



MAYOR & COUNCIL COMMUNICATION

DATE: 1/5/16
REGULAR
ITEM 13

AGENDA ITEM: Gateway Corridor Route and Station Locations in Lake Elmo

SUBMITTED BY: Clark Schroeder

THROUGH: Jan Lucke

REVIEWED BY: Clark Schroeder

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Jan Lucke, Washington County
- Report/Presentation.....Jan Lucke, Washington County
- Questions from Council to Staff Mayor Facilitates
- Discussion..... Mayor & City Council

POLICY RECCOMENDER:

Staff

POLICY BEING SET:

Three possible options have been identified as a potential route for the Gateway Corridor between Lake Elmo Avenue and Manning Avenue. The action is to identify the preferred route between Lake Elmo Avenue and Manning Avenue.

FISCAL IMPACT:

None. The City of Lake Elmo is not committing to any fiscal responsibilities for the proposed action, beyond the already approved money for a market analysis of the I-94 corridor.

SUMMARY AND ACTION REQUESTED:

Three options have been identified as a potential route for the Gateway Corridor between Lake Elmo Avenue and Manning Avenue. The action is to identify the preferred route among the three options in the form of a resolution of support (attached). Details on the process and technical considerations are included in the following pages. The action is NOT a vote to construct the corridor, rather to amend the locally preferred alternative (LPA) that is already in the Metropolitan Council Transportation Policy Plan.

The LPA action is a statement of support from each community to confirm they are in agreement with the proposed route and type of transit. A statement of support means that each community is willing to assess in more detail what transit could mean for their community. This includes investigating scenarios for land uses and development around each transit station.

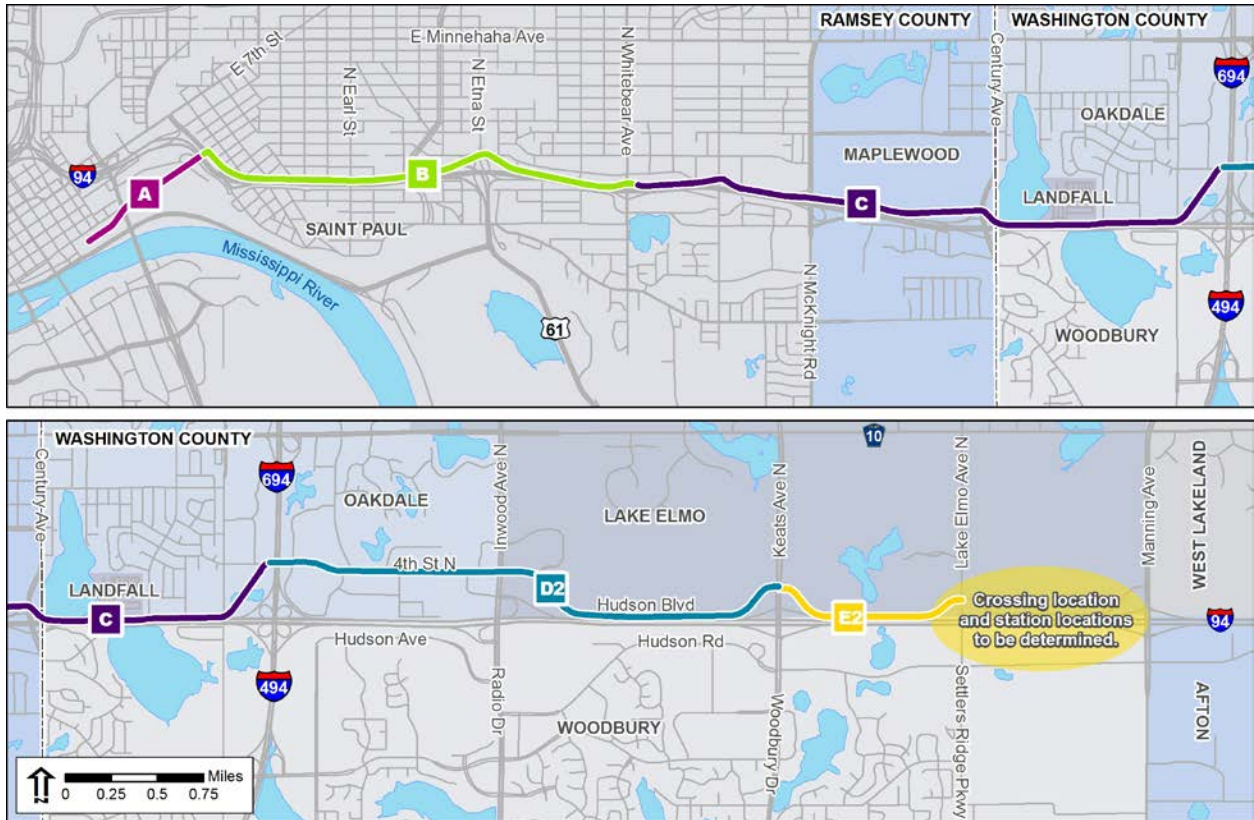
Lake Elmo will have access to support in developing such scenarios. The Gateway Corridor was recent awarded a \$1 million grant from the Federal Transit Administration (FTA) Transit Oriented Development Pilot Program allowing for more support and collaboration on decisions that will be made related to the transit stations in 2016 and 2017. In addition, the Gateway Corridor is fortunate to be undertaking this process with the support of East Metro Strong, a public-private partnership of businesses, cities, and counties working together to bring more and better transit investment to the East Metro. Lake Elmo is currently engaged in an East Metro Strong-supported study; East Metro Strong will provide an update on this work at the January 5, 2016, City Council meeting.

If approved by all cities and counties in the corridor, the complete LPA will be included as one of the routes in the Gateway Corridor Draft Environmental Impact Statement submitted to the Federal Transit Administration in February 2016 for technical and legal review and released for public comment in summer 2016. The preferred alignment would also be included in the next phase of study to take place over a 24-month period between mid-2016 to mid-2018 that would bring the project from its current 1% design to approximately 30% design and include robust station area planning.

Background

In September 2014, based on technical, policy and community input, the Locally Preferred Alternative (LPA) was identified for the Gateway Corridor project. The Gateway Corridor will provide for a dedicated guideway for Bus Rapid Transit (BRT) from Union Depot in Saint Paul to Manning Avenue generally along the I-94 corridor. The far eastern portion of the LPA was depicted as a 'yellow bubble' generally on the Hudson Road-Hudson Boulevard alignment that crosses to the south side of I-94 somewhere between Lake Elmo Avenue/Settlers Ridge Parkway and Manning Avenue. The yellow bubble area is called the E-Segment. This route option was not finalized due in part to the fact that Metro Transit had not yet determined the location of an express bus park-and-ride facility that is being planned in the vicinity of Manning Avenue and I-94. Local partners also wanted to have further conversations with elected officials, property owners, and stakeholders before this section was finalized.

All Gateway Corridor cities and counties, including Lake Elmo, adopted a resolution for the LPA with a yellow bubble generally on the Hudson Road-Hudson Boulevard alignment in fall 2014 (Attachment 1). This same LPA was adopted by the Metropolitan Council as part of the 2040 Transportation Policy Plan in February 2015, with the expectation that the route in Segment E would be further analyzed and refined over the next year. A map of the LPA that was adopted in fall 2014 is below.



Approved Locally Preferred Alternative (Fall 2014)

Technical Analysis

Over the past year, additional analysis and coordination has taken place so the preferred route could be refined to determine a more defined route between Lake Elmo Avenue/Settlers Ridge Parkway and Manning Avenue. Key factors considered in the refined LPA include cost, flexibility, ridership, economic development potential, and operational efficiency/system integration. Several proposed routes were considered by the Technical Advisory Committee (TAC), Community Advisory Committee (CAC), and Policy Advisory Committee (PAC) taking these factors into consideration. The following options were considered for inclusion in the refined LPA process. You will note that the station locations remain constant in each option.

Option A

The route crosses I-94 on the existing Lake Elmo Avenue/Settlers Ridge Parkway overpass in mixed traffic, where there is a proposed station location in Woodbury. The route then heads east on Hudson Road to Manning Avenue. The route goes north on Manning Avenue in mixed traffic to Hudson Boulevard to the end/start of the line station location in Lake Elmo. This station location also coincides with the proposed location of the Metro Transit express bus park-and-ride.

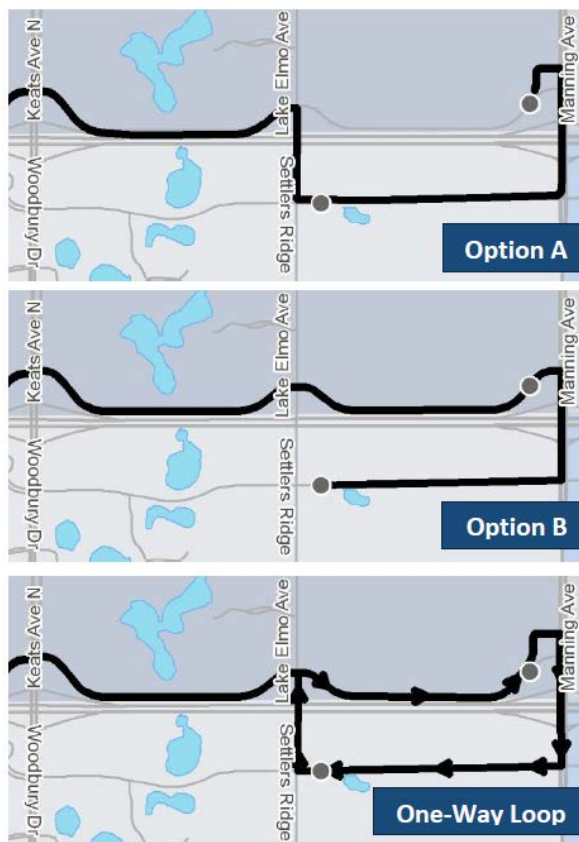
Option B

The route stays north of I-94 in Lake Elmo along Hudson Boulevard to Manning Avenue, where there will be a station location (as well as the express bus park and ride). It then travels south on Manning Avenue in mixed traffic, then west along Hudson Road to the end/start of the line station location near Settlers Ridge Parkway in Woodbury.

Option C

This route involves a one-way loop whereby the route stays north along Hudson Boulevard in Lake Elmo to Manning Avenue, then heads south into Woodbury on Manning Avenue in mixed traffic. It then heads west on Hudson Road to Settlers Ridge Parkway, where there is a station location. It then goes north across the freeway into Lake Elmo turning east onto Hudson Boulevard, to the end/start of the line station location near Manning Avenue.

Option C was eliminated from an operational perspective, as loops have been proven to cause confusion to riders and Metro Transit has refused to accept any additional loop routes given these challenges.



Options A and B were compared against each other using the following metrics: lowest travel time to Union Depot, lowest cost for Segment E, highest ridership gain, and overall transit rider experience.

Based on the analysis and the metrics noted above, Option A was selected as the preferred alignment for the purpose of holding the public hearing and receiving comments. Option A had the lowest travel time from Union Depot, the lowest relative cost, the highest ridership gain, and a better overall transit rider experience. This option was recommended by the CAC, TAC and the PAC for public comment.

Details of the analysis are in Attachment 2 and will be included in the presentation to the Council.

Public Input and the Locally Preferred Alternative (LPA) Approval Process

The PAC and Gateway Corridor Commission recommended the refined LPA be released for public comment on August 13, 2015. At the public hearing on September 10, 2015, held at Woodbury City Hall, the public was provided an opportunity to comment on the proposed route. Additional comments were accepted at an open house in Lake Elmo on August 19, 2015 and via email or mail through September 24, 2015. The cities of Lake Elmo and Woodbury (note: Woodbury acted on 12/9/15) and the Washington County Regional Railroad Authority are now asked to provide resolutions of support for the refined LPA, so that it can be forwarded to the Metropolitan Council for adoption into the Transportation Policy Plan. All comments received can be found here:

<http://thegatewaycorridor.com/documents/2015/2015%20LPA%20Comments.pdf>

After the Gateway Corridor Commission, Cities of Lake Elmo and Woodbury, and Washington County pass resolutions to confirm the LPA the information will then be sent to the Metropolitan Council and an administrative amendment will be done on the TPP.

Additional Considerations for the Action

What a “yes” vote means:

- Does not come with an implicit or explicit expectation for future action.
- Continues down a path of providing a transportation alternative for those that live in Lake Elmo and cannot drive, including seniors and persons with disabilities, or choose not to drive.
- Allows Lake Elmo to continue to explore a range of residential and commercial development opportunities/visions in the Old Village and along I-94 and test whether the market place can deliver those opportunities/visions with or without a transit investment.
- Distinguishes Lake Elmo from other communities that are trying to attract high quality commercial development.
- Provides more options to work with the residential and commercial market and through those options have more control over Lake Elmo’s destiny
- Includes Lake Elmo in the Draft Environmental Impact Statement to be submitted to the Federal Transit Administration in February 2016 for technical and legal review and released for public comment in Summer 2016. Also includes Lake Elmo in the next phase of study to take place over a 24-month period between mid-2016 to mid-2018 to bring the project from its current 1% design to approximately 30% design.
- Does not change the accepted Metropolitan Council residential forecast of 18,200 residents, 7,100 households, and 3,800 jobs in 2040. The total of existing and approved but not yet constructed households are below the forecasts, as are residents and jobs. Taking into account the roughly 1850 housing units approved by the city there are roughly 2200 more housing units that would need to be planned for by 2040. These housing units will be planned in both sewer as well as non-sewered areas of the city and will need to be accounted for in the 2018 comp plan. The housing units which will be planned for sewer areas of the city will need to have a density of at least 3 units per acre on average. The transit area planning densities would need to meet the Met Council expected densities; this density could be made up of employment, students, residential or a combination of any of them. Finally, the Met Council expects the city to plan for sufficient land to accommodate forecasted growth and land to meet the Cities affordable housing allocation through 2040.

What a “no” vote means:

- Removes Lake Elmo from consideration of all day bus rapid transit service and forecloses on the exploration of the benefits and protections bus rapid transit service may

bring Lake Elmo.

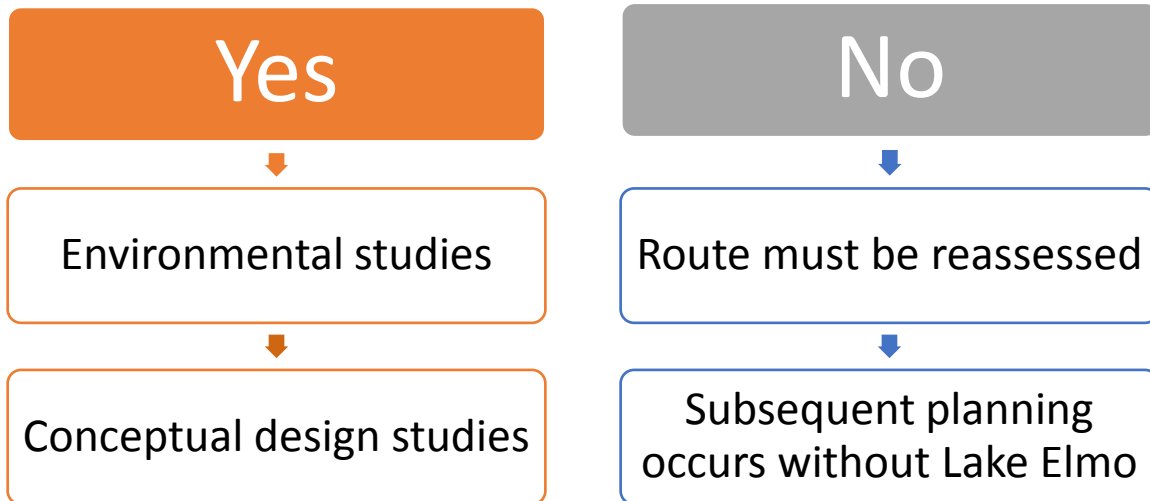
- Because the East Metro Strong-supported study is to help study issues related to transit, stopping consideration of transit would also result in termination of the contract with East Metro Strong and payment of 20% of costs incurred to date.

The discussions held with the City as part of the East Metro Strong-supported study raised—and began exploring—a variety of issues that will affect Lake Elmo’s future. The loss of the planned work supported by East Metro Strong and the loss of access to the support available through the FTA grant together would mean the loss of substantial resources which would help the Lake Elmo understand these issues and shape its response to them.

- Delays submittal of the Draft Environmental Impact Statement to the Federal Transit Administration while the Gateway Corridor takes time to establish a route and termini that the remaining local partners support.

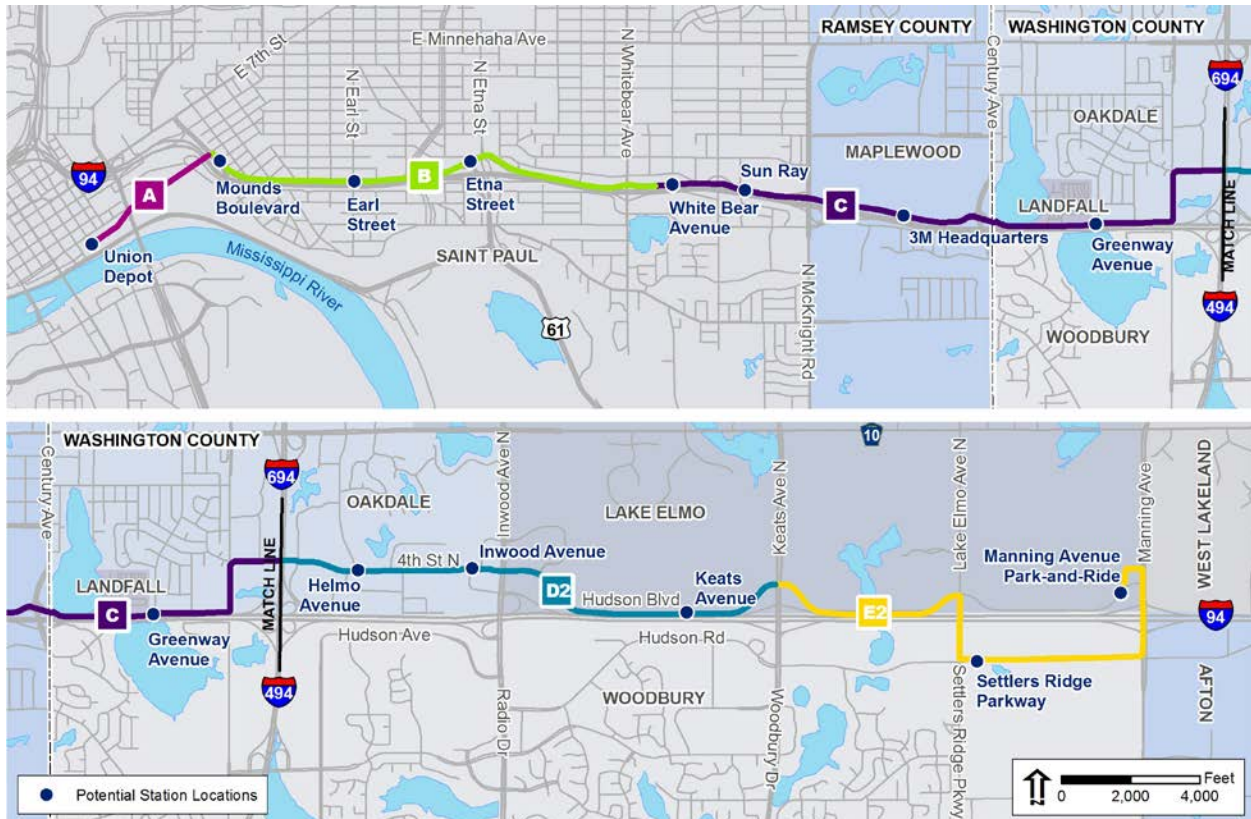
Summary: Yes and No

Voting yes or no on studying the “E2” Gateway Corridor rapid transit alignment



RECOMMENDATION:

A resolution transmitting the city of Lake Elmo’s support for the locally preferred alternative – segment E alignment refinement in Lake Elmo and Woodbury to the Gateway Corridor Commission, WCRRA and Metropolitan Council.



Updated Locally Preferred Alternative (Recommended by PAC November 2015)

ATTACHMENTS:

1. City of Lake Elmo Resolution No. 2014-71 Support for the Locally Preferred Alternative
2. Analysis for route options in Lake Elmo and Woodbury
3. Resolution 2016-2 Support for LPA -E2

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

RESOLUTION 2016-02

**A RESOLUTION TRANSMITTING THE CITY OF LAKE ELMO'S SUPPORT FOR THE LOCALLY PREFERRED ALTERNATIVE
SEGMENT E ALIGNMENT REFINEMENT IN LAKE ELMO AND WOODBURY TO THE GATEWAY CORRIDOR
COMMISSION, WCRRRA AND METROPOLITAN COUNCIL**

WHEREAS, the Gateway Corridor is a proposed project that will provide for transit infrastructure improvements in the eastern portion of the Twin Cities, and;

WHEREAS, the Gateway Corridor is located in Ramsey and Washington Counties, Minnesota, extending approximately 12 miles, and connecting downtown Saint Paul with its East Side neighborhoods and the suburbs of Maplewood, Landfall, Oakdale, Lake Elmo, and Woodbury, and;

WHEREAS, the Gateway Corridor Project received the important Presidential designation as a Federal Infrastructure Permitting Dashboard Project, and;

WHEREAS, resolutions of support for BRT Alternative A-B-C-D2-E2 were provided by the PAC, GCC, each of the Gateway Corridor cities, and Ramsey and Washington County Regional Railroad Authorities in 2014, and;

WHEREAS, the Gateway Corridor (Gold Line) was officially included in the Metropolitan Council's 2040 Transportation Policy Plan, and;

WHEREAS, the LPA alignment from Lake Elmo Avenue/Settlers Ridge Parkway to Manning Avenue required further refinement to determine the crossing location of I-94, and;

WHEREAS, several alignment and station location configurations were prepared and assessed from Lake Elmo Avenue to Manning Avenue, and;

WHEREAS, the TAC, in a technical advisory role to the PAC, provided the following input on the LPA Alignment refinement between Lake Elmo Avenue/Settlers Ridge Parkway and Manning Avenue:

- BRT Alignment A-B-C- D2-E2, which on the east end begins and ends at the Manning Avenue park and ride in Lake Elmo, travels on Manning Avenue to Hudson Road, proceeding on Hudson Road to Settlers Ridge Parkway, with a station in the vicinity of Settlers Ridge, then proceeding north on Settlers Ridge to Hudson Boulevard in Lake Elmo. The LPA alignment from this point west remains unchanged.

WHEREAS, a public hearing was held on September 10, 2015 in Woodbury on the preliminary LPA alignment refinement, at which time four comments were received, and;

WHEREAS, the comment period on the LPA refinement remained open through September 24, 2015, during which time 26 comments were received

NOW THEREFORE BE IT RESOLVED that the City of Lake Elmo has taken into consideration the technical information on each of the alignment options for the segment of the LPA between Lake Elmo Avenue/Settlers Ridge and Manning Avenue, along with the TAC and public input and identifies BRT Alternative A-B-C-D2-E2 (*see map on page 3*) which on the east end begins and ends at the proposed Manning Avenue park and ride in Lake Elmo, travels on Manning Avenue to Hudson Road, proceeding on Hudson Road or in the vicinity of Hudson Road to Settlers Ridge Parkway, with a station in the vicinity of Settlers Ridge, then proceeding north on Settlers Ridge to Hudson Boulevard in Lake Elmo as the refined LPA alignment in Lake Elmo and Woodbury. The LPA alignment from this point west remains unchanged, and;

BE IT FURTHER RESOLVED that the City of Lake Elmo commits to working with the Washington County Regional Railroad Authority (WCRRRA), on behalf of the Gateway Corridor Commission, and the Metropolitan

Council to address the comments submitted by agencies, adjacent communities, the business sector, and the following areas of particular importance to the City of Lake Elmo

1. . The ownership and maintenance responsibilities of Hudson Boulevard were recently turned back to the City of Lake Elmo from MnDOT. If Hudson Boulevard is expanded to accommodate a BRT guideway or additional travel lanes for the exclusive use of buses it may increase the demands on the City to properly maintain the roadway. The City of Lake Elmo requests analysis of appropriate jurisdictional control over Hudson Boulevard and robust consideration of a possible turn back to Washington County.
2. Maintaining access for current land owners along Hudson Boulevard and planning for access for future development needs to be part of a functional ingress –egress policy. The City of Lake Elmo requests the development of an access management plan for Hudson Blvd. that is supported by property owners, the City of Lake Elmo and Washington County.
3. The City of Lake Elmo supports an easterly station in the proximity of the NW corner of Manning Avenue and I-94 to support economic development, including job creation, tax value, and traffic efficiency associated with the creation of a business park as guided by the City's Comprehensive Plan. Incorporating a Gateway station in Lake Elmo will require station area planning resources to ensure that Lake Elmo is maximizing economic development potential and ridership. The City Lake Elmo requests thorough analysis of economic development potential to assist in guiding the placement of Gateway stations in the corridor segment from Keats Avenue to Manning Avenue as well as planning resources from the Gateway Corridor Commission and Washington County to assist with transit oriented development/station area planning.
4. Lake Elmo Avenue serves as an important access point to downtown Lake Elmo. Due to the proximity of the road to both the Lake and developed neighborhoods, future expansion is constrained through the downtown area and the roadway cannot functionally handle additional growth in the regional movement of traffic beyond what is currently forecasted. The City of Lake Elmo recognizes that while the Gateway Corridor project will likely not preclude an interchange in this location, it would like to take this opportunity to state to Washington County, the Minnesota Department of Transportation and the Federal Highways Administration that an interchange is NOT desired in this location.
5. Safety and security at BRT stations for transit patrons and surrounding businesses and neighborhoods is very important to Lake Elmo. BRT Stations should be designed to be safe and secure environments that incorporate design elements to deter crime such as good lighting, visibility, security monitoring. The City of Lake Elmo requests a safety and security plan to ensure that adequate resources are provided at a regional and local level to effectively address safety and security concerns at Gateway Corridor facilities.

NOTE: THE PLACEHOLDER FOR CITY OF LAKE ELMO TO IDENTIFY PARTICULAR AREAS OF IMPORTANCE IN RESOLUTION IS OPTIONAL. CITY SPECIFIC ITEMS COULD ALSO BE ADDRESSED THROUGH SEPARATE TRANSMITTAL.

BE IT FURTHER RESOLVED that this resolution adopted by the City of Lake Elmo be forwarded to the Gateway Corridor Commission, WCRRA and the Metropolitan Council for their consideration.

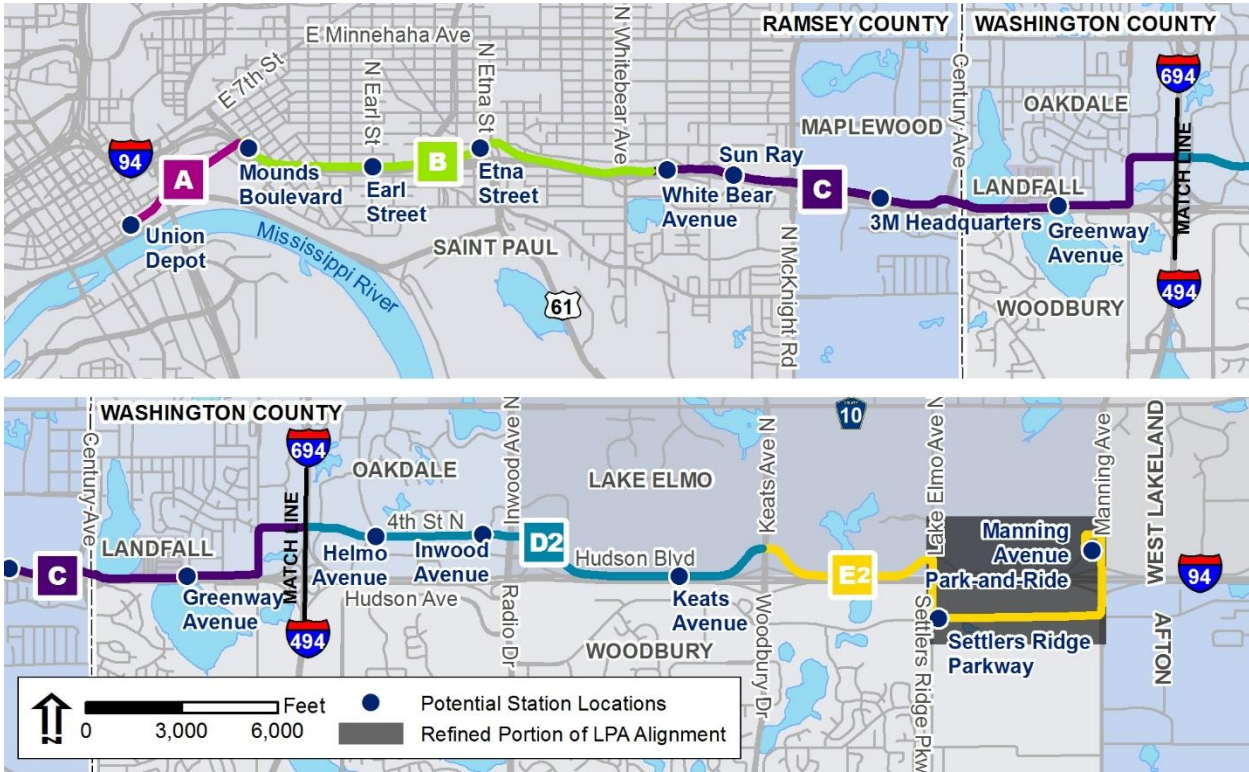
Date: _____

Date: _____

Attest City Clerk

Mayor _____

Refined Locally Preferred Alternative with E-2 end point



DRAFT

Why is the LPA being refined?

In September 2014 based on technical, policy, and community input, the Locally Preferred Alternative (LPA) was identified for the Gateway Corridor project. This alternative was described as bus rapid transit (BRT) generally on the Hudson Road-Hudson Boulevard alignment that crosses to the south side of I-94 between approximately Lake Elmo Avenue and Manning Avenue. The LPA was adopted by the Metropolitan Council as part of the *2040 Transportation Policy Plan* in January 2015.

In order to determine the route between Lake Elmo Avenue/Settlers Ridge Parkway and Manning Avenue, additional analysis and coordination has taken place.

What were the key factors in defining the refined LPA?



Cost



Economic development potential



Flexibility



Ridership



Operational efficiency/
system integration

What is the refined LPA alignment?

Multiple routes were studied (see back of handout) and community, technical, and policy input was collected. Based on the information gathered to date, the Policy Advisory Committee made a draft recommendation for public comment that Option A should be included as part of the refined LPA alignment. Option A has the fastest travel time, lowest cost, and highest ridership out of the routes studied.

The refined LPA route is shown on the back of this handout. Station locations are included as reference and are not adopted as part of the LPA.

The LPA refinement is limited to the proposed route from Lake Elmo Avenue to Manning Avenue.

What is the LPA and why is it important?

The Locally Preferred Alternative (LPA) is the transitway alternative that the Cities and Counties in the corridor prefer and expect to be competitive and achieve support at the federal level.

The LPA is a general description of the type of transit that will be used (mode) and the location (route). The LPA definition is general; design specifics and definition of additional elements of the project, including station locations, are decided during subsequent engineering and planning efforts.

What are the next steps?

The Gateway Corridor Policy Advisory Committee (PAC) and Gateway Corridor Commission (GCC) recommended the refined LPA for public comment on August 13, 2015. At the public hearing on September 10, 2015, the public will be provided an opportunity to comment on the refined route. Comments will also be accepted via phone, email, or mail through September 24, 2015 (see contact information below). Based on the input received, the PAC and GCC will make a final recommendation at their October 2015 meetings.

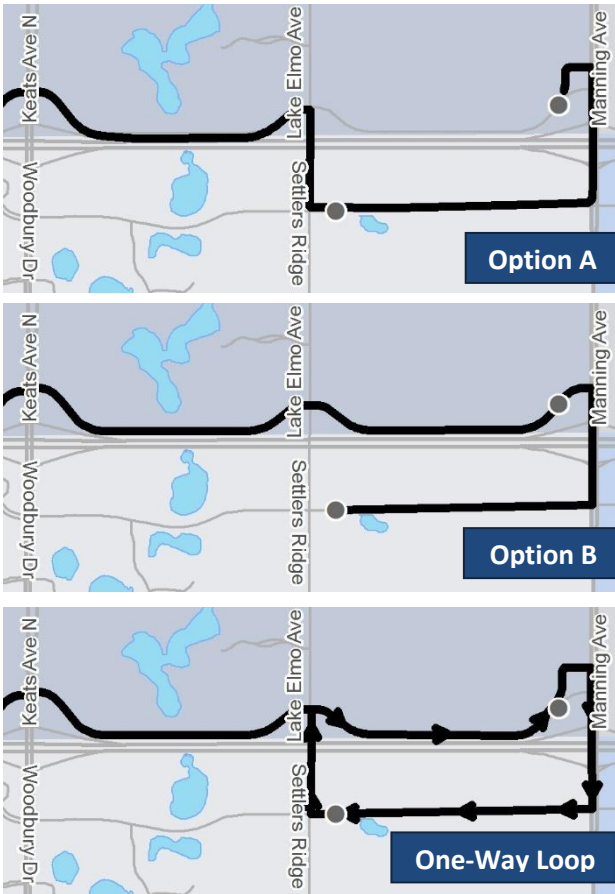
Contact Information

If you have questions or would like to submit a comment on the refined LPA, please contact:

Lyssa Leitner, Senior Planner
11660 Myeron Road North
Stillwater, MN 55082
651-430-4300

gatewaycorridor@co.washington.mn.us

Routes Considered Between Lake Elmo Avenue/Settlers Ridge Parkway and Manning Avenue



Metric	Option A	Option B	One-Way Loop
Lowest Travel Time¹	33.2 min ★	33.5 min	--
Lowest Cost²	\$16.7 million ★	\$23.5 million	--
Highest Ridership Gain	275 riders ★	225 riders	--
Overall Transit Rider Experience	Stops at future express bus park-and-ride at Manning Avenue in Lake Elmo ★	Stops at future express bus park-and-ride at Manning Avenue in Lake Elmo but would backtrack	Loops have been proven to cause confusion for riders
Supported by Technical, Policy, and Community Advisory Committees	Recommended for refined LPA ★	Not recommended for refined LPA	Not recommended for refined LPA

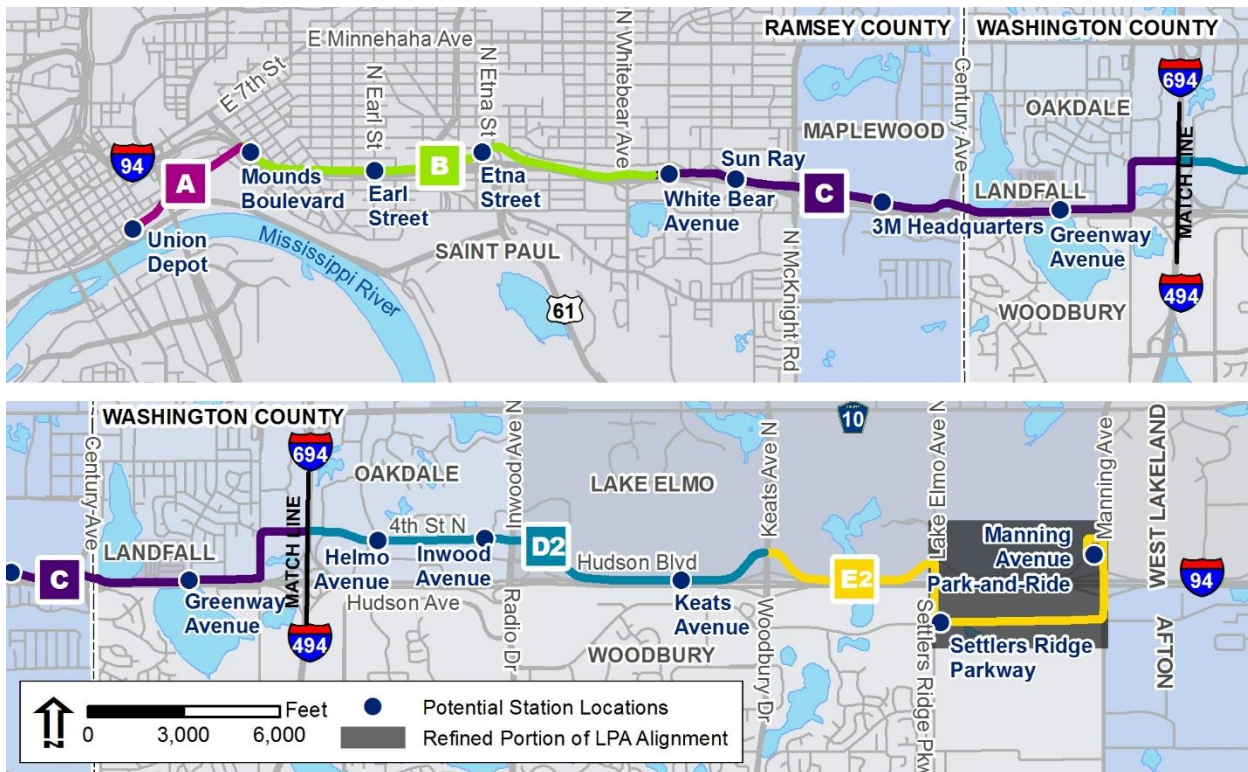
¹ Travel time

to Union Depot

² Cost

represents LPA refinement area only; does not add to overall project cost

Refined Locally Preferred Alternative



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

RESOLUTION NO. 2014-71

A RESOLUTION TRANSMITTING THE CITY OF LAKE ELMO'S SUPPORT OF THE LOCALLY PREFERRED ALTERNATIVE (LPA) TO THE RCRRA, WCRRA, and METROPOLITAN COUNCIL

WHEREAS, the Gateway Corridor is a proposed project that will provide for transit infrastructure improvements in the eastern portion of the Twin Cities, and;

WHEREAS, the purpose of the project is to provide transit service to meet the existing and long-term regional mobility and local accessibility needs for businesses and the traveling public within the project area by providing all day bi-directional station-to-station service that compliments existing and planned express bus service in the corridor, and;

WHEREAS, the Gateway Corridor is located in Ramsey and Washington Counties, Minnesota, extending approximately 12 miles, and connecting downtown Saint Paul with its East Side neighborhoods and the suburbs of Maplewood, Landfall, Oakdale, Lake Elmo, and Woodbury, and;

WHEREAS, the Gateway Corridor Commission (GCC), in partnership with the Metropolitan Council and other project stakeholders, completed the Gateway Corridor Alternatives Analysis (AA) Study that in addition to the No-Build alternative recommended one bus rapid transit (BRT) and one light rail transit (LRT) alternative be advanced for further study in the federal and state environmental review process, and;

WHEREAS, the Federal Transit Administration (FTA); the Washington County Regional Railroad Authority (WCRRA), serving on behalf of the GCC; and the Metropolitan Council have initiated the environmental review process for the Gateway Corridor project, with FTA designated as the lead federal agency for this project, and;

WHEREAS, the Gateway Corridor project recently received the important Presidential designation as a Federal Infrastructure Permitting Dashboard Project, and;

WHEREAS, the Gateway Corridor project recently completed the Scoping phase of the environmental process, which resulted with the Policy Advisory Committee (PAC) and the GCC recommending further study of the No-Build alternative, four BRT alternatives operating within a dedicated Guideway (A-B-C-D1-E1, A-B-C-D2-E1, A-B-C-D2-E2, A-B-C-D2-E3) and a managed lane alternative in the Draft Environmental Impact Statement (EIS) at the request of the FTA and Federal Highway Administration (FHWA), and;

WHEREAS, the BRT alignments that advance into the Draft EIS will be further defined and evaluated to minimize impacts to surrounding properties and the I-94 corridor which may include operating in existing lanes with mixed traffic at pinch points where right-of-way is constrained, enhance economic development potential, and reduce capital costs while providing required operating efficiency, with attention to mobility options for environmental justice populations, and;

WHEREAS, through the Scoping process, the PAC and the GCC recommended that the LRT alternative be eliminated from further study due to its higher costs while generating a similar ridership, and;

WHEREAS, the identification of a Locally Preferred Alternative (LPA) is a critical first step in pursuing federal funding for the Gateway Corridor project, and;

WHEREAS, the adoption of the LPA into the Metropolitan Council's Transportation Policy Plan will conclude the FTA Alternatives Analysis process, and;

WHEREAS, the LPA will be one of the Build alternatives identified and studied in the Draft EIS, and;

WHEREAS, the LPA includes the definition of the Gateway Corridor mode and a conceptual alignment which can be refined through further engineering efforts, and;

WHEREAS, the LPA selection process does not replace or override the requirement to fully examine alternatives and determine the adverse impacts that must be avoided or mitigated under the federal and state environmental review process, and;

WHEREAS, the comments submitted by agencies, the business sector, and the public during the Scoping phase, as well as the additional comments received from adjacent communities since the Scoping phase, will be addressed accordingly through the Draft EIS process, and;

WHEREAS, the PAC and GCC each passed resolutions on July 24, 2014 recommending BRT Alternative A-B-C-D2-E2 (*see attached figure*) as the proposed LPA for review at the August 7 PAC sponsored LPA public hearing and inclusion in the Metropolitan Council's Draft 2040 Transportation Policy Plan, and;

WHEREAS, the Gateway Corridor PAC/GCC held a public hearing on August 7, 2014 as part of the LPA decision making process. A total of 35 comments were received through the proposed LPA review process, and;

WHEREAS, the Cities will be working collaboratively and with support from the GCC to complete a market analysis and station area plans for the areas around the BRT Guideway stations as a part of the Draft EIS process, and;

NOW THEREFORE BE IT RESOLVED that the City of Lake Elmo supports the LPA recommendation of the PAC and GCC and identifies the dedicated BRT alternative generally on the Hudson Road – Hudson Boulevard alignment that crosses to the south side of I-94 between approximately Lake Elmo Avenue and Manning Avenue is the Locally Preferred Alternative for the Gateway Corridor project (*see attached figure*).

BE IT FURTHER RESOLVED that the City of Lake Elmo commits to undertaking and developing station area plans with the support of the GCC for the proposed BRT guideway station areas within its jurisdiction based on the results of a market analysis, community input, and Metropolitan Council guidelines and expectations for development density, level of activity, and design.

BE IT FURTHER RESOLVED that through the Draft EIS process the PAC and the GCC will continue to evaluate and focus on transit service connections to the dedicated BRT system (A-B-C-D2-E2), including an efficient feeder bus network, as well as the number and location of stations throughout the Gateway Corridor to maximize service, accessibility, and surrounding economic development opportunities, while minimizing impacts.

BE IT FURTHER RESOLVED that the City of Lake Elmo commits to working with the Washington County Regional Railroad Authority, on behalf of the Gateway Corridor Commission, and the Metropolitan Council to address the comments submitted by agencies, adjacent communities, the business sector, and the public during the Scoping phase, as well as additional comments received during the development of the LPA, through the Draft EIS process, and the following areas of particular importance to the City of Lake Elmo.

1. The ownership and maintenance responsibilities of Hudson Boulevard were recently turned back to the City of Lake Elmo from MnDOT. If Hudson Boulevard is expanded to accommodate a BRT guideway or additional travel lanes for the exclusive use of buses it may increase the demands on the City to properly maintain the roadway. **The City of Lake Elmo requests analysis of appropriate jurisdictional control over Hudson Boulevard and robust consideration of a possible turn back to Washington County.**
2. Maintaining access for current land owners along Hudson Boulevard and planning for access for future development needs to be part of a functional ingress – egress policy. **The City of Lake Elmo requests the development of an access management plan for Hudson Blvd. that is supported by property owners, the City of Lake Elmo and Washington County.**
3. The City of Lake Elmo supports an easterly station in the proximity of the NW corner of Manning Avenue and I-94 to support economic development, including job creation, tax value, and traffic efficiency

associated with the creation of a business park as guided by the City's Comprehensive Plan. Incorporating a Gateway station in Lake Elmo will require station area planning resources to ensure that Lake Elmo is maximizing economic development potential and ridership. **The City Lake Elmo requests thorough analysis of economic development potential to assist in guiding the placement of Gateway stations in the corridor segment from Keats Avenue to Manning Avenue as well as planning resources from the Gateway Corridor Commission and Washington County to assist with transit oriented development/station area planning.**

4. Lake Elmo Avenue serves as an important access point to downtown Lake Elmo. Due to the proximity of the road to both the Lake and developed neighborhoods, future expansion is constrained through the downtown area and the roadway cannot functionally handle additional growth in the regional movement of traffic beyond what is currently forecasted. **The City of Lake Elmo recognizes that while the Gateway Corridor project will likely not preclude an interchange in this location, it would like to take this opportunity to state to Washington County, the Minnesota Department of Transportation and the Federal Highways Administration that an interchange is NOT desired in this location.**
5. Safety and security at BRT stations for transit patrons and surrounding businesses and neighborhoods is very important to Lake Elmo. BRT Stations should be designed to be safe and secure environments that incorporate design elements to deter crime such as good lighting, visibility, security monitoring. **The City of Lake Elmo requests a safety and security plan to ensure that adequate resources are provided at a regional and local level to effectively address safety and security concerns at Gateway Corridor facilities.**
6. **The City of Lake Elmo would also support an A-B-C-D2-E3 alignment and continued evaluation as part of the Draft EIS.**

BE IT FURTHER RESOLVED that this resolution adopted by the City of Lake Elmo be forwarded to the Metropolitan Council for their consideration.

Recommended Locally Preferred Alternative – BRT Alternative A-B-C-D2-E2 (Conceptual)

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE SIXTEENTH DAY OF SEPTEMBER 2014.

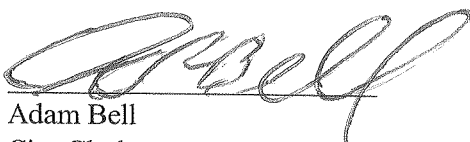
CITY OF LAKE ELMO



By: _____
Mike Pearson
Mayor

(Seal)

ATTEST:



Adam Bell
City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: January 5, 2016

REGULAR

ITEM # 14

AGENDA ITEM: Appointment of 2016 Acting Mayor

SUBMITTED BY: Julie Johnson, City Clerk

THROUGH: Clark Schroeder, Interim City Administrator

REVIEWED BY: Clark Schroeder, Interim City Administrator

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: This item is mandated by state statute.

FISCAL IMPACT: None

SUMMARY AND ACTION REQUESTED: Pursuant to Minn. State Statute §412.121, the City Council is asked to select an Acting Mayor on the City’s behalf, should Mayor Pearson be unavailable or unable to attend a meeting, sign an agreement, or attend functions on behalf of the City. Any member of the council is eligible for this position. The recommended motion to act on this organizational function is as follows:

“Move to appoint Council Member _____ as Acting Mayor for 2016”

LEGISLATIVE HISTORY: Minnesota State Statute § 412.121 reads: “At its first meeting each year the council shall choose an acting mayor from the council members. The acting mayor shall perform the duties of mayor during the disability or absence of the mayor from the city or, in case of vacancy in the office of mayor, until a successor has been appointed and qualifies.” This requirement is also prescribed in Lake Elmo City Code § 31.01(E)(3). Councilmember Smith was appointed Acting Mayor for 2015.

BACKGROUND INFORMATION (SWOT):

Strengths Appointing an “Acting Mayor” makes the City compliant with state law and provides a back-up for when the mayor is unavailable.

Weaknesses There are no identified weaknesses.

Opportunities The Acting Mayor is able to learn more about running meetings and serving the City/Council in a slightly different role.

Threats There are no identified threats.

RECOMMENDATION: It is recommended that the City Council appoint an Acting Mayor for 2016, pursuant to state statute, by making the following recommended motion:

“Move to appoint Councilmember _____ as Acting Mayor for 2016”

AUTHORITIES:

2014 Minnesota Statutes: § 412.121 ACTING MAYOR

“At its first meeting each year the council shall choose an acting mayor from the council members. The acting mayor shall perform the duties of mayor during the disability or absence of the mayor from the city or, in case of vacancy in the office of mayor, until a successor has been appointed and qualifies.”

Lake Elmo, MN Code of Ordinances (2008): § 31.01 MEETINGS

(E) *Initial meeting.* At the first regular Council meeting in January of each year, the Council shall:

(3) Choose 1 of the Council Members as Acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the city or, in case of a vacancy in the Office of Mayor, until a successor has been appointed and qualifies;



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/5/16
REGULAR
ITEM #: 15
MOTION

AGENDA ITEM: Appoint City Attorney - General Counsel
SUBMITTED BY: Clark Schroeder
THROUGH: Clark Schroeder
REVIEWED BY: **Clark Schroeder**

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item.....Staff
- Report/PresentationStaff
- 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

PUBLIC POLICY STATEMENT APPOINTMENT OF CITY ATTORNEY

SUMMARY AND ACTION REQUESTED:

Appointment of City Attorney needs to be done with an effective start date of 1/6/16

BACKGROUND AND STAFF REPORT: An RFP was sent out requesting services for a City Attorney and Prosecution Services. The city received 3 responses, two for City Attorney and one for Prosecution Attorney. The two law firms which submitted proposals for City Attorney are Callies Law and Kennedy & Graven. Interviews were held with council and council has the proposals detailing services and costs. Council is encouraged to pick one of these two law firms to be City Attorney.

RECOMMENDATION:

As the City Attorney reports directly to the Council, Staff have no recommendation concerning this appointment.

ATTACHMENT(S): Proposals from Callies Law and Kennedy & Graven

**KENNEDY & GRAVEN,
CHARTERED**

**PROPOSAL FOR
CITY ATTORNEY SERVICES**

CITY OF LAKE ELMO

Contact Person: Sarah J. Sonsalla

Date: December 11, 2015



**470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402**

E-mail: SSonsalla@kennedy-graven.com

Telephone: (612) 337-9305

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www.kennedy-graven.com

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CITY ATTORNEY SERVICES PROPOSAL

A. Indication of City Attorney Representation

Kennedy & Graven, Chartered presents this proposal relating to City Attorney (civil) services only.

B. Firm Background

1. Brief history of the firm including nature of the firm's practice.

Kennedy & Graven, Chartered is the largest law firm in Minnesota that practices primarily local government law.

The firm was founded in 1973 with a practice in local government law, public finance, and development. In 1989, members of a leading local government law firm, LeFevere, Lefler, Kennedy, O'Brien & Drawz, P.A., joined the firm. Since 1989, Kennedy & Graven has expanded and diversified its representation of public sector clients to include school districts and townships.

Kennedy & Graven practices in all major areas of local government law relating to cities, including:

- General Counsel
- Economic Development and Redevelopment
- Eminent Domain
- Municipal Finance
- Municipal Licensing
- City Code Enforcement
- Employment Law/Labor Relations
- Joint Powers
- Legislative
- Ordinance Codification and Ordinance Updating
- Real Estate
- Tax Increment Financing
- Zoning and Land Use
- Telecommunications, Gas and Electric, Utilities and Franchise Law
- Public Bidding and Construction Law
- Environmental and Superfund Law
- Municipal Litigation

2. Number of attorneys, including number of partners and associates and areas of specialty.

The firm has 31 attorneys and over 95 percent of the firm's work is related to local government law. Twenty-one attorneys are shareholders, six attorneys are associates and four are of-counsel.

3. Provide the overall capabilities, qualifications, training, and areas of expertise for each of the principals, partners, and associates of the law firm including the length of employment for each person and his/her area of specialization.

Exhibit 1 contains a list of the firm's attorneys and their respective practice areas.

Detailed resumes for each of the firm's attorneys are available at www.kennedy-graven.com.

4. Support personnel including number and expertise.

Our firm has seven paralegals and one law clerk. When it is more efficient and economical for the City, certain work may be assigned to the law clerk or paralegals working under the direct supervision of the responsible attorney. Certain activities encompassed by this proposal, such as the initial drafting of condemnation petitions, routine litigation and public finance documents, and routine real estate matters may be assigned to one or more of the following paralegals:

Real Estate Paralegals

Nancy England - over 25 years of experience

Michael Ferro - over 10 years of experience as an attorney and paralegal

Cathy Rocklitz – over 35 years of experience

Public Finance Paralegals

Mel Davis – one year of experience

Ellen Gerdts - over 4 years of experience

Kim Ganley - over 20 years of experience

Litigation Paralegal

Toni Decker - over 20 years of experience

In addition to the paralegals mentioned above, our firm has 14 support staff employees performing administrative, accounting, and secretarial work. A firm administrator oversees the day-to-day administration of the firm.

5. Office organization and support capabilities.

Kennedy & Graven is a professional corporation. The firm is run by an executive committee which consists of five member shareholders. A full-time office administrator is responsible for

the implementation of the directives from the executive committee and board of directors, and for overseeing the day-to-day operations of the firm. Secretaries are assigned to designated attorneys. Law clerks and paralegals are available to all attorneys on an as-needed basis.

6. Office Location(s).

Kennedy & Graven has one main office and two satellite offices. The offices are located at the following addresses:

Minneapolis:

470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300 telephone
(612) 337-9310 fax
(800) 788-8201 toll free
(Main Office)

St. Paul:

Lawson Commons
380 Saint Peter Street, Suite 750
Saint Paul, MN 55102
(651) 294-3589 telephone
(by appointment)

St. Cloud:

501 West Germain Street
Suite 320
St. Cloud, MN 56301
(320) 240-8200 telephone
(by appointment)

7. Current use of technology, especially capability for computerized legal research and for sharing and editing documents electronically.

The firm uses technology in a variety of ways to increase efficiency and effectiveness.

One important use of technology is a centralized document management system. The firm uses EdocsDM. This allows every user in the firm to easily find and access any document. This database includes all of the firm's documents since 1997.

The firm uses the Office 2010 software suite.

The firm uses a program called Prolaw for all time, billing and administrative management of matters.

The firm uses Egnyte brand file transfer protocol, if needed, for the sending and uploading of large or numerous documents.

The firm primarily uses WestlawNext for computerized legal research with an inclusive subscription containing all major sources relevant to municipal law. The firm maintains certain specialty publications in house or electronically and also has access to the extensive legal research materials of the Hennepin County Law Library, which is located adjacent to our office in Minneapolis.

8. Statement of any malpractice claims and/or ethics complaints taken against your firm or firm's attorney(s) over the last five years and the status or outcomes of such action. Indicate whether any action is pending or is currently under review by the State Ethics Board.

None.

9. **Identify any attorneys with the firm who would be working directly with the City of Lake Elmo who have been found guilty of a felony.**

None.

10. **Identify any attorneys with the firm who would be working directly with the City of Lake Elmo who have been accused of prosecutorial misconduct.**

None.

11. **Statement of 2014 billings for municipal work as a percentage of total 2014 billings.**

In 2014, approximately 95 percent of the firm's billings were related to municipal work.

12. **Describe malpractice insurance coverage: carrier, limits, and exemptions.**

The firm carries professional liability insurance with Westport Insurance Companies in the amount of \$5,000,000 per claim/aggregate with industry standard exclusions only.

13. **Statement of compliance with federal and state laws respecting civil rights.**

Kennedy & Graven is in compliance with federal and state laws respecting civil rights. Kennedy & Graven is an equal opportunity employer and has an established affirmative action plan and equal employment opportunity plan. The firm has been certified by the State of Minnesota as having an approved affirmative action plan. The firm has adopted a specific AA/EEO Policy Statement and a Policy Statement Prohibiting Sexual Harassment in the Workplace. Copies of these policies are available to the City upon request.

C. Attorney Qualifications

Kennedy & Graven uses a collective approach to legal services.

The designated City Attorney is the chief contact person with the client and personally handles much of the City's legal work; however, the City is able to work with any of the firm's attorneys. A second attorney is often designated as Assistant City Attorney to provide backup and be a second point of contact for the City. The City Attorney asks for the City's consent to assign certain specific matters to another attorney in the firm if the City Attorney believes it is more efficient for the City to do so. The designated City Attorney would retain overall responsibility to ensure that the needs of the City are being met.

The economy in the firm's services comes from the depth and breadth of experience of its attorneys. Most of the attorneys have developed unique knowledge and experience in a

particular area (e.g., data practices, public contracting, special assessments, Open Meeting Law, etc.). Through the use of a team approach, the firm takes maximum advantage of these experiences. In many instances, a short intraoffice conference avoids what could otherwise require hours of research. In a similar manner, the firm's representation of many local government entities often means that an attorney at the firm reviewed an issue previously for a different client and has the experience, knowledge, and information to quickly and efficiently respond to the City.

The firm proposes that Sarah J. Sonsalla be designated City Attorney and that Andrew J. Biggerstaff be Assistant City Attorney.

1. Sarah J. Sonsalla - Proposed City Attorney

Please see **Exhibit 2** for a resume of Sarah J. Sonsalla.

a. Academic training and degrees.

Sarah earned a Bachelor of Arts degree with highest honors from the University of Wisconsin – La Crosse with degrees in Political Science and Philosophy. She received her J.D. degree from the University of Minnesota Law School in 2001. While in law school, Sarah was the Executive Editor of the Minnesota Intellectual Property Review.

b. Bar Admission and License Number.

Sarah was admitted to the Minnesota State Bar in 2001. Her attorney license number is 0313464.

c. Background and experience including prior municipal experience

Sarah Sonsalla is currently the City Attorney for the cities of Lake City and Sandstone. She is also general counsel to Local Government Information Systems (LOGIS), a joint powers intergovernmental consortium of Minnesota local government units that provides technology services. Sarah also serves as an assistant city attorney for the cities of Oakdale, Faribault, New Prague, Minnetrista, Medina, Shakopee, Kenyon, Mantorville and Mounds View.

Sarah has over 14 years' experience in representing cities and townships. She joined Kennedy & Graven in 2005 and was elected shareholder in 2009. While at Kennedy & Graven, over 90 percent of Sarah's time has been spent on municipal/local government-related matters. Prior to joining Kennedy and Graven, Sarah worked for four years as an associate for a local law firm where she practiced in municipal law, labor and employment law and real estate. During that time, she served as the assistant city attorney for two cities (Maplewood and Taylors Falls) and the assistant township attorney for two townships (White Bear and Grey Cloud Island). She also represented numerous property owners in eminent domain proceedings and represented Minnesota Teamsters Public and Law Enforcement Employees' Union, Local No. 320 and the Minnesota State High School League.

Sarah has significant experience in drafting and reviewing ordinances, resolutions, contracts and agreements and attending all types of city council, commission and staff meetings. Some of her recent projects have included drafting shoreland and flood plain ordinances, drafting zoning regulations; drafting development agreements, reviewing public improvement contracts and associated insurance certificates and performance and payment bonds, drafting law enforcement services contracts, bringing hazardous building/nuisance abatement actions, reviewing and drafting joint powers agreements, drafting public notices, and drafting resolutions.

Sarah also has significant real estate experience including the drafting of real estate documents such as purchase agreements and easements and bringing quiet title actions, proceedings subsequent, and Torrens registration actions.

Sarah also has litigation experience and has provided litigation assistance to several of the firm's municipal clients and the League of Minnesota Cities Insurance Trust on a variety of matters including bankruptcy, hazardous buildings, eminent domain, land use, vehicle forfeitures, and construction law. Her litigation experience includes drafting pleadings and discovery, attending depositions, drafting motions and memoranda of law and drafting appellate briefs, including a Minnesota Supreme Court brief involving a condemnation matter.

d. List of Litigation as lead attorney

Ms. Sonsalla has been involved in the following litigation matters:

Greenfield: Jill Krout, Howard Veldhuizen, and Mark Lee, Individually v. City of Greenfield (2010-2011), three City council members sought damages for the release of certain data by City staff. The City prevailed in the matter and no damages were awarded.

Various hazardous building actions, quiet title actions, Torrens proceedings subsequent and registration proceedings have been asserted (Minneapolis, Faribault, Kenyon, Mounds View, West Concord) and prosecuted to conclusion to correct hazardous buildings, nuisances, code deficiencies and title matters.

Various litigation matters involving Department of Public Safety data look-ups, police enforcement issues, etc. have been tendered to the League of Minnesota Cities Insurance Trust for defense in the regular course of each city's business.

e. Professional affiliations

Minnesota State Bar Association, Member
Ramsey County Bar Association, Member
International Municipal Lawyers Association (IMLA), Member
Minnesota Women Lawyers, Member

2. **Andrew J. Biggerstaff – Proposed Assistant City Attorney**

a. Academic training and degrees

Andrew graduated from Hamline University School of Law, St. Paul, Minnesota with a J.D. cum laude – 2012. His honors include multiple CALI Awards and the position of Associate Editor of the Law Review. Andrew graduated from the University of Minnesota, Duluth with a B.A. in 2008 with honors of Dean's List and a double major in political science and criminology.

b. Bar Admission and License Number.

Andrew was admitted to the Minnesota State bar in 2012. His attorney license number is 393551.

c. Background and experience including prior municipal experience

Since joining the firm, Andrew has assisted in handling a wide array of matters for municipalities across the state. He has worked on issues of land use regulation, public employment, liquor and gambling regulation, data practices, contract drafting, and economic development.

Prior to joining the firm, Andrew was employed for two years with the Minnesota House of Representatives in the non-partisan House Research Department, where he had also previously served as a law clerk. In that role, Andrew assisted elected officials in interpreting and modifying state law. Andrew also worked closely with countless local government officials in drafting proposed legislation to be considered by the legislature. Additionally, Andrew attended and staffed a large number of committee and other meetings to assist elected officials. In that role, Andrew gained specialized experience in local taxation, charitable gaming, alcohol regulation, and various consumer protection matters.

Andrew also worked for the League of Minnesota Cities Insurance Trust while in law school as a litigation law clerk. In that capacity, Andrew assisted on over 15 state and federal lawsuits pending against cities, including assisting in the drafting of a brief to the Minnesota Supreme Court regarding governmental immunities.

Recently, Andrew published an article in the League of Minnesota Cities magazine related to firearms laws with a specific focus on local government authority with regard to firearms. Andrew has also spoken on issues related to alcohol regulation as a panel member for a continuing legal education course. In addition to Andrew's legal experience, he also spent 10 years in the United States Army Reserve, including while in college and law school.

d. List of Litigation as lead attorney

Andrew is currently representing a city in a class action lawsuit related to storm sewer fees. Additionally, he is also currently serving as second chair in a complex construction dispute involving extensive renovations performed at a public elementary school. In the past, Andrew has

hands-on experience assisting in litigating cases dealing with public employment, governmental immunities, § 1983 claims, and land-use challenges.

e. Professional affiliations

Minnesota State Bar Association
Hennepin County Bar Association

3. Other Attorneys Who May Supply Services to the City:

The City Attorney may request that the City allow a matter to be assigned to a particular Kennedy & Graven attorney when another Kennedy & Graven attorney has special knowledge and comprehensive experience in that matter; for example:

Julie Eddington – Review of bond and public finance documents
Doug Shaftel, Peter Mikhail – Condemnation
James Strommen – Litigation, Public Bidding, Construction Law, and Utilities
Bob Alsop – Litigation and Employment Law
Robert Vose – Telecommunications and Cable

4. Indicate current responsibilities of person designated to serve as lead attorney.

Sarah Sonsalla's current primary responsibilities are serving as City Attorney for Lake City, Sandstone and LOGIS. Sarah also serves as an assistant city attorney for the cities of Oakdale, Faribault, New Prague, Minnetrista, Medina, Shakopee, Kenyon, Mantorville and Mounds View.

Sarah Sonsalla is available for council meetings on the first and third Tuesdays of each month, as well as the second Tuesday of each month for the workshop session, if needed. Andrew Biggerstaff is also available as needed during those times.

D. List cities you currently represent and for what type of service.

Please see **Exhibit 3** for a list of many of the firm's represented clients.

E. List cities you began representing in the last three years and cities you stopped representing in the last three years.

The firm began representing as primary city attorney for the following clients: Hopkins, Osseo, Lake City and Mantorville. The firm stopped representing Greenfield and Montrose.

F. Names, telephone numbers, and contact person of at least five (5) client references, at least two (2) of which shall be cities.

Please see **Exhibit 4**.

G. Describe the firm's view of its responsibilities to the City in the providing of legal services.

The firm works closely with the council and staff of its cities to provide services as needed to assist the city to accomplish its goals. We work hard to promptly respond to requests for assistance and are able to rely on the many decades of experience within the firm to provide assistance in an efficient and cost-effective manner.

H. Copy of current Malpractice/liability Insurance Certificate.

A copy of the certificate of insurance is attached in **Exhibit 5**.

I. Conflict of Interest.

- 1. Indicate whether designated lead attorneys or the law firm represent, or have represented, any client whose representation may conflict with your ability to provide legal services to the City.**

Kennedy & Graven is not aware of any client it represents, or has represented, that would cause a conflict in the firm's ability to provide legal services to the City.

The firm represents the City of Oakdale which is contiguous to the City of Lake Elmo. The firm is not aware of any conflicts or disputes between the two cities.

- 2. Indicate whether designated lead attorneys or the law firm currently represent any real estate developers. If so, please identify those companies or persons in detail and provide a percentage breakdown of how much this work represents of your firm's total billings.**

One attorney in the firm represents The Pentom Land Company and Pratt Construction, Inc. in a limited amount of matters, none of which are in cities that the firm represents. To the firm's knowledge, neither of these clients have any connection to real estate in Lake Elmo. The work that our firm does for these clients is approximately one percent of the firm's total billings. We make it clear to these clients that we will not represent them in any matter relating to a city that we represent.

- 3. Identify what procedures your firm utilizes to identify and resolve conflicts of interest.**

Kennedy & Graven has a computerized conflict-checking system that is used to identify potential conflicts. The system maintains a database containing the names of all clients of the firm and any opposing parties. This database is checked each time that the firm opens a new matter as to potential new clients and adverse parties. This avoids the development of actual conflict, but if an actual conflict exists, or would exist, the firm would not proceed unless both clients consented.

J. City/City Attorney Relationship.

- 1. Describe how you would structure the working relationship between the City Attorney and the City Council, City Administrator, Department Heads and other staff members.**

The City Attorney would typically work closely with the City Administrator and staff to provide services as directed by the Administrator and requested by staff. The approach of how that is done varies by City for a variety of reasons, including how the City Administrator prefers this to be managed.

The interaction with the elected and appointed officials of the City depends in large part on how the members of these respective bodies determine their roles and responsibilities in light of pending issues having significant legal importance. While the City Attorney typically works most closely with the City Administrator and staff, we would have a practice of encouraging elected and appointed officials to communicate directly with us when an issue requiring legal analysis arises.

- 2. Define the standard timeframes for response by the City Attorney to direction and/or inquiry from the City Council or City Administrator.**

The City Attorney is usually available to answer calls directly or respond to voicemails the same day. Response to e-mails and requests for letters will vary depending on the extent of time needed to develop a response. However, most e-mails are responded to within a day or two if they are not urgent.

- 3. Describe the systems or mechanisms that would be established for monthly reporting of the status of projects, requests, and litigation.**

The firm can provide written status reports to the City on all projects, requests and litigation on a monthly or other basis as requested by the City.

K. Fees.

- 1. Hourly rate.**

The firm is open to proposing a retainer amount if specifically requested by the City.

The hourly rate for City Attorney and other attorneys working on general municipal work is \$155 per hour. Paralegal rates are \$115 per hour and law clerk rates are \$80 per hour for all matters. These rates apply to all matters identified in the City's Request for Proposals, unless specifically identified below.

- Commenced litigation, administrative and condemnation proceedings: \$185/hr.
- Development, redevelopment and tax increment matters: \$215/hour.
- Bond counsel services fees (if applicable) billed at rates customarily charged by the firm.

2. **The City is open to exploring alternative fee arrangements other than the retainer or hourly rate. Indicate any alternate billing arrangements you would be willing to consider and under what circumstances they would be most appropriate.**

The firm is open to alternative fee arrangements after discussion with the City. For example, council meeting attendance and staff meeting attendance could each be a pre-set flat fee.

3. **Firms shall indicate all other costs and reimbursables including travel (per mile), telephone, printing, photocopying, etc.**

The firm will bill its out-of-pocket costs for such things as postage, photocopying, filing fees and witness fees, and similar items.

Photocopying:	\$.10 per page
Mileage:	IRS-approved reimbursement rate
Westlaw or Lexis fees:	\$3.00 per minute
Other charges such as:	Actual cost charged
Messenger service	
Express mail	
Filing fees	

4. **Firms shall indicate the minimum increment of time billed for each service including phone calls, correspondence, and personal conferences.**

The minimum increment of time billed for each service including phone calls, correspondence and personal conferences is six minutes.

The Firm's billing statements would meet the requirements as listed in the City's Request for Proposal.

CONCLUSION

We appreciate the opportunity to provide our proposal to you. We believe that we can provide high quality and timely legal services to the City.

KENNEDY & GRAVEN, CHARTERED

Dated: December 11, 2015

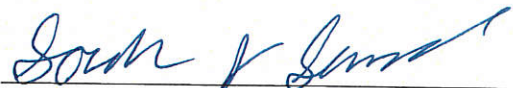

By: 
Sarah J. Sonsalla / 

EXHIBIT 1

ATTORNEY LIST

The firm has 31 attorneys. Twenty-one are shareholders; six are associates and four are of-counsel. Complete resumes of all of the firm's attorneys are available on our website at www.kennedy-graven.com. The following is a summary of each attorney's areas of practice and representative clients:

Robert A. Alsop <i>Shareholder</i>	29 years experience; Employment Law, Housing Law, Litigation (Scott County CDA, Belle Plaine)
Ronald H. Batty <i>Shareholder</i>	34 years experience; Economic Development & Redevelopment, Municipal Law (Medina, Minnetrista)
Andrew M. Biggerstaff <i>Associate</i>	3 years experience; Municipal law, Litigation
Jenny S. Boulton <i>Shareholder</i>	16 years experience; Economic Development & Redevelopment, Municipal Bonds, Public Finance (Elk River, Meeker County EDA)
Stephen J. Bubul <i>Of Counsel</i>	26 years experience; Economic Development & Redevelopment, Municipal Bonds, Public Finance (Crystal HRA, St. Louis Park, Burnsville)
Robert C. Carlson <i>Of Counsel</i>	41 years experience; Business Law
Julie Eddington <i>Shareholder</i>	18 years experience; Municipal Bonds, Public Finance (Minneapolis, Wanamingo)
Gina A. Fiorini <i>Associate</i>	5 years experience; Municipal Bonds, Public Finance
Troy J. Gilchrist <i>Shareholder</i>	23 years experience; Municipal Law, Township Law (Denmark Township, Greater Bemidji Area Joint Planning Board)
Kyle R. Hartnett <i>Associate</i>	10 years experience; Municipal Law, Township Law
Martha N. Ingram <i>Shareholder</i>	10 years experience; Economic Development & Redevelopment, Municipal Bonds, Public Finance (St. Louis Park EDA, Jordan)
Charles L. LeFevere <i>Of Counsel</i>	39 years experience; Municipal Law (Rosemount, Brooklyn Center)
Sofia E. Lykke <i>Associate</i>	5 years experience; Public Finance, Government Bonds, Conduit Bonds and Economic Development
Robert J. Lindall <i>Shareholder</i>	45 years experience; Eminent Domain, Environmental Law, Real Estate Law (Bloomington, Minneapolis)

Gregory S. Madsen <i>Shareholder</i>	32 years experience; Employment Law, School Law (Minnetonka Schools, Watertown-Mayer Schools)
Melissa J. Manderschied <i>Shareholder</i>	8 years experience; Municipal Law (Robbinsdale, Mound, Brooklyn Park)
Peter G. Mikhail <i>Shareholder</i>	20 years experience; Litigation (LMCIT, St. Paul, Mound, Brooklyn Park)
Michael T. Norton <i>Of Counsel</i>	36 years experience; Municipal Law, Economic Development & Redevelopment, Real Estate Law (Crystal, Victoria)
Timothy R. Palmatier <i>Shareholder</i>	20 years experience; School Law (Anoka Public Schools, Minnetonka Public Schools)
Scott J. Riggs <i>Shareholder</i>	20 years experience; Municipal Law, Real Estate Law, Township Law (Faribault, Kenyon, Mounds View, New Prague)
Doug Shaftel <i>Associate</i>	11 years experience; Real Estate Law, Condemnation, Environmental Law (Minneapolis, West St. Paul)
Sarah J. Sonsalla <i>Shareholder</i>	13 years experience; Real Estate Law, Employment Law, Municipal Law (LOGIS, Lake City, Sandstone,)
James M. Strommen <i>Shareholder</i>	31 years experience; Litigation, Public Utility Law (Suburban Rate Authority, LMCIT)
James J. Thomson <i>Shareholder</i>	38 years experience; Municipal Law (Brooklyn Park, Shakopee, LMCIT)
Mary D. Tietjen <i>Shareholder</i>	17 years experience; Employment Law, Municipal Law, Litigation (Montrose, New Brighton, Rosemount)
Susan E. Torgerson <i>Shareholder</i>	28 years experience; Litigation, School Law (North St. Paul Schools, Hibbing School District)
John Utley <i>Shareholder</i>	37 years experience; Municipal Bonds, Public Finance (Minneapolis, Bloomington)
Robert J.V. Vose <i>Shareholder</i>	20 years experience; Municipal Law, Public Utility Law (Belle Plaine, Pine Island, Oak Grove, Independence)
Maggie R. Wallner <i>Shareholder</i>	26 years experience; Employment Law, Litigation, School Law (Stillwater School District, Eden Prairie School District)
Larry M. Wertheim <i>Shareholder</i>	38 years experience; Real Estate Law (Lifetime Fitness, Inc.)
Adam C. Wattenbarger <i>Associate</i>	1 year experience; Municipal law, School Law, Litigation

EXHIBIT 2
ATTORNEY RESUMES



Sarah J. Sonsalla

MUNICIPAL LAW, REAL ESTATE,
LABOR AND EMPLOYMENT LAW

J.D. (Dean's List), University of Minnesota Law School, 2001
B.A. (Highest Honors), Philosophy and Political Science,
University of Wisconsin-La Crosse, 1998

PRIMARY PRACTICE AREAS

Sarah Sonsalla is a Shareholder at Kennedy & Graven. Sarah has over 13 years' experience in representing cities and townships. Sarah is currently the city attorney for the cities of Lake City and Sandstone and general counsel for Local Government Information Systems (LOGIS), a joint powers entity. Sarah has significant experience in drafting and reviewing ordinances, resolutions, and contracts and attending all types of city council, town board, commission and staff meetings. Sarah also has significant real estate experience including drafting real estate documents such as purchase agreements, easements, and deeds and bringing quiet title actions, proceedings subsequent actions and Torrens registration actions.

BACKGROUND

Sarah received her B.A. in Philosophy and Political Science from the University of Wisconsin – La Crosse in 1998. She received General Honors along with Departmental Honors in Philosophy and Political Science. In 2001, Sarah received her J.D. from the University of Minnesota Law School. During law school, Sarah served as the Executive Editor of the *Minnesota Intellectual Property Review*. After law school, Sarah practiced for four years at a law firm in St. Paul as an associate attorney, practicing primarily in the areas of municipal law, labor and employment law, and real estate before joining Kennedy & Graven as an associate attorney in 2005.

MEMBERSHIPS AND PROFESSIONAL ACTIVITIES

Sarah is a member of the Minnesota State Bar Association, Ramsey County Bar Association, the International Municipal Lawyers Association (IMLA) and Minnesota Women Lawyers. Sarah served as a member of the Second Judicial District Ethics Committee from 2003-2007. Sarah presently serves on the Ramsey County Bar Association's Youth & The Law Committee and mentors law students at the University of St. Thomas Law School.

PERSONAL

Sarah enjoys running, biking, and downhill skiing. She also enjoys playing the trumpet and has participated in many different bands. Sarah lives in Woodbury with her husband and two children.

“Working with local governments is very rewarding for me because the projects that I work on have the potential to benefit not only a select group of people, but the general public. In working with local governments, I have found that all of my colleagues at Kennedy & Graven are great resources due to their extensive knowledge of local government law. This allows me to serve our clients efficiently and effectively.”



Adam C. Wattenbarger

MUNICIPAL LAW, SCHOOL LAW

J.D. (magna cum laude), University of Minnesota Law School, 2014

B.S. (High Distinction), University of Nebraska-Lincoln, 2009

PRIMARY PRACTICE AREAS

Adam Wattenbarger is an associate at Kennedy & Graven, Chartered, and practices in the areas of municipal law and school law.

BACKGROUND

Adam is a recent graduate of the University of Minnesota Law School. Prior to joining Kennedy & Graven as an associate, Adam spent a year clerking for Chief Justice Lorie Gildea on the Minnesota Supreme Court. As a clerk he assisted the Chief Justice with research and writing on a variety of important cases and legal issues before the Court. During law school, Adam gained experience working as a law clerk for Kennedy & Graven. He was also an articles editor for the Minnesota Law Review and the assistant head writer for T.O.R.T., the law school musical. Prior to law school, Adam received his B.S. in secondary education from the University of Nebraska-Lincoln, and spent time in the classroom student teaching and substituting.

PERSONAL

Adam lives in Minneapolis with his wife Micaela. He enjoys watching TV and going to movies, and tries to stay active by running and occasionally playing tennis and racquetball.

"I greatly enjoy working with local governments and school districts to resolve the legal issues they face as they serve their students, citizens, and employees. I am honored and excited to be a part of the team at Kennedy & Graven and to have the opportunity to do this important and rewarding work."

EXHIBIT 3

REPRESENTATIVE CITIES / TOWNS / OTHER ENTITIES

Designated City Attorney for the following cities:

City of Belle Plaine	City of New Brighton
City of Brooklyn Center	City of New Prague
City of Brooklyn Park	City of Oak Grove
City of Cokato	City of Oakdale
City of Crystal	City of Osseo
City of Faribault	City of Pine Island
City of Franklin	City of Rice
City of Hopkins	City of Richfield
City of Independence	City of Robbinsdale
City of Kenyon	City of Rosemount
City of Lauderdale	City of Sandstone
City of Lake City	City of Shakopee
City of Mantorville	City of Victoria
City of Medina	City of Wahkon
City of Minnetrista	City of Watson
City of Mound	City of West Concord
City of Mounds View	City of Wilton
City of Nerstrand	

General Counsel to Economic Development Authorities, Housing and Redevelopment Authorities, and Port Authorities in the following municipalities:

Belle Plaine	Lino Lakes
Bloomington	Marshall
Brainerd	Medina
Brooklyn Center	Minnetrista
Brooklyn Park	Monticello
Burnsville	Mound
Chanhassen	Richfield
Columbia Heights	Robbinsdale
Crystal	Rosemount
Faribault	St. Louis Park
Kenyon	Sandstone
Lake City	Shakopee

Special Counsel or Bond Counsel to dozens of counties, cities, joint powers organizations, and other public bodies, including the following sample:

County of Washington	City of Minneapolis
County of Ramsey	City of Bloomington
County of Wright	City of Woodbury
County of Goodhue	City of Marshall
County of Crow Wing	City of New Prague
County of Nicollet	City of Eveleth

City of Blackduck
City of Burnsville
City of Cokato
City of Columbia Heights
City of Duluth
City of Dundas
City of Hopkins

City of Minnetonka
City of Owatonna
City of Rochester
City of Saint Paul
City of Staples
City of West Saint Paul
City of Inver Grove Heights

General Counsel to Special Purpose Entities:

Cable Commissions:

Apple Valley, Rosemount, Farmington
Lake Minnetonka
Quad Cities
Arlington, Gaylord, Winthrop, Gibbon
Southern Minnesota

Watershed Management Commissions:

Lower Rum River
Middle Mississippi River
Middle St. Croix
Shingle Creek
Vadnais Lakes
West Mississippi

Other JPAs:

Lake Minnetonka Conservation District
Local Government Information Systems
(LOGIS)
Suburban Rate Authority (SRA)
Minnesota Valley Transit Authority

Townships in Minnesota:

List available upon request.

School Districts in Minnesota:

List available upon request.

Finally, the firm provides tax increment, bond counsel, development and redevelopment, and other legal services to dozens of other cities, counties, port authorities, EDAs, and HRAs on an as-requested basis.

EXHIBIT 4

CLIENT REFERENCES

The following are client references:

Sam Griffith, City Administrator
City of Sandstone
119 4th Street
Sandstone, MN 55072
(320) 245-5241

Services: Sarah J. Sonsalla

Kari Schreck, City Clerk
City of Lake City
205 West Center Street
Lake City, MN 55041
(651) 345-6812

Services: Sarah J. Sonsalla

Mike Garris, Executive Director
LOGIS
5750 Duluth Street
Golden Valley, MN 55422
(763) 543-2699

Services: Sarah J. Sonsalla

Michael Barone, City Administrator
City of Minnetrista
7701 County Road 110W
Minnetrista, MN 55364
(952) 241-2510

Services: Sarah J. Sonsalla

Bob Streatar, Community Development Director
City of Oakdale
1584 Hadley Avenue North
Oakdale, MN 55128
(651) 730-2806

Services: Sarah J. Sonsalla

EXHIBIT 5

CERTIFICATE OF INSURANCE



Insurance Brokers
and Consultants



a division of Integro USA Inc.

111 West Campbell Street, 4th Floor
Arlington Heights, IL 60005

VERIFICATION OF INSURANCE

ISSUED TO: **Minneapolis Public Housing Authority**
1001 Washington Avenue North
Minneapolis, MN 55401-1043

We, the undersigned Insurance Brokers, hereby verify that First Specialty Insurance Corporation, with an A.M. Best rating of A+, XV has issued the following described Professional Liability Insurance, which is in force as of the date thereof-

PROFESSIONAL LIABILITY INSURANCE

NAME OF INSURED: Kennedy & Graven, Chartered, and others as more fully described in the Policy.

POLICY NUMBER: FNA337999003603

PERIOD OF INSURANCE: 12:01 a.m. October 1, 2015 to 12:01 a.m. October 1, 2016

SUM INSURED: \$5,000,000 Each claim and in the aggregate including costs, charges and expenses

SUBJECT TO ALL TERMS, CONDITIONS AND LIMITATIONS OF THE POLICY

This document is furnished to you as a matter of information only and is not insurance coverage. Only the formal policy and applicable endorsements offer a comprehensive review of the coverage in place. The issuance of this document does not make the person or organization to whom it is issued an additional insured, nor does it modify in any manner the contract of insurance between the Insured and the Insurer. Any amendment, change or extension of such contract can only be effected by specific endorsement attached thereto. Should the above described Policy be cancelled before this expiration date thereof, we will endeavor to mail 30 days written notice to the Certificate Holder named above, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its Agents or Representatives.

Issued at Chicago, Illinois

Lemme, a division of Integro USA Inc.

Date: October 22, 2015

Per:

Catherine Kuehl
Senior Vice President

December 10, 2015

Clark Schroeder
Interim City Administrator
City of Lake Elmo
3800 Laverne Avenue N.
Lake Elmo, MN 55042

Re: RFP for City Attorney

Dear Mr. Schroeder:

Callies Law is pleased to submit a response to the City of Lake Elmo's request for proposals for City Attorney.

Paula Callies has worked as a city attorney for over twenty-five years. She has the legal experience and relationship skills necessary to assist the City as it grapples with some significant local development issues and staff transitions. Ms. Callies understands the complex issues a city faces in today's environment and is a zealous advocate for her clients.

I would welcome the opportunity to meet with council and staff to discuss my qualifications further.

Thank you for your consideration.

Sincerely,



Paula A. Callies

Encl. (7 copies of RFP)

**PROPOSAL FOR
CITY ATTORNEY LEGAL SERVICES
CITY OF LAKE ELMO**

Callies Law, PLLC
The Colonnade, Suite 1000
5500 Wayzata Boulevard
Minneapolis, MN 55416
(763)546-8020
(763) 545-0834 Fax
pcallies@callies-law.com

Contact Person: Paula A. Callies

Date: December 10, 2015

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 Resume of Paula A. Callies

 Copy of Malpractice Insurance

I. GENERAL INFORMATION

A. FIRM BACKGROUND

Callies Law, PLLC was established by attorney Paula Callies in 2003. Ms. Callies has over 25 years' experience providing legal services to Minnesota cities. She currently serves as the city attorney for the City of Loretto (since 2001) and the City of Dundas (since 2008). Callies Law has not begun, nor stopped representing any cities within the last three (3) years. Callies Law occasionally represents other cities in matters where the regular city attorney has a conflict of interest. As part of her regular law practice, Ms. Callies also represents individuals in connection with local government issues and civil legal matters.

Ms. Callies has significant experience working with growing communities, as well as those that are more fully developed. Prior to starting her own firm in 2003, Ms. Callies worked as an attorney with two law firms specializing in municipal law and litigation. Previous assignments include serving as: city attorney for the City of Red Wing and the Red Wing Port Authority, assistant city attorney for the cities of Maple Grove, Dayton, Shakopee, Brooklyn Park, Crystal and serving as defense counsel appointed by the League of Minnesota Insurance Trust to represent cities and local government officials in land use matters. The range of issues that Ms. Callies has worked with includes, but is not necessarily limited to:

- Drafting ordinances and resolutions, including city code amendments
- Zoning and development matters, including negotiation and drafting of development contracts, planned unit development agreements and related resolutions.
- Tax increment financing
- Review, negotiation and drafting of various contracts for city services, equipment and real estate matters
- Condemnation and eminent domain proceedings
- Personnel matters and employment termination
- Land use litigation and 42 U.S.C 1983 civil rights claims

Ms. Callies was the lead prosecuting attorney for the City of Red Wing and the City of Dayton from approximately 1989 through 1993 and continued as a supervising prosecutor until 2001. Her experience as a prosecutor helps to inform her broad understanding of the scope of issues that a city faces on a routine basis.

Paula Callies has never been found guilty of a felony, nor been accused of prosecutorial misconduct.

Callies Law has not had any malpractice or ethics claims taken against it, or against Paula Callies.

Callies Law complies with federal and state laws respecting civil rights.

Callies Law has the broad, sophisticated legal experience desired by municipal clients to effectively represent them in the many diverse issues of a city. Callies Law provides responsive, high quality and cost-effective legal services. Paula Callies routinely collaborates with other professionals and consultants, such as planners and engineers, who provide services to a city and is cognizant of these other practice areas.

B. OFFICE

Callies Law is located at the intersection of I-394 and Xenia/Park Place in The Colonnade building in Golden Valley, just west of Highway 100 and downtown Minneapolis. The address is 5500 Wayzata Boulevard, Suite 1000, Minneapolis, MN 55416. Telephone: 763-546-8020. Fax: 763-545-0834. Email: pcallies@callies-law.com.

Callies Law uses up-to-date and current technology and computerized research. The firm is fully capable of sharing and editing documents electronically.

C. PERCENTAGE OF BILLINGS FOR MUNICIPAL WORK

In 2014, the percentage of billings by Callies Law for municipal work was approximately 38% of total billings. To date in 2015, the percentage of billings for municipal work is approximately 35%.

D. RESPONSIBILITY TO CITY

As city attorney, a law firm serving in that capacity is representing the City as a whole. Thus, if Callies Law is appointed as the city attorney for the City of Lake Elmo, it is the City of Lake Elmo that is the client, not any individual council member or staff person. Of course, the City acts through its elected representatives and administrative personnel. It is important for the city attorney to have a good, trusting work relationship with such persons so that the city's goals may be accomplished. The longevity that Callies Law has had with its client cities demonstrates that the firm is able to strike the appropriate balance when working with the various perspectives of council members and staff and provide effective legal counsel.

E. CITY/CITYATTORNEY RELATIONSHIP

1. There is no "one" right way to structure the working relationship between the city attorney, City Council, City Administrator, Department Heads and other staff members. In my experience, the process generally flows more smoothly if specific requests for legal service or response come through the City Administrator, or department heads, or as a result of council direction during a council meeting, depending on the circumstances. With this process, the city

maintains control over the legal budget and there is less opportunity for misunderstanding in communication about the request. Callies Law is very open to discussing the specifics of the structure for our working relationship if appointed as city attorney in order to best address the needs of Lake Elmo.

2. Under normal circumstances, Callies Law will respond to phone call inquiries within two (2) hours and usually within less time. The response time to complete a particular project will vary depending on the scope and type of request. In a typical scenario, Callies Law follows-up with a phone call as soon as reasonably possible upon receipt of a request, to discuss what is needed and develop an action plan.

3. Callies Law will provide routine oral reports at council meetings concerning the status of projects, requests and litigation. If representing the city in litigation, or other special matters, Callies Law provides regular written memoranda or correspondence to communicate the status of matters.

II. REFERENCES

1. John McCarthy, City Administrator
City of Dundas
jmcarthy@dundas.us
City Hall: (507) 620-1152 Mobile: (218) 244-1152
2. Kent Koch, Mayor
City of Loretto
kkoch@ci.loretto.mn.us
Mobile: 763-286-7138
3. Randall Seaver, Attorney at Law
Fuller Seaver Swanson & Kelsch
Burnsville, MN 55337
(952) 890-0888, ext. 2
rseaver@fssklaw.com
4. Kent Torve, Former Mayor, City of Loretto
ktorve@wenck.com
(763) 479-4209
5. Shirley Slater-Schulte, Former Administrator, City of Dayton
sschulte@ci.albertlea.mn.us
(507) 377-4335

III. FEES

Callies Law is proposing the following fee arrangement:

Callies Law proposes to charge a monthly availability retainer fee (“retainer fee”) in the amount of **\$4,200 per month**, which total sum is payable regardless of the number of hours of legal service provided under the retainer. The retainer fee is considered to be the property of Callies Law upon payment of the fee and is not held in trust to be applied against future billings.

Services to be covered by the monthly retainer fee include those items listed in the City’s RFP, Paragraph VI for City Attorney. However, services listed below as “Non-Retainer Services” are not included within the monthly retainer fee and will be billed separately.

Non-Retainer Services:

- Ongoing regular attendance at Planning Commission meetings and other City Board, Commission or Committee meetings.
- Defending and representing the City in litigation and legal actions and claims; lawsuits; court proceedings including, but not limited to code enforcement matters; and administrative hearings.
- Land acquisition matters.
- Condemnation/eminent domain actions.
- Legal work billed to escrow accounts, or third-party reimbursed matters such as, but not limited to planning matters and MSA 429 projects (special assessment), or matters otherwise not charged to the City’s General Fund.

Items billed for “non-retainer services” will be billed at the rate of \$200/hour.

Callies Law bills in 1/10 hour increments. We do not charge for routine photocopying, postage or faxes. If a particular project involves above-average, or extensive photocopying or mailing and delivery expenses requiring the use of outside services, the City will be billed at our cost. Ordinarily, Callies Law does not bill for online research, unless a special project requires extensive research services, in which case the City will be charged at cost. Filing fees, witness and expert fees and other expenses are also billed at cost. Mileage is billed at the ordinary rate set by government regulations. However, there is no charge for mileage for attendance at City Council and other meetings that are included within the monthly retainer.

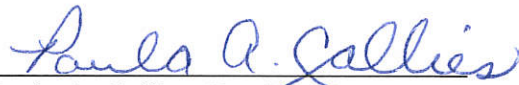
IV. CONFLICT OF INTEREST STATEMENT

1. Callies Law does not currently represent, nor has it represented any client where representation may conflict with its ability to serve as City Attorney for the City of Lake Elmo

Note: Paula Callies, Callies Law represented property owners Bernard & Loella Nass, Robert Buberl/Buberl Recycling and Thomas & Patricia Bidon against the City of Lake Elmo in 2012-13, which case resulted in the subject land being detached from the City of Lake Elmo.

2. Callies Law does not represent any real estate developers.
3. Callies Law has a computerized database of all clients and regularly reviews its client lists to identify and resolve conflicts of interest. Callies Law also uses a file opening checklist to identify potential conflicts. If potential conflicts are identified, Callies Law will immediately discuss the issues with its clients in order to arrive at a resolution and withdraw from representation where conflicts of interest necessitate this action

Dated: 12-10-2015


Paula A. Callies, President
Callies Law, PLLC

APPENDIX

PAULA A. CALLIES
The Colonnade, Suite 1000
5500 Wayzata Boulevard
Minneapolis, MN 55416
Phone: (763) 546-8020
pcallies@callies-law.com

EDUCATION

J.D., cum laude, 1989, William Mitchell College of Law, St. Paul, MN

M.S.W., 1977, University of Wisconsin-Milwaukee

B.S.S.W., 1975, University of Minnesota, Minneapolis, MN

EMPLOYMENT HISTORY

2003 to present Callies Law, PLLC, Minneapolis, MN
Owner

2001 to 2003 Kennedy & Graven, Chartered, Minneapolis, MN
Attorney

1989 to 2001 Hoff, Barry & Kuderer, P.A., Eden Prairie, MN
Partner

PROFESSIONAL ARTICLES AND PRESENTATIONS

“Nuisance Smoke and Outdoor Furnaces”
City Attorney Conference, Government Training Services, February 2015

“Liquor: Ballfields, Community Events and Special Circumstances”
City Attorney Conference, Government Training Services, February 2010

“Mental Health and Civil Commitment: A Defense Attorney’s Perspective”
MWL With Equal Right, Fall 2004, Volume XXVIII, Issue II

“Road and Access Law in Minnesota”
National Business Institute, November 2004

“Variances, Conditional Use Permits and Non-Conforming Uses”
Lorman Business Institute, October 2003

"Basic Concepts in Code Enforcement"
City Attorney Conference, Government Training Services, February 2003

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Page Two

"Attorney Ethics in Civil Commitment Proceedings"
HCBA Commitment Defense Project Continuing Legal Education, 2002

"Civil Commitment and Administration of Intrusive Treatment"
MEDS/PDN, May 2001

"Commitment Law"
MABAT, October 2000

"Federal Law and Local Towing Regulations"
City Attorney Conference, Government Training Services, February 2000

"Liability of City Officials for Land Use Decisions"
Minnesota State Bar Association Continuing Legal Education, 1993

SELECTED APPELLATE COURT REPRESENTATION

Ralph A. Fredlund, et al v. Eureka Township, A14-0945
(Minn. Ct. App. April 27, 2015)

Vigstol v. Isanti County Board of Commissioners, A13-2162
(Minn. Ct. App. December 8, 2014)

Bridgewater Township v. City of Dundas, A13-0704
(Minn. Ct. App. December 23, 2013)

City of Lake Elmo v. Bernard Nass, A12-2008
(Minn. Ct. App. July 15, 2013)

Buberl Recycling & Compost, Inc. v. Chisago County, A08-1958,
(Minn. Ct. App. Sept.1, 2009)

Gold Nugget Development, Inc. v. City of Monticello, 2001 WL 683488
(Minn. Ct. App. Jun. 19, 2001)

Rockford Tp. v. City of Rockford, 608 N.W.2d 903 (Minn. Ct. App. 2000)

Muller Family Theatres v. McMenomy, 2000 WL 2623
(Minn. Ct. App. Jan. 4, 2000)

SJ&F Enterprises, Inc. v. City of Winsted, 1998 WL 345436
(Minn. Ct. App. June 30, 1998)

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Northern States Power Co. v. Commissioner of Revenue, County of Goodhue, City of Red Wing, 1996 WL 611134 (Minn. Tax Ct. Oct. 17, 1996)

Universal Circuits, Inc. v. Cedar Creek Constr. Co., 1996 WL 589100

Robbins v. City of Wayzata, 1995 WL 25223 (Minn. Ct. App. Jan. 24, 1995)

State v. Stumpf, 481 N.W.2d 887 (Minn. Ct. App. 1992)

BAR ADMISSIONS AND PROFESSIONAL MEMBERSHIPS

State Bar of Minnesota, 1989

State Bar of Wisconsin, 2001

U.S. District Court, Minnesota, 1990

Hennepin County Bar Association, CLE Oversight Committee, Chair 2009 to 2011

Hennepin County Bar Association, Eminent Domain Committee, Chair 2005

COMMUNITY SERVICE

Tasks Unlimited, Inc., Current Board Chair

Lake Minnetonka Excelsior Rotary Club

Hennepin County Adult Mental Health Advisory Council, Chair 2003 to 2008

Shorewood City Council Member, 2005 to 2008

Shorewood Park Commissioner, 2001 to 2004

Shorewood Planning Commissioner, 1998 to 2001



MAYOR AND COUNCIL COMMUNICATION

DATE: 01/05/2016
REGULAR
ITEM #: 16
MOTION

AGENDA ITEM: OP-Open Space Preservation Ordinance Amendment Discussion
SUBMITTED BY: Stephen Wensman
THROUGH: Clark Schroeder
REVIEWED BY: Ben Gozola

SUGGESTED ORDER OF BUSINESS:

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

SUMMARY AND ACTION REQUESTED:

On November 4, 2015, the City Council passed a motion, 3-1, directing staff to have the Planning Commission look at changes to the OP Ordinance. Staff held an informational session with the Planning Commission on November 9, 2015 and from the discussion it became apparent that the Planning Commission and the City Council had a divergent vision/goals for the ordinance amendment. Because of the divergent nature of the comments between the Planning Commission and City Council, the Planning staff is requesting clarification and direction from the City Council for the future amendment.

DISCUSSION ITEMS

On November 4, 2015, the City Council briefly discussed several issues related to the OP – Open Space Preservation District and requested that the Planning Commission discuss the ordinance referencing certain aspects of the ordinance. The staff report requested the Planning Commission specifically discuss the following:

- Overall Purpose of the OP District – Review the overall purpose.
- Density – should density be increased?
- Density calculation – Should the density calculations be based buildable or gross land area.
- Buffer zones – what buffer or buffers are appropriate (maintain 200' around RR, but no buffers against adjacent OP's).
- Septic system options.
- Minimum lot size.

- Qualifying property size, i.e. 20 acres vs. 40 acre minimum.
- Lot Design.

On November 9, 2015, the Planning Commission recommended the following:

- No community septic systems.
- 1 acre minimum lot sizes.
- Allow the 50% open space requirement to be based on gross acres, rather than buildable acres.
- Remove lot design criteria (not enforceable).
- Density 18 units per 40 gross acres of buildable land.
- Buffer: supportive of waiving the buffer between OP developments, if potential for OP, then 100' buffer, and potential for berms and trees to buffer in lieu of 100' buffer might be acceptable.
- Remove 4/5th vote to waive requirements to allow more flexibility.

In addition to the Planning Commission comments, staff has identified some additional issues that warrant examination with the ordinance amendment to the OP District regulations. Staff's considerations are as follows:

- Remove redundancies between OP Ord platting requirements and regular subdivision platting requirements.
- Restructure OP Ordinance as a PUD with Overlay Zoning rather than a CUP process.
- Hardcover regulations may need to be updated, depending on the changes.
- Street minimum standards.

SUMMARY AND ACTION REQUESTED:

Staff requests the City Council discuss the divergent goals for the potential ordinance amendment and provide direction to staff for an amendment to the Open Space Preservation Ordinance.

ATTACHMENT(S):

- November 4, 2015 City Council Minutes
- November 9, 2015 Planning Commission Minutes
- Open Space Preservation Ordinance



**City of Lake Elmo
Planning Commission Meeting
Minutes of November 9, 2015**

Chairman Dodson called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Dodson, Dorschner, Haggard, Larson, Griffin Kreimer and Williams. Fields joined at 9:15

COMMISSIONERS ABSENT: Fields until 9:15

STAFF PRESENT: City Planner Stephen Wensman

Approve Agenda:

The agenda was accepted as presented.

Approve Minutes: None

Presentation – Public Safety and Response Time

Chief Malmquist presented data regarding public safety and response time. They identify those things that they can control and make the response time quicker. Chief Malmquist went over the County street naming system. It is a grid pattern. This has been complicated with the winding roads in the new developments. The other problem we have in Lake Elmo is the one access point in Developments.

Chief Malmquist also talked about the street widths. He stated that he had sat down with Engineer Griffin and came up with some standards and would like the City Council and Planning Commission to support those standards. Malmquist talked about connectivity. There is a reason that the City put in stubs. These neighborhoods need to be connected for response time. If they are on a call, they may get another one and have to go around to the next one. One argument against connectivity was that it creates a safety issue for children. Malmquist stated that for how dense Cimarron is, there has never been a call for a child being struck by a car.

Chief Malmquist would appreciate the Planning Commission supporting his recommendations for safety issues moving forward.

Business Item – General Discussion of Open Space Preservation Ordinance

City Planner Wensman introduced the topic of the Open Space Preservation Ordinance. There is currently a project in the works, and the City Council thought this would be a good time to discuss if some changes would be appropriate. The topics that have been suggested for discussion are to review the purpose and possible flexibility. Should the density go from 18 to 20 homes per 40 acres? How should the density be calculated and how should the buffer setbacks be dealt with? Should there be a buffer between two OP developments. What should septic system options be? Should community systems be allowed going forward? Should there be a minimum lot size for individual septic? Should we allow the community septic? How should lot design be determined? Should the septic be the most important?

Dorschner stated that we need to decide if we want to stay rural. If that is the case, we need to consider the environment and the impacts of septic if we are not going to have sewer. He would like to hear from U of M or Washington County on what is acceptable.

The Commission likes the OP, but some would like more choice such as RE. Dodson mentioned that with RE, residents would use their property more for things such as gardens etc. In some OP developments, the open space is not accessible or even usable.

Larson would like to talk about the land trust documents as well and what kind of uses would be allowed.

Williams thinks the first sentence of the purpose statement is fine, but would like the second and third sentence to read “This type of development is intended to provide additional flexibility of housing styles in the City. It provides an alternative to large lot, single family housing and will reduce the cost of constructing and maintaining costly infrastructure.”

Dodson asked what single family attached would mean. Wensman stated it is 2 or more single family homes that share a common wall.

Haggard would like to add “natural Habitats” and have the first line read “The purpose of open space preservation (OP) is to maintain the rural character of Lake Elmo by preserving agricultural land, woodlands, corridors, natural habitats and other significant natural features, while allowing residential development consistent with the goals and objectives of the City’s Comprehensive Plan.”

Planning Commission would like an update from the Minnesota Pollution Control Agency (MPCA) and Washington County regarding septic design and why there are failing systems.

Dodson would like on page 3 Item (2) 4 to change “deed Covenants” to “CIC Declarations”.

There was a general discussion regarding septic systems. What type should be allowed and who should oversee. There are several items that need to be discussed, but the Commission would like a presentation from the County and MPCA before a decision would be made on which way to go.

Wensman asked if the Commission felt it was appropriate for septic systems to be located in the preserved open space. Some members thought it was fine, but others wanted to think about it.

Williams is not in favor of increasing the density. The density already reflects a bonus that was intended to stimulate development. The smaller lots already provides a bonus by having fewer roads and infrastructure when the homes are clustered. Dorschner and Dodson do not believe that we should increase the numbers in the rural areas for OP to relieve the numbers in the sewerred areas. This is where the higher numbers belong. We need to think about the environment and how we are managing these septic systems. The Planning Commission as a whole is not in favor of increasing density. They also are not in favor of changing the density calculation. They would like to leave it at buildable acres. Wensman stated that buildable land is usually how all developments are measured.

Williams suggested that the Commission consider changing the 50% open space to be based on gross acres vs. buildable acres.

Dodson feels that minimum lot size is linked to the type of septic that it has. Others are interested in what Washington County has to say regarding septic. Williams might like to see larger lots to preserve the rural character in the OP. Kreimer is concerned that the 1 acre for individual well and septic might not be big enough. He feels that there should be a requirement at preliminary plat to prove that the lot perks when they come before them for primary and secondary drainfields and where the house is going to be.

The majority of the Commission still would like to see a 1 acre minimum even with a shared sewer system.

Williams mentioned that there is such a variance in buffer zones because in the past, there was not enough oversight. He would like the existing rules to be enforced.

The Commission was interested in exploring using discretion with the buffers. They would like to explore a possible list of things that could be used for deciding when and how large of a buffer to employ, instead of just requiring one.

Dodson feels that anything less than 40 acres is too small for an OP development, especially if there is a CIC. Other Commissioners felt that anything smaller than 40 acres might require private septic. The Commission wanted the Planning staff to explore if it is even viable to do less than 40 acres for OP. Some thought anything less than 40 acres should possibly be RE.

The Planning Commission discussed the lot design objectives and their relevance. There was no real consensus on this.

Dodson asked that the boulevard landscaping be checked for consistency with our landscaping code. If it is a higher standard we would keep it in, if not we should probably defer to the landscape code.

Williams asked about the impervious surface allowed and thought 20% of gross seemed high and possibly should be buildable.

Williams thinks the review process should follow that of any other development within the City. This section needs to match what we are already doing, or possibly it should be one section for all types of development. Also the wording in 150.179 should probably be changed from “development stage plan” to “Preliminary Plat”. 150.183 (2) (e) should also include trails. 150.184 should be reviewed for public hearing and stage requirements. Williams would like to add something to the effect that an application is not complete until all of the City Engineers comments are met. Commissioners would like these met before the preliminary plat moves forward.

Dodson would like “Homeowners Association” changed to “Common Interest Community” wherever it appears in ordinance.

Council Updates – October 20, 2015 Meeting

1. Hammes Plat Extension – Passed

Staff Updates

1. Upcoming Meetings
 - a. November 23, 2015
 - b. December 14, 2015

Commission Concerns

Haggard asked if the staff has a chart regarding all of the developments that have passed and all of the conditions of approval. Have they all been met? How is this tracked? Wensman stated that it is an issue that they are going to be working on.

Dodson stated that Fields, Rolf and he went to a seminar. He went to energy planning which was very interesting and they talked about how this should be part of the planning.

Williams stated that his packet did not arrive until Monday at 5:00. He would like to see packets arrive on Thursdays before the meeting.

Meeting adjourned at 10:15 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant

**CITY OF LAKE ELMO
CITY COUNCIL MINUTES
NOVEMBER 4, 2015**

A. CALL TO ORDER

Mayor Pearson called the meeting to order at 6:30 pm.

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

Staff present: Interim Administrator Schroeder, City Attorney Snyder, City Engineer Griffin, City Planner Wensman, and City Clerk Johnson.

B. PLANNING COMMISSION INTERVIEW

Susan Dunn was interviewed for a vacancy on the Planning Commission.

Councilmember Bloyer, seconded by Councilmember Fliflet, moved TO APPOINT MAYOR DUNN TO THE PLANNING COMMISSION. MOTION PASSED 5 – 0.

C. PLEDGE OF ALLIGENCE

D. APPROVAL OF AGENDA

Items 4, 7, 9 and 11 were removed from the Consent Agenda and Item 12 was moved to the beginning of the Regular Agenda.

Councilmember Smith, seconded by Mayor Pearson, moved TO APPROVE THE AGENDA AS AMENDED. MOTION PASSED 5 – 0.

E. ACCEPT MINUTES

Minutes of the October 20, 2015 Regular Meeting were accepted as presented.

COUNCIL REPORTS

Mayor Pearson: Thanked Washington County for hosting neighborhood meetings on the Olson Lake Road project, met with owner on 33rd Street regarding right of way concerns, met with Fields of St. Croix residents, announced the upcoming Meeting with the Mayor, noted that the ISD 622 election process went well, and welcomed Stephen Wensman to the City staff.

Councilmember Smith: Met with Ellie Hammes, met with Fields II residents regarding realignment of County Rd. 5, met with Focus Engineering and took calls from developers.

Councilmember Fliflet: Met with residents regarding various issues, noted Kyle Klatt's last day with the City and thanked him for his service, welcomed the new City Planner and thanked Ben Gozola for his high quality work during the transition period. Recognized and thanked the administrative staff team (Patty Baker, Joan Ziertmann, Cathy Bendel, and Julie Johnson) who for the past 6 months have continually stepped up and done whatever was needed with great attitudes.

Councilmember Bloyer: Received a lot of emails from Fields II residents, met with League of Minnesota Cities with Councilmember Fliflet.

Councilmember Lundgren: Met with Fields II residents, thanked staff for meeting with Councilmembers prior to the Council meeting to answer questions and welcomed City Planner Wensman.

PUBLIC COMMENTS/INQUIRIES

Mike Reeves, 11075 14th Street North, commented on City Council effectiveness and interaction with each other, and censure of Councilmember Bloyer.

Christine Nelson commented on her application to serve on the HR Committee and comments made concerning her experience.

PRESENTATIONS

None

FINANCE CONSENT AGENDA

- 2. Approve Payment of Disbursements**
- 3. Approve 404 Lake Elmo Avenue Assessment Agreement**
- 5. Wildflower at Lake Elmo – Approve Release of Grading Security per the Site Grading Agreement**
- 6. Eagle Point Boulevard Street Improvements – Change Order No. 2**

Councilmember Bloyer, seconded by Councilmember Smith, moved TO APPROVE THE FINANCE CONSENT AGENDA AS PRESENTED. MOTION PASSED 5-0.

OTHER CONSENT AGENDA

- 8. Receive Building Department Report**
- 10. Motion to Request Being Added to the County CIP for 2017**

Councilmember Smith, seconded by Councilmember Lundgren, moved TO APPROVE THE OTHER CONSENT AGENDA AS PRESENTED. MOTION PASSED 5-0.

ITEM 12: 2016 STREET IMPROVEMENTS – IMPROVEMENT HEARING, ORDER PREPARATION OF PLANS AND SPECIFICAITONS AND PUBLIC HEARING

City Engineer Griffin provided an introduction of the history of the project and planning. City Engineer Stempski reviewed the project schedule for each of the three portions of the project, providing details on the improvements proposed for each area. Stempski also reviewed the assessable properties and the costs for each neighborhood with the City share and per unit assessment rate for the proposed street project and optional water project.

Councilmember Smith, seconded by Councilmember Bloyer, moved TO OPEN THE PUBLIC HEARING AT 8:00 P.M. MOTION PASSED 5 – 0.

Curt Monteith, 331 Julep, requested clarification on the project area and suggested squaring off the parking area at the park.

Wayne Hector, 5110 Kirkwood, provided a written statement in favor of the project.

David Loos, 3567 Kelvin, spoke in favor of the water main improvement due to pollution from the landfill and plume, adding he is not in favor of the road project unless the water portion is included.

Dick Hedquist, 3440 Kelvin, questioned the expense for the water connection and additional cost for looping.

Bill Rogers, 3490 Kelvin, spoke against the water project and stated the road project should be paid from tax dollars due to City neglect in maintaining the road.

Joe Chaves, 3505 Kelvin, stated that street maintenance has been lacking.

Allen Kristenson, 5230 Kirkwood, spoke in favor of the project.

Councilmember Bloyer, seconded by Councilmember Smith, moved TO CLOSE THE PUBLIC HEARING AT 8:22 P.M. MOTION PASSED 5 – 0.

Discussion was held concerning the water utility portion of the project and funding options. City Engineer Griffin reviewed the 2030 Comprehensive Water System Plan as it relates to the Kelvin project.

Councilmember Bloyer, seconded by Councilmember Smith, moved TO AMEND RESOLUTION 2015-82 TO INCLUDE STONGATE AND KIRKWOOD AREAS AND REMOVE THE KELVIN AVENUE AREA FROM THE PROJECT. MOTION PASSED 5 – 0.

Discussion held concerning the Kelvin Avenue area of the project. Citizen input was considered and allowing payment on the water connection as was done with the Keats Avenue project was discussed. Councilmember Fliflet stated that the road is not well traveled and the project could be postponed.

Councilmember Lundgren, seconded by Councilmember Smith, moved TO ADOPT 2015-82 ORDERING THE 2016 STREET, DRAINAGE AND UTILITY IMPROVEMENTS AND THE PREPARATION OF PLANS AND SPECIFICATIONS AS AMENDED, WITH REMOVAL OF THE 6” WATER MAIN LATERAL TO THE EAST, AND TO AMEND THE WATER LATERAL ASSESSMENT TO \$2,900 WITH AN ADDITIONAL \$2,900 DEFERRED TO THE TIME OF CONNECTION. MOTION PASSED 3 – 2. (Bloyer, Fliflet – Nay)

Councilmember Bloyer stated he was opposed to the motion due to the \$12,000 assessment on the north portion of the project.

City Engineer Griffin reviewed the bids received for engineering design and support services.

Mayor Pearson, seconded by Councilmember Lundgren, moved TO APPROVE A PROFESSIONAL ENGINEERING DESIGN AND CONSTRUCTION SUPPORT SERVICES CONTRACT WITH SEH AS RECOMMENDED BY THE CITY ENGINEER. MOTION PASSED 5 – 0.

ITEM 4: APPROVAL FOR GASB 67 & 68 VALUATION ACTUARIAL SERVICES CONTRACT

Councilmember Fliflet reported that it is a new requirement to approve actuarial review on an annual basis.

Councilmember Fliflet, seconded by Councilmember Smith, moved TO APPROVE THE CONTRACT FOR ACTUARIAL SERVICES AND ACCEPT AS AN ANNUAL POLICY NOT REQUIRING CITY COUNCIL APPROVAL EACH YEAR. MOTION PASSED 5 – 0.

ITEM 7: RETAINING WALL FOR LIONS PARK

Interim Administrator Schroeder explained the need for a retaining wall in Lions Park needed to support the trail as a result of a change in grade with the downtown project.

Councilmember Fliflet, seconded by Councilmember Lundgren, moved TO APPROVE THE RETAINING WALL CHANGE ORDER FOR LIONS PARK. MOTION PASSED 5 – 0.

ITEM 9: APPROVE MASSAGE LICENSE RENEWALS

Mayor Pearson, seconded by Councilmember Fliflet, moved TO APPROVE THE LICENSE RENEWAL FOR RENEW AND RECOVER MASSAGE. MOTION PASSED 5 – 0.

Mayor Pearson, seconded by Councilmember Lundgren, moved TO TABLE THE LICENSE RENEWAL FOR NIRVANA MASSAGE & SPA. MOTION PASSED 5 – 0.

Councilmember Lundgren, seconded by Councilmember Smith, moved TO APPROVE THE LICENSE RENEWALS FOR BODY & SOUL AND JENNIFER MERTES. MOTION PASSED 5 – 0.

ITEM 11: REASSIGNMENT OF INWOOD DEVELOPMENT CONTRACTS

Interim Administrator Schroeder reported that M/I Homes is acquiring the assets of Hans Hagen Homes. Schroeder explained that Hans Hagen Homes will continue to construct the homes and there will be no design changes.

Councilmember Smith, seconded by Councilmember Lundgren, moved TO REASSIGN DEVELOPMENT CONTRACTS FROM HANS HAGEN HOMES TO M/I HOMES, LLC. MOTION PASSED 5 – 0.

ITEM 13: HAMMES PLAT EXTENSION

Interim Administrator Schroeder reviewed the request for an extension of the plat approved in 2014. Councilmember Fliflet requested clarification on how the moratorium affects this request. City Attorney Snyder stated that the moratorium does not apply to previously approved plats. Discussion held concerning outstanding special assessments and property taxes.

Mayor Pearson, seconded by Councilmember Bloyer, moved TO EXTEND THE PRELIMINARY AND FINAL PLAT APPROVAL AND DEVELOPMENT CONTRACT FOR TWO YEARS THROUGH OCTOBER 7, 2016 WITH THE CONDITION THAT ALL

SPECIAL ASSESSMENTS BE PAID AT PLAT, AND THAT THE DEVELOPER'S AGREEMENT BE EXECUTED BY A DEVELOPER AS A CONDITION OF RECORDING THE PLAT. MOTION PASSED 3 – 2. (Fliflet, Lundgren – Nay)

Mayor Pearson, seconded by Councilmember Smith, moved THAT ASSESSMENT ARREARAGES AND BALANCE BE PAID WHEN OTHERWISE DUE UNDER THE CONTRACT. MOTION PASSED 3 – 0 – 2. (Fliflet, Lundgren – abstain)

ITEM 14: RFP REQUEST FROM PARKS COMMISSION FOR BALLPARK REDESIGN

Parks Commission Chair Weis explained the scope of the RFP request and presented photos of ball parks in other Minnesota cities. Weis explained that the Parks Commission has placed Lions Park on the Parks Commission CIP and has incurred significant cost for repairs, prompting the need for further planning.

Curt Monteith, 331 Julep, asked for denial of the request and stated that future parks should include long space, not just tot lots.

Barry Weeks, 3647 Lake Elmo Avenue, stated that the ball field is a tradition in the area and is heavily used.

Pam Hartley, 10010 Tapestry, spoke as a Parks Commissioner, stating that the Commission was unanimous in its decision to move forward toward making Lions Park a focal point and asset for the community.

Nadine Obermueller stated she loves Lions Park and baseball is great for the town but the park needs freshening up.

Jerry Kromschroeder, 3517 Lake Elmo Avenue, stated that Lions Park is an icon and anything that can be done to improve it would be a good thing.

Parks Chair Weis discussed a potential timeline for receiving plans and initiating a project.

Councilmember Fliflet, seconded by Councilmember Bloyer, moved TO ISSUE AN RFP FOR ARCHITECTURAL WORK TO REDESIGN THE BALLFIELDS IN THE HISTORIC DOWNTOWN. MOTION PASSED 5 – 0.

ITEM 15: BUILDING DEPARTMENT TRUCK

Interim Administrator Schroeder reviewed bids received for two vehicle options under leasing and purchasing plans. Councilmember Lundgren stated that a leased vehicle would be cheaper for the City in the long run. Councilmember Fliflet stated she is in favor of leasing and allowing staff to turn in leased vehicles for new leased vehicles without City Council approval.

Mayor Pearson, seconded by Councilmember Bloyer, moved TO PURCHASE A 2016 JEEP COMPASS WITH A LOAN FROM LAKE ELMO BANK AT 1.99%. MOTION PASSED 3 – 2. (Fliflet, Lundgren – Nay)

ITEM 16: OP ORDINANCE DEVELOPMENT DISCUSSION

Interim Administrator Schroeder reviewed the general requirements regarding density in the OP zoning district and questions concerning potential revisions. Councilmembers noted restrictions in the current code and potential for improving it.

Councilmember Fliflet, seconded by Councilmember Smith, moved TO DIRECT THE OP ORDINANCE BACK TO THE PLANNING COMMISSION FOR CONSIDERATION BASED ON THE AREAS IDENTIFIED IN ORDINANCE THAT WERE DISCUSSED BY THE CITY COUNCIL. MOTION PASSED 3 – 1 – 1. (Bloyer – Nay, Pearson – Abstain)

ITEM 17: PARLIAMENTARIAN DISCUSSION

Councilmember Fliflet stated that she would like the Council to hire a parliamentarian to run the City Council meetings while the Council continues to work toward better relations.

Discussion held concerning the current Council meeting procedures and decorum.

Councilmember Fliflet, seconded by Councilmember Smith, moved TO DIRECT THE ADMINISTRATOR TO HIRE A PARLIAMENTARIAN OF HIS CHOICE FOR THE NEXT COUNCIL MEETING. MOTION PASSED 3 – 1 – 1. (Bloyer – Nay, Pearson – Abstain)

Dale Doerschner – 3150 Lake Elmo Avenue – questioned the cost and effectiveness of hiring a parliamentarian.

ITEM 18: RFP PROCESS FOR ENGINEERING AND LEGAL CONTRACTS

Councilmember Fliflet asked staff to look into the current contracts with City consultants to determine if the City needs to start an RFP process as part of year end planning.

ITEM 19: INTERIM CITY ADMINISTRATOR CONTRACT

City Attorney Snyder stated that he prepared a letter to the Council and provided a copy of the Interim Administrator's contract for Council review. Councilmember Bloyer suggested the City Attorney negotiate with the Interim Administrator for an extension to allow the City time to stabilize. Councilmember Fliflet stated the City needs to finish the process and conduct a search for a permanent Administrator but noted she is against using a search firm. Councilmember Smith stated she is in favor of using a search firm and offered to gather additional information for the next meeting.

ITEM 20: PROFORMA UPDATE

Interim Administrator Schroeder reported on follow up he conducted on questions from the previous Council meeting. Schroeder explained that the document is a very complex, interlinked spreadsheet with issues in calculations that occur after the year 2021. Schroeder reiterated his recommendation from the previous meeting for the City to purchase software from an outside vendor and hire a contractor to input the information to replace use of the spreadsheet.

Wally Nelson, 4582 Lilac Lane, thanked staff for admitting errors in the spreadsheet and offered assistance to the Finance Director and Finance Committee Chair.

STAFF REPORTS AND ANNOUNCEMENTS

Interim City Administrator Schroeder: Attended a library meeting, Washington County municipal water meeting, League of Minnesota Cities Meeting, met with developers, attended an in-service regarding livable communities.

City Clerk Johnson: Reported that the ISD 622 special election went very smoothly with a 25% voter turnout, and thanked City staff and election judges for their help. Attended an HR training last week, preparing for HR Committee meeting Monday, November 9th, posted Community Development Director position opening, interviewing candidates for the Office Administrative Assistant position later in the week, working on license renewals and assisting residents with special assessment questions. Noted City Hall will be closed on Wednesday, November 11th in observance of Veteran's Day.

Meeting adjourned at 12:26 a.m.

LAKE ELMO CITY COUNCIL

ATTEST:

Julie Johnson, City Clerk

Mike Pearson, Mayor

Print

Lake Elmo, MN Code of Ordinances

OPEN SPACE PRESERVATION

§ 150.175 PURPOSE.

(A) The purpose of open space preservation (OP) is to maintain the rural character of Lake Elmo by preserving agricultural land, woodlands, corridors, and other significant natural features while allowing residential development consistent with the goals and objectives of the city's Comprehensive Plan. This type of development will allow an alternative to large lot, single-family housing and will reduce the cost of constructing and maintaining public facilities and infrastructure.

(B) Protected open space will enhance and preserve the natural character of the community and create distinct neighborhoods.

(Ord. 97-79, passed 5-1-2001)

§ 150.176 INTENT.

(A) It is the intent of the City of Lake Elmo to accomplish the stated purpose of OP by approving a conditional use permit for portions of property currently zoned Agricultural, Rural Residential, and Rural Estate; and by adopting the comprehensive development regulations contained herein.

(B) In return for requiring preserved open space as contained herein; it is the intent of the City of Lake Elmo to allow dwelling unit density that will provide a development density equal to or greater than the prior zoning; AG, Agricultural, RR, Rural Residential, and RE Residential Estate.

(Ord. 97-79, passed 5-1-2001)

§ 150.177 DEFINITIONS.

Unless specifically defined in §§ 150.175 *et seq.*, common definitions, words, and phrases used in §§ 150.175 *et seq.* shall be interpreted so as to give them the same meaning as they have in common usage throughout this code and are found in § 11.01.

(Ord. 97-79, passed 5-1-2001)

§ 150.178 USE REGULATIONS.

Within OP, the following uses are allowed.

(A) *Permitted uses.*

- (1) Single-family, detached;
- (2) Preserved open space;
- (3) Conservation easements;
- (4) Agriculture;
- (5) Suburban farms;
- (6) Private stables;
- (7) Single-family, attached;
- (8) Townhouses (no more than 25% in any development);
- (9) Wayside stand.

(B) *Accessory uses.* Uses that are typically found accessory to a permitted use.

(C) *Prohibited uses.* All other uses are hereby prohibited.

(Ord. 97-79, passed 5-1-2001; Am. Ord. 08-006, passed 6-17-2008; Am. Ord. 08-31-A, passed 10-5-2010) Penalty, see § 10.99

§ 150.179 OP CONDITIONAL USE PERMIT REQUIRED.

No property may be developed responsive to §§ 150.175 *et seq.* unless approval is obtained from the City Council following its approval of the concept plan, development stage plan, conditional use permit, and final plan described herein. Applications for Council approval shall be submitted on forms provided by the City Administrator together with all required fees, maps, surveys, and planning data. Only completed applications shall be referred to the Planning Commission for review.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.180 DEVELOPMENT STANDARDS.

(A) OP developments shall comply with the following minimum standards unless modified by 4/5 affirmative votes of the City Council.

(B) (1) *Land area.* Applications for a residential development in the OP District shall meet all the following criteria.

(a) The minimum land area for an OP conditional use permit is a nominal contiguous 40 acres. The ratio of parcel length to width shall not exceed 3 to 1. The total number of dwelling units permitted shall be according to the development density criteria contained in the Comprehensive Plan. The total number of dwelling units within an OP development shall not exceed the density limitations contained in the Comprehensive Plan for OP Districts.

(b) The total preserved open space area within the OP development shall be at least 50% of the total buildable land area, as defined by § 11.01. Areas not meeting the definition of buildable land area shall not be considered to be preserved open space in determining the amount of preserved open space proposed.

(c) Dwelling units shall be grouped so that at least 50% of the buildable land area of the proposed development remains preserved open space. The preserved open space shall consist of agricultural lands, natural habitat, pedestrian corridors, or neighborhood or community recreational areas.

(2) *Open space easement required.*

(a) *Preserved open space standards.*

1. All preserved open space shall be subject to a conservation easement and used for the purposes as defined by §§ 150.175 *et seq.* The land shall be controlled in 1 or more following manners as determined in the city's sole discretion:

a. Owned by an individual or legal entity who will use the land for preserved open space purposes as provided by permanent conservation restrictions (in accordance with M.S. Ch. 84C.01-.05, as it may be amended from time to time), to an acceptable land trust as approved by the city; and/or

b. Conveyed by conservation easement to the city.

2. Not less than 60% of the preserved open space shall be in contiguous parcels of not less than 10 acres.

3. Parks and recreational facilities shall be provided in addition to preserved open space as specified in the Lake Elmo Parks Plan; and, consistent with the park dedication and fees-in-lieu standards as specified by Chapter 153.

4. The preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of deed covenants to prospective purchasers, and conservation easements to the city, describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space.

5. Where applicable, a homeowner's association shall be established to permanently maintain all residual open space and recreational facilities. The homeowner's association agreements, guaranteeing continuing maintenance, and giving lien right to the city if there is lack of the maintenance shall be submitted to the city as part of the documentation requirements of §§ 150.175 *et seq.* for a final plan.

6. Preserved open space parcels uses shall be contiguous with preserved open space or public park, on adjacent parcels.

(b) *Lot design.* Lots shall be designed to achieve the following objectives (listed in order of priority):

1. On the most suitable soils for sub-surface septic disposal;

2. On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for the agricultural use;
3. Within any woodland contained in the parcel, or along the far edges of the open fields, adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features);
4. In locations least likely to block or interrupt scenic vistas, as viewed from Highway 36 and Highway 5 corridors, and other local roads as designated in the Comprehensive Plan; and
5. Away from woodlands in open fields.

(c) *Structures.* Homes shall be oriented on the site that meets the criteria of rural hamlet. It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, roof pitches.

(d) *Buffer zones.* Where a proposed OP development abuts an existing residential development or a parcel of land not eligible for future development under the OP ordinance due to insufficient parcel area, a 200 foot setback shall be provided between the property line of the abutting parcel and any structure or driving surface within the OP development. Driving surfaces that cross the setback area at a 90 degree angle shall be the only exception. Where a proposed OP development abuts an existing OP development, or a land parcel eligible for future development under the OP ordinance, a 100 foot setback from any structure within the proposed OP development and the property line of the abutting parcel may be substituted. The setback substitution shall only be approved when there is existing mature vegetation and/or changes in topography occurring on the site proposed for development; and/or where the OP site developer introduces the physical features that provide an effective year round buffer of the structures proposed for the OP site from existing residences or development. The determination of the buffering effectiveness of existing or introduced physical features that qualify a site for a 100 foot buffer shall be at the sole discretion of the City Council.

(e) *Boulevard landscaping.* Boulevard landscaping is required along all streets to consist of at least 1 tree per every 30 feet or placed in dusters at the same ratio. A landscape plan for the entire site is required and shall consist of at least 10 trees per building site; and trees shall not be not less than 1.5 inch in caliper measured at 54 inches above grade level.

(f) *Pathway.* A pathway system or sidewalks shall be identified which will extend through the buildable land area or through the open space land to connect to a planned or developed pathway on adjacent parcels or to a local road. Pathways shall be linked to the "Old Village" to emphasize the connection between existing and new development. Pathways provided shall be at least equal in length to the sum of the centerline length of all public roads within the development. Pathways shall be constructed of asphalt or concrete in compliance with the standard city design plate for OP trails.

(g) *Densities.* The maximum dwelling unit density shall be 18 units per 40 gross acres of buildable land.

(h) *Minimum district requirements.*

<i>Open Space Preservation District (OP)</i>

	<i>Single-Family</i>	<i>Townhouse</i>
Maximum Building Height:		
Primary Structure	2 and ½ stories or 35 feet	2 and ½ stories or 35 feet
Accessory Structure	25 feet	1 story or 20 feet, whichever is less
Minimum Lot Width: ½ acre lot; 1 acre lot	NA	NA
Maximum Impervious Surface Coverage: Gross Lot Area	20%. This percentage may be increased to 25% provided a pervious paver or comparable system is installed consistent with the <i>City of Lake Elmo Engineering Standards Manual</i> or storm water mitigation measures are installed to mitigate the runoff created by the additional coverage above the base district amount. All mitigation measures must be approved by the City Engineer.	NA
Minimum Setback Requirements:		
Front Yard	30 feet	20 feet

<i>Open Space Preservation District (OP)</i>		
	<i>Single-Family</i>	<i>Townhouse</i>
Side Yard	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater
Corner Lot Front	30 feet	30 feet
Corner Lot Side Yard	30 feet	30 feet
Rear Yard	20 feet	20 feet
Buffer Setback	See (d) Buffer zone above See city staff or website for individual requirements	See (d) Buffer zone above See city staff or website for individual requirements
Well From Septic Tank	50 feet	50 feet
Minimum Lot Size:		
Individual Well and Septic System	1 acre	NA

Individual Well and Communal Drainfield	½ acre	8,000 square feet per unit
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(i) *Utilities.*

1. OP developments may be platted to accommodate home site lots with either individual septic tanks and drainfields; or, with individual septic tanks and communal drainfields. Single-family or multiple-family lots under 1 acre shall be constructed with an individual septic tank and a communal drainfield.

2. All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for sewage treatment systems WPC-7080 and its appendices, or the M.P.C.A. standards in effect at the time of installation and septic system regulations of the Lake Elmo Municipal Code.

3. Communal drainfields may be partially or completely located in an area designated as preserved open space provided:

a. The ground cover is restored to its natural condition after installation; and

b. Recreational uses are prohibited above or within 50 feet of communal drainfields, or as approved by the City Engineer.

4. No wetland treatment system shall be allowed within the village green.

(j) *Streets.* Streets shall be developed according to the following standards that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation.

1. Streets shall be designed according to the following standards; pavement shall be 14 to 16 feet wide for 1-way streets; pavement shall be 22 to 24 feet wide for 2-way streets; and the pavement width shall be 22 to 24 feet for streets where homes are located on 1 side of the street.

2. The minimum street right-of-way for 1-way streets shall be 40 feet and the minimum right-of-way for 2-way street shall be 50 feet.

3. Streets shall not be constructed with a rural cross-section.

(Ord. 97-79, passed 5-1-2001; Am. Ord. 97-184, passed 10-3-2006; Am. Ord. 97-199, passed 11-5-2007; Am. Ord. 08-008, passed 8-19-2008; Am. Ord. 08-035, passed 11-16-2010) Penalty, see § 10.99

§ 150.181 HISTORIC PRESERVATION.

Historic structures on the site shall be identified.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.182 OP DEVELOPMENT/CONCEPT PLAN.

(A) *Required submittals; OP development/concept plan.* The applicant shall submit 20 copies of a concept plan for a development of an OP that shall include the following information.

(1) An existing conditions plan which identifies the following (drawn to a scale of 1 inch equal to 100 feet):

- (a) Primary conservation areas;
- (b) Secondary conservation areas;
- (c) Site topography at 2 foot contour interval; and
- (d) Location and description of existing vegetative cover.

(2) A general site plan to include the general location of all platted lots, streets, and open space areas, structures, trails, common open spaces, and parks (drawn to scale of 1 inch equal to 100 feet).

(3) The applicant shall submit a schedule of site characteristics, calculated in acres, which shall include the following.

(a) *Environmental resources.* Include map and calculated acreage of the following:

1. Total site;
2. Protected wetlands;
3. Wetland buffer/setback area;
4. 12% - 24% sloped area;
5. 25% + sloped area; and
6. Woodlands.

(b) *Public improvements.* Include map and calculated acreage of the following:

1. Public road right-of-way;
2. Drainage way and ponding areas;
3. Trails/bikeways and sidewalks (outside of road right-of-way);
4. Utility easements; and
5. Public parks.

(c) *Proposed development.* Include map and calculated acreage of the following:

1. Total residential area;
2. Total commercial land area; and
3. Total preserved open space.

(d) *A general landscape plan.*

(e) *Statement of intent.* If applicable, provide a statement of intent establishing a homeowners association with bylaws and deed restrictions to include, but not be limited to, the following:

1. Ownership, management, and maintenance of defined preserved open space;
2. Maintenance of public and private utilities; and
3. General architectural guidelines for principal and accessory structures.

(f) *Proposed staging plan.*

(g) *Historic preservation plan.* Where applicable, an historic preservation plan for any historic structures on the site.

(B) *Planning Commission review.*

(1) Upon receipt of a completed application for an OP development/concept plan as certified to by the City Planner, the Planning Commission shall review OP development concept plan application at a public hearing preceded by 10-days published notice and 2-weeks mailed notice to the recorded owners of each parcel located within 350 feet of the perimeter of the proposed development.

(2) The Planning Commission shall make its recommendations to the City Council within 30 days of receipt of a complete application, and shall include its findings on the following.

(a) The concept plan is consistent with the goals, objectives, and policies of the Comprehensive Plan.

(b) The concept plan is consistent with the purpose of §§ 150.175 *et seq.*

(c) The concept plan complies with the development standards of §§ 150.175 *et seq.*

(C) *City Council review.* The City Council shall review and approve or deny OP development concept plan within thirty days of the receipt of a completed application. The City Council may also table its review a reasonable time, if necessary to obtain information that will enable the Council to make a reasonable decision, and if the extension is consented to by the applicant on the record. OP development concept plan approval shall require 3 affirmative votes of the City Council.

(D) *Limitation of approval.* Unless an OP development preliminary plan is submitted within 12 months from the date on which the City Council approved the OP development concept plan, the concept plan approval shall expire. The City Council, in its sole discretion, may extend the filing deadline for an OP development preliminary plan and conditional use permit if an application for extension is filed and approved by the City Council before the OP development concept plan approval expires.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.183 OP DEVELOPMENT PRELIMINARY PLAN, PRELIMINARY PLAT, AND CONDITIONAL USE PERMIT.

(A) *Submittals.* The OP development preliminary plan shall include the following:

- (1) A statement of city action necessary for implementation of the proposed plan;
- (2) Twenty sets of site plans, drawn to scale of not less than 1 inch equals 100 feet containing at least the following information:
 - (a) Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat previously recorded in Washington County);
 - (b) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property that may have an impact on the open space or the development;
 - (c) Location, dimensions, and number of all driveways, entrances, curb cuts, par stalls, loading spaces, and access aisles, and all other circulation elements including bike and pedestrian trails; and the total site coverage of all circulation elements;
 - (d) Location, designation, and total area of all preserved open space;
 - (e) Location, designation, and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites, and recreational facilities;
 - (f) Proposed lots and blocks, if any, and numbering system;
 - (g) The location, use, and size of structures and other land use on adjacent properties;
 - (h) Preliminary sketches of proposed landscaping;
 - (i) General grading and drainage plans for the developed OP development in conjunction with a Storm Water Management Plan as identified in § 150.277;
 - (j) The development plans shall also indicate the results of deep soil test pits and percolation tests, at the rate of no fewer than 2 successful test results for each proposed septic disposal area; and
 - (k) Any other information that may have been required by the City Council in conjunction with the approval of the OP development concept plan.
- (3) An accurate legal description of the entire area within the OP development for which development plans approval is sought;
- (4) Architectural and performance standards for the development;
- (5) Preliminary grading and site alteration plan illustrating changes to existing topography and natural vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan;
- (6) A preliminary plat prepared in accordance with M.S. Ch. 505, as it may be amended from time to time, Chapter 153 of the Lake Elmo Municipal Code, and other applicable laws;
- (7) A Soil Erosion Control Plan clearly illustrating erosion control measures to be used during construction and as permanent measures. See also § 150.277 regarding Erosion and Sediment Control Plan requirements; and
- (8) Homeowner's Association documents including bylaws, deed restrictions, covenants, and proposed conservation easements.

(B) *Planning Commission review.* Upon receipt of a complete OP development preliminary plan by the city, as certified as complete by the City Planner, the City Planner shall refer the preliminary plan to the appropriate city staff, consultants, and other review agencies. The Planning Commission shall review the OP development preliminary plan and shall schedule public hearings as required for preliminary plat and conditional use permit review within 30 days of the City Planner's receipt of a completed application and shall make its recommendations to the City Council regarding the preliminary plan, conditional use permit, and preliminary plat.

(C) *City Council review.*

(1) Within 60 days of the city receipt of a complete application, the City Council shall review the OP development preliminary plan, conditional use permit, and the preliminary plat. The OP development plan, conditional use permit, and preliminary plat shall require 3 affirmative council votes for approval.

(2) Upon approval, the City Council shall instruct the City Attorney to draw up an OP development agreement that stipulates the specific terms and conditions established and approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor, City Administrator, and applicant within 30 days of Council approval of the OP development preliminary plan and conditional use permit.

(D) *Limitation on preliminary plan approval.* Unless a final plan covering the area designated in the preliminary development plan as the first stage of the OP development has been filed within 6 months from the date Council grants approval, or in any case where the applicant fails to file final plans and to proceed with the development according to the provisions of §§ 150.175 *et seq.*, the preliminary development plan and conditional use permit shall expire. The Council may, at its discretion, extend the filing deadline for any final plan when, for good cause shown, the extension is reasonable. In any case where preliminary development plan and conditional use permit approval expires, the concept plan approval and preliminary development plan approval for that portion of the OP development that has not received final plan approval is void.

(Ord. 97-79, passed 5-1-2001; Am. Ord. 08-024, passed 4-20-2010) Penalty, see § 10.99

§ 150.184 OP DEVELOPMENT FINAL PLAN.

(A) The purpose of the final plans is to provide a complete, thorough, and permanent public record of the OP development and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the OP development process. It shall serve in conjunction with other city ordinances as the land use regulation applicable to the OP development.

(B) (1) *Submittals required.* After approval of the concept plan and preliminary plan for an OP development, the applicant shall submit the following material for review by the city staff prior to the issuance of any building related permits:

- (a) A detailed landscaping plan;
- (b) All easements and restrictive covenants;

- (c) All certificates, seals, and signatures required for the dedication of land and recording of documents;
- (d) General architectural working drawings of all historic structures to be rehabilitated;
- (e) Final engineering plans and specifications for streets, utilities, and other public improvements, together with all required development agreements for the installation of the improvements;
- (f) Any other plans, agreements, or specifications reasonably necessary for the city staff to review the proposed construction; and
- (g) Final plat.

(2) *City Council review.* The final plan is intended only to add administration detail to, and to put in final form, the information contained in the concept plan and the preliminary development plan, and shall conform to the concept plan and preliminary development plan. The city shall review and approve the final plan and final plat within 60 days of receipt of a complete final OP development plan and final plat, as certified as complete by the City Planner.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.185 RECORDING OF FINAL PLAT.

The applicant shall submit to the city the recordable final plat drawings; all easements, deeds, plans, fees, financial security, and the other documentation as may be required by the development agreement within 30 days of final plan and final plat approval by the City Council. The recordable Final Plat, approval resolution, and the other documents that require recording shall be released by the city to the applicant for the recording only upon review and approval by appropriate city staff; and, execution by the applicant and required city officials.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.186 BUILDING AND OTHER PERMITS.

Except as otherwise expressly provided herein, upon receiving written notice from the City Planner that the approved final plan has been recorded and all conditions of approval satisfied, the City Building official may issue building and other permits to the applicant for development, construction, and other work in the area encompassed by the approved final plan; provided, however, that no permit shall be issued except upon proper application and after the requirements of all other applicable codes and ordinances have been satisfied.

(Ord. 97-79, passed 5-1-2001)

§ 150.187 LIMITATION ON FINAL PLAT APPROVAL.

Within 18 months after approval of a final plan for OP development, or the shorter time as may be established by the approved development schedule, construction shall commence according to the approved plan. Failure to commence construction within the period shall automatically

render void the OP conditional use permit and all approvals for the final OP development plan. The City Council may at its discretion extend the construction time as necessary when good cause is shown.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.188 METHOD OF AMENDING AN OP CONDITIONAL USE PERMIT.

Any desired change involving structural alteration, enlargement, or intensification of the use, not specifically allowed by the specific terms of a previously passed OP conditional use permit, shall require that an application be filed for an amended permit and all procedures shall then apply as if a new permit was applied for.

(Ord. 97-79, passed 5-1-2001) Penalty, see § 10.99

§ 150.189 INFORMATION REQUIREMENTS; ADDITIONS; EXCEPTIONS.

The City Administrator shall maintain a record of all permits issued, including information on the use, locations, conditions imposed, time limits, review dates, and the other information as may be appropriate.

(Ord. 97-79, passed 5-1-2001)

§ 150.190 BUFFER SETBACKS IN OP DEVELOPMENTS.

Buffer setbacks shall be applied from the edge of the open space preservation zoning districts as follows.

<i>Recommended Buffer Setbacks in OP Developments (in feet)</i>					
	<i>North Edge</i>	<i>South Edge</i>	<i>West Edge</i>	<i>East Edge</i>	<i>Exception Parcel(s)</i>
St. Croix's Sanctuary	200	50	50	100	
Discover Crossing	200	100	50	100	
Whistling Valley I	25	200	N/A	N/A	
Whistling Valley II	25	100	85	N/A	
Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix II	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	
Tapestry at Charlotte's Grove	50	50	200	50	100

Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	
Hamlet on Sunfish Lake	50	100	50	50	
Cardinal Ridge	100	200	50	50	
Wildflower Shoves	100	200	100	200	

<i>Recommended Buffer Setbacks in OP Developments (in feet)</i>					
	<i>North Edge</i>	<i>South Edge</i>	<i>West Edge</i>	<i>East Edge</i>	<i>Exception Parcel(s)</i>
Heritage Farms	50	N/A	N/A	50	N/A
Tana Ridge (Res. 2009-033)	N/A	N/A	50	50	
Parkview Estates (Res. 2009-033)	50; except Lot 9, Block 5 use 20 ft	N/A	N/A	50	
Meyers Pineridge	50	50	100	200	
5010 Keats Ave. (Meyers Pineridge)	0	0	0	0	

(Ord. 08-021, passed 12-15-2009; Am. Ord. 08-034, passed 11-16-2010)