim Todd, Ph.D., is known for her award-winning storytelling about science, nature, and history. Her most recent publication, *Sensational: The Hidden History of America's "Girl Stunt Reporters,"* is a MN Book Awards Finalist.



Anne Ursu - May 16, 6:30pm

Anne Ursu is the author of many acclaimed novels including 2022 MN Book Award Finalist *The Troubled Girls of Dragomir Academy*, and *The Real Boys*, which was longlisted for the National Book Award.



Brian Freeman - May 24, 6:30pm

Brian Freeman writes psychological thrillers that have been sold in 46 countries and 22 languages. He has won Best Hardcover Novel in the annual Thriller Awards and his novel *The Deep, Deep Snow* was a finalist for the Edgar Award.



This program is made possible by a Library Legacy Grant. All programs are free.



You are cordially invited to
Project **FINE's**
Annual Taste of International
Cuisine Fundraiser

Journey to the Middle East

An evening of food and entertainment
celebrating the cultures of the Middle East
and Afghanistan

June 12, 2022, 4:30pm-7:00pm
Kryzsko Ballroom, Winona State University
250 W 10th Street

Silent Auction (cash or checks please)

Funds raised will be used to support our mission: *to strengthen and
enrich our community by facilitating the integration of people who
are ethnically diverse.*

CITY OF ST. CHARLES SCDP

Progress Report

April 1, 2022

September 30, 2023

Residential Rehabilitation

Goal: 12

Current Months #'s Last Months #'s

Number of Applications Received	6	6
Number of Applications being Processed	0	0
Full Application Pending Verification	3	3
Apps. Pending Initial Property Inspection	0	0
Applicants Pending Contractor Estimates	0	0
Units in Construction	0	0
Units Completed and Closed	0	0
Applicants Over Income	0	0
Applicants Not Interested/Eligible	1	1
Applicants Located in Target Area "B"	1	1
Applicants Not in Target Area	1	1

Rental Rehabilitation

Goal: 24

Current Months #'s Last Months #'s

	1	1
	0	0
	0	0
	0	0
	1	1
	0	0
	0	0
	0	0
	0	0
	0	0
	0	0

	SCDP Funds	Private Funds	Total Funds	SCDP Funds	Private Funds	Total Funds
Obligated	0.00	0.00	0.00	0.00	0.00	0.00
Estimated	68,925.00	9,000.00	77,925.00	246,000.00	105,428.00	351,428.00
Total	68,925.00	9,000.00	77,925.00	246,000.00	105,428.00	351,428.00
Program Income	0.00	0.00	0.00	0.00	0.00	0.00
Allocation	275,700.00	36,000.00	311,700.00	246,000.00	500,000.00	746,000.00
Balance	206,775.00	27,000.00	233,775.00	0.00	394,572.00	394,572.00
Unit Average	#DIV/0!	#DIV/0!	#DIV/0!	246,000.00	105,428.00	351,428.00
Unit Goal	22,975.00	3,000.00	25,975.00	7,454.55	15,151.52	22,606.06

2022 City Wide Clean Up Day

Saturday, May 14th

8:00 am to 12:00 pm



**City Shop/Compost Site
200 Northwoods Drive**

**No drop-offs will be accepted
before 8am or after 12:00 pm**

City of St. Charles – Residential Utility Customers must show ID
THE CITY RESERVES THE RIGHT TO REFUSE ANY ITEM

Large Household Item Drop-Off

Waste Management will collect
large household items

please see back of flier for more info



Tire Disposal - Limit of 20 tires

We will accept - car, pickup, ATV,
motorbike & bicycle tires



Items Not Accepted

- Tractor/Semi tires
- Appliances - see below
- Building/construction materials (cabinets, toilets, doors, carpet, etc.)
- Electronics (TVs/computers)
- Hot tubs
- Pianos
- Lg Exercise equip (treadmill)
- Hazardous / toxic materials
- Regular garbage / recycling

Appliance Drop-Off @ Timm's Auto Salvage

936 West 12th Street
Monday thru Friday
(8am-4:30pm)

No Charge for Disposal

Timm's Auto Salvage will accept appliances at no charge

Recycling rebates will be available from the City for:

- Refrigerator (13 cu. ft. +); Chest Freezer (6 cu. ft.+);

Dehumidifier or Window A/C Units

These appliances must be in working condition
to receive a City rebate.

2022 City Wide Clean Up – Accepted Items

Below are suggested items that will be accepted at the corresponding locations:

City Shop/ Compost Site

200 Northwoods Drive:

- TIRES
- BED FRAMES, MATTRESSES, TABLES, CHAIRS, DRESSERS, END TABLES, BOOKCASES, LIVINGROOM FURNITURE, PLASTIC OR WOOD OUTDOOR FURNITURE, BAR STOOLS, DESKS/DESK CHAIRS, FILE CABINETS, INFANT FURNITURE, BENCHES, OTTOMANS, ROCKING CHAIRS, BAKER'S RACKS, ETC.

Timm's Auto Salvage

936 West 12th Street:

METAL OUTDOOR FURNITURE, STOVES, REFRIGERATORS, FREEZERS, WASHERS, DISHWASHERS, DRYERS, TOASTER OVENS, WATER HEATERS, GRILLS (W/O PROPANE TANK), AIR CONDITIONERS, FURNACES, DEHUMIDIFIERS, HUMIDIFIERS, MICROWAVE (W/O GLASS TRAY), LARGE EXERCISE EQUIPMENT, LAWN MOWERS, AND BICYCLES

This clean up day is for St. Charles **RESIDENTS ONLY**. If you are caught bringing in material from outside of the city limits or allowing someone else to bring something in and disposing of it for them, you shall be fined. Neighbors, please watch for people bringing in items and the Police Dept. will be advised to do more patrols. This Clean Up day is a benefit to residents and when abused, the City Council needs to re-evaluate if it should continue. Please remember that the \$.75 City residents pay monthly helps to fund this event and also to keep our compost site available to residents. We thank you for your cooperation.

Where can I take Hazardous Waste?

Household Hazardous Waste Facility

Location: 225 West 2nd Street
Winona

Phone #: (507) 457-6405

Olmsted Cty Recycling Center Plus

Location: 305 Silver Creek Rd NE,
Rochester

Phone #: (507) 328-7070

The following items can be taken to the above locations:

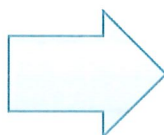
- Paint, stain/varnish, cleaners, gasoline, fuels, solvents, antifreeze, motor oil/filters, aerosol cans, pesticides, light bulbs, rechargeable batteries, propane cylinders, residential sharps, acids/bases
- Button batteries: (hearing aid, watches & other electronics); Rechargeable batteries
- ❖ **No auto batteries, ammunition, TV's or electronics!**

Medications:

- Old or unused medications may be dropped off at the St. Charles Police Department located at 830 Whitewater Avenue during business hours. Make sure all labels are blackened out & bottles put into a sealed bag. *****Please ring the Police Department doorbell for service*****

VOLUNTEERS NEEDED! Please let us know, if you would like to help local residents haul items to the drop-off location.

Contact the City Office
with Questions



830 Whitewater Ave
507-932-3020



City Administrator's Report—March 2022

Mar 1—Staff took part in CPR/AED training through MMUA and Mark Hottel. Attended the Green Space Committee meeting. The committee is working on a possible process to redesign the space as the needs and/or desires have changed for how to use the space. Additional meetings will be arranged.

Mar 2—Took part in DNR floodplain refresher training.

Mar 3—Took part in Winona County Ambulance Director's meeting virtually. Attended the Winona County PartnerSHIP meeting virtually.

Mar 4—Attended EDA meeting. Cris Gastner and I met with Mitch Walch to review a proposed project and possible assistance in another phase.

Mar 10—Attended a virtual meeting with a sign proposal company.

Mar 11—Held a meeting with StarEnergy Services to discuss DER applications and how they process through the NOVA Power Portal system.

Mar 14—Held a conference call with Habitat For Humanity to continue discussion regarding potential future project.

Mar 16—Attended Emergency Management meeting in Goodview with Chief Pelaez to learn about various county initiatives and partnerships.

Mar 21—Held a conference call with MnDOT representative to learn more about Safe Routes To School application and factors affecting outcome of the proposal.

Mar 22-25—Attended MCFOA conference with Cassie Smith in St. Cloud.

Mar 29—Attended SEMLM meeting in Goodview as Secretary of the board. SEMLM is partnering with CEDA and SMIF to draft a CEDS application, which will continue to allow access to economic development dollars to our region.

Mar 30—Attended election training in Winona.

St Charles Park and Recreation Department

Letter of Proposal April 4th 2022

"Main Street Live" Committee and St. Charles Chamber of Commerce

This letter is for a formal request from the "Main Street Live" committee which has taken responsibility for the flower baskets and planters on main street. The St. Charles Lions Club accepted a request from the City of St. Charles to assume responsibility last year, (2021), and has now joined a partnership with several other service/funding organizations including WOW/REC, SCACF and the Chamber of Commerce.

The purpose of this partnership is to allow all concerned citizens and activists to participate in the process of helping our main street to be a pleasant, inviting, attractive and functional pedestrian and driver friendly environment.

The Chamber of Commerce has stepped forward as the facilitator and administrator of all incoming and outgoing funds and will accept tax deductible contributions from businesses as well as interested individuals.

This is a request to the Park and Recreation Board and the City of St Charles to provide in kind support in the way of part time labor;

approx 240 hours, 2 Hrs./ day = 60 hrs./ month x 4 months = 240 hours

training will be provided

City Labor Approximately 2 hrs./ pole x 20 pole planters to be
installed, 10 per side of main street, These are using a
water saver technology which should make
maximal usage of labor time for watering.
Estimated city labor is 40 hrs.

Also requested is the golf cart watering vehicle rental fee, approximately \$600.

This is a very significant commitment which shows a strong dedication to all of the participating organizations, the main street businesses and all of the citizens of St. Charles as well as surrounding communities and visitors. Your work is valued in the community and this project will be valued by all who experience it.

Thank you,

Main Street Live Committee

2905 South Broadway
Rochester, MN 55904-5515
Phone: 507.288.3923
Fax: 507.288.2675
Email: rochester@whks.com
Website: www.whks.com

whks

engineers + planners + land surveyors

March 29, 2022

Mr. Kyle Karger
Public Works Director
City of St. Charles
830 Whitewater Avenue
St. Charles, MN 55972

RE: St. Charles, MN
2021 Chip Seal
Pay Request No. 3-Final

Dear Kyle:

Enclosed is Pay Request No. 3 (Final) for work on the above referenced project. We recommend the City to accept the project and make payment in the amount of \$17,636.34 to:

Pearson Brothers Inc.
11079 Lamont Avenue NE
Hanover, MN 55341

Acceptance by the City Council will initiate the start of the one-year maintenance bond, as specified in the contract documents.

Please contact me if you have any questions.

Sincerely,

WHKS & co.



Daren D. Sikkink, P.E.

DDS/jm

Enclosure

cc: Nick Koverman, City of St. Charles
Todd Bartels, Pearson Bros.



Memorandum

To: City Council and Mayor
From: Nick Koverman, City Administrator
Date: April 8, 2022
Subject: Property Pin Location change of practice

Over the last several months, staff have been holding ongoing discussion with the practice of finding property pins. Included is an article from Winona County Surveyor Brian Wodele as he has helped to guide the discussions. In 2021, three cases were handed down addressed in these three orders is that city officials either practiced land surveying without a license or a city official directed city employees to practice land surveying without a license.

According to State Statute, land surveying is defined as such:

Subd. 4. Practice of land surveying. Land surveying means the application of the principles of mathematics, physical and applied sciences and law to measuring and locating lines, angles, elevations and natural or artificial features in the air, on the surface of the earth, underground and on the beds of bodies of water for the purpose of:

(1) determining, monumenting, establishing, or reestablishing property boundaries;

Official Publication of the State of Minnesota Revisor of Statutes 2 MINNESOTA STATUTES 2020 326.02

(2) determining, monumenting, or reestablishing the position for any public land survey system corner or line;

(3) planning, designing, and platting of land and subdivisions including the topography, alignment and grades of streets; and

(4) preparing and perpetuating maps, record plats, and property descriptions.

Any person who offers to perform, holds out as being able to perform, or does perform land surveying for others shall be practicing land surveying.

Nothing contained in the provisions of sections 326.02 to 326.15, shall prohibit a licensed professional engineer, architect, landscape architect, or professional geoscientist from doing any work included in the practice of engineering, architecture, landscape architecture, and professional geoscience, if the work does not involve the establishment or reestablishment of property corners, property lines, or public land survey system corners or lines.

In consultation with Mike Flaherty of Flaherty & Hood, city staff is not using mathematical or scientific principles to locate property pins, and is not doing the practice of land surveying, as defined by statute, it is not illegal for city staff to measure from pins for determine the setback for a structure. While government employees are provided with "governmental immunities", if a property owner wants to rely on staff opinion about the location of the setback, they are doing so at their own risk. The property owner can always seek a professional land surveyor at their own cost to determine property lines if they choose to do so. If the garage is built into the setback and the City issued the permit, the City will probably not be able to enforce their setback ordinance at that point.

It is the recommendation that only when it is necessary to enforce City Code provisions, should staff locate setbacks. Based on the information and recommendations, staff have been instructed to inform residents that we do not find property pins. However, we are willing to provide a map and a locator.

Practicing land surveying without a license

by Robin Mathews, PLS

Who in Minnesota has the legal authority to make a property boundary determination for another person?

The answer to this question is: only a Minnesota-licensed Land Surveyor.

Minnesota statutes state:

In order to safeguard life, health, and property, and to promote the public welfare, any person in either public or private capacity practicing, or offering to practice, ... land surveying, ... either as an individual, a copartner, or as agent of another, shall be licensed ... as hereinafter provided. It shall be unlawful for any person to practice, or to offer to practice, in this state, ... land surveying, ... or to solicit or to contract to furnish work ... or to use in connection with the person's name, or to otherwise assume, use or advertise any title or description tending to convey the impression that the person is a ... land surveyor, ... unless such person is qualified by licensure....

MN Statute 326.02 Subd. 1 (2016)

The above referenced statute is very clear: **If you are practicing land surveying, then you must be licensed as a land surveyor.**

What actions are unique when defining the practice of land surveying?

Minnesota statutes state:

Land surveying means the application of the principles of mathematics, physical and applied sciences and law to measuring and locating lines, angles, elevations and natural or artificial features in the air, on the surface of the earth, underground and on the beds of bodies of water for the purpose of:

- (1) determining, monumenting, establishing, or reestablishing property boundaries;
- (2) determining, monumenting, or reestablishing the position for any public land survey system corner or line;
- (3) planning, designing, and platting of land and subdivisions including the topography, alignment and grades of streets; and
- (4) preparing and perpetuating maps, record plats, and property descriptions.



property boundaries may look or sound like:

A third party conveys:

- "This is your or your neighbor's property line."
- "This iron I found is your or your neighbor's property corner."
- "This marker I set is your or your neighbor's property corner."
- "I can find your property corners and mark your property lines."

Here are examples related to any Public Land Survey System (PLSS) corner or line:

A third party conveys:

- "This location is where the section line is."
- "This iron I found is the section corner or the government corner."
- "This marker I set is where the section corner is located."
- "I can find the section corners and mark your forty lines."
- "This fence corner is where the section corner is located."

Any person who offers to perform, holds out as being able to perform, or does perform land surveying for others shall be practicing land surveying.

Nothing contained in the provisions of sections 326.02 to 326.15, shall prohibit a licensed professional engineer, architect, landscape architect, or professional geoscientist from doing any work included in the practice of engineering, architecture, landscape architecture, and professional geoscience, if the work does not involve the establishment or reestablishment of property corners, property lines, or public land survey system corners or lines. (emphasis added)

MN Statute 326.02 Subd. 4 (2016)

The critical components of what uniquely define the practice of land surveying are captured in the emphasized statement above.

Here are just a few practical examples of what determining, monumenting, establishing or reestablishing

However conveyed by the third party, these all constitute the practice of land surveying and can only be undertaken by a licensed land surveyor.

Even if that third party makes a verbal or written disclaimer stating that they are not a licensed land surveyor, that does not nullify that they have practiced land surveying.

What are the possible ramifications for a person who engages in an act or practice constituting the unauthorized practice of land surveying?

continued on page 5

Land surveying practice *continued from page 4*

Minnesota statutes state:

If the board ... has a reasonable basis to believe that a person has engaged in an act or practice constituting the unauthorized practice of ... land surveying ... or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board ... may proceed as described (below)....

[T]he board may bring an action in the name of the state in the district court in Ramsey County or in any county in which jurisdiction is proper to enjoin the act, practice, or violation and to enforce compliance with the statute, rule, or order.... [A] permanent or temporary injunction, restraining order, or other appropriate relief shall be granted.... [This] injunctive


relief ... does not relieve an enjoined person from criminal prosecution by a competent authority or from disciplinary action by the board with respect to the person's license, certificate, or application for examination, license, or renewal....

The board ... may issue and have served upon a person an order requiring the person to cease and desist from the unauthorized practice of ... land surveying ... or the unauthorized use of the title ... land surveyor ... or violation of the statute, rule, or order. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing and shall state the reasons for the entry of the order....

The board may impose a civil penalty not to exceed \$10,000 per violation upon a person who commits an act or practice constituting the unauthorized practice of ... land surveying ... or violates a statute,

rule, or order that the board has issued or is empowered to enforce....
MN Statute 326.111 Subd. 1-3, 6 (2016)

In summary, the potential ramifications of the unauthorized practice of land surveying may include a cease and desist order, a civil penalty or legal action.

The Board has the authority to take enforcement action in matters of the unauthorized practice of land surveying. If you are aware of individuals practicing without a license, contact Board Investigator Lynette DuFresne at 651-757-1510. 

Note: PDFs of the full statutes excerpted here can be found at these shortened URLs: bit.ly/326-02PDF and bit.ly/326-111PDF

326.02 LICENSURE OR CERTIFICATION.

Subdivision 1. **Licensure or certification mandatory.** In order to safeguard life, health, and property, and to promote the public welfare, any person in either public or private capacity practicing, or offering to practice, architecture, professional engineering, land surveying, landscape architecture, or professional geoscience, or using the title certified interior designer in this state, either as an individual, a copartner, or as agent of another, shall be licensed or certified as hereinafter provided. It shall be unlawful for any person to practice, or to offer to practice, in this state, architecture, professional engineering, land surveying, landscape architecture, or professional geoscience, or to use the title certified interior designer, or to solicit or to contract to furnish work within the terms of sections 326.02 to 326.15, or to use in connection with the person's name, or to otherwise assume, use or advertise any title or description tending to convey the impression that the person is an architect, professional engineer (hereinafter called engineer), land surveyor, landscape architect, professional geoscientist (hereinafter called geoscientist), or certified interior designer, unless such person is qualified by licensure or certification under sections 326.02 to 326.15. This subdivision does not preclude an individual who retired from one of the professions listed in this subdivision from using the designation architect, professional engineer, land surveyor, landscape architect, professional geoscientist, or certified interior designer as long as the designation is preceded by the word "retired" and the individual was licensed or certified in the designated profession in the state of Minnesota on the date the individual retired from the designated profession and the individual's license or certification was not subsequently revoked by the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design.

Subd. 2. **Practice of architecture.** Any person shall be deemed to be practicing architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service, such as planning, design, or supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any private or public buildings, structures or projects, or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences, acquired by education or training, and by experience. For the purposes of this subdivision "supervision" is a professional service as distinguished from superintending of construction and means the performance or the supervision thereof, of reasonable and ordinary on the site observations to determine that the construction is in substantial compliance with the approved drawings, plans and specifications.

Subd. 3. **Practice of professional engineering.** (a) Any person shall be deemed to be practicing professional engineering within the meaning of sections 326.02 to 326.15 who holds out as being able to perform or who does perform any technical professional service, such as planning, design or observation of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private structures, buildings, utilities, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the principles of mathematics and the physical and applied engineering sciences, acquired by education or training, and by experience.

(b) No person other than one licensed under sections 326.02 to 326.15 as a professional engineer may:

(1) use the term "professional engineer";

(2) use any other abbreviation or term, including the initials "P.E." or "PE" by signature, verbal claim, sign, advertisement, letterhead, card, or similar means that would lead the public to believe that the person was a professional engineer; or

(3) use any means or in any other way make a representation that would lead the public to believe that the person was a professional engineer.

(c) A professional engineering license satisfies any requirements by the state or its political subdivisions to perform any actions authorized under the professional engineering license. A person licensed as a professional engineer under sections 326.02 to 326.15 shall only be required to obtain a license, certification, or other form of approval for a skill or service in addition to a professional engineering license if the state or political subdivision has made an affirmative written determination in statute, rule, or ordinance that such additional license or certification is necessary to safeguard life, health, or property, or promote the public welfare. This section does not preclude the state or a political subdivision from including additional requirements when soliciting public contracts for engineering services. This paragraph does not apply to practice areas where licenses or certifications are required prior to August 1, 2015.

Subd. 3a. Practice of professional geoscience. A person is considered to be practicing professional geoscience within the meaning of sections 326.02 to 326.15 who holds out as being able to perform or who does perform any technical professional services, the adequate performance of which requires professional geoscience education, training, and experience in the application of special knowledge of the mathematical, physical, chemical, biological, and earth sciences to such services or creative work as consultation, investigation, evaluation, planning, mapping, and inspection of geoscientific work and its responsible supervision.

A person is considered to practice or offer to practice professional geoscience, within the meaning and intent of sections 326.02 to 326.15 who practices any of the geoscience disciplines defined by the board; who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents oneself to be a professional geoscientist; through the use of some other title implies that the person is a professional geoscientist; or who presents oneself as able to perform or who does perform any geoscience services or that constitutes the practice of a professional geoscience discipline as defined by the board.

"Geoscience" means the science which includes treatment of the earth and its origin and history; the investigation, measurement or sampling, of the earth's constituent rocks, natural and induced fields of force, minerals, fossils, solids, soils, fluids including surface and underground waters, gases, and other materials; and the study, interpretation, and analysis of the natural agents, forces, and processes which cause changes in the earth.

Nothing in this subdivision shall be construed to prevent a professional engineer, as defined in sections 326.02 to 326.15, from acquiring engineering data involving soil, rock, groundwater, and other earth materials; evaluating physical and chemical properties of soil, rock, groundwater, and other earth materials for engineering; and from utilizing these data for analysis, design, and construction. Nothing in this subdivision shall be construed to permit a professional geoscientist to engage in the practice of professional engineering, architecture, landscape architecture, or land surveying or to use the title "certified interior design" as those terms are defined in this section. Nothing in this subdivision shall be construed to regulate persons who take soil samples for the purpose of providing recommendations on crop production.

Subd. 4. Practice of land surveying. Land surveying means the application of the principles of mathematics, physical and applied sciences and law to measuring and locating lines, angles, elevations and natural or artificial features in the air, on the surface of the earth, underground and on the beds of bodies of water for the purpose of:

- (1) determining, monumenting, establishing, or reestablishing property boundaries;

(2) determining, monumenting, or reestablishing the position for any public land survey system corner or line;

(3) planning, designing, and platting of land and subdivisions including the topography, alignment and grades of streets; and

(4) preparing and perpetuating maps, record plats, and property descriptions.

Any person who offers to perform, holds out as being able to perform, or does perform land surveying for others shall be practicing land surveying.

Nothing contained in the provisions of sections 326.02 to 326.15, shall prohibit a licensed professional engineer, architect, landscape architect, or professional geoscientist from doing any work included in the practice of engineering, architecture, landscape architecture, and professional geoscience, if the work does not involve the establishment or reestablishment of property corners, property lines, or public land survey system corners or lines.

Subd. 4a. **Practice of landscape architecture.** Any person shall be deemed to be practicing landscape architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service in connection with the development of land areas where the dominant purpose of the service is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, blight and hazards. This practice shall include the location and arrangement of tangible objects and features incidental and necessary to the purposes outlined but shall not include the design of structures or facilities with separate and self-contained purposes as ordinarily included in the practice of engineering or architecture or the preparation of boundary surveys or final land plats, as ordinarily included in the practice of land surveying.

Nothing contained in sections 326.02 to 326.15 concerning landscape architects shall be construed:

(1) to apply to a professional engineer duly registered under the laws of this state;

(2) to apply to an architect registered under the laws of this state;

(3) to apply to a land surveyor registered under the laws of this state;

(4) to prevent a registered architect or professional engineer from doing landscape planning and designing;

(5) to exclude nursery operators or other small business people from the preparation of landscape plans appropriate to the normal operation of their business;

(6) to authorize a landscape architect to engage in the practice of architecture, engineering, land surveying, or geoscience.

No person shall use the designation landscape architect or any title or device indicating or representing that the person is a landscape architect or is practicing landscape architecture unless the person is registered under the provisions of sections 326.02 to 326.15.

Subd. 4b. **Certified interior designer.** (a) For the purposes of sections 326.02 to 326.15, "certified interior designer" means a person who is certified under section 326.10, to use the title certified interior designer and who provides services in connection with the design of public interior spaces, including

preparation of documents relative to non-load-bearing interior construction, space planning, finish materials, and furnishings.

(b) No person may use the title certified interior designer unless that person has been certified as an interior designer or has been exempted by the board. Registered architects may be certified without additional testing. Persons represent themselves to the public as certified interior designers if they use a title that incorporates the words certified interior designer.

(c) Nothing in this section prohibits the use of the title interior designer or the term interior design by persons not certified by the board.

(d) Nothing in this section restricts persons not certified by the board from providing interior design services and from saying that they provide such services, as long as they do not use the title certified interior designer.

(e) Nothing in this section authorizes certified interior designers to engage in the practice of architecture as defined in subdivision 2 or the practice of engineering as defined in subdivision 3.

Subd. 5. Limitation. The provisions of sections 326.02 to 326.15 shall not apply to the preparation of plans and specifications for the erection, enlargement, or alteration of any building or other structure by any person, for that person's exclusive occupancy or use, unless such occupancy or use involves the public health or safety or the health or safety of the employees of said person, or of the buildings listed in section 326.03, subdivision 2, nor to any detailed or shop plans required to be furnished by a contractor to a registered engineer, landscape architect, architect, or certified interior designer, nor to any standardized manufactured product, nor to any construction superintendent supervising the execution of work designed by an architect, landscape architect, engineer, or certified interior designer licensed or certified in accordance with section 326.03, nor to the planning for and supervision of the construction and installation of work by an electrical or elevator contractor or master plumber as defined in and licensed pursuant to chapter 326B, where such work is within the scope of such licensed activity and not within the practice of professional engineering, or architecture, or where the person does not claim to be a certified interior designer as defined in subdivision 2, 3, or 4b.

History: (5697-1) 1921 c 523 s 1; 1933 c 404 s 1; 1945 c 380 s 1; Ex1967 c 28 s 1; 1971 c 22 s 1-3; 1973 c 245 s 1; 1975 c 329 s 1-3; 1979 c 209 s 1; 1Sp1981 c 4 art 1 s 25-29; 1986 c 444; 1992 c 507 s 3-5; 1995 c 206 s 4-7; 2002 c 239 s 1; 2010 c 280 s 8; 2013 c 85 art 2 s 3; 2014 c 236 s 1,2; 2015 c 18 s 1