

**CITY OF NORTH ST. PAUL
CITY COUNCIL
WORKSHOP AGENDA
MARCH 20, 2018
6:00 PM**

North St. Paul City Hall – Sandberg Room
2400 Margaret Street

Council Member Petersen will be participating in the meeting remotely from Orange Beach City Hall, 4099 Orange Beach Blvd., Orange Beach, Alabama 36561. She will be located in a public conference room next to the council chambers. The conditions per State Statute 13D.02 have been met.

I. CALL TO ORDER

II. ROLL CALL

Councilmember Furlong
Councilmember Petersen
Councilmember Walczak
Councilmember Sonnek
Mayor Kuehn

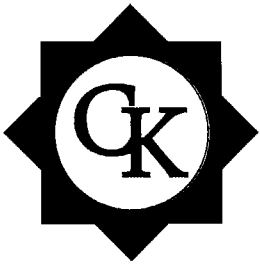
III. ADOPT AGENDA

IV. TOPIC(S)

A. Water Permit Appropriation Demand for Hearing

V. OTHER BUSINESS

VI. ADJOURNMENT



CAMPBELL KNUTSON

PROFESSIONAL ASSOCIATION

March 15, 2018

Thomas J. Campbell*
Roger N. Knutson
Elliott B. Knetsch
Joel J. Jamnik
Andrea McDowell Poehler
Soren M. Mattick
Henry A. Schaeffer, III
Alina Schwartz
Shana N. Conklin
Amy B. Schutt
James J. Mongé, III
Jerome M. Porter
David S. Kendall
Matthew K. Brokl
Kurt S. Fischer

**Of Counsel*

City Council
City of North St. Paul
2400 Margaret St N
North St. Paul, MN 55109

Re: Amended Water Appropriation Permit No. 1977-6176

Dear Council:

As a result of the Ramsey County District Court Order pertaining to water levels on White Bear Lake, the Minnesota Department of Natural Resources (DNR) has issued an Amended Water Appropriation Permit (Permit) to the City of North St. Paul. Under the Permit:

- The City must submit to DNR a revised water supply plan that includes a contingency plan to fully or partially convert the source water from groundwater to surface water source(s) by August 29, 2018. The contingency plan must include a schedule for funding design, construction, and conversion to a surface water supply. Whether any conversion would occur shall be determined by the DNR and the City.
- The City must prepare, enact, and enforce a residential irrigation ban when notified by DNR that the lake level of White Bear Lake has fallen below 923.5 feet to continue until notified by DNR that the lake level has reached an elevation of 924 feet. By April 30, 2018, the City must send the DNR an approved ordinance or other enforceable mechanism for implementing an irrigation ban. The current level of White Bear Lake is 922.98 feet.
- The City must submit to DNR by August 29, 2018, an enforceable plan to phase down per capita residential water use to 75 gallons per day and total per capita water use to 90 gallons per day.
- The City must annually report to DNR on collaborative efforts with the northeast metro communities to develop plans to phase down per capita residential water use to 75 gallons per day and total per capita water use to 90 gallons per day. Annual reports are due on March 31 of each year beginning in 2019.

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Page 2
March 15, 2018
North St. Paul City Council


Several other cities in the vicinity of White Bear Lake have received amended water appropriations permits and intend to appeal the DNR's permit requirements.

In order to appeal a DNR decision, the City must file a demand for hearing within 30 days after mailed notice of the order. Minn. Stat. § 103G.311 subd. 5. Upon receipt of the City's demand for hearing, the Commissioner of the DNR must initiate a contested case hearing. Minn. Stat. § 14.57. If the Commissioner initiates a contested case hearing, he will set a hearing date and give notice of the date, time, and place of the hearing. Minn. Stat. § 103G.311 subd. 2, 5; Minn. Stat. § 14.58. The City will have an opportunity at the hearing to present evidence to establish that the Permit requirements are unreasonable, arbitrary, and capricious. Minn. Stat. § 14.60. The administrative law judge that hears the case will issue a report. Minn. Stat. § 14.61. DNR then renders a final decision on the Permit. *Id.* If the City is not satisfied with DNR's final decision it can appeal to the Court of Appeals by filing a petition for a writ of certiorari with the Court of Appeals and serving it on all the parties within 30 days after receiving the decision. Minn. Stat. § 14.63.

I recommend you appeal the DNR's Permit by adopting the attached demand for hearing letter.

Yours very truly,

CAMPBELL KNUTSON
Professional Association

By: 
Soren M. Mattick

SMM/JMM

Enclosure

March 15, 2018

VIA US MAIL AND EMAIL

Joe.Richter@state.mn.us

Joe Richter
District Appropriations Hydrologist
MN Department of Natural Resources
1200 Warner Road
St. Paul, MN 55106

Re: **Water Appropriation Permit Number 1977-6176**

Dear Mr. Richter:

The City of North St. Paul demands a hearing on the amendments to its Water Appropriation Permit Number 1977-6176 issued by the DNR. We believe the amendments are arbitrary and capricious and not supported by substantial evidence. The permit amendments for which the City demands a hearing under Minnesota Statutes section 103G.311, subdivision 5, include:

Ramsey County District Court Order: 62-CV-13-2414 – Plan to Convert to Surface Water
Ramsey County District Court Order: 62-CV-13-2414 – Residential Irrigation Ban
Ramsey County District Court Order: 62-CV-13-2414 – Per Capita Water Use Plan
Ramsey County District Court Order: 62-CV-13-2414 – Report on Collaborative Efforts

The City believes it is a public authority that is not required to submit a bond or security under Minnesota Statutes section 103G.311, subdivision 6. To the extent that a bond or security may be considered necessary, the City hereby promises to pay the appropriate hearing costs under section 103G.311, subdivision 7, if the order is affirmed without material modification.

Very truly yours,

Mike Kuehn
Mayor, City of North St. Paul

Cc: Commissioner Tom Landwehr
Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155

CITY OF NORTH ST. PAUL

**NOTICE OF START TIME CHANGE
CITY COUNCIL WORKSHOP
MARCH 20, 2018**

The North St. Paul City Council hereby makes Public Notice that the start time for the regularly scheduled City Council Workshop on Tuesday, March 20, 2018 has been moved from 5:00 p.m. to 6:00 p.m. for this meeting only.

Craig Waldron
City Manager

Posted March 14, 2018