CITY OF LAKE ELMO CITY COUNCIL MINUTES DECEMBER 3, 2013

Mayor Pearson called the meeting to order at 7:00 P.M.

PRESENT: Mayor Mike Pearson, Council Members Wally Nelson, Justin Bloyer, and Mike Reeves.

ABSENT: Council Member Anne Smith

Also Present: City Administrator Zuleger, City Attorney Snyder, Planning Director Klatt, City Engineer Griffin, Finance Director Bendel, Public Works Director Bouthilet, and City Clerk Bell.

PLEDGE OF ALLIGENCE

APPROVAL OF AGENDA

Council Member Nelson requested to pull *Consent Agenda Item 4* for discussion. Mayor Pearson found that amendment agreeable.

MOTION: Council Member Nelson moved **TO APPROVE THE NOVEMBER 19, 2013 CITY COUNCIL AGENDA AS AMENDED.** Council Member Bloyer seconded the motion. **MOTION PASSED 4-0.**

ITEM 1: ACCEPT MINUTES

THE NOVEMBER 19, 2013 CITY COUNCIL MINUTES WERE APPROVED AS PRESENTED BY CONSENSUS OF THE CITY COUNCIL.

COUNCIL REPORTS:

Mayor Pearson: Upcoming Christmas tree lighting event on 12/7; have been attending legislator meetings for 2014 bonding; attended Public Safety Committee meeting. Focused on recruitment and retention in fire department.

Council Member Nelson: attended Public Safety Committee meeting. Right now the group is focusing on recruitment and retention in fire department.

Council Member Bloyer: He and wife are involved with the NextGen group and Light Up Lake Elmo event.

Council Member Reeves: reported that City Council is sponsoring a tree at Light Up Lake Elmo.

PUBLIC COMMENTS:

Librarian Linda Orsted reported that the library will be open during light up Light Up Lake Elmo event. American Chemist Society will be at library on 12/7 in AM. There are numerous electronic resources available on library website.

PRESENTATIONS

• STILLWATER SCHOOL DIST. SUPERINTENDANT COREY LUNN - NORTHEAST METRO INTERMEDIATE SCHOOL DISTRICT 916

Stillwater Area School District Supt. Corey Lunn spoke about ISD 916 and the cost savings that program offers. He stated that it truly helps school budgets. All students benefit from the collaboration.

Council Member Nelson asked about funding and if it is perpetual. Mr. Lunn stated that it is as long as the collaborative is in place. Council Member Reeves asked about enrollment number for area. Director of ISD 916, Dan Naidicz stated there has been a significant increase in elementary and

middle school age in surrounding area districts. Most of the students in Stillwater schools will attend the proposed facility instead of the northern facility being constructed in Blaine.

Council Member Bloyer asked how long Stillwater schools have been involved. Mr. Lunn stated that it has been since the early 1970s.

SPEAK YOUR PEACE – BLOYER

Council Member Bloyer spoke on the Speak Your Peace tenet of *Respect*. It is especially important in Lake Elmo. The Council has turned a corner in how it conducts itself. Respect means honoring other people and their opinions even when there are disagreements. Historically, the practice has been to make personal attacks. Now the council tolerates differences. Important to give attention when others are speaking, listen, and give positive body language.

Council Member Reeves noted he is supporting the initiative by City Administrator Zuleger and Alyssa MacLeod.

ITEM 2: 2014 PROPOSED TAX LEVY AND GENERAL FUND BUDGET TAXES - PUBLIC HEARING: RES. NO. 2013-99

City Administrator Zuleger provided a quick overview of the 2014 budget. Finance Director Bendel went through the 2014 budget in greater detail including levy history, tax base, revenues/expenditures, debt policy, existing debt, future financing, and development philosophy.

Mr. Zuleger further explained the development philosophy- includes 100% developer paid infrastructure improvements; irrevocable letter of credit; comprehensive escrow agreements for 100% cost recovery; thorough credit rating and analysis of developers; strict adherence to comprehensive plan "no poaching" policy (no spot zoning). No tax levy or tax rate increase for 2014; strong tax base market increase helped.

Council Member Nelson asked for better explanation of 5th street funding. Ms. Bendel explained that bond was secured and first part was assessed. After project is actually finished, the balance will be assessed. Mr. Zuleger explained the process of the anticipated installation of the street.

Council Member Reeves commended staff and council for hard work. Consensus of the council was that the budget book was good.

MOTION: Council Member Nelson moved **TO OPEN THE PUBLIC HEARING.** Council Member Bloyer seconded the motion. **MOTION PASSED 4-0. Public Hearing opened at 7:35pm**

Mayor Pearson called for public comment three times. There was no public input.

MOTION: Council Member Bloyer moved **TO CLOSE THE PUBLIC HEARING.** Council Member Reeves seconded the motion. **MOTION PASSED 4-0. Public Hearing closed at 7:36pm**

MOTION: Council Member Reeves moved **TO APPROVE RESOLUTION NO. 2013-99, ADOPTING THE 2014 GENERAL FUND BUDGET.** Council Member Nelson seconded the motion.

Council Member Nelson thinks it's great that city is keeping taxes flat. Mr. Zuleger pointed out that due to the school levy some properties will increase, but over 2/3 of the properties will actually see a decrease.

MOTION PASSED 4-0 (Roll call vote taken).

CONSENT AGENDA

- 3. Approve Payment of Disbursements and Payroll in the amount of \$114,557.03
- 4. SCADA System Upgrade
- 5. Approve 2014 Liquor Licenses Renewals
- 6. Authorize Certification to the Washington County Auditor for Unpaid Water Utility Bills; *Res. No.* 2013-100

MOTION: Council Member Bloyer moved **TO APPROVE THE CONSENT AGENDA AS AMENDED.** Council Member Reeves seconded the motion. **MOTION PASSED 4-0.**

ITEM 4: SCADA SYSTEM UPGRADE

Public Works Director Bouthilet explained what the SCADA system was. Radios needed for current system are obsolete. Current system was good at data acquisition but poor at supervisory control. With the upcoming lift stations being installed, new system is needed. Proposal includes computer upgrade, new radios, software, and alarms. Alarm for failures/power issues were another large part of upgrade. The PC upgrade was already planned to be replaced in 2014.

The system security was discussed. It was explained that Roseville IT has security as a top priority.

Mayor Pearson asked about water main break and whether the system would catch it. Mr. Bouthilet stated that it would have to be a major break for system to catch it, but normally it would not.

MOTION: Council Member Nelson moved TO APPROVE THE PURCHASE SCADA SYSTEM RADIO UPGRADES, COMPUTER, AND SOFTWARE FROM TELEMETRY PROCESS CONTROLS AND THE ROSEVILLE IT FOR \$29,203.25. Council Member Bloyer seconded the motion.

Council Member Nelson explained his reasoning for discussing. He wants the public to learn what is going on when spending this amount of money.

MOTION PASSED 4-0.

REGULAR AGENDA

ITEM 7: LAKE ELMO AVENUE TRUNK WATERMAIN IMP. – PUBLIC HEARING: AUTHORIZE PREPARATION OF PLANS & SPECIFICATIONS; RES. NO. 2013-101

City Engineer Griffin gave background of the project. Resident meeting was held. Mr. Griffin reviewed the feasibility report. Project begins at 30th street connection and ends at a future 5th street location. Project includes abandonment of existing 1350ft 6" watermain. Project purpose is to extend water service from Village to south of 10th street. Ryland/Pratt/Airlake developments have requested service.

Mr. Griffin provided overview of the assessments, including 44 connections and 35 assessed units. Total project estimate is \$2,894,000. The two assessment options are 1) charging the full \$5,800 or 2) \$2,900 assessed up front and the balance of \$2,900 assessed at time of connection. There is also the \$4,000 WAC charge. The WAC charges were further discussed.

Council Member Bloyer asked about charging residents for lateral benefit and WAC charges instead of getting a new well. Mr. Griffin explained that the cost for wells can vary greatly. Also, once the system is put in place, it needs to be funded. Getting people on the system is necessary. The assessments are payable over 15 years. Mr. Griffin explained the recognized benefits (water service availability, fire suppression and insurance savings). The proposed schedule and approval options were explained.

It was explained that by adopting the preliminary assessment with the \$3 million project the City can lower the assessment, but not increase it. The estimated design costs would be about \$125,000 and have a roughly 2 year shelf-life.

MOTION: Council Member Reeves moved **TO OPEN THE PUBLIC HEARING.** Council Member Nelson seconded the motion. **MOTION PASSED 4-0. Public Hearing opened at 8:23pm**

Bruce Weeks 1446 Lake Elmo Ave attended resident meeting. He alleged that previous lots were set up to avoid having water required. He asked why a local well was not an option. Mayor Pearson explained that a local well may draw adulterated water from southwestern area of City. Mr. Weeks noted he has to replace well pump occasionally – last time was 10-15 years, but has never had any issues with actual well.

George Tate 2443 Lake Elmo Ave expressed his concern about the water rate after connecting.

MOTION: Council Member Nelson moved **TO CLOSE THE PUBLIC HEARING.** Council Member Bloyer seconded the motion. **MOTION PASSED 4-0. Public Hearing closed at 8:30pm**

Council Member Nelson asked for a further explanation of the system hydraulics. Mr. Griffin showed map of system and explained the system. The system hydraulics were discussed.

MOTION: Mayor Pearson moved **TO ADOPT RESOLUTION NO. 2013-101, ORDERING THE LAKE ELMO AVENUE TRUNK WATERMAIN IMPROVEMENTS AND AUTHORIZING PREPARATION OF PLANS AND SPECIFICATIONS.** Council Member Nelson seconded the motion.

Mayor Pearson would like some type of security from developers before ordering improvement. He noted that the City has decided to run water to southern area and needs to figure out a way to pay for it. That is a discussion for another day.

Council Member Reeves agrees that the City owes these services to residents and the fees needs to be evaluated, but now is not the time to delay the project.

Council Member Nelson wants to reassess the policy to account for future assessments. He wants the Admin to speak to developers. Mr. Nelson would like to have a commitment prior to ordering the improvement. Obtaining some type of security was discussed. City Administrator Zuleger noted that the DNR/White Bear Lake water issue will play into this at some point.

Council Member Reeves said the City has a commitment to the residents to provide water and that the future may not include "free water" as has been the case. Council Member Bloyer thinks that it is a power grab and the crisis is not as severe as has been indicated. He understands that the projects needs to happen, but he wants to be responsible in approving it. He does not want to saddle residents with debt.

City Attorney Snyder noted that Council can include whatever predicates in the resolution it chooses including looking at the charges and obtaining securities.

Mr. Nelson clarified that he wants staff to provide time table for discussion to reevaluate the \$5,800 fee. The effect of delaying the timeline for staff to try to secure a security was discussed. It was declared that the 12/10/2013 Council Workshop subject will be **HOW DO WE FUND THE WATER SYSTEM**?

MOTION PASSES 4-0

Council Member Nelson asked that Item 9 be moved ahead to accommodate guests present. Mayor Pearson accommodated his request.

The meeting was recessed at 9:07pm. The meeting was reconvened at 9:13pm.

ITEM 9: CONDITIONAL USE PERMIT AND EAGLE POINT BUSINESS PARK PUD AMENDMENT - 33.029.21.42.0013; RES. NO. 2013-103

Planning Director Klatt provided overview of PUD amendment request. Request is basically bringing property in line with current PUD rules. Proposal is for changing the PUD to allow a school in the Eagle Point Business Park. Staff originally suggested approval. Planning Commission recommended denying request. Commission is concerned about loss of tax revenue. It also did not believe that site is appropriate for a school. It was their opinion that there would be better sites.

Council Member Bloyer asked for clarification on resolution findings 5(a), (b), and (c). He asked if Planning Commission was interested in the economic loss during the Section 32/33 detachments.

Director Kristine Carr introduced Special Education Director Dan Naidicz. He spoke about the school in further detail. Current facilities do not meet the needs. Another reason for location is to centralize the facility in the area.

Mr. Bloyer asked about the capacity/enrollment. Estimated to be 60-70 students initially. Capability to grow to 150 students. Council Member Reeves asked about the Blaine location. Mr. Naidicz explained the geography.

Mr. Bloyer asked about traffic impact. Steve Erickson explained about 20 buses. Up to school district discretion. Not many visitors during the day. Plan allows for 2 access points. Bremer bank (neighbor) concerned about traffic impacting their facility during the day. It was noted that the school district was willing to work with the neighboring properties on these issues.

ISD 916 would buy land and building. Member schools would pay debt. Mr. Erickson pointed out that because this is a new type of facility, construction would not begin for about 2 years. District wants to make sure that the plan is workable. Final plan would either meet or exceed requirements. Expect to bring plans to Council in about 18 months. Currently have 180 days option to purchase. Close no later than April 2016.

Mr. Bloyer asked about the length of the CUP. Mr. Klatt explained that there would be a year for final plan brought back under code.

Mr. Reeves asked about number of tax loss. Mr. Klatt explained that the initial number was provided by Assessor, but in fact number is actually much lower when only city portion is considered. City Attorney Snyder noted that courts have limited CUP determinations to strict adherence to ordinance. Tax revenue is not in there and could not be relied upon if litigated.

City Administrator Zuleger noted that staff is working on service agreement similar to what is in place for Blaine facility.

Mayor Pearson said his opinion is that that Planning Commission veered from their purpose in using tax revenue loss. The school would also bring 60-100 good paying jobs to area.

Council Member Nelson asked about WAC/SAC charges. Mr. Zuleger explained that there are formulas for these types of facilities. The property has been vacant since 1999. Connect to city water/sewer by time school is built.

The original staff recommendation for approval was discussed. Mr. Klatt noted that the new findings and new resolution for the CUP would be brought back to Council if approved. Messrs. Nelson and Bloyer want a longer time for the CUP - 24-36 months.

MOTION: Council Member Nelson moved **TO ADOPT RESOLUTION NO. 2013-103, APPROVING A REQUEST TO AMEND THE EAGLE POINT BUSINESS PARK PUD DEVELOPMENT STANDARDS.** Mayor Pearson seconded the motion. **MOTION PASSES 4-0**

MOTION: Council Member Nelson moved **TO DIRECT STAFF TO DRAFT RESOLUTION FOR CUP THAT INCLUDES 1) 24 MONTH PERIOD FOR SUBMISSION OF FINAL PLAT; 2) THE ORIGINAL 8 STAFF CONDITIONS; 3) MUTUALLY AGREED UPON SERVICE AGREEMENT; AND 4) WORK WITH NEIGHBORING PROPERTY OWNERS FOR AMICABLE RESOLUTION ON TRAFFIC;** Second by Council Member Reeves.

Council Member Bloyer reiterated his opposition to catering to the bank when they are not a formal party involved. He does not want to get between landowners. City Attorney Snyder asked if staff/District 916 could be directed to endeavor to find mutual satisfactory agreement with Bremer. Council Consensus was affirmative.

MOTION PASSES 4-0

ITEM 8: INWOOD BOOSTER STATION & TRUNK WATERMAIN IMPROVEMENTS – ACCEPT FEASIBILITY REPORT; CALL IMPROVEMENT HEARING; RES. NO. 2013-102

City Engineer Griffin provided overview of project. Similar to LE Ave trunk watermain. Connects northern water system. Runs from Lake Elmo Heights/26th st. N. and ends at Eagle Point Business Park. Includes water booster station. Passes through Parkview Estates neighborhood to connect those properties. Would allow city to cease using Oakdale for water in area. Would keep emergency connection capability.

Would serve Savona, Boulder Ponds, Hammes Estates, Dale Properties, MFC & CM Properties, Azur Properties, Eagle Point Business Park, Parkview Estates, Cardinal View and Cardinal Ridge, and Torre Pines.

The assessments were explained. 25 properties at \$16,500. 2 at \$5,800 lateral benefits charges. 1 of the 2 is in green acres (deferred assessment). It was explained that it is cheaper for city and Parkview to put in Parkview now than later. Total cost is \$3.8 million. \$5,800 or \$16,500 assessments are payable over 15 years. Mr. Griffin explained the recognized benefits. He provided an overview of project schedule.

Water funding and the 2014 bonding bill were discussed. City Administrator Zuleger recommended waiting until after the bonding meeting next week when more information is available on funding.

Council Member Nelson asked about the 100% developer paid assess for Section 34. It was explained that they are not paying to get the water to the Section 34. WACs will help pay for the debt service. It was explained that because the entire system is being integrated, each improvement has to be balanced. Picking specific areas to pay only the minimum does not balance the system.

MOTION: Mayor Pearson moved TO ADOPT RESOLUTION NO. 2013-102, RECEIVING THE FEASIBILITY REPORT AND CALLING HEARING FOR THE INWOOD BOOSTER STATION AND TRUNK WATERMAIN IMPROVEMENTS. Council Member Reeves seconded the motion.

What was being voted on and what was actually being committed to was clarified. Approval tonight calls for the public hearing and sets the ceiling limit for the assessment.

MOTION PASSED 4-0.

ITEM 10: COMPREHENSIVE PLAN AMENDMENT AND ZONING MAP AMENDMENT - 10689 60TH STREET NORTH; RESOLUTION 2013-104

Planning Director Klatt provided overview of the request. Staff and Planning Commission recommended denial. Mr. Klatt provided the history of property. Landscaping business was illegally being operated on property. Applicants are looking to change it from Rural Residential to Commercial.

MOTION: Council Member Reeves moved **TO MOVE TO ADOPT RESOLUTION 2013-104, DENYING THE COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT REQUEST AT 10689 60TH STREET NORTH.** Mayor Pearson seconded the motion.

Council Members Bloyer and Nelson are both concerned about losing these properties to detachment. Both are not in favor of spot zoning; however, they both believe Hwy 36 will eventually be commercial nature at later date. This type of business will probably be supported in future. Mr. Nelson would like the Planning Commission to look at long term zoning.

Council Member Reeves and Mayor Pearson both don't want businesses operating in a place where they don't belong. Mayor Pearson thinks City should wait until Highway 36 plan is completed before making any big decisions on the area as a whole. City Administrator noted that this application is a classic spot zone. Mr. Klatt noted that this area will be addressed in 2014 by Planning Commission.

MOTION PASSES 4-0.

Council Member Nelson wants to make sure the Council is giving clear direction to the Commission.

ITEM 11: DRIVEWAY ORDINANCE; ORD. 08-096, RES. NO. 2013-105

Planning Director Klatt provided overview of the proposal. Proposal is not substantially different from current code. It provides a few clarifications. Mr. Klatt noted some of Council Member Bloyer's concerns. Staff recommended striking 93.25(B) regarding "scope" entirely.

When permits would be required and what work would trigger the ordinance application was discussed. Council Member Nelson asked about 93.26(E) (distance of driveways from intersections). Mr. Klatt stated that the non-conforming use requirements would control.

MOTION: Council Member Bloyer moved **TO ADOPT ORDINANCE 08-096, INCORPORATING BEST PRACTICES RELATED TO DRIVEWAY DESIGN AND CONSTRUCTION TO IMPROVE PUBLIC SAFETY AND ACCESS TO PUBLIC STREETS AS AMENDED BY STRIKING § 93.25(B).** Mayor Pearson seconded the motion. **MOTION PASSED 4-0.**

MOTION: Mayor Pearson moved TO ADOPT RESOLUTION 2013-105, AUTHORIZING SUMMARY PUBLICATION OF ORDINANCE 08-096. Council Member Reeves seconded the motion. MOTION PASSED 4-0.

ITEM 12: RAD-ALT MORATORIUM; ORD. 08-097

Klatt provided overview of the 150 acres guided in this manner. Consists of only three areas. This came up as part of the open space development discussion. Because the forecast numbers may be lowered, these areas may no longer be needed. Planning Commission is interested in eliminating the RAD-ALT zone, but wanted more time to study. Moratorium would be for 9 months.

Mayor Pearson not in favor of declaring a moratorium. The three parcels are distinct. Does not want to send mixed message to Met Co. He would like the Fredrich property to be looked at separately.

MOTION: Mayor Pearson moved **TO DIRECT PLANNING COMMISSION TO HOLD PUBLIC HEARING FOR FREDRICH PROPERTY TO REVERT BACK TO RAD DESIGNATION.** Council Member Reeves seconded the motion.

The Fredrich parcel was not part of MOU. Not planned or likely to receive sewer.

Council Member Reeves feels that this is similar to spot zoning. Times have changed and he thinks that best decision now is to revert that property back to RAD. Council Member Bloyer agrees that was spot zoning. He wants to review records. Council Member Nelson's opinion is that it was also a case of spot zoning. Mr. Bloyer concerned about taking something away because of previous bad decision. Mayor Pearson believes city put the cart before the horse. He was on the commission at the time. Mr. Bloyer wants the Planning Commission to focus on planning the next 5-10 years and not spend too much time on this item.

The term "moratorium" and its implications were discussed. The Council consensus was opposed to using the term.

MOTION PASSED 4-0.

MOTION: Council Member Bloyer moved **TO ADOPT ORDINANCE NO. 08-097, ADOPTING A MORATORIUM ON RAD-ALT DEVELOPMENT FOR A PERIOD OF NINE MONTHS.** Council Member Nelson seconded the motion. **MOTION FAILED 0-4**

ITEM 13: 2014 PLAN OF WORK

MOTION: Council Member Bloyer moved **TO POSTPONE 2014 PLAN OF WORK TO NEXT COUNCIL** *MEETING.* Council Member Reeves seconded the motion. *MOTION PASSED 4-0.*

ITEM 14: DIEDRICH-RIEDER EASEMENT VACATION

City Administrator Zuleger explained the background of the item. Easements were obtained and recorded with Washington County. Road moved at the request of developer and new easements were secured. City was asked to vacate the original easements to allow maximum development. City is in process of securing the easement purchase funds from the land owners.

a. PUBLIC UTILITY EASEMENT AND AGREEMENT PUBLIC HEARING; RES. NO. 2013-106A

MOTION: Council Member Bloyer moved **TO OPEN THE PUBLIC HEARING.** Council Member Reeves seconded the motion. **MOTION PASSED 4-0. Public Hearing opened at 11:14pm**

Mayor Pearson called for public comment three times. No public input. It was noted that the landowner wants to negotiate a portion. Mr. Zuleger stated the City's position is to get back 100%.

MOTION: Council Member Bloyer moved **TO CLOSE THE PUBLIC HEARING.** Council Member Nelson seconded the motion. **MOTION PASSED 4-0. Public Hearing closed at 11:14pm**

MOTION: Mayor Pearson moved **TO APPROVE RESOLUTION NO. 2013-106A, A RESOLUTION VACATING A PERMANENT PUBLIC UTILITY EASEMENT AND AGREEMENT, CONTINGENT UPON THE CITY OF LAKE ELMO RECEIVING THE REPAYMENT OF EASEMENT PURCHASE FUNDS**. Council Member Nelson seconded the motion. **MOTION PASSED 4-0**.

b. <u>TEMPORARY CONSTRUCTION EASEMENT AND AGREEMENT PUBLIC HEARING; RES.</u> NO 2013-106B

MOTION: Council Member Nelson moved **TO OPEN THE PUBLIC HEARING.** Council Member Bloyer seconded the motion. **MOTION PASSED 4-0. Public Hearing opened at 11:16pm**

Mayor called for public comment three times. No public input. It was again noted that the landowner wants to negotiate amount. Mr. Zuleger stated the City's position is to get back 100%.

MOTION: Council Member Bloyer moved **TO CLOSE THE PUBLIC HEARING.** Council Member Nelson seconded the motion. **MOTION PASSED 4-0. Public Hearing closed at 11:17pm**

MOTION: Council Member Bloyer moved TO APPROVE RESOLUTION NO. 2013-106B, A RESOLUTION VACATING A TEMPORARY CONSTRUCTION EASEMENT AND AGREEMENT, CONTINGENT UPON THE CITY OF LAKE ELMO RECEIVING THE REPAYMENT OF EASEMENT PURCHASE FUNDS. Council Member Reeves seconded the motion. MOTION PASSED 4-0.

SUMMARY REPORTS AND ANNOUNCEMENTS

City Administrator Zuleger: completed all performance reviews. City Administrator review will be in closed session on 12/17; attended 3M meeting; bonding legislator meetings.

City Attorney Snyder: attended 3M senior level meeting with Mr. Zuleger. It was helpful and informative. Anticipate further discussions.

Planning Director Klatt: reported Planning Commission will be considering concept plan for Boulder Ponds; Met. Council will be taking action on Village Comp Plan at 12/11 meeting. **City Engineer Griffin**: no report.

Finance Director Bendel: reported all assessments were sent to county; 2014 insurance renewal; water bills went out. Attended Springsted conference.

City Clerk Bell: no report.

Mayor Pearson adjourned the meeting at 11:23pm.

LAKE ELMO CITY COUNCIL

ATTEST:

Mike Pearson, Mayor

Adam R. Bell, City Clerk