



NOTICE OF MEETING
City Council Workshop/Meeting
Tuesday, July 21, 2015 6:00 P.M.
City of Lake Elmo | 3800 Laverne Avenue North

Agenda

6:00 p.m. City Council Workshop

- A. Manning Avenue Project Presentation – Washington County**

7:00 p.m. City Council Meeting

B. Call to Order

C. Pledge of Allegiance

D. Roll Call / Order of Business

E. Approval of Agenda

F. Accept Minutes

1. Approve May 19, 2015 City Council Meeting Minutes
2. Approve June 9, 2015 City Council Meeting Minutes
3. Approve June 16, 2015 Special City Council Meeting Minutes
4. Approve July 7, 2015 City Council Meeting Minutes

G. Council Reports

H. Presentations/Public Comments/Inquiries

I. Finance Consent Agenda

5. Approval of Interim City Administrator Contract
6. Approve Payment of Disbursements
7. Accept Building Report dated June 30, 2015
8. Accept City Assessor Report dated June 30, 2015

J. Other Consent Agenda

9. Zoning Text Amendment - Subdivision Identification Signs, ***Ordinance 08-124***
10. Zoning Text Amendment – Accessory Building Setbacks in Urban Residential Districts, ***Ordinance 08-125, Resolution 2015-58***
- 10.5 Approve Cable Commission Updated Policies and Procedures

K. Regular Agenda

11. Presentation of 2015ABond Issuance Results; ***Resolution No. 2015-57***
12. Stormwater Drainage Improvements – Approve Ditch Cleaning at 8690 and 8702 Ironwood Trail
13. TH36 and Highlands Trail – Request for Street Light Safety Improvement
14. Lennar Twin Home Preliminary Plat (Diedrich Property); ***Resolution No. 2015-56***
15. East Village Trunk Sewer Update
16. Zoning Text Amendment – Commercial Wedding Ceremony Venue Ordinance ***Ordinance No. 08-121, Resolution No. 2015-45***
17. Preliminary and Final Plat – Halcyon Cemetery ***Resolution No. 2015-59***
18. Final Plat, Final PUD Plan and Zoning Map Amendment – Wildflower at Lake Elmo ***Ordinance No. 08-126***
19. Council Driven Workshop Follow Up (*Lundgren request*)

L. Staff Reports and Announcements

M. Adjourn

TH 5/Manning Avenue Realignment Alternatives Comparison

		Concept B	Concept C	Concept C2
All Concepts Equally:	Draw peak hour traffic to Manning	✓	✓	✓
	Improve overall network efficiency	✓	✓	✓
	Allow for future development	✓	✓	✓
	Improve safety	✓	✓	✓
Local Cost Participation:	New Local Road Construction	0.2 miles	0 miles	0 miles
	Right of Way Acquisition	0.8 acres	0 miles	0 miles
	Maintenance (length of new City Street)	0.7 miles	0.5 miles	0.5 miles
	Overall project	Per County Policy	Per County Policy	Per County Policy
Local Access Considerations:	Travel from Fields of St Croix to Village ¹	1.4 miles	1.3 miles	2.5 miles
	Fire Truck response time ²	9.2 minutes	8.9 minutes	12.5 minutes
	Local property owners	For discussion	For discussion	For discussion

Notes:

- 1 Distance measured along existing/proposed roadways from Lake Elmo Fire Department to approximate center of Fields of St Croix neighborhood.
- 2 Assumes 5 minutes prep for fire truck to begin travel, and then travels an average speed of 20 MPH (must go through several intersections).

TH 5 REALIGNMENT - CONCEPT B

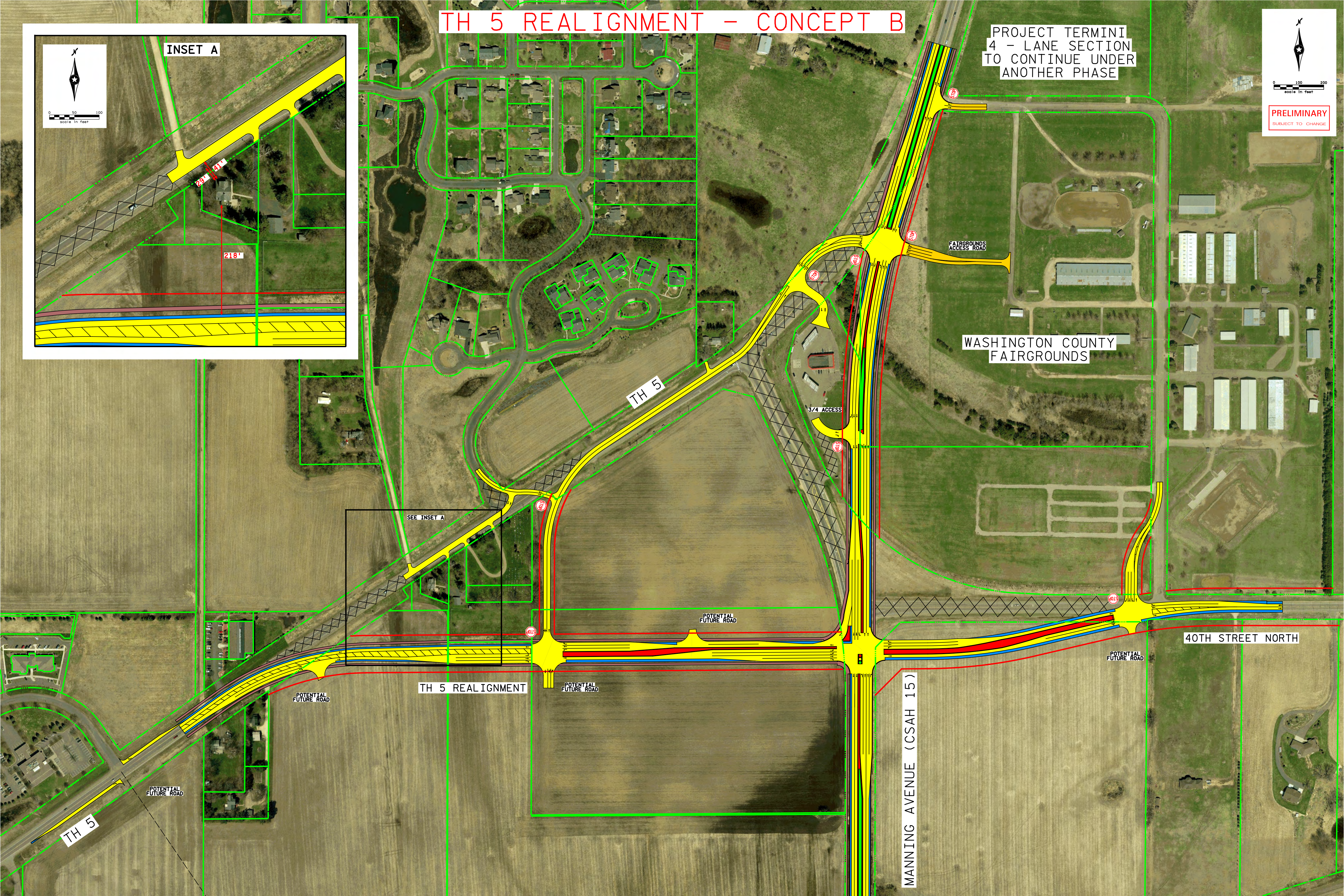
PROJECT TERMINI
4 - LANE SECTION
TO CONTINUE UNDER
ANOTHER PHASE

0 100 200
scale in feet

PRELIMINARY
SUBJECT TO CHANGE

INSET A

218'
29' 47'

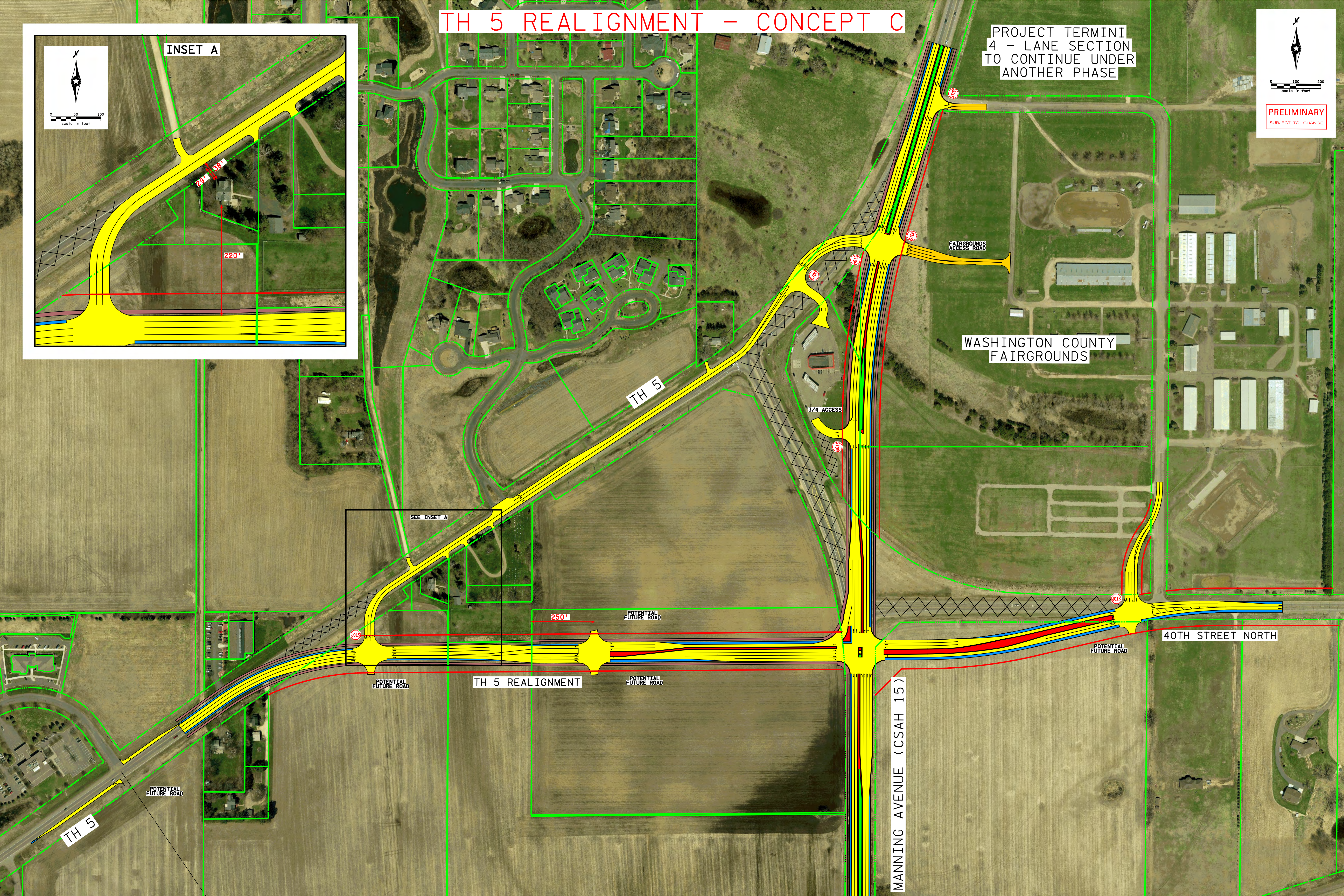
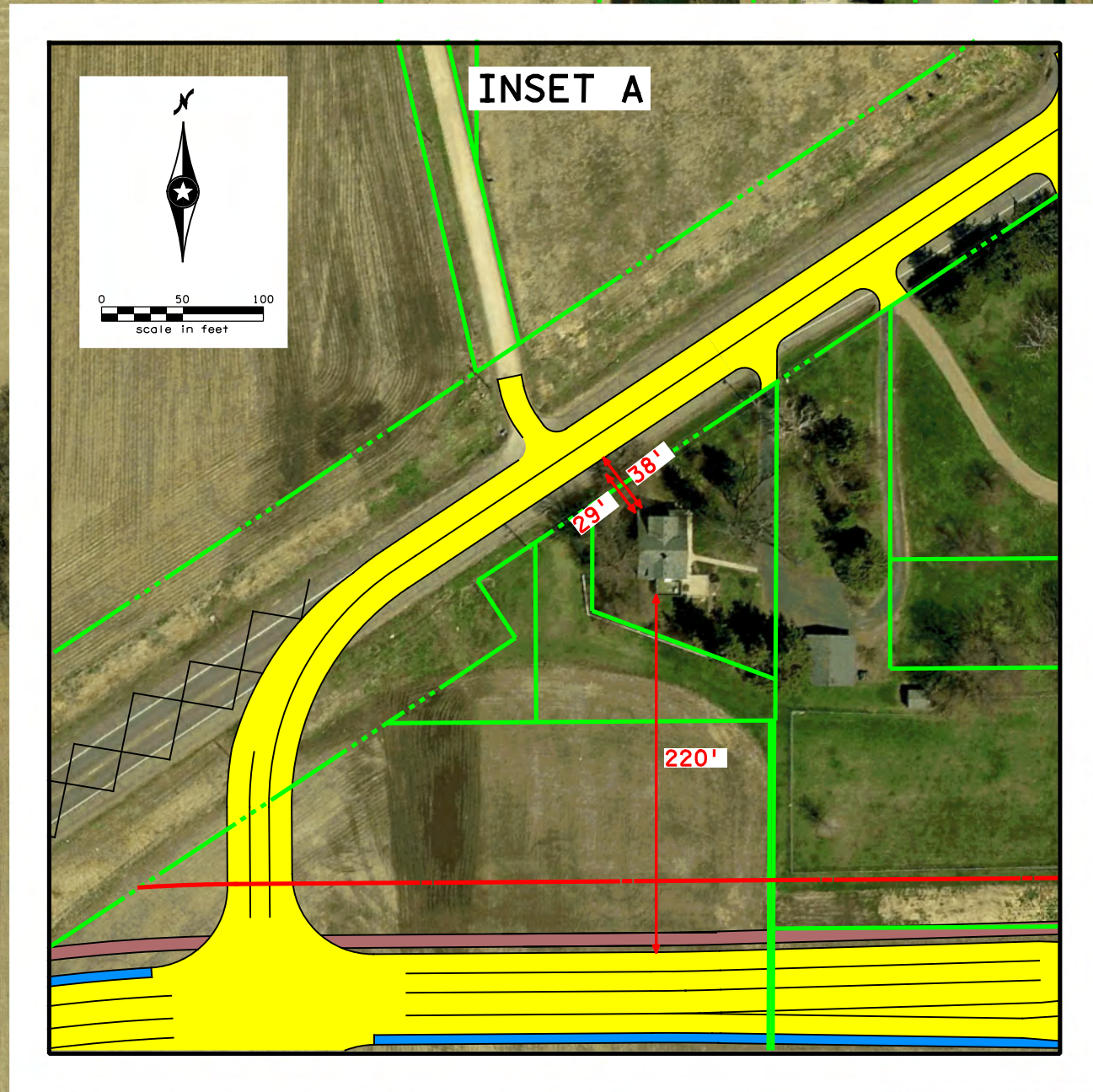


TH 5 REALIGNMENT - CONCEPT C

PROJECT TERMINI
4 - LANE SECTION
TO CONTINUE UNDER
ANOTHER PHASE

0 100 200
Scale in feet

PRELIMINARY
SUBJECT TO CHANGE

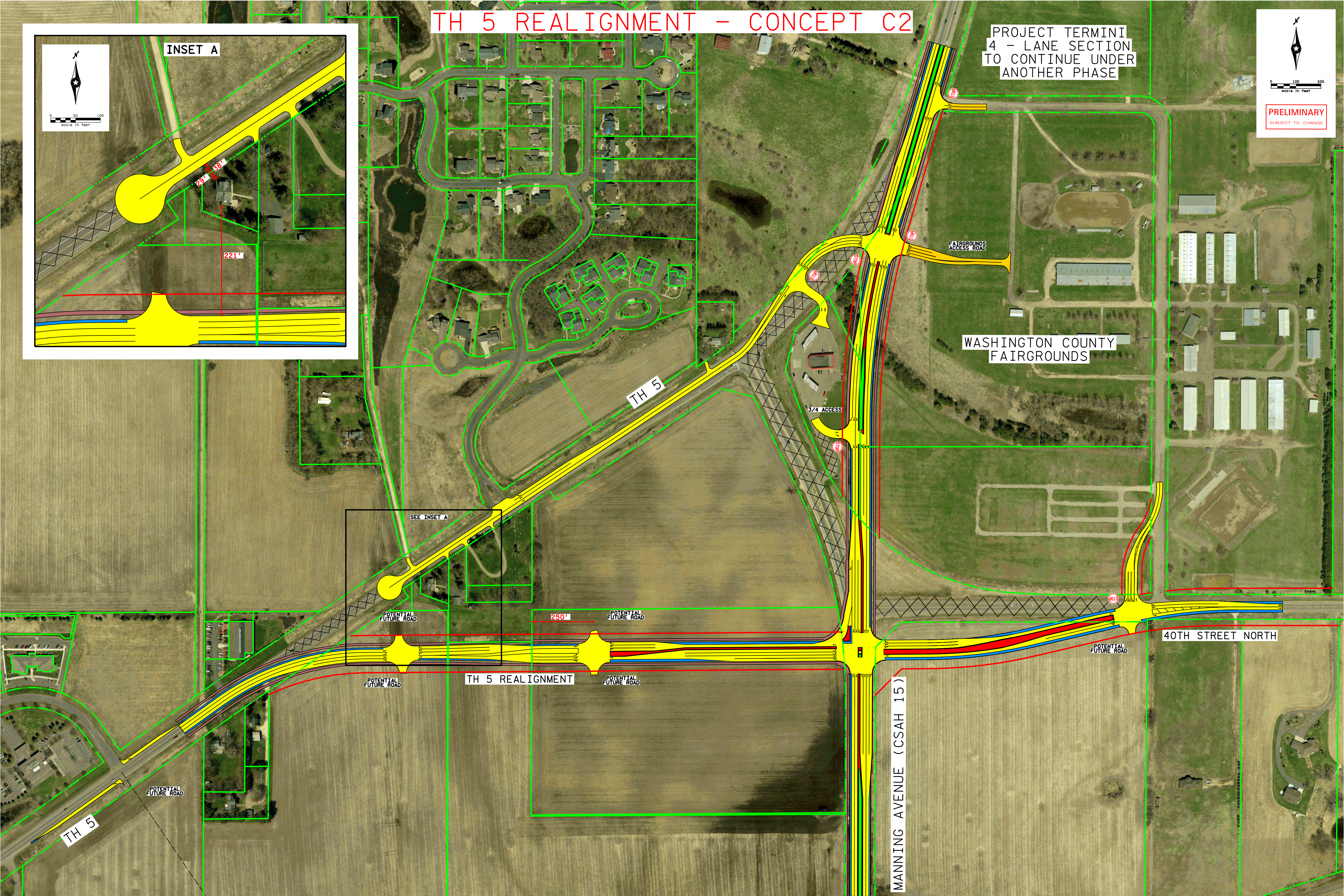
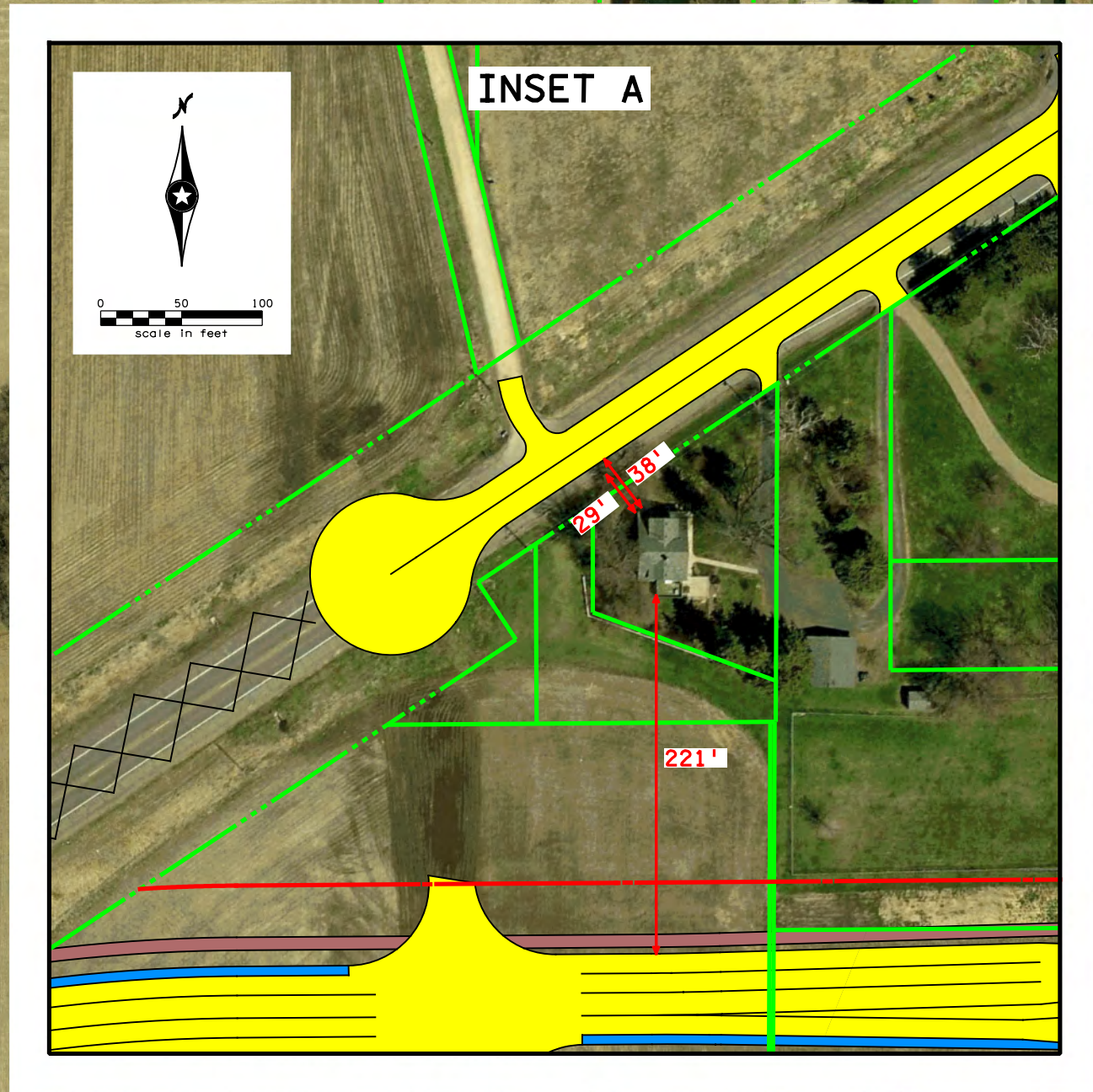


TH 5 REALIGNMENT - CONCEPT C2

PROJECT TERMINI
4 - LANE SECTION
TO CONTINUE UNDER
ANOTHER PHASE

0 100 200
Scale in Feet

PRELIMINARY
SUBJECT TO CHANGE



**CITY OF LAKE ELMO
CITY COUNCIL MINUTES
JULY 7, 2015**

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

PRESENT: Mayor Mike Pearson and Council Members Julie Fliflet, Anne Smith, Justin Bloyer, and Jill Lundgren.

Staff present: City Attorney Snyder, City Engineer Griffin, Finance Director Bendel, Community Development Director Klatt and Planning Program Assistant Ziertman.

PLEDGE OF ALLIGENCE

APPROVAL OF AGENDA

APPROVE THE JULY 7, 2015 CITY COUNCIL AGENDA AS AMENDED – NO OBJECTIONS.

ACCEPT MINUTES THE MAY 5, 2015 CITY COUNCIL MEETING MINUTES PASSED WITH NO OBJECTIONS.

COUNCIL REPORTS:

Mayor Pearson: Met with Torre Pines HOA, participated on Moody's Bonding Call, Met with Tony Manzara, Good wishes to Dean Zuleger and thanked him for his hard work and efforts, will be at Farmers Market for meet the Mayor on Saturday.

Council Member Lundgren: Farmers Market signs are similar to garage sale signs, met with Tony Manzara, attended Gateway Workshop, thanks to Public Works for installing AED's, talked to Citizens about Lake Elmo Ave, thanks to Dean Zuleger for all of his work.

Council Member Bloyer: thank you to staff, talked to Danielle Hecker about Wedding Venue, Resident Complaints about farmers market signs.

Council Member Smith: met with Tony Manzara, met with Nate Landucci, need to keep businesses on 39th street aware of progress on construction

Council Member Fliflet: went to 4th of July Parade and Farmers Market, thank you to staff, sat in on Moody's bonding call, met Nate Landucci, Praise to Dean Zuleger

PUBLIC COMMENTS/INQUIRIES

Terry Emerson, 2204 Legion Circle N, expressing disappointment in the Council's decision regarding the signage for Rihm Kenworth.

Matt Frisbie, Ayers Associates has a project with Mike Lynskey on the 26 acres along 39th Street. Part of the project would be a senior living with memory care.

Nate Deprey, Lake Elmo Librarian, June was the busiest month to date. Attendance has been strong with lots of fun kids' activities planned for summer.

PRESENTATIONS

Sunfish Lake Park Nature Center – Tony Manzara Gave a presentation regarding the possible Nature Center in Sunfish Lake Park. This proposal has gone to the Park Commission and Planning Commission. Council has interest in this Nature Center. They would like to see this go back to the Park Commission for Vetting and then have it come back. Attorney Snyder suggested a Council representative to work with Park Commission and Council member Smith volunteered.

FINANCE CONSENT AGENDA

2. Approve Payment of Disbursements
3. Accept Finance Report dated May 31, 2015
4. Accept Building Report dated May 31, 2015
5. Section 34 Pressure Reduction Valve Station – Compensating change Order No.
6. Section 34 Pressure Reduction Valve Station – Compensating Change Order No 1
7. Production Well No 4-Pay request No. 9
8. Pumphouse No.4 – Pay Request No. 8 (Final)
9. Deputy Clerk PTO Payout

MOTION: Member Bloyer moved TO APPROVE THE FINANCE CONSENT AGENDA AS PRESENTED. Council Member Fliflet seconded the motion. MOTION PASSED 5-0.

OTHER CONSENT AGENDA

10. Ownership and Maintenance Agreement – 11732 58TH ST N
11. Encroachment Agreement -528 Juniper Court N

MOTION: Council Member Lundgren moved TO APPROVE THE FINANCE CONSENT AGENDA AS PRESENTED. Council Member Smith seconded the motion. MOTION PASSED 5-0.

REGULAR AGENDA

ITEM 12: Appointment of City Clerk – Julie Johnson

Council expressed their confidence in the decision to hire Ms. Johnson as City Clerk.

MOTION: Council Member Fliflet moved TO APPROVE THE APPOINTMENT OF JULIE JOHNSON TO THE POSITION OF CITY CLERK. Council Member Smith seconded the motion. MOTION PASSED 5-0.

ITEM 13: Eagle Point Boulevard Street Improvements Accept Bids and Award Contract;

Engineer Griffin gave a presentation regarding the estimated improvement costs post bid. Griffin felt that the bids were competitive. There could be a value on the drain tile for the project. There could also be cost savings for restoration. There is some potential for reducing overages.

MOTION: Mayor Pearson moved TO APPROVE RESOLUTION No. 2015-55 ACCEPTING BIDS AND AWARDA CONTRACT TO MILLER EXCAVATION, INC. IN THE AMOUNT OF \$1,249,494.09 FOR THE EAGLE POINT BOULEVARD STREET AND UTILITY IMPROVEMENTS. RESOLUTION NO. 2015-55 Council Member Smith seconded the motion. MOTION PASSED 5-0.

ITEM 14: Water booster Station – Approve Land Purchase

Engineer Griffin discussed the history of finding property for the booster station. This is being revisited from October because the County has been taken out of the equation. Purchase price is \$27,000 for the smaller section or \$32,000 for the larger site.

Fliflet asked about using a rural theme for the building facade. Griffin stated that there is extra cost associated with that.

Al Eberhard talked about the aesthetic tradeoffs and costs associated with them. Council seemed in favor of option 1.

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Griffin talked about the costs involved with the aesthetics of the building. It could cost as much as \$30,000, but landscaping could also be used. Eberhard stated that there would be less landscaping required if the aesthetics of the building are better.

Mayor Pearson offered that \$30,000 for aesthetic improvements seemed a bit excessive for that size building.

MOTION: Council Member Smith MOVED TO APPROVE THE INWOOD WATER BOOSTER STATION LAND PURCHASE AGREEMENT TO PURCHASE A 90 FOOT BY 75 FOOT PARCEL FROM THE CAROLINE MARY EBERHARD LIVING TRUST, (OPTION 1) Council Member Bloyer seconded the motion. MOTION PASSED 5-0.

ITEM 15: 2015 Bond Rating Report – Moody's

Finance Director Bendel gave an update about the Moody's Bond Rating Report. The City maintained the Aa2 bond rating.

ITEM 16: Request from Verizon Wireless to Formally Address the Council – Ideal Ave. and Langley Ct Sites –Lease

Verizon is looking for approval from the Council to be able to build a new tower on the Langley court site and would like to be able to negotiate with staff for lease agreements. Would possibly like to be able to build a new tower and lease to others or the City owning it and leasing it out.

Council supported looking to site these towers on City land so that they did not end up on private land.

Andrea Albright – Concerned about a 125 foot tower like this going up when telephone poles are being taken down for aesthetic reasons.

Paul Pallmeyer, Lake Jane Trail, a number of years ago T-mobile wanted to put up a tower by lake Jane. What is different about the proposal now? Smith stated that it came to them on the 90th day and they had to make a decision that night. She was opposed to putting it on private property vs. public land.

MOTION: Council Member Pearson moved TO authorize staff to negotiate lease agreements with Verizon Wireless Communications for the Ideal Avenue and Langley Court water tower sites with consideration of City owned tower. Council Member Fliflet seconded the motion. MOTION PASSED 5-0

ITEM 17: Request to Fund Services for Code Enforcement Case

Staff is asking for approval for a survey to be done to determine if code enforcement is warranted on a property in the Tri-lake area.

MOTION: Council Member Lundgren moved TO. Authorize the requested survey work related to ongoing code enforcement activities in an amount not to exceed \$1500 Pearson seconded the motion. MOTION PASSED 5-0.

ITEM 18: CITY CLERK SEVERENCE REQUEST

MOTION: Council Member Bloyer moved TO APPROVE CITY CLERK SEVERENCE REQUEST. Council Member Pearson seconded the motion. MOTION FAILS 2-3. (Fliflet, Lundgren, Smith –Nay)

ITEM 19: COUNCIL MEETING DECORUM

This would give the City Council, Commissioners, Staff and Residents guidelines for meeting decorum. There was opposition to some of the wording.

Dale Dorschner, 3150 Lake Elmo Ave, feels this is ironic after the first meeting when Speak your Peace was taken down. He feels that when decisions are made, reasons should be given.

Attorney Snyder stated that the bottom line is if we want to have a policy or not.

Stuart Johnson, thinks that this can be simplified by saying that people need to adhere to behavior determined by the mayor.

MOTION: Council Member Pearson **MOVE TO TABLE THIS ITEM FOR FURTHER REFINEMENT.** Council Member Bloyer seconded the motion. **FAILED 3-2 (Fliflet, Smith – nay)**

MOTION: Council Member Fliflet **MOVE TO ADOPT THE LAKE ELMO MINNESOTA GUIDELINES OF PUBLIC MEETING DECORUM PROTOCOL WITH CHANGES TO #3 UNDER CITIZEN BEHAVIOR TO STRIKE “OR RELEVANT” AND THE FIRST SENTENCE OF #5 TO STATE “WHEN A GROUP OF PERSONS WISHES TO ADDRESS THE COUNCIL ON THE SAME SUBJECT MATTER, THEY MAY CHOOSE A SPOKESPERSON”.** Council Member Lundgren seconded the motion. **APPROVED 4-1 (Bloyer – Nay)**

ITEM 20: Interim Ordinance: Ordinance 08-123

Community Development Director Klatt stated that this Ordinance was prepared at the direction of the Council to establish a moratorium on new development in the community. There has been limited development in stage 2 and no development in stage 3. Staff also feels that there should be language that pertains to the gateway corridor.

Lundgren asked about the vague wording about the benefit to the City. Feels that is too vague and might open up too much area. Fliflet stated that the wording should be changed to narrow it down to environmental issues.

Fliflet feels that we just need time to assess and see where we are. This interim ordinance is just for a year and just because they have paid advance water fees, does not automatically mean they are allowed to move forward. Klatt stated that there are areas that the City did a public project in the Village area and they were assessed for it and are not able to develop under this ordinance.

Snyder stated that care should be given for those parcels that assessments are in place for. There is potential for problems with those that have already been assessed.

Fliflet would like Section 1 item b removed as it is only for a year. There should also be something regarding the BRT Line. Klatt went through his recommendation in regards to the BRT.

Mayor Pearson suggested that this Ordinance addressed the excess residential development to some degree while allowing for commercial tax base to occur.

MOTION: Council Member Pearson **move TO ADOPT AN INTERIM ORDINANCE FOR THE 3 HIGHER DENSITY PARCELS.** Council Member Bloyer seconded the motion. **MOTION FAILED 2-3 (Fliflet, Lundgren, Smith – Nay)**

Deb Krueger, Lake Elmo Ave, stated that she agrees with the moratorium and feels that we need to slow down and reassess and see where we are at and figure out what we want to do. A year is not that long of a time.

Bob Durow, NE intersection of 94 and Keats, they have a purchase agreement in place and a 1 year moratorium will kill the sale.

Terry Emerson, 2204 Legion Lane Circle, was concerned that the commercial area would be affected.

MOTION: Council Member Fliflet **moved TO ADOPT ORDINANCE 08-123. DECLARING A MORATORIUM FOR A PERIOD OF 12 MONTHS ON CERTAIN TYPES OF DEVELOPMENT AS DESCRIBED IN THE ORDINANCE WITH THE FOLLOWING CHANGES: REMOVE ITEM B IN SECTION 1 & SECTION 2; REMOVE “BENEFIT COMMUNITY OR” FROM ITEM C IN SECTION 1; AND INCORPORATE THE WHEREAS STATEMENT STAFF PROVIDED REGARDING THE GATEWAY CORRIDOR COMMISSION INVOLVEMENT.** Council Member Lundgren seconded the motion. **MOTION PASSED 3-2. (Pearson, Bloyer – Nay)**

ITEM 21: Discussion Old Village Work Group

Councilmember Fliflet started the discussion about the work group and expressed her intent to have a discussion about what the work group is, how it was formed and what it does. She thanked Community Development Director Klatt for the memo he prepared and stated that it is a very accurate summary. Fliflet stated that the Park Commission has referred to this group as the Village Green group which is not accurate as the Lake Elmo Avenue project has nothing to do with this group. Fliflet stated that if there are any questions regarding the group, please ask.

Mayor Pearson identified the "Village Work Group Consensus Proposal" and expressed his reservations regarding it.

Barry Weeks, 3647 Lake Elmo Ave, had never heard about the Old Village Work Group. He found out about it last fall and felt it was difficult to find on the City's website.

Dale Dorschner, Lake Elmo Ave, would like to know the cost of the Old Village Work Group. There is a rumor out there that there is a million dollar bill. Klatt stated that the cost out there is due to planning efforts. Mr. Dorschner would like to see citizens in the area on the group and would like accountability.

Councilmember Bloyer discussed history of the group, citing past discussion and notes concerning the size and specific location of the area in the Old Village Work Group plan.

Klatt stated that there were two plans brought forward. The Village Work Group never had any decision making authority, but was a recommending body. If the City Council would like to continue, that plan might need to be brought out. If the group continues, the participation should be broadened out.

Klatt would like to come back to Council with some specifics regarding the group and get some specific direction from the Council.

Motion to recess until 10:00 tomorrow.

STAFF REPORTS & ANNOUNCEMENTS:

City Finance Director Bendel: None

City Attorney Snyder: None

Community Development Director Klatt: None

City Engineer Griffin: None

Mayor Pearson Recessed the meeting at 11:55 pm.

July 8, 2015

Mayor Pearson called the meeting to order at 10:00 a.m.

PRESENT: Mayor Mike Pearson and Councilmembers Julie Fliflet, Justin Bloyer and Jill Lundgren.

ABSENT: Councilmember Anne Smith.

MOTION: *Mayor Pearson moved TO RECONVENE THE CITY COUNCIL MEETING. Councilmember Lundgren seconded the motion. MOTION PASSED 4-0*

Mayor Pearson stated that one applicant for the Interim City Administrator position was unintentionally omitted from the process and suggested 9:00 p.m. on July 9, 2015 for a thirty minute interview. Councilmember Bloyer suggested scheduling another time after the interview to discuss the candidates due to the late evening timing of the interview.

MOTION: *Mayor Pearson moved TO RECONVENE THE MEETING THURSDAY, JULY 9 2015 AT 9:00 PM. Councilmember Lundgren seconded the motion. MOTION PASSED 4-0*

LAKE ELMO CITY COUNCIL MINUTES

July 7, 2015

MOTION: Councilmember Fliflet moved **TO RECESS THE MEETING UNTIL 9:00 PM, THURSDAY, JULY 9, 2015.** Councilmember Lundgren seconded the motion. **MOTION PASSED 4-0**

Mayor Pearson Recessed the meeting at 10:15 a.m.

July 9, 2015

Mayor Pearson called the meeting to order at 9:00 p.m.

PRESENT: Mayor Mike Pearson and Councilmembers Fliflet and Lundgren.

ABSENT: Councilmembers Boyer and Smith.

MOTION: Councilmember Lundgren moved **TO RECONVENE THE CITY COUNCIL MEETING.** Mayor Pearson seconded the motion. **MOTION PASSED 3-0**

Mayor Pearson noted that because the full Council was not able to attend the meeting, the meeting would be recessed and reconvened Friday, July 10th at 8:00 a.m.

MOTION: Councilmember Lundgren moved **TO RECESS THE MEETING UNTIL 8:00 A.M. FRIDAY, JULY 10, 2015.** Councilmember Fliflet seconded the motion. **MOTION PASSED 3-0**

Mayor Pearson Recessed the meeting at 9:02 p.m.

July 10, 2015

Mayor Pearson called the meeting to order at 8:00 a.m.

PRESENT: Mayor Mike Pearson and Councilmembers Julie Fliflet, Anne Smith, Justin Boyer, and Jill Lundgren.

MOTION: Councilmember Lundgren moved **TO RECONVENE THE CITY COUNCIL MEETING.** Councilmember Smith seconded the motion. **MOTION PASSED 5-0**

Mayor Pearson stated that the purpose of the meeting was to conduct the final interview for the Interim City Administrator position. One candidate was interviewed and provided with a list of questions the other candidates had answered in writing. Discussion held concerning allowing the final candidate time to provide written answers as the other candidates had. Discussion held concerning potential times to reconvene the meeting for the purpose of discussing the candidates and interviews.

MOTION: Councilmember Fliflet moved **TO RECONVENE THE MEETING AT 3:00 ON FRIDAY, JULY 10, 2015 AT 3:00 PM.** Councilmember Smith seconded the motion. **MOTION PASSED 5-0**

Mayor Pearson recessed the meeting at 9:06 a.m.

July 10, 2015

Mayor Pearson called the meeting to order at 3:06 p.m.

MOTION: Mayor Pearson moved **TO RECONVENE THE CITY COUNCIL MEETING.** Councilmember Boyer seconded the motion. **MOTION PASSED 5-0**

Discussion was held concerning the five candidates for the Interim City Administrator position. Applicants were randomly assigned a number for reference during discussion. Strengths and weaknesses of each candidate were discussed.

MOTION: Councilmember Fliflet moved **TO AUTHORIZE THE MAYOR AND FINANCE COMMITTEE CHAIR TO WORK WITH CITY ATTORNEY SNYDER TO NEGOTIATE WITH CANDIDATE C3, OFFERING HIM/HER THE POSITION OF INTERIM CITY**

LAKE ELMO CITY COUNCIL MINUTES

July 7, 2015

ADMINISTRATOR IN A RANGE OF 75-85% OF THE CURRENT CITY ADMINISTRATOR POSITION SALARY. Councilmember Smith seconded the motion. **MOTION PASSED 4-1 (Bloyer – Nay)**

Councilmember Bloyer stated that although he did not support the motion, he hopes the candidate is successful in the Interim City Administrator position.

MOTION: Mayor Pearson moved **TO INITIATE THE SEARCH FOR A PERMANENT CITYADMINISTRATOR BY DECEMBER 1, 2015.** Councilmember Smith seconded the motion. **MOTION PASSED 5-0**

MOTION: Councilmember Flislet moved **TO ADJOURN THE MEETING.** Mayor Pearson seconded the motion. **MOTION PASSED 5-0**

Mayor Pearson adjourned the meeting at 4:08 p.m.

LAKE ELMO CITY COUNCIL

ATTEST:

Julie Johnson, City Clerk

Mike Pearson, Mayor



MAYOR & COUNCIL COMMUNICATION

DATE: July 21, 2015
CONSENT
ITEM #6
MOTION

AGENDA ITEM: Approve Disbursements in the amount of \$273,965.36

SUBMITTED BY: Patty Baker, Accountant

THROUGH: Cathy Bendel, Finance Director

REVIEWED BY: Cathy Bendel, Finance Director

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

POLICY RECOMMENDER: Finance

FISCAL IMPACT: \$273,965.36

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$273,965.36. No specific motion is needed as this is recommended to be part of the *Consent Agenda*.

LEGISLATIVE HISTORY: NA

BACKGROUND INFORMATION/STAFF REPORT: The City of Lake Elmo has the fiduciary responsibility to conduct normal business operations. Below is a summary of current claims to be disbursed and paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 12,966.80	Payroll Taxes to IRS & MN Dept of Revenue 7/09/15
ACH	\$ 5,802.63	Payroll Retirement to PERA 7/09/15
DD6429-DD6477	\$ 36,092.79	Payroll Dated (Direct Deposits) 7/09/15
43059-43127	\$ 218,923.14	Accounts Payable 7/21/15
2738-2740	\$ 180.00	Library Card Reimbursement 7/21/15
TOTAL	\$ 273,965.36	

RECOMMENDATION: Based on the aforementioned, the staff recommends the City Council approve as part of the Consent Agenda the aforementioned disbursements in the amount of \$273,965.36.

ATTACHMENTS:

1. Accounts Payable – check registers



MAYOR & COUNCIL COMMUNICATION

DATE: July 21, 2015
CONSENT
ITEM 7
MOTION

AGENDA ITEM: New Single Family Home Permit Report

SUBMITTED BY: Rick Chase, Building Official

THROUGH: Rick Chase, Building Official

REVIEWED BY: Kyle Klatt, Planning Director

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to StaffMayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion.....Mayor Facilitates

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to accept the monthly new single family home permit report through June, 2015. No specific motion is needed as this is recommended as part of the *Consent Agenda*.

LEGISLATIVE HISTORY/BACKGROUND INFORMATION:

	<u>2015</u>	<u>2014</u>	<u>2013</u>
New Homes	46	12	17
Total valuation	\$16,281,000	\$7,380,282	\$7,269, 742
Average home value	353,000	615,000	427,631
Total Valuation YTD	20,093,527	9,953,075	9,228,053

❖ One new home rebuilt in 2015 due to fire.

RECOMMENDATION: Based on the aforementioned, the staff recommends the City Council accept the June, 2015 monthly new home building permit report.



MAYOR & COUNCIL COMMUNICATION

DATE: July 21, 2015
CONSENT
ITEM #8

AGENDA ITEM: Monthly Assessor Report
SUBMITTED BY: Dan Raboin, City Assessor
THROUGH: Cathy Bendel, Finance Director
REVIEWED BY: Cathy Bendel, Finance Director

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to StaffMayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion.....Mayor Facilitates

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to accept the monthly assessor report for through June 2015 outlining work performed on behalf of the City of Lake Elmo. No specific motion is needed as this is recommended as part of the *Consent Agenda*.

LEGISLATIVE HISTORY/BACKGROUND INFORMATION:

Property splits/plats – 1
Sales collected and viewed – 8
Taxpayer inquiries – 11
Miscellaneous inquiries - 3
Inspections – Residential – 62; Commercial – 3
Building permit reviews – 29
Pictures taken – 67

Other work performed included:

- Monthly meeting with County residential and commercial supervisors

- Input of all inspection and permit work
- Perform sales verifications and land value analysis using MLS and other resources
- Field telephone inquiries

RECOMMENDATION: Based on the aforementioned, the staff recommends the City Council accept the June 2015 monthly assessor report.



MAYOR & COUNCIL COMMUNICATION

DATE: July 21, 2015
CONSENT
ITEM #9
ORDINANCE 08-124

AGENDA ITEM: Zoning Text Amendment – Subdivision Identification Signs

SUBMITTED BY: Nick M. Johnson, City Planner

THROUGH: Julie Johnson, City Clerk

REVIEWED BY: Planning Commission
Kyle Klatt, Community Development Director

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Introduction of ItemCommunity Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: Planning Commission

FISCAL IMPACT: None

SUMMARY AND ACTION REQUESTED: The City has received inquiries from the residential development community about subdivision identification signage. In reviewing the City’s regulations with signage, staff determined that adding greater clarity about what type of signage is allowed and where would be beneficial to the City moving forward. To address the situation staff conducted research and ultimately drafted a Zoning Text Amendment to add language to the ordinance. The Planning Commission reviewed the research at their 6/22/15 meeting, held a public hearing on 7/13/15, and is recommending approval of the Zoning Text Amendment. If removed from the Consent Agenda, the motion to take the recommended action is the following:

“Move to adopt Ordinance 08-124, amending the Sign Ordinance to provide greater clarity in the regulations for subdivision identification signage.”

BACKGROUND INFORMATION/STAFF REPORT:

Staff has received multiple inquiries from residential developers, as well as HOAs in the past, as to what the regulations are for subdivision identification signage. In reviewing the City's regulations when compared to other cities in the Metro Area, it was found that the ordinance could be improved by adding additional provisions to regulate the location, number and type of signage allowed. Staff presented these findings at the 6/22/15 Planning Commission meeting. Upon review of the information, the Planning Commission directed staff to prepare a Zoning Text Amendment and schedule a public hearing. The ordinance as proposed reflects the Zoning Text Amendment prepared by staff with input from the Planning Commission.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the subdivision identification signage provisions at their meeting on 6/22/15, where they directed staff to schedule a public hearing and prepare a Zoning Text Amendment. The public hearing was held on July 13, 2015. No one spoke during the public hearing and no written correspondence was received. During the meeting, the Planning Commission requested that provisions be added to not allow changeable copy or electronic variable message signage for subdivision identification signs. The Planning Commission unanimously recommended approval of the zoning text amendment to add additional provisions to provide clarity for subdivision identification signs (Vote: 6-0).

STRENGTHS, WEAKNESSES, OPPORTUNITIES, THREATS:

Strengths: The addition provisions proposed for subdivision identification signs add greater clarity to what is allowed for this type of signage. The provisions include more specificity with regards to the number, location and type of signage that is allowed. These provisions will set clear expectations for the developers and HOAs who are interested in installing such signage.

Weaknesses: None

Opportunities: Providing greater clarity in the regulations of subdivision signage should remove some of the confusion that developer and HOAs have encountered with the existing provisions.

Threats: None.

RECOMMENDATION:

Based on the aforementioned, the Planning Commission and staff are recommending that the City Council approve the proposed amendment to the Sign Ordinance to add provisions related to subdivision identification signage. Should the item be removed from the Consent Agenda, the motion to take the recommended action on the request is as follows:

“Move to adopt Ordinance 08-124, amending the Sign Ordinance to provide greater clarity in the regulations for subdivision identification signage.”

ATTACHMENTS:

1. Ordinance 08-124
2. Staff Report to the Planning Commission, dated 7-13-15
3. Staff Report to the Planning Commission, dated 6-22-15
4. Existing Subdivision Signage Provisions
5. Comparison Chart of Signage of Metro Cities
6. Signage Examples from Other Metro Cities

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-124

AN ORDINANCE AMENDING THE LAKE ELMO ZONING CODE BY AMENDING THE SIGN
ORDINANCE BY ADDING ADDITIONAL REGULATION AND CLARIFICATION WITH REGARDS TO
SUBDIVISION IDENTIFICATION SIGNS

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 212; Subsection G.1.c to read the following:

- c. Subdivision Identification Signs
 - i. *Number.* Each residential subdivision is allowed up to a maximum of two (2) subdivision identification signs. For the purposes of this section, residential subdivisions shall include all phases of approved staged developments.
 - ii. *Location.* Subdivision identification signs shall be located near entrances to the subdivision, except that one sign may be located along an abutting arterial or major collector roadway.
 - iii. *Size.* The maximum size for a subdivision identification sign is thirty-two (32) square feet.
 - iv. *Sub-Monuments.* Each residential subdivision may have two (2) sub-monument identification signs in addition to two (2) subdivision identification signs. Sub-monument identification signs may not exceed four (4) square feet in size.
 - v. Changeable copy signs, including electronic variable message signs, are not a permitted sign type for subdivision identification signage.

SECTION 2. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. **Adoption Date.** This Ordinance 08-124 was adopted on this twenty first day of July 2015, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-124 was published on the ____ day of _____, 2015.

BACKGROUND

With the recent residential development activity in the community, staff has received some inquiries from developers regarding the allowance of subdivision identification signs. In researching the City's provisions, staff found the regulations to be somewhat limited in comparison with other communities. Staff presented these findings to the Planning Commission on 6/22/15. After review and discussion of various ways to improve the ordinance, the Planning Commission directed staff to prepare Zoning Text Amendment and schedule a public hearing on proposed changes to the Sign Ordinance with regards to subdivision identification signs.

STAFF REVIEW COMMENTS:

Staff has prepared a Zoning Text Amendment proposing changes to the City's Sign Ordinance related to subdivision identification signs. The proposed changes can be found in the draft ordinance in Attachment #1. The proposed changes included in the draft ordinance are the following:

- The number of total subdivision identification signs allowed was changed to two signs.
- Clarification was added to note that the entirety of the subdivision, regardless of the number of phases, is allowed two signs.
- Clarification with regards to location was added to note that signs are only allowed at neighborhood entrances, with the exception that one sign can be located along an abutting arterial or collector road.
- Provisions were added to allow for two sub-monuments within each residential subdivision. These sub-monuments are not allowed to exceed 4 square feet in size. The addition of sub-monuments to the ordinance are in response to requests from developers to allow for smaller signage incorporated into landscape features such as columns or fencing. Staff recommends that this type of signage be allowed as long as it is limited in size.

In addition to these changes, it should also be noted that staff did reach out to various parties to get questions posed by the Planning Commission answered. Staff conducted the following outreach:

- Staff contacted the Fire Chief to ask if subdivision identification signs are helpful for public safety personnel to locate homes in emergency situations. He noted that the address is always the most important factor. However, in situations where an emergency make be taking place outside of a specific home but within a subdivision, the sign can be helpful for police, fire or medical services to find the correct location. Overall, in the opinion of the Fire Chief, the subdivision signs do provide a public safety improvement, but the benefit is minimal.
- Staff asked a number of residential developers who are working in the community about the value and importance of permanent neighborhood signage. Unfortunately, none of the developers responded with definite feedback regarding the need for permanent signage. In the experience of staff, these signs can be utilized initially as a marketing tool, but also as community or neighborhood identity once the neighborhood is built out.

It should be noted that the proposed Zoning Text Amendment was drafted utilizing best practices from other communities in the judgment of staff. Example of other sign ordinances researched can be found in Attachment #2.

RECCOMENDATION:

Staff is recommending that the Planning Commission recommend approval of the Zoning Text Amendment to the Sign Ordinance to provide clarity with regards to subdivision identification signs. The suggested motion is the following:

“Move to recommend approval of the Zoning Text Amendment to add greater detail to the subdivision identification sign provisions in the City’s Sign Ordinance.”

ATTACHMENTS:

1. DRAFT 154.212 – Proposed Zoning Text Amendment
2. Sign Ordinances from Other Metro Communities – Subdivision Signs

ORDER OF BUSINESS:

- IntroductionCommunity Development Director
- Report by Staff City Planner
- Questions from the Commission Chair & Commission Members
- Open the Public HearingChair
- Close the Public Hearing.....Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission Chair & Commission Members



PLANNING COMMISSION
DATE: 6/22/15
AGENDA ITEM: 5B – BUSINESS ITEM
CASE # 2015-23

ITEM: Zoning Text Amendment – Subdivision Identification Signs

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director
Joan Ziertman, Planning Program Assistant
Casey Riley, Planning Intern

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to consider advancing an effort to complete a Zoning Text Amendment to provide greater clarity with regards to what type of signage is allowed for residential subdivision identification. The City has been contacted by Lennar Homes to inquire about the possibility of installing additional neighborhood identification signs. City staff has reviewed the City's Sign Ordinance to determine if additional signage is allowed. Upon review of the ordinance, it is Staff's opinion that the section that pertains to subdivision identification signs could benefit from additional regulations to establish clearer expectations about what type and quantity of signage is allowed. Staff is recommend the Planning Commission discuss potential changes to the ordinance and, if in agreement with the proposed changes, direct staff to draft an ordinance amendment.

GENERAL INFORMATION

Applicant: City of Lake Elmo

Property Owners: N/A

Location: N/A – Proposed zoning text amendment would apply to existing and future residential subdivisions throughout the community.

Request: The Planning Commission is respectfully asked to discuss potential changes to the Sign Ordinance with regards to subdivision identification signs.

Existing Land Use: N/A

Existing Zoning: N/A

Surrounding Land Use: N/A

Surrounding Zoning: N/A

Comprehensive Plan: N/A

Proposed Zoning: N/A

History: The City updated the Sign Ordinance in 2013 as part of the Zoning Code Update Project. The provisions that regulate subdivision identification signs were included in the 2013 update.

Applicable Regulations: §154.212 – Sign Regulations

BACKGROUND

Lennar Homes is currently in process of constructing the 2nd phase of the Savona residential subdivision. They have contacted the City to inquire about the possibility of installing additional identification signage and other landscape features at separate entrances to the development. In responding to the request, City staff referenced the Sign Ordinance to determine how much signage is permitted. With regards to subdivision identification signs, the Sign Ordinance states that in residential districts, the following is allowed:

A subdivision identification sign not exceeding thirty-two (32) square feet in sign area as approved by the City.

Under this language, staff would interpret the ordinance to allow a single neighborhood identification sign up to thirty-two square feet in area. While the ordinance is simple and uncomplicated, it also does not take different locational circumstances or sign types into much consideration. Based on the simplicity of this provision in the Sign Ordinance, staff thought it would be beneficial to research other ordinance in the Metro Area to see if Lake Elmo’s ordinance could be improved to add greater direction and detail to set clear expectations. The general results of the staff’s research can be found in Attachment #1, Subdivision Signs from Metro Cities. Further detail of staff’s research will be presented at the Planning Commission meeting.

STAFF REVIEW COMMENTS:

Building off the research conducted of other metro cities, staff asks the Planning Commission to consider the following with regards to neighborhood identification signs:

- **Number.** The typical allowance for subdivision identifications signs varies between 1 and 2 signs. However, some communities allow one sign per entrance to the development. In these instances, cities typically qualify that the only neighborhood entrances that are allowed signage are entrances off arterial or collector roads.
- **Content.** Some cities do not allow any text on neighborhood identification signs other than the name of the subdivision. This provision would preclude any builder names or other commercial messages.
- **Sub-Monuments.** Staff would ask the Planning Commission if there should be any allowance for sub-monuments within residential subdivisions. Sub-monuments are sometimes incorporated into landscape features or community gathering spaces. This type of signage would be significantly less in size.
- **Definition of Subdivision.** For the purposes of clarity, staff would ask the Planning Commission to confirm whether or not “subdivision” refers to the totality of the residential development, or if individual phases or different housing types inform the allowed amount of signage.

These items represent some of the areas of further clarification that were included in the signage provisions of other communities. With additional residential subdivisions being planned and constructed in the community, staff anticipates the number of requests for subdivision identification signage to increase. Providing greater clarification in advance of these requests would assist in the interpretation of what is allowed for subdivision identification signs.

RECCOMENDATION:

Staff recommends that the Planning Commission discuss areas of potential improvement based on the staff report and presentation. Should the Planning Commission reach consensus on potential changes, they can direct staff to prepare a Zoning Text Amendment,

ATTACHMENTS:

- 1. Subdivision Signs from Metro Cities

ORDER OF BUSINESS:

- IntroductionCommunity Development Director
- Report by Staff City Planner
- Questions from the Commission Chair & Commission Members
- Discussion by the Commission Chair & Commission Members
- Action by the Commission Chair & Commission Members

granted for any premises more than four (4) times in any calendar year; or more than once in any three month period.

10. *Lots having Multiple Street Frontages.* Business occupying corner lots, or multiple frontages adjacent to more than one public right-of-way, may display up to one additional ground or building-mounted sign for each additional frontage provided that such additional sign may not exceed 50% of the area allowed by the primary frontage and is oriented toward the additional frontage. For purposes of this code, the primary frontage shall be presumed to be the frontage upon which the main entrance to the building is located. The applicant, however, may identify a different frontage as the primary frontage to maximize the effectiveness of the signage.

11. *Resemblance to Traffic Signs.* No sign shall contain or resemble any sign resembling in size, shape, message, or color any traffic control devices compliant with the Minnesota State Manual on Uniform Traffic Control Devices.

G. *Limitations According to the Type of Land Use.* Unless exempt under §154.212.K or as expressly provided elsewhere, no permanent or temporary signs shall be displayed except in conformity with the following regulations as they correspond to the type of land use and districts in which the sign is to be displayed.

1. *Residential Uses in Residential Districts*

a. In connection with legal home occupations, a single sign which is limited in content to the name, address and legal home occupation of the owner or occupant of the premises, and which does not exceed two (2) square feet in area. Signs under this paragraph shall be wall signs only.

b. A residential condominium or multi-family apartment complex may display signs identifying the name of the condominium or apartment complex if the total acreage of the lot is one (1) acre or more and the condominium or apartment includes eight (8) or more units. One (1) wall sign and one (1) ground sign per street frontage may be displayed, with a maximum of two (2) wall signs and two (2) ground signs per lot. No identification sign shall exceed thirty-two (32) square feet in area, and the maximum height is one (1) story or twelve (12) feet above curb level, whichever is lower. For purposes of this paragraph, the term "lot," when used in reference to a condominium means all property within a common interest community.

c. A subdivision identification sign not exceeding thirty-two (32) square feet in sign area as approved by the City.

2. *Institutional Uses in Residential Districts.* Non-residential uses located in residential districts, such as churches and schools, located in residential districts may erect signs as follows;

a. *Wall and Ground Signs*

i. *Area and Number.* One (1) wall sign and one (1) ground sign per street frontage may be displayed, identifying the entity, with a maximum of two (2) wall signs and two (2) ground signs per lot. Additional wall or

Residential Entry/Identification Sign Requirements from Metro Cities

City	Number	Dimensions	Setback
Bloomington	Two signs permitted	Max area: 40 sq ft Per neighborhood	
Inver Grove Heights	One sign per entrance from a public street, there must be 3 dwelling units.	Max area: 32 sq ft	
Lino Lakes	One	Max area: 50 sq ft Max height: 8 ft	10 ft from any property line
Maple Grove	One sign per entrance street	Max area: 35 sq ft Max height: 8 ft	
Minnetrista	Two permitted at each entrance to subdivision.	Max area: 24 sq ft Max height: 6 ft	10 ft from any property line
Minnetonka	One per unified development entrance. Maximum two signs total.	50 sq ft max copy and graphic area. 100 sq ft max monument size Max height: 10 ft	
Osseo	One sign per 6 dwelling units	Max area: 6 sq ft, only one surface, not double sided.	
Plymouth	Two per subdivision, at entrances	Max area: 32 sq ft per sign Max height: 10 ft	
Shoreview	One sign per entry, up to two signs total. Must have 20 dwelling units for SF, 6 DU for MF	Max area: 32 ft Max height: 12 ft	

Table 2 Permanent Sign Requirements. All permanent signs shall be subject to the following requirements:

(a) Rural and Residential Zoning Districts		
Sign Type	R Rural R-X Rural Executive R-BR Rural Business Reserve Districts Requirements	R-1, R-1X, R-2, R-3, R-4, R-6 Residential Districts Requirements
Identification or Nameplate Signs	One per residence.	
	Maximum sign area of 2 square feet	
	No sign permit is required	
Area Identification Signs	Can be placed at entrances to neighborhood; the number of the signs per neighborhood shall be determined by the city, with consideration to the number of entrances to the neighborhood.	
	Maximum sign area of 24 square feet.	
	Maximum height of 6 feet.	
Ground Signs	Each property with a residence may have one freestanding sign, temporary or permanent, without a permit: the maximum size is 6 square feet, placed at least 10 feet from the property line. This sign shall not advertise commercial activity that is not allowed or conducted on the same property as the sign. There is no time limit for such a sign.	
	In addition, non-residential uses and licensed residential care facilities that are allowed by the Zoning Ordinance may have:	In addition, non-residential uses and licensed residential care facilities that are allowed by the Zoning Ordinance, and manufactured home parks in R-6 zones, may have:
	One ground sign.	
	Maximum sign area of 50 square feet.	
	Maximum height of 8 feet.	
Building Wall Signs	Non-residential uses and licensed residential care facilities that are allowed by the Zoning Ordinance may have one wall sign on one building, maximum 80 square feet.	Non-residential uses and licensed residential care facilities that are allowed by the Zoning Ordinance, and manufactured home parks in R-6 zones, may have one wall sign on one building, maximum 80 square feet.
Property Setback	No sign shall be closer than 10 feet to any property line.	

PLYMOUTH ZONING ORDINANCE

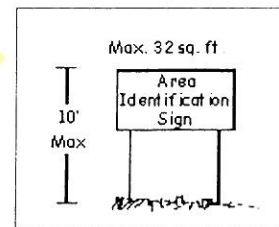
the respective building wall.

(d) Area Identification Signs.

(1) Area identification signage shall be permitted for each multi-residential project or residential subdivision. For purposes of this Section, residential subdivisions shall include all phases of approved staged developments.

(2) The area identification signage shall be located near entrances to the project or subdivision, except that one area identification sign does not need to be located near an entrance to the project or subdivision provided it is located along an abutting arterial or major collector roadway. (Amended by Ord. No. 2002-02, 01/22/02)

(3) Two area identification signs, not exceeding 32 square feet in surface area per sign, or 10 feet in height, may be permitted per project or subdivision. An area identification sign shall be located at least 10 feet from lot lines.

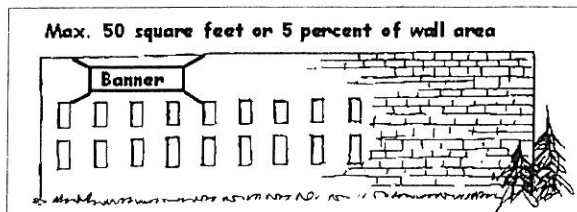
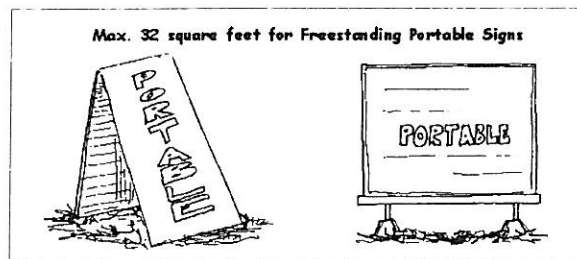


(4) When such signs are proposed and constructed by an individual or firm other than the individual or association who will be responsible for the maintenance, there shall be a covenant prepared by the proponent establishing responsibility for the maintenance of the sign or signs over the entire project or subdivision, to be approved by the City Attorney, and to be recorded on the property title(s) prior to issuance of the sign permit. Further, appropriate easements shall be provided for the approved signs on the lot or lots where the signs are to be located; the easements shall be recorded prior to the issuance of the sign permit. (Amended by Ord. No. 2009-07, 05/2/09)

(5) No area identification sign shall contain a changeable copy sign, an electronic changeable copy sign, or a time and temperature sign.

(e) Temporary Signs.

(1) Special Event Signs. One temporary sign may be mounted on a portable stand, with a maximum surface area not exceeding 32 square feet, or may be a wall sign subject to the same size standards as the permanent wall signage allowed for the use. Such signs must be located on the subject property and shall be set back at least 50 feet from any side or rear lot



Subdivision 1. The following Signs are permitted upon obtaining a Sign permit:

- (a) Monument Signs: Up to two Monument Signs are permitted at each entrance to a residential subdivision if approved by the city council as part of a comprehensive sign plan for the subdivision. No individual Monument Sign may exceed 24 square feet in Display Surface Area nor be six feet above grade in height. Lighting shall be downcast and shielded. Dynamic Displays are not permitted.
- (b) Home occupation Signs: A Sign permit shall be reviewed by the city council in conjunction with a conditional use permit for a home occupation. Such Sign shall not exceed four square feet in area nor six feet above grade in height.
- (c) Temporary Signs on Residential Project Sites. No more than one Temporary Sign per street frontage may be erected on the site of a residential subdivision or project that has more than 10 dwelling units. These Temporary Signs are subject to the following requirements:
 - (1) The total number must not exceed two per project, even if the project has more than two street frontages;
 - (2) Shall only be located along streets that provide primary access to the project site;
 - (3) Must be set back at least 10 feet from any property line;
 - (4) Must be firmly anchored into the ground;
 - (5) Must not be located closer than 100 feet from an existing residential dwelling unit or other building which is not a part of the project;
 - (6) Must not be located closer than 100 feet from any other Sign located on the same side of the street;
 - (7) The Display Surface Area shall not exceed 32 square feet;
 - (8) The height shall not exceed 10 feet above grade;
 - (9) Must be removed when units in the project are 75 percent sold or leased, or after two years from the date of the sign permit, whichever occurs first; and
 - (10) Must not be illuminated.

10-15E-7: SIGNS IN A, E AND R DISTRICTS:

Within the A, E and R districts, the following signs are permitted:

- A. One nameplate sign for each dwelling which shall not exceed two (2) square feet in area per surface and shall not have more than two (2) surfaces.
- B. One nameplate sign for each dwelling group of six (6) or more units which shall not exceed six (6) square feet in area per surface, and no sign shall have more than two (2) surfaces.
- C. One nameplate sign for each permitted use or use by conditional permit other than residential, and such sign shall not exceed twelve (12) square feet in area per surface.
- D. One business sign up to sixty four (64) square feet in area per surface shall be permitted for a stand for the sale of agricultural products in the A zoning district. In addition, up to two (2) off site directional signs may be allowed for a stand for agricultural products if deemed necessary by the city council for traffic safety reasons. The directional signs shall be located outside of the public right of way and shall maintain a ten foot (10') setback from all property lines. The directional signs shall only be permitted during the season when the stand is open for business and shall be of a size as determined by the city council.
- E. Any sign with over one square foot of surface shall be set back at least ten feet (10') from any property line. No sign shall exceed ten feet (10') in height above the average grade level. Signs may be illuminated, but such lighting shall be diffused or indirect and not illuminate beyond any lot line.
- F. In the R-3A, R-3B and R-3C zoning districts, one development identification sign shall be permitted per entrance from a public street to said development, provided that the development consists of a minimum of one principal structure containing no fewer than three (3) dwelling units. Identification signs permitted herein shall not exceed thirty two (32) square feet in surface area.
- G. Within the A and E districts, commercial greenhouses and nurseries are listed as permitted uses. Signage for these uses shall conform to the provisions for B-3 districts.

Shoreview

- (e) All freestanding signs associated with approved Public/Quasi-Public uses and residential developments shall be ground or monument-style. If a sign for such a facility will face property planned for residential use, the sign area shall not exceed forty (40) square feet and the height of the sign face shall not exceed six feet.
 - (f) Freestanding signs may be single or double-faced. If single-faced, and the backside will be visible, the backside must be constructed of a material and/or painted to be a neutral color that is compatible with the principal structure.
 - (g) If wall signage is not to be installed, the area for any allowable freestanding sign area may be increased by 25 percent and vice versa by approval of a Comprehensive Sign Plan.
 - (h) Advertisement on a freestanding sign for a single or multi-tenant building shall be limited to the following items of information: the building/center name, address of the property, and tenant names. Tenant names may be listed on freestanding business sign for a multi-tenant center/development, provided an individual letter-style sign is used. The building or project name shall be the dominant display on all freestanding signs.
 - (i) A maximum of 25% of the sign area may be used for leasing information, provided the sign copy, graphics, and structure shall be architecturally designed to accommodate a leasing message within its perimeter.
- (13) **Project Identification** - identifies the name of a neighborhood or residential subdivision consisting of at least 20 dwelling units; or a multiple-family dwelling with 5 or more units; or a commercial, office, high tech, industrial, or public/quasi-public development consisting of two (2) or more principal structures. Project Identification signs shall be limited to the following items of information: development name, site address, and major tenant names/graphics. The development name must be dominantly displayed on all project identification signs.
- (a) One project identification sign is permitted per development site, unless the site adjoins two or more arterial roadways. In such instance, a second project identification sign may be permitted by Comprehensive Sign Plan approval.
 - (b) Where permitted, project identification signs shall be limited to the following items of information: development name, site address, and major tenant names/graphics. The development name must be



MAYOR & COUNCIL COMMUNICATION

DATE: July 21, 2015
CONSENT
ITEM 10
ORDINANCE 08-125
RESOLUTION 2015-58

AGENDA ITEM: Zoning Text Amendment – Accessory Building Setbacks in Urban Residential Districts

SUBMITTED BY: Nick M. Johnson, City Planner

THROUGH: Julie Johnson, City Clerk

REVIEWED BY: Planning Commission
Kyle Klatt, Community Development Director

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Introduction of ItemCommunity Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: Planning Commission

FISCAL IMPACT: None

SUMMARY AND ACTION REQUESTED: The City has received inquiries from residents within the Savona subdivision about the required setbacks for detached accessory buildings. In reviewing the setback requirements for accessory buildings in the Urban Low Density Residential (LDR) zoning district, the existing rear-yard setback requirement is 20 feet. For this type of zoning district, 20 feet is a large setback requirement for accessory buildings. To address the situation staff conducted research and ultimately drafted a Zoning Text Amendment to reduce the rear-yard setback to 10 feet. The Planning Commission reviewed the research at their 6/22/15 meeting, held a public hearing on 7/13/15, and is recommending approval of the Zoning Text Amendment. If removed from the Consent Agenda, the motion to take the recommended action is the following:

“Move to adopt Ordinance 08-125, reducing the rear yard setback for detached accessory buildings in the urban residential districts from 20 feet to 10 feet.”

In addition, due to the fact that the ordinance contains charts, staff is recommending that the City Council authorize summary publication to explain the ordinance amendment through publication. The suggested motion is as follows:

“Move to adopt Resolution 2015-58, authorizing summary publication of Ordinance 08-125.”

BACKGROUND INFORMATION/STAFF REPORT:

As families have begun to move into the Savona subdivision, City staff has begun receiving inquiries from residents about standards related to accessory buildings and other zoning provisions. One specific inquiry was made about the rear-yard setback for accessory buildings in the LDR zoning district. In reviewing the City’s regulations it was discovered that the existing rear-yard setback requirement for these structures is 20 feet. For lots that are smaller in size in comparison to most signal family neighborhoods in the City, a 20-foot rear yard setback is larger than what is typical in other communities. In fact, the rear-yard setback for accessory building in the Rural Single Family (RS) district is 10 feet. It should be noted that when a City adopts new zoning districts, it is very common that amendments or tweaks to the district standards occur once the districts are adopted and being utilized by property owners. Staff views this process as a natural evolution of the zoning district standards. Following up on the research conducted, staff presented these findings at the 6/22/15 Planning Commission meeting. Upon review of the information, the Planning Commission directed staff to prepare a Zoning Text Amendment and schedule a public hearing. The ordinance as proposed reflects the Zoning Text Amendment prepared by staff with input from the Planning Commission.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the setback requirements for detached accessory buildings in the urban residential district at their meeting on 6/22/15, where they directed staff to schedule a public hearing and prepare a Zoning Text Amendment. The public hearing was held on July 13, 2015. No one spoke during the public hearing and no written correspondence was received. There was very little discussion on the proposed ordinance amendment at the 7/13/15 meeting. The Planning Commission unanimously recommended approval of the zoning text amendment to reduce the rear-yard setback for detached accessory buildings in the urban residential districts from 20 feet to 10 feet (Vote: 6-0).

STRENGTHS, WEAKNESSES, OPPORTUNITIES, THREATS:

Strengths: Reducing the rear-yard setback for accessory buildings will bring the standard into conformance with what is more typical or common amongst urban residential standards in the surrounding communities. Placing these small structures closer to the rear property line will give residents more usable back yard area for use of their property.

At the same time, a 10-foot setback will keep these structures outside of the City's standard drainage and utility easements.

Weaknesses: None

Opportunities: Amending the rear-yard setback for accessory structures at this time prior to many more residents moving into these neighborhood types will help alleviate issues or concerns about the placement of accessory buildings.

Threats: None.

RECOMMENDATION:

Based on the aforementioned, the Planning Commission and staff are recommending that the City Council approve the proposed amendment to the rear yard setback for accessory structures in the urban residential zoning districts. Should the item be removed from the Consent Agenda, the motion to take the recommended action on the request is as follows:

“Move to adopt Ordinance 08-125, reducing the rear yard setback for detached accessory buildings in the urban residential districts from 20 feet to 10 feet.”

In addition, due to the fact that the ordinance contains charts, staff is recommending that the City Council authorize summary publication to explain the ordinance amendment through publication. The suggested motion is as follows:

“Move to adopt Resolution 2015-58, authorizing summary publication of Ordinance 08-125.”

ATTACHMENTS:

1. Ordinance 08-125
2. Resolution 2015-58
3. Staff Report to the Planning Commission, dated 7-13-15
4. Staff Report to the Planning Commission, dated 6-22-15
5. Accessory Structure Regulations - Comparison

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-125

AN ORDINANCE AMENDING THE LAKE ELMO ZONING CODE BY AMENDING THE REAR YARD
SETBACK FOR DETACHED ACCESSORY STRUCTURES IN THE URBAN RESIDENTIAL ZONING
DISTRICTS

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 452 to read the following:

§ 154.452 LOT DIMENSIONS AND BUILDING BULK REQUIREMENTS.

Lot area and setback requirements shall be as specified in Table 10-2, Lot Dimension and Setback Requirements.

Table 10-2: Lot Dimension and Setback Requirements, Residential Districts

	<i>LDR</i>	<i>MDR</i>	<i>HDR</i>
Minimum Lot Area (sq. ft.)			
Single family detached dwelling	8,000	7,000	5,000
Two-family dwelling (per unit) ^a	5,000	4,000	3,000
Single-family attached (per unit) ^b	-	4,000	2,500
Multi-family dwelling (per unit)	-	4,000	1,800
Secondary dwelling		see 155.102	
Live-work unit	-	-	3,600
Congregate housing	-	see 155.102	see 155.102
Manufactured home park	-	see 155.102	-
Minimum Lot Width (feet)			
Single family detached dwelling	60	50	50
Two-family dwelling (per unit) ^a	35	30	20
Single-family attached (per unit) ^b	-	25	20

	LDR	MDR	HDR
Multi-family dwelling (per building)	-	75	60
Live-work unit	-	-	25
Maximum Height (feet)	35	35	50
Maximum Impervious Coverage	40%	50%	75%
Minimum Building Setbacks (feet)			
Front yard	25 ^c	25 ^c	20 ^c
Minimum Building Setbacks (feet)			
Interior side yard ^e			
Principal Buildings ^{f,g}	10	10	10 ^d
Attached Garage or Accessory Structures ^{f,g}	5	5	10 ^d
Corner side yard ^{g,h}	15	15	15
Rear yard			
Principal Buildings	20	20	20
Detached Accessory Buildings	10	10	10

Notes to Urban Residential Districts Table

- a. Common open space areas may be used in the determining whether or not the minimum lot areas within a development are met, when provided as part of an overall development plan.
- b. Two-family units may be side-by-side with a party wall between them (“twin”) or located on separate floors in a building on a single lot (“duplex”). The per-unit measurements in this table apply to “twin” units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a “duplex” containing two vertically-separated units on a single lot.
- c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e. 1 unit per 2,500 square feet. This standard is also used for multifamily dwellings.

- d. Single family dwellings (both attached and detached) and two-family dwellings may use the side yard setbacks within MDR zoning districts.
- e. In a block where the majority of the block face has been developed with the same or similar setbacks, the front setback for the remaining lots on that block face shall fall within the range established by the existing setbacks.
- f. In situations where a garage or accessory building is set back less than 7 feet from a side property line, the maximum permitted encroachment for anything attached to said building (including eaves, overhangs, steps, chimneys, and other appurtenances as described in Section 154.081) will be two (2) feet.
- g. Side yards setbacks shall apply to the ends of attached or two-family dwellings.
- h. Corner properties: The side façade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-125 was adopted on this twenty first day of July 2015, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-125 was published on the ____ day of _____, 2015.

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2015-58

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-125 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-125, an ordinance to the City's regulations pertaining to setbacks for accessory structures in the urban residential zoning districts; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-125 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-125, which reduces the rear-yard setback for detached accessory buildings in the urban residential districts from 20 feet to 10 feet.

The full text of Ordinance No. 08-125 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: July 21, 2015.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member _____ and upon vote being taken thereon, the following voted in favor thereof:
and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.



PLANNING COMMISSION
DATE: 7/13/15
AGENDA ITEM: 4C – PUBLIC HEARING
CASE # 2015-22

ITEM: Zoning Text Amendment – Accessory Building Setbacks in the Urban Residential Districts

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director
Casey Riley, Planning Intern

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to hold a public hearing to consider a Zoning Text Amendment to reduce the rear yard setback for accessory buildings in the urban residential zoning districts. The Planning Commission reviewed the proposed change to the setback at their meeting on June 22, 2015. After reviewing the proposed change, the Planning Commission directed staff to schedule a public hearing and prepare the Zoning Text Amendment. Staff is recommending that the Planning Commission recommend approval of the Zoning Text Amendment through the following motion:

“Move to recommend approval of the Zoning Text Amendment to reduce the rear yard setback for accessory buildings in the urban residential zoning districts from 20 feet to 10 feet.”

GENERAL INFORMATION

Applicant: City of Lake Elmo

Property Owners: N/A

Location: N/A – Proposed zoning text amendment would apply to residential properties in the urban residential zoning districts (LDR, MDR and HDR)

Request: City staff is recommending that the City consider a minor amendment to the rear-yard setback requirements for accessory buildings in urban residential zoning districts. The Planning Commission is asked to hold a public hearing on the proposed amendment.

Existing Land Use: N/A

Existing Zoning: N/A

Surrounding Land Use: N/A

Surrounding Zoning: N/A

Comprehensive Plan: N/A

Proposed Zoning: N/A

History: The urban residential zoning districts were adopted as part of the Zoning Code Update Project in 2012/13. As part of this effort, the City adopted three residential zoning districts intended to be utilized in the City’s urban planning areas (I-94 Corridor and Village Area). These zoning districts include lot dimension and building bulk requirements that include the setback requirements for both principal and accessory structures.

Applicable Regulations: Article X – Urban Residential Districts (154.452 Lot Dimensions and Building Bulk Requirements)

BACKGROUND

City staff has recently received an inquiry about the required setbacks for accessory buildings in the Urban Low Density Residential (LDR) zoning districts. Upon review of the setback requirements as found in §154.452 for accessory buildings, it was discovered that the required rear-yard setback for accessory buildings is 20 feet. Staff has researched multiple other cities and found that typical rear yard setbacks for these structures in urban residential districts are between 5 and ten feet. In addition, the City’s Rural Single Family (RS) zoning district also has a 10-foot rear yard setback for accessory buildings.

It should be noted that there are several homes that have been issued Certificates of Occupancy in the Savona LDR subdivision. As more of these neighborhoods are constructed and new residents move in, the City is likely to receive more inquiries about tool sheds and other small accessory structures. Staff recommends addressing the rear-yard setback issue prior to more inquiries coming into the City.

STAFF REVIEW COMMENTS:

Based on the research conducted by Staff, it is recommended that the rear yard setback for accessory buildings in urban residential districts be reduced to 10 feet. A setback of 10 feet allows for a substantial enough setback from adjoining properties while at the same time keeping these structures outside of the City’s standard drainage and utility easements. Finally, a separation of 10 feet should be significant enough to mitigate potential drainage or surface water challenges that may arise from locating accessory buildings in these areas.

RECOMMENDATION:

Staff is recommending that the Planning Commission recommend approval of the proposed Zoning Text Amendment through the following motion:

“Move to recommend approval of the Zoning Text Amendment to reduce the rear yard setback for accessory buildings in the urban residential zoning districts from 20 feet to 10 feet.”

ATTACHMENTS:

1. DRAFT 154.452 Lot Dimensions and Building Bulk Requirements

2. Accessory Structure Regulations Comparison

ORDER OF BUSINESS:

- IntroductionCommunity Development Director
- Report by Staff City Planner
- Questions from the Commission Chair & Commission Members
- Open the Public HearingChair
- Close the Public Hearing.....Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission Chair & Commission Members

§ 154.452 LOT DIMENSIONS AND BUILDING BULK REQUIREMENTS.

Lot area and setback requirements shall be as specified in Table 10-2, Lot Dimension and Setback Requirements.

Table 10-2: Lot Dimension and Setback Requirements, Residential Districts

	<i>LDR</i>	<i>MDR</i>	<i>HDR</i>
Minimum Lot Area (sq. ft.)			
Single family detached dwelling	8,000	7,000	5,000
Two-family dwelling (per unit) ^a	5,000	4,000	3,000
Single-family attached (per unit) ^b	-	4,000	2,500
Multi-family dwelling (per unit)	-	4,000	1,800
Secondary dwelling		see 155.102	
Live-work unit	-	-	3,600
Congregate housing	-	see 155.102	see 155.102
Manufactured home park	-	see 155.102	-
Minimum Lot Width (feet)			
Single family detached dwelling	60	50	50
Two-family dwelling (per unit) ^a	35	30	20
Single-family attached (per unit) ^b	-	25	20
Multi-family dwelling (per building)	-	75	60
Live-work unit	-	-	25
Maximum Height (feet)	35	35	50
Maximum Impervious Coverage	40%	50%	75%
Minimum Building Setbacks (feet)			
Front yard	25 ^c	25 ^c	20 ^c

	LDR	MDR	HDR
Minimum Building Setbacks (feet)			
Interior side yard ^e			
Principal Buildings ^{f,g}	10	10	10 ^d
Attached Garage or Accessory Structures ^{f,g}	5	5	10 ^d
Corner side yard ^{g,h}	15	15	15
Rear yard			
<u>Principal Buildings</u>	<u>20</u>	<u>20</u>	<u>20</u>
<u>Detached Accessory Buildings</u>	<u>10</u>	<u>10</u>	<u>10</u>

Notes to Urban Residential Districts Table

- a. Common open space areas may be used in the determining whether or not the minimum lot areas within a development are met, when provided as part of an overall development plan.
- b. Two-family units may be side-by-side with a party wall between them (“twin”) or located on separate floors in a building on a single lot (“duplex”). The per-unit measurements in this table apply to “twin” units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a “duplex” containing two vertically-separated units on a single lot.
- c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e. 1 unit per 2,500 square feet. This standard is also used for multifamily dwellings.
- d. Single family dwellings (both attached and detached) and two-family dwellings may use the side yard setbacks within MDR zoning districts.
- e. In a block where the majority of the block face has been developed with the same or similar setbacks, the front setback for the remaining lots on that block face shall fall within the range established by the existing setbacks.
- f. In situations where a garage or accessory building is set back less than 7 feet from a side property line, the maximum permitted encroachment for anything attached to said building (including eaves, overhangs, steps, chimneys, and other appurtenances as described in Section 154.081) will be two (2) feet.

- g. Side yards setbacks shall apply to the ends of attached or two-family dwellings.
- h. Corner properties: The side façade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.

(Ord. 2012-062, passed 9-18-2012; Am. Ord. 08-071, passed 3-5-2013)

Accessory Structure Regulations – Comparison Chart

City	Maximum Size	Max Number	Setbacks	Other
Cottage Grove			5' Side, 10' Rear	30' height maximum. Residents have to provide 400 SF of usable open space on their lot. In no cases can more than 30% of lot be covered with structures.
Hugo	260 SF for lots < 1.5 acre		If accessory building is less than 120 SF, 10' rear, 6' side.	Lots > 1.5 acres but < 2.99 acres, Max size for all accessory buildings is 1,500 SF
Inver Grove Heights	1,000 SF	1	30' Front, 5' Side, 8' Rear	Max Height: 25'
Maplewood	Lot area under 8,000 SF: 768 SF	Combo of Detached and Attached Garage Building: 1188 SF	5' Rear, 5' Side	If the lot area is greater than 8,000 SF and less than 16,000 SF, the accessory structure can be 1,000 SF. The Combination of both can be 1,420 SF.
Oakdale			30' Front, 20' Corner Side, 5' Side, 5' Rear	The minimum distance between buildings at any point shall be equal to the height of the exterior wall or 15 feet, whichever is greater.
Stillwater	500 SF	1	5' Side, 10' Rear	20 ft max building height
White Bear	1,000 SF for garage, 120 SF for 2 nd accessory structure	2	5' Rear, 5' Side	Must be in rear or side yard.
Woodbury	400 SF	1	5 ft. rear and side	Cannot be on easement, cannot be in front of principle building, wall cannot exceed 12 ft in height, shall not occupy more than 25% of rear yard



MAYOR AND COUNCIL COMMUNICATION

DATE: 07/21/2015
CONSENT
ITEM #: 10.5

AGENDA ITEM: 10.5
SUBMITTED BY: Julie Johnson, City Clerk
THROUGH: Mayor Pearson
REVIEWED BY: Julie Johnson, City Clerk

SUGGESTED ORDER OF BUSINESS:

Approval on Consent Agenda

PUBLIC POLICY STATEMENT (IF APPLICABLE)

SUMMARY AND ACTION REQUESTED:

BACKGROUND AND STAFF REPORT:

The Ramsey/Washington County Cable Commission has requested City approval of the attached Policy to allow Century Link to apply for a franchise license to compete with Comcast to provide cable service in communities within the Ramsey/Washington County Cable Commission area. Executive Director Tim Finnerty stated that at least eight of the twelve communities in our area have approved the Policy as of the writing of this memo and none have declined.

RECOMMENDATION:

Staff recommends that the City Council approve this request.

ATTACHMENT(S):

Ramsey/Washington Counties Suburban Cable Commission Policies and Procedures Governing Application, Review and Recommendations Regarding Grant of Competitive Cable Franchises.

May 11, 2000
Updated May, 2015

**THE RAMSEY/WASHINGTON COUNTIES SUBURBAN
CABLE COMMUNICATIONS COMMISSION II**

**POLICIES AND PROCEDURES
GOVERNING APPLICATION, REVIEW AND RECOMMENDATIONS
REGARDING GRANT OF COMPETITIVE CABLE FRANCHISES**

Preamble

The Ramsey/Washington Counties Suburban Cable Communications Commission II (the "Commission"), on behalf of White Bear Township and the Cities of Birchwood Village, Dellwood, Grant, Lake Elmo, Mahtomedi, Maplewood, North St. Paul, Oakdale, Vadnais Heights, White Bear Lake, and Willernie (collectively, the Member Cities"), administers the cable television Franchises between the Member Cities and the current cable franchisee. The Commission, acting pursuant to a Joint and Cooperative Agreement and authority delegated by the Member Cities thereunder, is responsible for receiving and reviewing cable Franchise applications and for making recommendations to its Member Cities. Only the Member Cities may grant a Franchise.

Modern telecommunications policy, law and regulations encourage the emergence of competition in all telecommunications markets, including competition in the provision of cable services. The emergence of such competition could increase the quality and availability of enhanced telecommunications and video services via Cable Systems, encourage lower rates, encourage better customer service, and generally benefit consumers. Policies and procedures regarding application for and review of applications for competitive cable Franchises will streamline the processing of requests to construct broadband Cable Systems.

In view of the foregoing, the Commission has formulated policies and procedures that govern the submission and review of cable Franchise applications submitted by Applicants seeking to provide Cable Service in all the Member Cities. Pursuant to these Policies and Procedures the Commission has delineated the information which must be provided in an application for a competitive Franchise, detailed a process for review of such application and negotiation of the terms of a Franchise agreement, and provided for the presentation of a formal recommendation regarding the grant of such Franchises to the Member Cities.

Section 1. Definitions

"Applicant" shall mean a Cable Company that files an Application with the Commission.

"Application" shall mean the information, documentation, and data, of the form and substance required herein, filed by a Cable Company with the Commission requesting the Commission's consideration regarding any recommendation to grant competitive Franchises in the Member Cities.

"Application Fee" shall mean a fee which is intended to cover all costs incurred by the Commission and the Member Cities related to processing Applications up to and including the grant of a Franchise (if any) including, but not limited to, staff and attorney's time in reviewing and considering an Application and related information, negotiating the terms and conditions of Franchises, and preparing recommendations, Franchises and other documentation related to such Applications.

"Cable Company" shall mean any person or entity owning a significant interest in, controlling, operating, managing or leasing a Cable System or any components thereof in the Public Rights-of-Way within the state or any person seeking a Franchise to do so.

"Cable Service" shall mean (1) the one-way transmission to Subscribers of video programming or other programming services; and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming services; and shall also include any video programming service for which a franchise from a local government is required under state law.

"Cable System" shall refer to a facility that is a "cable system" under federal law or a cable communications system under state law. The foregoing definition shall not be deemed to circumscribe or limit the valid authority of the Member Cities to regulate or franchise the activities of any other communications system or provider of communications service to the full extent permitted by law.

"Franchise" shall mean any nonexclusive authorization granted by each of the Member Cities in the form of a Franchise, privilege, permit, license or other municipal authorization to construct, own, control, operate, maintain, or manage a Cable System within the Public Rights-of-Way to provide Cable Service within a Member City.

"Institutional Network" shall mean a communications network constructed or operated by the cable operator and which is generally available only to subscribers who are not residential subscribers.

"Policies and Procedures" shall mean these policies and procedures governing the Commission's processing of Applications for Franchises. "Public Rights-of-Way" shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, avenue, boulevard, drive, concourse, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, easement or similar property or waters within a Member City in which the Member City now or hereafter holds any property interest, including, but not limited to, any riparian right, which, consistent with the purposes for which it was created, obtained or dedicated, may be used for the purpose of installing, operating and maintaining a Cable System. No reference in these Policies and Procedures to a "Public Right-of-Way" shall be deemed to be a representation or guarantee by a Member City that its interest in or other right to control the use of such property is sufficient to permit use of the property for the purpose of installing, operating and maintaining a Cable System.

"Subscriber" shall mean any person or entity who receives cable service via a Cable System.

Section 2. Applicability of Policies and Procedures

These Policies and Procedures apply to every Cable System and every Cable Company, including a Cable Company which constructs, operates and/or maintains a Cable System or

provides Cable Service in whole or in part through facilities owned, controlled, managed or operated by another provider, that seeks to operate within the territorial limits of one or more Member Cities.

Authority: Minn. Stat. § 238.03

Section 3. Franchise Requirement

Subd. 1. In accordance with state and federal law, each of the Member Cities requires a Franchise of any Cable Company or Cable System providing Cable Service within its territorial limits.

Subd. 2. Nothing in these Policies and Procedures shall be construed to limit the Member Cities' or the Commission's authority to construct, purchase, and operate a Cable System or otherwise provide any telecommunications or Cable Services either for internal purposes or for sale to the public. Rather, these policies are meant to govern the process for issuing a franchise for Member Cities so long as they are part of the Commission.

Authority: Minn. Stat. § 238.08

Section 4. Application for Franchise

Subd. 1. On its own initiative, should the Commission determine it is in the interests of Member Cities to seek Franchise Applications, or in the event a Member City or the Commission receives notice that a Cable Company is interested in applying for a Franchise in a Member City, the Commission shall publish a notice of intent to Franchise within a reasonable time and in accordance with Minn. Stat. § 238.081, Subd. 1, which requires publishing notice of intent to Franchise each week for two successive weeks, allowance of 20 days from initial publication for submission of Applications and a public hearing at least seven days before introduction of the Franchise into proceedings of a Member City.

Subd. 2. Review of Applications. Applications for a competitive Franchise shall contain such information as is required below in these Policies and Procedures and shall be submitted to the Commission. Review by the Commission of any Applications pursuant to these Policies and Procedures and final determination by the Member Cities regarding whether to Franchise such Applicant(s) may be based on any relevant factors. Such relevant factors include any factor that the Commission is required to consider under state or federal law, and may include any other factor the Commission is permitted to consider, including the quality and capabilities of the Cable System that will be constructed; whether the application satisfies cable-related needs and interests of the community, as identified by the Member Cities and the Commission, whether the application adequately provides for capacity, facilities, equipment or financial support for public, educational and government (PEG) use of the system (including institutional network use); whether the applicant is financially, technically and legally able to perform; whether the application evinces an intent to improperly discriminate or deny service to any person, group or persons; and whether the grant is otherwise in the interest of the public.

Subd. 3. Public Hearing on Applications. A public hearing before the Commission affording reasonable notice and a reasonable opportunity to be heard with respect to an Application shall be scheduled in accordance with Minn. Stat. § 238.081, Subd. 6. The Commission may schedule additional hearings as may be appropriate prior to action on an application.

Subd. 4. Negotiation of Franchise Terms. During the period prior to the public hearing on the Application(s), the responsible Commission employee(s) and Applicant(s) may negotiate specific Franchise terms and conditions for recommendation and presentation to the Commission and ultimately the Member Cities. In addition, during this period the responsible Commission employee(s) shall review the Application(s) and may request such additional information necessary to make final recommendations to the Commission and ultimately the Member Cities.

Subd. 5. Determinations. Determinations by the responsible Commission employee(s) regarding the qualifications of Applicant(s) and recommendations to the Member Cities regarding grant of a Franchise shall be made based on information provided by the Applicant(s) as required herein and such other information relevant to consideration of the Application. The responsible Commission employee(s) may, in their sole discretion, consider information developed during any negotiations with the Applicant(s) and any information or evidence adduced by the incumbent Cable Company. After the public hearing referenced in Subd. 3, the responsible Commission employee(s) shall issue written recommendations to the Commission for review and possible transmittal to the Member Cities. These recommendations may include Franchise documents to be potentially recommended to the Member Cities for adoption. If Franchise documents have not been negotiated, or the Commission determines that additional or different terms and conditions are appropriate, Commission may direct responsible employees to engage in further negotiations, and to require preparation of revised recommendations and reports. The Commission will adopt final recommendations for transmittal to Member Cities.

Subd. 6. Award of Franchise. A Franchise may be awarded only by an ordinance adopted by each Member City.

Subd. 7. Costs of Reviewing Application and Issuing Franchise. The Applicant shall pay the Application Fee required below. The Application Fee is required for the purpose of reimbursing the Member Cities and the Commission for all costs associated with processing Applications pursuant to these Policies and Procedures through and including any granting of a Franchise. Any portion of the Application Fee which remains after payment of all the Member Cities' and the Commission's costs will be reimbursed to the Applicant. Should the Application Fee not cover the expenses of the Member Cities and the Commission, those unreimbursed expenses shall be reimbursed prior to any consideration of the Franchises by the Member Cities. A successful Applicant shall be fully responsible to reimburse the Member Cities and the Commission for all costs of awarding the competitive Franchises(s).

Subd. 8. Franchising Nonprofit or Municipally-owned System. Nothing contained in this Section prohibits the Member Cities from franchising a nonprofit or municipally-owned system. The municipality or nonprofit entity shall be considered an Applicant subject to these Policies and Procedures.

Subd. 9. Time for Action. The Commission shall conduct proceedings in a manner that comports with state and federal law, as may be applicable.

Authority: Minn. Stat. § 238.081

Section 5. Information Required in Application

An Application for a competitive Franchise must be signed by an authorized officer or principle of the Cable Company and be notarized and must include at least the following. To

the extent that an Application includes a proposed Franchise and other proposed agreements that provide the information requested, the Application may reference the relevant portion of those documents:

- (1) A statement that the Applicant seeks to construct a Cable System and to provide Cable Services within specifically identified Member Cities;
- (2) The name, street address, e-mail address and telephone number of the individuals who are authorized to provide and certify information on behalf of the Applicant;
- (3) a description of the technology that will be utilized by the Cable System to deliver Cable Services; the total bandwidth that initially will be used for delivery of Cable Services from the curb to the home; the total activated channel numbers that will be available to subscribers initially; the number of unique linear programming services that will be available in each format offered (e.g., SD, UHD, HD, 3D) (and whether there are limits as to the number of channels that may be viewed simultaneously); and to the extent relevant, plans for analog and digital channel capacity, including both the total number of analog and digital channels capable of being energized in the system and the number of analog and digital channels to be energized immediately;
- (4) a statement of the television and radio signals for which permission to carry will be requested from the Federal Communications Commission, or any other required regulatory agency;
- (5) to the extent not included in response to Subdivision 5(3), a description of the proposed system design and planned operation, including at least the following items:
 - (i) the general area for location of antennae and the head end, or description of programming delivery plan if otherwise;
 - (ii) the schedule for activating two-way capacity and any other system capacity to be activated in conjunction with the Cable System; the type of automated services to be provided;
 - (iv) the minimum number of video channels, other Cable Services, and other kinds of services to be made available to residents;
 - (v) the number and type of channels and services to be made available for community/access programming including a description of differences in the quality, accessibility, recordability or functionality of PEG channels as compared to linear broadcast channels; whether the channels would be available to every subscriber, or only subscribers to certain packages; whether any special equipment is required to view the PEG channels; and whether there are any charges to PEG programmers or Member Cities proposed with respect to PEG; whether signals would be carried in HD or SD or simulcast; and any video on demand provided; and
 - (vi) a plan for provision of facilities and equipment for PEG (including transport paths from points of signal origination to the subscriber), and funding of PEG and/or a plan for interconnection and provision of such programming in cooperation with the incumbent Cable Company;

- (6) plans for the provision of an Institutional Network and capacity for public, educational and government use of an Institutional Network, or an alternative proposed method for providing for the same;
- (7) any other facilities, services, equipment or financial support that applicant proposes to provide (such as courtesy service drops to schools or public buildings) in addition to the support described above and the franchise fee described below;
- (8) a comparison of the Applicant's proposal for PEG use (including institutional network use) as compared to requirements in existing franchises regarding PEG use; and whether (and why) Applicant contends that its proposal, if accepted would be no more favorable, or less burdensome than the requirements in the existing franchise.
- (9) a schedule of proposed rates in relation to the services to be provided, and a proposed policy regarding unusual or difficult connection of services;
- (10) a time schedule for construction of the system with the time sequence for wiring the various parts of the areas to be served. This information should be shown on a map, and the map should clearly show any area identified in the request for proposals for which the applicant does not seek a franchise. Conditions or limitations on the construction of the system to serve the entire proposed franchise area should be noted;
- (11) information supporting and indicating the Applicant's financial, technical and legal qualifications and experience in the cable communications field, if any;
- (12) an identification of the municipalities in which the Applicant either owns or operates a Cable System, directly or indirectly, or has outstanding Franchises for which no system has been built;
- (13) detailed plans for financing of the proposed system, which must indicate every significant anticipated source of capital and significant limitations or conditions with respect to the availability of the indicated sources of capital;
- (14) a statement of ownership detailing the corporate organization of the Applicant, if any, including the names and addresses of officers and directors and the number of shares held by each officer or director, and intracompany relationship including a parent, subsidiary or affiliated company;
- (15) a statement of a form and substance acceptable to the Member Cities and the Commission indemnifying the Member Cities and the Commission fully against any claims or liabilities alleged as the result of the Member Cities' and the Commission's exercise of these Policies and Procedures, including any such claims or liabilities alleged or asserted by the incumbent Cable Company;
- (16) an agreement to pay the Member Cities and/or the Commission a Franchise fee in the same percentage of gross revenues as the incumbent providers, and on the same base;
- (17) the proposed Franchise term;

- (18) whether Applicant is willing to agree to terms required under state law, and if not, the terms to which it objects, the basis for the objection, and how it proposes to address the state law requirement, if at all;
- (19) a notation and explanation of omissions or other variations with respect to the requirements of the Application; and
- (20) submission of an Application Fee in the amount of \$40,000.
- (21) Such other information as may be required under state law.
- (22) If the Applicant claims that the Application is submitted pursuant to, and is subject to the deadlines for action under FCC regulations governing issuance of competitive franchises, the Application must so state clearly, and shall also include all information required by federal law.

Authority: Minn. Stat. § 238.081, Subd. 2 and 4.



MAYOR & COUNCIL COMMUNICATION

DATE: 7/21/2015

REGULAR \$\$

ITEM # 11

AGENDA ITEM: Authorization for sale of \$2,815,000 General Obligation Improvement Bond Series 2015A

SUBMITTED BY: Cathy Bendel, Finance Director

THROUGH: Tammy Omdal, Senior Vice President, Northland Securities

REVIEWED BY: Tammy Omdal, Northland Securities
Finance Committee

SUGGESTED ORDER OF BUSINESS:

- Questions from Council to Staff Mayor Facilitates
- Report/Presentations.....City Staff, Northland Securities
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECOMMENDER: Finance Committee

FISCAL IMPACT:

The City will have the responsibility for the debt service on the issuance of \$2,815,000 of new debt as presented in the Financing Plan.

SUMMARY AND ACTION REQUESTED:

On June 9, 2015, the City authorized the issuance and sale of \$2,815,000 in General Obligation Improvement Bonds, Series 2015A. Resolution No. 2015-57 awards the sale, prescribes the forms and details and provides for the payment of \$2,815,000 to the City of Lake Elmo. The recommended motion for this action is as follows:

“Move to approve Resolution No. 2015-57 awarding the sale, prescribing the form and details and providing for the payment of \$2,815,000 General Obligation Bonds, Series 2015A”

STAFF REPORT: Tammy Omdal, Senior Vice President with Northland Securities will present the report and respond to inquiries.

BACKGROUND INFORMATION (SWOT):

Strengths	Provides funding for infrastructure projects at a low rate. Projects included are the 39 th Street Project costs (additional funding needs due to approved project scope changes after 2014 bonding cycle), the Inwood Booster Station Project, the Eagle Point Street Reconstruction Project (100% assessment project) and some equipment purchases.
Weaknesses	None identified.
Opportunities	Ability to complete the Inwood Line of the water “loop” in 2015 and provide water and sewer to new development areas of the City.
Threats	If developments are delayed or do not materialize, the enterprise fund may not be able to independently fund the debt service payments on the infrastructure bonding.

RECOMMENDATION:

It is recommended that the City Council approve Resolution 2015-57 authorizing the issuance and sale of \$2,815,000 in General Obligation Bonds, Series 2015A.

“Move to approve Resolution No. 2015-57 awarding the sale, prescribing the form and details and providing for the payment of \$2,815,000 General Obligation Bonds, Series 2015A”

ATTACHMENT(S):

1. Resolution No. 2015-57

CERTIFICATION OF MINUTES RELATING TO
\$2,815,000 GENERAL OBLIGATION BONDS, SERIES 2015A

Issuer: City of Lake Elmo, Minnesota

Governing Body: City Council

Kind, date, time and place of meeting: A regular meeting held on July 21, 2015, at 7:00 p.m., at the City Hall.

Members present:

Members absent:

Documents Attached:

Minutes of said meeting (including):

RESOLUTION NO. 2015-57

RESOLUTION AUTHORIZING ISSUANCE, AWARDING SALE,
PRESCRIBING THE FORM AND DETAILS AND PROVIDING FOR THE
PAYMENT OF \$2,815,000 GENERAL OBLIGATION BONDS, SERIES 2015A

I, the undersigned, being the duly qualified and acting recording officer of the public corporation issuing the bonds referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of said corporation in my legal custody, from which they have been transcribed; that said documents are a correct and complete transcript of the minutes of a meeting of the governing body of said corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at said meeting, so far as they relate to said bonds; and that said meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording officer this 21st day of July, 2015.

City Clerk

It was reported that _____ () proposals for the purchase of \$2,815,000 General Obligation Bonds, Series 2015A were received prior to 10:30 A.M., Central Time, pursuant to the Official Statement distributed to potential purchasers of the Bonds by Northland Securities, Inc., municipal advisor to the City. The proposals have been publicly opened, read and tabulated and were found to be as follows:

See Attached

Councilmember _____ introduced the following resolution and moved its adoption, which motion was seconded by Councilmember _____:

RESOLUTION AUTHORIZING ISSUANCE, AWARDING SALE,
PRESCRIBING THE FORM AND DETAILS AND PROVIDING FOR THE
PAYMENT OF \$2,815,000 GENERAL OBLIGATION BONDS, SERIES 2015A

BE IT RESOLVED by the City Council, City of Lake Elmo, Minnesota (the "City"), as follows:

SECTION 1. AUTHORIZATION AND SALE.

1.01. Authorization. This City Council, by resolution duly adopted on June 9, 2015, authorized the issuance and sale of its General Obligation Bonds, Series 2015A (the "Bonds"), pursuant to Minnesota Statutes, Section 412.301 and Chapters 429, 444 and 475, for the purpose of (a) financing various street improvements in the City (the "Street Project"), (b) financing various water and sewer improvement in the City (the "Utility Project"), (c) financing various items of capital equipment (the "Equipment"), and (d) funding costs of issuance of the Bonds (collectively, the "Project"). The principal amount of the portion of the Bonds, \$ _____ allocable to the Equipment (the "Equipment Bonds") does not exceed 0.25 percent of the market value of the taxable property in the City.

1.02. Sale. Pursuant to the Notice of Sale and the Preliminary Official Statement prepared on behalf of the City by Northland Securities, Inc., municipal advisors to the City, sealed or electronic proposals for the purchase of the Bonds were received at or before the time specified for receipt of proposals. The proposals have been opened, publicly read and considered and the purchase price, interest rates and net interest cost under the terms of each proposal have been determined. The most favorable proposal received is that of _____, in _____, _____ (the "Purchaser"), to purchase the Bonds in the principal amount of \$2,815,000, at a price of \$ _____ plus accrued interest, if any, on all Bonds to the day of delivery and payment, on the further terms and conditions hereinafter set forth. The principal amount of the portion of the Bonds, \$ _____ allocable to the Street Project shall be designated as the "Street Bonds," and the principal amount of the portion of the Bonds allocable to the Utility, \$ _____, shall be designated as the "Utility Bonds."

1.03. Award. The sale of the Bonds is hereby awarded to the Purchaser, and the Mayor and City Finance Director are hereby authorized and directed on behalf of the City to execute a contract for the sale of the Bonds with the Purchaser in accordance with the Preliminary Official Statement. The good faith deposit of the Purchaser shall be retained and deposited by the City until the Bonds have been delivered, and shall be deducted from the purchase price paid at settlement.

SECTION 2. BOND TERMS; REGISTRATION; EXECUTION AND DELIVERY.

2.01. Issuance of Bonds. All acts, conditions and things which are required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be

performed precedent to and in the valid issuance of the Bonds having been done, now existing, having happened and having been performed, it is now necessary for the Council to establish the form and terms of the Bonds, to provide security therefor and to issue the Bonds forthwith.

2.02. Maturities; Interest Rates; Denominations and Payment. The Bonds shall be originally dated as of the date of issuance thereof, shall be in the denomination of \$5,000 each, or any integral multiple thereof, of single maturities, shall mature on January 15 in the years and amounts stated below, and shall bear interest from date of issue until paid or duly called for redemption, at the annual rates set forth opposite such years and amounts, as follows:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Rate</u>
2017	\$	%	2025	\$	%
2018			2026		
2019			2027		
2020			2028		
2021			2029		
2022			2030		
2023			2031		
2024					

<u>Maturity</u>	<u>Street Bonds</u>	<u>Utility Bonds</u>	<u>Equipment Bonds</u>
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			

[REVISE MATURITY SCHEDULE FOR ANY TERM BONDS]

The Bonds shall be issuable only in fully registered form. The interest thereon and, upon surrender of each Bond, the principal amount thereof shall be payable by check or draft issued by the Registrar described herein, provided that so long as the Bonds are registered in the name of a securities depository, or a nominee thereof, in accordance with Section 2.08 hereof, principal and

interest shall be payable in accordance with the operational arrangements of the securities depository.

2.03. Dates and Interest Payment Dates. Upon initial delivery of the Bonds pursuant to Section 2.07 and upon any subsequent transfer or exchange pursuant to Section 2.06, the date of authentication shall be noted on each Bond so delivered, exchanged or transferred. Interest on the Bonds shall be payable on January 15 and July 15 in each year, commencing July 15, 2016, each such date being referred to herein as an Interest Payment Date, to the persons in whose names the Bonds are registered on the Bond Register, as hereinafter defined, at the Registrar's close of business on the first day of the calendar month in which such Interest Payment Date occurs, whether or not such day is a business day. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months.

2.04. Redemption. Bonds maturing on January 15, 2024 and later years shall be subject to redemption and prepayment at the option of the City, in whole or in part, in such order of maturity dates as the City may select and, within a maturity, by lot as selected by the Registrar (or, if applicable, by the bond depository in accordance with its customary procedures) in integral multiples of \$5,000, on January 15, 2023, and on any date thereafter, at a price equal to the principal amount thereof and accrued interest to the date of redemption. The City Finance Director shall cause notice of the call for redemption thereof to be published if and as required by law, and at least thirty (30) and not more than sixty (60) days prior to the designated redemption date, shall cause notice of call for redemption to be mailed, by first class mail, to the Registrar and registered holders of any Bonds to be redeemed at their addresses as they appear on the Bond Register described in Section 2.06 hereof, provided that notice shall be given to any securities depository in accordance with its operational arrangements. No defect in or failure to give such notice of redemption shall affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the owner without charge, representing the remaining principal amount outstanding.

[COMPLETE THE FOLLOWING PROVISIONS IF THERE ARE TERM BONDS-
ADD ADDITIONAL PROVISIONS IF THERE ARE MORE THAN TWO TERM BONDS]

[Bonds maturing on January 15, 20____ and 20____ (the "Term Bonds") shall be subject to mandatory redemption prior to maturity pursuant to the sinking fund requirements of this Section 2.04 at a redemption price equal to the stated principal amount thereof plus interest accrued thereon to the redemption date, without premium. The Registrar shall select for redemption, by lot or other manner deemed fair, on January 15 in each of the following years the following stated principal amounts of such Bonds:

<u>Year</u>	<u>Principal Amount</u>
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The remaining \$_____ stated principal amount of such Bonds shall be paid at maturity on January 15, 20_____.

Year Principal Amount

The remaining \$_____ stated principal amount of such Bonds shall be paid at maturity on January 15, 20_____.

Notice of redemption shall be given as provided in the preceding paragraph.]

2.05. Appointment of Registrar. The City hereby appoints Northland Trust Services, Inc., in Minneapolis, Minnesota, as the initial Bond registrar, transfer agent and paying agent (the “Registrar”). The Mayor and City Finance Director are authorized to execute and deliver, on behalf of the City, a contract with the Registrar. Upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company organized under the laws of the United States or one of the states of the United States and authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed. The City reserves the right to remove the Registrar, effective upon not less than thirty days’ written notice and upon the appointment and acceptance of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Bonds in its possession to the successor Registrar and shall deliver the Bond Register to the successor Registrar.

2.06. Registration. The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its principal corporate trust office a register (the “Bond Register”) in which the Registrar shall provide for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged. The term Holder or Bondholder as used herein shall mean the person (whether a natural person, corporation, association, partnership, trust, governmental unit, or other legal entity) in whose name a Bond is registered in the Bond Register.

(b) Transfer of Bonds. Upon surrender for transfer of any Bond duly endorsed by the Holder thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the Holder thereof or by an attorney duly authorized by the Holder in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the first day of the month in which the interest payment date occurs and until such interest payment date.

(c) Exchange of Bonds. At the option of the Holder of any Bond in a denomination greater than \$5,000, such Bond may be exchanged for other Bonds of authorized denominations, of the same maturity and a like aggregate principal amount, upon surrender of the Bond to be exchanged at the office of the Registrar. Whenever any Bond is so surrendered for exchange the City shall execute and the Registrar shall authenticate and deliver the Bonds which the Bondholder making the exchange is entitled to receive.

(d) Cancellation. All Bonds surrendered for payment, transfer or exchange shall be promptly canceled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name any Bond is at any time registered in the Bond Register as the absolute owner of the Bond, whether the Bond shall be overdue or not, for the purpose of receiving payment of or on account of, the principal of and interest on the Bond and for all other purposes; and all payments made to or upon the order of such Holder shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Bonds (except for an exchange upon a partial redemption of a Bond), the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Registrar shall deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. All Bonds so surrendered to the Registrar shall be canceled by it and evidence of such cancellation shall be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Bond prior to payment.

(i) Authenticating Agent. The Registrar is hereby designated authenticating agent for the Bonds, within the meaning of Minnesota Statutes, Section 475.55, Subdivision 1, as amended.

(j) Valid Obligations. All Bonds issued upon any transfer or exchange of Bonds shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Resolution as the Bonds surrendered upon such transfer or exchange.

2.07. Execution, Authentication and Delivery. The Bonds shall be prepared under the direction of the City Finance Director and shall be executed on behalf of the City by the signatures of the Mayor and the City Finance Director, provided that the signatures may be printed, engraved or lithographed facsimiles of the originals. In case any officer whose signature or a facsimile of whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the date of delivery of such Bond. Notwithstanding such execution, no Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until a certificate of authentication on the Bond, substantially in the form provided in Section 2.09, has been executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on any Bond shall be conclusive evidence that it has been duly authenticated and delivered under this Resolution. When the Bonds have been prepared, executed and authenticated, the City Finance Director shall deliver them to the Purchaser upon payment of the purchase price in accordance with the contract of sale theretofore executed, and the Purchaser shall not be obligated to see to the application of the purchase price.

2.08. Securities Depository. (a) For purposes of this section the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Bond, the person in whose name such Bond is recorded as the beneficial owner of such Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds bonds as securities depository.

“Representation Letter” shall mean the Representation Letter pursuant to which the City agrees to comply with DTC’s Operational Arrangements.

(b) The Bonds shall be initially issued as separately authenticated fully registered bonds, and one Bond shall be issued in the principal amount of each stated maturity of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the Bond Register in the

name of Cede & Co., as nominee of DTC. The Registrar and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Bonds under this resolution, registering the transfer of Bonds, and for all other purposes whatsoever; and neither the Registrar nor the City shall be affected by any notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other person which is not shown on the Bond Register as being a registered owner of any Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under this resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Bonds. So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Bond, and shall give all notices with respect to such Bond, only to Cede & Co. in accordance with DTC's Operational Arrangements, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bonds in the form of physical certificates, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Bonds in the form of certificates. In such event, the Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds will be transferable in accordance with paragraph (e) hereof.

(d) The execution and delivery of the Representation Letter to DTC, if not previously filed with DTC, by the Mayor or City Finance Director is hereby authorized and directed.

(e) In the event that any transfer or exchange of Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Bonds, or another securities depository as owner of all the Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Bonds in the form of physical certificates and the method of payment of principal of and interest on such Bonds in the form of physical certificates.

Section 3. USE OF PROCEEDS; PROJECT FUND.

3.01. Project Fund

There is hereby created a special bookkeeping fund to be designated as the “General Obligation Bonds, Series 2015A Project Fund” (the “Project Fund”), to be held and administered by the City Finance Director separate and apart from all other funds of the City. Within the Project Fund are established the following accounts:

(a) Street Project Account. The Street Project Account shall be credited with (i) \$_____ from the proceeds from the Bonds and (ii) all special assessments collected with respect to the Street Project until all costs of such improvements have been fully paid. The City Finance Director shall maintain the Street Project Account until payment of all costs and expenses incurred in connection with the construction of the Street Project have been paid.

(b) Utility Project Account. The Utility Project Account shall be credited with \$_____ from the proceeds of the Bonds. The City Finance Director shall maintain the Utility Project Account until all costs and expenses incurred by the City in connection with the construction of the Utility Project have been paid.

(c) Equipment Account. The Equipment Account shall be credited with \$_____ from the proceeds of the Bonds. The City Finance Director shall maintain the Equipment Account until all costs and expenses incurred by the City in connection with the Equipment have been paid.

From the Project Fund there shall be paid all costs and expenses related to the construction and acquisition of the Project. After payment of all such costs and expenses, the Project Fund shall be terminated. All funds on hand in the Project Fund when terminated shall be credited to the Bond Fund described in Section 4 hereof, unless and except as such proceeds may be transferred to some other fund or account as to which the City has received from bond counsel an opinion that such other transfer is permitted by applicable laws and does not impair the exemption of interest on the Bonds from federal income taxes.

SECTION 4. GENERAL OBLIGATION BONDS, SERIES 2015A BOND FUND. The Bonds shall be payable from a separate General Obligation Bonds, Series 2015A Bond Fund (the “Bond Fund”) of the City, which shall be created and maintained on the books of the City as a separate debt redemption fund until the Bonds, and all interest thereon, are fully paid. Into the Bond Fund shall be paid (a) any funds received from the Purchaser upon delivery of the Bonds in excess of the amounts specified in Section 3 above; (b) special assessments levied and collected in accordance with this Resolution except as otherwise provided in Section 3.01, clause (a) hereof; (c) net revenues of the municipal water and sewer systems, such revenues to be distributed ratably with respect to the portion of the Bonds payable therefrom and any other obligations of the City payable from the same source; (d) any taxes collected pursuant to Section 7 hereof; and (e) any other funds appropriated by this Council for the payment of the Bonds. The principal of and interest on the Bonds shall be payable from the Bond Fund, and the money on hand in the Bond Fund from time to time shall be used only to pay the principal of and interest on the Bonds.

On or before each principal and interest payment date for the Bonds, the City Finance Director is directed to remit to the Registrar from funds on deposit in the Bond Fund the amount needed to pay principal and interest on the Bonds on the next succeeding principal and interest payment date.

There are hereby established two accounts in the Bond Fund, designated as the "Debt Service Account" and the "Surplus Account." There shall initially be deposited into the Debt Service Account upon the issuance of the Bonds the amount set forth in clause (a) above. Thereafter, during each bond year (each twelve month period commencing on January 16 and ending on the following January 15, a "Bond Year"), as monies are received into the Bond Fund, the City Finance Director shall first deposit such monies into the Debt Service Account until an amount has been appropriated thereto sufficient to pay all principal and interest due on the Bonds through the end of the Bond Year. All subsequent monies received in the Bond Fund during the Bond Year shall be appropriated to the Surplus Account. If at any time the amount on hand in the Debt Service Account is insufficient for the payment of principal and interest then due, the City Finance Director shall transfer to the Debt Service Account amounts on hand in the Surplus Account to the extent necessary to cure such deficiency. Investment earnings (and losses) on amounts from time to time held in the Debt Service Account and Surplus Account shall be credited or charged to said accounts.

If the balance in the Bond Fund is at any time insufficient to pay all interest and principal then due on all Bonds payable therefrom, the payment shall be made from any fund of the City which is available for that purpose, subject to reimbursement from the Surplus Account when the balance therein is sufficient, and the City covenants and agrees that it will each year levy a sufficient amount of ad valorem taxes to take care of any accumulated or anticipated deficiency, which levy is not subject to any constitutional or statutory limitation.

SECTION 5. SPECIAL ASSESSMENTS. The City hereby covenants and agrees that, for the payment of the costs of the Street Project, the City has done or will do and perform all acts and things necessary for the final and valid levy of special assessments in the principal amount of \$1,490,000, which is not less than 20% of the cost of the Street Project. The principal of and interest on such special assessments are estimated to be levied and collected in the years and amounts shown on EXHIBIT B attached hereto. The principal of the assessments shall be made payable in annual installments, with interest as established by this Council in accordance with law on unpaid installments thereof from time to time remaining unpaid. In the event any special assessment shall at any time be held invalid with respect to any lot or tract of land, due to any error, defect or irregularity in any action or proceeding taken or to be taken by the City or by this Council or by any of the officers or employees of the City, either in the making of such special assessment or in the performance of any condition precedent thereto, the City hereby covenants and agrees that it will forthwith do all such further things and take all such further proceedings as shall be required by law to make such special assessment a valid and binding lien upon said property.

SECTION 6. PLEDGE OF NET REVENUES. It is hereby found, determined and declared that the City owns and operates its municipal water and sewer systems as revenue-producing utilities and as a convenience, and that the net operating revenues of the systems, after deducting from the gross receipts derived from charges for the service, use and availability of the systems the

normal, current and reasonable expenses of operation and maintenance thereof, will be sufficient, together with any other pledged funds, for the payment when due of the principal of and interest on the Utility Bonds and on any other bonds to which such revenues are pledged.

Pursuant to Minnesota Statutes, Section 444.075, the City hereby covenants and agrees with the registered owners from time to time of the Bonds that until the Bonds and the interest thereon are discharged as provided in Section 8 or paid in full, the City will impose and collect reasonable charges in accordance with said Section 444.075 for the service, use and availability of its municipal water and sewer systems according to schedules sufficient to produce net revenues sufficient, with other funds pledged to payment of the Utility Bonds, to pay the Utility Bonds and any other bonds to which said net revenues have been pledged; and the net revenues, to the extent necessary, are hereby irrevocably pledged and appropriated to the payment of the Bonds and interest thereon when due. Nothing herein shall preclude the City from hereafter making further pledges and appropriations of the net revenues of its municipal water and sewer systems for payment of additional obligations of the City hereafter authorized if the Council determines before the authorization of such additional obligations that the estimated net revenues of the systems will be sufficient, together with any other sources pledged to the payment of the outstanding and additional obligations, for payment of the outstanding bonds and such additional obligations. Such further pledges and appropriations of net revenues may be made superior or subordinate to or on a parity with, the pledge and appropriation herein made.

SECTION 7. PLEDGE OF TAXING POWERS. For the prompt and full payment of the principal of and interest on the Bonds as such payments respectively become due, the full faith, credit and unlimited taxing powers of the City shall be and are hereby irrevocably pledged. In order to produce aggregate amounts which, together with the collections of other amounts as set forth in Section 4, will produce amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments on the Bonds, ad valorem taxes are hereby levied on all taxable property in the City, the taxes to be levied and collected in the following years and amounts:

<u>Levy Years</u>	<u>Collection Years</u>	<u>Amount</u>
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See attached schedules

The taxes shall be irrevocable as long as any of the Bonds are outstanding and unpaid, provided that the City reserves the right and power to reduce the tax levies from other legally available funds, in accordance with the provisions of Minnesota Statutes, Section 475.61.

SECTION 8. DEFEASANCE. When all of the Bonds have been discharged as provided in this Section, all pledges, covenants and other rights granted by this Resolution to the Holders of the Bonds shall cease. The City may discharge its obligations with respect to any Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full; or, if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit. The City may also discharge its obligations with respect to any prepayable Bonds called for redemption on any date when they

are prepayable according to their terms by depositing with the Registrar on or before that date an amount equal to the principal, redemption premium, if any, and interest then due, provided that notice of such redemption has been duly given as provided herein. The City may also at any time discharge its obligations with respect to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with the Registrar or with a bank or trust company qualified by law to act as an escrow agent for this purpose, cash or securities which are authorized by law to be so deposited for such purpose, bearing interest payable at such times and at such rates and maturing or callable at the holder's option on such dates as shall be required to pay all principal and interest to become due thereon to maturity or, if notice of redemption as herein required has been irrevocably provided for, to an earlier designated redemption date. If such deposit is made more than ninety days before the maturity date or specified redemption date of the Bonds to be discharged, the City must have received a written opinion of Bond Counsel to the effect that such deposit does not adversely affect the exemption of interest on any Bonds from federal income taxation and a written report of an accountant or investment banking firm verifying that the deposit is sufficient to pay when due all of the principal and interest on the Bonds to be discharged on and before their maturity dates or earlier designated redemption date.

SECTION 8. TAX COVENANTS; ARBITRAGE MATTERS AND CONTINUING DISCLOSURE.

8.01. General Tax Covenant. The City agrees with the registered owners from time to time of the Bonds that it will not take, or permit to be taken by any of its officers, employees or agents, any action that would cause interest on the Bonds to become includable in gross income of the recipient under the Internal Revenue Code of 1986, as amended (the "Code") and applicable Treasury Regulations (the "Regulations"), and agrees to take any and all actions within its powers to ensure that the interest on the Bonds will not become includable in gross income of the recipient under the Code and the Regulations. All proceeds of the Bonds deposited in the Project Fund will be expended solely for the payment of the costs of the Project. The Project is and will be owned and maintained by the City and available for use by members of the general public on a substantially equal basis. The City shall not enter into any lease, management contract, use agreement, capacity agreement or other agreement with any non-governmental person relating to the use of the Project, or any portion thereof, or security for the payment of the Bonds which might cause the Bonds to be considered "private activity bonds" or "private loan bonds" pursuant to Section 141 of the Code.

8.02. Arbitrage Certification. The Mayor and City Finance Director being the officers of the City charged with the responsibility for issuing the Bonds pursuant to this Resolution, are authorized and directed to execute and deliver to the Purchaser a certificate in accordance with Section 148 of the Code, and applicable Regulations, stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds which make it reasonable to expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of the Code and Regulations.

8.03. Arbitrage Rebate. (a) It is hereby found that the City has general taxing powers, that no Bond is a "private activity bond" within the meaning of Section 141 of the Code, that 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of

the City, and that the aggregate face amount of all tax-exempt obligations (other than private activity bonds) issued by the City and all subordinate entities thereof during the year 2015 is not reasonably expected to exceed \$5,000,000. Therefore, pursuant to Section 148(f)(4)(D) of the Code, the City shall not be required to comply with the arbitrage rebate requirements of paragraphs (2) and (3) of Section 148(f) of the Code.

(b) Notwithstanding the provisions of paragraph (a) of this Section 8.03, if the arbitrage rebate provisions of Section 148(f) of the Code apply to the Bonds, the City hereby covenants and agrees to make the determinations, retain records and rebate to the United States the amounts at the times and in the manner required by said Section 148(f) and applicable Regulations.

8.04. Qualified Tax-Exempt Obligations. The City Council hereby designates the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code relating to the disallowance of interest expense for financial institutions, and hereby finds that the reasonably anticipated amount of tax-exempt obligations (within the meaning of Section 265(b)(3) of the Code) which will be issued by the City and all subordinate entities during calendar year 2015 does not exceed \$10,000,000.

8.05. Reimbursement. The City certifies that the proceeds of the Bonds will not be used by the City to reimburse itself for any expenditure with respect to the Projects which the City paid or will have paid more than 60 days prior to the issuance of the Bonds unless, with respect to such prior expenditures, the City shall have made a declaration of official intent which complies with the provisions of Section 1.150-2 of the Regulations, provided that this certification shall not apply (i) with respect to certain de minimis expenditures, if any, with respect to the Projects meeting the requirements of Section 1.150-2(f)(1) of the Regulations, or (ii) with respect to “preliminary expenditures” for the Projects as defined in Section 1.150-2(f)(2) of the Regulations, including engineering or architectural expenses and similar preparatory expenses, which in the aggregate do not exceed 20% of the “issue price” of the Bonds.

8.06. Continuing Disclosure (a) Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit the Purchaser and other participating underwriters in the primary offering of the Bonds to comply with amendments to Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12), relating to continuing disclosure (as in effect and interpreted from time to time, the Rule), which will enhance the marketability of the Bonds, the City hereby makes the following covenants and agreements for the benefit of the Owners (as hereinafter defined) from time to time of the outstanding Bonds. The City is the only obligated person in respect of the Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made. If the City fails to comply with any provisions of this section, any person aggrieved thereby, including the Owners of any outstanding Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this section, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this section constitute a default under the Bonds or under any other provision of this resolution. As used in this section, Owner or Bondowner owner means, in

respect of the Bonds, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any Beneficial Owner (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used herein, Beneficial Owner means, in respect of the Bonds, any person or entity which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Bonds (including persons or entities holding Certificates through nominees, depositories or other intermediaries), or (b) is treated as the owner of the Bonds for federal income tax purposes.

(b) Information To Be Disclosed. The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

- (1) On or before 12 months after the end of each fiscal year of the City, commencing with the fiscal year ending December 31, 2015, the following financial information and operating data in respect of the City (the Disclosure Information):
 - (A) the audited financial statements of the City for such fiscal year, prepared in accordance with generally accepted accounting principles in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Minnesota law, as in effect from time to time, or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the fiscal officer of the City; and
 - (B) to the extent not included in the financial statements referred to in paragraph (A) hereof, the information for such fiscal year or for the period most recently available of the type contained in the Official Statement under the headings: “Economic and Financial Information—Valuations”; “--Tax Capacity Rates” and “—Tax Levies and Collections” and “Summary of Debt and Debt Statistics.”

Notwithstanding the foregoing paragraph, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within 10 days after the receipt thereof, the City shall provide the audited financial statements. Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including official statements, which have been filed with the SEC or have been made available to the public by the Municipal Securities Rulemaking Board (the “MSRB”) through its Electronic Municipal Market Access System (EMMA). The City shall clearly identify in the Disclosure Information each document so incorporated by reference. If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure

Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be a Material Fact (as defined in paragraph (2) hereof), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations. If the Disclosure Information is changed or this section is amended as permitted by this paragraph (b)(1) or subsection (d), then the City shall include in the next Disclosure Information to be delivered hereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

- (2) In a timely manner, not in excess of 10 business days, to the MSRB through EMMA, notice of the occurrence of any of the following events (each a “Material Fact,” as hereinafter defined):
 - (A) principal and interest payment delinquencies;
 - (B) non-payment related defaults;
 - (C) unscheduled draws on debt service reserves reflecting financial difficulties;
 - (D) unscheduled draws on credit enhancements reflecting financial difficulties;
 - (E) substitution of credit or liquidity providers, or their failure to perform;
 - (F) adverse tax opinions or events affecting the tax-exempt status of the security;
 - (G) modifications to rights of security holders;
 - (H) bond calls;
 - (I) defeasances;
 - (J) release, substitution, or sale of property securing repayment of the securities;
 - (K) rating changes;
 - (L) bankruptcy, insolvency, receivership, or similar event of the obligated person;
 - (M) the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of an obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
 - (N) appointment of a successor or additional trustee or the change of name of a trustee, if material.

As used herein, for those events that must be reported if material, a “Material Fact” is a fact as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell the Bonds or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed hereunder or information generally available to the public. Notwithstanding the

foregoing sentence, a Material Fact is also a fact that would be deemed material for purposes of the purchase, holding or sale of the Bonds within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

For the purposes of the event identified in (L) hereinabove, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

- (3) In a timely manner, to the MSRB through EMMA, notice of the occurrence of any of the following events or conditions:
 - (A) the failure of the City to provide the Disclosure Information required under paragraph (b)(1) at the time specified thereunder;
 - (B) the amendment or supplementing of this section pursuant to subsection (d), together with a copy of such amendment or supplement and any explanation provided by the City under subsection (d)(2);
 - (C) the termination of the obligations of the City under this section pursuant to subsection (d);
 - (D) any change in the accounting principles pursuant to which the financial statements constituting a portion of the Disclosure Information are prepared; and
 - (E) any change in the fiscal year of the City.

(c) Manner of Disclosure.

- (1) The City agrees to make available to the MSRB through EMMA, in an electronic format as prescribed by the MSRB, the information described in subsection (b).
- (2) All documents provided to the MSRB pursuant to this subsection (c) shall be accompanied by identifying information as prescribed by the MSRB from time to time.

(d) Term; Amendments; Interpretation.

- (1) The covenants of the City in this section shall remain in effect so long as any Bonds are outstanding. Notwithstanding the preceding sentence, however, the obligations of the City under this section shall terminate and be without further effect as of any date on which the City delivers to the Registrar an opinion of Bond Counsel to the effect that, because of legislative action or final judicial or administrative actions or proceedings, the failure of the City to comply with the

requirements of this section will not cause participating underwriters in the primary offering of the Bonds to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended, or any statutes or laws successory thereto or amendatory thereof.

- (2) This section (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (c)(2) hereof) or the consent of the Owners of any Bonds, by a resolution of this Council filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that: (i) such amendment or supplement (a) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the City or the type of operations conducted by the City, or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this section as so amended or supplemented would have complied with the requirements of paragraph (b)(5) of the Rule at the time of the primary offering of the Bonds, giving effect to any change in circumstances applicable under clause (i)(a) and assuming that the Rule as in effect and interpreted at the time of the amendment or supplement was in effect at the time of the primary offering; and (iii) such amendment or supplement does not materially impair the interests of the Bondowners under the Rule.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

- (3) This section is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

SECTION 9. CERTIFICATION OF PROCEEDINGS.

9.01. Registration of Bonds. The City Finance Director is hereby authorized and directed to file a certified copy of this resolution with the County Auditor of Washington County, together with such additional information as is required, and to obtain a certificate that the Bonds and the taxes levied pursuant hereto have been duly entered upon the County Auditor's Bond register.

9.02. Authentication of Transcript. The officers of the City and the County Auditor are hereby authorized and directed to prepare and furnish to the Purchaser and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records relating to the Bonds and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Bonds, as the same appear from the books and records in their custody and control or as otherwise known to them, and all such certified copies, affidavits

and certificates, including any heretofore furnished, shall be deemed representations of the City as to the correctness of all statements contained therein.

9.03. Official Statement. The Preliminary Official Statement relating to the Bonds, dated as of _____, 2015 prepared and distributed by Northland Securities, Inc., is hereby approved. Northland Securities, Inc., is hereby authorized on behalf of the City to prepare and distribute to the Purchaser within seven business days from the date hereof, a Final Official Statement listing the offering price, the interest rates, selling compensation, delivery date, the underwriters and such other information relating to the Bonds required to be included in the Official Statement by Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934. The officers of the City are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency of the Official Statement.

9.04. Authorization of Payment of Certain Costs of Issuance of the Bonds. The City authorizes the Purchaser to forward the amount of Bond proceeds allocable to the payment of issuance expenses to the Registrar on the closing date for further distribution as directed by Northland Securities, Inc.

9.05. Effective Date. This resolution shall be in full force and effect from and after its passage.

Upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon the Resolution was declared duly passed and adopted.

EXHIBIT A

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF WASHINGTON

CITY OF LAKE ELMO

GENERAL OBLIGATION BONDS,
SERIES 2015A

R-____ \$_____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP No.</u>
___%	January 15, 20__	_____, 2015	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THOUSAND DOLLARS

CITY OF LAKE ELMO, State of Minnesota (the “City”) acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above and promises to pay interest thereon from the date of original issue specified above or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for, at the annual interest rate specified above, payable on January 15 and July 15 in each year, commencing July 15, 2016 (each such date, an “Interest Payment Date”), all subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. The interest so payable on any Interest Payment Date shall be paid to the person in whose name this Bond is registered at the close of business on the first day (whether or not a business day) of the calendar month in which such Interest Payment Date occurs. Interest hereon shall be computed on the basis of a 360-day year composed of twelve 30-day months. The interest hereon and, upon presentation and surrender hereof at the principal office of the agent of the Registrar described below, the principal hereof are payable in lawful money of the United States of America by check or draft drawn on Northland Trust Services, Inc., Minneapolis, Minnesota, as Bond registrar, transfer agent and paying agent, or its successor designated under the Resolution described herein (the “Registrar”) or other agreed-upon means of payment by the Registrar or its designated successor. For the prompt and full payment of such principal and interest as the same respectively come due, the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged.

This Bond is one of an issue (the “Bonds”) in the aggregate principal amount of \$2,815,000 issued pursuant to a resolution adopted by the City Council on July 21, 2015 (the “Resolution”), to finance various street improvement projects in the City, improvements to the City’s water and sewer systems, and various items of capital equipment and to fund the costs of issuance of the Bonds. This Bond issued by authority of and in strict accordance with the provisions of the Constitution and laws of the State of Minnesota thereunto enabling, including Minnesota Statutes, Section 412.301 and Chapters 429, 444 and 475. For the full and prompt payment of the principal of and interest on the Bonds as the same become due, the full faith, credit and taxing power of the City have been and are hereby irrevocably pledged. The Bonds are issuable only in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, of single maturities.

Bonds maturing on January 15, 2024 and later years shall be subject to redemption and prepayment at the option of the City, in whole or in part, in such order of maturity dates as the City may select and, within a maturity, by lot as selected by the Registrar (or, if applicable, by the Bond depository in accordance with its customary procedures) in multiples of \$5,000, on January 15, 2023, and on any date thereafter, at a price equal to the principal amount thereof and accrued interest to the date of redemption. The City shall cause notice of the call for redemption thereof to be published if and to the extent required by law, and at least thirty (30) and not more than sixty (60) days prior to the designated redemption date, shall cause notice of call for redemption to be mailed, by first class mail (or, if applicable, provided in accordance with the operational arrangements of the securities depository), to the registered holders of any Bonds, at the holders’ addresses as they appear on the Bond register maintained by the Bond Registrar, but no defect in or failure to give such mailed notice of redemption shall affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the owner without charge, representing the remaining principal amount outstanding.

[COMPLETE THE FOLLOWING PROVISIONS IF THERE ARE TERM BONDS –
ADD ADDITIONAL PROVISIONS IF THERE ARE MORE THAN TWO TERM BONDS]

[Bonds maturing in the years 20____ and 20____ shall be subject to mandatory redemption, at a redemption price equal to their principal amount plus interest accrued thereon to the redemption date, without premium, on January 15 in each of the years shown below, in an amount equal to the following principal amounts:

<u>Term Bonds Maturing in 20</u>		<u>Term Bonds Maturing in 20</u>	
<u>Sinking Fund Payment Date</u>	<u>Aggregate Principal Amount</u>	<u>Sinking Fund Payment Date</u>	<u>Aggregate Principal Amount</u>
(final maturity)		(final maturity)	

Notice of redemption shall be given as provided in the preceding paragraph.]

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Registrar, by the registered owner hereof in person or by the owner’s attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or the owner’s attorney, and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the designated transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date; subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to any such transfer or exchange.

The Bonds have been designated by the City as “qualified tax-exempt obligations” pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

The City and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment as herein provided and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the City.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done, do exist, have happened and have been performed as so required; that, prior to the issuance hereof, the City Council has by the Resolution covenanted and agreed to collect and apply to payment of the bonds ad valorem taxes levied on all taxable property in the City, certain net revenues of its municipal water and sewer systems and special assessments upon property specially benefited by the local improvements financed with the Bonds, which taxes, revenues and assessments are estimated to be collectible in years and amounts sufficient to produce sums

not less than 5% in excess of the principal of and interest on the Bonds when due, and has appropriated such assessments, revenues and taxes to its General Obligation Bonds, Series 2015 Bond Fund for the payment of such principal and interest; that if necessary for the payment of such principal and interest, additional ad valorem taxes are required to be levied upon all taxable property in the City, without limitation as to rate or amount; that all proceedings relative to the projects financed by this Bond have been or will be taken according to law and that the issuance of this Bond, together with all other indebtedness of the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the City to exceed any constitutional or statutory limitation of indebtedness.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been executed by the Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City has caused this Bond to be executed on its behalf by the facsimile signatures of its Mayor and City Finance Director and has caused this Bond to be dated as of the date set forth below.

CITY OF LAKE ELMO, MINNESOTA

(facsimile signature – City Finance Director)

(facsimile signature – Mayor)

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned within.

Date of Authentication: _____

NORTHLAND TRUST SERVICES, INC.,
as Registrar

By _____
Authorized Representative

EXHIBIT B

Special Assessments and Tax Levies

WASHINGTON COUNTY AUDITOR'S
CERTIFICATE AS TO REGISTRATION AND TAX LEVY

The undersigned, being the duly qualified and acting County Auditor of Washington County, Minnesota, hereby certifies that there has been filed in my office a certified copy of a resolution duly adopted on July 21, 2015, by the City Council of Lake Elmo, Minnesota, setting forth the form and details of an issue of \$2,815,000 General Obligation Bonds, Series 2015A dated the date of issuance thereof.

I further certify that the issue has been entered on my bond register and the taxes required by law have been levied as required by Minnesota Statutes, Sections 475.61 to 475.63.

WITNESS my hand and official seal on the ____ day of _____, 2015.

Washington County Auditor

(SEAL)



MAYOR & COUNCIL COMMUNICATION

DATE: July 21, 2015
REGULAR
ITEM # 12

AGENDA ITEM: Stormwater Drainage Improvements – Approve Ditch Cleaning at 8690 and 8702 Ironwood Trail N

SUBMITTED BY: Ryan Stempski, Assistant City Engineer

THROUGH: Julie Johnson, City Clerk

REVIEWED BY: Jack Griffin, City Engineer
Mike Bouthilet, Public Works
Cathy Bendel, Finance Director

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... City Engineer
- Report/Presentation City Engineer
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECOMMENDER: Engineering / Public Works.

FISCAL IMPACT: \$5,962.50.

The City obtained a quote from Miller Excavating, Inc. in the amount of \$5,962.50 to remove sediment that is blocking drainage of the ditch along the property line of 8690 and 8702 Ironwood Trail N. Ditch cleaning/restoration is funded through Surface Water Management Fund.

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to consider approving the ditch cleaning at 8690 and 8702 Ironwood Trail N and awarding a construction contract to Miller Excavating, Inc. in the amount of \$5,962.50 to complete the work. The recommended motion for this action is as follows:

“Move to approve ditch cleaning at 8690 and 8702 Ironwood Trail N and award a construction contract to Miller Excavating, Inc. in the amount of \$5,962.50.”

LEGISLATIVE HISTORY/BACKGROUND INFORMATION:

A culvert under Ironwood Trail N collects drainage from a portion of the Tablyn Park Neighborhood including the public street right-of-way and discharges along the property line of 8690 and 8702 Ironwood Trail N. A 10-foot wide drainage and utility easement exists along this property line to facilitate drainage. Sediment deposit over time has filled in the ditch restricting the intended drainage path and creating standing water within the easement and adjacent properties. The sediment needs to be removed to restore a positive grade. The ditch grading work would consist of approximately 100 feet of sediment removal blending into the existing grades and re-establishing turf in the disturbed area.

Public Works did not have time and equipment available to complete the work and requested Engineering to obtain a contractor for this improvement. Due to the small size of the project it was a challenge to get contractors to provide a quote, therefore only one quote has been obtained. Miller Excavating, Inc. was recently awarded a street reconstruction project in Lake Elmo, therefore they will have crews mobilized in the area and were willing to take on the added work.

Attached are right of entry forms signed by each property owner to allow the work to be completed and restored as necessary to facilitate drainage along their shared property line. Both property owners have requested the work to be completed for several years and are concerned about the standing water along the ditch that is currently blocked by excess sediment. We have detailed the scope of work to be completed in the right of entry forms and have communicated with the property owners.

RECOMMENDATION:

Staff is recommending that the City Council approve the ditch cleaning at 8690 and 8702 Ironwood Trail N and award a construction contract to Miller Excavating, Inc. in the amount of \$5,962.50 to complete the work. The recommended motion for this action is as follows:

“Move to approve ditch cleaning at 8690 and 8702 Ironwood Trail N and award a construction contract to Miller Excavating, Inc. in the amount of \$5,962.50.”

ATTACHMENT(S):

1. Construction Contract with Miller Excavating, Inc.
2. Waiver of Trespass / Right of Entry Agreement for 8690 Ironwood Trail N.
3. Waiver of Trespass / Right of Entry Agreement for 8702 Ironwood Trail N.

**CONSTRUCTION CONTRACT FOR DITCH
CLEANING AT 8690 & 8702 IRONWOOD TRAIL N
LAKE ELMO, MINNESOTA**

This Contract, made this _____ day of _____ **2015**, by the City of Lake Elmo, Minnesota (hereinafter called the "Owner") and Miller Excavating, Inc. (hereinafter called the "Contractor").

WITNESSETH that the parties hereto agree as follows:

The Contractor shall provide all labor, services, materials, equipment and machinery, transportation, tools, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals, including profit and overhead, necessary for the performance, testing, start-up, and completion of the work as described herein:

DESCRIPTION OF WORK:

The Contractor shall remove sediment within the existing drainage ditch along 8690 and 8702 Ironwood Trail N to provide a minimum 2% slope from the existing 24-inch culvert end to daylight (approximately 100 feet in length). The Contractor shall match into the existing side slopes to create a 4:1 slope that can be mowed. The existing riprap in the ditch bottom shall be salvaged and placed at the 24-inch outlet for energy dissipation. Geotextile fabric and additional class III riprap is to be furnished and installed as necessary to finish the culvert end. A minimum of 4 inches of topsoil, seed and wood fiber blanket must be provided to establish turf for all disturbed areas.

All work shall be completed within the specified time frame and under the terms and conditions provided within this Construction Contract, and in accordance with the "General Conditions" shown in this contract. The contractor shall complete the proposed work by **AUGUST 21, 2015**.

The Owner will make payment for the whole contract on a lump sum basis upon acceptance by the Owner of all work required hereunder and in compliance with all the terms and conditions of this contract.

TOTAL AMOUNT: \$5,962.50

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

(Contractor)

(City of Lake Elmo)

GENERAL CONDITIONS

- I. CHANGES IN WORK. - The Owner may at any time, make changes in the drawings and specifications, within the general scope thereof. If such changes cause an increase or decrease in the amount due under this contract or in the time required for its performance, an equitable adjustment will be made, and this contract will be modified accordingly by a "Contract Change Order". No charge for any extra work or material will be allowed unless the same has been ordered on such contract change order by the Owner and the price therefore stated in the order.
- II. INSPECTION OF WORK. - All materials and workmanship will be subject to inspection, examination, and test, by the Owner, who will have the right to reject defective material and workmanship or require its correction.
- III. COMPLETION OF WORK. - If the Contractor refuses or fails to complete the work within the time specified in this contract, or any extension thereof, the Owner may terminate the Contractor's rights to proceed. In such event the Owner may take over the work and prosecute the same to completion by contract or otherwise, and the Contractor will be liable for any excess cost occasioned the Owner thereby; and the Owner may take possession of and utilize in completing the work such materials and equipment as may be on the site of the work and necessary therefore. If the Owner does not terminate the right of the Contract to proceed, the Contractor will continue the work, in which event, actual damages for delay will be impossible to determine, and in lieu thereof, the Contractor may be required to pay to the Owner the sum of **\$100** as liquidated damages for each calendar day of delay, and the Contractor will be liable for the amount thereof: Provided, however, that the right of the Contractor to proceed will not be terminated because of delays in the completion of the completion of the work due to unforeseeable causes beyond the Contractor's control and without Contractor's fault or negligence.
- IV. RELEASES. - Prior to final payment, the Contractor will submit evidence that all payrolls, material bills, and other indebtedness connected with the work have been paid as required by the Owner.
- V. OBLIGATION TO DISCHARGE LIENS. - Acceptance by the Owner of the completed work performed by the Contractor and payment therefore by the Owner will not relieve the Contractor of obligation to the Owner (which obligation is hereby acknowledged) to discharge any and all liens for the benefit of subcontractors, laborers, material-person, or any other persons performing labor upon the work or furnishing material or machinery for the work covered by this contract, which have attached to or may subsequently attach to the property, or interest of the Owner.
- VI. NOTICES AND APPROVAL IN WRITING. - Any notice, consent, or other act to be given or done hereunder will be valid only if in writing.
- VII. CLEANING UP. - The Contractor shall keep the premises free from accumulation of waste material and rubbish and at the completion of the work shall remove from the premises all rubbish, implements and surplus materials.
- VIII. WARRANTY. - Contractor warrants and guarantees that title to all work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens. If within one year after completion of the work, any work is found to be defective, Contractor shall promptly, without cost to the Owner, correct such defective work as approved by the Owner.
- IX. IDEMNIFICATION. - Contractor shall defend and indemnify the city against claims brought or actions filed against the city or any of its officers, employees or agents for property damage, bodily injury or death to third persons, arising out of or relating to contractors work under the contract.
- X. WORKERS' COMPENSATION INSURANCE. - Contractor shall provide a certificate of insurance showing evidence of workers' compensation coverage or provide evidence of qualification as a self-insurer of workers' compensation.
- XI. LIABILITY INSURANCE REQUIREMENTS. - A certificate of insurance acceptable to the City shall be filed with the City prior to the commencement of the work. The certificate and the required insurance policies shall contain a provision that the coverage afforded under the contract will not be canceled or allowed to expire until at least 30 days prior written notice has been given to the city. Contractor shall maintain commercial general liability (CGL) insurance with a limit of not less than \$1,000,000 each occurrence and an aggregate limit of not less than \$2,000,000. The CGL insurance shall cover liability arising from premises, operations, independent contractors, subcontractors, products-completed operations, personal injury and advertising injury, and contractually-assumed liability. The city shall be named as an additional insured under the CGL. Contractor shall maintain automobile liability insurance, and if necessary, umbrella liability insurance with a limit of not less than \$1,000,000 each accident and an aggregate limit of not less than \$2,000,000. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.

City of Lake Elmo

3800 Laverne Ave. N.
Lake Elmo, MN 55042

Phone: 651-770-2537
Fax: 651-777-6530
Cell:
Email: dmcklocker@gmail.com

Project: Drainage Swale
Ironwood Tr N
Lake Elmo, MN

Miller Excavating, Inc

3636 Stagecoach Trail North
Stillwater, MN 55802

Phone: 651-439-1637
Fax: 651-351-7210
Web: www.millerexc.com

Date: July 12, 2015
Estimator: Steve St. Claire

A. SWALE GRADING

ITEM	DESCRIPTION	Est.		Rate	Amount
		Quantity	Unit		
1	Grade Swale from Culvert to Daylight				
2	CL III Rip Rap w/ Geotextile Fabric				
3	Import & Place 4" Topsoil				
4	Seed & Blanket Disturbed Area				
TOTAL A					\$5,962.50

PROJECT NOTES

1. Payment due within 30 days of initial invoice. Balances over 30 days will accrue a 1.5% per month charge.
2. Estimate price valid for 30 days.
3. Swale to be graded about 4 feet wide at bottom
4. Seed & blanket disturbed area during work.

WAIVER OF TRESPASS/RIGHT OF ENTRY

THE UNDERSIGNED, owner, tenant, or contract for deed vendee of certain land in the City of Lake Elmo, who is a person(s) with right to grant entry to the affected property, do(es) hereby consent and grant unto the City of Lake Elmo, its agents and assigns, the right to enter upon and commence construction and all activities required in connection with the removal of sediment within an existing drainage ditch, including grading the ditch to a minimum 2% slope and matching into the existing side slopes and completion of related work over, under, on, and across the property located at:

(8690 Ironwood Trail N) + 8702 Ironwood Trail North

Upon completion of the grading activity, the City, its agents and assigns, will restore the disturbed area.

It is further understood that this Waiver constitutes as a waiver on behalf of the owner or persons of interest in the property to any claim for damages or compensation for the acquisition of temporary easements over the above described property for the purposes of the public improvements herein described by the City of Lake Elmo, its agents and assigns, and by the general contractor.

Dated this 7th day of July, 2015.

Property Owners:

Joseph H. Chalub

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8702 Ironwood Tr N
(8702 Ironwood Trail N)

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Dated this 7th day of July, 2015.

Property Owners:

Linda M. Storkerich