

Memo

To: Mayor LaBelle/Tonka Bay City Council
From: Greg Kluver/Public Works Superintendent
CC: Joe Kohlmann/City Administrator
Date: August 28, 2012
Re: Diseased Elm Tree Removal at Vacant Lot – PID #22-117-23-33-0007

Pursuant to City of Tonka Bay Ordinance No. 720 SHADE TREE DISEASE CONTROL, the City Forester has identified 7 diseased elm trees for removal at Vacant Lot – PID # 22-117-23-33-0007. This lot is located directly north of 230 West Point Drive, and the parcel is owned by Mr. and Mrs. Arvid Birkeland, 3407 Edward Street NE, St. Anthony, MN 55418. Mr. and Mrs. Birkeland have been notified of the diseased elm tree by certified mail and have not responded. Based on these facts, staff has taken the necessary steps as outlined in Ordinance No. 720.08 Procedure for Removal of Infected Trees and Wood to proceed with the removal of the diseased elms.

Because this parcel is landlocked, it is necessary to gain access to the vacant lot by crossing over a neighboring property. Staff has identified 220 and 230 West Point Dr .as the access for the removal of the diseased elms. The property at 220 West Point Dr. has an existing eight ft. wide drainage and utility easement running along its west property line. As proposed, this easement as well as an additional eight ft. area on 230 West Point Drive would be used for the removal.

Staff has prepared a License Agreement to Permit Entry across 230 West Point Dr. The agreement identifies the work to be performed and Conditions requested by the owner. The agreement has been reviewed and signed by Joyce Hertaus. It also has been reviewed and approved by the City Attorney.

Staff has obtained three quotes from qualified tree service companies for the removal of the diseased elms. The successful bidder will be required to follow the conditions listed in the license agreement. If approved, the work will be completed in August of 2012. The tree service companies are as follows;

1.	Hanson's Tree Service and Landscaping, Princeton, MN.	\$350.00
2.	Tongen's Tree Service, Tonka Bay, MN.	700.00
3.	Amberwood Tree Service, Mound, MN.	721.41

The following items are attached:

1. Tonka Bay Shade Tree Ordinance No. 720
2. Certified letter to the Birkelands
3. Resolution ordering the Abatement of the Diseased Elm Trees
4. Notice of Abatement Hearing
5. License to Permit Entry for 230 West Point Dr. and Attachment A describing the easements and work area
6. Quotes from the tree service companies to remove the diseased elms

ACTION REQUESTED

Adopt resolution ordering the abatement of Diseased Shade Trees on PID # 22-117-23-33-007 West Point Drive/Road Area.

Approve the low quote from Hanson's Tree Service in the Amount of \$350.00 for the removal of the diseased shade trees.

SECTION 720

SHADE TREE DISEASE CONTROL

720.01 **DECLARATION OF PURPOSE**

The City Council of the city of Tonka Bay finds and determines that the health of the oak and elm trees within the municipal limits is threatened by fatal diseases known as oak wilt disease and Dutch elm disease. It has further found and determined that the loss of oak and elm trees growing upon public or private property would substantially depreciate the value of property within the city and impair the safety, good order and general welfare of the public. It is declared to be the intention of the council to control and prevent the spread of these diseases and this ordinance enacted for that purpose.

720.02 **FORESTER**

Subd. 1 Position created. The position of forester is hereby created.

720.03 **DUTIES OF FORESTER**

It is the duty of the forester to coordinate, under the direction and control of the council all activities of the municipality relating to the control and prevention of oak wilt and Dutch elm disease. He shall recommend to the council the details of a program for the control of oak wilt and Dutch elm disease and perform the duties incident to such a program as adopted by the City Council.

720.04 **REGULATIONS ADOPTED BY REFERENCE**

Sections 1.0109 through 1.0111 of 3 Minnesota Code of Agency Rules Department of Agriculture Shade Tree Program (1981 Edition) together with amendments thereof to date, are hereby adopted by reference and made a part of this ordinance as is set out herein in full, except as hereinafter provided. A copy of said Agency rules which are herewith incorporated is on file in the city clerk's office.

720.05 **NUISANCES DECLARED**

Subd. 1 The following things are public nuisances wherever and whenever they may be found within the City of Tonka Bay.

- a. Any living or standing oak tree or part thereof infected to any degree with the oak wilt disease fungus *Ceratocystis Ulmi Fagacearum*.
- b. Any living or standing elm tree or part thereof, infected to any degree with the Dutch elm disease fungus *Ceratocystis Ulmi (buisman) Moreau* or which harbors any of the elm bark beetles *Scolytus multistriatus (Eichh.)* or *Hylurgopinus rufipes (Marsh)*.
- c. Any dead elm tree, or part thereof, including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide.

Subd. 2 Abatement

It is unlawful for any person to permit any public nuisance as defined in subd. 1 to remain on any premises owned or controlled by him within the city of Tonka Bay. Such nuisance may be abated in the manner prescribed by this ordinance.

720.06 INSPECTION AND INVESTIGATION

Subd. 1 Inspections

The forester shall inspect all premises and places within the city as often as deemed appropriate to determine whether any condition described in Section 720.05 subd. 1 of this code exists within the city. He shall investigate all reported incidence of infestation by oak wilt fungus, Dutch elm fungus or elm bark beetles.

Subd. 2 Entry on private premises

The forester or his duly authorized representatives may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to him under this ordinance.

Subd. 3 Diagnosis

The forester shall, upon finding conditions indicating oak wilt or Dutch elm infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided hereinafter no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

720.07 ABATEMENT OF OAK WILT AND DUTCH ELM DISEASE NUISANCES

Subd. 1 In abating the nuisances herein before described the forester shall cause the infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of oak wilt or Dutch elm disease. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and as may be designated by the Commissioner of Agriculture and as approved by other appropriate state agencies.

720.08 PROCEDURE FOR REMOVAL OF INFECTED TREES AND WOOD

Subd. 1 Whenever the forester finds with reasonable certainty that the infestation hereinbefore defined exists in any tree or wood in any public or private place in the city, and the property owner where said infestation exists refuses or neglects to abate such nuisance, then he shall proceed as follows:

- a. If the forester finds that the danger of infestation of other trees is not imminent because of dormancy, he shall make a written report of his findings to the council which shall proceed by (1) abating the nuisance as a special service pursuant to the provisions of Section 429.101, Minnesota Statutes or (2) by abating the nuisance as provided in Subd. 2 of this section.
- b. If the forester finds that danger of infestation of other trees is imminent, he shall notify the property owner by certified mail that

the nuisance will be abated within a specified time, allowing the property owner at least five (5) days to comply, from the mailing of such notice. The forester shall immediately report such action to the council and after the expiration of the time limited by the notice he may abate the nuisance.

Subd. 2 Upon receipt of the forester's report required by subd. 1, Part (a), the council shall by resolution order the nuisance abated. Before action is taken on such resolution the council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once not less than one week prior to such meeting. The notice shall state the time and place of the meeting, with location of the nuisance, the action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, or costs. At such hearing, or adjournment thereof, the council shall hear property owners with reference to the scope and desirability of the proposed project. The council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

Subd. 3 The forester shall keep a record of the costs of abatements done under this section and shall report monthly to the city finance director of all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

Subd. 4 On or before September 1 or each year the clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this ordinance. The council may then spread the charges, or any portion thereof, against the property involved as a special assessment pursuant to the provisions of Minnesota Statutes, Section 429.101, and other pertinent statutes for certificate to the county auditor and collection the following year along with current taxes.

720.09 SPRAYING DISEASED TREES

Subd. 1 Whenever the forester determines that any oak tree, elm tree, or elm wood within the city is infected with oak wilt or Dutch elm fungus, or Dutch elm beetles, he may spray all nearby trees likely to be infected with an effective concentrate. Spraying activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the commissioner and his agents whenever possible.

Subd. 2 The notice provisions of Section 7 apply to spraying operations conducted under this section.

720.10 TRANSPORTING DISEASED WOOD PROHIBITED

It is unlawful for any person to transport within the city any bark bearing oak or elm wood without having obtained a permit from the forester. The forester shall grant such permits only when the purposes of this ordinance will be served thereby.

720.11 INTERFERENCE PROHIBITED

It is unlawful for any person to prevent, delay or interfere with the forester or his representatives while they are engaged in the performance of the duties imposed by this ordinance.

720.12 RESOLUTION OF CONFLICTS

Subd. 1 Where provisions of this section conflict or are inconsistent with any other section of this code the provisions of this section shall supersede except in instances where one regulation is more restrictive than the other, in which case, the more restrictive shall apply and control.

Subd. 2 Pursuant 3 MCAR 1.0111 where provisions of this section of the code are inconsistent with state rules or regulations the more stringent or restrictive shall apply and control.

720.13 PENALTY

Any person, firm or corporation who violates any of the provisions of this ordinance is guilty of a misdemeanor.

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 01.45
Certified Fee	\$ 2.95
Return Receipt Fee (Endorsement Required)	\$ 2.35
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 6.75



City of Tonka Bay

901 Manitou Road, Tonka Bay, Minnesota 55331 (952) 474-7994

Sent To *Birkeland*

Street, Apt. No.; or PO Box No. *3407 Edward St NE*

City, State, ZIP+4 *St Anthony MN 55418*

PS Form 3800, August 2006 See Reverse for Instructions

7011 2970 0000 3731 7125

CERTIFIED MAIL

Mr. and Mrs. Arvid Birkeland
 3407 Edward Street NE
 St. Anthony, MN 55418

Dear Mr. and Mrs. Birkeland:

RE: Vacant Lot – PID #22-117-23-33-0007

The Tonka Bay City Council has determined that the health of trees within the municipal limits is threatened by fatal diseases known as Oak Wilt and Dutch Elm disease. The Council has also determined that the loss of oak and elm trees growing upon public or private property substantially depreciates the value of property within the city and impairs the safety and general welfare of the public. It is the intention of the city to control and prevent the spread of these diseases. The City Forester has determined that you have the following diseased trees located on your property adjacent to West Point Drive in Tonka Bay:

TYPE	LOCATION ON PROPERTY
Elm	Seven trees at several locations on the lot

The affected trees have been marked with a white "O". The City hereby requests that you remove the diseased trees from your property before Tuesday, July 23, 2012. If you cannot make arrangements to have the trees removed by this date or if you feel that a tree that has been marked is not on your property, please contact me. After removal, if you plan to keep the wood from the trees, it should be debarked so that the disease does not continue to spread. If the trees are not removed or other arrangements made by this date, the diseased trees will be removed by the City and the costs assessed against your property taxes, as per Section 720 of the City Code (see enclosed).

If you have any questions or extenuating circumstances, please contact me at 952-474-2947.

Sincerely,

Greg Kliver
 Public Works Superintendent

RESOLUTION 12-

**A RESOLUTION ORDERING THE ABATEMENT OF NUISANCES –
DISEASED SHADE TREES –
PID #22-117-23-33-0007
WEST POINT DRIVE/ROAD AREA**

WHEREAS, the City Council has adopted a Shade Tree Disease Control ordinance;
and

WHEREAS, the City Forester, appointed pursuant to said ordinance, has submitted a
written report of infestation; and

WHEREAS, the City Council desires to proceed to abate the nuisance described in said
report pursuant to said shade tree disease control ordinance; and

WHEREAS, notice has been published in the City's official newspaper at least one
week prior to the meeting of August 28, 2012, at which time said action shall take place, with
location of nuisance, the action proposed, the estimated cost of the abatement, and the
proposed basis of assessment, if any, or costs, copies of which are attached hereto and made
a part hereof as if fully set out herein.

NOW, THEREFORE, BE IT RESOLVED that the Tonka Bay City Council that the
nuisance contained in the report be abated. The property upon which said nuisance exists is
a landlocked lot with an unassigned address in the West Point Drive and West Point Road
area, PID #22-117-23-33-0007, legally described as: Lot 8, Auditor's Subdivision No. 293.

BE IT FURTHER RESOLVED that notice of the Council's intention to meet to consider
taking action to abate the above nuisance shall be mailed to the affected property owner and
published not less than one week prior to the meeting at which time said action shall take
place. The notice shall state the time and place of the meeting, with location of nuisance, the
action proposed, the estimated cost of the abatement, and the proposed basis of assessment,
if any, or costs.

PASSED at a regular meeting of the Tonka Bay City Council this 28th day of August, 2012.

Motion introduced by _____ and seconded by _____.

Roll call vote:

Ayes:

Nayes:

Absent:

William LaBelle, Mayor

ATTEST:

Joseph Kohlmann, Clerk/Administrator

CITY OF TONKA BAY
NOTICE OF ABATEMENT HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Tonka Bay City Council will meet on Tuesday, August 28, 2012, at 7:00 p.m. in the City Council Chambers located at 4901 Manitou Road to consider taking action to abate a nuisance at PID #22-117-23-33-0007 described as Lot 8, Auditor's Subdivision No. 293, a landlocked lot with an unassigned address in the area of West Point Drive and West Point Road. Said nuisance to be abated will be the removal of seven (7) diseased elm trees at various locations throughout the lot, at an estimated cost of \$450.00 to be paid by the property owner or assessed against the above property.

Joseph Kohlmann, City Administrator

**CITY OF TONKA BAY
LICENSE TO PERMIT ENTRY ON LAND AND PREMISES**

I (we), Joyce Hertaus, owner(s) in (fee simple/as lessees) of certain real estate located in the City of Tonka Bay at 230 West Point Drive do hereby grant to the City of Tonka Bay, Minnesota, and any agents, employees or others as may be designated by the City of Tonka Bay, a license for the purpose of entering upon and using the above-described premises (see attachment A) as may be necessary to perform the following activities:

DESCRIPTION OF WORK TO BE DONE:

- Transport diseased elm trees from Parcel ID # 22-117-23-33-007 across additional 8ft. area located on 230 West Point Dr. (See Attachment A) to West Point Drive for disposal.

CONDITIONS REQUESTED BY OWNER:

- Transport all diseased elms by wheel barrow or by hand to West Point Dr.
- Repair any damage that may occur to sod, flowers or bushes as a result of the removal of the diseased elms.

This license shall expire on December 31, 2012

Signed:

Joyce Hertaus, Owner

Date: 08-20-2012

_____, Owner

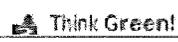
Date: _____



Property Map



Parcel ID: 22-117-23-33-0007	A-T-B: Torrens	Map Scale: 1" ≈ 50 ft. Print Date: 8/9/2012
Owner Name: Arvid & Arlene Birkeland	Market Total: \$1,000	
Parcel Address: 97 Address Unassigned Tonka Bay, MN 00000	Tax Total: \$15.24 (Payable: 2012)	
Property Type: Vacant Land-Residential	Sale Price:	This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness of any particular purpose, merchantability, or the accuracy and completeness of the information shown. COPYRIGHT © HENNEPIN COUNTY 2012
Home-stead: Non-Homestead	Sale Date:	
Parcel Area: 0.22 acres 9,386 sq ft	Sale Code:	



HANSON'S TREE SERVICE AND LANDSCAPING

30434 Hwy. 169 S., Princeton, MN 55371
763-742-6039

Phone No. 612-570-1828 Date 8-8-12

Customer Greg Adams
230 W. 2nd St

Trinity Burg
Sold By Cash Charge On Acct.

Quantity	Description	Price	Amount
7	cleared stump removed and hauled away		\$ 350
-	No equipment on site		
-	Haul out by hand		
*	Stump in pit/landscaped area/cut small hole in haul tracks		
Subtotal			\$ 350
Sales Tax			
TOTAL			\$ 350

Thank You.

Rec'd By _____



TONGEN'S TREE SERVICE

30 Wildhurst Rd.
TONKA BAY, MN 55331
Phone 952-470-9653
BRIAN

JOB WORK ORDER

PHONE		CELL PHONE	DATE OF ORDER 8 8 12
BILL TO	City of Tonka Bay		STARTING DATE
ADDRESS	Manitow Rd		ORDER TAKEN BY Brian
CITY	Tonka Bay Mn		<input type="checkbox"/> DAY WORK
JOB NAME AND LOCATION			<input type="checkbox"/> CONTRACT
			<input type="checkbox"/> EXTRA
	JOB PHONE 612 590 1828		

DESCRIPTION OF WORK
 cut down Buckthorn 8' easment
 cut down (7) marked Eums 700
 haul to street and chip 400

	TOTAL MATERIALS	
	TOTAL LABOR	700.00
	TAX	
DATE COMPLETED	WORK ORDERED BY	TOTAL AMOUNT

SIGNATURE _____
 I HEREBY ACKNOWLEDGE THE SATISFACTORY COMPLETION
 OF THE ABOVE DESCRIBED WORK.

Amberwood Tree

PO Box 603
Mound, MN 55364
952-472-3431

Estimate

Date	Estimate #
8/10/2012	138

City of Tonka Bay
Attn: Greg Kløver
4901 Manitou Rd.
Tonka Bay MN 55331

Description	Total
Remove 7 Elm Trees Chip and Haul Job Site : West Point Road	675.00T

	Subtotal \$675.00
	Sales Tax (6.875%) \$46.41
	Total \$721.41

Signature _____