



*Our Mission is to Provide Quality Public
Services in a Fiscally Responsible Manner
While Preserving the City's Open Space
Character*

NOTICE OF MEETING

**City Council Workshop
3800 Laverne Avenue North
October 10, 2017
6:30 PM**

AGENDA

- | | |
|---|----------------|
| I. Call to Order | 6:30 PM |
| II. TH 36 Frontage Road Study Update | 6:30 PM |
| III. Increase in Fire Relief Benefit | 7:00 PM |
| IV. Sunfish Lake Park Development Guide | 7:30 PM |
| V. Greater Stillwater Chamber Update | 8:00 PM |
| VI. Lodging Tax | 8:20 PM |
| VII. Pool Covers | 8:40 PM |
| VIII. Items for Future Work Session Agenda | 9:00 PM |
| IX. Adjourn | 9:00 PM |



STAFF REPORT

DATE: October 10, 2017
PRESENTATION

AGENDA ITEM: State Highway 36 South Frontage Road Study – Update and Next Steps

SUBMITTED BY: Jack Griffin, City Engineer

ISSUE BEFORE COUNCIL: The City Engineer and SRF Consulting, Inc. (City's Transportation Consultant) will present a project update, including a brief history of the Trunk Highway 36 Corridor Planning work, a review of each of the public roadway intersections with Trunk Highway 36 within Lake Elmo, and lead a strategy discussion for the development of a preferred South Frontage Road alignment.

BACKGROUND AND DETAILS/ANALYSIS: In 2001 MnDOT adopted the Trunk Highway 36 Corridor Management Plan which outlines the future intersection and corridor access management along Trunk Highway 36 through Lake Elmo. Since that time MnDOT has proposed various improvements consistent with this plan which has systematically reduced and limited access to Trunk Highway 36 for Lake Elmo residents. In 2007 MnDOT required the ¾ intersection at Keats Avenue and in 2013 MnDOT proposed a full closure at Highlands Trail.

In April 2013 the City of Lake Elmo applied for and secured Federal Aid Funding to complete preliminary engineering work to develop a preferred future alignment of a south frontage road to State Highway 36. The intent of the study is to pursue a revised corridor management plan that improves Lake Elmo access. Federal Aid Funding was obtained in the amount of 80% of the project costs, or \$64,000. The City of Lake Elmo must pay the balance of \$16,000 and any costs over and above the project budget, if necessary. The City retained the services of SRF Consulting to develop a preferred future alignment and access plan. As part of the federal grant the work must be done collaboratively with the City, MnDOT, Washington County, Met Council and the City of Grant.

- Council goals established for this project include: Safe Access / Minimal backtracking / Minimize cut-through traffic.
- The TH36 Corridor short term implementation plan is the status quo. At the project start, in 2013, the City supported the construction of the DeMontreville Trail J-Turn Project that included two J-Turns to maintain access at Highlands Trail and DeMontreville Trail. These improvements were integrated in to the Hilton Trail Interchange construction at the request of Lake Elmo.
- The TH36 Corridor long term implementation plan is to maintain full access to Trunk Highway 36 at Lake Elmo Avenue and Demontreville Trail and to construct a South Frontage Road System to provide east-west access to the on/off ramp locations. Improvements would only be pursued when MnDOT/Washington County pursue the elimination or changes at the existing intersections.
- When improvements are needed, the City would seek federal and state grants for the projects such as the MnDOT Cooperative Agreement Program.

Two alternative alignment plans for the south frontage road and various on/off ramp configurations have been attached for review and discussion. The third attachment provides more detail for each intersection. These plans will be presented in greater detail at the workshop. Please note that parts of either plan can be combined together into the final plan.

ATTACHMENTS:

1. Alternative 1. South Frontage Road – Demontreville Trail to Lake Elmo Avenue.
2. Alternative 2. South Frontage Road – Demontreville Trail to Manning Avenue.
3. Intersection Details.

DRAFT

DRAFT

DRAFT

DRAFT

HILTON TRAIL

GATEWAY TRAIL

JASMINE AVE

KEATS AVE

LAKE ELMO AVE

DEMONTREVILLE TRAIL

HIGHLANDS TRAIL

KEATS AVE

LAKE ELMO AVE

TH 5 - STILLWATER BLVD

TH 36

TH 192

TH 36

50TH ST

47TH ST

Access Closure

Manning Avenue/Stillwater Road interchange configuration to be determined by future project.

Potential Traffic Signal

Legend

- Local Roadway
- TH 36 Ramp/Loop Connection
- Project Road (Frontage)
- Access Closure
- Bridge

DRAFT

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DRAFT

DRAFT

HILTON TRAIL

GATEWAY TRAIL

JASMINE AVE

KEATS AVE

LAKE ELMO AVE

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KEATS AVE

LAKE ELMO AVE

TH 5 - STILLWATER BLVD

TH 36

TH 36

50TH ST






47TH ST

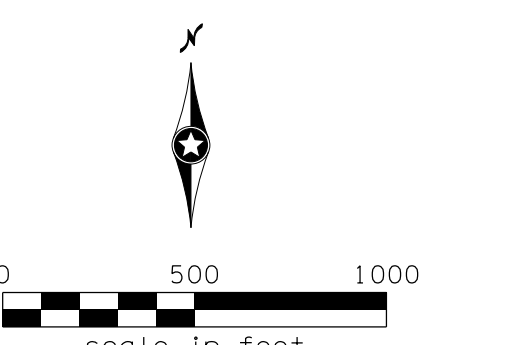
Access Closure

Manning Avenue/Stillwater Road interchange configuration to be determined by future project.

Potential Traffic Signal

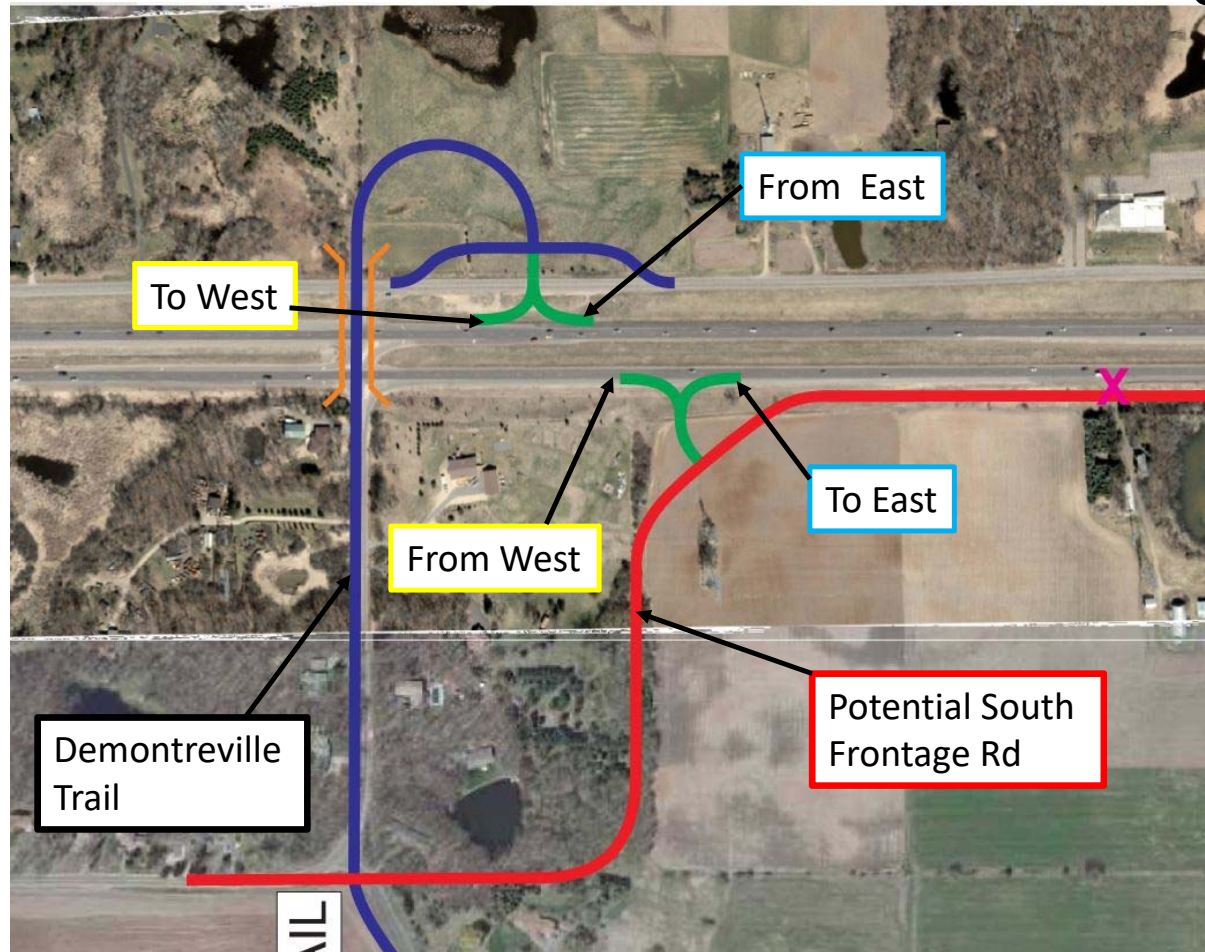
Legend

-  Local Roadway
-  TH 36 Ramp/Loop Connection
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-  Access Closure
-  Bridge

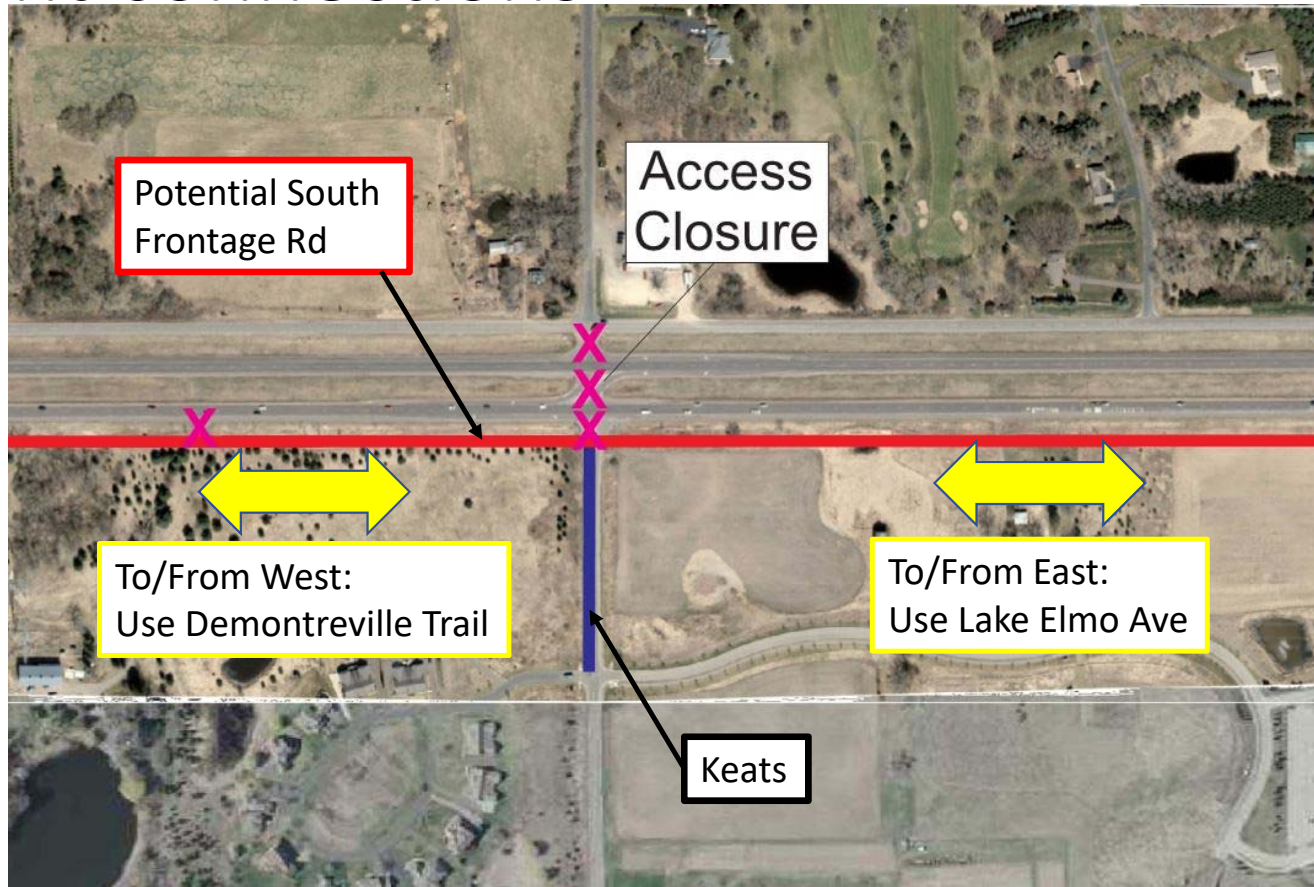


Scale in Feet

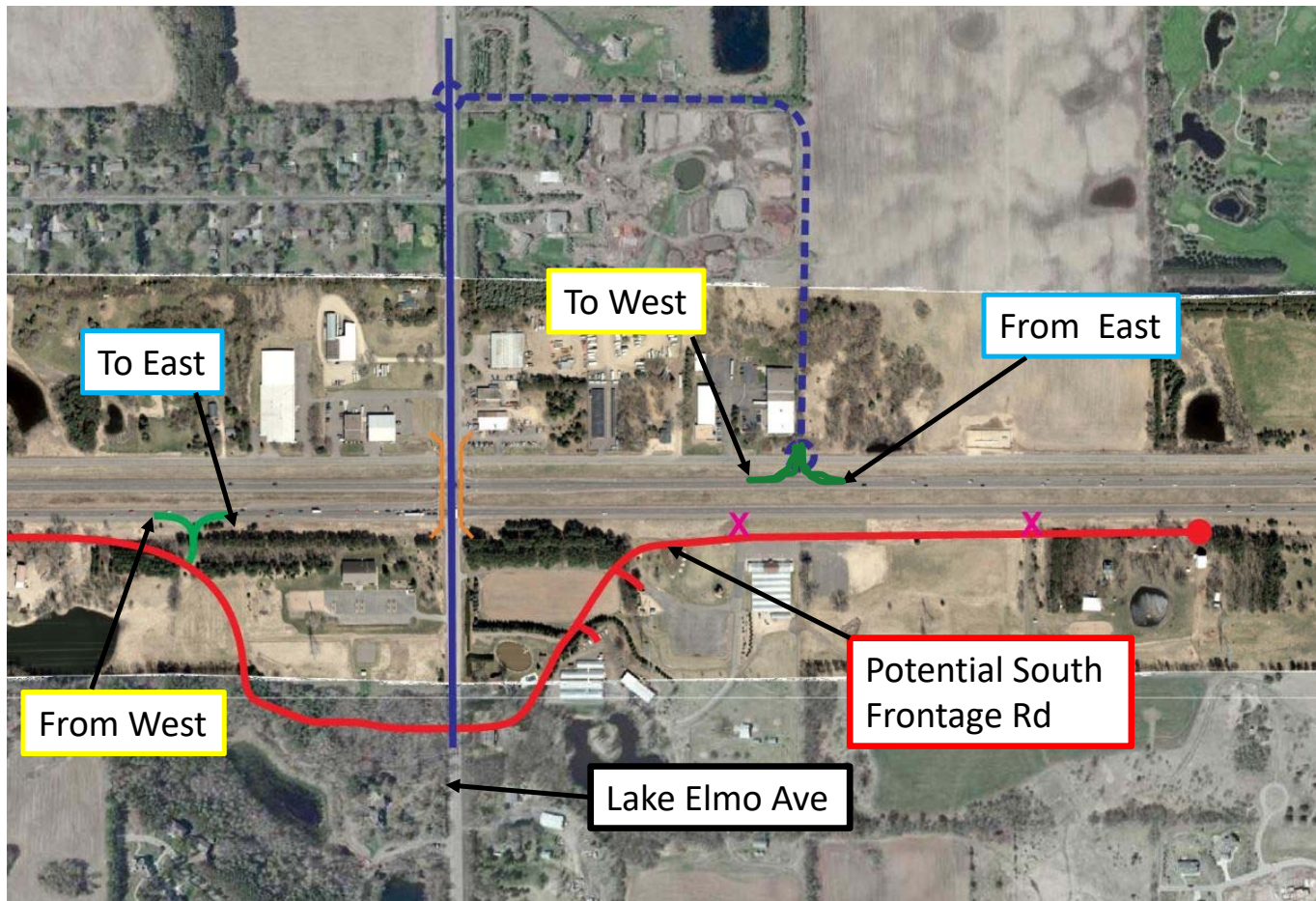
Future Demontreville Trail – Interchange?



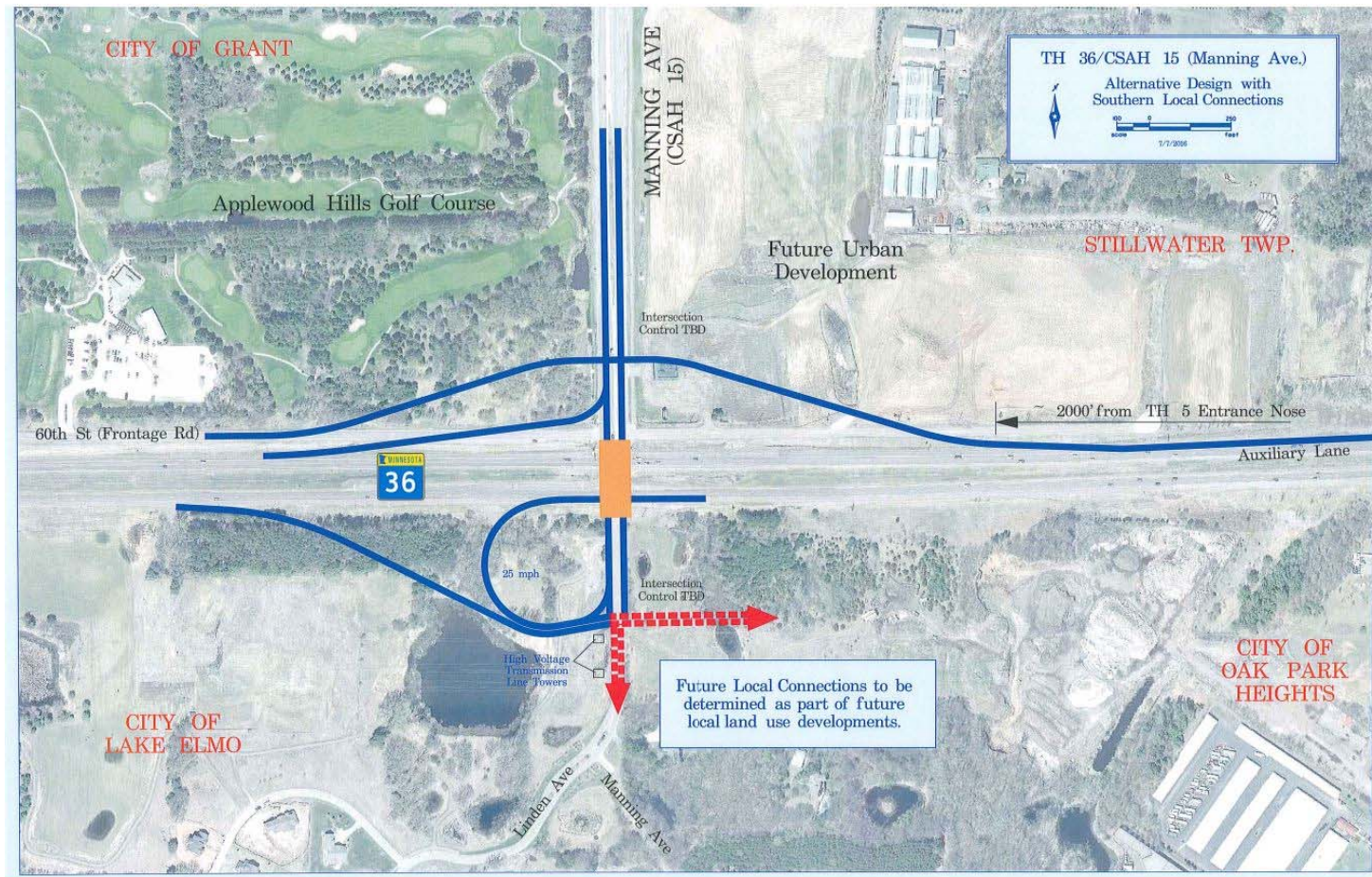
Future Keats Ave – Closure? Use Frontage to adjacent connections



Future Lake Elmo Ave – Potential Interchange



Future Manning Ave– Potential Interchange





STAFF REPORT

DATE: October 10, 2017

ITEM #:

TO: City Council

FROM: Steve Rutkowski, Relief Association President

AGENDA ITEM: Discussion on raising the Relief Association Annual Benefit

REVIEWED BY: Relief Association Board

BACKGROUND:

The Lake Elmo Relief Association has not had a Pension increase for over 10yrs. Tautges has provided the projections for the Relief Association and Hilde has provided the 2017 Auxuarial Report for both the Relif Association and City of Lake Elmo.

ISSUE BEFORE COUNCIL:

Review the recommendation of the Relief Association Board to increase the annual retirement benefit and determine if the proposed increase can be supported by the fund based on the provided documentation.

PROPOSAL DETAILS/ANALYSIS:

We are currently invested at 151.11% with a Pension rate of \$3,400. The Relief Association would like to increase to \$5,000 which the Pension Fund would be vested at 115%. Which is 10% higher than the State Standards of 105%.

FISCAL IMPACT:

Based on the projections of Tautges there will not be a Fiscal impact to the City of Lake Elmo unless the Funds are below 105%, (as required by Sate Statue) which has not happened in over 10 years.

OPTIONS:

- 1) Support the recommendations of the Releif Association Board for the benefit increase.
- 2) Do not support the recommendations of the Releif Association Board for the benefit increase.

RECOMMENDATION:

Recommendaton of the Relief Association Board is to move this forward to Council for approval.

ATTACHMENTS:

- The SC-17 Form which is a report that the audit provides for that the Relief Association Funds can be maximized to which shows \$8,000.
- The Active member form shows active members and in red what different dollar amounts and the effects of funding percentages.
- The calculation form shows today's funding percentage which is at 151.11%.



STAFF REPORT

DATE: 10/10/2017

TO: City Council

FROM: Emily Becker, City Planner

AGENDA ITEM: A Guide to the Development and Usage of Sunfish Lake Park

REVIEWED BY: Kristina Handt, City Administrator

BACKGROUND:

A Parks Commission subcommittee developed a long-term vision for the development of Sunfish Lake Park through the creation of the document entitled A Guide to the Development and Usage of Sunfish Lake Park (Guide). This Guide was presented to Council in June of 2015 but has not yet been officially adopted. The Minnesota Land Trust, to which a conservation easement was granted by the City over certain areas of the park, reviewed the document and made comments, and Staff prepared Minnesota Land Trust-recommended amendments to the plan for the Parks Commission's review. Language from the Sunfish Lake Park Area 2 Concept Plan approved by the MN Land Trust in 2009 was incorporated in to the Guide to maintain consistency. The Parks Commission recommended approval of the revised Guide at its November 2016 meeting.

ISSUE BEFORE COUNCIL:

The Council is respectfully being requested to review and approve A Guide to the Development and Usage of Sunfish Lake Park.

PROPOSAL DETAILS/ANALYSIS:

The plan addresses three different areas in the park, as shown in the attachment Exhibit B: Property Map. The Guide gives a description of each of these areas and outlines utilization and recommended capital improvements.

FISCAL IMPACT:

The capital improvements would be worked in to the Parks Capital Improvement Plan and evaluated and prioritized like any other park capital improvement on an annual basis.

OPTIONS:

The Council may:

- Adopt Resolution 2017-087, approving A Guide to the Development and Usage of Sunfish Lake Park as presented.
- Amend A Guide to the Development and Usage of Sunfish Lake Park and adopt the Guide as amended.
- Do not adopt Resolution 2017-087.

RECOMMENDATION:

Staff and the Parks Commission respectfully request, as part of tonight's consent agenda, Council adopt Resolution 2017-087, approving A Guide to the Development and Usage of Sunfish Lake Park as presented. If removed from the Consent Agenda, the recommended action can be completed through the following motion:

“Move to adopt Resolution 2017-087, approving A Guide to the Development and Usage of Sunfish Lake Park as presented.”

ATTACHMENTS:

- 1) A Guide to the Development and Usage of Sunfish Lake Park
- 2) Resolution 2017-087

A Guide to the Development and Usage of Sunfish Lake Park

A Proposal of the Lake Elmo Parks Commission

Updated November 2016

I. Purpose

In December 2013, a subcommittee of the Lake Elmo Parks Commission was charged with developing a long-term vision for the development of Sunfish Lake Park that can serve as a blueprint to city leaders through 2030. It is anticipated that this guide plan will foster improved decision-making, provide an effective timeline for development of the park, increase responsiveness to citizen requests and needs, and enhance the efficiency by which city resources are committed to the park. This plan was first reviewed by the Parks Commission as a whole on November 17, 2014, revised and approved by the Parks Commission on March 16, 2015, and forwarded for review by the City Council.

II. A History of Sunfish Lake Park

Sunfish Lake Park is by far the largest park in the Lake Elmo park system, with a total of 256 acres of forest, wetlands, and Sunfish Lake itself. Consisting mostly of land that has never been farmed owing to its thick woodland, steep slopes, and extensive wetlands, the park was created through \$750,000 park bond referendum that was passed by the citizens of Lake Elmo in 1974. The land was purchased at a significantly discounted price from owners who were committed to saving it from development, and the bond was presented to the people of Lake Elmo as a means of preserving the natural beauty of a unique wilderness for hiking trails, observing nature, cross-country skiing and other passive uses. The parkland has been described by the Nature Conservancy as having one of the best upland forest in Washington County.

Following purchase of the land, citizen volunteers planted over 5,000 trees in the park in 1975, and the city authorized expenditures to create a network of natural walking, hiking, and cross-country ski trails throughout the park as well as a split-lane entry and exit road to a dirt parking lot on the south side of the park. In May 1992, in response to citizen signatures, safety concerns, an original referendum, and ecology testimony from the DNR and Nature Conservancy, and following an examination of the park's trails by the Washington County Soil & Water Conservation District (which declared them especially prone to erosion), the Lake Elmo City Council (supported by a unanimous recommendation of the Parks Commission) passed an ordinance banning mountain biking and biking in general within the park.

In 2008, in still another significant effort on the part of the citizens of Lake Elmo to ensure that the original intent of the park – to preserve the land while encouraging passive uses of its trails – was sustained, the Parks Commission collaborated with the City Council and professional staff to create a permanent conservation easement with the Minnesota Land Trust that encompassed the entire park. This critical step, which affirmed and effectively codified the conservationist ethos informing the historical development and contemporary usage of the park, established strict parameters for preserving this unique natural resource in our city. Contained within city files are unanimous motions by the Parks Commission – which were accepted by the city council – to prohibit any form of biking in Sunfish Lake Park.

III. Principles Governing the Development of Sunfish Lake Park

In the course of developing this vision for Sunfish Lake Park, the Parks Commission has been guided by a commitment to:

- maximizing utilization of the park without compromising, diminishing, or damaging the conservation of its natural resources or changing its fundamental character as a nature preserve;
- designing diverse uses that speak to the expressed preferences and anticipated needs of the people of Lake Elmo as iterated in the 2013 park survey while remaining true to the letter and spirit of the Conservation Easement recorded 9/22/2009 and held by the Minnesota Land Trust; and,
- recognizing the unique role that the park plays as the only significant nature preserve in the city and instituting uses that draw on the natural characteristics of the park while, at the same time, complementing the design of the Lake Elmo parks system as a whole.

IV. Proposed Development and Management of the Park

A. Area One

1. Description

“Area One” consists of approximately 216 acres of rolling forest land, woodland, wetland, open water ponds, a small meadow, and a portion of Sunfish Lake itself.

2. Utilization

Consistent with the original intent of the park, and working within the parameters of the land trust easement of 2008, Area One should be used for only low-impact activities that do not detract from conservation of this unique natural resource. Quiet, unobtrusive activities such as nature hikes, guided interpretive walks, bird watching, cross-country skiing, snowshoeing, landscape painting, jogging, orienteering, photography, geocaching and orienteering are some desirable uses. Activities that should be banned include biking, mountain biking and the use of any motorized vehicles except those needed by city personnel and their designees for maintenance of trails and flora.

Commensurate with the role of Sunfish Lake Park as the ‘crown jewel’ of the Lake Elmo parks system, the Parks Commission recommends that the City develop new, long-term approaches to increasing the use of the park in ways that will continue to conserve its natural features. The delicate balance between using the park and conserving it can be achieved most effectively by restricting uses as iterated above while 1) developing new formal programming to draw people to the park, and 2) establishing new and sustainable strategic partnerships with a variety of organizations which may share an interest in the park:

- a) New and Enhanced Formal Programming. The City of Lake Elmo must go beyond the current, largely passive standing invitation to the people of Lake Elmo to take a hike, go for a walk, or go snowshoeing in Sunfish Lake Park and develop formal programming that will actively draw people to the park. Some possible low-impact, City-organized programming could include:
- a. Annual festivals with entertainment and refreshments in the parking lot
 - b. Geocaching
 - c. Orienteering
 - d. Citizen science programming
 - e. Interpretive talks and hikes by experts
 - f. Ski races
 - g. Photo contests
 - h. Summer runs with refreshments
 - i. Snowshoe races with refreshments
- b) Strategic Partnerships. In the long-term, the City should reach out to a wide variety of organizations which may be interested in using Area One for their own needs. Possible partners could include the Audubon Society (organized bird watching events), District 834 Schools (science classes), local colleges and universities (science research), Boy/Girl Scouts of America (various uses), and regional arts and sciences museums. Collaborations with these groups should increase usage of Area One.

3. Management of the Natural Landscape

Long-term, the efficient and cost-effective management of Sunfish Lake Park will require the development of a master “Natural Resources/Woodland Stewardship Development Plan” that will guide the management of the park’s flora and fauna, and assure a smooth articulation of these natural resources with human-made trails, signage, and capital improvements. This plan should reflect the guiding principles contained in this document. All forest and habitat management plans for property protected by conservation easement must be approved in writing by the Minnesota Land Trust. Removal of timber and other wood products as well as management of the vegetation on property protected by conservation easement must be in accordance with the approved plan.

In addition to the Plan, the Parks Commission forwards these specific recommendations for managing the park:

- a) Storm Damage. The professionals who develop the Natural Resources Development Plan should include a set of response goals and procedures for responding quickly and effectively to storm damage in partnership with professional loggers and contract foresters. Contingencies for addressing significant storm damage should exist prior to incurring actual storm damage;
- b) Trails. The park's trails are to be maintained according to a well-established annual schedule, and the City should consult with professional naturalists on the best trail coverage and on ways to mitigate erosion. Winter ski trails are to be maintained regularly and according to a well-established protocol in order to encourage more people to use the trails for cross-country skiing. Winter trails for hikers and snowshoeing enthusiasts are to be established. In addition, in order to enhance accessibility, the City should install an eight-foot wide, multi-use asphalt trail near the parking lot for those with disabilities. Further research will need to be done on American with Disabilities Act requirements for trails within Area 1 of the park, as paved trails are only allowed as necessary to meet such requirements and must receive written approval from the Land Trust. Boardwalks should be installed in key areas to enhance access throughout the park. Additional benches should be installed along the trail as a way of opening the park and its trails to those who may need extra assistance. Finally, the trails should be assessed regularly for erosion and problem areas should be dealt with immediately.
- c) Management of Invasive Species. The park should be monitored and inspected on a regular basis for the incursion of invasive flora and insects, and the City should develop a plan for mitigating invasive species using both professional and volunteer labor.
- d) Signage. The park is quite large, and there have been not infrequent cases of visitors getting disoriented on its looping trails. Existing signage is not adequate. The Parks Commission recommends that a better master overview sign and/or informational kiosk be installed at the parking lot along with maps and more signs at critical junctions along the trails. In addition, the City should develop, in collaboration with naturalists and perhaps the Audubon Society, signs at key places in the park that will provide interpretive information on the natural landscape and wildlife.

4. Capital Improvements Area One

Given the nature of Area One, the Parks Commission envisions minimal capital improvements – mainly in the area of trails and signage.

A. Area Two

1. Description

“Area Two” consists of approximately 40 acres of rolling grasslands located immediately to the south of Area One. For several years, it was cultivated, but in 2011 the City planted prairie grasses and wildflowers in the area south and west of the parking lot.

2. Utilization

In general, the Parks Commission believes that the topography of Area Two allows for more active and diverse uses than are found in Area One. This area is envisioned as both a conserved prairie (in its pre-settlement state) and a gathering place for families. As in the case of Area One, though, utilization of this part of the park should be restricted to activities that will not diminish or damage the natural resources or conflict in any way with the long-term conservation of the area or violate the restrictions in place as part of the land trust easement. Where the focus in Area One is on upland forest and wetlands, the emphasis in Area Two is on restoration and maintenance of a long-grass prairie. Desirable uses of Area Two include:

- a. Hiking
- b. Running
- c. Snowshoeing
- d. Cross-country skiing
- e. Family picnics
- f. Nature observation
- g. Photography
- h. Landscape painting
- i. Short Turf - Open Play Area
- j. Educational programming

3. Capital Improvements and Management of Area Two

In order to realize the full potential of Area Two, more significant capital improvements and non-capital improvements will be necessary:

- a. Prairie / Oak Savanna Restoration Area
Most of area 2 is slated for restoration to prairie and oak savanna. Care will be taken to research the area’s likely pre-settlement plant community with the goal of restoring the site to replicate the original genetics as closely as possible. A seed mix will be used that is comprised of the species that are believed to be native to the site. The seed will originate from the same ecoregion or in counties that adjoin this ecoregion. The installation of the restoration project and subsequent management will be based on sound and well-founded ecological principles. Efforts will initially be made to restore the area to prairie with the possibility of creating areas of savanna.
- b. Native Planting / Interpretive Area
The long drive into the park will be planted with plants native to the site, but in a more structured or “clustered” fashion. The goals of this somewhat more formal planting arrangement is 1) to create a defined and “showy” entrance to the park and 2) to

provide effective interpretation of the various plant types.

- c. Trails. A segment of ADA compliant hard surface trail is desired with the goal of providing a high quality interpretive experience with as much diversity as possible. A soft-surfaced mowed trail might be established throughout the perimeter of area 2 with a couple of cross-over trails designed to offer a variety of loop trail distances. Trail placement should be done with the goal of providing an effective fire break and catching as much diversity as possible while offering gentle curves for interest. Interpretive signage might be developed as a means of offering a high quality self-guided interpretive experience.
- d. Nature Interpretive Center. Approximately 1.5 acres in the northeast corner of area 2 is identified as space in which a modest interpretive center might be placed. The goal of the center would be to provide a facility that would promote awareness, appreciation and conservation of the park's natural resources through interpretation, educational programs, activities and events. The facility might include a small indoor multi-purpose area that would be used as a gathering space or warming area in inclement or cold weather and restrooms and/or an adjacent outdoor gathering space with some overhead protection from the elements. The outdoor areas adjacent to the center would be utilized for interpretation and interactive learning opportunities. Placement of the center within the identified 1.5 acre parcel would be based on the desire for the facility to "hug" the land in a complimentary and unobtrusive fashion. The placement and design of the center should be guided by the desire for visitors to effectively observe and experience the diversity of the natural outdoor surroundings while within and just outside the facility. The structure should be rustic in nature and constructed / fabricated with materials, textures and colors that will effectively blend with the natural surroundings. The design and construction of the center should be based on sound environmental and conservation principles with the possible use of geothermal, solar, and wind for energy. The design should also reflect the city's heritage and rural character.
- e. Picnic/Short Turf - Open Play Area. A open play area that accommodates young children and teenagers should be made available near the picnic shelter. Natural materials that will fit well with the natural setting of the park and with written approval of the Minnesota Land Trust could be included in this area.
- f. Signage. Interpretive signage should be posted at key locations along the new prairie trails.
- g. Overlook Tower or Platform. It would be appropriate for the City to install an overlook tower or platform in Area 2 (with the permission of the Land Trust).

- h. Safety. Owing to the isolation of Sunfish Lake Park and the risk of vandalism, security cameras should be installed that can monitor the parking lot, picnic shelter, and playground 24 hours a day.
- i. Parking Lot. The parking area will include structures and amenities that will assist in the effective management of the parking area and entire park. For example, rain gardens will be installed to filter run-off from the parking area and improve water quality. An information kiosk with regulatory, directional and interpretive information will be located in the area with the goal of enhancing park visitor's experience and promoting conservation. The parking area will be defined through the placement of stones or other natural materials in an effort to prohibit unauthorized vehicles from entering other areas of the park. The size and shape of the parking area will be guided by needs. All structures and amenities will be rustic in nature and constructed / fabricated with materials, textures and colors that will effectively blend with the natural surroundings. The parking area should be as natural as possible.
- j. Bike Rack. A bike rack should be installed near the parking lot area in order to allow users to bike to the park and continue on foot on to the trails or nature interpretive center.

V. Area Three

Area Three, located directly to the west of Area One along Jamaca Avenue, presents some of the greatest challenges in terms of long-term strategic planning. It consists primarily of a very large and deep depression that was left as a result of the efforts by the Minnesota Pollution Control Agency to mitigate pollution in this area. There is some existing fencing in this area, as well as the only western entrance to Area One of Sunfish Lake Park.

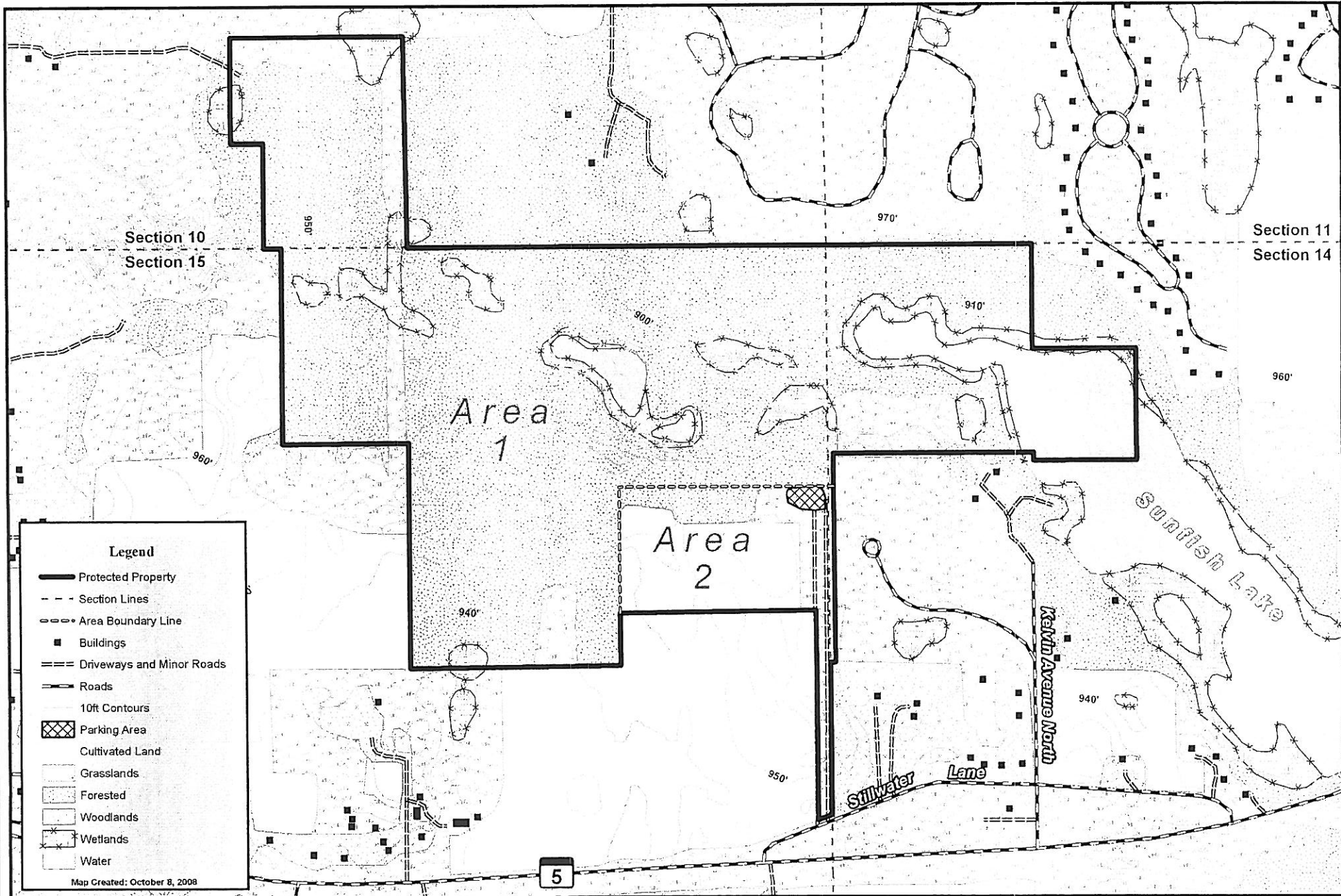
The sense of the Parks Commission is that this area has significant potential as a city dog park, natural amphitheater, soccer and/or football fields, and perhaps baseball fields. The area is quite isolated, and most visitors to this parcel will likely arrive by car; unfortunately, there are few natural areas to place a parking lot with the possible exception of the area that runs along the northern fence line of Area Three and to the east of the existing fire station.

Given the challenges of this location and its unique topography, together with the fact that there has emerged no strong demand for the types of facilities and improvements that could be naturally accommodated in this area, the Parks Commission recommends that this area not be developed at this time – except for the planting of trees in areas along the edges of the large depression. This area should be kept in reserve so that future community leaders will have a valuable resource to use as new priorities and needs emerge in the years to come. In the near future, it would be desirable to keep the area inside the large depression mowed as city resources are available so that the citizens of Lake Elmo can use it informally for pick-up games, walking their dogs, flying kites, etc. As land reserved for the

future, and as an integral part of Sunfish Lake Park, Area Three should never be used for non-park purposes and should not be the site of non-park capital improvements.

Owing to the remedial actions taken by the Minnesota Pollution Control Agency to preserve the safety of Lake Elmo citizens, considerable acreage has been removed as use for parkland. Conversion of loss of this parkland should be pursued by the City in conjunction with appropriate legal and regulatory bodies.

Exhibit B: Property Map



Map Resource Information

Protected Property, Section Lines, Area Boundary Line, Buildings, Roads, Driveways & Minor Roads, 10-Foot Contours, Parking Area, Cultivated Land, Grasslands, Forests, Woodlands, Wetlands, and Water created by Community GIS Services Inc.

Users of this map agree and acknowledge that Community GIS Services Inc. and the Minnesota Land Trust cannot be held liable for accuracy of GIS material provided. GIS materials should not be relied upon to establish legal title, boundary lines, or locations of improvements.

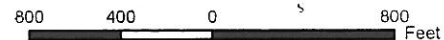


Site: Sunfish Park - Tract: City of Lake Elmo

Washington County - Twp. 29 N Rng. 21 W Sec. 10, 14 & 15



Scale:
1" = 800'



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

RESOLUTION NO. 2017-087

**A RESOLUTION APPROVING A GUIDE TO THE DEVELOPMENT AND
USAGE OF SUNFISH LAKE PARK**

WHEREAS, Sunfish Lake Park (“Park”) is the largest park in the Lake Elmo park system, with a total of 256 acres; and

WHEREAS, a subcommittee of the Parks Commission developed a long-term vision for the development of Sunfish Lake Park that can serve as a blueprint to City leaders through 2030 entitled A Guide to the Development and Usage of Sunfish Lake Park (“Guide”); and

WHEREAS, the Minnesota Land Trust, which holds a conservation easement over areas of Sunfish Lake Park, has reviewed and approved the Guide; and

WHEREAS, the Guide outlines the history, principles governing the development, and proposed development and management of areas of the Park; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lake Elmo, Minnesota, does hereby approve A Guide to the Development and Usage of Sunfish Lake Park.

APPROVED by the Lake Elmo City Council on this 15th day of August, 2017.

By: _____
Mike Pearson
Mayor

ATTEST:

Julie Johnson
City Clerk



STAFF REPORT

DATE: October 10, 2017

AGENDA ITEM: Lodging Tax

SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

Council members Fliflet and Lundgren requested this item be placed on the agenda for discussion.

State Statute allows cities to impose a local lodging tax up to 3% on the gross receipts of lodging in the city. 95% of those funds must be used to fund a local convention or tourism bureau for the purposes of marketing and promoting the city.

Staff was asked to contact Oakdale to see if they impose this tax. They do not. At this time they do not have any plans to do it.

ISSUE BEFORE COUNCIL:

Should the city adopt an ordinance imposing a lodging tax?

PROPOSAL DETAILS/ANALYSIS:

Staff was asked to bring this forward for discussion. Items Council could discuss included whether or not they want to pursue this; how much the tax would be (upto 3%); which convention or tourism bureau would receive the funds; when would the tax begin, etc.

FISCAL IMPACT:

Staff estimates the lodging tax at 3% could generate \$150,000 annually. Of that amount \$142,500 or more would go to a convention or tourism bureau.

OPTIONS:

- 1) Direct staff to prepare an ordinance to bring to a regular council meeting
- 2) Identify further questions or concerns to research
- 3) Do not move forward with pursuing a lodging tax

ATTACHMENT:

- MN Stat 469.190

469.190 LOCAL LODGING TAX.

Subdivision 1. **Authorization.** Notwithstanding section 477A.016 or any other law, a statutory or home rule charter city may by ordinance, and a town may by the affirmative vote of the electors at the annual town meeting, or at a special town meeting, impose a tax of up to three percent on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of 30 days or more. A statutory or home rule charter city may by ordinance impose the tax authorized under this subdivision on the camping site receipts of a municipal campground.

Subd. 2. **Existing taxes.** No statutory or home rule charter city or town may impose a tax under this section upon transient lodging that, when combined with any tax authorized by special law or enacted prior to 1972, exceeds a rate of three percent.

Subd. 3. **Disposition of proceeds.** Ninety-five percent of the gross proceeds from any tax imposed under subdivision 1 shall be used by the statutory or home rule charter city or town to fund a local convention or tourism bureau for the purpose of marketing and promoting the city or town as a tourist or convention center. This subdivision shall not apply to any statutory or home rule charter city or town that has a lodging tax authorized by special law or enacted prior to 1972 at the time of enactment of this section.

Subd. 4. **Unorganized territories.** A county board acting as a town board with respect to an unorganized territory may impose a lodging tax within the unorganized territory according to this section if it determines by resolution that imposition of the tax is in the public interest.

Subd. 5. **Reverse referendum.** If the county board passes a resolution under subdivision 4 to impose the tax, the resolution must be published for two successive weeks in a newspaper of general circulation within the unorganized territory, together with a notice fixing a date for a public hearing on the proposed tax.

The hearing must be held not less than two weeks nor more than four weeks after the first publication of the notice. After the public hearing, the county board may determine to take no further action, or may adopt a resolution authorizing the tax as originally proposed or approving a lesser rate of tax. The resolution must be published in a newspaper of general circulation within the unorganized territory. The voters of the unorganized territory may request a referendum on the proposed tax by filing a petition with the county auditor within 30 days after the resolution is published. The petition must be signed by voters who reside in the unorganized territory. The number of signatures must equal at least five percent of the number of persons voting in the unorganized territory in the last general election. If such a petition is timely filed, the resolution is not effective until it has been submitted to the voters residing in the unorganized territory at a general or special election and a majority of votes cast on the question of approving the resolution are in the affirmative. The commissioner of revenue shall prepare a suggested form of question to be presented at the referendum.

Subd. 6. **Joint powers agreements.** Any statutory or home rule charter city, town, or county when the county board is acting as a town board with respect to an unorganized territory, may enter into a joint exercise of powers agreement pursuant to section 471.59 for the purpose of imposing the tax and disposing of its proceeds pursuant to this section.

Subd. 7. **Collection.** The statutory or home rule charter city may agree with the commissioner of revenue that a tax imposed pursuant to this section shall be collected by the commissioner together with the tax

imposed by chapter 297A, and subject to the same interest, penalties, and other rules and that its proceeds, less the cost of collection, shall be remitted to the city.

History: *1987 c 291 s 191; 1989 c 277 art 1 s 30; 1Sp1989 c 1 art 8 s 1-3; 1990 c 604 art 6 s 6-8*

City Council Workshop – October 10, 2017

Swimming Pool Fence/Barrier Requirements

An inquiry has been made regarding the allowance of pool covers in lieu of the required fencing around a swimming pool.

Current Requirement

The City of Lake Elmo's current ordinance requires the following:

Fences. All swimming pools shall be completely enclosed by a non-climbable type fence. All fence openings or points of entry into the pool area shall be equipped with gates. The fence and gates shall be at least 4 feet in height and shall be constructed of a minimum number 11 gauge woven wire mesh corrosion-resistant material or other material approved by the Building Official. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or otherwise be inaccessible to small children. All fence posts shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection. The openings between the bottom of the fence and the ground or other surface shall not be more than 4 inches.

Research

The overwhelming majority of cities in Minnesota require fences around swimming pools. That said: there are several jurisdictions who have ordinances in place allowing powered safety covers in lieu of the required fence.

Rochester, Medina, Minnetrista, Independence, and Hampton Township all allow covers instead of fences.

Rochester City Code:

The City of Rochester Zoning Ordinance and Land Development Manual requires that property owners meet some basic safety requirements when locating a swimming pool on their lot. The standards are established in Section 62.278(5) of the ordinance.

(1) For an in-ground or surface swimming pool, the pool or the property upon which said pool is located shall be enclosed by a fence of a type which effectively controls the entrance by children to the pool area. The fence must be at least five feet in height. Wooden fences with boards placed vertically shall not have any opening wider than four inches per opening and wooden fences with boards placed horizontally shall not have any opening wider than one inch per opening. **For an in-ground pool, a mechanically controlled cover can be used in lieu of fencing requirements.**

(2) Gates installed for access to the property or pool area shall be equipped with an automatic closing and latching device to protect against uncontrolled access to the property.

Rochester City Code: (Continued)

(3) For an above ground swimming pool, the pool shall be equipped with an automatically retractable type ladder, a retractable ladder, a removable ladder or shall be fenced in accordance with Section 62.278, subd. 5 (B)(1). The ladder must be removed or retracted when the pool is not being attended.

(4) If access to the pool is via a deck or porch, then no access from the ground is permitted to the deck area unless the property or the ground access to the deck is fenced in accordance with Section 62.278, subd. 5 (B)(1).

(5) It shall be the responsibility of the property owner where said pool is located to maintain all pool covers, fences, gates and closure devices in good operating condition.

(6) Failure to maintain pool covers, fences, failure to have gates closed or failure to remove or retract the ladder access to the pool shall constitute a violation of the Zoning Ordinance and is subject to the penalties provided therefore.

Medina City Code:

Section 800.11. Safety Fence or Automatic Pool Cover Required.

Subd. 1. A safety fence meeting the following standards shall be required around all pools:

(a) Except as provided for in subd. 1(d), a safety fence at least 4 feet in height shall completely enclose the pool. All openings or points of entry into the pool area shall be equipped with self-closing gates or doors. All gates and doors shall have a self-latching latch which is no less than 4 feet above the ground level and which shall be constructed and placed so as to be inaccessible to small children. All gates and doors shall be locked when the pool is not in use or is unattended by an adult with demonstrated swimming ability. Any opening between the bottom of the fence and the ground level shall not exceed 3 inches.

(b) Safety fences shall be constructed so as to inhibit the climbing thereof by any person. If constructed primarily of wood, the fence shall be composed of vertical members with spaces no greater than 4 inches between the boards. If constructed primarily of other materials, the fence shall contain no spaces through which a sphere 4 inches or more in diameter may pass.

(c) No wall of any pool constructed above ground level, regardless of the height thereof, shall qualify as a safety fence.

(d) If the house or other structure provides all or a portion of one side of the pool enclosure, all doors from the house or structure providing access to the pool area shall be equipped with a pool alarm meeting the standards of F2208-02 of the American Society of Testing and Materials (ASTM), as such standards may be modified, superseded or replaced by ASTM.

Subd. 2. As an alternative to a safety fence, an automatic pool cover may be utilized if it meets the standards of F1346-91 (Reapproved 1996) of ASTM, as such standards may be modified, superseded or replaced by ASTM.

Maplewood:

The City of Maplewood has language in ordinance that provides a path to request an ‘alternate’ to the fence requirement.

The City of Maplewood’s ordinance simply provides that “[a]lternatives to the fence requirement, such as a proposal to use a pool cover or some other means of swimming-pool protection, shall be considered an exception request and shall be subject to review and approval by the city council.

Recognized Standards:

The 2012 International Swimming Pool & Spa Code Section 305 Barrier Requirements is as follows:

305.1 General. The provisions of this section shall apply to the design of *barriers for aquatic vessels*. These design controls are intended to provide protection against the potential drowning and near drowning by restricting access to such vessels. These requirements provide an integrated level of protection against potential drowning through the use of physical barriers and warning devices.

Exceptions:

1. Spas and hot tubs with a lockable safety cover that complies with ASTM F 1346.
2. Swimming Pools with a *powered safety cover* that complies with ASTM F 1346.

The 2012 International Swimming Pool & Spa Code is not adopted by the State of Minnesota nor is it adopted locally by the City of Lake Elmo, but it is a nationally recognized document and suitable for reference as such.

Both Sides of the Argument:

There are a wide range of opinions and statistics surrounding this topic. They range from individual property owners rights to Safety Barrier Guidelines established by the US Consumer Product Safety Commission.

Property owner rights advocates argue that their pool is on private property and they should not have to incur the additional expense of a fence to protect someone who may potentially be trespassing on private property.

Safety advocates will argue that the fence/barrier requirements are intended to protect individuals who do not understand the definition of trespassing due to age or mental capacity.

For Council consideration:

1. Do nothing: Leave the existing ordinance requiring a fence around pools in place.
2. Add an exception to current city ordinance allowing the installation of a powered safety cover that complies with ASTM F 1346 in lieu of the required fence.
3. Add a path for an alternative, a hybrid exception that requires research and scrutiny similar to the ordinance used by the City of Maplewood. This would allow consideration of the use of a powered safety cover in lieu of a fence but would essentially require the applicant present the facts that their pool would not present an unsafe application to others.
 - a. Items that might be considered:
 - i. Distance of the pool to adjacent property lines
 - ii. Size of the overall property and location of the pool
 - iii. Other considerations?

City Attorney Input:

The city attorney was sought for opinion and offered the following:

Per Sarah Sonsalla:

“Ultimately the City can decide whether it wants to allow pool covers as an alternative to fences. However, if it does allow covers, it should be sure to require that the covers meet the technical standards of F1346-91 of ASTM...”

“While pool covers have some susceptibilities that fences do not (i.e. mechanical failures, human error, difficulties in enforcement), it appears that other cities have deemed them an acceptable alternative. In every example, the cover is required to meet the ASTM standards mentioned above...”

“If Lake Elmo wants to consider allowing covers as an alternative, we would advise that it’s a policy decision that the City can make based on any research/studies that it might want to consider.”

*Note: the above referenced ASTM F 1346-91 standard in the city attorney’s reference has been updated to ASTM F 1346–10 (2010 edition)

📖 CHAPTER 11: GENERAL CODE PROVISIONS

📖 § 11.01 DEFINITIONS.

SWIMMING POOL. Any permanently located pool , used for swimming and/or bathing which is over 24 inches in depth, or which as a surface area exceeding 150 square feet.

SWIMMING POOL , PRIVATE OR RESIDENTIAL. Any pool which is used, or intended to be used, as a swimming pool in connection with a single-family residence, and which is available only to the family of the household and private guests.

SWIMMING POOL , PUBLIC OR SEMI-PUBLIC. Any swimming pool other than a private swimming pool .

151.085 SWIMMING POOLS; GENERALLY.

(A) *Permits required.* No person, corporation, partnership, or firm shall construct, repair, enlarge, alter, change, remodel, or otherwise significantly improve a swimming pool in the city without first having obtained a permit from the Building Official.

(B) *Definitions.* Unless specifically defined in this section, common definitions, words, and phrases used in this section shall be interpreted so as to give them the same meaning as they have in common usage through this code. Definitions are found in § 11.01.

(C) *Application for permit.* The Building Official may require plans, specifications, and pertinent explanatory data be submitted with an application for a permit.

(1) An application for a permit which includes a site plan showing:

(a) The type and size of pool, location of pool, location of house, garage, fencing, and other improvements on the lot;

(b) The location of structures on all adjacent lots;

(c) The location of filter unit, pump, and writing indicating the type of the units;

(d) The location of back-flush and drainage outlets, grading plan, finished elevations, and final treatment (decking, landscaping, and the like) around pool;

(e) The location of existing overhead or underground wiring, utility easements, trees, and similar features;

(f) The location of any water heating unit;

(g) The location of water supply systems, buried sewers, and sewage disposal systems, other utilities and proximate sources of possible contamination of the pool; and

(h) All dimensions, including the length, width, depth of the pool, the size of the pool deck, and the liquid capacity of the pool; plans shall be drawn to a scale of not smaller than 1/4 inch to 1 foot;

(2) The application shall be accompanied by the permit fee the Council establishes by resolution.

(3) Pools shall not be located within 20 feet of any septic tank/drainfield nor within 6 feet of any principal structure or frost footing. Pools shall not be located within any required front or side yard setbacks.

(4) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.

(5) Pools shall not be located within any private or public utility, walkway, drainage, or other easements.

(6) In the case of underground pools, the necessary precautions shall be taken during the construction, to:

(a) Avoid damage, hazards, or inconvenience to adjacent or nearby property; and

(b) Assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust, or other infringements upon adjacent property.

(7) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.

(8) (a) To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainage ways.

(b) Water shall not drain onto adjacent or nearby private land.

(9) The filter unit, pump, heating unit, and any other noise-making mechanical equipment shall be located at least 50 feet from any adjacent or nearby residential structure and not closer than 10 feet to any lot line.

(D) *Pool piping.* Pool piping systems shall be constructed of materials prescribed in the city plumbing code. Installation of the piping, including the pool water supply line, shall be inspected by the Building Official prior to covering the piping.

(E) *Main outlets.* Pools shall be equipped with facilities for completely emptying the pool and effecting surface drainage (by gravity if elevations permit). The drainage system shall be constructed in accordance with the provisions of the city plumbing code.

(F) *Water supply.* Water supplies serving all swimming pools shall be of a safe sanitary quality and be acceptable to the County Health Officer. The installation of the pool water supply piping and connection to the source of supply shall be in accordance with the city plumbing code.

(G) *Electrical requirements.* All electrical installations provided for, installed, and used in conjunction with residential swimming pools shall conform with the state electrical code and shall be inspected and approved by the state electrical inspector. No current-carrying electrical

conductors shall cross residential swimming pools, either overhead or underground or within 15 feet of the pools, except as necessary for pool lighting or pool accessories.

(H) *Heating requirements.* Permits shall be required for all heating units used in conjunction with swimming pools. Installation shall be made in accordance with the city heating building code in effect at the time of installation.

(I) *Pressure relief valves.* Pools shall be designed and constructed with under-drain systems and pressure relief valves to prevent pool flotation, where the Building Official determines the same to be necessary.

(J) *Shield lights.* Lights used to illuminate any swimming pool shall be so arranged and shielded so as to reflect light away from adjoining properties.

(K) *Location.* All swimming pools or appurtenances to swimming pools shall be located in the rear yard and meet the setback requirements of the district in which it is located. Requests for a variance from the provisions of this section shall be referred first to the Planning Commission for its study and recommendation and then to the Council.

(L) *Fences.* All swimming pools shall be completely enclosed by a non-climbable type fence. All fence openings or points of entry into the pool area shall be equipped with gates. The fence and gates shall be at least 4 feet in height and shall be constructed of a minimum number 11 gauge woven wire mesh corrosion-resistant material or other material approved by the Building Official. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or otherwise be inaccessible to small children. All fence posts shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection. The openings between the bottom of the fence and the ground or other surface shall not be more than 4 inches.

~~(M) *Safety equipment.* Every swimming pool shall be equipped with 1 or more throwing ring buoys not more than 15 inches in diameter and having 50 feet (or the diagonal measurement of pool whichever is larger) of 3/16 inch nylon line (or equivalent) attached.~~

(N) *Above-ground swimming pools.* Ladders or stairs which are attached to or placed against the outside of above-ground tank-type swimming pools having a depth of 24 inches or more shall be removed from the outside of the pool when it is not being used by the owner or owner's authorized guests. All other applicable provisions of this section shall apply to above-ground pools.

(O) *Public or semi-public swimming pools.* Swimming pools other than residential pools shall be constructed and operated in conformance with standards for the installations established by the Minnesota State Board of Health. In addition, the person, firm, corporation, or agency proposing the construction of a swimming pool other than residential shall file with the Building Official, prior to the beginning of any construction, a copy of the report prepared and issued by the Minnesota State Health Department showing approval of the plans, and 1 set of pool plans upon which the approval is indicated by stamp, seal, or other official marking of that agency.