

FILE

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota

August 4, 2009

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: ___ Johnston ___ DeLapp, Emmons-Absent, ___ Park
___ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
 - 1. Approval of the July 21, 2009 City Council minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by city staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
 - 2. Approve payment of disbursements and payroll
 - 3. Award bid to Sun Ray Plumbing and Heating Inc. for the CDBG Gas Line Replacement project in the Cimarron neighborhood; Resolution No. 2009-034
 - 4. Expanding Parking Lot in Reid Park
 - 5. Parks Commission appointment
 - 6. Approve temporary liquor license requested by Lake Elmo Rotary to sell beer at the Fall Festival
- J. REGULAR AGENDA:
 - 7. MPCA Update on Lake Jane/Washington County Landfill Remediation Project
 - 8. Authorize Enforcement Action re: 5699 Keats Avenue North
 - 9. Budget Discussion - verbal

3117

K. REPORTS AND ANNOUNCEMENTS:

(These are verbal updates and do not have to be formally added to the agenda.)

- Mayor and City Council
- Administrator
- Planning Director

K. Adjourn

City of Lake Elmo
City Council Minutes

July 21, 2009

Mayor Johnston called the meeting to order at 7:00 p.m.

PRESENT: Mayor Johnston and Council Members DeLapp, Emmons, Park and Smith

Also Present: Interim City Administrator Dawson, Planning Director Klatt, Consulting Planner Gozola, City Engineer Griffin, City Attorney Snyder, Finance Director Bouthilet and City Clerk Lumby

APPROVAL OF AGENDA:

MOTION: Mayor Johnston moved to approve the July 21, 2009 City Council agenda as amended by adding 8. City Administrator Search, 9. Budget Item; City Administrator's Report: August 19th meeting with Grant and Washington County re: Hwy 36/Lake Elmo Avenue Project; Altered plan to Lake Jane Landfill garbage excavation, Executive Session on non-conforming property. Council Member Park seconded the motion. The motion passed 5-0.

ORDER OF BUSINESS:

GROUND RULES:

APPROVED MINUTES:

The July 7, 2009 City Council minutes were approved by consensus.

PUBLIC COMMENTS/INQUIRIES: None

CONSENT AGENDA:

MOTION: Council Member Park moved to approve the Consent agenda as presented. Council Member Emmons seconded the motion. The motion passed 5-0.

- Approve payment of disbursements and payroll in the amount of \$224,378.10
- Joint Powers Agreement with MPCA for Watermain Installation along Highway 5

REGULAR AGENDA:

Yellow Ribbon Network of Washington County

Senator Kathy Saltzman and Washington County Commissioner Gary Kriesel spoke on behalf of the Yellow Ribbon Network of Washington County. The purpose of the

Yellow Ribbon Network is to connect local military family members with residents and a wide array of organizations that can provide assistance and support in various forms to members of active-duty military facilities. The Network encouraged cities to adopt resolutions of support for the Network.

MOTION: Council Member DeLapp moved to adopt Resolution No. 2009-033, supporting the Yellow Ribbon Network of Washington County. Council Member Smith seconded the motion. The motion passed 5-0.

Purchase of projector and screen for the Council Chamber

Carol Kriegler, Project Assistant, reported the City Council is being asked to authorize 1) the purchase of a projector and screen and any incidental materials and supplies related to the installation of the equipment by the Ramsey Washington Cable Commission technical staff and 2) the contracting of electrical services related to the installation of the equipment.

A ceiling-suspended projector and screen are classified as production-related equipment and will be eligible for reimbursement. The cost of the projector and screen is approximately \$4,900. The installation of this equipment would require some electrical wiring at an estimated cost of \$1,400, which is not grant-eligible.

Council Member DeLapp thought \$1,400 was too much money to spend on such a project and objected to the proposed placement of the new screen.

MOTION: Council Member Smith moved to authorize the purchase of grant-eligible, production-related projector and electric screen from Alpha Video, and necessary installation-related materials, supplies and equipment as deemed necessary by the RWCC technical staff at a total cost not to exceed \$5,000 and authorize the contracting of non-grant eligible electrical not to exceed \$1,400. Mayor Johnston seconded the motion. The motion passed 4-1 (Council Member DeLapp voting against.)

Sign Code Ordinance – An ordinance repealing existing sign code regulations and adopting new regulations to govern signs in all zoning districts

Ben Gozola, Consulting Planner, reported the City Council is being asked to take action on a proposed ordinance to repeal all existing sign code regulations in favor of a new set of revised sign controls. All changes required by the Council at the June 9, 2009 work session meeting have been incorporated into this final draft.

Council Member DeLapp distributed his modifications to the sign ordinance for Council review. After Council discussion, the Council decided there had been ample time to review and comment on the ordinance in the many previous public meetings. At a future date, the Council can consider Council Member DeLapp's proposed modifications.

MOTION: Council Member Smith moved to approve Ordinance No. 08-015, an ordinance repealing existing sign code regulations and adopting new regulations to govern signs in all zoning districts, as presented. Council Member Park seconded the motion. The motion passed 4-1 (Council Member DeLapp voting against)

MOTION: Council Member Smith moved to adopt Resolution No. 2009-025, A resolution authorizing publication of Ordinance No. 08-015. Council Member DeLapp seconded the motion. The motion passed 5-0.

Accounting Services

Craig Dawson, Interim City Administrator, reported the City Council has asked to solicit proposals and make a recommendation to engage a contractor for clerical accounting services. Over the past year, the City of Roseville charged the City an average of \$1,188 per month for similar services.

MOTION: Council Member DeLapp moved to approve termination of accounting services with the City of Roseville and enter into an agreement with C&J Consulting Services, LLP at a rate of \$25.00 per hour, not to exceed \$1,250 per month. Council Member Emmons seconded the motion. The motion passed 5-0.

Demontreville Trail – Discussion on trail options as part of the Washington County Reconstruction and Turnback Project

Jack Griffin, City Engineer, presented trail options and issues that needed to be addressed. The discussion was prompted by a Washington County plan to reconstruct DeMontreville Trail and turn control back over to the City in either 2010 or 2011.

Washington County Transportation is unwilling to tackle the project if it involves widening the roadway. The County would write the City a check for the estimated costs of the simpler project it has planned allowing the City to independently pursue an alternate plan.

Jack Griffin explained along this roadway it's not just a simple matter of adding pavement to an area where there's already gravel, but would require extensive improvements. It would cost an estimated \$384,202 to add a 4-foot-wide paved shoulder to one side of the 2.2-mile-long road which stretched from Olson Lake Trail to Highway 36, known as County Road 13B.

Mayor Johnston, who lives in that area, saw a real need for such a trail especially along the lake between 50th Street and Highlands Trail. Council members were concerned with the high cost of the project, but thought the benefits of a dedicated bikeway would justify further investigation.

The Council asked the park commission to weigh in on the issue at its August 17th meeting and directed City Engineer Jack Griffin to bring more detailed cost estimate to the City Council on August 18 or September 1.

City Administrator Search

Council Member Emmons cannot make the Springsted meeting proposed for August 4th. Staff will contact Sharon Klumpp, Springsted asking if the meeting can be rescheduled to August 11th or 18th.

Budget:

The Council will discuss the budget beginning at the August 11th work session.

City Administrator's Report:

Craig Dawson reported there will be a meeting on August 19th, 6:30 p.m., Washington County Court House to discuss concerns on the Highway 36/Lake Elmo Avenue reconstruction project with the City of Grant and Washington County. Agenda packets will be sent out by County staff two weeks before the meeting.

Craig Dawson reported the MPCA representatives will be at the August 4th Council meeting to update the excavating of the Washington County landfill and answer questions.

The Council meeting was recessed at 9:23 p.m..

Executive Session:

Mayor Johnston convened the City Council in executive session at 9:30 p.m. The purpose of the meeting was to discuss litigation in the case of the City of Lake Elmo vs. Linda Hardy.

The executive session concluded at 9:37 p.m.

Present: Mayor Johnston; Council Members DeLapp, Emmons, Park, and Smith; City Attorney Snyder; Interim City Administrator Dawson; Planning Director Klatt; and Planning Consultant Gozola.

Mayor Johnston reconvened the Council in regular session, and declared the meeting adjourned at 9:38 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

City Council
8/4/2009
CONSENT
Item: 2

ITEM: Approve disbursements in the amount of \$ 167,569.54

SUBMITTED BY: Tom Bouthilet, Finance Director

<u>Claim #</u>	<u>Amount</u>	<u>Description</u>
ACH	\$ 7,467.99	Payroll Taxes to IRS 07/30/09
ACH	\$ 1,246.25	Payroll Taxes to Mn Dept.of Revenue 07/30/09
DD2308 - DD2322	\$ 19,118.98	Payroll Dated 07/30/2009 (Direct Deposit)
34491 - 34995	\$ 7,951.48	Payroll Dated 07/30/2009 (Payroll)
34496 - 34536	\$ 131,784.84	Accounts Payable Dated 08/04/2009

Total: \$ 167,569.54

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve disbursements in the total amount of \$167,569.54

Accounts Payable

Checks for Approval

User: julie

Printed: 07/29/2009 - 9:33 AM

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34516	08/04/2009	General Fund	Miscellaneous	Minnesota's Bookstore	117.58
34516	08/04/2009	General Fund	Miscellaneous	Minnesota's Bookstore	99.38
34523	08/04/2009	General Fund	Cable Operation Expense	Steven Press	47.20
34523	08/04/2009	General Fund	Use Tax Payable	Steven Press	-3.04
34525	08/04/2009	General Fund	Miscellaneous	Sam's Club	63.22
34525	08/04/2009	General Fund	Office Supplies	Sam's Club	62.72
34519	08/04/2009	General Fund	Cable Operation Expense	Nicholas Anderson	58.78
34519	08/04/2009	General Fund	Use Tax Payable	Nicholas Anderson	-3.78
34525	08/04/2009	General Fund	Miscellaneous	Sam's Club	27.06
34501	08/04/2009	General Fund	Dues & Subscriptions	Volunteer Firefighter Benefit Asscoatio	333.00
34522	08/04/2009	Sewer	Conferences & Training	MINNESOTA POLLUTION CONTROL	280.00
34522	08/04/2009	Sewer	Conferences & Training	MINNESOTA POLLUTION CONTROL	280.00
34524	08/04/2009	General Fund	Repairs/Maint Contractual Bldg	Diane Rud	342.00
34524	08/04/2009	General Fund	Repairs/Maint Bldg	Diane Rud	256.50
34524	08/04/2009	General Fund	Use Tax Payable	Diane Rud	-38.50
34517	08/04/2009	General Fund	Unemployment Benefits	MN Dept Economic Security	265.57
34517	08/04/2009	General Fund	Unemployment Benefits	MN Dept Economic Security	858.00
34536	08/04/2009	Sewer	Conferences & Training	MINNESOTA POLLUTION CONTROL	32.00
34506	08/04/2009	Water	Water Utility	City of Oakdale	17,219.95
34521	08/04/2009	General Fund	Legal Services	Peterson Fram & Bergman Corp	252.00
34521	08/04/2009	General Fund	Attorney Criminal	Peterson Fram & Bergman Corp	4,256.62
34534	08/04/2009	General Fund	Repairs/Maint Eqpt	Winnick Supply	107.00
34527	08/04/2009	General Fund	Physicals	Stillwater Medical Group	569.00
34531	08/04/2009	Surface Water Utility	Conferences & Training	Washington Conservation Dist.	500.00
34510	08/04/2009	General Fund	Office Supplies	Heritage Printing	107.68
34503	08/04/2009	General Fund	Repairs/Maint Eqpt	Car Quest Auto Parts	18.35
34514	08/04/2009	General Fund	Small Tools & Minor Equipment	Marv's Professional Tools	111.86
34513	08/04/2009	Capital Aquisitions	Vehicles	Kline Motorsports	3,868.00
34530	08/04/2009	General Fund	Equipment Parts	Tiger Corporation	19.28
34496	08/04/2009	General Fund	Audit Services	Abdo Eick & Meyers	27,410.00
34500	08/04/2009	General Fund	Shop Materials	Batteries Plus Woodbury, Corp	15.97
34505	08/04/2009	General Fund	Conferences & Training	Century College	900.00
34498	08/04/2009	General Fund	Contract Services	Animal Control Services	812.03

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34528	08/04/2009	Development Fund	Contract Services	T.A. Schifsky & Sons Inc	17,990.00
34528	08/04/2009	General Fund	Street Maintenance Materials	T.A. Schifsky & Sons Inc	99.42
34512	08/04/2009	General Fund	Small Tools & Minor Equipment	HSBC Business Solutions	28.47
34535	08/04/2009	Capital Aquisitions	Vehicles	Kline Motorsports	4,708.80
34508	08/04/2009	General Fund	Clean-up Days	First State Tire Recycling	77.60
34499	08/04/2009	General Fund	Uniforms	Aramark, Inc.	36.26
34499	08/04/2009	General Fund	Repairs/Maint Contractual Bldg	Aramark, Inc.	69.60
34499	08/04/2009	General Fund	Uniforms	Aramark, Inc.	36.26
34502	08/04/2009	General Fund	Contract Services	Buelow Excavating	1,662.00
34533	08/04/2009	General Fund	Radio	WASHINGTON COUNTY	1,066.88
34532	08/04/2009	General Fund	Repairs/Maint Imp Not Bldgs	Washington County	820.40
34515	08/04/2009	General Fund	Shop Materials	Menards - Oakdale	20.37
34518	08/04/2009	General Fund	Telephone	Nextel Communications	101.62
34518	08/04/2009	General Fund	Telephone	Nextel Communications	109.79
34518	08/04/2009	General Fund	Telephone	Nextel Communications	35.08
34518	08/04/2009	General Fund	Telephone	Nextel Communications	59.14
34518	08/04/2009	General Fund	Telephone	Nextel Communications	17.38
34509	08/04/2009	General Fund	Assessing Services	FXL, Inc.	2,000.00
34526	08/04/2009	General Fund	Telephone	Sprint	73.48
34507	08/04/2009	General Fund	Repairs/Maint Imp Not Bldgs	Earl F. Andersen, Inc.	671.82
34511	08/04/2009	Capital Aquisitions	Office Equipment & Furnishings	HOM Furniture	4,445.94
34504	08/04/2009	General Fund	Conferences & Training	Carole Luczak	27.54
34504	08/04/2009	General Fund	Conferences & Training	Carole Luczak	49.39
34497	08/04/2009	Capital Aquisitions	Other Equipment	Alpha Video & Audio Inc.	2,035.30
34497	08/04/2009	Capital Aquisitions	Other Equipment	Alpha Video & Audio Inc.	508.01
34497	08/04/2009	Capital Aquisitions	Other Equipment	Alpha Video & Audio Inc.	21,102.98
34497	08/04/2009	Capital Aquisitions	Other Equipment	Alpha Video & Audio Inc.	13,258.91
34529	08/04/2009	Surface Water Utility	Contract Services	Tessman Company Corp	150.78
34520	08/04/2009	Water	Water Meters & Supplies	Northern Water Works Supply IN	688.65
34520	08/04/2009	Water	Utility System Maintenance	Northern Water Works Supply IN	587.54

Total for this Date: 131,784.84

Report Total: 131,784.84

City Council
Date: 8/4/09
CONSENT ITEM
Item: 3
Resolution: 2009 – 034

ITEM: Award bid to Sun Ray Plumbing and Heating Inc. for the CDBG Gas Line Replacement project in the Cimarron neighborhood.

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Craig Dawson, Interim City Administrator
Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED

The City Council is being asked to award the bid to Sun Ray Plumbing and Heating Inc. for the CDBG Gas Line Replacement project in the Cimarron neighborhood. The base bid provided by Sun Ray Plumbing and Heating Inc. was \$22,750 to replace gas lines at 13 homes in the neighborhood. One other bid was received in the amount of \$39,000. Sun Ray Plumbing and Heating Inc. has been awarded the bid in all past phases of this replacement project. The grant money received by the City for the project to be used in 2008-2009 is \$62,924.03.

ADDITIONAL INFORMATION

In 2003, the City contracted a visual inspection of the natural gas service connections of approximately 200 manufactured housing units in the Cimarron neighborhood – many of which were nearly 40 years old. The outcomes of that inspection project revealed circumstances of improper installation, improper alterations to the services and physical deterioration of service piping, unions and valves. The City has also determined that many of the Cimarron manufactured housing owners with observed gas service line concerns do not have the personal financial resources available to expediently replace the natural gas services within their homes. The City has determined that the gas service problems observed in the Cimarron neighborhood may constitute a potential threat to public safety, and replacement of those appurtenances is therefore in the public interest.

Responding to these determinations, the City of Lake Elmo applied for and received Community Block Grant funds to provide financial assistance to income-qualifying Cimarron homeowners for the purpose of the necessary natural gas service line replacement. A portion of the funds are now being spent with a deadline of December 31, 2009. At this time, it is believed that all of the funds will not be spent before the December deadline and the remaining dollars will be returned to Washington County who distributes the CDBG funds. The number of households that expressed interest and met qualifications for the grant program was fewer than in past years. Staff has begun discussions with Washington County on options for utilizing the remaining grant funds.

PROJECT PROCESS

The request for sealed bids was published in the newspaper on July 1st and July 8th as required.

Bid packets were mailed or picked up by 15 companies.

The bid opening occurred on July 21st at noon in the Council chambers.

It is anticipated that the gas line replacements will occur in August and early September of 2009.

ATTACHMENTS (1):

1. Resolution 2009 – 034

RESOLUTION NO. 2009-034

RESOLUTION AWARDING THE BID FOR THE 2009 CDBG GAS LINE REPLACEMENT PROJECT

WHEREAS, bids for the 2009 CDBG Gas Line Replacement Project were received, opened, and tabulated according to law, and the bids were received complying with the advertisement.

AND WHEREAS, Sun Ray Plumbing and Heating Inc. is the lowest responsible bidder.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF LAKE ELMO, MINNESOTA:

1. The mayor and clerk are hereby authorized and directed to enter into a contract with Sun Ray Plumbing and Heating Inc for their base bid of \$22,750.00 and the alternates bid of Alternative B: \$24,500; Alternative C: \$26,250; and Alternative D: \$28,000, in the name of the City of Lake Elmo for the 2009 CDBG Gas Line Replacement Project according to the plans and specifications therefore approved by the City Council and on file in the office of the city clerk.
2. The city clerk is hereby authorized and directed to return to all bidders the deposit made with their bids, except that the deposits of the successful bidder and the next lowest bidder shall be retained until a contract has been signed.

Mayor Dean Johnston

ATTEST:

Craig Dawson
Interim City Administrator

(SEAL)

ITEM: Expanding Parking Lot Reid Park
REQUESTED BY: Parks Department
SUBMITTED BY: Michael Bouthilet, Public Works Superintendent
REVIEWED BY: Craig Dawson, City Administrator
Tom Bouthilet, Finance Director
Ryan Stempski, Engineer

PURPOSE: The Parks Commission has requested, authorized, and funded through the CIP a parking lot expansion for Reid Park. The number of parking stalls would double with additional stalls added across from current spaces.

This request was predicated on observations which confirmed that during games overflow parking was diverted down the entrance driveway and out onto 30th Street.

Three quotes were provided from:

- Tower Asphalt Inc. \$4,350
- City of Maplewood \$4,560
- T.A. Schifsky & Sons \$8,550

The low quote from Tower asphalt is attributed to the close proximity of the street improvement projects already contracted.

The site would be prepared for asphalt by the Public Works Department with twelve inches of compacted gravel delivered from Miller Excavating for \$600.00

Funding source is the Parks CIP.

RECOMMENDATION

Suggested motion for consideration: Authorize the expenditure of \$4,950 (plus tax) to expand the parking lot at Reid Park.

SUGGESTED ORDER OF BUSINESS:

Comments

City Administrator, Finance Director

City Council
Date: August 4th, 2009
CONSENT
Item: 5

ITEM: Appointment to the Park Commission

SUBMITTED BY: Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED: The Lake Elmo City Council is being asked to appoint David Steele as First Alternate to the Park Commission. David worked on drafting the Trail Plan for the City when he served on the commission.

The City will continue to advertize for the Second Alternate position.

SUGGSTED MOTION FOR CONSIDERATION:

Move to appoint David Steele, 9576 55th Street N., as First Alternate to the Park Commission.

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota 55042
651.777.5510 FAX: 777.9615

**APPLICATION FOR PARK COMMISSION APPOINTMENTS
CITY OF LAKE ELMO**

Date: July 31, 2009

Name: David Steele

Home Address: 9576 – 55th Street North, Lake Elmo, MN 55042

Mailing Address: P.O. Box 9126, North St. Paul, MN 55109

Phone Number W) 651-962-6038 H) 651-777-9018

E-mail address: dfsteele@stthomas.edu

How long have you lived in Lake Elmo: almost 12 years

1. Why are you interested in serving on the Lake Elmo Park Commission? What personal interests and expertise will you bring?

I was a member of the Park Commission from 1999 to 2008 and enjoyed serving our community. I'm keenly interested in helping to make sure that our parks are protected, well designed, and efficiently managed in ways that will serve current and future residents of Lake Elmo. My experience on the Park Commission, plus a master's degree in public affairs, will help me contribute to the Park Commission.

2. How will those skills and interests be of service to the development and management of the City's parks, trails and natural areas?

I have a good historical perspective on the development of both our trails plan and our park comprehensive plan and understand the issues that confront city leaders as we work together to be good stewards of our city parks. My general writing and analytical skills are strong and should help me serve the Park Commission effectively.

3. What do you see as the role and function of the Park Commission? How does this relate to the roles and responsibility of the City Council in park matters?

The Park Commission is an advisory body to the City Council. Its purpose is to provide the City Council with sound advice on matters relating to park planning, trails planning, and the management of natural resources. The City Council has the sole

legal authority to make all final planning, policy, and fiscal decisions relating to the city's parks, trails, and natural spaces.

4. What value do parks and trails have to our citizens? What role or function do they provide?

A nineteenth century Central European city planner once said that a city's parks are the "lungs by which great cities breathe." Most people have settled their families in Lake Elmo because they value the peace, quiet, and safety of a small, rural setting, and our city parks and trails are critical to maintaining our high quality of life in Lake Elmo. People use the parks for a wide variety of activities ranging from simple hiking and bird watching to organized baseball, and our city has had the foresight to set aside significant tracts of valuable land to accommodate these activities. Finally, our parks provide a unique forum for bringing people together around common, shared interests and therefore play a significant role in fostering a sense of community among the citizens of Lake Elmo.

5. How much time do you have or are you willing to devote to Park Commission activities?

I am well aware of how much time it takes to serve as a responsible member of the Parks Commission, and I have determined that I would be able to meet my obligations.

City Council
Date: August 4th, 2009
CONSENT
Item:

ITEM: Request by Lake Elmo Rotary for Temporary Liquor License

SUBMITTED BY: Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED: The Lake Elmo City Council is being asked to approve a temporary liquor license requested by the Lake Elmo Rotary to sell beer in Lions Park at the Fall Festival on Saturday, September 12th and to waive the \$25 temporary liquor license fee.

The Fall Festival Committee discussed this request at its meeting on July 30th.

SUGGSTED MOTION FOR CONSIDERATION:

Move to approve the temporary liquor license requested by the Lake Elmo Rotary to sell beer in Lions Park, during the Fall Festival on Saturday, September 12, 2009 and to waive the \$25 liquor license fee.

August 4, 2009

ITEM: Authorize Enforcement Action re: 5699 Keats Avenue North
SUBMITTED BY: Craig W. Dawson, Interim City Administrator
REVIEWED BY: Kyle Klatt, Planning Director
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: In December 2008 the City Council, acting as the Board of Adjustment and Appeals, ordered that several Code violations at 5699 Keats Avenue North be remedied by June 30, 2009. A compliance review made on July 1, 2009, found that only one item had been completed satisfactorily. The Council should authorize commencement of legal proceedings to enforce the December 2008 Order.

BACKGROUND: A compliance review made on July 1, 2009, found that only one item had been completed satisfactorily. The remaining violations continue:

- 1) Removal or proper storage of personal property items including, but not limited to, piles of brick, piles of wood, a large tank, etc.
- 2) Removal of the small cabin or proper changes to the structure necessary to meet the definition of "tool shed".
- 3) Landscaping to the east of the house between the garage door and the rear entry door, including required construction of a retaining wall.

Additionally related to (3), in a review by the acting building official, with the assistance of a TKDA structural engineer, it was determined that the retaining wall as constructed required a building permit and an engineer's certification; the property owner did not apply for a permit nor provided the engineer's certification.

The property owner has been notified of the continuation of the violations and the City's intent to pursue enforcement action.

RECOMMENDATION: Staff recommends that the Council authorize legal proceedings to enforce the Order of the Board of Adjustment and Appeals.

SUGGESTED MOTION FOR CONSIDERATION

Move to authorize commencement of legal proceedings for enforcement of the Order of the Board of Adjustment and Appeals regarding property at 5699 Keats Avenue North.

ATTACHMENTS:

- Report of Consulting Planner on Status of Compliance and Continuing Violations at 5699 Keats Avenue North (dated July 9, 2009)

ORDER OF BUSINESS:

- Introduction Craig Dawson
- Report by staff Craig Dawson, Kyle Klatt
- Questions from City Council members to the presenter Mayor facilitates
- Questions/comments from the public to the City Council Mayor facilitates
- Action on motion City Council

CITY OF LAKE ELMO MEMORANDUM

TO: DAVE SNYDER
FROM: BEN GOZOLA
SUBJECT: COMPLAINT REVIEW AT 5699 KEATS AVENUE
DATE: 7 / 9 / 09
CC: CRAIG DAWSON, CITY ADMINISTRATOR

PURPOSE

MFRA was asked by the City of Lake Elmo to inspect the property at 5699 Keats Avenue to determine its conformance to the Board of Appeals order issued in December of 2008. Storage of the black trailers and removal of inoperable/unlicensed vehicles were addressed by previous deadlines. Remaining items to be completed before 7-1-09 included:

- 1) Removal or proper storage of personal property items including but not limited to piles of brick, piles of wood, a large tank, etc.
- 2) Removal of the small cabin or changes to the structure necessary to meet the definition of "tool shed."
- 3) Landscaping in two areas:
 - a. To the west of the home between the driveway and the garage;
 - b. To the east of the home between the garage door and the rear entry door. Grades in this area required construction of a retaining wall.

7-1-09 SITE VISIT FINDINGS

• **On the question of whether all personal property items are now properly stored:**

The property owner has clearly made efforts to address the storage of personal property. The scattered items and materials which prompted the initial findings of nonconformity have either been removed or consolidated into one area. Furthermore, the property owner has applied for and received a permit to construct a screening fence on the property to the east of the pole barn. Unfortunately though, as of the 7-1-09 deadline, **staff finds the property is still in violation of the Board of Appeals order with regards to addressing personal property items** in the following ways:

- 1) The consolidation of a trailer, what appears to be broken wooden pallet pieces, a chair, table, and other wood debris is still visible from adjacent property and must either be screened or removed from the property. If the permitted screening fence is erected, these materials can potentially be hidden from view behind the fence thus eliminating the nonconformity.

- 2) The property owner appears to have cut and stacked what is assumed to be treated lumber under the auspicious of firewood (which is allowed to be openly stored). As the MN Dept of Health recommends never burning such wood and law prohibits such wood from being disposed of in demolition or unlined landfills, staff cannot accept this pile as "firewood." Instead, we will view the pile as additional wood debris which must either be removed from the property, or be properly stored behind the permitted (but not yet constructed) screening fence.
- 3) By successfully addressing of the other outdoor storage items, the metal oil/water tank and large farm implement would not be viewed as a nuisance under the auspicious of "accumulation...of old machinery...and other junk or debris." However, a closer reading of section 150.001 Prohibited Without Screening, now makes it impossible for us to allow either to remain in a visible location. During our initial review, we accepted both pieces of equipment as "farm implements" which are eligible to be stored openly under section 150.001. Unfortunately, this exemption to screening requirements only applies to farm implements in the Agricultural zoning district and not Rural Residential properties.

Previously noted storage issues that are now acceptable include:

- The area around the one remaining swing set appeared to be cleaned up and the play structure did not have obvious signs of being non-functional or dangerous;
- The basketball hoop, which was previously being stored on its side within the fallow field, is now properly erected in a usable location to the west of the pole barn;

- **On the question of whether the illegal tool shed has been addressed:**

The property owner has not made any headway on addressing this issue.

- The illegal tool shed has not been removed;
- The property owner has not applied for a building permit to bring the structure into compliance with the definition of a tool shed;
- The property owner has not applied for a variance seeking approval of the current tool shed size.

In conclusion, we find that **the property owner is still in violation of the Board of Appeals order with regards to addressing the illegal tool shed.**

- **On the question of whether nonconforming landscaping has been addressed:**

Landscaping was required in two areas:

- To the **west** (front) of the home, the property owner has erected a new short retaining wall and has added mulch between the two walls to satisfy the landscaping requirement. Engineering staff visited the site on 7-2-09 and had no comments with regards to this small wall. **We therefore find this area has been successfully addressed.**
- To the **east** (rear) of the home, the property owner has constructed a 45" high retaining wall (3.75') with a significant amount of cut stone slabs lining the hillside above the wall. Engineering staff examined this wall and determined that while a building permit is not required due to height, one is still required due to the surcharge on the wall created by the heavy stones lining the above hill (please see the attached engineering memo). Engineering

plan sets will be required with the future building permit to demonstrate the wall's ability to handle the noted surcharge. Because of this conclusion, we find **the property owner is still in violation of the Board of Appeals order to construct a conforming retaining wall to the east of the home.**

- As a secondary component to the required retaining wall, the property owner was also required to use acceptable landscaping atop the new retaining wall. Code currently contains mixed signals as to what is ultimately acceptable landscaping material:
 - o The definition for *landscaping* is "planting trees, shrubs, and turf covers such as grasses and shrubs," which seems to indicate that you must have some root structure present to qualify as landscaping.
 - o Section 150.070 mandates that required landscaping "consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings, or as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property." This can reasonably be read to state that things other than plant material can be used provided the soil and aesthetics of the site are protected.
 - o Section 151.070 outlines requirements for landscaping plans which are sometimes required with building permit applications. In such plans, code requests applicants to supply "details of proposed non-vegetative landscaping materials." This would indicate that code does indeed recognize that not all landscaping materials will be living.

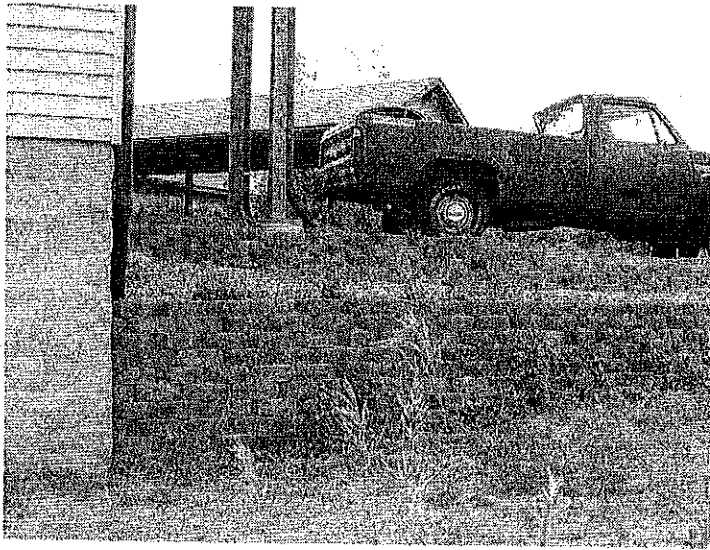
Read together, staff is inclined to take a reasonable approach and accept materials typically used for landscaping (sod, bushes, mulch, river rock, etc) provided such materials adequately protect the soil. **Because large stone slabs are an atypical landscaping material, they are not deemed to be acceptable for meeting code requirements atop the future engineered retaining wall.**

SUMMARY

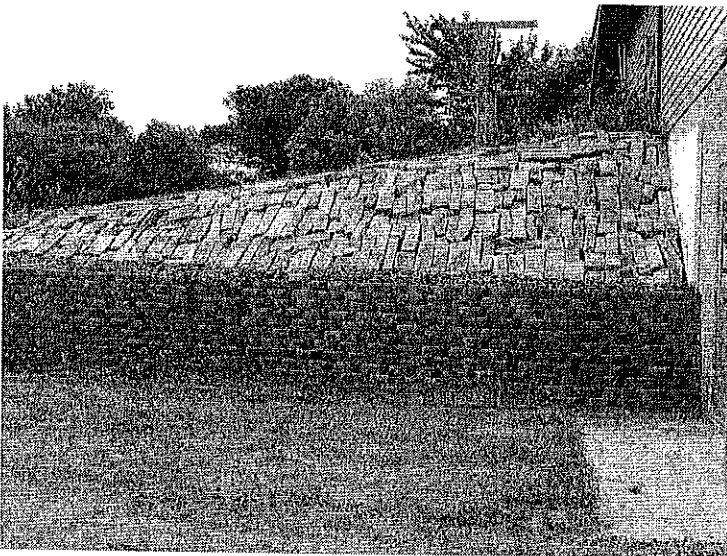
The property at 5699 Keats Avenue continues to have multiple nonconformities:

- o **The property is still in violation of the Board of Appeals order with regards to addressing personal property items;**
- o **The property owner is still in violation of the Board of Appeals order with regards to addressing the illegal tool shed;**
- o **The property owner is still in violation of the Board of Appeals order to construct a conforming retaining wall to the east of the home.**
- o **The property owner is still in violation of the Board of Appeals order to install appropriate landscaping atop the required retaining wall to the east of the home.**

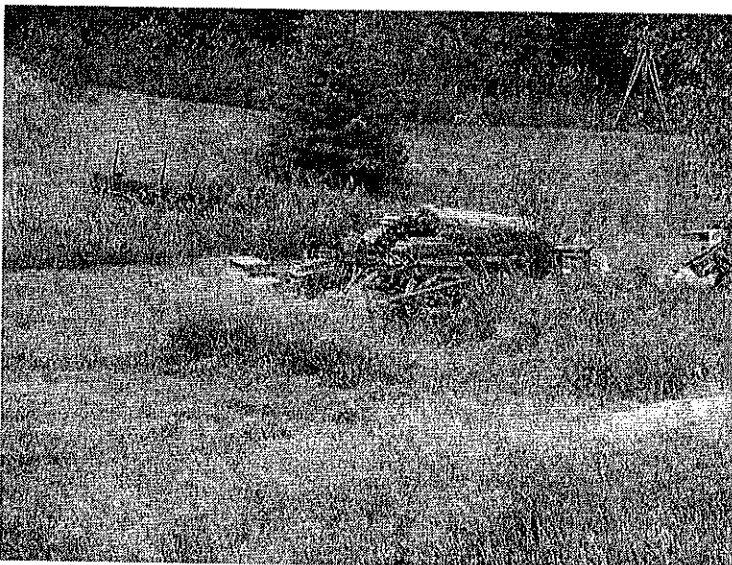
5699 Keats Avenue Site Inspection – 7-1-09



The new small retaining wall to the west (front) of the home is acceptable, and the mulch is an acceptable means to protect the soil.



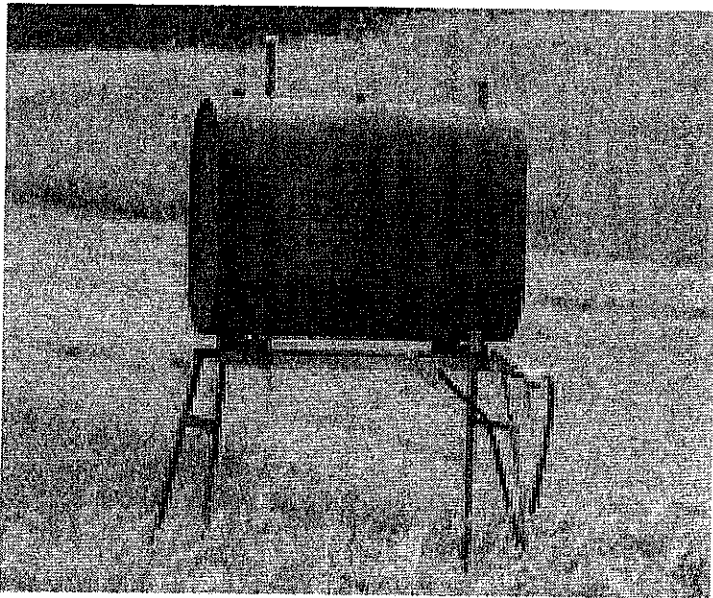
The new larger retaining wall to the east (rear) of the home is NOT acceptable. Engineering has determined the large stone slabs lining the ground above the wall place a surcharge on the wall which will require a building permit and engineering plans.



Most of the nonconforming personal property items have either been removed or organized into one area on the property shown here. If/When the permitted screening fence is erected, these items could become conforming if hidden from view. Until then, they remain nonconforming.



The nonconforming tool shed was still on the property as of 7-1-09.



The metal oil/water tank and one other large farm implement also remain on the property as of 7-1-09. Both should be screened from view, or be removed from the property.



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MEMORANDUM

To: Ryan Stempski, P.E.
Copies To: _____

From: Tom Stoneburner, P.E. *TSS*
Date: July 8, 2009

Reference: Sessing Retaining Wall
Lake Elmo, MN

Proj. No.: 14290.000, Phase 8
Routing: _____

On Thursday, July 2, 2009, Karl Horning (City of Lake Elmo Acting Building Official) and I observed a modular block retaining wall located at the home of Rod Sessing, 5699 Keats Avenue North, Lake Elmo, MN. The retaining wall was on the east side of the house and ran in an east-west direction with retained soil on the wall's south side. The exposed height of the retaining wall measured 45 inches where it abutted the house. At the top of the wall, a level grade extended back 24 inches from the exposed face of the wall. From the point 24 inches from the upper corner of the retaining wall, grade sloped upward an additional 5'-8" over a horizontal distance of 9'-4", forming a slope of approximately 1.65:1 (horizontal to vertical).

The City of Lake Elmo has adopted the 2007 Minnesota State Building Code (MSBC) as its governing building code. According to the MSBC, building permits are not required for retaining walls not over four feet in height, **unless supporting a surcharge**. (Refer to 2007 MSBC, 1300.0120 Permits, Subparagraph 4 Work exempt from permit, Article A.4.) In my opinion as a registered professional engineer, the configuration of the upper slope behind the retaining wall clearly exerts a surcharge on the modular block retaining wall, so the retaining wall requires a building permit according to the Minnesota State Building Code.

City Council
Date: August 4, 2009
REGULAR
Item: 2
Information Item

ITEM: MPCA Update on Lake Jane/Washington County Landfill Remediation Project
SUBMITTED BY: Craig W. Dawson, Interim City Administrator

BACKGROUND: Construction on the Lake Jane/Washington County Landfill remediation project began in early June. The duration of this project was to be 3+ years. As the contractor began work, it proposed a different phasing plan than what had been anticipated in the plans developed by the MPCA's engineering consultant. The MPCA is in agreement with the contractor's approach, and the duration of the project is now anticipated to be 2+ years.

Given the different sequencing of work and the earlier-than-anticipated height of material on the site, and the lack of communication from the MPCA to the City about these changes, City staff requested that the MPCA provide an update to the Council at the August 4 meeting. The staffs have also met to improve understanding and communications into the future.

It is believed that Jeff Lewis, manager of the MPCA division responsible for this project, will lead the update.

ATTACHMENTS:

* Article on the landfill project published in the July 27, 2009, issue of the *StarTribune*

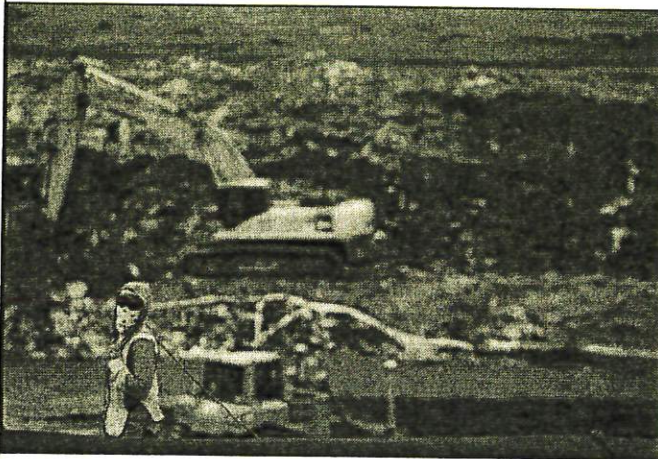
ORDER OF BUSINESS:

- Introduction Craig Dawson
- Report by staff or other presenter MPCA staff
- Questions from City Council members to the presenter Mayor facilitates
- Questions/comments from the public to the City Council Mayor facilitates

StarTribune.com



History-making landfill do-over in Washington County



Jerry Holt, Star Tribune

Phet Vong Phachanh and his co-workers stretched a new liner across part of the old Washington County landfill. The contractors are unearthing trash that has been buried for more than three decades.

Hazardous 3M trash buried decades ago in Washington County is being dug up and will be reburied with a protective lining.

By **TOM MEERSMAN**, Star Tribune

Last update: July 28, 2009 - 7:38 AM

In a \$20 million job that's the largest of its kind in state history, workers in protective suits are

unearthing trash in Lake Elmo that hasn't seen the light of day for more than three decades.

Their mission is not to burn the wastes or haul them off to another state, but to rebury them in a state-of-the-art pit that will keep chemicals that went into Scotchgard and other 3M products from getting into any more drinking water.

Excavating 33 acres of garbage, and then putting it back in the same place, may seem like a curious way to handle trash that has rested undisturbed since 1975.

However, the former Washington County landfill is not your typical dump. Wastes taken there from the 3M Co. in the early 1970s have contaminated groundwater in nearby Lake Elmo and Oakdale.

That has led to one of the biggest attempts to go back and undo decades-old environmental practices that the metro area has ever seen.

Residents have switched to clean sources of drinking water, but the chemicals are still in the landfill, a potent source of contamination for years to come unless removed or isolated.

"We probably would not be doing this extent of work if not for the PFCs," said Jeff Lewis, referring to chemicals formerly made by 3M that were dumped legally at the landfill and were used in products such as stain-resistant coatings and nonstick cookware.

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Lewis, who manages the closed landfill program for the Minnesota Pollution Control Agency (MPCA), said that 3M agreed to pay about \$8 million of the cleanup costs, and the remainder comes from a combination of garbage fees, state bonding and insurance recovery money.

Lewis said it's impossible to separate the 3M wastes from that of other companies, and from the huge volume of trash from Washington and Ramsey counties. The former landfill was the first to be permitted in the state, and operated from 1969 to 1975.

Old and new school work

The cleanup is an odd combination of old-school and new millennium technology.

The removal part is old tech. On Monday, a pit the size of a college football stadium was buzzing with heavy machinery. A backhoe with a huge maw was eating into a wall of trash and dumping it into waiting off-road dump trucks. At the bottom of the 90-foot pit, four dozers were spreading clay that will form the base of the landfill. Compactors with huge spiked rollers were smoothing it.

The installation is new tech. The landfill will have three layers of heavy plastic liner, separated by layers of geosynthetic material. Teams of workers unrolled huge rolls of the liner on the other side of the pit. The seams of each layer are melted

together much like a swimming pool liner.

Lewis said the new landfill will hold mainly old garbage but is designed with a higher level of protection often used to handle hazardous wastes. It will have three distinct layers to prevent any contaminated water in the landfill from reaching ground water: two feet of compacted clay at the bottom, three layers of heavy plastic above that, and two feet of sand and a collection and drainage system above the liners.


"We're confident that we're building a system that will work," Lewis said.

Not everyone shares that optimism.

"I don't understand how this could have been a viable solution -- to dig this up, put in a liner, and then put it all back into the ground," said Judith Blackford, who lives a half-mile east of the landfill. She and others at public meetings advised MPCA officials to truck the trash away to be burned or buried elsewhere. That's the approach that 3M is taking for three company-owned sites where chemical wastes were buried.

Lewis said that the landfill contains many times more waste than all of the 3M sites combined -- more than 2.5 million cubic yards of trash in all, and much of it was mixed with large amounts of dirt when it was buried and covered. Hauling that much waste elsewhere would cost three times more than the \$20 million being spent, he said,

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and burning it would be astronomical.

"This will be as good a construction of any in the state," Lewis said of the MPCA's solution. "It's got a lot of safeguards built into it."

Peter Tiffany, an MPCA senior engineer, said no surprises have come to light so far in the nearly 300,000 cubic yards of waste removed. He recalled one day when a dump truck full of red tape drove away with the tape flying like streamers.


Work will proceed in stages

Patrick Hanson, who oversees the work for MPCA, said the project will not likely be finished until late 2011.

Work will proceed in stages, he said, with waste moved into finished segments of the landfill as others are being lined. The state has received some complaints about construction noise since work began in early June, he said, and one call about odor. The contractor is spraying the waste with a slurry of cement and cardboard paper to reduce odors, he said, and has scheduled minimum heavy equipment operating during weekends when nearby residents are more likely to be home.

Tom Meersman • 612-673-7388

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City Council
Date:
REGULAR
Item: 9
Discussion Item

August 4, 2009

ITEM: Budget Discussion

SUBMITTED BY: Craig W. Dawson, Interim City Administrator

BACKGROUND: Mayor Johnston has requested that the Council have some discussion regarding the upcoming budget at the August 4 Council meeting.

The Council will start work sessions on the 2010 General Fund budget and tax levy on August 11.

Staff is preparing several alternatives for the Council to consider as it develops the 2010 budget.