

**ARLINGTON CITY COUNCIL
MEETING AGENDA
JUNE 20, 2011 AT 6:30 PM
COUNCIL CHAMBERS**

The City Council is provided background information for agenda items in advance by city staff, committees and boards. Many decisions regarding agenda items are based upon this information, as well as: City policy and practices, input from constituents, questions or information that has not yet been presented or discussed regarding an agenda item. If you have a concern or question, please ask to be recognized by the Mayor during the "Citizens addressing the Council" portion of the agenda— state your name and address for the record. Please keep comments under 5 minutes. Individuals wishing to speak for more than five minutes should ask to be included on the agenda in advance. All comments are appreciated, but please refrain from personal or derogatory attacks on individuals.

1. Call meeting to order and Pledge of Allegiance
2. Roll Call
3. Approve the agenda and any agenda additions

CONSENT AGENDA

The items listed for consideration will be enacted by one motion unless the Mayor, a member of the City Council, City Staff or a person in attendance requests an item to be removed from the Agenda.

4. Approval of Consent Agenda
 - A) Approval of the June 6th Regular Meeting Minutes
 - B) Approval of Bills
 - C) Approve the Renewal of the Community Center Liquor Licenses for The Dugout
 - D) Approval of the July 9th Dance Permit for the Arlington A's

PUBLIC HEARINGS

PETITIONS, REQUESTS, & COMMUNICATIONS

5. Addressing the Council
 - A) Eric Bergersen on Ordinance 200
 - B) Citizens Addressing the Council
6. Announcements
 - A) City Offices will be closed on Monday, July 4th for Independence Day (Council Meeting will be Tuesday, July 5th)
7. Communications
 - A) May Financial Reports
 - B) Boulevard Tree Assessment Report
 - C) Report from Chief Rovinsky on Nuisance property

REPORTS OF OFFICERS, BOARDS & COMMITTEES

8. Yearly Parks/Trails Committee Update

ORDINANCES & RESOLUTIONS

9. Ordinances

- A) 258 (2nd Reading) – Storm Water Protection
- B) 259 (1st Reading) – Regulating Nuisances

10. Resolution 39-2011 – Summary Publication of Ordinance 258

10a) Resolution 40-2011 – General Obligation Sewer Bonds for WWTP Improvements

UNFINISHED BUSINESS

11. Update on Capital Projects

- A) Railroad Crossings Project
- B) Trail/Sidewalk Project
- C) Wastewater Treatment Plant Upgrade

12. Approve/Deny Well Pump Repair or Replacement

NEW BUSINESS

13. Approve/Deny Automated Electrical Meter Reading Plan

14. Approve/Deny Purchase of a Floor Scrubber for the Community Center

15. Approve/Deny SEDCO Contribution

16. Clarification on Water Access Charge (WAC) for Fairgrounds

17.

MISCELLANEOUS BUSINESS

18. Set Budget Workshop Date and Time

19. Council Committee Updates

20. Open Discussion

ADJOURNMENT

Reminders:

- 1) SMC Board – June 20th @ 5 pm (SMC)
- 2) Parks – June 27th @ 7 pm
- 3) EDA – June 28th @ 6 pm

**ARLINGTON CITY COUNCIL
MEETING MINUTES
JUNE 20, 2011**

The meeting was called to order at 6:30 p.m., Mayor Kreft presiding.

Members present: Mayor Kreft, Pederson, Reetz, Ruehling, Wills

Members absent: Pichelmann

Also present: City Administrator Jaunich, City Attorney Arneson, Alan Ihrke, Eric Bergersen, Tim McCarthy

Motion by Ruehling, seconded by Wills, and passed by unanimous vote to approve the agenda with the following addition:

Add item 10a) Resolution 40-2011 – General Obligation Sewer Bonds for WWTP Improvements.

Motion by Reetz, seconded by Pederson, and passed by unanimous vote to approve the consent agenda as follows:

- A) Approval of the June 6th Regular Meeting Minutes
- B) Approval of the Bills
- C) Approve the Renewal of Community Center Liquor License for the Dugout
- D) Approve the Renewal of an Off Sale Liquor License for Arlington Liquor
- E) Approval of the July 9th Dance Permit for the Arlington A's.

It was noted that there were no public hearings scheduled.

Eric Bergersen explained that he was thinking about selling his property located along 4th Avenue Southeast (edge of city limits), but had some concerns about Ordinance 200 and having to hook up to city sewer/water. He noted that his well and septic system are working fine, but the septic system is not up to code. He stated that back in 2009 he was presented with four (4) options, that ranged in price from \$30,000 to \$53,000, for hooking up to said utilities, but it was not feasible at that time. He questioned if the City would still consider (cost sharing) one of the proposed options now. Reetz suggested having the City Engineer update the proposals and then provide a breakdown of assessment costs for the property owner and City.

It was noted that there were no other citizens present to address the Council on non-agenda items.

The following announcements were reviewed:

- 1) City Offices will be closed on Monday, July 4th for Independence Day (Council Meeting will be Tuesday, July 5th).

The Council reviewed the following communications:

- 1) May Financial Reports
- 2) Boulevard Tree Assessment Report
- 3) Report from Chief Rovinsky on Nuisance property.

Al Ihrke presented the annual report for the Parks Committee. He commented on the various maintenance items they have addressed such as adding mulch to playground areas, replaced a drinking fountain at Four Seasons Park, and reroofed and resided the shelter at the Sportsman's Park. He noted that future discussions will be held on the trail system and connecting the parks, and purchasing new play equipment for the Sportsman's Park.

Bids for repairing/replacing Well Pump #4 were reviewed. Tim McCarthy from McCarthy Well was present to answer questions regarding their bid.

Motion by Reetz, seconded by Wills, and passed by unanimous vote to approve the bid from McCarthy Well Company in the amount of \$22,161 (\$17,296 for parts and \$4,865 (labor and field time) for Well Pump #4 repairs.

The second reading of Ordinance 258 – An Ordinance Regulating and Managing Storm Water within the City of Arlington, was held. Adm. Jaunich commented that no changes had been made since the first reading.

Motion by Pederson, seconded by Ruehling, and passed by unanimous vote to approve Ordinance 258 - An Ordinance Regulating and Managing Storm Water within the City of Arlington, as follows:

ORDINANCE 258
AN ORDINANCE REGULATING AND MANAGING STORM WATER WITHIN THE CITY OF ARLINGTON

The purpose of the Ordinance is to control, reduce, and to the extent possible, eliminate storm water pollution along with soil erosion and sedimentation thereby helping to preserve natural resources within the City of Arlington from undesirable impacts related to development or other activities. It establishes standards and specification for conservation practices and planning activities, which minimize storm water pollution, soil erosion, and sedimentation. *(See attached for complete ordinance.)*

Adopted by the City of Arlington on the 20th day of June, 2011.

The first reading of Ordinance 259 – An Ordinance Regulating Nuisances within the City of Arlington, was held. Attorney Arneson reviewed the changes being made within the proposed ordinance. It was noted that a ‘repeat’ violator clause was being added.

Councilmember Wills introduced the following resolution and moved for its adoption:

RESOLUTION 39-2011
A RESOLUTION APPROVING ORDINANCE 258 ENTITLED, ‘AN ORDINANCE REGULATING AND MANAGING STORM WATER WITHIN THE CITY OF ARLINGTON’ AND APPROVING SUMMARY PUBLICATION THEREOF

WHEREAS, the City Council of the City of Arlington finds that storm water regulation and management is a matter of public health, safety, and welfare; and

WHEREAS, the Arlington Planning Commission and City Council have reviewed and studied storm water regulation and management and finds the establishment of minimum storm water management and erosion and sedimentation requirements and controls will help to protect the public health, safety, and welfare; and

WHEREAS, the Arlington Planning Commission developed proposed Ordinance 258 with assistance from members of the High Island Creek Watershed District and the City Engineer; and,

WHEREAS, a public hearing was properly noticed and held on June 2, 2011 by the City of Arlington Planning Commission; and,

WHEREAS, on June 2, 2011 the Planning Commission approved Resolution PC03-2011 recommending the City Council approve Ordinance 258; and

WHEREAS, the City Council approved the first reading of Ordinance 258 at its regular meeting on June 6, 2011; and

WHEREAS, the City Council approved second reading and the adoption of Ordinance 258 at its regular meeting on June 20, 2011; and

WHEREAS, the proposed ordinance is itemized in Exhibit A which is attached to this resolution; and

WHEREAS, The City Council of the City of Arlington has determined the publication of the title and a summary of Ordinance 258 would clearly inform the public of the intent and effect of the Ordinance 258; and

WHEREAS, Prior to the publication of the title and summary, the Council has read and approved the text of the summary and determined that it clearly informs the public of the intent and effect of the Ordinance.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Arlington hereby approves Ordinance 258 as presented in Exhibit A which is attached to this resolution; and

BE IT FURTHER RESOLVED that the City Administrator shall cause a summary of Ordinance No. 258 to be published in the City's official newspaper at the earliest practicable date; and

BE IT FURTHER RESOLVED, the summary publication shall read as follows:

“On June 20, 2011 the City Council of the City of Arlington approved Ordinance 258, entitled, ‘An Ordinance Regulating and Managing Storm Water within the City of Arlington.’ The Ordinance in its entirety is available for review and/or photocopying during regular office hours at the City of Arlington, 204 Shamrock Drive, Arlington, Minnesota 55307. The purpose of the Ordinance is to control, reduce, and to the extent possible, eliminate storm water pollution along with soil erosion and sedimentation thereby helping to preserve natural resources within the City of Arlington from undesirable impacts related to development or other activities. It establishes standards and specification for conservation practices and planning activities, which minimize storm water pollution, soil erosion, and sedimentation”.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Pederson and upon poll being taken thereon the following voted in favor thereof: Pederson, Reetz, Ruehling, Wills; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: Pichelmann.

Approved by the City Council of the City of Arlington this 20th day of June, 2011.

Councilmember Reetz introduced the following resolution and moved for its adoption:

RESOLUTION 40-2011

A RESOLUTION RELATING TO \$4,365,546 GENERAL OBLIGATION SEWER REVENUE NOTE, SERIES 2011; AUTHORIZING THE ISSUANCE AND SALE, FIXING THE FORM AND DETAILS THEREOF AND PROVIDING FOR THE SECURITY THEREFOR

BE IT RESOLVED by the City Council (the “Council”) of the City of Arlington, Minnesota (the “City”), as follows:

Section 1. Authorization and Recitals.

- 1.01. Authorization. The City is authorized pursuant to Minnesota Statutes, Section 444.075, as amended, and Chapter 475 to issue and sell its general obligation bonds in order to finance the cost of improvements to its wastewater treatment system (the “System”). The City is proposing to undertake improvements to the System consisting of the rehabilitation and expansion of the treatment plant (the “Project”).
- 1.02. PFA Loan. The Minnesota Public Facilities Authority (the “PFA”) has agreed, subject to certain terms and conditions contained in a Bond Purchase and Project Loan Agreement entered into between the City and PFA dated June 16, 2011 (the “Loan Agreement”), to lend the City \$4,365,546 in order to finance the cost of the Project (the “PFA Loan”). This Council hereby accepts such offer, ratifies the execution and delivery of the Loan Agreement by the Mayor and the City Administrator and agrees to issue its \$4,365,546 General Obligation Sewer Revenue Note, Series 2011 (the “Note”), to the PFA evidencing such loan. The Loan Agreement is hereby incorporated by reference and made a part of this resolution. Each and all of the provisions of this resolution relating to the Note are intended to be consistent with the provisions of the Loan Agreement, and to the extent that any provision in the Loan Agreement is in conflict with this resolution as it relates to the Note, that provision shall control, and this resolution shall be deemed accordingly modified. The

proceeds from the Note will be disbursed to the City from the PFA on a cost reimbursement basis consistent with a budget presented to the PFA in connection with the application for financing and in accordance with state law applicable to PFA loan. If (i) as a result of action by the City or PFA, the entire principal amount is not to be disbursed for such reimbursement or (ii) the entire principal amount is not fully disbursed within three years of the date of the Loan Agreement, and an extension is not granted pursuant to the Loan Agreement, the undisbursed balance shall be applied to principal payments on the PFA Loan. The City hereby pledges to use all money disbursed for the Project exclusively for the Project, and to pay any additional amount by which the cost of the Project exceeds amounts disbursed by an appropriation to the construction fund described in Section 4.01 hereof of additional money or proceeds of additional bonds to be issued by the City.

- 1.03. Tax Exemption. The Loan Agreement requires that the Note be tax-exempt, and that the City take the actions required and within its power to assure the tax-exemption of the bonds issued by the PFA (the “PFA Bonds”).
- 1.04. Private Sale. The PFA has represented to the City that it is a duly organized agency of the State of Minnesota, and the City is authorized under Minnesota Statutes, Section 475.60, Subdivision 2(4), as amended, to sell its obligations at private sale to an agency of the State of Minnesota.
- 1.05. Recitals. All acts, conditions, and things which are required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen, and to be performed prior to the issuance of the Note having been done, existing, and having happened, it is now necessary for this Council to establish the form and terms of the Note, to provide for the security thereof, and to issue the Note forthwith.

Section 2. Terms and Execution.

- 2.01. Terms. In order to finance costs of the Project and to evidence the loan referred to in Section 1.02, the City shall forthwith issue the Note in the principal amount of \$4,365,546. The Note shall be dated as of the date of its delivery to the PFA and shall be payable in annual installments of principal maturing on August 20 of the years and in the amounts set forth below:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2012	\$90,546	2022	\$225,000
2013	205,000	2023	227,000
2014	207,000	2024	229,000
2015	210,000	2025	231,000
2016	212,000	2026	234,000
2017	214,000	2027	236,000
2018	216,000	2028	238,000
2019	218,000	2029	241,000
2020	220,000	2030	243,000
2021	222,000	2031	247,000

The Note shall bear interest and service fees from the date of the Loan Agreement at the rate of 1.0% per annum through the date on which no principal remains unpaid; provided, however, that interest and service fees shall accrue only on the aggregate principal amount of the Note actually disbursed by the PFA. Interest shall be payable on each February 20 and August 20, commencing February 20, 2012. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months. The principal of and interest on the Note shall be payable to the registered holder thereof at the address appearing on the Note register of the City on the date of payment.

- 2.02. Registration. The Note shall be fully registered as to both principal and interest and shall be initially registered in the name of and payable to the PFA. While so registered, principal of and interest on the Note shall be payable at the address of the registered holder thereof, as it appears on the note register maintained by the City Administrator, or such other place as may be designated by the registered holder in writing, and delivered to the City Administrator. The City Administrator shall act as note registrar and as such shall establish and maintain a note register for the purpose of recording the name and addresses of the registered holder and its assigns, and the date of registration of any transfer.
- 2.03. Redemption.
 - (a) The City shall have the option to prepay the Note, subject to the approval thereof by the PFA in its sole discretion, in whole or in part on any February 20 or August 20, upon forty-five days prior written notice to the PFA at a price equal to 100% of the principal amount to be prepaid, together with accrued interest to the redemption date and a premium equal to all fees and expenses of the PFA incurred in connection with such

prepayment as determined by the PFA in its sole discretion. The PFA may require an opinion of a law firm, selected by the PFA, having a national reputation in the field of municipal law whose legal opinions are generally accepted by purchasers of municipal bonds to the effect that such prepayment will not cause the interest on the Note to be included in the gross income of the recipient thereof for federal income tax purposes.

(b) In the event that special assessments and/or connection charges from another municipality are pledged to the payment of the Note, and the City receives prepayments or lump sum payments of such special assessments and/or connection charges, the City is hereby required, and hereby agrees, to immediately notify the PFA and transmit the funds within ten (10) days to the PFA for payment of the Note, unless the PFA, at its sole option and in its sole discretion, directs the City to use the funds for the payment of eligible construction costs or transmit the funds at a later date to the PFA for payment of the Note. Any such payment received by the PFA may be applied to reduce each unpaid annual principal installment required with respect to the Note in the proportion that such installment bears to the total of all unpaid principal installments or, at the sole option and in the sole discretion of the PFA, may be applied to a future principal payment on the Note in a manner determined by the PFA.

(c) The principal amount of a partial prepayment may, at the sole option and discretion of the PFA, (i) be applied to a future principal payment on the loan in a manner determined by the PFA or (ii) be applied to reduce each unpaid annual principal installment required with respect to the PFA Loan in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be re-amortized to provide proportionately reduced principal payments in each year) with respect to the PFA Loan. The PFA Loan and the Note shall be re-amortized on the same basis to result in identical amortization of the PFA Loan and the Note.

(d) Any payments of principal or interest received by the PFA in excess of the principal of and interest on the Loan and the Note which are not mandatory payments described in (b) above or not expressly designated by the City to be treated as a prepayment may, in the sole discretion of the PFA, be (i) held without interest payable by the PFA and applied to a future payment due on the Note in a manner determined by the PFA, (ii) treated as a prepayment of principal on the Note; or (iii) returned to the City as an overpayment.

2.04. Execution and Delivery. The Note shall be prepared under the direction of the City Administrator and shall be executed on behalf of the City by the signature of the Mayor, attested by the City Administrator. When the Note has been so executed and authenticated, it shall be delivered by the City Administrator to the PFA to evidence the obligation of the City under the Loan Agreement.

2.05. Assignment and Exchange. The Note shall be transferable by the registered owner or the owner's attorney duly authorized in writing upon presentation thereof to the City Administrator together with a written instrument of transfer satisfactory to the City Administrator and duly executed by the registered owner or the owner's attorney. The following form of assignment shall be sufficient for the purpose:

For value received _____ hereby sells, assigns and transfers unto _____ the within Note of the City of Arlington, Minnesota, and does hereby irrevocably constitute and appoint _____, Attorney, to transfer the Note on the books of the City with full power of substitution in the premises.
Dated: _____

Registered Owner

Such transfer shall also be noted on the Note and in the note register. No service charge shall be made for such transfer, but the City may require payment of a sum sufficient to cover any tax, fee or governmental charge or other expense incurred by the City with respect thereto.

Section 3. Form of Note. The Note shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF SIBLEY

CITY OF ARLINGTON

GENERAL OBLIGATION SEWER REVENUE NOTE, SERIES 2011
No. R-1 \$4,365,546

FOR VALUE RECEIVED, THE CITY OF ARLINGTON, Sibley County, Minnesota (the "City"), acknowledges itself to be indebted and hereby promises to pay to the Minnesota Public Facility Authority (the "PFA"), or registered assigns, the principal sum of Four Million Three Hundred Sixty-Five Thousand Five Hundred Forty Six

Dollars (\$4,365,546.00), or such lesser amount as may be advanced by the PFA to the City hereunder, in the following installments on August 20 in the following years:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2012	\$90,546	2022	\$225,000
2013	205,000	2023	227,000
2014	207,000	2024	229,000
2015	210,000	2025	231,000
2016	212,000	2026	234,000
2017	214,000	2027	236,000
2018	216,000	2028	238,000
2019	218,000	2029	241,000
2020	220,000	2030	243,000
2021	222,000	2031	247,000

and promises to pay interest and service fees from the date of the Project Loan and Bond Purchase Agreement between the City and the PFA dated as of June 16, 2011 (the “Loan Agreement”) on the installments of principal which have been disbursed by the PFA and from time to time remain unpaid by the City at the rate of 1.00% per annum through the date on which no principal remains unpaid, said interest being payable semiannually on February 20 and August 20 of each year, commencing February 20, 2012. The principal installments of and interest on this Note are payable by wire transfer or check or draft mailed at least five business days prior to the payment date to the address of the registered holder hereof as it appears on the note register of the City as of the payment date, in any coin or currency of the United States of America which on the respective dates of payment is legal tender for public and private debts. For the prompt and full payment of such principal installments and interest when due, the full faith, credit and taxing powers of the City are hereby irrevocably pledged.

This Note constitutes an issue in the aggregate principal amount of \$4,365,546, issued to defray a portion of the cost of construction of improvements (the “Project”) to the wastewater system of the City (the “System”), and is issued pursuant to and in full conformity with the provisions of the Constitution, laws of the State of Minnesota thereunto enabling, including Minnesota Statutes, Section 444.075 and Chapter 475, as amended. This Note is payable primarily from the PFA Debt Service Account (the “PFA Debt Service Account”) of the City, but the City is required by law to pay maturing principal hereof and interest thereon out of any funds in the treasury if money on hand in the PFA Debt Service Account is insufficient therefor.

The City shall have the option to prepay the Note, subject to the approval thereof by the PFA in its sole discretion, in whole or in part on any February 20 or August 20, upon forty-five days prior written notice to the PFA at a price equal to 100% of the principal amount to be prepaid, together with accrued interest to the redemption date and a premium equal to all fees and expenses of the PFA incurred in connection with such prepayment as determined by the PFA in its sole discretion. The PFA may require an opinion of a law firm, selected by the PFA, having a national reputation in the field of municipal law whose legal opinions are generally accepted by purchasers of municipal bonds to the effect that such prepayment will not cause the interest on the Note to be included in the gross income the recipient thereof for federal income tax purposes.

In the event that special assessments and/or connection charges from another municipality are pledged to the payment of the Note, and the City receives prepayments or lump sum payments of such special assessments and/or connection charges, the City is hereby required, and hereby agrees, to immediately notify the PFA and transmit the funds within ten (10) days to the PFA for payment of the Note, unless the PFA, at its sole option and in its sole discretion, directs the City to use the funds for the payment of eligible construction costs or transmit the funds at a later date to the PFA for payment of the Note. Any such payment received by the PFA may be applied to reduce each unpaid annual principal installment required with respect to the Note in the proportion that such installment bears to the total of all unpaid principal installments or, at the sole option and in the sole discretion of the PFA, may be applied to a future principal payment on the Note in a manner determined by the PFA.

The principal amount of a partial prepayment may, at the sole option and discretion of the PFA, (i) be applied to a future principal payment on the loan in a manner determined by the PFA or (ii) be applied to reduce each unpaid annual principal installment required with respect to the PFA Loan in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be re-amortized to provide proportionately reduced principal payments in each year) with respect to the PFA Loan.

The PFA Loan and the Note shall be re-amortized on the same basis to result in identical amortization of the PFA Loan and the Note.

Any payments of principal or interest received by the PFA in excess of the principal of and interest on the Loan and the Note which are not mandatory payments with respect to special assessment and connection charges described above or not expressly designated by the City to be treated as a prepayment may, in the sole discretion of the PFA, be (i) held without interest payable by the PFA and applied to a future payment due on the Note in a manner determined by the PFA, (ii) treated as a prepayment of principal on the Note; or (iii) returned to the City as an overpayment.

This Note shall be registered in the name of the owner on the note register of the City kept by the City Administrator as Bond Registrar. This Note is transferable by the registered owner or the owner's attorney duly authorized in writing, upon presentation hereof with a written instrument of transfer satisfactory to the City and duly executed by the registered owner or the owner's attorney, subject to reimbursement for any tax, fee or governmental charge or other expense incurred by the City with respect to such transfer. Such transfer shall be noted on the note register and hereon. The City may treat the person in whose name this Note is registered as the absolute owner hereof, whether this Note is overdue or not, for the purpose of receiving payment of principal and interest and all other purposes, and shall not be affected by any notice to the contrary.

The City intends that the interest on this Note will be excluded from gross income for United States income tax purposes and from both gross income and taxable net income for State of Minnesota income tax purposes.

This Note has been designated by the City as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the federal Internal Revenue Code of 1986, as amended.

The City may deem and treat the person in whose name this Note is registered as the absolute owner hereof, whether this Note is overdue or not, for the purpose of receiving payment and for all other purposes, and the City shall not be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution, laws of the State of Minnesota to be done, to exist, to happen and to be performed precedent to and in the issuance of this Note in order to make it a valid and binding general obligation of the City according to its terms have been done, do exist, have happened and have been performed in regular and due time, form and manner as so required; that in and by the resolution authorizing the issuance of the Note, the City has covenanted and agreed with the owners of the Note that it will impose and collect charges for the service, use and availability of the System according to schedules sufficient to produce net revenues adequate to pay all principal of and interest on the Note and any other bonds or notes payable therefrom, as such principal and interest respectively become due; that, if necessary to pay such principal and interest, the City is required by law to levy ad valorem taxes upon all taxable property within its corporate limits, without limitation as to rate or amount; and that the issuance of this Note does not cause the indebtedness of the City to exceed any constitutional, charter or statutory limitation.

IN WITNESS WHEREOF, the City of Arlington, Minnesota, by its City Council, has caused this Note to be executed on its behalf, omitting the seal pursuant to Section 475.55, by the signature of the Mayor, attested by the signature of the City Administrator, and has caused this Note to be dated as of June 30, 2011.

ATTEST: _____
City Administrator Mayor

NO WRITING HEREON EXCEPT BY THE CITY ADMINISTRATOR
AS NOTE REGISTRAR

The Note Registrar has transferred on the books of the City of Arlington, Sibley County, Minnesota, on the last date noted below, to the registered assign noted opposite said date, ownership of the principal amount of and interest on this Note, except the amounts of principal and interest theretofore paid:

<u>Date of Transfer</u>	<u>Registered Assign</u>	<u>Signature of Note Registrar</u>
<u>June 30, 2011</u>	<u>MN Public Facilities Authority</u>	_____
_____	_____	_____
_____	_____	_____

[End of Bond Form]

Section 4. Use of Proceeds; Security Provisions.

4.01. Use of Proceeds. Upon advancements of principal of the Note by the PFA in accordance with the Loan Agreement, or upon an appropriation of funds described in Section 1.02 hereof, the City Administrator shall deposit such proceeds in a separate construction fund (the "PFA Construction Account") to be created on the books of the City and expended to pay for the costs of the Project within five business days of receipt thereof, including the costs of issuance of the Note and interest during the period of construction, as further provided in the Loan Agreement. From the PFA Construction Account there shall be paid costs and expenses of constructing the Project permitted under the Loan Agreement, including all other costs incurred and to be incurred of the kind authorized by Minnesota Statutes, Section 475.65. It is recognized that certain sale proceeds of the Note are received in reimbursement for costs of the Project, and that accordingly the moneys need not be placed in the PFA Construction Account upon receipt but may be applied immediately to reimburse the source from which the expenditure was made. The PFA prohibits the use of proceeds of the Note to reimburse costs initially paid from other obligations of the City unless otherwise specifically approved. Any amounts remaining upon completion of the Project shall be transferred to the PFA Debt Service Account as described in Section 4.02.

No portion of the proceeds of the Note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Note was issued, and (2) in addition to the above, in an amount not greater than the lesser of five percent (5%) of the proceeds of the Note or \$100,000. To this effect, any proceeds of the Note or any sums from time to time held in the PFA Debt Service Account (or any other City account which will be used to pay principal or interest to become due on the Note) in excess of amounts which under then-applicable federal arbitrage regulations may be invested without regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by said arbitrage regulations on such investments after taking into account any applicable "temporary periods" or "minor portion" made available under the federal arbitrage regulations. In addition, moneys in the PFA Debt Service Account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Note to be "federally guaranteed" within the meaning of Section 149 (b) of the federal Internal Revenue Code of 1986, as amended (the Code).

4.02. PFA Debt Service Account. So long as any of the Note is outstanding and unpaid, the City Administrator shall maintain the PFA Debt Service Account of the City as a separate and special fund (the "PFA Debt Service Account") to be used for no purpose other than the payment of the principal of and interest on the Note and such other general obligation sewer revenue bonds of the City as may be directed to be paid from the PFA Debt Service Account. If the balance in the PFA Debt Service Account is ever insufficient to pay all principal and interest then due on bonds or notes payable therefrom, the City Administrator shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from subsequent receipts of net revenues appropriated to the PFA Debt Service Account and, if necessary, from the proceeds of the taxes levied for the PFA Debt Service Account. The City Administrator shall deposit in the PFA Debt Service Account the proceeds of all taxes levied and all other money which may at any time be received for or appropriated to the payment of such bonds and interest thereon, including the net revenues herein pledged and appropriated to the PFA Debt Service Account, all collections of any ad valorem taxes levied for the payment of the Note and all other moneys appropriated to the payment of the Note and the interest thereon.

4.03. Sufficiency of Revenues. It is hereby found, determined and declared that the City owns and operates the System as a revenue-producing utility and convenience; and that the net operating revenues of the System, after deducting from the gross receipts derived from charges for the service, use and availability of the System the normal, current and reasonable expenses of operation and maintenance thereof, will be sufficient, together with any other pledged funds, for the payment when due of the principal of and interest on the Note and on any other outstanding bonds of the City to which such revenues are pledged and, along with other funds dedicated thereto, to provide for the operation and maintenance of the System.

4.04. Rate Covenant; Pledge of Revenues; Additional Bonds. Pursuant to the provisions of Minnesota Statutes, Section 444.075, as amended, the City hereby covenants and agrees with the owners from time to time of the Note that so long as the Note is outstanding, the City will impose and collect reasonable charges for the service, use and availability of the System to the City and its inhabitants according to schedules calculated to produce net revenues which will be sufficient to pay all principal and interest when due on the Note and any other bonds payable therefrom, and said net revenues, to the extent necessary, are hereby irrevocably pledged and appropriated to the payment of the Note and interest thereon. Nothing herein shall preclude the City from

hereafter making further pledges and appropriations of net revenues of the System for the payment of additional obligations of the City hereafter authorized if the Council determines before the authorization of such additional obligations that the estimated net revenues of the System will, with any other sources of funds pledged, be sufficient for the payment of the Note, any other bonds then payable therefrom and such additional obligations. Such further pledges and appropriations of said net revenues may be made superior or subordinate to or on a parity with the pledge and appropriation herein made.

- 4.05. Full Faith and Credit Pledged. The full faith and credit and taxing powers of the City shall be and are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Note, and the City covenants and agrees that it will make good any deficiency from the general fund of the City. On or before September 1 of each year, beginning in 2011, the City Administrator will calculate and certify to this Council the total amount of cash on hand in the PFA Debt Service Account and the available net revenues of the System on hand and estimated to be received and available on or before the 20th day of August of the next succeeding year, and shall determine the sufficiency of such total amount for the payment of principal of and interest on the Note coming due on such August 20 and the interest payable on the immediately preceding February 20.

If such total amount is determined to be insufficient for such payments, this Council shall forthwith appropriate to the PFA Debt Service Account sufficient available moneys of the City to make good the deficiency, and if available moneys of the City are not on hand in amounts sufficient for this purpose, this Council shall forthwith levy and certify to the County Auditor for Sibley County for collection in the following year a tax at least five percent in excess of the amounts adequate to make good the deficiency. The City Administrator shall also at the same time estimate and certify to this Council the amount which will be on hand in the PFA Debt Service Account after payment of principal and interest payable on the 20th day of August of the second succeeding year, and the amount of net revenues of the System to be received and available for such purpose in the period of twelve months ending on said 20th day of August and shall determine the sufficiency of such estimated amounts for the payment of the principal of and interest on the Note coming due during and immediately at the end of such twelve-month period. If the amount of estimated net revenues to become available during such period is determined to be insufficient for such payment, this Council shall forthwith cause to be levied and certified to the County Auditor of Sibley County for collection in the following year a tax at least five percent in excess of amounts adequate to make good the deficiency.

Section 5. Registration and Certification of Proceedings.

- 5.01. Registration. The City Administrator is hereby authorized and directed to file a certified copy of this resolution with the County Auditor of Sibley County, together with such other information as shall be required, and to obtain from the County Auditor a certificate that the Note has been entered on his or her note register as required by law.
- 5.02. Certification of Proceedings. The officers of the City and the County Auditor of Sibley County are hereby authorized and directed to prepare and furnish to the PFA and to Dorsey & Whitney LLP, Bond Counsel to the City, certified copies of all proceedings and records of the City, and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Note as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.
- 5.03. Negative Covenants as to Use of Proceeds and Project. The City hereby covenants not to use the proceeds of the Note or to use the Project, or to cause or permit them to be used, or to enter into any deferred payment arrangements for the cost of the Project, in such a manner as to cause the Note to be a "private activity bond" within the meaning of Sections 103 and 141 through 150 of the Code. The City reasonably expects that no actions will be taken over the term of the Note that would cause it to be a private activity bond, and the average term of the Note is not longer than reasonably necessary for the governmental purpose of the issue. The City hereby covenants not to use the proceeds of the Note in such a manner as to cause the Note to be a "hedge bond" within the meaning of Section 149(g) of the Code.
- 5.04. Tax-Exempt Status of the Note; Rebate. The City shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Note, including without limitation (1) requirements relating to temporary periods for investments, (2) limitations on amounts invested at a yield greater than the yield on the Note, and (3) the rebate of excess investment earnings to the United States if the Note (together with other obligations reasonably expected to be issued in this calendar year) exceeds the small-issuer exception amount of \$5,000,000.
- 5.05. Tax-Exempt Status of the PFA Bonds; Rebate. The City with respect to the Note shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under

Section 103 of the Code of the interest on the PFA Bonds, including without limitation (1) requirements relating to temporary periods for investments, (2) limitations on amounts invested at a yield greater than the yield on the PFA Bonds, and (3) the rebate of excess investment earnings to the United States. The City covenants and agrees with the PFA and holders of the Note that the investments of proceeds of the Note, including the investment of any revenues pledged to the Note which are considered gross proceeds of the PFA Bonds under the applicable regulations, and accumulated sinking funds, if any, shall be limited as to amount and yield in such manner that the PFA Bonds shall not be arbitrage bonds within the meaning of Section 148 of the Code and any regulations thereunder. On the basis of the existing facts, estimates and circumstances, including the foregoing findings and covenants, the City hereby certifies that it is not expected that the proceeds of the Note will be used in such manner as to cause the PFA Bonds to be arbitrage bonds under Section 148 of the Code and any regulations thereunder. The Mayor and City Administrator shall furnish a certificate to the PFA embracing or based on the foregoing certification at the time of delivery of the Note to the PFA.

- 5.06. Qualified Tax-Exempt Obligations. The Council hereby designates the Bond as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code relating to the disallowance of interest expense for financial institutions, and hereby finds that the reasonably anticipated amount of tax-exempt obligations which are not private activity bonds (not treating qualified 501(c)(3) bonds under Section 145 of the Code as private activity bonds for the purpose of this representation) which will be issued by the City and all subordinate entities during calendar year 2011 does not exceed \$10,000,000.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Ruehling and upon poll being taken thereon the following voted in favor thereof: Pederson, Reetz, Ruehling, Wills; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: Pichelmann.

Approved by the City Council of the City of Arlington this 20th day of June, 2011.

CITY OF ARLINGTON, MINNESOTA

/s/ James R. Kreft
Mayor

Attest: /s/ Matthew Jaunich
City Administrator

Adm. Jaunich, Mayor Kreft and Attorney Arneson provided an update on the Railroad Crossings Project. Jaunich stated that the Rail Authority (through a letter written by the County Attorney) had asked MnDOT to start an investigation into the safety of the Main Street/1st Avenue South intersection. Attorney Arneson commented on conversations he had with the County Attorney and others about said investigation. Adm. Jaunich and Mayor Kreft had met with the Rail Authority to express the City’s concerns about the timing of the investigation. Attorney Arneson commented that he was waiting on a letter from MnDOT that stated that they had reviewed and approved the plans at an earlier date (basically validating no investigation was needed). Concerns were expressed about the funding options (use of TIF funds) being affected. It was noted that Mayor Kreft and Adm. Jaunich would be meeting with the Rail Authority again in July.

Adm. Jaunich provided an update on the Sidewalk/Trails project. He stated that the City was working with the County on a county-wide trail system and have applied for a federal grant, of which the City would be responsible for a 20% match. He added that the City was planning to do their portion this year using TIF Funds and have it count towards the match, which MnDOT said should be ok. Jaunich explained that he had been notified from the County that it was not going to be allowed at the federal level, since the County portion of the trail wasn’t scheduled to be done for a couple of years. Jaunich stated that the City has four options to consider: 1) Cancel the project; or 2) go ahead with the ‘in-town’ portion and use the TIF Fund, plus then let the County worry about the 20% match in 2013 when they are ready to do their portion; or 3) pre-pay on the project to the County from the TIF Fund; or 4) not use TIF Fund and let it expire at the end of this year. He explained that the money (estimated to be at \$250,000 at year end) in the TIF Fund upon expiration/decertification goes back to the taxing districts (40%-County, 56%-City and 4%-School). Adm. Jaunich proposed letting the TIF Fund expire (not get used) and have a

pre-arrangement or some type of agreement in place with the County that the tax dollars they get back are used for the trail project and the railroad crossings project, along with having an internal agreement at the City to do the same. It was noted that the County had done something similar in Gaylord with one of their projects. It was the consensus to discuss this in more detail at the upcoming budget workshop.

Adm. Jaunich provided an update on the Wastewater Treatment Plant project. He stated that DEED had received the financing package for the project, but the Public Facilities Authority (PFA) Chairperson needs to sign it and is out of the office the rest of the month. Concern was expressed about how the possible State Shutdown will affect this project (financially).

Heartland Engineering submitted a proposal in the amount of \$75,000 for switching the electric meters within the City of Arlington to automated ones within two years. Adm. Jaunich stated that \$50,000 had been budgeted for this.

Motion by Reetz, seconded by Pederson, and passed by unanimous vote to move forward with the proposal from Heartland Engineering for switching the electric meters to automated ones with a spending cap of \$50,000 for 2011.

Two bids were reviewed for purchasing a new floor scrubber for the Community Center. It was noted that the current scrubber was a 26" model.

Motion by Ruehling, seconded by Pederson, and passed by unanimous vote to purchase a 28" new floor scrubber from Dalco in the amount of \$7,817.95.

Brief discussion was held on making a contribution to SEDCO. It was noted that the EDA had reviewed the request and were recommending its approval.

Motion by Wills, seconded by Reetz, and passed by unanimous vote to contribute \$2,230 to SEDCO.

Adm. Jaunich explained that the Fair Board had contacted him about wanting to create a camping area on their property back near horse arena, which would include both water and electric hookups. He stated that they had expressed concern about being charged a water access charge (WAC). The Water Meter, Water Hydrant and Water Usage Policy was reviewed. Considerable discussion was held.

Motion by Reetz, seconded by Ruehling, and passed by unanimous vote to require the Fair Board to pay a WAC fee for the above project as it is a new connection, and also pay for the cost of a water meter (above residential meter cost) with backflow prevention (as may be required by the Dept. of Health Plumbing Code).

It was the consensus of the Council to set Tuesday, July 19th at 5:30 pm as the date to hold a budget workshop.

Wills commented that the Library would be open from sunrise to sunset for the summer solstice on June 21st.

Reetz gave a brief update on the Fiber to the Home Board. Interviews were being set with three investors.

Mayor Kreft talked briefly about the recent Sibley County Municipalities meeting.

Adm. Jaunich reported that the Chamber had done a wonderful job of picking up the park after the Town & Country Days event. He added that Staff had informed him that they decided to volunteer their time

that they worked for the parade during T&C Days. It was noted that the bill for Police Service would be smaller than had been anticipated as officers weren't needed as long on Sunday after the parade.

Adm. Jaunich reported that he would be out of the office on June 27-28 as he would be attending the MMPA Boarding meeting in East Grand Forks (which was being paid for by the Board). He added that he would also be out of the office part of the day on June 24th attending a Watershed Seminar.

Pederson expressed concern about the generator size/capacity at the Services Building, if it was large enough to operate the building (both Fire & Ambulance services) in an emergency. Adm. Jaunich stated that he had given permission to the Fire Department to check into this, but the Ambulance Service could if they wanted to.

Motion by Wills, seconded by Pederson, and passed by unanimous vote to adjourn the meeting at 8:45 pm.

City Administrator Matthew Jaunich

Mayor James R. Kreft