BAYTOWN TOWNSHIP
2040 COMPREHENSIVE PLAN UPDATE MEETING
April 6, 2016
6:30 to 8:30 p.m.

MEETING SUMMARY

Attendees: Board members-John Hall, Chair, Kent Grandlienard, Rick Weyrauch, Ron Fredkove, and John Fellegy; Planning Commission members-Dave Charpentier and Avis Peters; Metro Council staff-Kyle Colvin and Ryan Garcia; Nancy Healey, Clerk; Sherri Buss, Planner.

1. Overview of Current Land Use Maps, Future Land Use Maps from 2030 Comprehensive Plan and LTSSA

Sherri provided an overview of the land use maps and aerial photos available at the meeting.

Kent Grandlienard reviewed the history of the Township’s current boundary and the Long-Term Sewer Service area identified by the Metro Council and included in the 2030 Comp Plan. He noted that a 1000-acre area was required for the LTSSA, that there were a larger number of sizeable, undeveloped lots in the area when the LTSSA was established, and that it was a “concept.”

Kyle Colvin discussed the LTSSA and sewer area study that was proposed in the 2030 Comprehensive Plan, and noted that the study was proposed to look at the capacity of the St. Croix Treatment Plant to accommodate additional growth in its service area. The Council has concluded that only one more minor expansion of the plant is feasible, due to new and expected future treatment standards and the new St. Croix Bridge location on part of the site. He stated that the Council is willing to eliminate the LTSSA due to the plant’s limited ability to provide significant additional capacity for the reasons cited above.

He noted that the Council would not object to adjacent communities providing some sewer service to sites in the Township, similar to St. Croix Preparatory Academy, but he noted that would use up some of the providing community’s sewer capacity.

Providing direct regional interceptor service would require the Township to develop a Comprehensive Sewer Plan reflecting how they would utilize direct regional sewer capacity (interceptor connection). This would include local trunk sewer systems layouts, sewer use ordinance, capital improvement plans, and other
items related providing a municipal waste water system. Town Board members indicated that the Town is not interested in having its own sewer system.

2. Discussion with Metro Council staff and Guidance for 2040 Comp Plan

Metro Council staff suggested the following for the Township’s Comprehensive Plan:

- The Township does not need to request a change in its Community Designation prior to developing the Comp Plan. The change from Diversified Rural in the old LTSSA area to Rural Residential for the entire Township can be requested in the Land Use portion of the 2040 Comp Plan.

- The Township’s 2040 Land Use Plan will be consistent with the Rural Residential community classification in the System Statement.

- The infrastructure elements of the plan will indicate that the Township will not request bringing regional sewer service directly to the Town, and will request that the LTSSA be removed from Township maps.

- The Township does not need to provide land use areas for higher-density development on its proposed 2040 land use map.

- If uses are proposed within the Township that would use sewer services from adjacent communities in the future, the Township would request a Comprehensive Plan Amendment to update the land use map at that time, to show those uses and their land use classification. If the Township requests an amendment for sewer service for commercial or industrial uses, it will be responsible for identifying areas for higher housing densities (3 units/acre minimum) in its Land Use Plan. The community providing sewer service to the Town would also need to amend their comprehensive sewer plan to reflect this cross-jurisdictional service.

Board and Planning Commission members thanked the Council staff for attending the meeting, clarifying issues related to the LTSSA and land use classifications, and providing helpful information for moving forward with the 2040 Comprehensive Plan.

3. Future Meetings

- The next meeting to discuss the 2040 Comprehensive Plan is scheduled on May 4 from 6:30 to 8:30 p.m.
- Future meetings will be held on June 1 and September 7 (no meetings during July and August
- Additional meeting dates are October 5, November 2, and December 7.
January 4, 2016

Mr. Ryan Garcia, Sector Representative
Metropolitan Council
390 Robert Street North
Saint Paul, MN 55101-1805

Re: Baytown Township System Statement
2040 Comprehensive Plan Update
Request for Changes

Dear Mr. Garcia:

Baytown Township sent a request to you via email on November 3, 2015 to change the
Community Designation for the Township in the 2015 System Statement. The current System
Statement classifies the central portion of the Township as Diversified Rural, and the remainder
as Rural Residential. The Township requested that the entire Township be classified Rural
Residential.

The Township’s request was reviewed by the MCES staff. In order to change the classification,
the Council’s Long-Term Sewer System Area (LTSSA) would need to be eliminated within the
Township. The Township received a letter from Bryce Pickart on December 21, 2015 that noted
that the Council does not anticipate expansion of the St. Croix Valley Wastewater Treatment
plan, and that no interceptor system capacity has been built for the Township. The letter
indicated that based on these findings, the Township may request that the 2015 System
Statement be revised to eliminate the LTSSA.

The Town Board hereby requests that the 2015 System Statement that the Township will use to
develop its 2040 Comprehensive Plan Update be revised as follows:

- To eliminate the LTSSA within the Township current geographic boundary
- To change the Community Designation for the entire Township to Rural Residential

The Township understands that by eliminating the LTSSA within the Township it will have
virtually eliminated the possibility for future regional wastewater services within the Township.
The change fits the Township’s vision for the future, and the Land Use Plan and Zoning Map
adopted after the approval of its 2030 Comprehensive Plan.

The Township and Council discussed the issues regarding the LTSSA and land use designations
in the Township extensively during the development of the 2030 Comprehensive Plan. Council
staff referenced a proposed study of the St. Croix Valley Wastewater Treatment Plant in 2009
Ryan Garcia  
Metropolitan Council  
Baytown Township 2015 System Statement  
January 4, 2016  
Page 2

(letter attached), and noted that once the study was completed (2012), the Township may request that the Council consider designating this portion of the community as Rural Residential rather than Diversified Rural. The Council’s recent letter (December 21, 2015) indicates that the study is complete, and that the Township may now request the changes to the System Statement.

The Township expects to begin work on its 2040 Comprehensive Plan update in early 2016, and requests that the Council revise the 2015 System Statement as soon as possible so that this work may begin.

If you have questions about the Township’s request, please contact Sherri Buss, the Township’s Planner, at 651.292.4582 or sherri.buss@tkda.com.

Sincerely,

Kent Grandlienard  
Town Board Chair

Cc: Bryce Pickart, Kyle Colvin, MCES  
Town Board members  
Kim Zitzmann, Township Clerk  
David Magnuson, Township Attorney
December 21, 2015

Kim Zitzmann
Township Clerk
Baytown Township
4020 McDonald Dr.
Stillwater, MN  55082

RE: Request for Town System Statement Revision
    Long Term Sewer Service Area

Dear Ms. Zitzmann:

The Metropolitan Council is in receipt of an email from the Town’s Planner, Ms. Sherri Buss, which summarized a conversation that she and Council staff person Kyle Colvin had during a conference the week of November 19. The email repeated the Town’s request for an official revision to its 2015 System Statement. The email correctly cites conditions that the Council considered in entertaining the Town’s request to eliminate the Long Term Sewer Service Area (LTSSA) from the Town’s comprehensive plan. Those considerations include:

1. Uncertainty in future regulatory requirements at the St. Croix Valley Wastewater Treatment Plant (WWTP) and the impact on future reserve capacity availability.
2. Impact on future treatment plant expansions as a result of the new Highway 36 St. Croix River Bridge and;
3. No specific interceptor system capacity has been built for the Township.

Ms. Buss’s email correctly states that the Council does not anticipate any major capacity expansions at the WWTP within the plan period (2040). However, by eliminating land development controls within the Township that make future residential development at densities of 3 units per acre a possibility, the Township will have virtually eliminated any possible chance for future regional wastewater services.

This includes any future regional wastewater service for residential and/or commercial development within the Township.

If upon further written confirmation the Township still wishes to request that its System Statement be revised to eliminate the LTSSA, the Council will revise the System Statement accordingly.
If you have any questions or require any additional information, please don’t hesitate to contact Kyle Colvin at 651-602-1151

Sincerely,

[Bryce J. Pickart]

Bryce Pickart
Assistant General Manager, Technical Services Department

Enclosure

C: Kyle L. Colvin, Assistant Manager, Engineering Services
   Ryan Garcia, Metropolitan Council Sector Representative
   Sherri Buss, Township Planner, TKDA
Kent and Dave,

I talked with Kyle Colvin of the MCES staff last week at a conference about the long-term sewer service area issue for the 2040 Comp Plan update. Kyle said that the MCES staff have discussed the issue based on our comments about the 2015 System Statement, and came to the following conclusions:

- MCES staff have looked at the potential for expanding the St. Croix Valley Wastewater Treatment Plant, and do not believe that the plant will be expanded to provide service to additional areas during the time that the plan will cover.
- Therefore the long-term wastewater system area can be removed from the text and maps in the 2015 System Statement for Baytown, and the Statement can be revised to reflect the new conclusions.
- We should include a discussion of the issue in the Land Use section of the plan.

It’s my understanding that as a result of the MCES conclusions, the Metro Council’s System Statement for Baytown will be revised (Wastewater section, page 22) to take the references to the long-term wastewater service area, and the land use section (page 3) should be revised to put the whole Township in the Rural Residential Community Designation.

When we receive the revised 2015 System Statement, the Town will be able to start the 2040 Plan update anytime the Board wants to begin.

(Kyle, if I left out anything, let us know.)

Thanks, Sherri
CHAPTER ELEVEN

STORMWATER MANAGEMENT, EROSION, AND SEDIMENT CONTROL

1.1 Authorization, Purpose, Scope, and Interpretation

(1) Statutory authorization

(A) This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes §§ 103B, 103D, and 462; Minnesota Rules, Parts 6120.2500-6120.3900; and Minnesota Rules Chapters 8410 and 8420.

(B) This ordinance is intended to meet the construction site erosion and sediment control and post-construction stormwater management regulatory requirements for construction activity and small construction activity (NPDES Permit) as defined in 40 CFR 122.26(b)(14)(x) and (b)(15), respectively.

(C) This ordinance is intended to meet the Minimal Impact Design Standards (MIDS) developed under Minnesota Statutes § 115.03 subd. 5c.

(2) Purpose

(A) The purpose of this ordinance is to establish regulatory requirements for land development and land disturbing activities aimed at minimizing the threats to public health, safety, public and private property and natural resources within the Town from construction site erosion and post-construction stormwater runoff. Scope

(B) Land shall not be developed for any use without providing stormwater management measures and erosion and sediment control measures that control or manage stormwater runoff from such developments.

(3) Greater restrictions

(A) Relationship to WD/WMO Requirements - All stormwater management and erosion and sediment control activities shall comply with all applicable requirements of the relevant Watershed Management Organization or Watershed District. In the case of conflict between provisions of this ordinance and other stormwater regulations, the strictest provisions shall apply to land development and/or land disturbing activities.

1.2 Applicability

(1) Stormwater management permit

(A) Unless otherwise exempted by Section 3, an approved Stormwater Management Permit shall be required prior to any proposed land development activity that meets any of the criteria in 1. through 5. immediately below. All stormwater management permits shall include an Erosion and Sediment Control Plan (ESC Plan) or a Stormwater Pollution Prevention Plan (SWPPP)

1. Any project that creates or fully reconstruct 6,000 square feet or more of impervious surface.

2. All major subdivisions or minor subdivisions that are part of a common plan of development.

3. Projects within the St. Croix Riverway that add 500 square feet or greater of additional impervious surface.
4. Any project requiring a variance from the current local impervious surface zoning requirements for the property.

5. Any land development activity, regardless of size, that the Town determines is likely to cause an adverse impact to an environmentally sensitive area or other property.

(2) Erosion and sediment control plan

(A) Unless otherwise exempted by this ordinance in Section 3, an Erosion and Sediment Control Plan shall be required as part of any Grading and Filling Permit or Building Permit which proposes any land disturbing activity that meets any of the criteria in 1. through 3. below.

1. Any project undertaking grading, filling, or other land alteration activities which involve movement of 100 cubic yards of earth or removal of vegetation on greater than 10,000 square feet of land.

2. Any project with wetland impacts, grading within public waters, grading within buffers or within 40-feet of the bluff line.

3. A land disturbing activity, regardless of size, that the Town determines is likely to cause an adverse impact to an environmentally sensitive area or other property, or may violate any other erosion and sediment control standard set forth in this ordinance.

(3) Buffers

(A) A buffer of unmowed natural vegetation shall be required upslope of wetlands, lakes and streams prior to the approval of any proposed land development requiring a subdivision, lot split, rezoning, special use permit or variance, unless otherwise exempted in this ordinance in Section 3.

1.3 Exemptions

(1) The following activities shall be exempt from all of the requirements of this ordinance:

(A) Emergency work necessary to protect life, limb, or property.

(B) Routine agricultural activity such as tilling, planting, harvesting, and associated activities. Other agricultural activities are not exempt including activities such as construction of structures.

(C) Silvicultural/forestry activity.

1.4 Definitions

(2) Best Management Practices (BMPs). The most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

(3) Common Plan of Development or Sale. A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
(4) Development, New. Any development that results in the conversion of land that is currently prairie, agriculture, forest, or meadow and has less than 15% impervious surface. Land that was previously developed, but now razed and vacant, will not be considered new development.

(5) Erosion and Sediment Control Plan (ESC Plan). A plan for projects disturbing less than one acre that is in compliance with the minimum requirements of the MSCWMO and VBWD. The plan identifies erosion prevention and sediment control practices, location and timelines for installation. The plan also includes responsible parties and timelines for inspection and maintenance.

(6) Fully Reconstructed Impervious Surface. Areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and pavement rehabilitation projects that do not alter underlying soil material beneath the structure, pavement, or activity are not considered fully reconstructed impervious surfaces. Reusing the entire existing building foundation and re-roofing of an existing building are not considered fully reconstructed.

(7) Linear Project. Construction or reconstruction of roads, trails, sidewalks, and rail lines that are not part of a common plan of development or sale. Mill, overlay and other resurfacing projects are not considered to be reconstruction.

(8) Major Subdivision. All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of an existing street.

(9) Minor Subdivision. Any subdivision containing three (3) or less lots fronting on an existing street, not part of a common plan of development nor involving any new street or road or the extension of municipal facilities.

(10) St. Croix Riverway. All lands and public waters within the riverway boundary subject to the standards and criteria for the Lower Saint Croix National Scenic Riverway in Minnesota.

1.5 Site Design and MIDS Calculator

(1) MIDS calculator

(A) Final site design and choice of permanent stormwater volume reduction practices shall be based on outcomes of the MIDS Calculator (or other model that shows the performance goal can be met) and shall meet the performance goals in section 6 of this ordinance.

(2) Buffer requirement

(A) Buffer locations and widths must comply with the State of Minnesota, Minnesota Pollution Control Agency, and Middle St. Croix Watershed Management Organization or Valley Branch Watershed District standards.

1.6 Stormwater Volume Reduction Performance Standards

(1) Any applicant for a Stormwater Management Permit as defined in Section 2 of this ordinance must meet all of the following performance standards:

(A) New development volume control: For new, nonlinear developments on sites without restrictions, stormwater runoff volumes will be controlled and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from all impervious surfaces on the site.
(B) Redevelopment volume control: Nonlinear redevelopment projects on sites without restrictions that create or fully reconstruct impervious surfaces shall capture and retain on site 1.1 inches of runoff from the new and/or fully reconstructed impervious surfaces.

(C) Linear development volume control: Linear projects on sites without restrictions that create new and/or fully reconstructed impervious surfaces, shall capture and retain the larger of the following:

1. 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the site
2. 1.1 inches of runoff from the net increase in impervious area on the site.

Mill and overlay and other resurfacing activities are not considered fully reconstructed.

(2) Flexible treatment alternatives for sites with restrictions

(A) Applicant shall attempt to comply fully with the appropriate performance standards described above. Alternatives considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site. If full compliance is not possible due to any of the factors listed below, the applicant must document the reason. If site constraints or restrictions limit the full treatment goal, the following flexible treatment alternatives shall be used:

Applicant shall document the flexible treatment alternatives sequence starting with Alternative #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed. Applicants must document the specific reasons why Alternative #1 cannot be met based on the factors listed below. If Alternative #2 cannot be met then Alternative #3 shall be met. Applicants must document the specific reasons why Alternative #2 cannot be met based on the factors listed below. When all of the conditions are fulfilled within an alternative, this sequence is completed.

Volume reduction techniques considered shall include infiltration, reuse & rainwater harvesting, and canopy interception & evapotranspiration and/or additional techniques included in the MIDS calculator and the Minnesota Stormwater Manual.

Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.

Factors to be considered for each alternative will include:

1. Karst geology
2. Shallow bedrock
3. High groundwater
4. Hotspots or contaminated soils
5. Drinking Water Source Management Areas or within 200 feet of drinking water well
6. Zoning, setbacks or other land use requirements
7. Poor soils (infiltration rates that are too low or too high, problematic urban soils)

(B) Alternative #1: Applicant attempts to comply with the following conditions:

1. Achieve at least 0.55” volume reduction from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment or linear development site.
2. Remove 75% of the annual TP load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.

3. Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.

(C) Alternative #2: Applicant attempts to comply with the following conditions:
1. Achieve volume reduction to the maximum extent practicable.
2. Remove 60% of the annual TP load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.
3. Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.

(D) Alternative #3: Off-site Treatment. Mitigation equivalent to the performance of 1.1 inches of volume reduction for new development, linear development or redevelopment as described above in this section, (including banking or cash) can be performed off-site to protect the receiving water body. Off-site treatment shall be achieved in areas selected in the following order of preference:
1. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
2. Locations within the same Department of Natural Resource (DNR) catchment area (Hydrologic Unit 08) as the original construction activity.
3. Locations within the next adjacent DNR catchment area upstream.
4. Locations anywhere within the Town’s jurisdiction.
5. The MIDS Design Sequence Flowchart can be found in the Minnesota Stormwater Manual

1.7 Stormwater Management Rate Control
(1) For new development, redevelopment and linear development sites the site design shall provide on-site treatment during construction and post-construction to ensure no increase from existing conditions in offsite peak discharge for the 1-year, 2-year, 10- year, and 100-year, 24-hour storm events based on the standards defined by the MSCWMO or VBWD. For single family residential building lots not part of a common plan of development site rate control requirements do not apply.

1.8 Other Design Standards
(1) Minnesota Stormwater Manual: All volume control for water quality and quantity and site design specifications shall conform to the current version of the Minnesota Stormwater Manual.

1.9 Inspections and Maintenance
(1) Fees
   (A) Fees will be applied per Town Fee Schedule
(2) Enforcement tools/stop work orders

1 Available at http://stormwater.pca.state.mn.us/index.php/Flexible_treatment_options
(A) The Town reserves the right to issue construction stop work orders when cooperation with inspections is withheld or when a violation has been identified that needs immediate attention to protect human health and/or the environment.

1. Construction stop work order: The Town may issue construction stop work orders until stormwater management measures meet specifications and the applicant repairs any damage caused by stormwater runoff. An inspection by the Town must follow before the construction project work can resume.

2. Other actions to ensure compliance: The Town can take any combination of the following actions in the event of a failure by applicant to meet the terms of this ordinance:
   a. Withhold inspections or issuance of certificates or approvals.
   b. Revoke any permit issued by the Town to the applicant.
   c. Conduct remedial or corrective action on the development site or adjacent site affected by the failure.
   d. Charge applicant for all costs associated with correcting the failure or remediating damage from the failure; if payment is not made within thirty days, payment will be made from the applicant’s financial securities.
   e. Bring other actions against the applicant to recover costs of remediation or meeting the terms of this ordinance.
   f. Any person, firm or corporation failing to comply with or violating any of these regulation, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. Each day that a separate violation exists shall constitute a separate offense.

(3) Long term inspection and maintenance of stormwater facilities

(A) Private stormwater facilities
   1. Maintenance Plan Required: No private stormwater facilities may be approved unless a maintenance agreement is provided that defines who will conduct the maintenance, the type of maintenance necessary to ensure effective performance, and the maintenance intervals. All private stormwater facilities shall be inspected by the property owner and maintained in proper condition by the owner consistent with the performance goals for which they were originally designed.

   2. Facility Access: The applicant shall obtain all necessary easements or other property interests to allow access to the facilities for inspection or maintenance for both the responsible party and the Town or authorized representative.

(B) Public stormwater facilities
   1. Acceptance of Publicly Owned Facilities: Before work under the permit is deemed complete; the permittee must submit as-buils and a Maintenance Plan demonstrating at the time of final stabilization that the stormwater facilities conform to design specifications. A final inspection shall be required before the Town accepts ownership of the stormwater facilities.

1.10 Financial Securities

(1) Amount
(A) At the discretion of the Town, the Town may require a Financial Security from the Applicant in an amount sufficient to cover the entirety of the estimated costs of permitted and remedial work based on the final design as established in a set financial security schedule determined by the Town.

(2) Release

(A) The Financial Security shall not be released until all permitted and remedial work is completed.

(3) Use by Town

(A) The Financial Security may be used by the Town to complete work not completed by the Applicant.

(4) Form of security

(A) The form of the Financial Security shall be one or a combination of the following to be determined by the Town:

1. Cash deposit - A Financial Security for erosion and sediment control, as determined by the Town, shall be by cash deposit to the Town. The cash will be held by Town in a separate account.

2. Security deposit - Deposit, either with the Town, a responsible escrow agent, or trust company, at the option of the Town, either:
   a. An irrevocable letter of credit, negotiable bonds of the kind approved for securing deposits of public money, or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges funds are on deposit and guaranteed for payment.
   b. Cash in U.S. currency.
   c. Other forms and securities (e.g., disbursing agreement) as approved by the Town.

(5) Town indemnity

(A) This Financial Security shall hold the Town free and harmless from all suits or claims for damages resulting from the negligent grading, removal, placement or storage of rock, sand, gravel, soil or other like material within the Town.

(6) Maintaining the financial security

(A) If at any time during the course of the work the balance of the Financial Security falls below 50% of the total required deposit, the Applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the Applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the Town that the amount has fallen below 50% of the required amount the Town may:

1. Withhold inspections - Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.

2. Revoke permits - Revoke any permit issued by the Town to the Applicant for the site in question or any other of the Applicant’s sites within the Town’s jurisdiction.

(7) Action against the financial security
(A) The Town may access the Financial Security for remediation actions if any of the conditions listed below exist. The Town shall use the Financial Security to pay for remedial work undertaken by the Town, or a private contractor under contract with the Town, or to reimburse the Town for all costs incurred in the process of remedial work including, but not limited to, staff time and attorney’s fees.

1. Abandonment - The Applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
2. Failure to implement the SWPPP or ESC Plan - The Applicant fails to conform to the grading plan and/or the SWPPP as approved by the Town.
3. Failure to perform - The BMPs utilized on the project fail within one year of installation.
4. Failure to reimburse Town - The Applicant fails to reimburse the Town for corrective action taken.

1) Proportional reduction of the financial security

(A) When more than one-third of the applicant’s maximum exposed soil area achieves final stabilization, the Town can reduce the total required amount of the financial security by one-third. When more than two-thirds of the applicant’s maximum exposed soil area achieves final stabilization, the Town can reduce the total required amount of the financial security to two-thirds of the initial amount. This reduction in financial security will be determined by the Town.

1) Returning the financial security

(A) The security deposited with the Town for faithful performance of the SWPPP or the ESC Plan and any related remedial work shall be released one full year after the completion of the installation of all stormwater pollution control measures, including vegetation establishment, as shown on the SWPPP or ESC Plan.

1) Emergency action

(A) If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the Town, the Town may take emergency preventative action. The Town shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the Town for emergency action may be recovered from the applicant’s financial security.

### 1.11 Enforcement Actions

(1) Notification of Failure of the Permit: The Town shall notify the permit holder of the failure of the permit’s measures.

(A) Initial Contact - The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, forty-eight (48) hours after notification by the Town or seventy-two (72) hours after the failure of erosion and sediment control measures, whichever is less, the Town at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the Town has been unable to establish contact, the Town may proceed with corrective work. There are conditions when time is of the essence in controlling erosion. During such a condition the Town may take immediate action, and then notify the applicant as soon as possible.
(B) Erosion Off-site - If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the Town, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the Town, the permit holder does not repair the damage caused by the erosion, the Town may do the remedial work required. When restoration to wetlands and other resources are required, the applicant shall be required to work with the appropriate agencies to ensure that the work is done properly.

(C) Erosion into Streets, Wetlands or Water Bodies - If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

(D) Failure to do Corrective Work - When an applicant fails to conform to any provision of this policy within the time stipulated, the Town may take the following actions.

1. Stop Work Order - Issue a stop work order, withhold the scheduling of inspections, and/or withhold the issuance of a Certificate of Occupancy.

2. Permit Revocation - Revoke any permit issued by the Town to the applicant for the site in question or any other of the applicant’s sites within the Town’s jurisdiction.

3. Correction by Town - Correct the deficiency or hire a contractor to correct the deficiency.
   a. The applicant will be required to reimburse the Town for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within thirty (30) days after costs are incurred by the Town, payment will be made from the applicant’s financial securities as described in Section 8 above.
   b. If there is an insufficient financial amount in the applicant’s financial securities as described in Section 8 above, the Town may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the Town, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of assessment.

(2) Misdemeanor. Any person, firm or corporation failing to comply with, or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both.

(A) All land use and building permits may be suspended until the applicant has corrected the violation.

(B) Each day that a separate violation exists shall constitute a separate offense.
AGREEMENT BETWEEN DEVELOPERS
AND CITY OF BAYPORT
REGARDING THE EXTENSION OF WATER SERVICE
TO THE TOWN OF BAYTOWN

Return to:

ECKBERG, LAMMERS, BRIGGS,
WOLFF & VIERLING, P.L.L.P. (LLD)
Suite 110
1809 Northwestern Avenue
Stillwater, Minnesota 55082

$46.00
AGREEMENT

THIS AGREEMENT, made this 3rd day of October, 2005, between the CITY OF BAYPORT, Washington County, Minnesota, a municipal corporation organized under the laws of Minnesota ("City"), AUDUBON INVESTMENTS, LLC, a Minnesota limited liability company, 118 South Main Street, Stillwater, Minnesota ("Audubon"), CONTRACTOR PROPERTY DEVELOPERS COMPANY, a Minnesota corporation, 3030 Centre Pointe Drive, Suite 800, Roseville, Minnesota 55113 ("Inspiration"), DCCI LAND PLANNERS, INC., a Wisconsin Corporation, 1505 Highway 65, P.O. Box 445, New Richmond, WI 54017-0445 ("Miller Farms"), and JON WESLEY INVESTMENTS, INC., a Minnesota corporation, 275 South Third Street, Suite 302, Stillwater, Minnesota 55082 ("Wesley’s Bay Ridge"), collectively (the "Developers").

RECITALS

1. On August 1, 2005, the City approved a feasibility study for water main improvements to serve the Inspiration Development in the City of Bayport and the extension of the water service ("Water System") to the Developers properties within the Town of Baytown ("Town").

2. The Developers have requested that the City order some of the improvements to the Water System (booster station, ground storage and in-ground booster pump) as set forth in the feasibility study and that the City prepare its final plans, advertise for bids and enter into contracts for the construction of the such improvements estimated by the feasibility study to have projects costs of $1,385,175. The remaining improvement required to complete the Water System (including 12" water mains) will be designed and constructed privately by the Developers. Such improvements are estimated by the feasibility study to have projects costs of...
$437,374. The total project costs estimated by the feasibility study for the booster station, 12" water mains, ground storage and in-ground booster pump plus improvements made by the Developers ("Improvements") are $1,822,549.

3. In furtherance of their request to have the Improvements constructed, the Developers will pay the costs ("Costs") incurred by themselves, the City and the Town in connection with the Improvements including, but not limited to, any legal, planning, engineering, inspection or construction, based upon formula and allocations in the table below. Developers shall submit invoices for the portion of the Water System privately designed and constructed by the Developers to the City for payment within thirty (30) days out of the cash deposit ("Deposit") the Developers pay to the City pursuant to Paragraph Five of this Agreement.

BASIS FOR ALLOCATION OF COSTS

<table>
<thead>
<tr>
<th>DEVELOPER</th>
<th>COSTS (Initial Share)</th>
<th>BENEFITED AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspiration</td>
<td>$1,345,420(^1)</td>
<td>Developable lots – 328</td>
</tr>
<tr>
<td>Miller Farms</td>
<td>$285,347(^2)</td>
<td>Developable lots – 79</td>
</tr>
<tr>
<td>Audubon</td>
<td>$144,585(^3)</td>
<td>Developable lots - 40</td>
</tr>
<tr>
<td>Wesley’s Bay Ridge</td>
<td>$47,197(^4)</td>
<td>Developable lots – 13</td>
</tr>
<tr>
<td>Totals</td>
<td>$1,822,549</td>
<td>Developable lots – 460</td>
</tr>
</tbody>
</table>

\(^1\) Includes costs of Enhanced Booster Building, $59,455, and In-ground Booster Pump, $101,200, does not include Bayport area charges previously paid or Bayport connection charges of $1,000 per unit and meter charge of $200 per unit in 2005.

\(^2\) Does not include Bayport Trunk Water Main charges of $114,238 or Bayport connection charges of $1,000 per unit or meter charge of $200 per unit in 2005.

\(^3\) Does not include Bayport Trunk Water Main charges of $70,704 or Bayport connection charges of $1,000 per unit or meter charge of $200 per unit in 2005.

\(^4\) Does not include Bayport Trunk Water Main charges of $13,872, or Bayport connection charges of $1,000 per unit or meter charge of $200 per unit in 2005.
4. Although Developers will pay 100% of the Costs, approximately 277 lots within the Town of Baytown are expected to eventually connect to the Improvements. These connections ("Outside Agreement Connections") represent 37.58% of the Costs ("Outside Agreement Costs").

5. For the payment of the Costs, each Developer, upon execution of this Agreement, will provide the City with a Deposit equal to their share ("Initial Share"). If Improvement costs exceed the Deposit, additional amounts using the same percentage allocation will be billed to each Developer and must be paid to the City within ten (10) days to allow payment by the City of any costs in excess of the amounts on deposit ("Excess Costs").

6. The Developers will pay the Initial Share by October 7, 2005. If the Initial Share is not paid by that time, or if amounts of Excess Costs are not paid to the City within ten (10) days after notice, the City may stop all work on any of the Improvements until all Initial Shares or Excess Costs are paid in full.

7. As Outside Agreement Connections are made to the Improvements, an Outside Agreement connection charge of $2,472.62, in addition to the regular City water connection charges, will be collected by the City and divided among the Developers pro rata based upon the formula in the table below. The City shall make required payments to the Developers at a minimum of once per quarter. If the benefited area in a development changes because the number of developable lots in the development change with final plat approval, the Developers have the right to provide the City with an updated formula to use for allocation of the Outside Agreement Connection charges returned to the Developers. The updated formula must be approved in writing by all parties to be effective. The Crotty property, which is described on the attached Exhibit A and is the location for the water storage facilities relating to the Water
System, is not subject to the Outside Agreement Connections and the owners of the Crotty property will not be required to make the $2,472.62 Outside Agreement Connections when connecting to the Water System.

**BASIS FOR ALLOCATION OF OUTSIDE AGREEMENT CONNECTION CHARGES**

<table>
<thead>
<tr>
<th>DEVELOPER</th>
<th>SHARE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspiration</td>
<td>71.29%</td>
</tr>
<tr>
<td>Miller Farms</td>
<td>17.17%</td>
</tr>
<tr>
<td>Audubon</td>
<td>8.70%</td>
</tr>
<tr>
<td>Wesley’s Bay Ridge</td>
<td>2.84%</td>
</tr>
</tbody>
</table>

8. The connection charges established in this Agreement are based upon available information and will be effective until adjusted, as new information becomes available, but at least annually to reflect interest that will accrue at a rate based upon increases in the construction index after the effective date of this Agreement.

9. All interest that accrues on any sums on Deposit with the City pursuant to this Agreement will remain property of the City.

10. The City’s obligation to pay Outside Agreement Costs to Developers ceases ten (10) years from the date of this Agreement because of the uncertainty of future projects and changes in land ownership that may present conflicting claims to any payment. Any Outside Agreement Costs collected after ten (10) years from the date of this Agreement will become property of the City.

11. The Developers hereby hold the City and its officers and employees harmless from claims made by it and third parties for damages sustained or costs incurred resulting from these studies. The Developers also agree to indemnify the City and its officers and employees
for all costs, damages, or expenses which the City may pay or incur in consequence of any such claims including reasonable attorney's fees.

12. Nothing in this Agreement or the payment of money to the City by the Developers pursuant to this Agreement will be deemed approval of any development request or approval that might otherwise be needed by the Developers as part of any City development review requirement.

13. The instrument may be executed in counterparts and will become final and binding as one instrument when all of the parties have signed a copy.

14. This Agreement will terminate, unless terminated earlier by mutual agreement of all parties, ten (10) years from the date of this Agreement.

15. This Agreement sets forth all the promises, agreements, conditions and understandings between the parties, and there are no promises, agreements, conditions, or understandings, either oral or written, expressed or implied, between them other than are herein set forth. Except as herein otherwise provided, no subsequent alterations, amendments, changes or additions to this Agreement shall be binding upon the parties unless reduced to writing and signed by all parties.

16. This Agreement is made by and between the parties hereto and they may not delegate any duty or responsibility arising under this Agreement without the express written consent of the other party.

17. If any provision of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
18. This Agreement shall be at all times governed and construed in accordance with the laws of the State of Minnesota.

19. IN WITNESS WHEREOF, the parties have set their hand this 16 day of November, 2005.

CITY OF BAYPORT

[Signature]

By: Rick Schneider
Its: Mayor

ATTEST:

[Signature]

By: Michael McGuire
Its: Administrator

DEVELOPERS:

AUDUBON INVESTMENTS, LLC,
a Minnesota limited liability company

[Signature]

By:
Its: 

CONTRACTOR PROPERTY
DEVELOPERS COMPANY,
a Minnesota corporation

[Signature]

By:
Its: 

- 6 -
DCCI LAND PLANNERS, INC.,
a Wisconsin Corporation

By:  

Its:  President

JON WESLEY INVESTMENTS, INC.,
a Minnesota corporation

By:  

Its:  President

STATE OF MINNESOTA   )
COUNTY OF WASHINGTON ) ss

SARA ANN DIETSCHE
Notary Public
Minneapolis
My Commission Expires January 31, 2011

Subscribed and sworn to before me this 16TH day of NOVEMBER, 2005, by Rick Schneider and Michael McGuire, respectively the Mayor and Administrator of the CITY OF BAYPORT, a Minnesota municipal corporation, on behalf of the City.

Sara Ann Diet sche
Notary Public

STATE OF MINNESOTA   )
COUNTY OF WASHINGTON ) ss

TODD A. ERICKSON
Notary Public
Minneapolis
My Commission Expires Jan. 31, 2009

Subscribed and sworn to before me this 5TH day of OCTOBER, 2005, by MICHAEL J. LYNEGER, the MEMBER, AUDUBON INVESTMENTS, LLC, a Minnesota limited liability company, on behalf of the company.

Todd A. Erickson
Notary Public
STATE OF MINNESOTA

COUNTY OF WASHINGTON

Subscribed and sworn to before me this 6th day of OCTOBER, 2005, by ROYAL L. DESSICK, the PRESIDENT, DCCI LAND PLANNERS, INC., a Wisconsin Corporation, on behalf of the corporation.

Notary Public

STATE OF MINNESOTA

COUNTY OF WASHINGTON

Subscribed and sworn to before me this 9th day of NOVEMBER, 2005, by J. MICHAEL WOLDO, the VICE PRESIDENT, CONTRACTOR PROPERTY DEVELOPERS COMPANY, a Minnesota corporation, on behalf of the corporation.

Notary Public

STATE OF MINNESOTA

COUNTY OF WASHINGTON

Subscribed and sworn to before me this 20th day of OCTOBER, 2005, by JONATHAN WHITCOMBE, the PRESIDENT, JON WESLEY INVESTMENTS, INC., a Minnesota corporation, on behalf of the corporation.

Notary Public

This Instrument Drafted By:

David T. Magnuson
Magnuson Law Firm
333 North Main Street, Suite 202
Stillwater, MN 55082
651-439-9464 main
651-439-5641 fax
Exhibit A

Legal Description of Crotty Property

The Northwest Quarter of Southeast Quarter (NW¼ of SE¼) of Section Sixteen (16), Township Twenty-nine (29), Range Twenty (20).

AND

East Half of the West Half of Northeast Quarter (E½ of W½ of NE¼) except the North Nine Hundred Ninety (990) feet of the North Half of the East Half of the West Half of Northeast Quarter (N½ of E½ of W½ of NE¼), all in Section Sixteen (16), Township Twenty-nine (29), Range Twenty (20).
JOINT POWERS AGREEMENT

This Joint Powers Agreement ("Agreement") is made and entered into this 3rd day of October, 2005, by and between the City of Bayport, Washington County, Minnesota (hereinafter referred to as "Bayport") and the Town of Baytown, Washington County, Minnesota (hereinafter referred to as "Baytown").

RECITALS

Bayport has agreed to extend municipal water mains, laterals, water storage facilities and related water services ("Water Service") to properties located within Baytown to developments known as Audubon, Miller Farms, Wesley's Bay Ridge and potentially others (collectively the "Development") because Baytown does not possess the ability to serve the property with a water system. The legal descriptions of the property to which this Agreement pertains is attached as Exhibit "A".

Bayport and Baytown are working closely with Jon Wesley Investments, Inc. developing Wesley's Bay Ridge, William Derrick of DCCI Investments, LLC developing Miller Farms and MBM Developers, LLC developing Audubon (collectively the "Baytown Developers") and Contractor Property Developers Company ("CPDC") developing Inspiration, a Conservation Development in Bayport, to design and construct the Water Service. There are related Development Agreements which further clarify and explain the obligations of the Baytown Developers and CPDC to Bayport and Baytown.

Bayport and Baytown desire to enter into a cooperative agreement to allow the construction of the Water Service that will serve the Development in Baytown, provide for reasonable compensation to Bayport and insure that Baytown, and Baytown property owners
served by the Water Service, comply with the rules and regulations established by Bayport for control and management of the Water Service.

The parties also desire to implement a procedure whereby the communities can respectively coordinate the connections with the Water Service and charges for water use and system repair in a manner which preserves their respective interests.

Minnesota Statutes Section 471.59 authorizes two (2) or more governmental units by agreement of their governing bodies jointly and cooperatively to exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they are exercised.

The parties hereto desire to set forth the respective rights and obligations of the parties to this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. **Design, Construction and Financing.** The Water Service within the Development will be financed and constructed by the Baytown Developers and CPDC. Bayport will design and build as a City project the water storage component of the Water Service in Baytown and booster station portion of the Water Service in Bayport. The Baytown Developers will design and build the other components of the Water Service, including but not limited to water mains and laterals; however, Bayport must review and approve any and all designs, plans and specifications before construction begins. Bayport will have the right to enter on the Development property to supervise and/or inspect the project throughout the construction process and thereafter for inspection, management, maintenance, repair and reconstruction purposes. Costs for construction of the Water Service will be paid by Baytown Developers and CPDC according to an agreement among themselves and Bayport.
2. **Escrow.** All applicable fees and costs incurred by Bayport and Baytown including, but not limited to, legal fees, recording fees, construction costs, document preparation, engineering fees and administrative expenses, shall be Baytown Developers and CPDCs responsibility. All costs and fees incurred by Bayport and Baytown in connection with this Water Service project shall be billed to Baytown Developers and CPDC to be paid out of the escrow fund the Baytown Developers and CPDC have deposited with Bayport.

3. **Dedication.** After the system is constructed and as each phase is accepted by Bayport and Baytown, the Water Service within Baytown will become the joint property of Baytown and Bayport. This Agreement is, upon the dedication to Baytown of any street or utility easement in which a part of the Water Service is located, an irrevocable, exclusive license granted by Baytown to Bayport for entry upon and access to any part of the Water Service for inspection, repair, construction or reconstruction of the Water Service. Baytown has no right to operate or interfere with Bayport’s management and operation of the Water Service and acknowledges control of the Water Service is vested exclusively with Bayport.

4. **Interface.** The connection between the existing Bayport water system and the Water Service will be made according to the approved plans and specifications and in general, according to the location indicated on the map attached as Exhibit "B".

5. **Connection Process and Charges.** Prior to connecting any residential or other property located in the Development, Baytown must notify the Public Works Department of Bayport and Bayport City Office of the pending connection providing all relevant data and information as may be requested. Additionally, the Public Works Department of Bayport must be provided the opportunity to supervise and inspect the connection on any property. Prior to connection to the Water Service, all properties owners must pay a connection fee, water
availability charges and/or any other applicable charges as are customary for all water hook-ups for Bayport residents and obtain a water meter from Bayport. Baytown Developers and CPDC must also pay trunk water main area charges to Bayport consistent with the current Bayport fee schedule. Payments for any and all charges must be made directly to the Bayport City Offices at 294 North Third Street, Bayport, Minnesota 55003. No connection charge and water availability charges will be paid to Baytown.

6. **Repair, Maintenance and Reconstruction.** The Water Service, including mains and laterals in Baytown, will be maintained, repaired and reconstructed when necessary exclusively by Bayport in accordance with the American Waterworks Association Standards for water mains. Charges for repair, maintenance and reconstruction will be spread against Baytown residents on the same basis and as applied with regard to Baytown residents and billed according to Section Seven (7).

Bayport will be responsible for the repair of any street or easement within Baytown that is opened or damaged by Water Service maintenance, repair or reconstruction. Standards for the repair of Baytown streets or easements opened or damaged will be the same as for streets or easements within Bayport when similar street openings or cuts are made in Bayport. No permit will be required for cuts or openings made in streets within Baytown to access the Water Service by Bayport.

Bayport shall not be liable at any time for deficiency or failure in the supply of water to Baytown residents whether the same be occasioned by shutting off water for repairs or connections to the Water Service or for any other cause.

7. **Compliance with the Water System Ordinance of Bayport and the Regulations of Public Works Department of Bayport.** All Baytown properties served by the
Water Service located in the Development must conform to the rules and regulations adopted for water use as well as use of the Water System by Bayport for Bayport residents. Baytown will adopt any ordinance that Bayport requires for protection of the Water Service that contains the same rules and regulations that regulate Bayport residents and the water system within Bayport.

8. **Billing.** Bayport will bill each property owner within Baytown connected to the Water Service quarterly for water usage charges and other charges. The amounts of all billings will be made pursuant to existing regulations as established for all Bayport residents according to Bayport’s regular and customary course of business and may be adjusted from time to time to comply with all adjustments on water rates otherwise charged to Bayport residents. In the event of any delinquency occurring in the payment of a water bill from any properties served by the Water Service in the Development, Baytown, upon notice of receipt of delinquency from the Bayport, will by or before September 15th of each year, certify for collection to Washington County with the County taxes, for the following year in the manner provided by statute. Upon remission of any payments by Washington County to Baytown, the same must be paid to Bayport within thirty (30) days of receipt.

9. **Improvements/Extensions.** After the initial construction process, improvements to and extensions of the Water Service will be conducted by the parties pursuant to Minn. Stat. § 429, et seq. If required, Baytown will hold improvement hearings, assessment hearings and spread the cost as an assessment against benefited properties within Baytown as provided by law. If assessments are collected by Baytown for obligations issued by Bayport for the costs of the improvement or extension, the same must then be paid to Bayport within thirty (30) days of receipt. The Water Service shall not be enlarged or extended without the written consent of Bayport and Baytown.
10. **Park Dedication Fees.** Baytown will forward fifty percent (50%) of the park dedication fee collected from each lot in the Development that is served by the Water Service to Bayport to be used for improvements to Barkers Alps Park or for other park projects in Bayport mutually acceptable to Bayport and Baytown.

11. **Amendments and Modifications.** This Agreement can only be amended or modified by writing signed by the parties.

12. **Termination.** Bayport and Baytown enter into this agreement based on assurances from the other party that this is an ongoing Water Service agreement, that there is not a specific termination date for this agreement and acknowledge that each party has relied on such assurances. Bayport and Baytown acknowledge that each party plays in integral part in the success of the Water Service, that neither party will terminate the agreement without express written consent of both parties and if the Water Service is terminated without such consent, the aggrieved party may secure its respective rights via injunctive relief in Washington County District Court.

13. **Cooperation.** Bayport and Baytown will cooperate in the enforcement and implementation of this agreement. To the extent that any additional agreements, easements, notices, resolutions or other commitments are required to be issued by either community to the State of Minnesota, the County of Washington or any other regulatory agency affecting matters raised within this agreement, both communities will cooperate to prepare and execute any documents that may be requested by an agency in a prompt manner.

14. **Non-Delegation.** This Agreement is made by and between the parties hereto and neither may delegate any duty or responsibility arising under this Agreement without the express written consent of the other party.
IN WITNESS WHEREOF, the parties have set forth their hands and seals this day first written above.

CITY OF BAYPORT

Rick Schneider, Mayor

Date

Michael McGuire, City Administrator

TOWN OF BAYTOWN

Kent Grandlienard, Chairperson

Date

Pauline Huonder, City Clerk

Date

STATE OF MINNESOTA )

) ss.

COUNTY OF WASHINGTON )

The foregoing instrument was acknowledged before me on the 31st day of October, 2005, by Rick Schneider and Michael McGuire, respectively the Mayor and Administrator for the City of Bayport.

NOTARIAL STAMP OR SEAL

Signature of Person Taking
STATE OF MINNESOTA       )
                        ) ss.
COUNTY OF WASHINGTON    )

The foregoing instrument was acknowledged before me on the 16th day of
October, 2005, by Kent Grandlienard and Pauline Huonder, respectively the
Chairperson and Clerk for the Town of Baytown.

This Instrument Drafted By:

David T. Magnuson
Magnuson Law Firm
333 North Main Street, Suite 202
Stillwater, MN  55082
651-439-9464 main
651-439-5641 fax
Crotty Property Legal Description

The Northwest Quarter of Southeast Quarter (NW¼ of SE¼) of Section Sixteen (16), Township Twenty-nine (29), Range Twenty (20).

AND

East Half of the West Half of Northeast Quarter (E½ of W½ of NE¼) except the North Nine Hundred Ninety (990) feet of the North Half of the East Half of the West Half of Northeast Quarter (N¼ of E½ of W½ of NE¼), all in Section Sixteen (16), Township Twenty-nine (29), Range Twenty (20).
TORRENS PROPERTY — Certificate of Title No. 57080

Commencing at a point on the westerly line the Southeast Quarter of the Northwest Quarter of said Section 15 distant 1142.625 feet (69 ¼ rods) southerly of the northwest corner thereof; running thence east on a line, hereinafter referred to as "Line A", parallel with the north line of said Section 15, a distance of 2351.13 feet, more or less, to the point of intersection with a northerly projection of the westerly line of the East 308.78 feet of the Northwest Quarter of the Southeast Quarter of said Section 15; said point of intersection being both the end of "Line A" and the point of beginning of the parcel being described; thence southerly, along said projected line, 179.87 feet, more or less, to the northerly line of said Northwest Quarter of the Southeast Quarter; thence southerly along said westerly line of the East 308.78 feet a distance of 857.00 feet; thence westerly and parallel with said northerly line of the Northwest Quarter of the Southeast Quarter 919.57 feet, more or less, to the easterly line of Washington County Highway Right of Way Plat No. 39, as surveyed and monumented, and on file and of record in Washington County records; thence northerly along said easterly line of Washington County Highway Right of Way Plat No. 39 to its intersection with the before described "Line A"; thence easterly, along said "Line A", 1073.18 feet, more or less, to the point of beginning.

Parcel contains 23.466 acres, more or less.

AND

Beginning at a point on the westerly line the Southeast Quarter of the Northwest Quarter of said Section 15 distant 1142.625 feet (69 ¼ rods) southerly of the northwest corner thereof; running thence east on a line parallel with the north line of said Section 1170.70 feet, more or less, to the intersection with the westerly line of Washington County Highway Right of Way Plat No. 39, as surveyed and monumented, and on file and of record in Washington County records; thence southerly along said westerly line to its intersection with the northerly line of the north 354.75 feet (21 ½ rods) of the Northwest Quarter of the Southeast Quarter of said Section 15; thence westerly along said northerly line and westerly along the northerly line of the north 354.75 feet (21 ½ rods) of the Northeast Quarter of the Southwest Quarter of said Section 15 a distance of 1345.45 feet, more or less, to the westerly line of said Northeast Quarter of the Southwest Quarter; thence northerly along said westerly line and northerly along said westerly line of the Southwest Quarter of the Northwest Quarter 1146.45 feet, more or less, to the point of beginning.

Parcel contains 33.312 acres, more or less.

Subject to and together with any other valid easements, reservations or restrictions

ABSTRACT

All that part of the North Sixty-Nine and One-Quarter (69 ¼) Rods of the SB ¼ of the NW ¼, lying West of the Public Highway running Northerly and Southerly across said tract; The SW ¼ of the NW; The NW ¼ of SW ¼; The SW ¼ of SW ¼; The West 1,013.02 feet of the SE ¼ of the SW ¼ lying South of VINCENT LANGE ADDITION, on file and of record in Washington County records; Subject to the right-of-way of 30th Street North; All in Section 15, Township 29 North, Range 20 West, Baytown Township, Washington County, Minnesota.

EXCEPTING THE FOLLOWING DESCRIBED PARCELS:

The SW ¼ of SW ¼ and all that part of the South 343.06 feet of the NW ¼ of the SW ¼ which lies westerly of the East 322.44 feet thereof and which lies northerly of the centerline of 30th Street North; The SW ¼ of SW ¼ and all that part of the South 313.06 feet of the NW ¼ of the SW ¼ which lies easterly of the west line of the East 297.44 feet thereof and which lies northerly of the centerline of 30th Street North; The West 765.52 of the SW ¼ of the SW ¼ which lies southerly of the centerline of 30th Street North; Subject to the right-of-way of 30th Street North; All in Section 15, Township 29 North, Range 20 West, Baytown Township, Washington County, Minnesota.

EXHIBIT A
Audubon Preliminary Plat Legal Description 9/8/05

Lot One, Block One, Weber-Kidds Addition, according to the plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota.

The Northeast Quarter of the Southeast Quarter (NE ¼ of SE ¼) of Section 16, Township Twenty-nine (29) North, Range Twenty (20) West, Washington County, Minnesota; and

The Southeast Quarter of the Northeast Quarter (SE 1/4 of NE ¼) of Section 16, Township Twenty-nine (29) North, Range Twenty (20) West, Washington County, Minnesota, excepting therefrom the following:

Lot One (1), Block One (1), Weber-Kidds and subject to 37th Street North; and

That part of the North Four and Fifty-four Hundredths (4.54) feet of the Southeast Quarter of the Northeast Quarter (SE 1/4 of NE ¼) of Section 16, in Township Twenty-nine (29), North, of Range Twenty (20) West, Washington County, Minnesota lying easterly of the following described line: Commencing at the northwest corner of said Southeast Quarter of the Northeast Quarter (SE 1/4 of NE ¼); thence North 89 degrees 07 minutes 56 seconds East, assumed bearing, along the north line of said Southeast Quarter of the Northeast Quarter (SE 1/4 of NE ¼) a distance of Seventy-five (75.00) feet to the point of beginning; then South 32 degrees 57 minutes 31 seconds East Five and Thirty-six Hundredths (5.36) feet to the south line of said North Four and Fifty-four Hundredths (4.54) feet of the Southeast Quarter of the Northeast Quarter (SE 1/4 of NE ¼) and said line there terminate.
WESLEY'S BAY RIDGE

LEGAL DESCRIPTION

Lots 1 through 6, Block 1; Lots 1 and 2, Block 2; Lots 1 and 2, Block 3; Lots 1, 2, and 3, Block 4; Outlot A and Outlot B, Wesley's Bay Ridge, according to the plat thereof on file and of record in the office of the County Recorder, Washington County, Minnesota.
ADDENDUM NO. 1
TO
JOINT POWERS AGREEMENT

This is Addendum No. 1 to the Joint Powers Agreement dated October 3, 2005, (the "Agreement") by and between the City of Bayport, Washington County, Minnesota ("Bayport") and the Town of Baytown, Washington County, Minnesota ("Baytown").

RECITALS

1. The subdivision of Emerald Falls, a residential subdivision within the Town of Baytown, has requested service from the City of Bayport water system ("Water Service") that has been extended into the Town of Baytown pursuant to the Agreement.

2. That Section 9 of the Agreement provides that after the initial construction of the Water Service, the Water Service may not be enlarged or extended without the written consent of Bayport and Baytown.

3. The purpose of this Addendum is to allow the Emerald Falls Development to connect to the Water Service subject to the following conditions:

   a. That the design of the Water Service within the Emerald Falls Development and the connection made to the Bayport Water Service is subject to the approval of the Bayport City Engineer;

   b. Payment of all fees and charges due to the City of Bayport, including area charges, regular City water connection charges, and any "Outside Agreement Connection Charges," as adjusted, to be collected by the City of Bayport and divided pro rata based on the agreement between those developers that paid the initial share of the improvement costs and the City of Bayport; and

   c. Deposit with the City of Bayport, in escrow, the sum of $10,000. All City of Bayport costs associated with the Emerald Falls Development including, but not limited to, the drafting of instruments, engineering costs associated with review of plans and construction inspections, and any other associated City costs will be paid from this escrow. All funds remaining in escrow one year after completion of the construction will be returned to the developer.
4. Subject to all other terms, conditions, obligations and covenants contained in the

IN WITNESS WHEREOF, the parties have set forth their hands and seals this day first
written above.

CITY OF BAYPORT

Rick Schneider, Mayor

Michael McGuire, City Administrator

TOWN OF BAYTOWN

Kent Grandlienard, Chairperson

Constance M. Fredkove, City Clerk

STATE OF MINNESOTA )
COUNTY OF WASHINGTON ) ss.

The foregoing instrument was acknowledged before me on the 10TH day of
OCTOBER, 2006, by Rick Schneider and Michael McGuire, respectively the
Mayor and Administrator for the City of Bayport.

NOTARIAL STAMP OR SEAL

[Stamp]

Signature of Person Taking Acknowledgment

- 2 -
ADDENDUM NO. 2
TO
JOINT POWERS AGREEMENT

This is Addendum No. 2 to the Joint Powers Agreement dated October 3, 2005, (the "Agreement") by and between the City of Bayport, Washington County, Minnesota ("Bayport") and the Town of Baytown, Washington County, Minnesota ("Baytown").

RECTALS

1. The Friends of St. Croix Preparatory Academy, a Minnesota non-profit corporation (the "Friends"), has applied to Baytown for permits and zoning approval for the development of a campus for the St. Croix Preparatory Academy on real estate described in Exhibit "A" ("Campus").

2. In order to facilitate the development of the Campus, Baytown has requested Bayport to consider the extension of not only its municipal water service, but also its municipal sewer service to provide the advantage of municipal utilities to the site.

3. The Agreement does not contemplate the extension of municipal sewer service into Baytown.

4. The Agreement requires the express written consent of both Baytown and Bayport before the water service already extended into Baytown can be enlarged or extended.

5. The parties therefore agree that the Agreement as amended by Addendum No. be further amended to include the following conditions:

   a. The design of the water service and sanitary sewer service within the Campus will be subject to the approval of the Bayport City Engineer;

   b. Bayport and Friends will work cooperatively to design and construct the necessary connections in order to extend the water and sewer service to the boundary of the Campus, provided that a deposit be made by the Friends in an
amount equal to the estimated costs of the work prior to the commencement of any work on behalf of Bayport; and

c. Each instance within the Agreement that the term “water service” is mentioned, will be amended to hereafter read “water and sanitary sewer service” including the sections of the Agreement relating to Design, Contactors, Financing, Escrow, Dedication, Interface, Connection Process and Charges, Repair, Maintenance and Reconstruction, Compliance, Billing, and Improvements/Extensions.

6. Subject to all other terms, conditions, obligations and covenants contained in the Joint Powers Agreement dated October 3, 2005, as amended by Addendum No. 1, will remain in full force and effect.

IN WITNESS WHEREOF, the parties have set forth their hands and seals this day first written above.

CITY OF BAYPORT

Jonathan Nowaczek, Mayor

Michael McGuire, City Administrator

TOWN OF BAYTOWN

Kent Grandlienard, Chairperson

Constance M. Fredkove, City Clerk

STATE OF MINNESOTA    ) ss.
COUNTY OF WASHINGTON  ) ss.

The foregoing instrument was acknowledged before me on the 16 day of March, 200X by Jonathan Nowaczek and Michael McGuire, respectively the Mayor and Administrator for the City of Bayport.

NOTARIAL STAMP OR SEAL
(or other title or rank)

Wanda Maeggen
Signature of Person Taking Acknowledgment
"INSTITUTIONAL" LAND USE AREA IS THE LOCATION OF ST. CROIX PREPARATORY ACADEMY AND THE AREA COVERED BY ADDENDUM 2 JPA FOR SEWER AND WATER SERVICES.

Legend
- Baytown
- Municipal Boundaries
- Parcels
- Lakes
- Post:2030 Land Use
  - Commercial Food Product (1 du/40 ac)
  - Agriculture (4 du/40 ac)
  - Rural Residential (8 du/40 ac)
  - Single Family Estates (16 du/40 ac)
  - High Density Severed (8-16 du/1 ac)
  - Semi Public
  - Public
  - Institutional
  - Commercial
- Permanent Open Space - Private
- Airport
- Long Term Sewer Service Area (LTSSA)
- Pre:2030 Severed Areas
- Post:2030 Severed Areas

BAYTOWN TOWNSHIP
Post-2030 Land Use Map

Sources: Metropolitan Council, Washington County, TKDA
Project: BAYTOWN 11-11-Post-2030 Land Use Map

TKDA
"ADDENDUM 2 LOCATION MAP - "INSTITUTIONAL" ZONING DISTRICT"

DATE: MAY 2009
ADDENDUM NO. 3
TO
JOINT POWERS AGREEMENT

This is Addendum No. 3 to the Joint Powers Agreement dated October 3, 2005, (the "Agreement") by and between the City of Bayport, Washington County, Minnesota ("Bayport") and the Town of Baytown, Washington County, Minnesota ("Baytown").

RECITALS

1. Peter J. Miller and William J. Keefer (Petitioners) have been granted permits and zoning approval by Baytown for the development of three residential parcels on real estate described in Exhibit "A" (the "Development").

2. In order to facilitate the Development, Baytown has requested Bayport to consider the extension of its municipal water service to provide the advantage of municipal water service to the Development.

3. The Agreement requires the express written consent of both Baytown and Bayport before the water service, already extended into Baytown, can be enlarged or extended.

4. The parties therefore agree that the Agreement, as amended by Addendum No. 1 and Addendum No. 2, be further amended to include the following conditions:
   a. That the design of the water service to serve the Development will be subject to the approval of the Bayport City Engineer; and
   b. That Bayport and Petitioner will work cooperatively to design and construct the necessary connections with Bayport in order to extend the water service to the boundary of the Development, provided that a deposit is made by the Petitioners in an amount equal to the estimated costs of the work.

5. Subject to all other terms, conditions, obligations and covenants contained in the Joint Powers Agreement dated October 3, 2005, as amended by Addendum No. 1 and Addendum No. 2, will remain in full force and effect.
IN WITNESS WHEREOF, the parties have set forth their hands and seals this day first written above.

CITY OF BAYPORT

Jonathan Nowaczez, Mayor

Michael McGuire, City Administrator

TOWN OF BAYTOWN

Kent Grandlienard, Chairperson

Constance M. Fredkove, City Clerk

STATE OF MINNESOTA  )  ss.
COUNTY OF WASHINGTON )

The foregoing instrument was acknowledged before me on the ___ day of ____________, 2008, by ____________, respectively the Mayor and Administrator for the City of Bayport.

NOTEARIAL STAMP OR SEAL
(or other title or rank)

Signature of Person Taking Acknowledgment

STATE OF MINNESOTA  )  ss.
COUNTY OF WASHINGTON )

The foregoing instrument was acknowledged before me on the 27th day of APRIL, 2008 by Kent Grandlienard and Constance M. Fredkove, respectively the Chairperson and Clerk for the Town of Baytown.

NOTEARIAL STAMP OR SEAL
(or other title or rank)

Signature of Person Taking Acknowledgment

This Instrument Drafted By:
David T. Magnuson
Magnuson Law Firm
333 North Main Street, Suite 303
Stillwater, MN 55083
651-439-9464 main
651-439-5641 fax
LEGAL DESCRIPTION

South 43 rods of the SE 1/4 of the SW 1/4 of Section 15, Township 29 North, Range 20 West, except the West 1013.02 feet thereof, and the South 43 rods of the SW 1/4 of the SE 1/4 of Section 15, Township 29 North, Range 20 west, lying West of the centerline of Stagecoach Trail as new constructed except that parcel conveyed to the County of Washington by Warranty Deed dated August 23, 1984, recorded August 30, 1984, as Document No. 470410.

EXHIBIT "A"
ADDENDUM NO. 4
TO
JOINT POWERS AGREEMENT

This is Addendum No. 4 to the Joint Powers Agreement dated October 3, 2005, (the “Agreement”) by and between the City of Bayport, Washington County, Minnesota (“Bayport”) and the Town of Baytown, Washington County, Minnesota (“Baytown”), as previously addended by Addendum No. 1 (Emerald Falls) dated October 10, 2006, Addendum No. 2 (St. Croix Preparatory Academy) dated March 18, 2008, and Addendum No. 3 (Keefer) dated April 7, 2008.

RECITALS

1. Miller Excavating, Inc. (Petitioner) has been granted permits and zoning approval by Washington County and the Town of Baytown for the relocation of the shop and related operations to 3721 Stagecoach Trail North described in Exhibit “A” (the “Development”).

2. In order to facilitate the Development, Baytown has requested Bayport to consider the extension of its municipal water service to provide the advantage of municipal water service to the Development.

3. The Agreement requires the express written consent of both Baytown and Bayport before the water service, already extended into Baytown, can be enlarged or extended.

4. The parties therefore agree that the Agreement, as amended by Addendum No. 1, Addendum No. 2, and Addendum No. 3 be further amended to include the following conditions:
   a. That the design of the water service to serve the Development will be subject to the approval of the Bayport City Engineer; and
   b. That Bayport and Petitioner will work cooperatively to design and construct the necessary connections with Bayport in order to extend the water service to the boundary of the Development, provided that a deposit is made by the Petitioners in an amount equal to the estimated costs of the work.
5. Subject to all other terms, conditions, obligations and covenants contained in the Joint Powers Agreement dated October 3, 3005, as addended will remain in full force and effect.

IN WITNESS WHEREOF, the parties have set forth their hands and seals this day first written above.

CITY OF BAYPORT

Jonathan Nowaczek, Mayor

Michael McGuire, City Administrator

STATE OF MINNESOTA ) ss.
COUNTY OF WASHINGTON )

TOWN OF BAYTOWN

Kent Grandlienard, Chairperson

Constance M. Fredkove, City Clerk

The foregoing instrument was acknowledged before me on the ___ day of ____________, 2014, by _____ and __________, respectively the Mayor and Administrator for the City of Bayport.

NOTARIAL STAMP OR SEAL
(or other title or rank)  
__________________________
Signature of Person Taking Acknowledgment

STATE OF MINNESOTA ) ss.
COUNTY OF WASHINGTON )

The foregoing instrument was acknowledged before me on the ___ day of ____________, 2014, by Kent Grandlienard and Constance M. Fredkove, respectively the Chairperson and Clerk for the Town of Baytown.

NOTARIAL STAMP OR SEAL
(or other title or rank)  
__________________________
Signature of Person Taking Acknowledgment

This Instrument Drafted By:
David T. Magnuson
Magnuson Law Firm
333 North Main Street, Suite 303
Stillwater, MN 55083
651-439-9464 main
651-439-5641 fax
Baytown Township Groundwater Contamination Site

This page provides information about cleanup of the Baytown Township Groundwater Contamination Site (Site). More detailed information about this Site can be found in technical reports primarily available from the Minnesota Pollution Control Agency (MPCA). Some Site reports are also available from the Minnesota Department of Health (MDH).

Where is the site?

The Site is located in central Washington County, Minnesota. The Site is defined essentially by the MDH’s Special Well and Boring Construction Area (SWBCA). The SWBCA was enacted to regulate the construction of new wells. At their widest extent, the SWBCA and the Site are approximately bounded on the north by 50th Street and on the south by 20th Street. The contamination extends from the eastern portion of the city of Lake Elmo through Baytown Township, West Lakeland Township, and the city of Bayport to the St. Croix River as shown in the map below.

Map of site
What and where is the contamination?

The main contaminant of concern that has been released to groundwater at the Site is 1,1,2-trichloroethene (TCE). The TCE plume is located within the Site and is approximately five miles long and covers about seven square miles. The TCE plume affects four major groundwater aquifers. The TCE plume for the unconsolidated and Prairie du Chien aquifers is shown above. The TCE plume for the Jordan Aquifer can be viewed in the Jordan plume map.

The TCE plume for the deepest aquifer, the Tunnel City Aquifer, can be viewed in the Tunnel City plume map. Approximately 400 homes and several businesses located within the TCE plume are served by private wells.
New Health Based Value for TCE and drinking water

The Minnesota Department of Health (MDH) recently concluded a review of the potential health effects associated with TCE exposure from drinking water and released a new Health Based Value (HBV) of 0.4 micrograms per liter (µg/L) on May 21, 2013. The MDH recommends using the HBV instead of the existing Health Risk Limit (HRL) of 5.0 µg/L, and the MPCA has adopted 0.4 µg/L as the new drinking water limit for TCE in domestic water supply wells. This change will result in additional MPCA actions over the coming months. Here’s the MPCA’s plan for addressing the HBV:

Domestic water supply wells

https://www.pca.state.mn.us/waste/baytown-township-groundwater-contamination-site
The MPCA has response action responsibilities for wells on properties platted and approved before April 9, 2002, in Baytown and West Lakeland Townships and in the cities of Bayport and Lake Elmo.

- Wells with TCE concentrations greater than or equal to 5.0 µg/L already have response actions, primarily granular activated carbon (GAC) filters, in place. Additional response actions are not needed for these wells.
- Wells that do not have GAC filters and have two consecutive TCE concentrations greater than the HBV of 0.4 µg/L (with at least one sample more recent than June 1, 2012) will be offered new, MPCA-supplied GAC filters without the need for additional sampling. If GAC filters were already installed by the property owner, the MPCA will offer to provide future maintenance for the filters. If the most recent sample data are older than June 1, 2012, the well will be sampled to obtain current data. If the new sample results in two consecutive TCE detections above 0.4 µg/L, new, MPCA-supplied GAC filters will be offered. As of April 2014, the MPCA had installed nearly all of these additional GAC filters.
- Wells with TCE concentrations of 0.30 to 0.40 µg/L will have their sampling frequency increased from once every four years to three times per year.
- Wells with TCE concentrations of 0.20 to 0.29 µg/L will have their sampling frequency increased from once every four years to twice per year.
- Wells with TCE concentrations of 0.10 to 0.19 µg/L will be sampled once every year.

Property owners in Baytown and West Lakeland Townships have response action responsibilities for wells on properties platted and approved after April 9, 2002. These wells are addressed by township ordinance. The township ordinances require the installation and maintenance of a GAC filter if the TCE concentration reaches 0.5 µg/L or more. At this time, the MPCA does not anticipate installing GAC filters on existing wells installed after April 9, 2002. When new wells are approved, GAC filters will be installed and maintained by the property owner.

For additional MPCA criteria for this site, see:

- MPCA criteria for Baytown Superfund Site TCE sampling and GAC management
- Baytown Township Groundwater Contamination Site (Minn. Dept. of Health)
What does the remedy include?

The MPCA selected a remedial action, or cleanup, for releases at the Site that will protect the public health and welfare and the environment. The remedial action was set forth in the July 2007 Record of Decision (ROD) Amendment. The major operable unit components of the selected remedy include:

- **Operable Unit 1 (OU1)** — Continued monitoring of private wells, sampling of private water supply wells, and installation, change out, and maintenance of granular activated carbon (GAC) filter systems as previously designated in the original May 2000 ROD.

- **Operable Unit 2 (OU2)** — An air stripping treatment system at Bayport Municipal Well #2. The city of Bayport is responsible for ongoing operation and maintenance of this air stripper.

- **Operable Unit 3 (OU3)** — Containment of TCE in groundwater at the primary source zone — a former metal fabricating shop located at 11325 Stillwater Boulevard in Lake Elmo.

In early March 2008, the MPCA completed construction on a hydraulic barrier to contain the TCE plume and prevent off-property migration of contaminated groundwater. The barrier consists of four extraction wells spaced so their influence overlaps and collectively captures the contamination before it can migrate off the property. The extracted water is then treated by air stripping to remove the TCE from the water.

The pumps for the barrier system were started up on March 17, 2008. This barrier is operating continuously at approximately 70 gallons per minute with the exception of down time for maintenance or tests. Its purpose is to control the groundwater gradient so that high concentrations of contamination are unable to continue to migrate to the east. The barrier likely will operate for more than 10 years.

The four extraction wells recover the groundwater and pump it to a low-profile air stripper located within a treatment building. The air stripper removes more than 99 percent of the TCE from groundwater, attaining concentrations under 0.4 μg/L below the MDH HBV. The water is then discharged back to the soil using horizontal wells.
approximately 25 feet underground. The extraction wells have been successful at reducing downgradient TCE concentrations in Lake Elmo groundwater by more than 70 percent.

Potential vapor intrusion risk

In November 2008, the MPCA conducted an initial screening for potential TCE vapor intrusion related to the Baytown Site. The following document provides an update:

- Update on vapor intrusion at Baytown Superfund site

Granular activated carbon filters

The MPCA has installed whole-house GAC filters in a number of residences near the Baytown site to ensure safe drinking water. This fact sheet gives general information on their use and maintenance.

- Granular Activated Carbon Filters

Where can get more information?

All documents prepared during the investigation, selection, design and construction of the remedy are available for review at the MPCA, 520 Lafayette Road N., St. Paul, Minn.

Testing your groundwater

Information about testing your groundwater is available on the Minnesota Department of Health's website:

- Well Management Program (Minn. Dept. of Health)

Staff contacts

- Eric Pederson, Project Leader, 651-757-2645, eric.pederson@state.mn.us
- Mark Elliot, Hydrologist, 218-302-6649, mark.elliot@state.mn.us
- Walker Smith, Communications, 651-757-2738, walker.smith@state.mn.us
- Minnesota Department of Health: Health issues — Emily Hansen, 651-201-4602. Well issues — Virginia Yingling, 651-201-4930.
Links to related information

- Baytown Township Groundwater Contamination Site (Minn. Dept. of Health)
- Baytown Ground Water Contamination Superfund Site Background Information

https://www.pca.state.mn.us/waste/baytown-township-groundwater-contamination-site
Baytown Township Groundwater Contamination Site

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The Site is located in central Washington County, Minnesota. The Site is defined essentially by the MDH's Special Well and Boring Construction Area (SWBCA). The SWBCA was enacted to regulate the construction of new wells. At their widest extent, the SWBCA and the Site are approximately bounded on the north by 50th Street and on the south by 20th Street. The contamination extends from the eastern portion of the city of Lake Elmo through Baytown Township, West Lakeland Township, and the city of Bayport to the St. Croix River as shown in the map below.

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- Wells that do not have GAC filters and have two consecutive TCE concentrations greater than the HBV of 0.4 μg/L (with at least one sample more recent than June 1, 2012) will be offered new, MPCA-supplied GAC filters without the need for additional sampling. If GAC filters were already installed by the property owner, the MPCA will offer to provide future maintenance for the filters. If the most recent sample data are older than June 1, 2012, the well will be sampled to obtain current data. If the new sample results in two consecutive TCE detections above 0.4 μg/L, new, MPCA-supplied GAC filters will be offered. As of April 2014, the MPCA had installed nearly all of these additional GAC filters.
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Property owners in Baytown and West Lakeland Townships have response action responsibilities for wells on properties platted and approved after April 9, 2002. These wells are addressed by township ordinance. The township ordinances require the installation and maintenance of a GAC filter if the TCE concentration reaches 0.5 μg/L or more. At this time, the MPCA does not anticipate installing GAC filters on existing wells installed after April 9, 2002. When new wells are approved, GAC filters will be installed and maintained by the property owner.

For additional MPCA criteria for this site, see:

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- **Operable Unit 1 (OU1)** — Continued monitoring of private wells, sampling of private water supply wells, and installation, change out, and maintenance of granular activated carbon (GAC) filter systems as previously designated in the original May 2000 ROD.
- **Operable Unit 2 (OU2)** — An air stripping treatment system at Bayport Municipal Well #2. The city of Bayport is responsible for ongoing operation and maintenance of this air stripper.
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In November 2008, the MPCA conducted an initial screening for potential TCE vapor intrusion related to the Baytown Site. The following document provides an update:

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Granular activated carbon filters

The MPCA has installed whole-house GAC filters in a number of residences near the Baytown site to ensure safe drinking water. This fact sheet gives general information on their use and maintenance.

- Granular Activated Carbon Filters

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Staff contacts

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- Mark Elliot, Hydrologist, 218-302-6649, mark.elliot@state.mn.us
- Walker Smith, Communications, 651-757-2738, walker.smith@state.mn.us
- Minnesota Department of Health: Health issues — Emily Hansen, 651-201-4602. Well issues — Virginia Yingling, 651-201-4930.
Links to related information

- Baytown Township Groundwater Contamination Site (Minn. Dept. of Health)
- Baytown Ground Water Contamination Superfund Site Background Information
Baytown Special Well Construction Area Update

Date: March 30, 2005

To: Baytown Township Board, West Lakeland Town Board, City of Bayport, City of Lake Elmo, Residents, Washington County Department of Public Health and Environment, Well Contractors, Realtors, Developers, and Building Contractors

From: Patricia A. Bloomgren, Director
Environmental Health Division
P.O. Box 64975
St. Paul, Minnesota 55164-0975

Subject: Expansion of Boundary and Update of the Special Well Construction Area for Portions of Baytown Township, West Lakeland Township, the City of Bayport, and the City of Lake Elmo, Washington County, Minnesota

On May 6, 1988, the Minnesota Department of Health (MDH) issued a "Well Advisory" now known as a "Special Well Construction Area," (SWCA) for parts of Baytown Township, West Lakeland Township, and the city of Bayport in response to the discovery of volatile organic chemical (VOC) contaminants in several private wells in the area. The contaminants initially detected included trichloroethylene, carbon tetrachloride, tetrachloroethylene, and cis-1,2, dichloroethylene. The advisory placed special restrictions on the construction of new wells within the well advisory boundary, and required that well owners conduct additional water testing prior to completing and placing a well into service. The additional construction and water testing requirements were established to assure that persons are not exposed to levels of contamination that exceed health exposure guidelines. The SWCA has been revised as investigation has proceeded and conditions have changed. This update of the SWCA provides current details on the recently-discovered source in northeast Lake Elmo, contamination extent, well construction requirements, the water testing and carbon filter ordinances of Baytown and West Lakeland Townships, and recently passed legislation concerning disclosure at property transfer.

The primary contaminant now present in the groundwater within the SWCA is trichloroethylene (TCE). TCE was most commonly used as a degreasing agent for washing metal parts and also as a dry-cleaning solvent. Exposure to high levels of TCE in drinking water can damage the liver, kidneys, immune system, and nervous system. Exposure to low levels of TCE over a long period of time, may be linked to an increased risk of several types of cancer. TCE may also harm a developing fetus if consumed in high concentrations by an expectant mother. The recommended interim exposure limit for TCE in drinking water is 5 micrograms per liter (µg/L).
Low levels of carbon tetrachloride have been infrequently detected in some water samples collected in the northern portion of the SWCA. Recent detections have been below the health risk limit of 3 μg/L. Tetrachloroethylene and cis-1,2, dichloroethylene have been detected at low concentrations in some wells in the past, but have not been detected for several years.

The Minnesota Pollution Control Agency (MPCA) conducted additional investigation during 2004 northwest of Lake Elmo Airport and discovered high concentrations of TCE in the shallow groundwater on property currently occupied by Hagberg’s Country Market in northeast Lake Elmo. TCE is suspected to have been used by a metal-working business, known as Neilsen Products Company, that previously occupied this property during the 1950-60's. MPCA is currently considering the feasibility of various remedial options at this site.

The plume of TCE contamination is approximately 5 miles long, and 2 miles wide, extending from northeast Lake Elmo to the St. Croix River. Groundwater movement is generally to the east, toward the St. Croix River, but is complicated due to the fracture flow in the Prairie du Chien aquifer, and other hydrogeologic conditions, some of which are not fully characterized. TCE has been detected in glacial sediments in northeast Lake Elmo, at the Lake Elmo Airport, and in the city of Bayport. The highest concentrations of TCE detected to date are present in the glacial deposits in northeast Lake Elmo, exceeding 50,000 μg/L. The largest aerial extent of TCE contamination is in the underlying Prairie du Chien limestone and the Jordan sandstone. Highest concentrations in the bedrock exceed 50 μg/L in the Prairie du Chien limestone underneath the Lake Elmo Airport and in the Jordan sandstone northeast of the airport. Recently, TCE has been detected in the Franconia sandstone in the eastern portion of the SWCA near Stagecoach Trail, and in Bayport Municipal Well Number 2. Only one deeper aquifer, the Mt. Simon-Hinckley sardstone, exists below the Franconia-Ironton-Galesville aquifer. There are no known wells within the SWCA completed in the Mt. Simon-Hinckley aquifer and therefore the water quality is not known.

A public water supply is only available in portions of the cities of Bayport and Lake Elmo. The remainder of the SWCA is served by private wells. A groundwater remediation system has not been installed.

Baytown Township enacted Ordinance No. 36 on September 8, 2003, pertaining to water testing, and installation, testing, and maintenance of whole-house granular activated carbon (GAC) filters. West Lakeland Township enacted a similar ordinance, No. 15, on March 1, 2004. The ordinances require residents to install an approved GAC filter when TCE or carbon tetrachloride is detected in a well at concentrations exceeding exposure limits. All filter installation, testing, and maintenance costs are the responsibility of the well owner. The ordinances also require periodic testing and reporting of results. Some requirements of the ordinances do not apply if the MPCA is monitoring and maintaining a whole house GAC filter for the well owner.

Currently, the MPCA will install, maintain, and test a whole house, GAC filter for an existing well within the SWCA that exceeds the interim exposure limit of 5 μg/L TCE, only if the well is located on property approved for development on or before April 9, 2002.
A new law, Minnesota Statutes, section 1031.236, passed during the 2003 legislative session, requires a seller of real property in Washington County not served by a municipal water system or that has an unsealed well, to state in writing to the buyer, whether, to the seller's knowledge, the property is located within a SWCA.

The construction requirements for new wells in the SWCA will be dependent on the well location, known extent of the contamination plume, hydrogeology, well use, and regulatory status. Where feasible, the MDH requires that water be obtained from a safe source, rather than using a contaminated source and relying on individual treatment systems to remove contaminants. However, the presence of TCE in the Prairie du Chien, Jordan, and Franconia aquifers in the eastern portion of the SWCA, the lack of a groundwater remediation system, the lack of a public water-supply system, and the technical and cost challenges of drilling wells deeper to the Mt. Simon aquifer, may mean that in some locations within the eastern portion of the SWCA, construction of an uncontaminated private well may not be reasonably possible. In these cases, a GAC treatment system that is installed, maintained, and monitored, may be an option.

A property owner and a licensed well contractor must submit a written request to construct or permanently seal a well in the SWCA. The request must include a plan describing how the well will be constructed or sealed. The MDH will review the plan and reply in writing. Before permission to construct a well is granted, the well owner must agree to pay for a VOC analysis on the water, and abide by conditions of the approval. The MDH will review the water-test results and determine if the well can be completed, if the well must be drilled deeper, or if the well must be permanently sealed. Copies of analytical results will be forwarded to the well owner, MPCA, Washington County Department of Public Health and Environment, and the local city or township.

With the MPCA investigation finding groundwater contamination in northeastern Lake Elmo, the MDH is now expanding the SWCA to now include all of Section 13 of Township 29 North, Range 21 West (see figure). The construction requirements for new wells in the SWCA will be dependent on the well location, known extent of the contamination plume, hydrogeology, well use, and regulatory status. However, the following general requirements commonly apply:

1. Except for some locations at the northern, southern, and eastern boundaries of the SWCA, a well in unconsolidated deposits will not be allowed. The glacial deposits will not provide an adequate supply of water, or the water will exceed the TCE interim exposure limit, in most areas of the SWCA. Full length cement grouting will be required for all wells completed in glacial deposits within the SWCA. Requests for wells completed in glacial deposits will be evaluated on a case by case basis.

2. The Prairie du Chien aquifer will not be allowed for potable water use in the SWCA. The Prairie du Chien aquifer shows the greatest plume extent and the highest concentrations of TCE. The aquifer is susceptible to contamination due to generally thin geologic materials overlying the formation and the unfiltered fracture flow in the aquifer. Nitrate levels are elevated.
3. Jordan aquifer wells will be allowed outside the contaminant plume, and may be allowed inside the plume where the Franconia is affected and an approved monitoring and treatment regulatory program is in effect. In the Jordan aquifer, TCE levels exceed 5 µg/L in a plume that is approximately 4 miles long and up to 1½ miles wide, extending from the Lake Elmo Airport to Bayport.

4. Franconia or Ironton-Galesville aquifer wells will be permitted throughout the SWCA. Where the Franconia aquifer exceeds the TCE maximum concentration, a whole house GAC filter must be installed, maintained, and monitored under an approved program.

5. The MDH supports and will consider requests for public water-supply wells (wells that serve 15 or more homes or service connections) on any property within the SWCA, regardless of the property development approval date. Public water-supply wells are regulated under the federal and state Safe Drinking Water Act and must comply with drinking water standards and management, testing, inspection, and oversight requirements.

Additional information is available on the internet: [http://www.health.state.mn.us/divs/eh/well/special well.html](http://www.health.state.mn.us/divs/eh/well/special well.html) or [http://www.pca.state.mn.us/](http://www.pca.state.mn.us/), or you may contact:

Patrick Sarafolean, MDH at 651/643-2110
Ronald Thompson, MDH at 651/643-2108
Richard Baxter, MPCA at 651/297-8471
Kurt Schroeder, MPCA at 651/296-8593

PAB:MPC:RDT:PTS:jmaw
ORDINANCE NO: 52
AN ORDINANCE OF THE TOWN OF BAYTOWN
WASHINGTON COUNTY, MINNESOTA
ESTABLISHING REGULATIONS FOR THE MAINTENANCE
OF WELL WATER TREATMENT IN THE
SPECIAL WELL AND BORING CONSTRUCTION AREA, AND REPEALING
ORDINANCE NO. 36 AND 38

The Town Board of the Town of Baytown does ordain:

1. **PURPOSE.** The purpose of this Ordinance is to monitor wells within the Town of Baytown’s portion of the Baytown-West Lakeland Special Well and Boring Construction Area (SWCA), to identify those wells where trichloroethylene (TCE) and/or carbon tetrachloride (CCL4) are present, to ensure granular activated carbon (GAC) filter systems are installed for these wells and to establish requirements for monitoring, maintenance and repairs of GAC filter systems. This Ordinance applies only to private drinking water wells on properties platted and approved after April 9, 2002. This Ordinance will not apply to wells not intended for human consumption such as monitoring wells, irrigation wells, or to community public water supply wells, or to wells on property that was platted and approved prior to April 9, 2002.

2. **DEFINITIONS.**

   a. **CCL4 means:** carbon tetrachloride. The MDH Health Risk Limit for CCL4 is 1 microgram per liter (\(\mu g/L\)); however, for added protection, this Ordinance defines the action level for CCL4 at 0.5 \(\mu g/L\).

   b. **County means:** Washington County.

   c. **EPA means:** the United States Environmental Protection Agency.

   d. **GAC filter system means:** a granular activated carbon system suitable to recover trichloroethylene (TCE) and CCL4 from well water sufficient to meet the MDH Health Risk Limit.

   e. **MDH means:** the Minnesota Department of Health.

   f. **MPCA means:** the Minnesota Pollution Control Agency

   g. **SWBCA means:** Special Well and Boring Construction Area, an area within the township defined by boundaries established by the Minnesota Department of Health (“MDH”) and as changed, modified or expanded from time to time by MDH, delineating the area where special well and boring construction, repair, and sealing requirements are in effect to minimize or eliminate the public’s exposure to contaminants present in groundwater aquifers.
h. **TCE means:** Trichloroethene. The MDH Health Risk Limit for TCE is 5 μg/l, however, for added protection, this Ordinance defines the action level for TCE at 0.5 μg/l.

i. **VOC means:** volatile organic compound.

3. **GAC FILTER SYSTEM SPECIFICATIONS:** All GAC filter systems must meet or exceed the following specifications:

a. Two GAC filter system vessels must be connected in series so that all water flows through one vessel first and then through the second vessel. Vessels shall not be equipped to provide automatic backwashing.

b. Each vessel must have continuously-wound high-strength fiberglass outer shell and a non-corrosive high density polyethylene inner shell and a black rubber base; minimum carbon capacity of 90 pounds; approximate dimensions of 15-inch diameter by 4-foot height; minimum pressure rating of 150 psi; rated flow rate of up to 10 gpm; rated pressure drop of less than 4 psi at 10 gpm (with new carbon). Inside the vessel, the outlet of the vessel head shall be fitted with a 1-inch diameter PVC down tube that shall extend to the bottom of the vessel. An appropriately sized screen basket must have been installed on the bottom of the down tube.

c. Carbon specification: 8 x 30 mesh virgin granular activated carbon with minimum iodine number of 1,000. Carbon must meet NSF/ANSI Standards 61 and 53, to avoid arsenic leaching and ensure VOC removal, and be manufactured entirely from raw materials and not from regeneration of any previously used carbon.

d. Piping: copper and PVC braided tubing; cam-lock-quick-connect fittings used with PVC tubing to facilitate carbon filter change-out; piping diameter equal to existing piping at installation location, except 3/4 inch is minimum size; minimum pressure rating of 125 psi.

e. Valves: brass; ball type providing watertight shut-off; minimum pressure rating of 150 psi; size to match installed piping diameter; valve handle orientated for ease of operation.

f. Sample Ports: brass; ball type providing watertight shut-off; minimum pressure rating of 150 psi; valve handle orientated for ease of operation. Alternatively, the sample ports may be integral to vessel head but in either case, the outlet of the sample port must be directed downward towards the floor.

g. Flow Meter: Badger RCDL Series disc meter, Model M25 with brass housing, or equivalent and installed upstream of the lead carbon filter orientated for ease of readability.
h. Sample ports must be located before and between the two filter vessels.

i. A bypass valve must not be installed around the filter vessels.

4. **GAC FILTER SYSTEM MAINTENANCE AND CHANGE-OUT:** The GAC Filter system must be changed out using the following standards:

   a. Verify that there are no appliances running or other active water uses occurring.
   
   b. Close the inlet and outlet valves for the GAC filter system.
   
   c. Disconnect and remove the lead GAC filter system (vessel with spent carbon).
   
   d. Disconnect the second GAC filter system and reinstall it in the lead position.
   
   e. Replace the used vessel with a new or reused vessel filled with at least 90 pounds of virgin GAC meeting the same specification as cited for new GAC filter systems under this Ordinance. If the vessel is reused, it must first have been properly rinsed and disinfected prior to refilling with carbon.
   
   f. Install the replacement GAC filter in the secondary position.
   
   g. Re-open the inlet and outlet valves for the GAC filter system and check for water leaks. Repair any observed water leaks immediately.
   
   h. Return the GAC filter with spent carbon to the vendor for proper disposal of the carbon in accordance with applicable laws and regulations.

5. **GAC FILTER SYSTEMS INSTALLATION:** A GAC filter system may only be installed under the supervision of a licensed plumber or licensed water conditioning contractor. A GAC filter system must be installed on the water supply system at a point of entry such that it provides for treatment of all water that travels to faucets and fixtures inside the house and other potable outlets on the system. Nonpotable outside faucets should not be treated. After each system is installed, it must be filled and pressurized to verify that there are no water leaks. Any water leaks observed must be immediately repaired.

6. **NEW WELL CONSTRUCTION.**

   a. New well construction is regulated by MDH pursuant to Minnesota Statutes, Chapter 103I and Minnesota Rules, Chapter 4725. New wells may only be constructed with the written approval of MDH. Persons interested in constructing a new well within the boundaries of the SWBCA should contact a Minnesota licensed well contractor and submit a request for permission to construct a new well, with proposed plans for well construction, to the MDH Well Management Section.

7. **WELL SAMPLING REQUIREMENTS WITHIN THE SWCA.**
Baytown Township Ordinance No. 52

a. Within six (6) months of the effective date of this Ordinance each well owner must contact the Washington County Public Health Department and arrange to have a well water sample collected and tested by the Minnesota Public Health Laboratory for VOCs, at the owner’s expense.

b. A written notice must be sent by the Town Clerk to any owner that has not complied with the test required by Section 7.a informing the owner of the delinquency. If the owner does not comply within sixty (60) days of the Notice, the Town is authorized to contract with the County to sample and conduct an analysis of the samples. In this event, the Town is authorized to spread the costs associated with testing as a service charge under Minn. Stat. §429.101, and to certify the amount as a special assessment against the property, payable in a single installment.

c. The Public Health Laboratory will forward the test results to the MDH Environmental Health Division for review. MDH will send the results and their analyses to the well owner, with copies to the Town Clerk, County, and MPCA. Based upon the analysis provided by MDH:

(i) Wells with TCE or CCl4 concentrations greater than or equal to 0.5 µg/l will be allowed, provided that within sixty (60) days a granular activated carbon (GAC) filter is installed, and then maintained and changed out according to the requirements of this Ordinance. If it is a newly constructed house, the Certificate of Occupancy will not be issued until the GAC filter has been installed and demonstrated to work in accordance with Section 5 of this Ordinance.

(ii) Wells that contain TCE or CCl4 at concentrations less than 0.5 µg/l may be used without GAC filter system, however, the well owner must have the well water tested for VOCs at least every two (2) years. If TCE or CCl4 concentrations reach or exceed 0.5 µg/l a GAC filter system must be installed, maintained and changed out by the well owner according to the requirements of this Ordinance.

(iii) Testing required by this Section (c) is mandatory, however, well owners may voluntarily test their water at more frequent intervals. If the additional samples are collected by the County, the results will be sent to the homeowner, township, and county as described in Section (c). If the additional samples are collected by another entity, homeowners are encouraged to send copies of the analytical results to the Town Clerk.

d. Well owners whose wells existed before April 9, 2002, need not comply with Sections 7. a and b. This includes well owners whose well is being monitored by the MPCA, or whose home has been provided with a GAC filter system that is regularly monitored by the MPCA.

8. **MAINTENANCE REQUIREMENTS.** All pre-existing individual GAC filter systems, as well as those installed under this Ordinance, must be operated according to the provisions of this Section.
a. The GAC filter system must be maintained and changed out in accordance with the requirements of this Ordinance.

b. The owner of any GAC filter system or the owner's agent shall regularly, but in no case less frequently than every three (3) years from the date of the filter installation or prior change-out, have the GAC filter system inspected and changed out by a licensed plumber or licensed water conditioning contractor. Proof of the inspection and change-out must be provided to the Town Clerk. The Town Clerk or designated agent must then distribute a copy of this proof to MDH and MPCA.

c. The Town Clerk must send a written Notice to any owner that has not complied with the actions required by Section 8.b informing the owner of the delinquency. If the owner does not comply within sixty (60) days of the Notice the Town is authorized to contract with a licensed plumber or licensed water conditioning contractor to complete the inspection and change out. In this event, the Town is authorized to assess the costs associated as a service charge under Minn. Stat. §429.101, and to certify the amount as a special assessment against the property, payable in a single installment.

d. On property platted and approved prior to April 9, 2002, which has an existing well that is being monitored by the MPCA and a GAC filter system that is regularly maintained and changed out under their auspices, the owner or the owner's agent need not comply with Section 8.b.

e. The owner or occupant of a property is responsible to provide access, during normal business hours (Monday – Friday, 8:00 am – 4:30 pm), to the Town, or its agents, for the purpose of performing inspections and tests required under this Ordinance.

9. **ADMINISTRATION.**

a. To enforce this Ordinance the Town or its agents may enter a building, property or place for the purpose of sampling well water where there is reason to suspect a GAC filter system is failing to properly function, has been tampered with or modified, or a well exists with TCE or CCl4 concentrations greater than or equal to 0.5 µg/L. All samples must be taken by a technician trained in the collection of samples and the samples must be analyzed by the Minnesota Public Health Laboratory.

b. Prior to executing the Town's right of entry, the Town Attorney, upon approval of the Town Board, must obtain an Administrative Search Warrant from the District Court of Washington County for that purpose. The Town Attorney must also make reasonable efforts to discuss entry with any owner in order that any entry without consent be avoided if reasonably possible.

c. If, in the opinion of the Town Board, compliance with this Ordinance is not achieved and, therefore, the health and safety of Town residents is at risk, the
Baytown Township Ordinance No. 52

Town Board is authorized to contract with a qualified consultant to act as the Town's agent with authority to administer this Ordinance.

The Town Board is also authorized to enter into joint power agreements with other governmental units or State agencies for the purpose of administering the provisions of this Ordinance.

10. **SAVING.** In all other ways the ordinances of the Town will remain in effect.

11. **EFFECTIVE DATE.** This Ordinance will be in full force and effect from and after its passage and publication according to law.

Enacted by the Town Board of the Town of Baytown this -12th- day of -September, 2011--

**TOWN OF BAYTOWN**

By ____________________________

**Kent Grandlienard**
Kent Grandlienard, Chair
Board of Supervisors

By ____________________________

**Constance Fredkove**
Constance Fredkove, Town Clerk
BAYTOWN TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
AMENDING ORDINANCE NO. 52

The Town Board of the Town of Baytown does Ordain:

1. Amending Ordinance No. 52 is amended as follows:

   Section 2 Definitions a. and h. are amended to read as follows:
   
   “a. CCl₄ means: carbon tetrachloride. The MDH health based drinking
   water criterion for CCl₄ is 1 microgram per liter (µg/L); however, for
   added protection, this Ordinance defines the action level for CCl₄ at
   0.2 micrograms per liter (02 µg/L);” and:

   “h. TCE means: Trichloroethylene. The MDH health based drinking
   water criterion for TCE is 0.4 micrograms per liter (µg/L); however, for
   added protection, this Ordinance defines the action level for TCE at
   0.1 µg/L.”

2. A new Section 9. Is added to read as follows:

9. “PROPERTY TRANSFER DISCLOSURE

   a. The seller or transferor of real property must disclose to the buyer the
   presence of a GAC filter system installed pursuant to this Ordinance.”

3. The Town Clerk and Town Attorney are authorized to make changes to Ordinance No. 52
   as needed to implement these changes and other necessary grammatical and scrivener’s
   changes.

4. In all other ways Ordinance No. 52 shall remain in full force and effect.

5. This Ordinance shall be in full force and effect from and after its passage and publication
   according to law.

Enacted by the Town Board of the Town of Baytown this 2nd day of November 2015

BY THE TOWN BOARD

________________________
Kent Grandlienard, Chairperson

Attest: ______________________
Kim Zitzmann, Clerk
Baytown Township
Historical Background

Baytown's Pioneer Cemetery

On a dreary, wintry day in December, Don See and I worked our way up a hill near his home. Don had graciously agreed to show me the small cemetery located on his property. There is only one small upright, square stone sitting on a flat rock under a tree. This lonely marker has withstood the tests of time and elements and is all that remains to commemorate the people who were buried here, as long ago as 150 years.

Members of the Fiske and Mitchell families were buried here in this place, hidden away and forgotten for over a century. This stone was well-crafted and engraved on three sides, but the algae covering it made reading names and dates almost impossible.

In January, on a spring-like day, we returned. This time we were accompanied by Don's two Granddaughters, Emily and Paige and my son, Kerry. We came prepared with a bucket of water, brushes and Hilex and started scrubbing. Hidden under all the algae, we found a beautiful white marble stone with elegant engraving.

On the right side of the stone, the engravings read: David Fiske, March 11, 1856, age 52. Charles A., son of Geo and Phebe Fiske died Aug. 3, 1862, 5 years old and Baby Myra died March 17, 1872, age 3 months.


It was not uncommon back in those times for families to bury their relatives on their own land, and I'm sure there are many unmarked graves throughout the area. Bill Nelsen, who lives on an adjoining farm, remembers taking walks with his Grandmother when he was about 5 or 6 and they would often visit this little cemetery, which at that time had a fence around it.

We couldn't help but wonder what hardships these people had to endure back in the mid-1800's. And, whatever happened to their descendants -

It's a quiet, peaceful, little plot of land which was chosen by the Mitchell and Fiske families to put their loved ones to rest long ago. When we walked back down the hill, we couldn't help but feel some reverence for the short time we had spent there.

...Eronnie Beecroft
## Baytown Township

### Statement of Receipts and Disbursements - GENERAL FUND

as of December 31, 2016

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<tr>
<th>Receipts</th>
<th>2016 BUDGET</th>
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Baytown Township
Statement of Receipts and Disbursements - ROAD AND BRIDGE FUND
as of December 31, 2016

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Baytown Township
Statement of Receipts and Disbursements - CAPITAL ROAD & BRIDGE FUND
as of December 31, 2016

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</tbody>
</table>
Sherri A. Buss

From: Bill Turnblad <bturblad@ci.stillwater.mn.us>
Sent: Wednesday, December 07, 2016 3:02 PM
To: Sherri A. Buss
Subject: RE: Review Request - Baytown Township 2040 Draft Comprehensive Plan

Sherri,

The City of Stillwater has reviewed Baytown’s 2040 Plan and we have no comments. Just a minor note: many of the maps show Stillwater’s old municipal boundary.

Bill Turnblad
Community Development Director
City of Stillwater

From: Sherri A. Buss [mailto:sheri.buss@tkda.com]
Sent: Wednesday, November 23, 2016 2:54 PM
To: Imartin@ci.bayport.mn.us; khandt@lakeelmno; eajohnson@cityofoakparkheights.com; Bill Turnblad <bturblad@ci.stillwater.mn.us>; townclerk@westlakeland.govoffice2.com; Fran.Miron@co.washington.mn.us; Molly.ORourke@co.washington.mn.us; hoheiselk@stillwaterschools.org; karen.kill@mnwcd.org; Mike Isensee <Misensee@mnwcd.org>; jhanson@barr.com; Wayne.Sandberg@co.washington.mn.us; Sherman, Tod (DOT) <Tod.Sherman@state.mn.us>; uke.Skinner@state.mn.us; Gary.Warren@mspmac.org; julie_galonska@nps.gov
Cc: Clerk (clerk@baytownmn.org) <clerk@baytownmn.org>; Barajas, Lisa <Lisa.Barajas@metc.state.mn.us>
Subject: Review Request - Baytown Township 2040 Draft Comprehensive Plan

All,

Baytown Township has completed the Draft of its 2040 Comprehensive Plan. Your organization is on the list of Affected Jurisdictions that the Metropolitan Council provided to the Township to review all or part of the Draft 2040 plan. The Township requests that the appropriate person(s) in your organization review the plan, and send comments or questions to the Township. The Town’s Planning Commission and Board will review all comments and respond to them. If you do not have any comments, please send an email to let us know that, so we know that you have taken this opportunity to review the plan.

Your organization has up to six months from the date of this email to review the Baytown Township Draft 2040 Comprehensive Plan. We hope that you will be able to complete your review sooner, so that the Township may proceed to revising the plan as needed and submitting it to the Metropolitan Council in early 2017.

The Metropolitan Council gives the communities the option to upload the draft plan onto their websites, and email jurisdictions to request plan review, rather than sending digital or hard copies. The Township has chosen this option, and has placed the Draft Plan on its website: http://baytownmn.org. The Plan is located under the Comprehensive Plan tab on the left side of the Home Page. The 2040 Plan includes two documents that are located in about the middle of the Comp Plan page:
- 2040 BaytownCompPlan 11.14.16
Sherri A. Buss

From: Karen Kill <KKill@mnwcd.org>
Sent: Tuesday, November 29, 2016 2:51 PM
To: Sherri A. Buss
Cc: Mike Isensee; ccorrell@eorinccom
Subject: RE: Review Request - Baytown Township 2040 Draft Comprehensive Plan

Sherri,

I don’t think the Brown’s Creek Watershed District has any overlapping area within Baytown Township within the current BCWD legal jurisdiction (black line). There is almost no hydrologic area within the BCWD either (red subwatershed lines). Unless I am in error on the mapping, BCWD will not be providing comment on the Baytown Township 2040 Comprehensive Plan.

Best Regards,
Karen

Karen Kill
Administrator
Brown’s Creek Watershed District
455 Hayward Ave N
Oakdale, MN 55128
651-330-8220 x26 (office)
651-331-8316 (cell)
www.bcwd.org

From: Sherri A. Buss [mailto:sherri.buss@tkda.com]
Sent: Wednesday, November 23, 2016 2:54 PM
To: lmartin@ci.bayport.mn.us; khandt@lakeelmo.org; eajohnson@cityofoakparkheights.com; Bill Turnblad; townclerk@westlakeland.govoffice2.com; Fran.Miron@co.washington.mn.us; Molly.ORourke@co.washington.mn.us; hoheiselk@stillwaterschools.org; Karen Kill; Mike Isensee; Jhanson@barr.com; Wayne.Sandberg@co.washington.mn.us; Sherman, Tod (DOT); Luke.Skinner@state.mn.us; Gary.Warren@mspmac.org; julie_galonska@nps.gov
Cc: Clerk (clerk@baytownmn.org); Barajas, Lisa
Subject: Review Request - Baytown Township 2040 Draft Comprehensive Plan
Sherri,

The City of Lake Elmo has no comments on Baytown Township’s 2040 Draft Comprehensive Plan.

Hope you’re keeping warm!

Kristina Handt
City Administrator, City of Lake Elmo
khandt@lakeelmo.org
651.747.3905

From: Sherri A. Buss [mailto:sherri.buss@tkda.com]
Sent: Monday, November 28, 2016 7:40 AM
To: Kristina Handt <KHandt@lakeelmo.org>
Subject: RE: Review Request - Baytown Township 2040 Draft Comprehensive Plan

Thanks, Kristina.

Our holiday was fine—we tried to get out of the house to enjoy the mild weather. Our heat pump (only 3 years old) has failed, and needs to be replaced. The part that failed is past the 1-year warranty. It will take 10 weeks to get a replacement, since no one keeps inventory of these units, so we are hoping the mild weather continues as long as possible so we can survive on portable heaters. The last pump cost $7,000, and so will this one. Yikes. Also, we have our condo for sale, so this is really frustrating.

Sounds like the election in Lake Elmo may make things a bit more rational—hope that is true for you. It will be interesting to see what transpires in Scandia with Christine M. as mayor, but with a pretty hostile Council. I don’t envy Neil—it could be really challenging. We did not submit an RFP for Scandia’s comp plan because I felt it was going to be 2 more years of Zavoral with the politics there. Am even more relieved now that I have nothing to do with that project:

Hope you and Evelyn are having a good time, and that you have a joy filled Christmas.

Sherri

Sherri A. Buss, RLA, AICP | Senior Planner/Manager, Planning Group
444 Cedar Street, Suite 1500, Saint Paul, MN 55101
TKDA P 651.292.4582 | C 651.368.0665 | check out our new tkda.com
Sherri A. Buss

From: Kristen Hoheisel <hoheiselk@stillwaterschools.org>
Sent: Wednesday, November 30, 2016 7:10 AM
To: Sherri A. Buss
Subject: Re: Review Request - Baytown Township 2040 Draft Comprehensive Plan

Sherri,

I have reviewed the plan.

Respectfully,

Kristen Hoheisel
Executive Director of Finance and Operations
Stillwater Area Public Schools

On Wed, Nov 23, 2016 at 2:54 PM, Sherri A. Buss <sherri.buss@tkda.com> wrote:

All,

Baytown Township has completed the Draft of its 2040 Comprehensive Plan. Your organization is on the list of Affected Jurisdictions that the Metropolitan Council provided to the Township to review all or part of the Draft 2040 plan. The Township requests that the appropriate person(s) in your organization review the plan, and send comments or questions to the Township. The Town’s Planning Commission and Board will review all comments and respond to them. If you do not have any comments, please send an email to let us know that, so we know that you have taken this opportunity to review the plan.

Your organization has up to six months from the date of this email to review the Baytown Township Draft 2040 Comprehensive Plan. We hope that you will be able to complete your review sooner, so that the Township may proceed to revising the plan as needed and submitting it to the Metropolitan Council in early 2017.

The Metropolitan Council gives the communities the option to upload the draft plan onto their websites, and email jurisdictions to request plan review, rather than sending digital or hard copies. The Township has chosen this option, and has placed the Draft Plan on its website: http://baytownmn.org. The Plan is located under the Comprehensive Plan tab on the left side of the Home Page. The 2040 Plan includes two documents that are located in about the middle of the Comp Plan page:
January 11, 2016

Sherri A. Buss (Baytown Twp Planner)
444 Cedar Street, Suite 1500,
Saint Paul, MN 55101

SUBJECT: Name: Baytown Township 2040 Comprehensive Plan Update
State Highways Involved: MN 5 along the west side and MN 95 on the SE side
Control Sections: MN 5 = 8214, MN 95 = 8209
County: Washington

Thank you for the opportunity to review the Bayport Township 2040 Comprehensive plan update. Please note that MnDOT's review of this Comprehensive plan update does not constitute approval of a regional traffic analysis and is not a specific approval for access or new roadway improvements. If the comprehensive plan is refined, we would like the opportunity to meet with our partners and to review the updated information. MnDOT's staff has reviewed the document and has the following comments:

**Design**
Please continue to work closely with MnDOT with any proposed state highway changes.

For questions regarding these comments please contact Nancy Jacobson 651.234.7647 or Nancy.L.Jacobson@state.mn.us.

**Traffic:**
MN 5 along the western municipal boundary no longer belongs to MnDOT.

For questions regarding these comments please contact Kaare Festvog at 651-234-7814 or kaare.festvog@state.mn.us.

**Review Submittal Options:**
Mn/DOT's goal is to complete the review of plans within 30 days. Submittals sent in electronically can usually be turned around faster. There are four submittal options. Please submit either:

1. One (1) electronic pdf. version of the plans. Mn/DOT can accept the plans via e-mail at metrodevreviews.dot@state.mn.us provided that each separate e-mail is under 20 megabytes.
2. Three (3) sets of full size plans. Although submitting seven sets of full size plans will expedite the review process. Plans can be sent to:

Mn/DOT - Metro District Planning Section
Development Reviews Coordinator
1500 West County Road B-2
Roseville, MN 55113

3. One (1) compact disk.
4. Plans can also be submitted to MnDOT's External FTP Site. Please send files to:
ftp://ftp2.dot.state.mn.us/pub/incoming/MetroWatersEdge/Planning Internet Explorer
doesn’t work using ftp so please use an FTP Client or your Windows Explorer (My
Computer). Also, please send a note to metrodevreviews.dot@state.mn.us indicating
that the plans have been submitted on the FTP site.

If you have any questions concerning these comments contact me at 651-234-7784.

Sincerely,

[Signature]

Karen Scheffing
Principal Planner

Copy sent via E-Mail:
Bryce Fossand, Water Resources
Buck Craig, Permits
Ashley Roup, Right of way
Kaare Festvog, Traffic
Jim Henricksen, Traffic forecasting
Gina Mitteco, Bike and Peds
Rylan Juran, Aeronautics
Ryan Coddington, Area Engineer
Nancy Jacobson, Design
Russell Owen, Metropolitan Council
January 20, 2017

Ms. Sherri Buss
TKDA
444 Cedar Street, Suite 1500
St. Paul, MN 55101

RE: Baytown Township’s 2040 Comprehensive Plan

Dear Ms. Buss,

Thank you for submitting a copy of Baytown Township’s 2040 Comprehensive Plan and Local Surface Water Management Plan and allowing us to comment. As noted in the draft 2014 Comprehensive Plan Baytown Township collaboratively manages water resources with nine other communities within the boundaries of the Middle St. Croix Watershed Management Organization.

During the 2015 MSCWMO Watershed Management Plan revisions stakeholders requested the MSCWMO clearly differentiate between strategies implemented by the MSCWMO and policies implemented by the communities. The Watershed Management Plan http://www.mscwmo.org/2015-watershed-management-plan-update identified 20 policies (pages 50-59) to be implemented by each member community. The draft plan addresses many of those policies, most important of which was Baytown’s proactive revision and adoption of ordinances in 2016 that are consistent with MSCWMO standards.

The MSCWMO submits the following clarifications and comments to implement the remaining policies not currently addressed in the draft 2040 Comprehensive Management Plan:

1. Clarification: Page 69 states “the MSCWMO rules has adopted it’s 2015-2025 Watershed Management Plan and rules...”. Since the MSCWMO does not retain permit authority, it has standards enforced by our member communities. Please replace the word “rules” with “standards”.

2. Addition: To facilitate stronger collaboration and in certain circumstances cost share funding, Policy 2 of the MSCWMO Watershed Management Plan requests member communities provide early notification of capital or street improvement projects prior to the start of design. Please consider modifying Policy 2 on Page 93 to include early notification of future projects.

3. Addition: To assist the MSCWMO in targeting future water resource management priorities, Policy 3 of the MSCWMO Watershed Management Plan requests member communities to collaborate with the MSCWMO to identify and prioritize practices to address sources and discharges of pollutants. Please consider adding this to Goal 2, page 70.

4. Addition: To ensure past water quality best management practices are still functioning as designed Policy 4 of the MSCWMO Watershed Management Plan requests communities to collaborate with the MSCWMO to track and inspect water quality improvement practices to verify they provide their designated benefit. Please consider adding this to Goal 2, page 70.

5. Addition: To more effectively work together to improve habitat and natural resource recreational based activities within the watershed Policy 15 requests member communities coordinate with the
MSCWMO on projects that may improve habitat or natural resource recreational activities. Please consider adding this policy to Parks, Trails and Open Space Goals and Policies, page 98.

6. Addition: The MSCWMO Board of Managers agrees with the importance of education in Goal 7 of the Baytown Township Water Resource Management Plan. Policy 15 and 16 of the MSCWMO requests member communities also encourage staff and council members to attend relevant natural resource educational events and provide input for future educational topics. Multiple events are hosted each year by the East Metro Water Resource Education Program. Please consider adding Township staff and council members to goal 7 and the corresponding policy.

Thank you again for the opportunity to comment on this draft plan. The MSCWMO appreciates Baytown Township’s proactive work to collaboratively manage water resources within the boundaries of the Middle St. Croix Watershed Management Organization boundaries.

Please submit the revised plan for review once comments have been considered and incorporated. If you have any questions please contact me at 651-220-8330 ext. 22.

Sincerely,

Mikael J. Isensee
MSCWMO Administrator

CC: Nancy Healey, Township Clerk
    John Fellegy, MSCWMO Board Manager Baytown Township
    Lisa Barajas, Metropolitan Council
February 21, 2017

Sherri Buss, Senior Planner
444 Cedar Street, Suite 1500
Saint Paul, MN 55101

RE: Review of Baytown Township 2040 Comprehensive Plan

Dear Ms. Buss,

Washington County appreciates the opportunity to review the draft Baytown Township Comprehensive Plan. These comments are intended to be supportive and constructive in nature. The County recognizes the Township’s authority to adopt its plan and commends the Township on the work performed to date.

County staff from the Departments of Administration, Public Health and Environment, and Public Works, as well as staff from the Washington County Community Development Agency have reviewed the draft and their comments are included as an attachment to this letter. The comments are intended to identify opportunities to improve the plan, thank the township for the inclusion of certain issues that will also be important pieces in the County comprehensive plan, and provide additional information or context. The attached comments should be construed as suggestions for the Township to consider as it works to develop its final plan for submission to the Metropolitan Council.

Again, we appreciate the opportunity to review the draft Baytown Township Comprehensive Plan and look forward to working with the Township to create comprehensive plans that create a common vision for the future of the County and its residents.

Sincerely,

[Signature]

Commissioner Weik
Washington County Board Chair

Cc: John Hall, Baytown Township Board Chair

A great place to live, work and play...today and tomorrow

Government Center • 14949 82nd Street North • P. O. Box 6 • Stillwater, MN 55082-0006
Telephone: 651-430-6001 • Fax: 651-430-8017 • TTY: 651-430-8249
www.co.washington.mn.us
Washington County is an equal opportunity organization and employer
Washington County Comments
Baytown Township 2040 Comprehensive Plan

Land Use (comments provided by the Office of Administration and Department of Public Health and Environment)

- On page 30, county staff suggests reviewing the tax information related to the Agricultural Preserves program. The most up-to-date, accurate information on the program is outlined in Minnesota Statutes 473H.10 Ad Valorem Property Taxes.
- In regard to health and wellness: The Township may want to consider adding language that links the importance of land use planning and its potential impact on the health and quality of life of your residents.
- In regard to health and wellness: The Township participates in the Agricultural Preservation Program to avoid losing these assets for the community. The Township may want to review and consider the Minnesota Food Charter which includes a section on the Food Infrastructure (pages 16-19). http://mnfoodcharter.com/

Housing (comments provided by the Washington County Community Development Agency)

- The scope of the housing chapter is somewhat limited due to the township’s lack of sewer, the intent to become 100% “Rural Residential,” and because there is no allocation of affordable housing need by the Metropolitan Council.
- The analysis of housing needs and discussion of implementation tools – currently limited to code enforcement – may need to be beefed up to meet the requirements of the Metropolitan Council. The Washington County Community Development Agency has developed sample implementation tools and is willing to share them with the Township, if desired.

Water Resources (comments provided by the Department of Public Health and Environment)

- The Washington County 2014-2024 Groundwater Plan has the goal to “manage the quality and quantity of groundwater in Washington County to protect health and ensure sufficient supplies of clean water to support human uses and natural ecosystems.” The county thanks the Township for recognition and support of the Groundwater Plan throughout their comprehensive plan, and particularly in the water supply and local water management plan sections.
- On page 53, regarding the Trichloroethylene (TCE) plume, the township may want to consider modifying the sentence “several suspected sources of the contaminants have been identified,” to add a statement acknowledging that the primary source zone of the TCE plume is a former metal fabricating shop located at 11325 Stillwater Boulevard in Lake Elmo. Reference to the source zone is made in the appendices of state agency information, but the statement as it reads above may lead a reader to misinterpret the current state of investigation for this plume.
- Page 54, second paragraph, includes reference to both ordinances 38 and 52, related to the Special Well and Boring Construction Area (SWBCA), requiring testing and/or filter change out for residents whose homes were platted after April 2002. The County has repealed Ordinance 38 and therefore all references in the plan to that ordinance should be updated to reflect Ordinance
52. The Township may want to consider adding some additional statements that describe the controls in place to monitor compliance with this ordinance, to assure residents who are not monitored by the Minnesota Pollution Control Agency (MPCA) are receiving safe drinking water. Another statement to consider adding is that the Township has and will continue to partner with Minnesota Department of Health (MDH) and Washington County to ensure residents who are required to test their homes for TCE have access to appropriate testing. This is in support of Strategy 6.2.1 in the county’s Groundwater Plan.

- The County supports efforts on the part of the Township to minimize the number of new, individual private wells within the SWBCA. The County supports the Township statements regarding encouraging new development proposals to amend existing Joint Powers Agreement with Bayport or to evaluate new agreements to extend water services from community water supplies where it’s feasible (pages 55 and 56). The County encourages the exploration for additional joint powers agreements with the cities of Oak Park Heights and Lake Elmo. This is supported by findings from a MDH Public Health Assessment, Baytown Township Groundwater Contamination Site from September 14, 2004. The assessment states that “A comprehensive plan for long-term water supply options for the entire site that minimizes the number of new private wells should be developed. Alternate water supply options such as community wells, or connection to a municipal or other community water supply systems should be considered.”

- Building on the previous comment, the Township could consider adding a statement to your goal #2 on page 56 (or create a separate goal) that indicates the Township will support development patterns that can either tap into other water supply systems, or create small community systems when appropriate.

- The Township may also want to consider gathering and including updated information from the state agency websites. The appendices as included are outdated, particularly Item D (MDH information) and Item E (MPCA information).

- Given the extent of groundwater contamination, and the burden placed on new homeowners to either test their wells or maintain a treatment system, as the Township considers future residential land use and development, consider placement of new houses to minimize the need for additional private wells. This could be accomplished through either encouraging homes where they can be connected to nearby public water supplies through a Joint Powers Agreement (e.g., Bayport, Lake Elmo, Oak Park Heights) or the development of small community wells that can serve multiple homes.

**Subsurface Sewage Treatment Systems (SSTS)**

- The County, through its Groundwater Plan, seeks to partner with state agencies, local governments and stakeholders to protect groundwater from contamination that is caused from failing Subsurface Sewage Treatment Systems (SSTS). Comments provided below clarify the County’s role with respect to SSTS management in the Township.

- Globally, the terms “subsurface septic system(s)”, “sewage disposal systems”, “subsurface septic treatment systems”, “septic systems”, “subsurface sewage systems”, “subsurface systems”,
"sewage system" and "sewage treatment system" should be changed to "subsurface sewage treatment system(s)" or "SSTS".

- On page 14, the sentences "Thus, if a soil treatment system is installed at this depth or deeper, no sewage effluent will be able to move into the soil since the soil is already saturated. Hence, the sewage will either back-up in the residence or seep to the surface of the ground" while potentially true, lead the reader to understand 1) that the installation of an SSTS below the water table is allowed, if unadvisable, which is not true and, 2) that the primary function of an SSTS is to simply get rid of sewage, which is incorrect; the primary function of an SSTS is to treat sewage to prevent chemical contaminants and pathological agents from entering groundwater.

- On page 28, "private" should be excluded from the sentence "Because of the well advisory, precautions must be taken for private wells. The subsequent sentence also states "...which enables wells to go deeper..." This sentence should be clarified as to why this is.

- On page 45, "County" should replace "Township" in the sentence "The Township requires on-site verification of soil conditions..."

- It is stated that the county ordinance "...provides for the certification and licensing of soil testers and subsurface sewage system designers, installers, pumpers and haulers" is incorrect. Minnesota Rules Chapter 7083 establishes the professional certification and licensing requirements required for SSTS industry professionals, not the county ordinance.

- The sentence "The Township contracts with Washington County to provide inspections services of subsurface septic systems" should be modified. The county administers the SSTS program in accordance with the mandates in Minnesota Statutes 115.55 and Minnesota Rules Chapter 7082. There is no contract between the county and the Township to administer the SSTS program.

- On page 45, the intent of the sentence "This service meets State requirements for periodic inspections of subsurface systems" is not understood by county staff.

- On page 45, the sentences "The Township has adopted Washington County Ordinance in its Zoning Ordinance to regulate the development of SSTS in the Township. The Township will continue to enforce this ordinance in cooperation with the County, and will continue to contract with Washington County for inspection of SSTS in the Township" are incorrect and should be removed. The Township does not have an SSTS ordinance and does not contract with the county.

- On Page 57:
  - Policy 1 is incorrect. The county does not provide SSTS inspection services to the Township under contract.
  - Policy 5, "exclude" should be replaced with "prevent".
  - The latter half of policy 6 is incorrect. The county does not inspect SSTS in the Township every three years.
  - Policy 8 states that "percolation test [sic]" are required to establish the existence of soils suitable for an SSTS. This is incorrect.

County staff would be happy to speak with the Township and its planners to discuss this portion of the plan and the comments related to SSTS.
Transportation (comments provided by the Departments of Public Works and Public Health and Environment)

- On page 76, please list 5th Ave N as an “A Minor Connector.”
- On page 76, the reference to Stillwater Blvd as “State Highway 5” is outdated. The segment (northeast of Manning Ave) is now CSAH 15. There is no more TH 5 within Washington County so any references to State Highway 5 should be removed and replaced.
- On page 77, the map does not show the whole township. It does not show any volumes for CSAH 15 (old 5) north of CSAH 14. The volumes are 19,500 and several Township streets intersect in that area. The latest map from Washington County can be found at https://www.co.washington.mn.us/DocumentCenter/View/10112. County staff is in the process of getting 2016 adjusted volumes from Minnesota Department of Transportation. A 2016 map should be available soon.
- On page 78, include the following projects in the list of upcoming Capital Improvement Program (2017-2021) projects:
  - CSAH 24 (north of CSAH 14)
  - Realignment of CSAH 14 - CSAH 15
  - CR 65 – CSAH 10 to CSAH 14
- The Township should consider acknowledging that the opening of St. Croix Crossing could potentially impact traffic in the County, and that the Township will work with the County to address any needs as they arise.
- In regard to health and wellness: The Township identifies new regional bike corridors and will make pedestrian considerations along new roads through review process. It would be helpful to know how the Township has increased trail connections over the past ten years, leading to these new opportunities.

Parks, Trails, and Open Space (comments provided by the Departments of Public Works and Public Health and Environment)

- In regard to Exhibit 22 on page 99: While St. Croix Savanna is, in fact, a Scientific and Natural Area – indicated by the dark green coloration on the map and in the legend – neither of the two Wildlife Management Areas shown is a “Regional Park” or a “Scientific and Natural Area.” County staff recommends revising the legend so that these Wildlife Management Areas are not confused with regional parks or Scientific and Natural Areas.
- In regard to health and wellness: The County is encouraged that the Township will participate in regional trail planning efforts. Other opportunities for County or regional trail connections would be supported, especially with the completion of the St. Croix Crossing.
- In regard to health and wellness: On page 97, the statement for the wildlife area opens with “Because Bayport WMA has fine shot restrictions...deer archery etc. and then lists the recreational opportunities such as hiking, wildlife viewing and so on. It would seem more inviting to capitalize on the recreational assets at the beginning of the statement and then include the hunting limitations at the end.
Resilience and Sustainability (comments provided by the Department Public Health and Environment)

- In regard to Page 101 D, Goals and Policies for Special Resources – Solar Energy Resources: The county is encouraged by the Township’s continued goal to promote solar access and alternative energy sources. The County looks forward to partnering with the Township when opportunities arise to promote energy conservation and alternative energy.

Implementation (comments provided by the Departments of Public Works)

- The County suggests that additional details be included in the Implementation section so others can understand how the Township plans to execute the information listed in the comprehensive plan.
E. AIRPORTS

The Lake Elmo Airport is a general aviation airport owned by the Metropolitan Airports Commission (MAC) and operated by MAC for public use. The Lake Elmo Airport is located in Washington County, approximately 12 miles east of the downtown St. Paul business district. It lies one mile east of downtown Lake Elmo, within Baytown Township, and is bordered by West Lakeland Township and the City of Lake Elmo. The airport encompasses approximately 640 acres, approximately 500 acres of which is in Baytown Township. The remaining 80 acres are in West Lakeland Township. The main runway is a gravel parallel runway and a paved NE/SW crosswind runway, including parallel taxiways. The parallel runway is 7,550 feet long and 75 feet wide. The crosswind runway is 7,000 feet long and 75 feet wide.

The Lake Elmo Airport serves as a reliever to the Minneapolis-St. Paul International Airport. Service is provided to operators of single-engine and light twin-engine, propeller craft primarily for training, pleasure, and business. Flying schools offer opportunities for increasing activity at the Lake Elmo Airport estimated at approximately 25,000. Current airport operations are below its capacity.

Summary of Comments on 3.10 MAC comments
Pages from 2040BaytownCompPlan_11 14 16(1)_MAC.pdf

Page: 1

Date: 3/9/2017 4:00 AM - 08/09

Date: 3/9/2017 4:00 AM - 08/09

Date: 3/9/2017 4:00 AM - 08/09

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Approximately 26,000 for 2014 if you want to update this a few years.
1. The Lake Elmo Airport Long-Term Comprehensive Plan

The adopted long-term comprehensive plan (LTCMP) for the Lake Elmo Airport was approved in 2004. The Metropolitan Airports Commission has developed a Draft 2015 LTCMP for the Lake Elmo airport that will cover the time period from 2015-2035. Baytown Township Board members and residents have participated in the public review and comment meetings for the new LTCMP. The Draft LTCMP states that the key objectives for the plan include:

- Address failing end-of-life infrastructure
- Enhance Safety
- Improve operational efficiencies for the design aircraft family, i.e., propeller driven aircraft with fewer than 10 passenger seats.

The airport's existing layout is shown on the figure below that was included in the Draft 2015 LTCMP. The location of the airport within the Township is identified on Exhibit 9, the Township's Land Use Plan.
The forecast scenarios included in the Lake Elmo Airport Draft 2035 LTCP forecast little change in aviation activity through 2035. The "high range" forecast predicts slight increase in aircraft operations, but the low-range figure suggests a slight decline in operations.

![Aircraft Operations Trend Chart]

2. Proposed Airport Development 2015-2035

The Draft 2035 LTCP includes relocating and lengthening the primary runway at the Lake Elmo Airport. The Metropolitan Airports Commission analyzed four development alternatives, which are described in the plan. The recommended preferred alternative is shown in red on an aerial photo from the plan, below.

The proposed expansion will be to the south of the existing airport runway, into West Lakeland Township. The proposed expansion will have a limited impact on Baytown Township. Baytown Township and West Lakeland Township currently share the maintenance of 36th Street North, which is the boundary between the two townships. West Lakeland Township has identified concerns related to moving 36th Street for the runway extension because it would result in the road being located solely within West Lakeland Township and the Township would have more roadway maintenance responsibility. Baytown has offered to continue the current shared...
The expansion of the runway is not expected to change the airport’s Runway Protection Zones (RPZ’s) or noise contours within Baytown Township. The figure below from the Draft 2019 UTCP shows the expanded RPZ’s and noise contours after expansion. The airport’s RPZ’s do not extend outside the airport property. The Zone 5 noise contour is located within the airport property in Baytown Township, and over an adjacent area of land that is zoned for large lot single family residential use. This small area is within the required setbacks from the Union Pacific Railroad corridor, and no structures may be developed on the property.

The State Safety zones for the airport’s runways extend over airport property and over an area that is zoned for large lot single family residential use.
5. Planning and Zoning Considerations

The Township is within the influence area of the Lake Elmo Airport, and must address the following planning and zoning issues related to the airport:

- Identify policies and ordinances that protect regional airspace from obstructions, and how the community will notify the FAA of proposed structures.
- Recognize any impact on surface waters as designated and regulated by MnDOT, and consider land use compatibility with these areas.
- Map facilities such as radio beacons or air navigation aids that are used off airport, and whether the Township hosts one of these facilities.
- Map the airport/locations including existing and future boundaries, access locations, and runways.
- Describe the future functional and operational characteristics for the airport.
- Assess existing and potential noise impacts of airport operations.
- Evaluate local use capability issues and establish policies if needed.
- Address the optimal warm airport noise zoning rules.

The issues are addressed in the items that follow and in the maps included in this chapter.

Airplane Obstructions

The Minnesota Rev. Stat. 106.02, subdivision 2, establishes the criteria for determining obstructions to air navigation. The most relevant issue is the maximum obstruction height of 200 feet with three miles of a runway. The Township's Ordinances must include regulations to control height of structures, especially control areas not permit any.

The Township must comply with the requirements regarding the coordination of the Federal Aviation Administration (FAA) located under code of federal regulations 14 CFR Part 77. The FAA for 7000-1 "Notice of Proposed Construction or Alteration." It could be allowed if the proposed structure will not create a hazard to air navigation or otherwise adversely impact the metropolitan airport system.

- The Township will require applicants to file an FAA 7400-1 "Notice of Proposed Construction or Alteration" for structures that exceed the standards identified in Federal regulations.
Surfline Use

Under Mn/DOT Office of Aeronautics, MR 8000.2400, surfline operations are permitted on the surface waters of the St. Croix River.

The area of the Township that is adjacent to the St. Croix River is zoned for Agricultural Use. The maximum height permitted in this zoning district is 35 feet. The uses permitted in this district will not conflict with and are compatible with surfline operations.

Radio Beacons or Navigational Aids

There are no off-airport radio beacons or navigational aids in Baytown Township.

Airport Location, Boundaries, and Access Locations

The Township's 2040 Land Use Plan, Exhibit 9 in Chapter III, shows the location of the airport within the Township and its current boundaries. Figures 13-1 and 13-5 include in this chapter show the current facilities and amenities that are included in the adopted Lake Elmo Airport LTCP (2008) and the proposed facilities and boundaries identified for the preferred alternative in the DEIR-LTCP for 2015-2035. The airport boundary with Baytown Township would not change if the preferred alternative is adopted for the 2015-2035 LTCP.

Future Operational and Operational Characteristics of the Airport

Lake Elmo Airport serves as a reliever to the Minneapolis-St. Paul International Airport. Service is provided to operators of single-engine and light twin-engine, propeller and turboprop aircraft, for training, pleasure and business flying activities. Capacity of the existing facility is the Lake Elmo Airport is estimated at 210,000 annual operations. Aircraft operations for 2012 were estimated at approximately 25,000. Current airport operations are below its capacity. The Airport's LTCP for 2015-2035 projects that airport operations are likely to remain near current levels or may increase slightly.

Noise Impact of Airport Operations

The Metropolitan Airports Commission has prepared a noise contour map for the current conditions at the airport, and for the preferred alternative identified in the LTCP for 2015-2035. The noise contours within Baytown Township would not change from the current conditions if the preferred alternative is adopted. Portions of the 55 DNL contour are located within the Township—on the airport property, and on some parcels adjacent to the airport that are currently zoned for large-scale single-family residential development. The Township's 2040 Land Use Plan proposes that the area will continue to be occupied by single-family residential development on large lot.
Table L-3 in the Metropolitan Council's 2040 Transportation Policy Plan, Appendix L identifies compatible land uses with aircraft noise zones. No areas within Baytown Township are located within Noise Exposure Zones 1-4. The table does not identify compatibility guidelines for the 55 DNL area.

Land Use Compatibility Issues

The Lake Elmo Airport 2035 LTPC identifies the existing land uses that are not considered compatible with the existing airport. The uses include the Union Pacific Railroad, County Road 15/Manning Avenue, and private properties near 30th Street in Lake Elmo. The plan states that Washington County will need to address issues related to County Road 15/Manning Avenue in its future plans for the roadway. The Township has no zoning authority over the railroad. The zoning for the private properties near 30th Street in the Township will continue to permit large-lot single family residential uses only in this area, and no change in the existing land use is anticipated through 2040.

Updated State Airport Noise Zoning Standards

MnDOT's Division of Aeronautics provides a summary of requirements for airport zoning related to noise. The areas of Baytown Township that are located within the airport's zone of influence are located in Zone C. The current uses in the zone are restricted to uses that do not cause interference with radio or electronic facilities and communities at the airport, or do not have lighting that impacts with airport operations. None of the uses that exist in
Township in Zone C or are permitted in Zone C by the 2004 Land Use plan have the potential to create the negative impacts identified. MnDOT noted that they are working on a process to update state zoning rules. None of the potential changes discussed would impact land use regulations in the Township through 2040.

F. RAILROADS

Two railroads pass through the Township. Both lines are owned by the Union Pacific Railroad. The first line passes along the southeastern corner of the Township in a north-south direction and serves Andersen Windows and the Allen K. King Plant in the City of Bayport. This line splits south of the Township and branches off to form the second line running through the center of the Township going north to intersect at CSAH 14 and CSAH 24 then running in a southeasterly direction past CSAH 15 out of the Township. There are approximately 5.3 miles of track within the Township.

Land uses currently permitted along the railroad corridors include large lot single-family uses, agricultural uses, and aggregate mining. The Township's 2040 land use plan makes no change in the land uses permitted along the rail corridors.

The Township and its residents have identified safety concerns about the increase in the number of trains hauling oil through the Township. The Township participates in the County’s emergency plan and Red Alert system that should provide notification to residents if a spill, accident, or other safety issues occurs along the rail lines within the Township.

G. RIVER USAGE

Surface waters of the St. Croix River are used primarily for pleasure boating. Occasional barge traffic takes place on the St. Croix River, primarily for the purpose of providing coal to the Northern States Power plant in Bayport.

Baytown Township  Page 12  2040 Comprehensive Plan
Hi Sherri,  
I quickly reviewed the draft plan. As it adopts the VBWD Plan and indicates that the VBWD will continue to do permitting, I will be recommending at the VBWD Managers’ meeting next Thursday night that the VBWD Managers find the draft plan to be consistent with their 2015-2025 Watershed Management Plan and the VBWD’s Rules and Regulations.  
Thanks,  
John  

John P. Hanson, PE, ENV SP  
Valley Branch Watershed District Engineer  
Barr Engineering Co. | 4300 MarketPointe Drive | Bloomington, MN 55435  
office: 952.832.2622 | cell: 612.590.1785  
JHanson@barr.com | www.barr.com | www.vbwd.org  

From: Sherri A. Buss [mailto:sherri.buss@tkda.com]  
Sent: Monday, April 03, 2017 3:00 PM  
To: Sara Taylor <staylor@ci.bayport.mn.us>; eajohnson@cityofoakparkheights.com; John P. Hanson <JHanson@barr.com>  
Subject: Baytown Township 2040 Draft Comprehensive Plan comments  

All,  

In November, 2015 Baytown Township contacted all of the “affected jurisdictions” that may submit comments on the Township’s Draft 2040 Comp Plan to request comments (email attached). We have received comments, or a note that an organization would have no comments, from almost everyone on the list. The Town would appreciate your comments as soon as possible so that the Planning Commission and Board can address all comments and move forward with the Draft Plan.  

The Draft Plan and appendices are available on the Township’s website, as noted in the email attached. If you have questions about the plan, please email or call me. You can email your comments to me as well.  

Thanks, Sherri Buss  
Township Planner  

Sherri A. Buss, RLA, AICP | Senior Planner/Manager, Planning Group  
444 Cedar Street, Suite 1500, Saint Paul, MN 55101  

P 651.292.4582 | C 651.368.0665 | check out our new tkda.com
From: Sherri A. Buss [mailto:sherril.buss@tkda.com]
Sent: Monday, April 03, 2017 3:00 PM
To: Sara Taylor <staylor@ci.bayport.mn.us>; eajohnson@cityofoakparkheights.com; jhanson@barr.com
Subject: Baytown Township 2040 Draft Comprehensive Plan comments

All,

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The Draft Plan and appendices are available on the Townships website, as noted in the email attached. If you have questions about the plan, please email or call me. You can email your comments to me as well.

Thanks, Sherri Buss

Township Planner
5/12/17

TO:       Ms. Sherri Buss, TKDA – Baytown Township – Town Planner
         Via email only sherri.buss@tkda.com

RE:       Comprehensive Plan

Dear Sherri:

The City has had an opportunity to review the draft of the Baytown Township Comprehensive Plan recently provided and as shown on the website links.

At this time, the City has no commentary.

Thank you for providing our City a copy of that document and an opportunity to offer input.

Kind regards.

[Signature]

Dr. Eric Johnson, AICP
City Administrator

Cc:        Weekly Notes