

TO: Honorable Mayor and City Council

FROM: City Administrator Ron Johnson

SUBJECT: Spring Garden Road

DATE: March 31, 2016

BACKGROUND

At their April 21, 2015, at the recommendation of the Public Works Commission, the City Council voted to close Spring Garden Road or make it a private drive. The direction was somewhat unclear only because the request from staff was unclear.

Further, there was an apparent miscommunication with a primary user of the road, John and Phyllis Althoff, and they weren't aware that the item was going to be on the April 21 Council agenda. Staff would like to provide the Althoffs the opportunity to discuss and informed them that this would be placed on the April 4 agenda.

The following is the background information provided in last year's memo: *Years ago, Spring Garden Road was closed and deemed a minimum maintenance road. In 2007, council along with the nearby residents agreed to closing the road in the fall and reopening in the spring with an understanding that the City has the authority to close the road upon notice to the nearby residents. Since then the road is costing the city upwards of \$1000 each year for blacktop repair alone and we also have safety concerns. The Public Works Commission, at their April 7 meeting, recommended either closing the road or making it a private drive.*

The road was left open last summer and closed on November 1.

Staff was concerned about the potential liability to the city by leaving the road open, and discussed this with City Attorney Roger Knutson. Attorney Knutson informed staff that designation of the road as a minimum-maintenance road could be an option, and provided a copy of MN Statute 160.095 Designation of Minimum-Maintenance Roads.

Staff would like to clarify the city's position on this section of road and suggests that Council designate Spring Garden Road as a minimum maintenance road as per MN Statute 160.095 from April 1 through October 31 annually, and close it from November 1 through March. The other option would be to close the road year-round.

REQUESTED COUNCIL ACTION

Designate, indefinitely, Spring Garden Road as a minimum maintenance road as per MN Statute 160.095 from April 1 through October 31, and designated as closed from November 1 through March.

Attachment(s): MN Statute 160.095

160.095 DESIGNATION OF MINIMUM-MAINTENANCE ROADS.

Subdivision 1. **Resolution.** A road authority, other than the commissioner, may by resolution designate a road under its jurisdiction as a minimum-maintenance road if it determines that the road or road segment is used only occasionally or intermittently for passenger and commercial travel. The resolution must identify the beginning and end points of the road being designated. After adopting the resolution, the road authority must post signs on the road to notify the motoring public that it is a minimum-maintenance road and that the public travels on the road at its own risk. A road authority must notify the road authorities of adjoining jurisdictions of designations under this section.

If an affected road or road segment runs along a county or town line, the designation applies only to that part of the road that is under the jurisdiction of the road authority adopting the resolution.

Subd. 2. **Signs.** Designation of a minimum-maintenance road is effective on the erection of the signs required under this section. The signs shall be posted at entry points to and at regular intervals along a minimum-maintenance road. Signs posted must conform to the commissioner's Manual on Uniform Traffic Control Devices. Properly posted signs are prima facie evidence that adequate notice of a minimum-maintenance road has been given to the motoring public.

Subd. 3. **Limitations.** A trunk highway may not be designated as a minimum-maintenance road. A road may not be designated a minimum-maintenance road if federal-state aid to Minnesota will be reduced as a result. A road authority may not acquire additional right-of-way or easement by eminent domain or otherwise without the consent of the landowner, for the purpose of constructing or designating a minimum-maintenance road, except where necessary for drainage or public safety.

Subd. 4. **Liability.** A minimum-maintenance road may be maintained at a level less than the minimum-maintenance standards required for state-aid highways, roads, and streets, but must be maintained at the level required to serve the occasional or intermittent traffic. Where a road has been designated by resolution as a minimum-maintenance road and signs have been posted under subdivision 2, the road authority with jurisdiction over the road, and its officers and employees, are exempt from liability for any tort claim for injury to person or property arising from travel on the minimum-maintenance road and related to its maintenance or condition. Nothing in this section shall exempt a road authority from its duty to maintain bridges under chapter 165 or other applicable law.

History: 1985 c 215 s 3