



MAYOR & COUNCIL COMMUNICATION

DATE: April 5, 2016

CONSENT

ITEM #16

AGENDA ITEM: Fence Encroachment & Maintenance Agreement

SUBMITTED BY: Emily Becker, City Planner

THROUGH: Kristina Handt, City Administrator

REVIEWED BY: Stephen Wensman, Planning Director

SUGGESTED ORDER OF BUSINESS (if removed from consent agenda):

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

POLICY RECCOMENDER: Staff recommends that the City Council approve the Fence Encroachment and Maintenance agreement for Matt Schleicher at PID #1302921410038 (11913 32nd St N at Easton Village).

FISCAL IMPACT: None

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to authorize as part of tonight's consent agenda, the execution of a fence encroachment and maintenance agreement. The City has received a request to install a fence within a drainage and utility easement. Homeowner and City intend that Homeowner shall be responsible for maintaining, repairing and replacing the fence.

LEGISLATIVE HISTORY: The Fence Encroachment and Maintenance Agreement that has been submitted for Council consideration is for a fence and has been reviewed by planning and engineering staff. The proposed fence meets all city code requirements and Staff would have

otherwise authorize construction of the fence if it did not encroach into a drainage and utility easement owned by the City.

BACKGROUND INFORMATION (SWOT):

Strengths: The fence encroachment and maintenance agreement is a legal document that all property owners seeking to install fences within drainage and utility easements are required to sign. The document, among other things, indemnifies the city from responsibility if damage occurs to the improvement or if it needs to be removed at some point in the future.

Weaknesses: None

Opportunities: None

Threats: None

RECOMMENDATION:

Based on the aforementioned, Staff is recommending that the City Council approve the fence encroachment and maintenance agreement as part of the Consent Agenda. If the City Council removes the item from the Consent Agenda, the recommended action can be completed through the following motion:

“Move to approve the fence encroachment and maintenance agreement for Matt Schleicher to install a fence within a drainage and utility easement to the City.”

OWNERSHIP AND MAINTENANCE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2016, by and between the CITY OF LAKE ELMO, a Minnesota municipality (hereinafter “City”), and Matt Schleicher and Barbara Schleicher, husband and wife, (hereinafter “Owner”) and their successors in title.

WHEREAS, Owner is the owner of the real property located in the City of Lake Elmo, Washington County, Minnesota, legally described on the attached Exhibit A (“Property”);

WHEREAS, Owner desires to install a fence (“Fence”) on the Property. Owner and City intend that Owner shall be responsible for maintaining, repairing and replacing the fence.

WHEREAS, the City has reviewed plans and specifications dated April 2016, prepared by Midwest Fence (the “Plans and Specifications”) for conformance to City Standards;

NOW, THEREFORE, the parties hereto agree as follows:

1. Owner is authorized by the City to install the Fence in accordance with the Plans and Specifications.
2. The Fence shall be the sole and exclusive property and responsibility of Owner and shall not be a public fence whether or not the Fence is located within a publicly dedicated easement on the Property.
3. Owner shall, at its sole cost, maintain, repair and replace the Fence as needed, and agrees to indemnify, defend and hold the City harmless from any claims, actions, demands, or liability, including attorneys’ fees, against it arising out of the Fence.
4. This Agreement shall be governed in all respect by Minnesota law.
5. This Agreement shall run with the land and be binding on all succeeding owners of

any interest in the property.

6. This Agreement shall be recorded as to the Property in the office of the County Recorder or Registrar of Titles in and for Washington County, Minnesota.

[SIGNATURES ON FOLLOWING PAGES]

CITY OF LAKE ELMO

By _____
Mike Pearson, Mayor

By _____
Kristina Handt, City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

On this ____ day of _____, 2016, before me, a notary public within and for said County and State, personally appeared MIKE PEARSON and KRISTINA HANDT to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and Administrator of the CITY OF LAKE ELMO, by authority of the City Council of the City of Lake Elmo, and said Mayor and Administrator acknowledged said instrument to be the free act and deed of said City of Lake Elmo.

Notary Public

THIS INSTRUMENT DRAFTED BY:
DAVID K. SNYDER
JOHNSON & TURNER, P.A.
56 East Broadway Avenue, Suite 206
Forest Lake, MN 55025
(651) 464-729

By: Matthew Schleicher
[Owner] Matthew Schleicher, as husband
of Barbara Schleicher

By: Barbara Schleicher
[Owner] Barbara Schleicher, as wife
of Matthew Schleicher

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

On this 13th day of April, 2016, before me, a Notary Public,
personally appeared Matthew Schleicher as husband of Barbara Schleicher, property owner, who
signed the foregoing instrument and acknowledged said instrument to be his free act and deed.

Alice L. Freeman

Notary Public



On this 13th day of April, 2016, before me, a Notary Public, personally appeared
Barbara Schleicher as wife of Matthew Schleicher, property owner, who signed the foregoing
instrument and acknowledged said instrument to be her free act and deed.

Alice L. Freeman

Notary Public

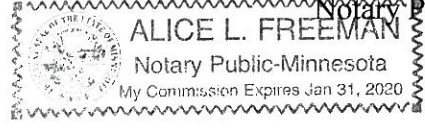


Exhibit A

LOT 6, BLOCK 4, EASTON VILLAGE, WASHINGTON COUNTY, MINNESOTA

(11913 32nd St N)