Below are the amounts for the special assessments for the delinquent years.

Flag	Pin	Taxpayer	Code	Description	Tax Year	Principal	Amort Interest	Penalty	Interest	Total
Tax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201002	WAC/SAC FEES,STORM WATER DISCHARGE	2010	$ 47,262.16	$ 4,726.22	$ 7,278.38	$ 12,841.14	$ 72,107.90
Tax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201103	WAC FEE	2011	$ 23,397.11	$ 2,339.71	$ 3,603.14	$ 3,423.00	$ 32,762.96
Tax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201104	SAC FEE	2011	$ 23,397.11	$ 2,339.71	$ 3,603.16	$ 3,423.00	$ 32,762.98
Tax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201204	UNPAID WAC FEE	2012	$ 16,541.76	$ 1,654.18	$ 2,547.42	$ 345.72	$ 21,089.08
Tax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201205	UNPAID SAC FEE	2012	$ 16,541.76	$ 1,654.18	$ 2,547.44	$ 345.72	$ 21,089.10

179.812.02

ORDINANCE NO. 2013-77

SECTION 01: SHADE TREE PEST CONTROL.

Subd. 1. Declaration of policy. The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with Minn. Stat. §§ 89.001, 89.01, and 89.51-.64, the provisions of this section are adopted as an effort to control and prevent the spread of these shade tree pests.

Subd. 2. Jurisdiction. The city shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees, shrubs, and other plantings.

Subd. 3. Declaration of a shade tree pest. The Council may by ordinance declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community forest, as defined by Minn. Stat. § 89.001, to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest, including necessary timelines for action.

Subd. 4. Public nuisances defined. A shade tree pest, as defined by section 02, occurring within a defined control zone is a public nuisance.

Subd. 5. Shade tree pest nuisances are unlawful. It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.

Subd. 6. Tree inspector. The Council may appoint a tree inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The tree inspector will recommend to the Council the details of any program for the declaration, control, and prevention of shade tree pests. The tree inspector is authorized to enforce or cause to be enforced the tasks incident to such a program adopted by the Council. The term "tree inspector" includes any person designated by Council or the tree inspector to carry out activities authorized in this section.

Tree Survey - not going to do
Inspector that can go on private property.
Arial Survey already
Not to cost the city anything if passed
Maintenance plan -

Subd. 7. Abatement of shade tree pest nuisances. In abating a nuisance, defined by ordinance under section 01, subdivision 3, the organism, condition, plant, tree, wood, or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed by section 02.

Subd. 8. Reporting discovery of shade tree pest. Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of a public nuisance caused by a shade tree pest as defined under subdivision 3 shall report the same to the city.

Subd. 9. Registration of tree care firms. Any person, firm, or corporation that provides tree care, tree trimming, or removal of trees, limbs, branches, brush, or shrubs for hire must be registered with the Minnesota commissioner of Agriculture under Minn. Stat. § 18G.07.

Subd. 10. Inspection and application of control measures.

(A) The tree inspector is authorized to inspect premises and places within the city to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The tree inspector is authorized to take all reasonable measures to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms; by tests as may be recommended by the commissioner of the Minnesota Department of Agriculture or the commissioner of the Minnesota Department of Natural Resources; or other reliable means.

(B) Except in situations of imminent danger to human life and safety, the tree inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident, or other person in control of the property, unless the tree inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(C) No person, firm, or corporation shall interfere with the tree inspector or with anyone acting under the tree inspector's authority while engaged in activities authorized by this section.

Subd. 11. Standard abatement procedure. Except as provided in subdivisions 12 and 14, whenever a tree inspector determines with reasonable certainty that a public nuisance, as described by this ordinance, is being maintained or exists on premises in the city, the tree inspector is authorized to abate a public nuisance according to the procedures in this subdivision.

(A) The tree inspector will notify in writing the owner of record or occupant of the premises that a public nuisance exists and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the city clerk.

(B) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall

specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the city clerk within seven (7) days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(C) If no timely appeal is submitted, and the control measures prescribed in the notice of abatement are not complied with within the time provided by the notice or any additional time granted, the tree inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property, and carry out abatement in accordance with the notice of abatement.

Subd. 12. High-cost abatement. If the tree inspector determines that the cost of abating a nuisance will exceed $5,000 based on a reasonable, good faith estimate, the written notice referred to in subdivision 11 must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.

Subd. 13. Appeal procedure. If the city clerk receives a written request for a hearing on the question of whether a public nuisance exists, the City Council shall hold a hearing within seven (7) calendar days following receipt by the clerk of the written request. At least three (3) days notice of the hearing shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant, and lienholder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

Subd. 14. Abatement procedure in event of imminent danger.

(A) If the tree inspector determines that the danger of infestation to other shade trees is imminent, and delay in control measures may put public health, safety, or welfare in immediate danger, the tree inspector may provide for abatement without following subdivision 11 or 12. The tree inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

(B) Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

Subd. 15. Recovery of cost of abatement; liability and assessment.

(A) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other official shall prepare a bill for

the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

(B) After notice and hearing, as provided in Minn. Stat. § 429.061 (which may be amended from time to time), the city clerk shall, on or before Sept. 1 next following abatement of the nuisance, list the total unpaid charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The city council may then certify the charges against the property to the county auditor for collection along with current taxes the following year or in annual installments as the city council may determine in each case.

Subd. 16. Penalty.

(A) Any person, firm, or corporation that violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty, which may be imposed for any crime that is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days, or a fine of not more than $1,000, or both.

(B) Upon conviction of a misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(C) The failure of any officer or employee of the city to perform any official duty imposed by this section shall not subject the officer or employee to the penalty imposed for a violation.

(D) In addition to any penalties provided for in this section, if any person, firm, or corporation fails to comply with any provision of this section, the City Council or any official designated by it may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Subd. 17. Severability. Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

SECTION .02: DECLARED SHADE TREE PESTS, CONTROL MEASURES, AND CONTROL AREAS

Subd. 1. Oak Wilt.

(A) **Oak wilt disease** is a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump, or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three (3) inches in diameter or ten (10) inches in circumference and contains to any degree any spore or reproductive structures of the fungus *Ceratocystis fagacearum.*

(B) **Control measures** that may be taken to abate oak wilt disease are:

(1) Installation of a root graft barrier.

A root graft barrier can be ordered installed to prevent the underground spread of oak wilt disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least forty-two (42) inches deep between any oak tree infected with oak wilt disease and each nearby and apparently healthy oak tree within fifty (50) feet of the infected tree.

(2) Removal and disposal of trees.

(a) On property zoned for residential and commercial use.

On property that is zoned residential and commercial the city may mark for removal trees that have the potential to produce spores of the fungus *Ceratocystis fagacearum.* After, and in no case before, the installation of the root graft barrier and no later than May 1 of the year following infection, all marked trees must be felled. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(b) On all other property.

On all other property, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier

location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

All wood more than three (3) inches in diameter or ten (10) inches in circumference from such felled trees must be disposed of by burying, debarking, chipping, or sawing into wane-free lumber, or by splitting into firewood, stacking the firewood, and immediately covering the woodpile with unbroken four (4)-mill or thicker plastic sheeting that is sealed into the ground until Oct. 1 of the calendar year following the calendar year in which the tree was felled, or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape.

(C) The **control area** for oak wilt disease is defined as:

All lands within the boundaries of the city.

[OR]

All lands within the city identified on the oak wilt control area map dated XX XX XXXX and incorporated into this ordinance.

[OR]

All lands within the city within sections XXX and XXX.

[OR]

All lands within the area of the city bounded by XXXX and XXXX and XXXX and XXXX streets.

[OR]

All portions of the city that contain an average of XXX oak trees per acre as determined by an estimated inventory conducted by the city and recorded with the city clerk provided that no such portion shall contain less than one hundred sixty (160) acres.

[OR]

All lands within the city that are zoned for uses other than industrial and agricultural plus a buffer strip extending one-quarter mile beyond such lands into all adjoining lands within the city.

Subd. 2. Emerald Ash Borer.

(A) **Emerald ash borer** is a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub- or worm-like and live underneath the bark of ash trees.

(B) **Control measures** that may be taken to abate emerald ash borer are those provided in the document, *Minnesota Emerald Ash Borer Science Advisory Group Recommendations on Preparing for Emerald Ash Borer in Minnesota*.
[www.mda.state.mn.us/news/publications/pestsplants/pestmanagement/eab-recommends.pdf]

(C) **Definition of control areas.** The control area for emerald ash borer is defined as:

All lands within the boundaries of the city.

[OR]

All lands within the city identified on the emerald ash borer control area map dated XX XX XXXX and incorporated into this ordinance.

[OR]

All lands within the city within sections XXX and XXX.

[OR]

All lands within the area of the city bounded by XXXX and XXXX and XXXX and XXXX streets.

[OR]

All portions of the city that contain an average of XXX ash trees per acre as determined by an estimated inventory conducted by the city and recorded with the city clerk provided that no such portion shall contain less than one-hundred sixty (160) acres.

[OR]

All lands within the city that are zoned for uses other than industrial and agricultural plus a buffer strip extending one-quarter mile beyond such lands into all adjoining lands within the city.

Subd. 3. Dutch Elm Disease.

(A) **Dutch elm disease** is a shade tree pest and is defined as a disease of elm trees caused by the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*, and includes any living or dead tree, log, firewood, limb, branch, stump, or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that has bark attached and that exceeds three (3) inches in diameter or ten (10) inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*.

(B) **Control measures** that may be taken to abate Dutch elm disease are:

(1) Use of fungicide.

Fungicides may be effective in preventing Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense.

(2) Removal and disposal of trees.

Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be removed within 20 days of detection [alternative: 30 days]. Trees that wilt after July 15 must be removed by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or saw logs if it is debarked or covered from April 15 to Oct. 15 with four (4)-mill plastic. The edges of the cover must be buried or sealed to the ground.

[Refer to the USDA publication How to Identify And Manage Dutch Elm Disease (www.na.fs.fed.us/spfo/pubs/howtos/ht_ded/ht_ded.htm) for further details on management recommendations.]

(C) **Definition of control areas.** The control area for Dutch elm disease is defined as:

All lands within the boundaries of the city.

[OR]

All lands within the city identified on the Dutch elm disease control area map dated XX XX XXXX and incorporated into this ordinance.

[OR]

All lands within the city within sections XXX and XXX.

[OR]

All lands within the area of the city bounded by XXXX and XXXX and XXXX and XXXX streets.

[OR]

All portions of the city that contain an average of XXX elm trees per acre as determined by an estimated inventory conducted by the city and recorded with the city clerk provided that no such portion shall contain less than one-hundred sixty (160) acres.

[OR]

All lands within the city that are zoned for uses other than industrial and agricultural plus a buffer strip extending one-quarter mile beyond such lands into all adjoining lands within the city.

Whereupon said ordinance was declared duly passed and adopted by the City Council of the City of _____, on the _____ day of _____.

BY: ATTEST:

_____ _____

Mayor City Administrator/Clerk

REQUEST FOR COUNCIL ACTION

Originating Department: Administration Requested By: Rena Weber Date: 2/20/13

Please approve closing out Fund 205 Rocori Trails to Fund 202 Parkland Dedication.
This fund has some accumulated interest from 2012 and should be used to pay back Parkland Dedication.
The amounts will be used from the actual date that it is closed.

Journal Entry:

DBT CR

Motion by: _____ 2nd by: _____ Vote: _____

JANELLE P. KENDALL
Stearns County Attorney

FEB 14 2013
COPIED TO: CC X
DATE 2/20 PC
STAFF
P&R
FIRE

February 13, 2013

Ms. Rena Weber
Rockville City Administrator/Clerk
229 Broadway Street East
P.O. Box 93
Rockville, MN 56369

Re: Annual Misdemeanor Prosecution Contract Report

Dear Ms. Weber:

Enclosed is the Rockville City Prosecution Contract Report for 2012. Thank you for the opportunity to present you with this annual report regarding our 2012 activities as your misdemeanor prosecutor.

In addition to comprehensive prosecution, civil forfeiture, and victim services provided through the contract between us, we continue to provide all Stearns County law enforcement agencies with no cost training opportunities. I remain committed to both improving law enforcement's ability to respond effectively to law violations and also to reducing training costs for municipalities in these tight budgetary times.

Again, thank you for the privilege of serving the City of Rockville as your city prosecutor. Please do not hesitate to contact me or Chief Deputy Matthew Quinn if we can be of assistance in any way with questions about this report or other issues that may arise in the upcoming year.

Sincerely,

Janelle Kendall

Janelle P. Kendall
Stearns County Attorney

JPK/mmq/jat

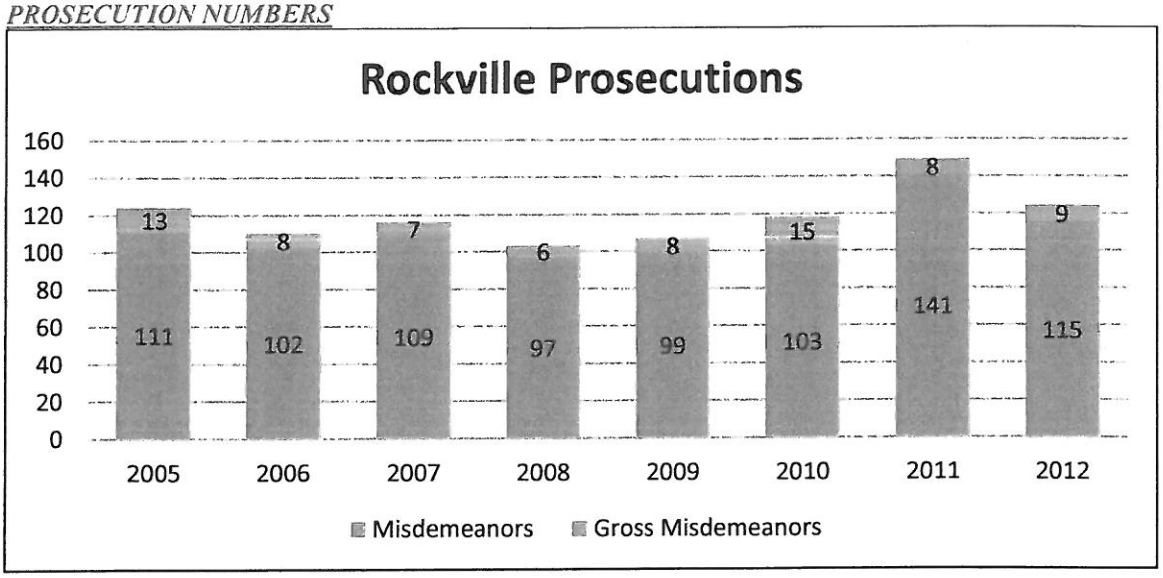
Enclosure

Administration Center, RM 448 • 705 Courthouse Square • St. Cloud, MN 56303-4701
(320) 656-3880 • FAX (320) 656-6695
http://www.co.stearns.mn.us/1220.htm • e-mail: county.attorney@co.stearns.mn.us

Janelle P. Kendall, Stearns County Attorney

Rockville City Prosecution Contract Report: 2012

1. *PROSECUTION NUMBERS*



2. *PROSECUTION DETAILS*

2012 Misdemeanor Charges			
Driving Violations		Possession of Drugs and/or Para.	1
DUI/DWI	8	Assault	1
Reckless/Careless Driving	3	Violation of No Contact Order	3
No Driver's License/DAS/DAC/DAR	19	Other	
No Proof of Insurance	11	Disorderly Conduct	1
Stop Sign	2	Watercraft Violation	1
Speeding	5	Parking	10
Inattentive/Fail to Use Care	1	Criminal Damage to Property	1
Expired/Incorrect Plates or Tabs	4	Theft	2
Instructional Permit Violation	1	Flee Police Officer on Foot	1
Seat Belt	1	*2012 Gross Misdemeanor Charges*	
Possess Alcohol	1	Gross Misdemeanor DUI/DWI	8
Stop Arm Violation	1	Gross Misd. DAC-Inimical to Safety	1
Alcohol – Illegal Consumption	37	***2012 GRAND TOTAL***	124

3. *24/7 SERVICE*

Our contract includes adult criminal and juvenile investigative legal advice for all members of Stearns County law enforcement agencies; 8 attorneys carry cell phones 24 hours a day, 7 days a week for law enforcement legal advice, and other services such as review of search warrants, as needed.

4. *NO COST LAW ENFORCEMENT TRAINING and VICTIM ASSISTANCE*

In 2012 our office provided **60.5** hours of law enforcement training opportunities and legal updates at no cost to all members of Stearns County law enforcement. Additionally, we assist victims of crime as allowed by law through personal help, referrals and restitution collection.