

FILE

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota

October 6, 2009

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: ___ Johnston ___ DeLapp, ___ Emmons, ___ Park
___ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
 1. Approval of the September 15, 2009 City Council minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by City staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
 2. Approve payment of disbursements and payroll
 3. Adopt Resolution No. 2009-039 approving bond sale for Tablyn Park entrance and lot
 4. Approve 2009 Street Improvements Payment Certificate #2 in the amount of \$185,143.08 to be paid to Tower Asphalt, Inc. from the Project Fund.
 5. Approval of MPCA easements for monitoring wells in Sunfish Lake Park
 6. Acceptance of the infrastructure improvements in Prairie Ridge Office Park

J. REGULAR AGENDA:

7. Variance: Consideration of an application to permit the construction of a 147 sq.ft. addition to the house which increases the non-conforming impervious surface coverage at 8199 Hill Trail N.; Resolution No. 2009-040
8. Zoning Text Amendment: Consideration of the addition of definitions to Chapter 11 of the City code as well as revisions to section 154.081 regarding permitted encroachments; Ordinance No. 08-017

K. REPORTS AND ANNOUNCEMENTS:

(These are verbal updates and do not have to be formally added to the agenda.)

- Mayor and City Council
- Administrator
- Planning Director

L. Adjourn

City of Lake Elmo
City Council Minutes

September 15, 2009

Mayor Johnston called the meeting to order at 7:00 p.m.

PRESENT: Mayor Johnston and Council Members DeLapp, Emmons, and Smith
Absent: Council Member Park

Also Present: Interim City Administrator Dawson, Planning Director Klatt, City Engineer Stempski, Attorney Snyder, Finance Director Bouthilet and City Clerk Lumby

APPROVAL OF AGENDA:

MOTION: Council Member Smith moved to approve the September 15, 2009 City Council agenda as amended by adding Discussion with Metropolitan Council regarding Wastewater Inefficiency Fees (WIFs). Council Member Emmons seconded the motion. The motion passed 4-0.

ORDER OF BUSINESS:

GROUND RULES:

APPROVED MINUTES:

The September 1, 2009, City Council minutes were approved by consensus.

PUBLIC COMMENTS/INQUIRIES:

Linda Klein, 9260 31st Street, provided a letter to the Council regarding the condition of property at 9240 31st Street that presents health hazards. Her pictures and letter will be submitted to Attorney Snyder who will be contacting the Washington County Health Dept. and Sheriff's Dept.

CONSENT AGENDA:

MOTION: Council Member Smith moved to approve the Consent Agenda as presented. Council Member Emmons seconded the motion. The motion passed 4-0.

- Approve payment of disbursements and payroll in the amount of \$102,632.53
- Approve 2009 Street Improvements Payment Certificate #1 in the amount of \$42,721.50 to be paid to Tower Asphalt, Inc. from the Project Fund.

REGULAR AGENDA:

Conditional job offers to Bruce "Nick" Witter, Cheryl Pumper and Justin Pumper

Fire Chief Malmquist requested the City Council approve conditional job offers to Bruce "Nick" Witter, Cheryl Pumper and Justin Pumper for firefighters, contingent on their passing physical exams and psychological screening. With the new probationary firefighters, the department will have 30 firefighters (8 of which are on probation). The authorized complement for the Fire Department is 32.

MOTION: Council Member DeLapp moved to make conditional job offers to Bruce "Nick" Witter, Cheryl Pumper and Justin Pumper pending the successful outcome of their department physical and psychological screening each will be placed on probationary status with the Fire Department. Mayor Johnston seconded the motion. The motion passed 4-0.

Discussion with Metropolitan Council regarding Wastewater Inefficiency Fees (WIFs)

Craig Dawson, Interim City Administrator, related that Sherry Broeker, Metropolitan Council Representative for District 12, requested that Mayor Johnston and he be at a meeting she arranged with Met Council Chair Peter Bell and Regional Administrator Tom Weaver for Thursday afternoon September 17. The purpose of the meeting will be to start to identify the process and information that will be needed for a successful petition to make revisions in the schedule of development and Wastewater Inefficiency Fees, (WIFs).

MOTION: Council Member DeLapp moved to authorize Council Member Smith to participate in the meeting with the Metropolitan Council on Thursday, September 17. Council Member Emmons second the motion. The motion passed 3-1. (Mayor Johnston voting against because the Mayor is elected to represent the City and it was unnecessary to have a Council Member there as that could complicate discussions.)

Consider accepting a proposal for the construction of a picnic shelter at Carriage Station Park

Carol Kriegler, Project Assistant, reported the Parks Commission recommended that City Council accept a proposal from Stotko Speedling Construction for the construction of a 20' x 20' picnic shelter at Carriage Station Park at a base cost of \$36,500, plus the additional cost for a five-inch slab and apron extension of the concrete floor with the expenditure coming out of the Park Improvement Fund. In addition, the Council was asked to authorize expenditures of up to \$2,000 for equipment rental, materials and supplies related to site preparation, restoration and landscaping work that would be done by the City's public works staff.

Lowes Companies Inc. offered the City a grant of materials and supplies valued at approximately \$11,000 to be used for the construction of a park picnic shelter. The Lake Elmo Jaycees have also offered to support the project through a gift of \$4,000. Contractors were made aware of the availability of these resources during the proposal.

Proposals were received for the construction of a smaller shelter at Carriage Station Park and a larger shelter at DeMontreville Park. The Park Commission reviewed the proposals and recommended unanimously to move forward with the construction of the smaller shelter at Carriage Station Park. The Park Commission expressed that it would like to reconsider locations for the larger shelter and delay construction of the larger shelter until next spring.

MOTION: Council Member DeLapp moved approval of acceptance of the Stotko Speedling proposal for construction of a park shelter in Carriage Station Park at a base cost of \$36,500 plus \$925 for enhancements to the concrete floor, and for authorization of expenditures for equipment rental, supplies and materials related to site preparation, restoration and landscaping to be conducted by the public works staff with the expenditures coming from the Park Improvement Fund. Council Member Smith seconded the motion. The motion passed 3-0-1 (Mayor Johnston abstained from voting because he saw a need for more objectivity on public policy.)

Consider a request to amend the landscape plan for St Croix Sanctuary subdivision

Kyle Klatt, Planning Director, reported on the proposed amendment to the approved landscape plan for the St. Croix's Sanctuary development. This action would require a modification to the OP – Open Space Preservation District requirements which must be approved by a 4/5ths vote of the Council, because it would substantially reduce the number of boulevard trees below the minimum threshold required in the ordinance. The developer had defaulted on the development agreement and there were insufficient funds to complete the landscape plan as approved.

The general consensus Planning Commission was that the proposed plan was a reasonable substitute plan and that the Sanctuary residents' support of this plan was important to take account. The Commission recommended approval of the revised landscape plan with an amendment to the second condition to read as follows.

- Two trees per new building site, provided by the builder or homeowners, shall be provided in the front yard prior to the issuance of a certificate of occupancy for new homes on all undeveloped lots as of September 15, 2009.

Representatives from Landscape Architecture Inc. provided a proposed landscape plan package based off of the \$30,000 to \$35,000 range that was provided by the City staff.

In the future, there will be a standardized check list for landscape and driveway escrows, tighter inspections and a new standard development agreement.

MOTION: Council Member Smith moved to approve the revised landscape plan for the St. Croix's Sanctuary development subject to the following conditions: Mayor Johnston seconded the motion. The motion passed 4-0.

- *The implementation of the plan shall adhere to all recommendations from the City Forester as documented in a report to the City dated September 8, 2009.*
- *Two trees per new building site, provided by the builder or homeowners, shall be provided in the front yard prior to the issuance of a certificate of occupancy for new homes on all undeveloped lots as of September 15, 2009.*

Review of City policy concerning signs placed within public rights-of-way

Kyle Klatt, Planning Director, reported the City Council has requested a review of the City's policy regarding the enforcement of signs placed within the public right-of-way.

The City's ordinance reads as follows with regards to signs placed within the right-of-way:

Public lands and rights-of-way. No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-ways without Council approval.

The Planning Director pointed out that one of the issues that impacts the City's ability to enforce this ordinance is that not all streets in the City have uniform boulevard areas, if any at all. In terms of developing a policy on the enforcement of these types of signs, staff suggested a policy regarding signs on public boulevards.

MOTION: Mayor Johnston moved to approve the proposed policy regarding signs on public boulevards with a three month review on effectiveness. Council Member DeLapp seconded the motion. The motion passed 4-0.

- *The City will remove any sign within a public right-of-way that has not received Council approval for placement in said right-of-way.*
- *All confiscated signs will be held by the City for a minimum of 14 days, after which time the signs will be destroyed.*
- *The City will make an effort to contact companies by telephone that are violators of City Code.*
- *The City will not make any special attempts to contact the owner of a sign confiscated from a public right-of-way, but will allow sign owners to pick up their signs during normal business hours at City hall within the two-week retention period.*

Direction to Planning Commission regarding storage of boats and trailers

Kyle Klatt, Planning Director, reported the City Council has requested time to discuss the City's ordinance regarding the storage of boats and trailers on private property.

The Council asked staff to take the following direction to the Planning Commission for a recommendation.

- In the shoreland district boats and trailers are parked in the front yard, define front yard in shoreland district.
- Define rear yards on unique lots for parking boats/trailers.
- Consider language for inconspicuous placement on lots.

The meeting was adjourned at 9:45 p.m.


Respectfully submitted by Sharon Lumby, City Clerk

DRAFT

City Council
10/6/2009
CONSENT
Item: 2

AGENDA ITEM: Approve disbursements in the amount of : \$ 634,852.18

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce A Messelt, City Administrator 

REVIEWED BY: City Staff

<u>Claim #</u>	<u>Amount</u>	<u>Description</u>
ACH	\$ 8,392.70	Payroll Taxes to IRS 09/24/09 & 9/30/09
ACH	\$ 1,398.07	Payroll Taxes to Mn Dept.of Revenue 09/24/09
DD2412 - DD2426	\$ 18,771.12	Payroll Dated 09/24/2009 (Direct Deposit)
34716 - 34723	\$ 11,658.87	Payroll Dated 09/24/2009 (Payroll)
34724	\$ 2,354.05	Special Payroll Run
34725	\$ 199.00	Mn Dept. of Employment & Economic Dev.
34726 - 34792	\$ 592,078.37	Accounts Payable Dated 10/06/2009

Total: \$ 634,852.18

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve disbursements in the total amount of \$634,852.18

Accounts Payable To Be Paid Proof List

User: Administrator

Printed: 10/01/2009 - 1:59 PM

Batch: 001-10-2009

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
3M 3M										
TP68503	09/09/2009	106.57	0.00	10/06/2009	Use Tax Payable on Previous Purchase		-	No		0000
101-000-0000-20201	Use Tax Payable									
	TP68503 Total:	106.57								
	3M Total:	106.57								
ACEHARD Ace Hardware, Inc										
83020	09/21/2009	19.29	0.00	10/06/2009	Station Maintenance/recycle bulbs		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	83020 Total:	19.29								
	ACEHARD Total:	19.29								
ACS Animal Control Services										
485	09/13/2009	1,083.68	0.00	10/06/2009	Animal Control Services 8/3-9/2/2009		-	No		0000
101-420-2700-43150	Contract Services									
485	09/13/2009	-69.71	0.00	10/06/2009	Animal Control Services 8/3-9/2/2009		-	No		0000
101-000-0000-20201	Use Tax Payable									
	485 Total:	1,013.97								
	ACS Total:	1,013.97								
ALEXAIR Alex Air Apparatus, Inc										
16813	09/18/2009	630.00	0.00	10/06/2009	annual Maintenance on breathing air comp		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
	16813 Total:	630.00								
	ALEXAIR Total:	630.00								
ARAM Aramark, Inc.										
629-6819127	09/10/2009	36.26	0.00	10/06/2009	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
	629-6819127 Total:	36.26								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
629-6820998	09/14/2009	65.68	0.00	10/06/2009	Linen City Hall					0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									No
629-6823964	09/17/2009	65.68								
101-430-3100-44170	Uniforms	36.26	0.00	10/06/2009	Uniforms					No
629-9828805	09/24/2009	36.26								
101-430-3100-44170	Uniforms	36.26	0.00	10/06/2009	Uniforms					No
629-9828805	Total:	36.26								0000
ARAM	Total:	174.46								
ASPENMI Aspen Mills, Inc.										
91838	09/02/2009	69.50								
101-420-2220-44170	Uniforms	69.50	0.00	10/06/2009	Medic Boots					No
92298	09/25/2009	26.72								
101-420-2220-44170	Uniforms	26.72	0.00	10/06/2009	Uniform Update					No
92298	Total:	26.72								0000
ASPENMI	Total:	96.22								
BIFFS Biff's Inc.										
W390071	09/09/2009	284.96								
204-450-5200-43150	Contract Services	284.96	0.00	10/06/2009	Portable Restrooms - Fall Festival					No
W390071	Total:	284.96								0000
W391484-W391493	09/23/2009	359.06								
101-450-5200-44120	Rentals - Buildings	359.06	0.00	10/06/2009	Portable Restrooms					No
W391484-W391493	Total:	359.06								0000
BIFFS	Total:	644.02								
BOUTHITOM Bouthilet Thomas										
Chk Req	09/23/2009	475.00								
204-450-5200-43150	Contract Services	475.00	0.00	10/06/2009	Entertainment clowns and Performer					No
Chk Req	09/23/2009	826.00								
204-450-5200-44300	Miscellaneous	826.00	0.00	10/06/2009	Silly String and Permits					No
Chk Req	Total:	1,301.00								0000
BOUTHITOM	Total:	1,301.00								
BUELOW Buelow Excavating										
6396	09/09/2009	2,700.00								
603-496-9500-44010	Street Sweeping	2,700.00	0.00	10/06/2009	Excavate, grade and seed ditch (Laverne)					No
6396	Total:	2,700.00								0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	BUELOW Total:	2,700.00								
CARQUEST Car Quest Auto Parts										
2055-167584	09/21/2009	18.09	0.00	10/06/2009	Replacement bulbs for vehicles	-	-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt	18.09								
	2055-167584 Total:	11.75	0.00	10/06/2009	Repair Part for E-1, (3173)	-	-	No		0000
2055-167699	09/22/2009	11.75								
101-420-2220-44040	Repairs/Maint Eqpt	29.84								
	2055-167699 Total:									
	CARQUEST Total:									
CORNELL Cornell Mike										
09/15/2009	09/15/2009	297.60	0.00	10/06/2009	Reimbursement for MSFDA	-	-	No		0000
101-420-2220-43310	Mileage	297.60								
	09/15/2009 Total:	297.60								
	CORNELL Total:	297.60								
CTYOAKDA City of Oakdale										
10000460-01	09/30/2009	14,378.63	0.00	10/06/2009	Water Service I94	-	-	No		0000
601-494-9400-43820	Water Utility	14,378.63								
	10000460-01 Total:	225.00	0.00	10/06/2009	Bldg Official Contract Services	-	-	No		0000
200909171970	09/21/2009	225.00								
101-420-2400-43150	Inspector Contract Services	14,603.63								
	200909171970 Total:									
	CTYOAKDA Total:									
DAWSON Dawson Craig										
Claim	09/25/2009	56.10	0.00	10/06/2009	Mileage	-	-	No		0000
101-410-1320-43310	Mileage	42.87	0.00	10/06/2009	Meetings-Met Council & Metro Cities	-	-	No		0000
101-410-1320-44370	Conferences & Training	98.97								
	Claim Total:	98.97								
	DAWSON Total:									
EMERGAUT Emergency Automotive										
8259	09/15/2009	1,688.19	0.00	10/06/2009	Lighting for Ranger	-	-	No		0000
410-480-8000-45500	Vehicles	1,688.19								
	8259 Total:	1,688.19								
	EMERGAUT Total:									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
Fresh Fl Fresh Fields bakery & Cafe 4626 204-450-5200-44300	09/03/2009 Miscellaneous	520.00	0.00	10/06/2009	Dinner Rolls & Full Cake Sheets		-	No		0000
	4626 Total:	520.00								
	Fresh Fl Total:	520.00								
FS3INC FS3, Inc. 17430 101-420-2220-42400	08/17/2009 Small Tools & Equipment	452.03	0.00	10/06/2009	Replacement traffic cones due to damage		-	No		0000
	17430 Total:	452.03								
	FS3INC Total:	452.03								
FXL FXL, Inc. 10/01/2009 101-410-1320-43100	10/01/2009 Assessing Services	2,000.00	0.00	10/06/2009			-	No		0000
	10/01/2009 Total:	2,000.00								
	FXL Total:	2,000.00								
GEAR Gear Grid 0001488-IN 410-480-8000-45800	09/04/2009 Other Equipment	1,173.49	0.00	10/06/2009	Gear rack for Station #2		-	No		0000
	0001488-IN Total:	1,173.49								
	GEAR Total:	1,173.49								
GRUBER Gruber's Power Equipment 72358 101-450-5200-42210	08/17/2009 Equipment Parts	6.25	0.00	10/06/2009	Oil Cap		-	No		0000
	72358 Total:	6.25								
	GRUBER Total:	6.25								
HAGBERGS Hagbergs Country Market 09/01/2009 101-420-2220-44300	09/01/2009 Miscellaneous	95.41	0.00	10/06/2009	Ranger event and station supplies		-	No		0000
	09/01/2009 Total:	95.41								
	HAGBERGS Total:	95.41								
HARMON Harmon Autoglass-Roseville 104-44950 101-450-5200-44040	09/09/2009 Repairs/Maint Eqpt	194.54	0.00	10/06/2009	Windshield Replacement 91 Dodge		-	No		0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
104-44950	09/09/2009	-9.54	0.00	10/06/2009	Tax Payables		-	No		0000
101-000-0000-20201	Use Tax Payable	185.00								
	104-44950 Total:	185.00								
	HARMON Total:									
HAWKINS Hawkins, Inc.										
3055838 RI	09/11/2009	1,049.81	0.00	10/06/2009	Hydroflousilicic Acid (flouride)		-	No		0000
601-494-9400-42160	Chemicals									
3055838 RI	09/11/2009	-67.53	0.00	10/06/2009	Hydroflousilicic Acid (flouride)-TAX		-	No		0000
101-000-0000-20201	Use Tax Payable	982.28								
	3055838 RI Total:	982.28								
	HAWKINS Total:									
JOHNSBR Brian Johnson										
09/15/2009	09/15/2009	281.60	0.00	10/06/2009	Reimbursement for MSFDA		-	No		0000
101-420-2220-43310	Mileage	281.60								
	09/15/2009 Total:	281.60								
	JOHNSBR Total:	281.60								
LAMPERT Lamperts										
11198577	09/22/2009	20.88	0.00	10/06/2009	Sgin Lumber		-	No		0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs	20.88								
	11198577 Total:	20.88								
	LAMPERT Total:	20.88								
LANGER Langer Greg										
Chk Req	09/28/2009	1,500.00	0.00	10/06/2009	Escrow Return 11311 50th Street		-	No		0000
803-000-0000-22900	Deposits Payable	1,500.00			Permit					
	Chk Req Total:	1,500.00								
	LANGER Total:	1,500.00								
Lillie Newspapers Inc. Lillie Suburban										
007148	08/25/2009	39.15	0.00	10/06/2009	Public Notice- CDBG Gas Line		-	No		0000
101-410-1910-43013	Cimarron Study - CDBG	7.88			Replacement					
007148	08/25/2009	7.88	0.00	10/06/2009	Public Notice - Variance 8618		-	No		0000
101-410-1450-43510	Public Notices	47.03			Ironwood T					
	007148 Total:	47.03								
	Lillie Total:	47.03								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
LTG PWR L.T.G. Power Equipment										
124875	09/17/2009	446.96	0.00	10/06/2009	Toro Blades and Glow Plugs		-		No	0000
101-450-5200-44040	Repairs/Maint Eqpt									
	124875 Total:	446.96								
	LTG PWR Total:	446.96								
MALMQ Malmquist Greg										
09/23/2009	09/23/2009	44.00	0.00	10/06/2009	Reimbursement for transfer fees Ranger		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	09/23/2009 Total:	44.00								
	MALMQ Total:	44.00								
MENARDSO Menards - Oakdale										
82399	08/25/2009	108.89	0.00	10/06/2009	Station Supplies		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
82399	08/25/2009	42.58	0.00	10/06/2009	Equipment Repairs		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	82399 Total:	151.47								
87179	09/08/2009	39.79	0.00	10/06/2009	101-430-3120-42240		-		No	0000
101-430-3120-42240	Street Maintenance Materials									
	87179 Total:	39.79								
87367	09/09/2009	23.50	0.00	10/06/2009	Lag Screws & Sandpaper		-		No	0000
101-450-5200-42150	Shop Materials									
	87367 Total:	23.50								
88101	09/11/2009	21.03	0.00	10/06/2009	Trash Barrel Hardware		-		No	0000
101-450-5200-42150	Shop Materials									
	88101 Total:	21.03								
89423	09/14/2009	6.27	0.00	10/06/2009	89423 Station Supplies		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	89423 Total:	6.27								
89818	09/14/2009	11.34	0.00	10/06/2009	89418 Equipment Repairs		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	89818 Total:	11.34								
90062	09/16/2009	48.00	0.00	10/06/2009	Station Supplies		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
90062	09/16/2009	18.88	0.00	10/06/2009	Equipment Repairs		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	90062 Total:	66.88								
91832	09/22/2009	17.61	0.00	10/06/2009	Sign Paint		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	91832 Total:	17.61								
92373	09/24/2009	8.46	0.00	10/06/2009	Sign Materials		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	92373 Total:	8.46								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MENARDSO Total:		346.35								
MENARDST Menards - Stillwater										
37784	09/14/2009	55.90	0.00	10/06/2009	Station Supplies		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	37784 Total:	55.90								
	MENARDST Total:	55.90								
Municipal Emergency Services										
00119541 SNV	09/18/2009	87.61	0.00	10/06/2009	Replacement Flashlight		-	No		0000
101-420-2220-42400	Small Tools & Equipment									
00119541 SNV	09/18/2009	1,465.70	0.00	10/06/2009	2 1/2" Nozzle		-	No		0000
101-420-2220-45800	Equipment									
	00119541 SNV Total:	1,553.31								
	MES Total:	1,553.31								
MITCHELL Mitchell Paul										
CHK REQ	09/03/2009	772.88	0.00	10/06/2009	Fall Festival Pork & Supp for pig roast		-	No		0000
204-450-5200-44300	Miscellaneous									
	CHK REQ Total:	772.88								
	MITCHELL Total:	772.88								
MNFIRECH MN State Fire Chiefs Assn										
CHK Req	09/03/2009	370.00	0.00	10/06/2009	State Fire Chief Conference - Chief		-	No		0000
101-420-2220-44370	Conferences & Training									
	CHK Req Total:	370.00								
	MNFIRECH Total:	370.00								
MYRONS Myron's Service Center										
09/10/2009	09/10/2009	283.70	0.00	10/06/2009	Repairs to Chief 2, alternator		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
	09/10/2009 Total:	283.70								
	MYRONS Total:	283.70								
NEXTEL Nextel Communications										
761950227-078	09/18/2009	101.62	0.00	10/06/2009	Cell Phone Services - Administration		-	No		0000
101-410-1940-43210	Telephone									
761950227-078	09/18/2009	121.77	0.00	10/06/2009	Cell Phone Services - Fire Depart		-	No		0000
101-420-2220-43210	Telephone									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
761950227-078	09/18/2009	38.93	0.00	10/06/2009	Cell Phone Services - Building Depart		-			0000
101-420-2400-43210	Telephone									No
761950227-078	09/18/2009	70.55	0.00	10/06/2009	Cell Phone Services Public Works Dept		-			0000
101-430-3100-43210	Telephone									No
761950227-078	09/18/2009	29.40	0.00	10/06/2009	Cell Phone Services Parks Dept		-			0000
101-450-5200-43210	Telephone									No
	761950227-078 Total:	362.27								
	NEXTEL Total:	362.27								
NORTHOO HSBC Business Solutions										
09/10/2009	09/10/2009	28.75	0.00	10/06/2009	Station Supplies, tool storage		-			0000
101-420-2220-44010	Repairs/Maint Bldg									No
	09/10/2009 Total:	28.75								
	NORTHOO Total:	28.75								
OAKDRC Oakdale Rental Center										
10067259	09/28/2009	387.61	0.00	10/06/2009	Concrete for Swing Set		-			0000
404-480-8000-45300	Improvements Other Than Bldgs									No
	10067259 Total:	387.61								
	OAKDRC Total:	387.61								
PETERSO Peterson Fram & Bergman Corp										
11140-030001	08/31/2009	3,084.36	0.00	10/06/2009	Legal Services - Criminal (invoice 1140M)		-			0000
101-420-2150-43045	Attorney Criminal									No
	11140-030001 Total:	3,084.36								
	PETERSO Total:	3,084.36								
PITNEY Pitney Bowes										
2817997-SP09	09/13/2009	693.00	0.00	10/06/2009	Postage Machine Rental		-			0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									No
	2817997-SP09 Total:	693.00								
	PITNEY Total:	693.00								
PITNEYRE Reserve Account Pitney Bowes										
09/15/2009	09/15/2009	500.00	0.00	10/06/2009	Postage		-			0000
101-410-1320-43220	Postage									No
	09/15/2009 Total:	500.00								
	PITNEYRE Total:	500.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
PLANTH PLANT HEALTH ASSOCIATES, INC										
974-09	10/01/2009	1,344.00	0.00	10/06/2009	Forester Services - Sept. 09		-	No		0000
101-430-3100-43150	Contract Services									
974-09	10/01/2009	192.00	0.00	10/06/2009	Forester Services - Developments		-	No		0000
203-490-9070-43150	Contract Services									
	974-09 Total:	1,536.00								
	PLANTH Total:	1,536.00								
PRESS Press Steven										
09/08/2009	09/08/2009	44.16	0.00	10/06/2009	Council Workshop 9/8/2009		-	No		0000
101-410-1320-43620	Cable Operation Expense									
	09/08/2009 Total:	44.16								
9/14/2009	09/14/2009	58.88	0.00	10/06/2009	Planning Commission 9/14/2009		-	No		0000
101-410-1910-43620	Cable Operation Expense									
9/14/2009	09/14/2009	58.88	0.00	10/06/2009	Council Meeting 9/15/2009		-	No		0000
101-410-1320-43620	Cable Operation Expense									
	9/14/2009 Total:	117.76								
9/28	10/01/2009	58.88	0.00	10/06/2009	Cable Operator-Planning 9/28/09		-	No		0000
101-410-1320-43620	Cable Operation Expense									
	9/28 Total:	58.88								
	PRESS Total:	220.80								
REHRIG Rehrig Pacific Company										
ER82102	09/08/2009	1,499.76	0.00	10/06/2009	Recycle Bins - ok'd by County Grant		-	No		0000
101-430-3200-42100	Recycling Supplies									
	ER82102 Total:	1,499.76								
	REHRIG Total:	1,499.76								
RIVRCOOP River Country Cooperative										
08/31/2009	08/31/2009	201.50	0.00	10/06/2009			-	No		0000
101-420-2220-42120	Fuel, Oil and Fluids									
	08/31/2009 Total:	201.50								
	RIVRCOOP Total:	201.50								
ROGERS Rogers Printing Services, Corp										
16646 16647	09/21/2009	1,687.56	0.00	10/06/2009	Newsletter		-	No		0000
101-410-1450-43090	Newsletter									
16646 16647	09/21/2009	32.06	0.00	10/06/2009	Business Cards		-	No		0000
101-410-1320-43090	Newsletter/Website									
	16646 16647 Total:	1,719.62								
16681	09/28/2009	129.32	0.00	10/06/2009	Fall Festival Envelopes		-	No		0000
204-450-5200-42000	Office Supplies									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
	16681 Total:	129.32								
	ROGERS Total:	1,848.94								
RUD Prince-Rud Diane	09/15/2009	513.00	0.00	10/06/2009	Cleaning City Hall & Annex		-	No		0000
	101-410-1940-44010 Repairs/Maint Contractual Bldg									
	09/15/2009	384.75	0.00	10/06/2009	Cleaning Fire Hall		-	No		0000
	101-420-2220-44010 Repairs/Maint Bldg									
	09/15/2009	246.50	0.00	10/06/2009	Cleaning Supplies		-	No		0000
	101-410-1940-42110 Cleaning Supplies									
	09/15/2009	-57.75	0.00	10/06/2009	Use Tax		-	No		0000
	101-000-0000-20201 Use Tax Payable									
	09/15/2009 Total:	1,086.50								
	RUD Total:	1,086.50								
S&T S&T Office Products, Inc.	09/21/2009	245.74	0.00	10/06/2009	Office Supplies		-	No		0000
	01No4287 Office Supplies									
	101-410-1320-42000 Office Supplies									
	01No4287 Total:	245.74								
	101-410-1320-42000 Office Supplies									
	01No8861 Total:	15.61								
	101-410-1320-42000 Office Supplies									
	01No9162 Total:	15.62								
	101-410-1320-42000 Office Supplies									
	01No9162 Total:	15.62								
	101-410-1320-42000 Office Supplies									
	01No9663 Total:	-31.23								
	101-410-1320-42000 Office Supplies									
	01No9663 Total:	-31.23								
	101-410-1320-42000 Office Supplies									
	01No1346 Total:	10.00								
	101-410-1320-42000 Office Supplies									
	01No1346 Total:	13.64								
	204-450-5200-42000 Office Supplies									
	01No8232 Total:	13.64								
	101-410-1410-42000 Office Supplies									
	01No8319 Total:	11.70								
	101-410-1410-42000 Office Supplies									
	01No7832 Total:	11.70								
	101-410-1410-42000 Office Supplies									
	01No7832 Total:	55.63								
	101-410-1410-42000 Office Supplies									
	01No7861 Total:	45.50								
	101-410-1410-42000 Office Supplies									
	01No7861 Total:	45.50								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
S&T Total:		382.21								
SAMSCLUB Sam's Club										
0502	09/15/2009	47.66	0.00	10/06/2009	Restock Rehab supplies		-			No 0000
101-420-2220-44300	Miscellaneous									
0502 Total:		47.66								
0617	09/30/2009	100.58	0.00	10/06/2009	Office Supplies		-			No 0000
101-410-1320-44300	Miscellaneous									
0617 Total:		100.58								
SAMSCLUB Total:		148.24								
SMITHANN Anne Smith										
chk Req	09/23/2009	1,646.41	0.00	10/06/2009	Fall Festival Silent Auction and		-			No 0000
204-450-5200-44300	Miscellaneous				Supplie					
chk Req Total:		1,646.41								
SMITHANN Total:		1,646.41								
SPRING SPRINGSTED										
001309.100	09/09/2009	18,124.85	0.00	10/06/2009	Administrator Search		-			No 0000
101-410-1320-44300	Miscellaneous									
001309.100 Total:		18,124.85								
SPRING Total:		18,124.85								
SPRINT Sprint										
837908817-022	09/18/2009	79.98	0.00	10/06/2009	Phone Cards for laptops		-			No 0000
101-420-2220-43210	Telephone									
837908817-022 Total:		79.98								
SPRINT Total:		79.98								
STCROIXR ST.CROIX RECREATION CO.										
16235	09/03/2009	8,941.16	0.00	10/06/2009	Swin Set and Playground Borders		-			No 0000
410-480-8000-45800	Other Equipment									
16235 Total:		8,941.16								
STCROIXR Total:		8,941.16								
SUPCRANE Superior Crane Corp.										
98876	09/04/2009	561.63	0.00	10/06/2009	Crane Repair and Inspection		-			No 0000
101-430-3100-44010	Repairs/Maint Bldg									
98876 Total:		561.63								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
SUPCRANE Total:		561.63								
TDS TDS METROCOM - LLC										
651-779-8882	09/13/2009	163.19	0.00	10/06/2009	Analog Lines - Fire		-	No		0000
101-420-2220-43210	Telephone									
651-779-8882	09/13/2009	154.88	0.00	10/06/2009	Analog Lines - Public Works		-	No		0000
101-430-3100-43210	Telephone									
651-779-8882	09/13/2009	104.25	0.00	10/06/2009	Analog Lines - Lift Station Alarms		-	No		0000
602-495-9450-43210	Telephone									
651-779-8882	09/13/2009	42.07	0.00	10/06/2009	Alarm - Well House #2		-	No		0000
601-494-9400-43210	Telephone									
651-779-8882 Total:		464.39								
TDS Total:		464.39								
TESSMAN Tessman Company Corp										
S118426-IN	09/23/2009	102.00	0.00	10/06/2009	Herbicide		-	No		0000
101-450-5200-42250	Landscaping Materials									
S118426-IN	09/23/2009	199.82	0.00	10/06/2009	Erosion Blanket around new swing set		-	No		0000
410-480-8000-45800	Other Equipment									
S118426-IN Total:		301.82								
TESSMAN Total:		301.82								
TISCHLER Tischler Mike										
Chk Req	09/23/2009	1,500.00	0.00	10/06/2009	Escrow Return Permit 6601-8634 26th St		-	No		0000
803-000-0000-22900	Deposits Payable									
Chk Req Total:		1,500.00								
TISCHLER Total:		1,500.00								
TITANAPP Titan Apparel & Sportswear Cor										
2383	09/30/2009	1,085.40	0.00	10/06/2009	Uniform Shirts		-	No		0000
101-420-2220-44170	Uniforms									
2383 Total:		1,085.40								
TITANAPP Total:		1,085.40								
TKDA TKDA, Inc.										
000200902601	09/14/2009	399.11	0.00	10/06/2009	Development - Whistling Valley III		-	No		0000
203-490-9070-43030	Engineering Services									
000200902601 Total:		399.11								
000200902602	09/14/2009	95.42	0.00	10/06/2009	Tapestry at Charlotte Grove		-	No		0000
203-490-9070-43030	Engineering Services									
000200902602 Total:		95.42								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
000200902604	09/14/2009	47.71	0.00	10/06/2009	Discovery Crossing		-	No		0000
203-490-9070-43030	Engineering Services									
	000200902604 Total:	47.71								
000200902605	09/14/2009	1,285.56	0.00	10/06/2009	Sanctuary		-	No		0000
203-490-9070-43030	Engineering Services									
	000200902605 Total:	1,285.56								
000200902606	09/14/2009	296.40	0.00	10/06/2009	SW Area Water System Extension		-	No		0000
601-494-9400-43030	Engineering Services									
	000200902606 Total:	296.40								
000200902607	09/14/2009	1,474.33	0.00	10/06/2009	Surface Water Mgmt Plan		-	No		0000
603-496-9500-43030	Engineering Services									
	000200902607 Total:	1,474.33								
000200902608	09/14/2009	3,645.88	0.00	10/06/2009	General Engineering		-	No		0000
101-410-1910-43030	Engineering Services									
	000200902608 Total:	3,645.88								
000200902608	09/14/2009	4,862.77	0.00	10/06/2009	General Engineering		-	No		0000
101-410-1930-43030	Engineering Services									
	000200902608 Total:	4,862.77								
000200902608	09/14/2009	484.33	0.00	10/06/2009	General Engineering		-	No		0000
101-430-3100-43030	Engineering Services									
	000200902608 Total:	484.33								
000200902609	09/14/2009	8,992.98	0.00	10/06/2009	General Engineering		-	No		0000
404-480-8000-43030	Engineering Services									
	000200902609 Total:	8,992.98								
000200902609	09/14/2009	4,407.35	0.00	10/06/2009	General Engineering		-	No		0000
603-496-9500-43030	Engineering Services									
	000200902609 Total:	4,407.35								
000200902609	09/14/2009	2,036.84	0.00	10/06/2009	General Engineering		-	No		0000
409-480-8000-43030	Engineering Services									
	000200902609 Total:	2,036.84								
000200902609	09/14/2009	3,199.83	0.00	10/06/2009	General Engineering		-	No		0000
601-494-9400-43030	Engineering Services									
	000200902609 Total:	3,199.83								
000200902609	09/14/2009	1,583.00	0.00	10/06/2009	General Engineering		-	No		0000
602-495-9450-43030	Engineering Services									
	000200902609 Total:	1,583.00								
000200902610	09/14/2009	541.61	0.00	10/06/2009	General Engineering		-	No		0000
413-480-8000-43030	Engineering Services									
	000200902610 Total:	541.61								
000200902610	09/14/2009	11,768.63	0.00	10/06/2009	Lake Elmo Area Village Eng. Support		-	No		0000
602-495-9450-43030	Engineering Services									
	000200902610 Total:	11,768.63								
000200902611	09/14/2009	1,679.68	0.00	10/06/2009	2009 Crack Sealing		-	No		0000
409-480-8000-43030	Engineering Services									
	000200902611 Total:	1,679.68								
000200902611	09/14/2009	1,014.90	0.00	10/06/2009	2009 Street Improvement - Final Design		-	No		0000
601-494-9400-43030	Engineering Services									
	000200902611 Total:	1,014.90								
000200902612	09/14/2009	10,875.10	0.00	10/06/2009	Lake Elmo Water Supply Plan		-	No		0000
409-480-8000-43030	Engineering Services									
	000200902612 Total:	10,875.10								
000200902600	09/14/2009	416.93	0.00	10/06/2009	Lake Elmo Farms		-	No		0000
601-494-9400-43030	Engineering Services									
	000200902600 Total:	416.93								
000200902603	09/14/2009	3,788.49	0.00	10/06/2009	Lake Elmo Farms		-	No		0000
203-490-9070-43030	Engineering Services									
	000200902603 Total:	3,788.49								


Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POnLine #
TKDA Total:		42,135.24								
TOWER Tower Asphalt, Inc.										
Cert 1	09/09/2009	42,721.50	0.00	10/06/2009	2009 Street Improvements		-	No		0000
409-480-8000-45300 Improvements Other Than Bldgs										
Cert 1 Total:		42,721.50								
Cert 2	09/09/2009	185,143.08	0.00	10/06/2009	2009 Street Improvements		-	No		0000
409-480-8000-45300 Improvements Other Than Bldgs										
Cert 2 Total:		185,143.08								
TOWER Total:		227,864.58								
VANZANDT Van Zandt Distributing										
3794	09/28/2009	403.73	0.00	10/06/2009	EMS Supplies for HINI Protection		-	No		0000
101-420-2220-42080 EMS Supplies										
3794 Total:		403.73								
VANZANDT Total:		403.73								
VATA Vata Communications, Inc.										
2670	09/04/2009	246.93	0.00	10/06/2009	Telephone/Handset - office counter		-	No		0000
101-410-1940-44040 Repairs/Maint Contractual Eqpt										
2670 Total:		246.93								
VATA Total:		246.93								
VISA-SL VISA										
09/01/2009	09/01/2009	9.95	0.00	10/06/2009	Survey - Trash Pick up		-	No		0000
101-430-3200-44300 Miscellaneous										
09/01/2009 Total:		9.95								
VISA-SL Total:		9.95								
WAS-SHER Washington County										
64420	09/24/2009	229,985.36	0.00	10/06/2009	Law Enforcement Services Jan 09-June 09		-	No		0000
101-420-2100-43150 Law Enforcement Contract										
64420 Total:		229,985.36								
WAS-SHER Total:		229,985.36								
WAS-TRAN Washington County										
64368	09/16/2009	8,756.00	0.00	10/06/2009	Street Striping		-	No		0000
101-430-3120-43150 Contract Services										
64368 Total:		8,756.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	WAS-TRAN Total:	8,756.00								
WASRADIO WASHINGTON COUNTY										
64325	09/01/2009	1,166.90	0.00	10/06/2009	Monthly User Fee for 800 MHz Radios		-	No		0000
101-420-2220-43230	Radio									
	64325 Total:	1,166.90								
	WASRADIO Total:	1,166.90								
XCEL Xcel Energy										
51-5356323-8	10/02/2009	2,183.27	0.00	10/06/2009	Wells 1 & 2		-	No		0000
601-494-9400-43810	Electric Utility									
	51-5356323-8 Total:	2,183.27								
	XCEL Total:	2,183.27								
YARUSSO Yarusso, Sr. Raymond										
Chk Req	09/28/2009	100.00	0.00	10/06/2009	Settlement Agreement		-	No		0000
101-420-2220-41510	Workers Compensation									
	Chk Req Total:	100.00								
	YARUSSO Total:	100.00								
	Report Total:	592,078.37								

City Council
Date: 10/06/09
CONSENT
Item: 3
MOTION:

AGENDA ITEM: Resolution Authorizing Issuance, Awarding Sale for the payment of \$575,000 General Obligation Improvement bond, Series 2009B

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce A. Messelt, City Administrator 

REVIEWED BY: Paul Dunna, Northland Securities
Dorsey & Whitney

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider Authorizing Issuance, Awarding Sale, Prescribing the Form and Details and Providing for the Payment of \$575,000 General Obligation Improvement Bonds, Series 2009B.

BACKGROUND: The City Council set the date of October 6, 2009 for the sale of \$ 575,000 General Obligation Improvement Bond Series 2009B for the 2009 Street Improvements at the August 18, 2009 City Council meeting. The reconstruction of the entry and parking lot was added to the proposed bond issue after the initial 429 proceeding. This resolution is contingent on the completion of the 429 proceeding which is the inclusion of the Tablyn Park portion of the project. The Public Hearing is set for the October 20, 2009 City Council meeting.

RECOMMENDATION: Staff recommends that the Council adopt the proposed resolution.

MOTION FOR CONSIDERATION: Move to adopt the resolution Authorizing Issuance, Awarding Sale for the payment of \$575,000 General Obligation Improvement Bond, Series 2009B

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

RESOLUTION NO. 2009-039

RESOLUTION AUTHORIZING ISSUANCE, AWARDING SALE, PRESCRIBING THE FORM AND DETAILS AND PROVIDING FOR THE PAYMENT OF \$575,000 GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2009B

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

SECTION 1. AUTHORIZATION AND SALE.

1.01. Authorization. This Council, by resolution duly adopted on August 18, 2009, authorized the issuance and sale on the date hereof of its General Obligation Improvement Bonds, Series 2009B (the Bonds), pursuant to Minnesota Statutes, Chapters 429 and 475. Proceeds of the Bonds will be used to finance various improvement projects in the City (the Project).

1.2. Sale. Pursuant to Minnesota Statutes, Section 475.60, subdivision 2, paragraph (9), the requirements as to public sale do not apply to the issuance of the Bonds. A proposal has been received from Northland Securities, Inc., Minneapolis, Minnesota (the "Purchaser"). In accordance with the terms of offering for the Bonds, it is hereby determined to issue the Bonds in the principal amount of \$575,000 at a price of \$ _____ plus accrued interest of \$ _____, and upon the further terms and conditions set forth herein. The sale of the Bonds is hereby awarded to the Purchaser, and the Mayor and City Administrator are hereby authorized and directed to execute a contract on behalf of the City for the sale of the Bonds in accordance with the terms of the proposal, provided that the Bonds shall not be issued until the City has consolidated the Project for purposes of Minnesota Statutes, Chapter 429.

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

2.01. Issuance of Bonds. All acts, conditions and things which are required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed precedent to and in the valid issuance of the Bonds having been done, now existing, having happened and having been performed, it is now necessary for the City Council to establish the form and terms of the Bonds, to provide security therefor and to issue the Bonds forthwith.

2.02. Maturities; Interest Rates; Denominations and Payment. The Bonds shall be originally dated as of October 1, 2009, shall be in the denomination of \$5,000 each, or any integral multiple thereof, of single maturities, shall mature on January 15 in the years and amounts stated below, and shall bear interest from their date of issue until paid or duly called for redemption, at the annual rates set forth opposite such years and amounts, as follows:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Rate</u>
2011	\$30,000	%	2016	\$60,000	%
2012	55,000		2017	60,000	
2013	60,000		2018	65,000	
2014	60,000		2019	65,000	
2015	60,000		2020	60,000	

[REVISE MATURITY SCHEDULE FOR ANY TERM BONDS]

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

2.03. Dates and Interest Payment Dates. Upon initial delivery of the Bonds pursuant to Section 2.07 and upon any subsequent transfer or exchange pursuant to Section 2.06, the date of authentication shall be noted on each Bond so delivered, exchanged or transferred. Interest on the Bonds shall be payable on January 15 and July 15 in each year, commencing July 15, 2010, each such date being referred to herein as an Interest Payment Date, to the persons in whose names the Bonds are registered on the Bond Register, as hereinafter defined, at the Registrar's close of business on the fifteenth day of the month immediately preceding the Interest Payment Date, whether or not such day is a business day. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months.

2.04. Redemption. Bonds maturing in 2018 and later years shall be subject to redemption and prepayment at the option of the City, in whole or in part, in such order of maturity dates as the City may select and, within a maturity, by lot as selected by the Registrar (or, if applicable, by the bond depository in accordance with its customary procedures) in multiples of \$5,000, on January 15, 2017, and on any date thereafter, at a price equal to the principal amount thereof and accrued interest to the date of redemption. The City Administrator shall cause notice of the call for redemption thereof to be published if and as required by law, and at least thirty and not more than 60 days prior to the designated redemption date, shall cause notice of call for redemption to be mailed, by first class mail, to the registered holders of any Bonds to be redeemed at their addresses as they appear on the bond register described in Section 2.06 hereof, but no defect in or failure to give such mailed notice of redemption shall affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the owner without charge, representing the remaining principal amount outstanding.

[COMPLETE THE FOLLOWING PROVISIONS IF THERE ARE TERM BONDS -

ADD ADDITIONAL PROVISIONS IF THERE ARE MORE THAN TWO TERM BONDS]

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

Term Bonds Maturing January 15, 20—

<u>Year</u>	<u>Principal Amount</u>
-------------	-------------------------

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

Term Bonds Maturing January 15, 20—

<u>Year</u>	<u>Principal Amount</u>
-------------	-------------------------

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.09. Form of Bonds. The Bonds shall be prepared in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF WASHINGTON

CITY OF LAKE ELMO

GENERAL OBLIGATION IMPROVEMENT BOND, SERIES 2009B

No. R- _____ \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP No.</u>
_____ %	January 15, 20__	October 1, 2009	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THOUSAND DOLLARS

CITY OF LAKE ELMO, State of Minnesota (the City) acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above and promises to pay interest thereon from the date of original issue specified above or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for, at the annual interest rate specified above, payable on January 15 and July 15 in each year, commencing July 15, 2010 (each such date, an Interest Payment Date), all subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. The interest so payable on any Interest Payment Date shall be paid to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the calendar month immediately preceding the Interest Payment Date. Interest hereon shall be computed on the basis of a 360-day year composed of twelve 30-day months. The interest hereon and, upon presentation and surrender hereof at the principal office of the Registrar described below, the principal hereof are payable in lawful money of the United States of America by check or draft drawn on Northland Trust Services, Inc., Minneapolis, Minnesota, as bond registrar, transfer agent and paying agent, or its successor designated under the Resolution described herein (the Registrar). For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged.

This Bond is one of an issue (the Bonds) in the aggregate principal amount of \$575,000 issued pursuant to a resolution adopted by the City Council on October 6, 2009 (the Resolution), to finance various improvement projects in the City and is issued pursuant to and in full conformity with the Constitution and laws of the State of Minnesota thereunto enabling, including Minnesota Statutes, Chapters 429 and 475. The Bonds are issuable only in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, of single maturities.

Bonds maturing in 2018 and later years shall be subject to redemption and prepayment at the option of the City, in whole or in part, in such order of maturity dates as the City may select and, within a maturity, by lot as selected by the Registrar (or, if applicable, by the bond depository in accordance with its customary procedures) in multiples of \$5,000, on January 15, 2017, and on any date thereafter, at a price equal to the principal amount thereof and accrued interest to the date of redemption. The City shall cause notice of the call for redemption thereof to be published if and as required by law, and at least thirty and not more than 60 days prior to the designated redemption date, shall cause notice of call for redemption to be mailed, by first class mail, to the registered holders of any Bonds, at the holders' addresses as they appear on the bond register maintained by the Registrar, but no defect in or failure to give such mailed notice of redemption shall affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the owner without charge, representing the remaining principal amount outstanding.

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

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

<u>Term Bonds Maturing in 20--</u>		<u>Term Bonds Maturing in 20--</u>	
<u>Sinking Fund Payment Date</u>	<u>Aggregate Principal Amount</u>	<u>Sinking Fund Payment Date</u>	<u>Aggregate Principal Amount</u>
	\$		\$

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

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

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

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

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

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed prior to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done, do exist, have happened and have been performed as so required; that, prior to the issuance hereof, the City Council has by the Resolution covenanted and agreed to levy ad valorem taxes upon all taxable property in the City and special assessments upon property specially benefited by the local improvements financed by the Bonds, which taxes and special assessments will be collectible for the years and in amounts sufficient to produce sums not less than five percent in excess of the principal of and interest on the Bonds when due, and has appropriated such special assessments and taxes to its General Obligation Improvement Bonds, Series 2009B Bond Fund for the payment of principal and interest; that if necessary for payment of principal and interest, additional ad valorem taxes are required to be levied upon all taxable property in the City, without limitation as to rate or amount and that the issuance of this Bond, together with all other indebtedness of the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the City to exceed any constitutional or statutory limitation of indebtedness.

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

IN WITNESS WHEREOF, the City has caused this Bond to be executed on its behalf by the facsimile signatures of its Mayor and City Administrator.

CITY OF LAKE ELMO, MINNESOTA

(facsimile signature – Mayor)

(facsimile signature – City Administrator)

CERTIFICATE OF AUTHENTICATION

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


Date of Authentication: _____

NORTHLAND TRUST SERVICES, INC.,
as Registrar

By _____
Authorized Representative

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to the applicable laws or regulations:

City Council
Date: October 6, 2009
CONSENT
Item: 4
Motion

AGENDA ITEM: 2009 Street Improvements Payment Certificate No. 2
SUBMITTED BY: Ryan Stempksi, Assistant City Engineer
THROUGH: Bruce A. Messelt, City Administrator 
REVIEWED BY: Tom Bouthilet, Finance Director
Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve partial payment to Tower Asphalt, Inc., the Contractor for the 2009 Street Improvements project. Tower Asphalt, Inc. has submitted Partial Payment Certificate No. 2 in the amount of \$185,143.08. This request has been reviewed and payment is recommended in the amount requested.

ADDITIONAL INFORMATION

5% of the work completed through Partial Payment Certificate No. 2 has been retained amount of \$11,992.87 in accordance with the Contract documents.

SUGGESTED MOTION FOR CONSIDERATION

Payment is authorized in the amount of \$185,143.08 to be paid from the Project Fund for the 2009 Street Improvements project.

ATTACHMENTS

1. Payment Certificate No. 2 for the 2009 Street Improvements Project

TKDA

ENGINEERING • ARCHITECTURE • PLANNING

The right time. The right people. The right company.

444 Cedar Street, Suite 1500
Saint Paul, MN 55101-2140

(651) 292-4400
(651) 292-0083 Fax
www.tkda.com

Proj. No. 14353.001 Cert. No. 2 St. Paul, MN, September 30, 2009

To City of Lake Elmo, Minnesota Owner

This Certifies that Tower Asphalt, Contractor

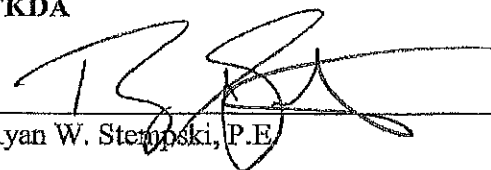
For 2009 Street Improvements

Is entitled to One Hundred Eighty-Five Thousand One Hundred Forty-Three Dollars and 08/100 (\$ 185,143.08)

being 2nd estimate for partial payment on contract with you dated July 7, 2009

Received payment in full of above Certificate.

TKDA


Ryan W. Stempski, P.E.

Tower Asphalt, Inc.
2009

RECAPITULATION OF ACCOUNT

	CONTRACT PLUS EXTRAS	PAYMENTS	CREDITS
Contract price plus extras	\$ 417,811.50		
All previous payments		\$ 42,721.50	
All previous credits			
Extra No.			
" "			
" "			
" "			
Credit No.			\$ -
" "			
" "			
" "			
AMOUNT OF THIS CERTIFICATE		\$ 185,143.08	
Totals	\$ 417,811.50	\$ 227,864.58	\$ -
Credit Balance		\$ -	
There will remain unpaid on contract after payment of this Certificate		\$ 189,946.92	
	\$ 417,811.50	\$ 417,811.50	\$ -


TKDA
Engineering-Architecture-Planning

PERIODICAL ESTIMATE FOR PARTIAL PAYMENTS

Estimate No. 2 Period Ending September 25, 20 09 Page 1 of 1 Proj. No. 14353.001
Contractor Tower Asphalt Original Contract Amount \$ 417,811.50
Project 2009 Street Improvements
Location City of Lake Elmo, Minnesota

Total Contract Work Completed		\$	<u>239,857.45</u>
Total Approved Credits		\$	<u>0.00</u>
Total Approved Extra Work Completed	\$	<u>0.00</u>	
Approved Extra Orders Amount Completed		\$	<u>0.00</u>
Total Amount Earned This Estimate		\$	<u>239,857.45</u>

Less Approved Credits	\$	<u>0.00</u>	
Less <u>5</u> % Retained	\$	<u>11,992.87</u>	
Less Previous Payments	\$	<u>42,721.50</u>	
Total Deductions		\$	<u>54,714.37</u>
Amount Due This Estimate		\$	<u>185,143.08</u>

Contractor Tower Asphalt Date _____
Engineer  Date 9-30-2009
Ryan W. Stenipski, P.E.

ESTIMATE NO. 2

PERIOD ENDING: September 25, 2009

2009 STREET IMPROVEMENTS
CITY OF LAKE ELMO, MINNESOTA
TKDA PROJECT NO. 14353.001

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<u>EDEN PARK DEVELOPMENT</u>						
1	MOBILIZATION	LS	1	1.0	\$ 1,000.00	\$ 1,000.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	30	-	\$ 2.50	\$ -
4	INLET PROTECTION	EA	9	9.0	\$ 100.00	\$ 900.00
5	SAWCUT PAVEMENT (ALL TYPES)	LF	208	-	\$ 2.00	\$ -
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	50	-	\$ 5.00	\$ -
7	REMOVE & DISPOSE OF EXIST. STORM SEWER (ALL TYPES & SIZES)	LF	16	16.0	\$ 20.00	\$ 320.00
8	SUBGRADE CORRECTION	SY	26	-	\$ 10.00	\$ -
9	LOAD & HAUL RECLAIMED MATERIAL (LV) (P)	CY	459	423.0	\$ 6.00	\$ 2,538.00
10	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	14268	14,268.0	\$ 1.50	\$ 21,402.00
11	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	39	39.0	\$ 100.00	\$ 3,900.00
12	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	1275	1,385.0	\$ 51.65	\$ 71,535.25
13	2360 TYPE LV 4 BITUMINOUS WEARING COURSE	TN	1275	-	\$ 54.10	\$ -
14	BITUMINOUS MATERIAL FOR TACK COAT	GAL	713	-	\$ 1.50	\$ -
15	2"- 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	50	-	\$ 15.00	\$ -
16	SAW & SEAL STREET (40' INTERVALS)	LF	3009	-	\$ 1.55	\$ -
17	ADJUST MANHOLE CASTING	EA	2	2.0	\$ 400.00	\$ 800.00
18	D412 CONCRETE CURB & GUTTER	LF	15	29.0	\$ 70.00	\$ 2,030.00
19	REPAIR AND ADJUST CATCH BASIN	EA	9	9.0	\$ 1,000.00	\$ 9,000.00
20	12" RCP FES WITH TRASH GUARD	EA	1	1.0	\$ 900.00	\$ 900.00
21	CL. 3 RIPRAP W/ GEOTEXTILE FILTER FABRIC	CY	3	3.0	\$ 100.00	\$ 300.00
22	SEEDING, FERTILIZER AND WOOD FIBER BLANKET	SY	25	-	\$ 15.00	\$ -
SUBTOTAL - EDEN PARK DEVELOPMENT						\$ 115,125.25
<u>EDEN PARK 2ND ADDITION</u>						
1	MOBILIZATION	LS	1	1.0	\$ 1,000.00	\$ 1,000.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	325	210.0	\$ 2.50	\$ 525.00
4	INLET PROTECTION	EA	2	1.0	\$ 100.00	\$ 100.00
5	SAWCUT PAVEMENT (ALL TYPES)	LF	118	88.0	\$ 2.00	\$ 176.00
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	25	20.0	\$ 5.00	\$ 100.00
7	SUBGRADE CORRECTION	SY	1662	-	\$ 2.75	\$ -
8	LOAD & HAUL RECLAIMED MATERIAL (LV) (P)	CY	216	216.0	\$ 6.00	\$ 1,296.00
9	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	2822	2,822.0	\$ 1.50	\$ 4,233.00
10	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	6	6.0	\$ 100.00	\$ 600.00
11	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	252	266.0	\$ 51.65	\$ 13,738.90
12	2360 TYPE LV 4 BITUMINOUS WEARING COURSE, STREETS (INCL. 4" BIT CURB)	TN	266	-	\$ 54.10	\$ -
13	BITUMINOUS MATERIAL FOR TACK COAT	GAL	141	-	\$ 1.50	\$ -
14	2"- 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	25	-	\$ 15.00	\$ -
15	SAW & SEAL STREET (40' INTERVALS)	LF	476	-	\$ 1.55	\$ -
16	REPAIR AND ADJUST CATCH BASIN	EA	2	2.0	\$ 1,400.00	\$ 2,800.00
17	SAWCUT CATCH BASIN	EA	1	-	\$ 200.00	\$ -
18	SODDING	SY	244	-	\$ 3.00	\$ -
SUBTOTAL - EDEN PARK 2ND ADDITION						\$ 25,068.90

ESTIMATE NO. 2

PERIOD ENDING: September 25, 2009

2009 STREET IMPROVEMENTS
CITY OF LAKE ELMO, MINNESOTA
TKDA PROJECT NO. 14363.001

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<u>THE FOREST DEVELOPMENT</u>						
1	MOBILIZATION	LS	1	1.0	\$ 500.00	\$ 500.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	90	87.0	\$ 2.50	\$ 217.50
4	INLET PROTECTION	EA	3	1.5	\$ 100.00	\$ 150.00
5	SAWCUT PAVEMENT (ALL TYPES)	LF	130	98.0	\$ 2.00	\$ 196.00
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	25	22.0	\$ 5.00	\$ 110.00
7	SUBGRADE CORRECTION	SY	1175	-	\$ 2.75	\$ -
8	LOAD & HAUL RECLAIMED MATERIAL (LV) (P)	CY	318	318.0	\$ 6.00	\$ 1,908.00
9	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	5977	5,977.0	\$ 1.50	\$ 8,965.50
10	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	17	17.0	\$ 100.00	\$ 1,700.00
11	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	534	640.0	\$ 52.65	\$ 28,431.00
12	2360 TYPE LV 4 BITUMINOUS WEARING COURSE, STREETS (INCL. 6" BIT CURB)	TN	538	-	\$ 54.10	\$ -
13	BITUMINOUS MATERIAL FOR TACK COAT	GAL	299	-	\$ 1.50	\$ -
14	2"- 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	25	-	\$ 15.00	\$ -
15	SAW & SEAL STREET (40' INTERVALS)	LF	1506	-	\$ 1.55	\$ -
16	D412 CONCRETE CURB & GUTTER	LF	179	179.0	\$ 25.00	\$ 4,475.00
17	REPAIR AND ADJUST CATCH BASIN	EA	3	-	\$ 1,000.00	\$ -
18	SODDING	SY	90	-	\$ 3.00	\$ -
SUBTOTAL - EDEN PARK 2ND ADDITION						\$ 47,153.00
<u>MYRON ELLMAN SUBDIVISION</u>						
1	MOBILIZATION	LS	1	1.0	\$ 1,000.00	\$ 1,000.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	85	63.0	\$ 2.50	\$ 157.50
4	SALVAGE & REINSTALL SIGN	EA	2	-	\$ 150.00	\$ -
5	SAWCUT PAVEMENT (ALL TYPES)	LF	181	231.0	\$ 2.00	\$ 462.00
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAY)	SY	65	68.0	\$ 5.00	\$ 340.00
7	REMOVE & DISPOSE OF EXIST. CONCRETE PAVEMENT (DRIVEWAY)	SY	22	4.0	\$ 10.00	\$ 40.00
8	SUBGRADE CORRECTION	SY	1300	51.0	\$ 2.75	\$ 140.25
9	LOAD & HAUL RECLAIMED MATERIAL (LV) (P)	CY	358	368.0	\$ 6.00	\$ 2,148.00
10	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	3498	3,498.0	\$ 1.50	\$ 5,247.00
11	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	13	13.0	\$ 100.00	\$ 1,300.00
12	2360 TYPE LV 3 BITUMINOUS NON-WEARING COURSE	TN	313	307.0	\$ 52.65	\$ 16,163.55
13	2360 TYPE LV 4 BITUMINOUS WEARING COURSE	TN	313	-	\$ 54.10	\$ -
14	BITUMINOUS MATERIAL FOR TACK COAT	GAL	175	-	\$ 1.50	\$ -
15	2"- 2360 TYPE LV 4 BITUMINOUS WEARING COURSE, DRIVE	SY	65	-	\$ 15.00	\$ -
16	6" CONCRETE DRIVE	SY	22	-	\$ 80.00	\$ -
17	SAW & SEAL STREET (40' INTERVALS)	LF	766	-	\$ 1.55	\$ -
18	ADJUST EXISTING GATE VALVE BOX	EA	2.0	3.0	\$ 200.00	\$ 600.00
19	ADJUST CURB STOP	EA	1.0	-	\$ 200.00	\$ -
20	SODDING	SY	259.0	-	\$ 3.00	\$ -
SUBTOTAL - MYRON ELLMAN SUBDIVISION						\$ 28,098.30

ESTIMATE NO. 2

PERIOD ENDING: September 25, 2009

2009 STREET IMPROVEMENTS
 CITY OF LAKE ELMO, MINNESOTA
 TKDA PROJECT NO. 14353.001

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<u>TABLYN PARK ENTRANCE ROAD AND PARKING LOT</u>						
1	MOBILIZATION	LS	1	1.0	\$ 3,500.00	\$ 3,500.00
2	TRAFFIC CONTROL	LS	1	1.0	\$ 500.00	\$ 500.00
3	SILT FENCE	LF	790	690.0	\$ 2.00	\$ 1,380.00
4	SAWCUT PAVEMENT (ALL TYPES)	LF	85	-	\$ 2.00	\$ -
5	REMOVE & DISPOSE OF EXIST. PAVEMENT	SY	1862	1,862.0	\$ 2.00	\$ 3,724.00
6	SUBGRADE CORRECTION	SY	289	-	\$ 3.00	\$ -
7	COMMON EXCAVATION	CY	640	640.0	\$ 3.00	\$ 1,920.00
8	SUBGRADE PREPARATION	RS	5	5.0	\$ 100.00	\$ 500.00
9	PLACE & COMPACT RECLAIMED MATERIAL (FROM OTHER SITES)	CY	697	767.0	\$ 4.00	\$ 3,068.00
10	2360 TYPE LV.3 BITUMINOUS NON-WEARING COURSE	TN	156	-	\$ 52.65	\$ -
11	2360 TYPE LV.4 BITUMINOUS WEARING COURSE, STREETS (INCL. 4" BIT CURB)	TN	183	-	\$ 54.10	\$ -
12	BITUMINOUS MATERIAL FOR TACK COAT	GAL.	87	-	\$ 1.50	\$ -
13	SAW & SEAL STREET (40' INTERVALS)	LF	388	-	\$ 1.55	\$ -
14	15" RCP CL. 5 STORM SEWER PIPE	LF	49	44.0	\$ 25.00	\$ 1,100.00
15	15" RCP FES WITH TRASH GUARD	EA	1	1.0	\$ 970.00	\$ 970.00
16	48" DIAMETER MANHOLE, TYPE 406S (0'-10' DEPTH)	EA	2	2.0	\$ 2,750.00	\$ 5,500.00
17	CATCH BASIN, TYPE 404	EA	1	1.0	\$ 2,250.00	\$ 2,250.00
18	CL. 3 RIPRAP W/ GEOTEXTILE FILTER FABRIC	CY	3	-	\$ 100.00	\$ -
19	SEEDING, FERTILIZER AND WOOD FIBER BLANKET	SY	35	-	\$ 3.00	\$ -
20	SODDING	SY	504	-	\$ 3.00	\$ -
SUBTOTAL - TABLYN PARK ENTRANCE ROAD AND PARKING LOT						\$ 24,412.00


TOTAL ESTIMATE NO. 2

\$ 239,857.45

City Council
Date: 10/6/09
CONSENT
Item: 5

AGENDA ITEM: Approve easements to the Minnesota Pollution Control Agency for the placement of ground water monitoring wells in Sunfish Lake Park and Lake Jane Hills Park.

SUBMITTED BY: Carol Kriegler, Project Assistant

THROUGH: Bruce A. Messelt, City Administrator 

REVIEWED BY: Ryan Stempski, City Engineer
Kathy Widin, City Forester
Dave Synder, City Attorney
Park Commission

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve two easements to the Minnesota Pollution Control Agency for the placement of ground water monitoring wells in Sunfish Lake Park and Lake Jane Hills Park. The two easements, one for Sunfish Lake Park and the other for Lake Jane Hills Park, will grant the MPCA the right to construct, maintain and sample groundwater from two monitoring wells within a limited area of Sunfish Lake Park and Lake Jane Hills Park. The purpose of the wells is to monitor ground water pollution in the vicinity of the Washington County Landfill.

ADDITIONAL INFORMATION:

Currently there are single bedrock monitoring wells in two locations at Sunfish Lake Park. The visible infrastructure associated with these wells is relatively small, measuring about 4' in height and less than 18" in diameter. They are painted black and blend in relatively well with the natural park surroundings. These wells were placed in the park in 1995, though an easement granting the right to place a well in the most southern location was never recorded with the County. The Minnesota Pollution Control Agency now plans to construct second monitoring wells in close proximity to each of the existing two wells at Sunfish Lake Park. The additional wells are necessary because they target bedrock fractures that are common to the landfill and impacted residential wells. The new wells will be approximately 150' to 194' below the ground surface and will provide data closer to the landfill. The easement to the Minnesota Pollution Control Agency for Sunfish Lake Park will grant the MPCA the right to construct, maintain and sample groundwater from two wells within a limited area of Sunfish Lake Park, where a single well currently exists with no easement in place.

Currently there is also a single bedrock monitoring well near the southern border of Lake Jane Hills Park. Lake Jane Hills Park is an undeveloped park parcel acquired for future park space. These 7 acres of wooded gently rolling landscape are located just west of the Washington County Landfill adjacent to Jamaca Avenue North and south of 42nd Street. Like the monitoring well in the southern location of Sunfish Lake Park, an easement granting placement of the Lake Jane Hills Park monitoring well was never recorded with the County. The Minnesota Pollution Control Agency now plans to construct a second monitoring well in close proximity to the existing well in this location as well. Again, this second monitoring well will provide for the opportunity to target bedrock fractures common to the landfill and impacted residential wells. The easement to the Minnesota Pollution Control Agency for Lake Jane Hills Park will grant the MPCA the right to construct, maintain and sample groundwater from two wells within a limited area near the

The existing and new well location sites have been reviewed by city staff, including City Forester Kathy Widin. The construction will not require the removal of any trees or shrubs and the disruption to the site is considered minimal. The visible infrastructure associated with the new wells is considerably smaller than that associated with the existing wells.

ACTION Motion:

Move to approval easements to the Minnesota Pollution Control Agency for the placement of ground water monitoring wells in Sunfish Lake Park and Lake Jane Hills Park.

ATTACHMENTS:

- A. Easement to the Minnesota Pollution Control Agency for Sunfish Lake Park and Exhibit 1
- B. Easement to the Minnesota Pollution Control Agency for Lake Jane Hills Park and Exhibit
- C. MPCA map of Proposed Bedrock Wells in the City of Lake Elmo

EASEMENT

THIS INDENTURE, made this ____ day of _____, 2009, between the City of Lake Elmo, party of the first part, and the STATE OF MINNESOTA, a sovereign body, by its Commissioner of the Minnesota Pollution Control Agency, party of the second part.

WITNESSETH:

WHEREAS, the City of Lake Elmo (the "City"), a political subdivision, owns property (the "Property") described as:

"Commencing at the Northeast corner of the Northeast Quarter of the Northwest Quarter (NE1/4 of NW1/4) of Section 15, Township 29 North, Range 21 West, then South 0° 51' 45" East, assumed bearing, along East line thereof 501.27 feet to South line of North 30 acres of said NW1/4 and to actual point of beginning of land to be hereinafter described, then South 89° 01' 54" West along said South line of North 30 acres 800 feet, then South 0° 51' 45" East 734.30 feet, then North 89° 01' 54" East 800 feet to East line of said NE1/4 of NW1/4, then North 0° 51' 45" West along said East line 734.30 feet to the actual point of beginning"; and

WHEREAS, Washington County and Ramsey County (collectively, the "Counties") constructed unique well number 460080 on the Property as part of the ground water monitoring system to monitor ground water pollution in the vicinity of the Landfill; and

WHEREAS, pursuant to the Landfill Cleanup Act, Minn. Stat. § 115B.39-115B.445 (the "Act") and the Landfill Cleanup Agreement, recorded on December 14, 1995, and filed as Document No. 866611, among Washington County, Ramsey County, the City of Lake Elmo, and the State of Minnesota, acting through its Commissioner of the Minnesota Pollution Control Agency (the "Commissioner"), the Commissioner did assume, after the issuance of the Notice of Compliance for the Washington County Sanitary Landfill (the "Landfill") dated November 21, 1995, the responsibility and authority to take environmental response actions deemed necessary related to the Landfill; and

WHEREAS, from November 21, 1995 to date, the MPCA has continued to enter the Property for the purposes set forth herein; and

WHEREAS, the Commissioner has the authority to acquire an interest in real property necessary for environmental response actions under Minn. Stat. § 115B.17, subd. 15; and

WHEREAS, an Easement granting the Counties the right to construct, maintain, and sample ground water from this well was not recorded with Washington County; and

WHEREAS, the City has agreed to convey to the STATE OF MINNESOTA an Easement to a certain parcel of property that the City owns and which is hereinafter described.

NOW, THEREFORE, the said party of the first part for valuable consideration does hereby grant a perpetual easement, to be released at such time as it is no longer needed, to the STATE OF MINNESOTA acting through the Commissioner of the Minnesota Pollution Control Agency for the purposes and under the terms and conditions as hereinafter described in the

following described premises situated in the County of Washington and the State of Minnesota shown on the map in Exhibit 1, attached hereto and herein incorporated by reference, to-wit:

"Commencing at the Northeast corner of the Northeast Quarter of the Northwest Quarter (NE1/4 of NW1/4) of Section 15, Township 29 North, Range 21 West, then South 0° 51' 45" East, assumed bearing, along East line thereof 1185.57 feet to actual point of beginning of land to be hereinafter described, then South 89° 01' 54" West 800 feet, then South 0° 51' 45" East 50 feet, then North 89° 01' 54" East 800 feet to East line of said NE1/4 of NW1/4, then North 0° 51' 45" West along said East line 50 feet to the actual point of beginning"; and

THE PURPOSE AND INTENT OF THIS EASEMENT IS TO:

Permit the Commissioner and employees, agents and contractors of the Commissioner and the Minnesota Pollution Control Agency to enter the Property and take environmental response actions (as that term is defined in Minn. Stat. § 115.02, subd. 18) as the Commissioner deems necessary to carry out his duties and authorities under the Act, including access to existing response action equipment and structures, installation of structures and equipment deemed necessary by the Commissioner, and sampling ground water monitoring wells.

THE EASEMENT IS SUBJECT TO THE FOLLOWING COVENANTS AND CONDITIONS:

1. The City shall not take or allow others to take any action that interferes with environmental response actions of the Commissioner.
2. The City shall allow access pursuant to this Easement conditioned only upon presentation of proper identification.

This Easement and the covenants contained herein shall run with the land and shall be binding on all persons and entities who shall come into ownership or possession of the Property as described herein.

BY THEIR SIGNATURES BELOW, THE UNDERSIGNED REPRESENT THAT
THEY HAVE THE AUTHORITY TO BIND THE PARTIES THEY REPRESENT

OWNER: City of Lake Elmo

Signature: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

State of Minnesota)
) ss.
County of Washington)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by _____.

Notary Public

Notary Public, Washington County, MN
My commission expires:

Accepted on behalf of
Minnesota Pollution Control Agency
Pursuant to Minn. Stat. § 115B.17, subd. 15

By: _____
Jeff Lewis
Section Manager
Delegate of the Commissioner of the
Minnesota Pollution Control Agency

ACKNOWLEDGMENT

State of Minnesota)
) ss.
County of Ramsey)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Jeff Lewis, under the authority of Paul Eger, the Commissioner of Minnesota Pollution Control Agency, a Minnesota body politic, on behalf of the State of Minnesota.

Notary Public

Notary Public, Ramsey County, MN
My commission expires:

AG: #1781021-v1

EASEMENT

THIS INDENTURE, made this ____ day of _____, 2009, between the City of Lake Elmo, party of the first part, and the STATE OF MINNESOTA, a sovereign body, by its Commissioner of the Minnesota Pollution Control Agency, party of the second part.

WITNESSETH:

WHEREAS, the City of Lake Elmo (the "City"), a political subdivision, owns property (the "Property") described as: "Lake Jane Hills 3rd Addition Park"; and

WHEREAS, Washington County and Ramsey County (collectively, the "Counties") constructed unique well number 188770 on the Property as part of the ground water monitoring system to monitor ground water pollution in the vicinity of the Landfill; and

WHEREAS, pursuant to the Landfill Cleanup Act, Minn. Stat. § 115B.39-115B.445 (the "Act") and the Landfill Cleanup Agreement, recorded on December 14, 1995, and filed as Document No. 866611, among Washington County, Ramsey County, the City of Lake Elmo, and the State of Minnesota, acting through its Commissioner of the Minnesota Pollution Control

Agency (the "Commissioner"), the Commissioner did assume, after the issuance of the Notice of Compliance for the Washington County Sanitary Landfill (the "Landfill") dated November 21, 1995, the responsibility and authority to take environmental response actions deemed necessary related to the Landfill; and

WHEREAS, from November 21, 1995 to date, the MPCA has continued to enter the Property for the purposes set forth herein; and

WHEREAS, the Commissioner has the authority to acquire an interest in real property necessary for environmental response actions under Minn. Stat. § 115B.17, subd. 15; and

WHEREAS, an Easement granting the Counties the right to construct, maintain, and sample ground water from this well was not recorded with Washington County; and

WHEREAS, the City has agreed to convey to the STATE OF MINNESOTA an Easement to a certain parcel of property that the City owns and which is hereinafter described.

NOW, THEREFORE, the said party of the first part for valuable consideration does hereby grant a perpetual easement, to be released at such time as it is no longer needed, to the STATE OF MINNESOTA acting through its Commissioner of the Minnesota Pollution Control Agency for the purposes and under the terms and conditions as hereinafter described in the following described premises situated in the County of Washington and the State of Minnesota shown on the map in Exhibit 1, attached hereto and herein incorporated by reference, to-wit:

A strip of land commencing at the southeast corner of Lake Jane Hills 3rd Addition Park extending 50 feet north, then extending west along the length of the property to a point 50 feet north of the southwest corner of Lake Jane Hills 3rd Addition Park.

THE PURPOSE AND INTENT OF THIS EASEMENT IS TO:

Permit the Commissioner and employees, agents and contractors of the Commissioner and the Minnesota Pollution Control Agency to enter the Property and take environmental response actions (as that term is defined in Minn. Stat. § 115.02, subd. 18) as the Commissioner deems necessary to carry out his duties and authorities under the Act, including access to existing response action equipment and structures, installation of structures and equipment deemed necessary by the Commissioner, and sampling ground water monitoring wells.

THE EASEMENT IS SUBJECT TO THE FOLLOWING COVENANTS AND CONDITIONS:

1. The City shall not take or allow others to take any action that interferes with environmental response actions of the Commissioner.
2. The City shall allow access pursuant to this Easement conditioned only upon presentation of proper identification.

This Easement and the covenants contained herein shall run with the land and shall be binding on all persons and entities who shall come into ownership or possession of the Property as described herein.

BY THEIR SIGNATURES BELOW, THE UNDERSIGNED REPRESENT THAT THEY HAVE THE AUTHORITY TO BIND THE PARTIES THEY REPRESENT

OWNER: City of Lake Elmo

Signature: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

State of Minnesota)
) ss.
County of Washington)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by _____.

Notary Public

Notary Public, Washington County, MN
My commission expires:

Accepted on behalf of
Minnesota Pollution Control Agency
Pursuant to Minn. Stat. § 115B.17, subd. 15

By: _____
Jeff Lewis
Section Manager
Delegate of the Commissioner of the
Minnesota Pollution Control Agency

ACKNOWLEDGMENT

State of Minnesota)
) ss.
County of Ramsey)

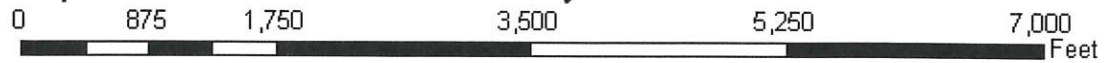
The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Jeff Lewis, under the authority of Paul Eger, the Commissioner of Minnesota Pollution Control Agency, a Minnesota body politic, on behalf of the State of Minnesota.

Notary Public

Notary Public, Ramsey County, MN
My commission expires:

AG: #1781021-v1

Figure 1
 Proposed Bedrock Wells— City of Lake Elmo



12 May 2009
 2003 Aerial Photo
 UV



Minnesota Pollution Control Agency

Legend

- Proposed_bdrk_wells
- streets





AGENDA ITEM: Acceptance of the infrastructure improvements of the Prairie Ridge Office Park Development

SUBMITTED BY: Kyle Klatt, Director of Planning

THROUGH: Bruce A. Messelt, City Administrator 

REVIEWED BY: Ryan Stempski, Assistant City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is being asked to accept the infrastructure installed as specified in the Prairie Ridge Office Park developer's agreement. The City has previously drawn on the letter of credit for the project on October 31, 2006 based on the developer's failure to complete the required site improvements by the deadlines imposed in the agreement. City staff has also been working with the developer over the past several months to address the remaining work. The work has now been completed per the developer's agreement dated March 19, 2004

Please note that, because the improvements have been installed for several years (the last items were primarily documentation that needed to be submitted to the City) and are private in nature, staff does not believe that a warranty bond is necessary for this development. Since the development agreement has remained open well after construction was completed, all warranty work has been addressed directly by the developer.

ADDITIONAL INFORMATION

The City Forester recently inspected the landscaping and noted that the developer has replaced trees and shrubs that had died since the plan was originally approved. Minor seeding and clean-up work is being completed by the developer. The escrow behind held as security will be released once this work is completed.

Motion

Move to accept the developer-installed infrastructure improvements for the Prairie Ridge Office Park Development.

ATTACHMENTS:

1. City Engineer's letter of August 25, 2009
2. City Forester report

TKDA

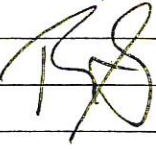
ENGINEERS • ARCHITECTS • PLANNERS

444 Cedar Street, Suite 1500
Saint Paul, MN 55101-2140

(651) 292-4400
(651) 292-0083 Fax
www.tkda.com

MEMORANDUM

To: Kyle Klatt, Planning Director
Copies To: _____

From: Ryan Stempski, P.E. 
Date: August 25, 2009

Reference: Prairie Ridge Office Park
Grading As-Built Review
City of Lake Elmo, Minnesota
Proj. No.: 14290.000 Phase 9
Routing: _____

Kyle,

I received an updated As-Built Survey for the Prairie Ridge Office Park dated August 10, 2009. The engineering comments have been addressed on the updated survey.

If you have any questions, please contact me at (651) 292-4487.

Kyle Klatt

From: K.D. Widin [kdwidin@comcast.net]
Sent: Friday, September 04, 2009 10:11 AM
To: Kyle Klatt; Ryan W. Stempski
Subject: Prairie Ridge Office Park

Kyle, Ryan -

I met Peter Tacheny, developer, and Mitch Johnson, Abrahamson Nurseries, at the Prairie Ridge Office Park on Thurs., 9/3/09. We discussed the trees which had died and the other landscaping work (replacement of any dead shrubs and re-mulching of landscape beds) to be completed. Mitch will forward a list to me of any trees which should be replaced. I will re-inspect those trees early next week to verify that all trees, which in my opinion need to be replaced, are on the list. Following payment next week by Mr. Tacheny for work completed to date, Abrahamson's will complete the landscape work and contact me for a final site inspection.

I anticipate that if the work is completed satisfactorily by the end of September, that the recommendation to close out this development could go on the agenda for the LE City Council meeting scheduled for Oct. 6th.


A couple items which may need to be inspected by engineering/erosion control: re-excavation of a stormwater pond in front of building 8951-8957. The edge of the pond is bare soil and has not yet been seeded with any type of plant material. Mr. Tacheny also told me that the soil excavated out of that pond was deposited behind bldg. 8975 and re-graded.

Please contact me if you have any questions regarding this inspection or report.

Kathy Widin
Forestry Consultant
City of Lake Elmo

AGENDA ITEM: Consider an application from Greg and Kathy Lohmer for a variance from the maximum impervious coverage ratio to permit the construction of an addition at 8199 Hill Trail North – R1 zoning – PID 09-029-21-23-0006

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Bruce A. Messelt, City Administrator 

REVIEWED BY: Kelli Matzek, City Administrator

SUMMARY AND ACTION REQUESTED

The City Council is being asked to consider a request from Greg and Kathleen Lohmer for a variance to allow the construction of a 147 square foot addition and associated breezeway to the house at 8199 Hill Trail North that would add 112 square feet of additional impervious surface coverage to a lot that already exceeds the maximum of 25% coverage allowed under the R-1 Zoning District. The variance has been requested to allow an expansion and improvement of the primary structure on this site that would otherwise be limited to the existing footprint of the building.

For variance applications, the burden is on the applicant to demonstrate why this situation is unique and necessitates flexibility to code requirements. To make this case, a variance can only be granted by the city when strict enforcement of the code would cause undue hardship on a property owner. "Hardship" is broken down into the following three components:

- a. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;*
- b. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and*
- c. *The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*

In reviewing the request against the three criteria listed above, staff determined all criteria were met as strict adherence to the code would not permit any expansion of the building to increase the amount of usable space. The request is also deemed to be reasonable as the addition would have no impact on adjacent properties.

PLANNING COMMISSION REPORT:

The Planning Commission considered the applicants' request at its September 14, 2009 meeting and conducted a public hearing regarding this matter at that time. No one spoke at the hearing; however, one resident that lives across the street from the applicants informed staff that he supports the request as long as storm water drainage is not directed back to the street.

The Commission generally discussed the hardship as stated by the applicants and noted that the City has historically granted variances in instances when a homeowner was looking to bring a

house up to modern standards and had no other alternatives to complete such an improvement project. The Commission recommended approval of the request by a vote of eight to one (8:1).

ADDITIONAL INFORMATION:

- Valley Branch Watershed District does not require a permit for the proposed addition and did not state any concerns with the application as submitted.
- Staff is recommending the inclusion of two conditions if approved to require proper redirection of water away from any neighbors and to make sure that additional impervious surfaces are not added after the project is complete.

RECOMMENDATION:

The Planning Commission recommends approval of the proposed variance for Greg and Kathleen Lohmer, 8199 Hill Trail North, to allow the construction of a 147 square foot addition and related breezeway structure to the house at 8199 Hill Trail North that would add 112 square feet of additional impervious surface coverage to a lot that already exceeds the maximum of 25% coverage allowed under the R-1 Zoning District

ORDER OF BUSINESS:

- IntroductionBruce Messelt, City Administrator
- Report by staff Kyle Klatt, Planning Director
- Questions from the CouncilMayor & Council Members
- Questions/Comments from the applicant Mayor facilitates
- Questions/Comments from the public Mayor facilitates
- Call for a Motion
(required for further discussion; does not
imply approval of the motion Mayor facilitates
- Discussion Mayor facilitates
- Action on motion..... Council

ATTACHMENTS:

1. Resolution No.
2. Staff Report
3. Area Map
4. Application Form
5. Applicant's Narrative(1 page)
6. Certificate of Survey
7. Response from Valley Branch Watershed District

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

RESOLUTION NO. 2009-040

*A RESOLUTION APPROVING VARIANCE FROM THE MAXIMUM IMPERVOUS COVERAGE
RATIO IN AN R-1 ZONING DISTRICT TO ALLOW CONSTRUCTION OF AN ADDITION AT
8199 HILL TRAIL NORTH*

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Greg and Kathleen Lohmer, 8199 Hill Trail North (the "Applicants") have submitted an application to the City of Lake Elmo (the "City") for a variance to allow the construction of a 147 square foot addition and associated breezeway that would add 112 square feet of additional impervious surface coverage to a lot that already exceeds the maximum coverage allowed under the R-1 Zoning District, a copy of which is on file with the City; and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on September 14, 2009; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated October 6, 2009; and

WHEREAS, the City Council considered said matter at its October 6, 2009 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the Board of Adjustment makes the following:

FINDINGS

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.017.
- 2) That all the submission requirements of said 154.017 have been met by the Applicant.
- 3) That the proposed variance is to allow the construction of a 147 square foot addition and associated breezeway that would add 112 square feet of additional impervious surface

coverage to a lot that already exceeds the maximum of 25% coverage allowed under the R-1 Zoning District

- 4) That the Variance will be located on property legally described as Lot 6, Block 1, J.L. Cohn Subdivision, Washington Co., Minnesota.
- 5) The proposed addition cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists. *The applicants cannot expand anywhere on the lot beyond the present footprint of the house without a variance, and have stated that it is not possible to accomplish modern upgrades to the house without a small addition beyond the present foundation. It is not feasible to remove existing walkways and steps that are built into a hillside to offset the increased impervious coverage. The addition could be built under the Shoreland Standards without a variance.*
- 6) The plight of the landowner is due to the physical conditions unique to the land and are not applicable to other lands, structures, or buildings in the same zoning district. The site is unique. *The applicants' parcel is smaller than many of the lots within the R-1 zoning district and has a triangular shape that further reduces the amount of buildable land compared to other properties in the area. The shape of the lot does not allow for further reductions in impervious coverage to offset the proposed increase.*
- 7) The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations. *The applicants' lot was created before the City's zoning regulations were adopted. The applicants have not made any improvements to the site that would alter their ability to build an addition that complies with the zoning regulations.*

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is granted.

Passed and duly adopted this 6th day of October 2009 by the City Council of the City of Lake Elmo, Minnesota.

ATTEST:

Dean A. Johnston, Mayor

Bruce Messelt, City Administrator

City of Lake Elmo Planning Department
Variance Review

To: City Council

From: Kyle Klatt, Director of Planning

Meeting Date: 10/6/09

Applicant: Greg and Kathleen Lohmer

Location: 8199 Hill Trail North

Current Zoning: R1 – One Family Residential

Introductory Information

Request: The applicant is seeking approval of variances to allow the expansion of a principle structure located at 8199 Hill Trail North. Specifically, a variance has been requested as follows:

- To permit an increase in the impervious coverage on the lot for a bathroom addition. The lot currently exceeds the maximum limit of 25% impervious surface coverage and the addition would increase the total impervious coverage on the site by 0.65% or 112 square feet.

Please note that the application as submitted to the City included a request for a variance to allow the construction of a deck at the rear of this property. After further review of the site survey, Staff determined that a variance would not be necessary to build a deck because the City's Shoreland Ordinance allows for an encroachment for decks up to a certain distance towards the Ordinary High Water Level (OHW) for structures that do not meet the required minimum setback from a water body.

Additionally, the applicant has noted that he intends to build a small breezeway from the new addition over to an existing covered passageway that does not show up on the attached plans. This breezeway would add a net of 28 more square feet to the impervious coverage calculations depicted on the survey, raising the total impervious coverage of the parcel to 33% (up from the current 32.4%). Staff has determined that this additional area does not represent a substantial deviation from the information that was submitted to the City as part of the application materials.

Background: The applicants' property is located within the J. L. Cohn Subdivision at the end of the peninsula between Lake Demontreville and Lake Olson along Hill Trail North. Their property backs up to Lake Olson, and has direct access to the cul-de-sac at the end of Hill Trail North. This lot is relatively small, even for the Tri-Lakes area, and at 17,092

square feet, and is well below the 1.5 acres minimum lot size that applies to properties zoned R-1 Single Family Residential. The lot is somewhat irregular in that it narrows down to a 20-foot wide opening at the cul-de-sac and fans out back towards the lake.

The proposed variance would allow the applicants to add an addition to the front of the existing home which, as stated in the request, would allow them to expand the size of their master bathroom. The addition would meet all applicable setbacks for this district, but would increase the overall impervious coverage on the site. There are two separate sections of the City Code that regulate impervious coverage for this lot as follows:

- R-1 District Regulations – 25%
- Shoreland District Overlay Zoning – 6,000 square feet or 15% of the lot area, whichever is larger.

Since the City Code dictates that the more restrictive standard applied when two regulations govern a site, the 25% impervious coverage limit applies to this site. According to the site survey, the current impervious surface coverage is 5,532 square feet, which includes the house, garage, driveways, walkways, and shed. Based on a total lot area of 17,091.6 square feet, the current coverage of the lot is 32.4%. The proposed addition would be built out over an existing sidewalk that would not be replaced, and would add a net amount of 112 square feet of additional impervious coverage to the lot (0.65% of the lot). Because the existing coverage already exceeds the maximum allowed under the ordinance, a variance is required in order to increase the property above the current amount.

Please note that the shoreland regulations, which are usually more restrictive than the underlying zoning district provisions, actually allows for greater impervious coverage on this lot. The Shoreland ordinance would allow up to 6,000 square feet of coverage, which is well over the applicant's total of 5,644 with the proposed addition.

The original application also included a variance request to allow a deck addition to encroach into the required set back from Lake Olson. The request was made in response to an initial review of the site using aerial imagery to determine the current structure setback. With the survey and accompanying detailed site information that has been submitted, Staff is now able to make a determination that a variance is not needed for the deck. This determination has been made based on the following:

- The Shoreland Ordinance allows a deck to be built without a variance for a structure not meeting the required setback from the OHW level. The deck encroachment cannot exceed 15% of the existing structure setback from the OHW level or encroach closer than 30 feet to this line, whichever is closer.

In this case, the applicants' house is set back 58.2 feet from the lake which would allow a deck to extend 8.73 feet closer to the OHW level. The site plan that has been submitted documents that the deck will extend 6.6 feet closer to the lake than the

building setback line.

**Applicable
Codes:**

Section 154.041 (C) R-1 Minimum District Requirements

Maximum impervious surface coverage of 25%.

Section 150.255 (G) Shoreland Standards. Subd 2 (a) Storm Water Management – Specific Standards.

Impervious surface coverage of lots must not exceed 6,000 S.F. or 15% of the lot area, whichever is larger

Section 150.256 (B) Subd. 2 (b) Additions/expansions to nonconforming structures.

(a) Additions/expansions. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of § 150.255. Any deviation from these requirements must be authorized by a variance pursuant to § 150.253(B)(2).

(b) Decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met.

1. The structure existed on the date the structure setbacks were established.
2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
3. The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.
4. The deck is constructed primarily of wood and is not roofed or screened.

Findings & General Site Overview

Site Data:	Existing Zoning – R-1 (One Family Residential)/Shoreland District
	Land Use Guidance – NC (Neighborhood Conservation District)
	Parcel size – 17,091.6 square feet (0.39 acres)
	Property Identification Number (PID): 09-29-21-23-0006

Application Review:

**Applicable
Code
Definitions:**

HARDSHIP. The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.

VARIANCE. A modification of a specific permitted development standard required to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in Section 300.06, Subd. 3. Economic considerations along shall not constitute a hardship. [sic]

IMPERVIOUS SURFACE. Any structure or surface which interferes to any degree with the direct absorption of water into the ground, including but not limited to building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sport courts, or any other similar surface. Decks, pervious landscaping fabric, engineering-approved paver systems, and retaining walls shall not be included as impervious surface.

**Variance
Review:**

The applicants have provided the Planning Commission with a statement describing some of the details regarding their property and some supporting information to state their case regarding the need for a variance. Their primary intention with the proposed expansion is to bring the house up to modern standards and make it more usable and convenient for them. The hardship in this case is related to the small size of the lot, which given the impervious coverage requirements, does not allow for any expansion of the house beyond the current foundation.

A review of the City's variance criteria follows, focusing on the information submitted by the applicants. By code, a variance can only be granted where the city finds the request can successfully address the three criteria as outlined below for the septic system.

1. *The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists;*

One of the key elements of this finding is that the property cannot be put to reasonable use under the zoning regulation, and that no alternative exists. In this case, one could argue that a bathroom addition/upgrade is not needed to provide for reasonable use of the property. On the other hand, if homeowners cannot accommodate modern upgrades to their homes, there may be little incentive to

improve a property that has limited (or no) expansion options.

In considering the alternatives to the proposed variance, the applicants could add a second story to their home without increasing the coverage on the lot; however, such an addition would have a significantly larger impact on the surrounding properties and on views from the lake. Because the variance is from a coverage requirement, the only way to accommodate any additions to the home would be to eliminate or remove some other impervious surfaces from the property to offset any increases. This reduction could be accomplished by removing some of the driveway or sidewalks on the property, but such a solution seems excessive given the small amount of area that would be added to the impervious coverage on the lot.

Unlike setbacks, lot width, or other requirements that are dimensional in nature, there is simply no other location on the site that could accommodate the proposed addition since no expansions would be permitted under the code.

It is also worth noting that the shoreland regulations would allow for the proposed expansion, which allows for smaller lots to exceed the impervious coverage standard for shoreland areas of 15%. A lot must exceed 40,000 square feet to before the 15% threshold would apply.

Staff finds the inability of the applicants to build any addition to the house without first incurring substantial expense and creating potential impacts with the removal of existing buildings or paving does constitute a hardship and that the proposed addition represents a reasonable use of the site. **This criteria is met.**

2. *The plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district;*

There is a fairly wide range of lot size found within the City's R-1 zoning district and the applicants parcel is at the smaller end of this range. At the minimum lot area allow by code for a lot of record, 0.9 acres, a property owner could cover 9800 square feet of such a lot. Many lots within the R-1 zoning district fall below this standard; however, the applicants' parcel is further unique because of its triangular shape. The shape of the lot does not provide for alternatives that could further reduce the amount of driveway or other impervious space (for instance, by reorienting the approach to the garage). **This criteria is met.**

3. *The unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.*

The physical layout of the platted lot and the topography on the lot were not created by the landowner. The City's impervious coverage requirements were likely adopted sometime after the home was built. **Staff finds this criteria is also satisfied.**

Variance Conclusions: Based on our analysis of the review criteria in City Code, staff recommends **approval of the impervious surface coverage request** for 8199 Hill Trail North.

Resident Concerns: The Planning Commission conducted a public hearing at its September 14, 2009 meeting to consider testimony from neighboring property owners. No one spoke at the public hearing and staff did receive a verbal statement in support of the request provided no drainage from the new addition was directed back to the street.

Additional Information: Valley Branch Watershed has provided a statement that it does not require a permit for the activity proposed a part of the variance request. Staff has not received any correspondence from the Minnesota Department of Natural Resources concerning this application.

Planning Commission Rec. The Planning Commission recommended approval of the application by a vote of eight to one (8:1).

Conclusion

The applicants are seeking approval of a variance to allow the construction of a 147 square foot addition and related breezeway to their house that would add 112 square feet of additional impervious surface coverage to a lot that already exceeds the maximum of 25% coverage allowed under the R-1 Zoning District.

Staff Recommendation: **Staff is recommending approval** of the requested variance with the following conditions:

1. The applicant shall provide for proper management of storm water away from the new addition and shall not direct this water on to any neighboring property.
2. No new sidewalks or other pathways may be installed on the site to accommodate for the sidewalks impacted by the new construction. Any new sidewalk must be offset by the removal of the same area of existing impervious surfaces.

Denial Motion Template: To deny the requested variances, you may use the following motion as a guide:

Move to recommend denial of the variance application for 8199 Hill Trail North based on the following findings: (cite your own findings)

Approval Motion Template (as recommended) To approve the requested variances as recommended by staff, you may use the following motion as a guide:

Move to recommend approval of a variance to allow the construction of a 147

by staff): **square foot addition to the house at 8199 Hill Trail North that would add 112 square feet of additional impervious surface coverage to a lot that already exceeds the maximum of 25% coverage allowed under the R-1 Zoning District based on the findings listed in the staff report and as articulated tonight, subject to the conditions recommended by staff. (use staff's findings provided above or cite your own)**

Conditions:

1. The applicant shall provide for proper management of storm water away from the new addition and shall not direct this water on to any neighboring property.
2. No new sidewalks or other pathways may be installed on the site to accommodate for the sidewalks impacted by the new construction. Any new sidewalk must be offset by the removal of the same area of existing impervious surfaces.

cc: Greg and Kathleen Lohmer, 8199 Hill Trail North

NOTE PARCELS ARE UNDER WATER PER AERIAL PHOTO

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LOCATION MAP

OLSON LAKE
MINN DNR DIV OF WATERS
PROTECTED WATERS AREA 82-1037

LAKE

ITICOMA SUBDIVISION

Legend

General Annotation
Dimensions
leader
parcels
Municipal Boundaries

Scale: 1:2,000



Map center: 45° 1' 0.5" N, 92° 56' 25.2" W

This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

- Comprehensive Plan Amendment
- Variance * (See below)
- Residential Subdivision Preliminary/Final Plat
 - 01 - 10 Lots
 - 11 - 20 Lots
 - 21 Lots or More
- Zoning District Amendment
- Minor Subdivision
- Excavating & Grading Permit
- Text Amendment
- Lot Line Adjustment
- Appeal
- PUD
- Flood Plain C.U.P. Conditional Use Permit
- Residential Subdivision Sketch/Concept Plan
- Conditional Use Permit (C.U.P.)
- Site & Building Plan Review

APPLICANT: GREGORY L. LOHMER 8199 Hill Tr. N. Lake Elmo, MN. 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-777-7565 651-487-1105 651-485-0710 651-489-3674
(Home) (Work) (Mobile) (Fax)

FEE OWNER: Same
(Name) (Mailing Address) (Zip)

TELEPHONES: _____
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): 8199 Hill Trail N.
Lake Elmo, MN. 55042
JL Colon Subdivision Lot 6 Block 1

DETAILED REASON FOR REQUEST: We would like to add a deck on the west side of our home and expand our master bathroom on the east side of our home as outlined in the additional info.

*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:
The house is 37 years old and we would like to update and renovate the home to make it more useable and convenient. The bathroom area is too small for updated bath, shower, etc. and deck's foundation would need to be busted through current patio.

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Gregory Lohmer 8/2/09
Signature of Applicant Date

Darren M. John 8/2/09
Signature of Applicant Date

2. a) Property is owned jointly by Gregory L. and Kathleen M. Lohmer.

b) Legal description of property:

JL Cohn Subdivision Lot 6 Block 1

Property ID: R09.029.21.23.006

Parcel Size: 0.33 acres (18,161 sq. ft.)

Existing Use: Residential

Current Zoning: R1 Single-Family

c) Section 154.041 R1 Single-Family District Standard – Maximum 25% Impervious
Section 150.255 Setback to Ordinary High Water Mark – Shoreland Standard

d.1) Increase master bathroom by expanding out to the east. Impervious will increase from about 30.5% to 30.9%. Code only allows for 25% Impervious.

d.2) Add deck to the west side of the house – too close to Ordinary High Water Mark. It appears code allows 5.25 feet beyond the structure wall closest to OHWL*. Request for additional two feet so foundation wouldn't have to bust up existing patio.

* - See email from Kyle Klatt.

e) Had an onsite meeting with Kyle Klatt and discussed proposed remodeling. I mentioned neighbors who had decks and a three-season porch that were much closer than my proposal. He was going to further review file and propose proper course of action. Stated probable exclusion of variance for deck – see*, but would need variance for additional two feet and variance for the bathroom due to exceeding current code of 25% impervious. He also recommended a certified survey be completed.

f) The house is 37 years old and the goal is to update and renovate to bring house up to current standards to make it more usable and convenient. There is a need to update bath and shower and the current bathroom lacks sufficient room. The deck will provide a natural flow from the kitchen to the porch to the deck.

g) I was told the current rules and regulations were put in force after the house was built.

h) It is well known that the neighborhood's overall character is quite unique. However, essentially all homes in the cul-de-sac have been upgraded and modernized and my proposed update would be comparable. I don't see any detrimental effects (Scenic views, etc.) to the neighbors.

Kelli Matzek

From: John Hanson [JHanson@barr.com]
Sent: Tuesday, September 01, 2009 11:19 AM
To: Kelli Matzek
Subject: 8199 Hill Trail North Variance Request

Kelli:

As we discussed on the phone today, the proposed deck and master bathroom expansion at 8199 Hill Trail North does not require a Valley Branch Watershed District permit. The proposal will add less than 6,000 square feet of impervious surfaces and will be well above the 100-year flood level of Lake Olson.

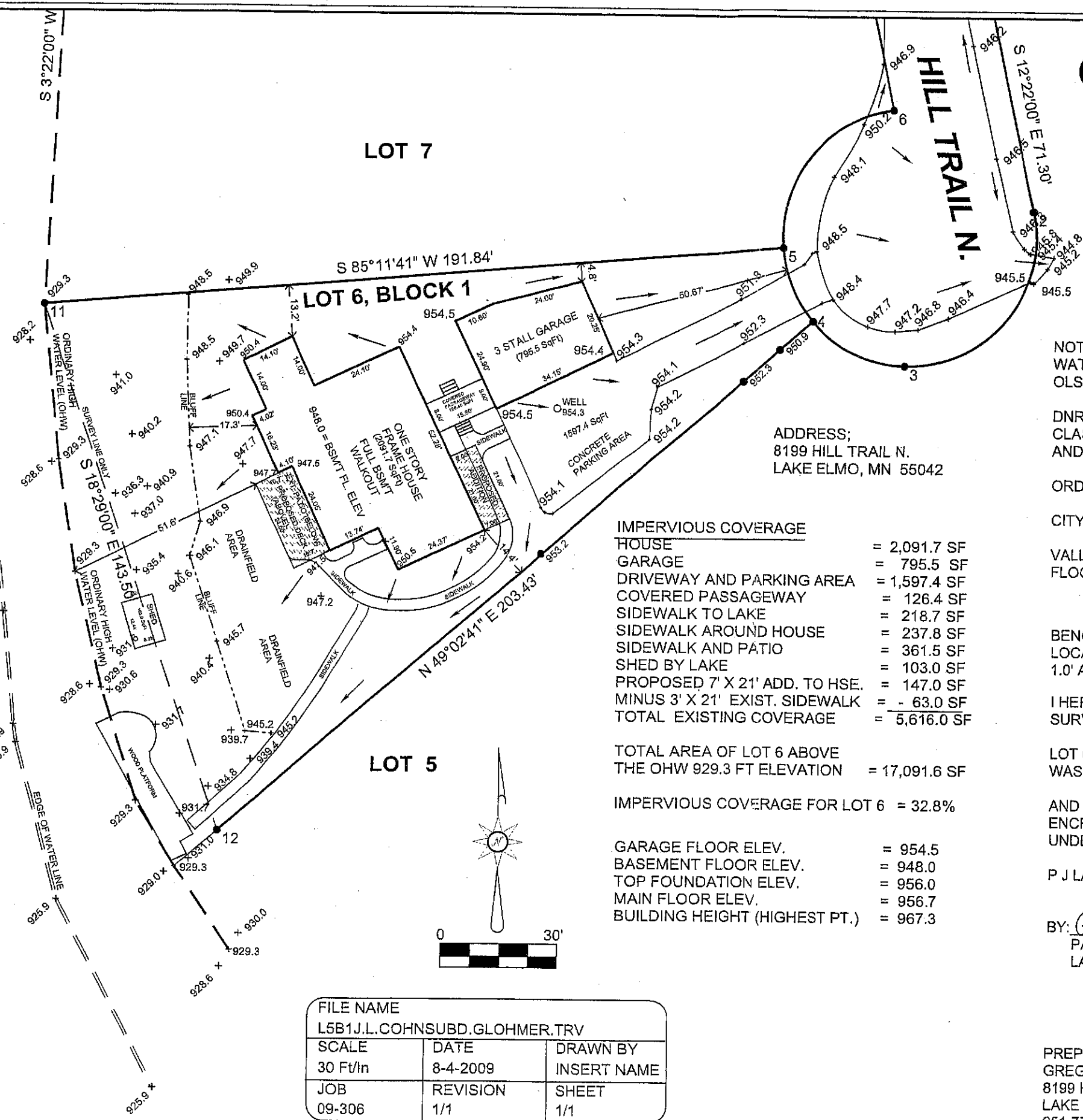
John

John P. Hanson, P.E.
Barr Engineering Company
Engineers for the Valley Branch Watershed District
4700 West 77th Street
Minneapolis, MN 55435-4803

952.832.2622 phone
952.832.2601 fax
651.748.4230 VBWD project office

CERTIFICATE OF SURVEY

LAKE OLSON
 WATER SURFACE ELEVATION
 OLSON LAKE ON 7-23-2009 = 925.9 FEET



ADDRESS;
 8199 HILL TRAIL N.
 LAKE ELMO, MN 55042

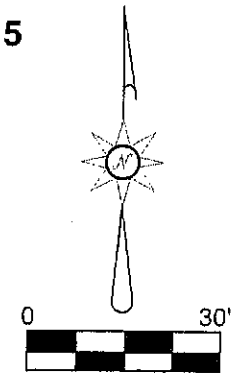
IMPERVIOUS COVERAGE

HOUSE	= 2,091.7 SF
GARAGE	= 795.5 SF
DRIVEWAY AND PARKING AREA	= 1,597.4 SF
COVERED PASSAGEWAY	= 126.4 SF
SIDEWALK TO LAKE	= 218.7 SF
SIDEWALK AROUND HOUSE	= 237.8 SF
SIDEWALK AND PATIO	= 361.5 SF
SHED BY LAKE	= 103.0 SF
PROPOSED 7' X 21' ADD. TO HSE.	= 147.0 SF
MINUS 3' X 21' EXIST. SIDEWALK	= - 63.0 SF
TOTAL EXISTING COVERAGE	= 5,616.0 SF

TOTAL AREA OF LOT 6 ABOVE
 THE OHW 929.3 FT ELEVATION = 17,091.6 SF

IMPERVIOUS COVERAGE FOR LOT 6 = 32.8%

GARAGE FLOOR ELEV.	= 954.5
BASEMENT FLOOR ELEV.	= 948.0
TOP FOUNDATION ELEV.	= 956.0
MAIN FLOOR ELEV.	= 956.7
BUILDING HEIGHT (HIGHEST PT.)	= 967.3



FILE NAME		
L5B1J.L.COHN SUBD.GLOHMER.TRV		
SCALE	DATE	DRAWN BY
30 Ft/in	8-4-2009	INSERT NAME
JOB	REVISION	SHEET
09-306	1/1	1/1

This map drawn with TRAVERSE PC, Software

NOTES;
 WATER SURFACE ELEVATION
 OLSON LAKE ON 7-23-2009 = 925.9 FEET

DNR-(DIVISION OF WATERS) LAKE IDENTIFICATION NUMBER 82-103
 CLASSIFIED AS RECREATIONAL DEVELOPMENT
 AND AS PROTECTED WATERS

ORDINARY HIGH WATER (OHW) ELEVATION = 929.3 FEET

CITY OF LAKE ELMO 100 YEAR FLOOD ELEVATION = 931.0 FEET

VALLEY BRANCH WATERSHED DISTRICT 100 YEAR
 FLOOD ELEVATION = 931.5 FEET

BENCH MARK: SPIKE IN WEST FACE OF TRANSFORMER POWER POLE
 LOCATED NEAR THE N E CORNER OF LOT 5, BLOCK 1, J. L. COHN SUBD.,
 1.0' ABOVE GROUND. ELEVATION = 947.59 FT. NGVD 1929 DATUM

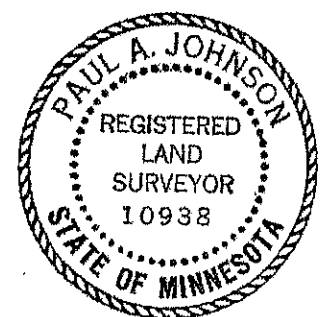
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT REPRESENTATION OF A
 SURVEY OF THE BOUNDARIES OF:

LOT 6, BLOCK 1, J. L. COHN SUBDIVISION, ACCORDING TO THE RECORDED PLAT,
 WASHINGTON COUNTY, MINNESOTA

AND THE LOCATION OF ALL BUILDINGS, IF ANY, THEREON, AND ALL VISIBLE
 ENCROACHMENTS, IF ANY, FROM OR ON SAID LAND, AS SURVEYED BY ME OR
 UNDER MY DIREST SUPERVISION THIS 4TH DAY OF AUGUST, 2009

P J LAND SURVEYING, LLC

BY: *Paul A. Johnson*
 PAUL A. JOHNSON
 LAND SURVEYOR, MINN. LIC. NO. 10938




PREPARED FOR:
 GREG AND KATHY LOHMER
 8199 HILL TRAIL N.
 LAKE ELMO, MN 55042
 651-777-7565

PREPARED BY
 P J LAND SURVEYING, LLC
 12510 MCKUSICK ROAD NORTH
 STILLWATER, MN 55082
 651-303-0025

City Council
Date: 10/6/09
Regular
Item: 8

AGENDA ITEM: Consideration of an amendment to Section 154.081 of the Lake Elmo Zoning Ordinance regarding permitted encroachments in required yards and the addition of definitions for "porch" and "awning" to Chapter 11.

SUBMITTED BY: Kelli Matzek, City Planner

THROUGH: Bruce A. Messelt, City Administrator 

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to review and approve the proposed text amendments to address permitted encroachments within front and side corner setbacks and to add definitions for the terms "porch" and "awning."

The City received a variance application in July of this year with a request by a resident to build a covered porch within the required front yard setback. Although uncovered porches are permitted by Section 154.081 of the code to encroach into the setback, a covered porch is not. At the time the City Council reviewed the variance application, staff was directed to revisit this section of the code and to bring it back to the Planning Commission to consider amending the ordinance to allow covered porches in the setback as well.

The Planning Commission reviewed proposed changes and held a public hearing at the September 14th meeting. The Commission recommended approval of the ordinance change with an amendment to add a sentence clarifying that a porch is not allowed within a side yard setback and that a deck not requiring railings due to height from ground-level and patios would also be permitted.

As such, staff is proposing minor changes to Section 154.081 regarding permitted encroachments into required yards to allow covered porches six feet into a required front yard setback or side yard setback in the case of a corner lot. In addition, proposed definitions are also provided as the city ordinance currently does not have a definition for neither "porch" or "awning," though both appear multiples times in the city code. The alternative language was information and suggested language provided by the City Council at the time of the variance review.

RECOMMENDATION:

Staff and the Planning Commission are recommending approval of both proposed definitions as well as the proposed staff language as amended by the commission.

ATTACHMENTS:

1. Draft Ordinance

Chapter 11.01 DEFINITIONS.

Porch – A covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.

Awning – A roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door, or the like.

Section 154.081 Permitted Encroachments on Required Yards

The following shall be permitted encroachments into setback and height requirements, except as restricted by other sections of this chapter.

(A) *In any yards.* Posts, off-street open parking, flutes, leaders, sills, pilasters, lintels, cornices, eaves (up to 3 feet), gutters, awnings, open terraces, steps, chimneys, flag poles, open fire escapes, sidewalks, fences, essential services exposed ramps (wheelchair); deck not requiring railings due to height from ground-level, patios; uncovered porches; stoops, or similar features; provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than 5 feet from any lot line nor less than 1 foot from any existing or proposed driveway; yard lights and nameplate signs; trees, shrubs, plants, floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yards for safety and security reasons; provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

Staff recommended language:

Porches as defined in this ordinance may encroach up to 6 feet into a required front yard setback or side corner yard, but in no case shall be setback less than 10 feet from the front property line. A porch is not allowed in a side or rear yard setback.

Alternative language:

Consideration should be given to allow architecturally compatible roofs over porches serving the principle entry, in lieu of awnings. Awning might be limited to a 4 foot extension from the front of a house, regardless of distance from setback, and porch roof eaves might extend into the front yard setback a maximum of 8 feet, or be at least 52 feet from the center of the street R/W, whichever is more limiting.

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

ORDINANCE NO. 08-017

**AN ORDINANCE TO ADD DEFINITIONS FOR "PORCH" AND "AWNING" TO
SECTION 11.01, AND TO AMEND SECTION 154.081 FOR PERMITTED
ENCROACHMENTS ON REQUIRED YARDS**

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 154.081 subd (A) is hereby amended to read as follows:

The following shall be permitted encroachments into setback and height requirements, except as restricted by other sections of this chapter.

(A) *In any yards.* Posts, off-street open parking, flutes, leaders, sills, pilasters, lintels, cornices, eaves (up to 3 feet), gutters, awnings, open terraces, steps, chimneys, flag poles, open fire escapes, sidewalks, fences, essential services exposed ramps (wheelchair), patios; ~~uncovered porches~~, stoops, decks not requiring railings in accordance with State Building Codes, or similar features; provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than 5 feet from any lot line nor less than 1 foot from any existing or proposed driveway; yard lights and nameplate signs; trees, shrubs, plants, floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yards for safety and security reasons; provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

Porches as defined in this ordinance may encroach up to 6 feet into a required front yard setback or side corner yard, but in no case shall be setback less than 10 feet from the front property line. A porch is not allowed in a side or rear yard setback.

Section 2. The City Council of the City of Lake Elmo hereby ordains that Section 11.01 is hereby amended to add the following definitions:

Porch. A covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.

Awning. A roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door, or the like.

Section 3. Adoption Date

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

This Ordinance No. 08-017 was adopted on this 10th day of October 2009, by a vote of ___ Ayes and ___ Nay.

Mayor Dean Johnston

ATTEST:

Bruce Messelt
Administrator

This Ordinance No. 08-017 was published on the ___ day of _____, 2009.