

MINUTES APPROVED: April 19, 2005
LAKE ELMO CITY COUNCIL MINUTES

APRIL 5, 2005

1. AGENDA
2. MINUTES: March 15, 2005
3. PUBLIC INQUIRIES/INFORMATIONAL:
 - (1) Arbor Day Proclamation
 - (2) Planning Commission Appointment
 - (3) Announce Board of Review
4. CONSENT AGENDA:
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5. FINANCE
6. NEW BUSINESS
7. MAINTENANCE/PARK/FIRE/BUILDING:
 - A. Update on Fire Department Activities: Fire Chief
8. CITY ENGINEER'S REPORT:
 - A. Water Tower Storage Tank, CUP
 - B. Public Works/Parks Facility, CUP and Variance:Resolution No. 2005-035
 - C. Resolution No. 2005-036:Award Bid for Phase I Water System Interconnect
9. PLANNING, LAND USE & ZONING:
 - A. Preliminary Plat, Comprehensive Plan Amendment, Rezoning, Conditional Use Permit and OP Concept Plan – Deer Glen (Continuation) Resolutions Postponed
 - B. OP Concept Plan – Farms of Lake Elmo; Resolution No. 2005-038
 - C. Minor Subdivision: Olinger, 9057Lake Jane Trail; Resolution No. 2005-037
 - D. Section 520 Site Plan – 11051 Stillwater Blvd., Resolution No. 2005-039
 - E. Zoning Ordinance Text Amendment-Home Occupation in Rural Residential Zoning, Ordinance No. 97-154
 - F. CDBG – Award Contract for Cimarron Gas Service Replacements
 - G. Update on Comprehensive Plan
10. CITY ATTORNEY'S REPORT:
11. CITY ADMINISTRATOR'S REPORT
12. CITY COUNCIL REPORT:

Mayor Johnston called the Council meeting to order at 7 p.m. in the Council chambers.
PRESENT: Conlin, Smith, Johnston, Johnson, City Engineer Prew, City Attorney Filla, Finance Specialist Hristo Galiov, Fire Chief Malmquist, City Planner Dillerud and Administrator Rafferty. ABSENT: Council member DeLapp

1. AGENDA

Attorney Filla reported he received a 13 page letter and exhibits from Lakewood Evangelical Free Church Tuesday afternoon which requires more time to review if the applicant is willing to approve an extension for two weeks. Request 9A between 2 & 3, Add Items:11A.Reroute of Hwy 5, 11B.Meeting with Fields HOA and Bob Engstrom, 11C., 12A. Proposal requested assisting Council performance of the City Administrator

M/S/P Johnson/Smith - to approve the April 5, 2005 City Council agenda, as amended. (Motion passed 4-0).

2. **MINUTES:** March 15, 2005

M/S/P Johnson/Smith - to approve the March 15, 2005 City Council minutes, as amended. (Motion passed 4-0).

3. **PUBLIC INQUIRIES/INFORMATIONAL:**

A. Public Inquiries

Tim Mandel, 2479 Lisbon Avenue N., asked to go on record against the trail planned for his development, Eden Park. He has a concern for the safety of residents because this would be a public trail and access would go over private property. Residents do not want trails in their back yards on small lots.

Administrator Rafferty responded that no formal action had been taken by Council on the proposed trail plan. There will be a public hearing on the trail plan after the Parks Commission has a complete format and then the plan proceeds to the Planning Commission for its review and recommendation.

Gloria Knoblauch asked if the street could be named Friedrich Road in the proposed development, Farms of Lake Elmo. She said residents would want road to go through someday and asked if the developer could pay the assessments.

Jim Blackford indicated a public facility should be in a commercial area and not any where close to Sunfish Park. He added the Council won't let a church go in a residential area, but would stick a maintenance garage in a park. He said he talked to Mike Lynsky who has 33 acres of commercial land for sale close to where City Hall is located.

Jim Lund said he has served on the Parks Commission and such groups worked hard to preserve this land and we owe them a big debt of gratitude. He said there was a verbal contract apparently with a covenant that the land be used for recreational facilities. The definition of recreational facilities does not include a maintenance facility.

Ed Nielsen presented the park bond brochure and noted the City should have done their homework and reviewed all this information. He suggested placing all the City parks in a land trust.

Merle Olson said Lehart Friedrich was asked to sell the property and the purchase of this land was for park purposes. He said the past councils have pushed hard to preserve rural Lake Elmo. He asked the Council to please continue using Sunfish Park for park purposes.

Judy Blackford read a notice from resident, Rosalie Wahl, stating such a citing of a maintenance building on park land would be a violation of power. Without legal documentation for using this land only for park purposes may frees the City from some legal obligation, it is not good enough for her. Ms. Blackford said she served 5 years on

the Parks Commission and asked the Council to look at the intent of the documents presented.

David Steele said he is a member of the Park Commission and the Commission was asked to deliberate with no background information. A facilities committee was to be established and that has not happened. He asked what is the Council saying to the residents and what legacy are you leaving after 31 years this land have been preserved.

Joe Kiesling stated the maintenance facility has been bouncing around for years. The City has to have a new maintenance building and a water tower. He asked who wants to pay for the open land and preserve it. The developers buy the land from the farmers and people are coming into the city.

1. Arbor Day Proclamation

Kathy Widin, Forestry Consultant and Lake Elmo Parks Commission recommended that the Council support the Arbor Day Proclamation for 2005 and an application for Tree City USA award.

MAYOR JOHNSTON PROCLAIMED THE MONTH OF MAY, 2005 TO BE ARBOR MONTH IN THE CITY AND MAY 29TH AS ARBOR DAY.

2. Planning Commission Appointment

At its February 15, 2005 meeting, the City Council appointed Rod Sessing to the Planning Commission for sixty days. The 60-day appointment will be expiring so staff asked for Council direction.

Mayor Johnston indicated the Council should follow the recently adopted appointment policy for Commissions. Council member Conlin noted there is a value in members that have worked on past comprehensive plans and the process and would like to keep the continuity. Council member Johnson agreed that it is valuable as a team to finish this process and noted it would be hard enough for someone new to come in at this time.

M/S/F Conlin/Johnson – to extend Rod Sessing’s Planning Commission term for an additional 90 days. (Motion failed 2-2:Smith, Johnston.)

M/S/F Johnston/Smith – to follow the adopted appointment policy for Commissions and advertise the vacancy and interview applicant in two weeks. (Motion failed 2-2: Conlin, Johnson.)

Council member Smith indicated Rod Sessing’s term would expire in 120 days which would bring his term into May; therefore, the Council could address this item at the first Council meeting in May.

3. Announce Board of Review

Mayor Johnston announced that the Lake Elmo Board of Review will meet at City Hall, May 4, 2005, between the hours of 4:00 and 6:00 for the purpose of reviews and correcting the assessment of said Real Estate for 2005. The Council received the 2005 Assessment Report.

4. CONSENT AGENDA:

A. Resolution No. 2005-034: Approving Claims

M/S/P Johnson/Conlin - to adopt Resolution No. 2005-034, A Resolution Approving Claim Numbers 248, 249, DD373 through DD385, 27060 through 27086 that were used for Staff Payroll dated March 17th, 2005; 250, 252, DD386 through DD395, 27088 through 27099, which were used for Staff Payroll dated March 31st, 2005; claims 251, 27100 through 27151, in the total amount of \$147,793.85. (Motion passed 4-0).

5. FINANCE

6. NEW BUSINESS

7. MAINTENANCE/PARK/FIRE/BUILDING:

A. Update on Fire Department Activities: Fire Chief

Fire Chief Malmquist reported that two new applicants are starting on April 12th, but the department needs members. The Chief updated the Council on the latest department activities and recognized the captains for doing a great job introducing the duty crew.

8. CITY ENGINEER'S REPORT:

A. Water Tower Storage Tank, CUP

At the last Council meeting, staff was asked to review additional sites for the Public Works/Parks operations and the proposed Water Tower. City staff and the city engineer have worked to finalize facility locations for the Water Tower and Public Works/Parks operation.

In his memo dated March 24, 2005, the city engineer looked at alternate sites for both the public works building and water tower. The sites listed were

1. City Owned Property within the Closed Landfill Site
2. Washington and Ramsey County Owned Property South of the Closed Landfill Site: An additional 2,000 feet of 16-inch water main would need to be extended to the site along Jamaca Avenue at an additional cost of \$160,000.
3. City Owned Property in Sunfish West: Additional cost would be about \$200,000.
4. 3M Property – The additional estimated cost would be \$460,000.
5. Common Ground Church Property for water tower: The Church was not interested in selling more land for a maintenance building.

The City Planner drafted a report for the March 14th Public Hearing held by the Planning Commission. At that meeting, the Planning Commission recommended denial of the Conditional Use Permit for a Public Works/Park Maintenance Building and a Water Storage Tower in Sunfish Park.

The City Engineer reported when he and the City Administrator met with the officials from the Minnesota Pollution Control Agency they were told a water storage tank on legs could be built, but no new buildings would be allowed on the City owned property within the closed landfill site. Ed Nielsen added that he talked with Judith Hunter, Washington County, where her area is the Lake Jane Landfill. Mr. Nielsen advised the Council they may want to purchase this property at a reasonable price.

The Council asked staff to continue to review the tower sites proposed and to look at alternate sites for the water tower location.

B. Public Works/Parks Facility, CUP and Variance

The City Administrator presented background on the history of the City purchasing Sunfish Lake Park. He reported he had talked to Jim Lugar, Washington County, about placing a maintenance facility next to the County's garage in the Regional Park, but the County was not interested.

Susan Dunn asked the City to consider placing the park into the Minnesota Land Trust because Mr. Friedrich wanted this land protected. She suggested the Council look at a commercial area for the location of the maintenance garage and review the minutes of why the residents did not want the facility in the Old Village area.

Mayor Johnston stated the entire concept to place a facility in Sunfish Park came from the old council and this Council is following through with the suggestion.

Council member Conlin said she was on the council 10 years ago and there was discussion about needing a maintenance facility then. There was a need then for a building and the residents didn't want it in the location that was suggested. There is a real need now and again; the people don't want it in this location. Conlin said she did not believe this is a good use for park land. As the city grows, it will need all its parks later.

Council member Smith stated the park should be used for parks purposes only. She said she could not in good conscience vote to place the maintenance facility there.

Council member Johnson didn't think the staff had all the homework in place because they did not look at commercial property.

M/S/P Conlin/Smith - to adopt Resolution No. 2005-035, to deny granting a Conditional Use Permit and Variance for a Public Works Facility located in Sunfish Park. (Motion passed 3-1 Johnston: He would rather the City have a solid site identified before a vote was cast)

C. Resolution No. 2005- 036: Award Bid for Phase I of the Water System Interconnect Project

In his letter dated March 24, 2005, the City Engineer reported bids were opened on February 18, 2005 for this project. The City engineer recommended awarding the contract to the lowest bidder, Chris Riley Utilities, Inc. for their bid of \$348,626.18.

M/S/P Johnson/Conlin - to adopt Resolution No. 2005-036, A Resolution Awarding the bid for the Phase I of the Water System Interconnect Project to Chris Riley Utilities in the amount of \$348,626.18. (Motion passed 4-0).

9. PLANNING, LAND USE & ZONING:

A. Preliminary Plat, Comprehensive Plan Amendment, Rezoning, Conditional Use Permit and OP Concept Plan – Deer Glen/Evangelical Free Church (Continuation)

Attorney Filla reported he received a 13-page document from the representatives of the church late this afternoon and has not had time to review the submittals. He asked the applicant if they would agree to a two week extension of their application. Chuck Palmer, the applicant, said he would agree to the two week extension as long as it had no impact on the merits of the case.

M/S/P Smith/Johnson - to approve the extension for two weeks agreed to by the applicant, Chuck Palmer. (Motion passed 4-0.)

B. OP Concept Plan – Farms of Lake Elmo

This is an OP Concept Plan for Earl Friedrich Farm for 30-single family building lots on a site of 84 acres. The Planner explained the three lots at the southwestern edge of the site may not meet buffer requirements, but an adjoining parcel is eligible for OP development. The zoning ordinance does not provide for monument signs, so the letters have to be taken down and the wall left up.

Tim Freeman, Surveyor with FFE, indicated these lots sizes match or exceeds neighboring properties and only a few houses are close. Their plan would have the existing berm cut in with houses and planted above with additional buffering and screening. Freeman said the intent of the ordinance is met with 100 feet of buffer, and that they worked hard to keep each lot not having a neighbor across or behind them.

The Planner pointed out that the Planning Commission's recommendation deleted the staff condition #1 requiring the developer to install a full 200 foot OP buffer between the house pads of the westerly 3 lots and the west project property line. By implication, a 100 foot buffer with appropriate landscaping would be the expectation for the Development Stage Plan, but a 4/5 City Council waiver will be necessary to adopt that design strategy.

M/SP Conlin/Johnson - to waive the 200 foot buffer requirement and require the 100 foot buffering setback standards to the west, south and east based on the findings of the size of lots, adjoins the majority of the Regional Park, trees are planted on the top and the elevation difference. (Motion passed 4-0).

M/S/P Johnson/Conlin - to adopt Resolution No. 2005-038, as amended, A Resolution Approving the OP Concept Plan of Farms of Lake Elmo per the plans staff dated March 18, 2005, and subject to conditions #1-#3, of the Staff Report of March 18, 2005 and a 4th condition that the nameplate be removed from the rock wall at the entrance. (Motion passed 4-0).

C. Minor Subdivision: Olinger, 9057 Lake Jane Trail

The City Planner reported that the Planning Commission recommended approval of this application to divide an existing 16 acres parcel into parcels of 2.04 acres, .75 acres, and 13.3 acres. This application is responsive to the Comprehensive Plan amendment actions and a rezoning that was approved by the Council in 2004. A condition of the approval recommendation is that the .75 parcel be either combined with the parcel to the south (across Lake Jane Trail), or that a "No Build" covenant be placed on the title.

M/S/P Johnson/Johnston - to adopt Resolution No. 2005-037, A Resolution approving the Minor Subdivision for Daniel and Jean Olinger at 9057 Lake Jane Trail, per plans staff dated March 8, 2005, and subject to the conditions of the March 8, 2005 Staff Report. (Motion passed 4-0).

D. Section 520 Site Plan – 11051 Stillwater Blvd.

The City Planner reported the Planning Commission recommended approving this application to modify the site and make a building addition that nearly doubles the size of this existing 2,057 square foot structure. Since the additions will not double the size of the structure, the GB Architectural Standards do not apply. The two issues that form conditions to approval are proper placement of the pylon sign and the City Engineer's recommendation that a septic site be identified on the site. The Building Official pointed out that this building must be sprinkled.

M/S/P Smith/Conlin - to adopt Resolution No. 2005-039, A Resolution approving a Section 520 Site Plan for site modifications and a 2,046 square foot addition to 11051 Stillwater Blvd. per plans Staff dated March 9, 2005, and subject to the conditions of the Staff Report. (Motion passed 4-0).

E. Zoning Ordinance Text Amendment-Home Occupation in Rural Residential Zoning

The City Planner reported the Planning Commission conducted a Public Hearing and adopted a recommendation to approve an amendment to the text of the RR zoning district to permit Home Occupation as an Accessory Use. The Commission considered the reports of the City Attorney and City Planner on the matter and concluded that the amendment amounts to a code housekeeping item.

M/S/P Johnson/Smith - to adopt Ordinance 97-154, An Ordinance Amending Chapter 300 of the City Code to add "Home Occupation" as an Accessory Use in the RR zoning district. (Motion passed 4-0).

F. CDBG – Award Contract for Cimarron Gas Service Replacements

The City Planner reported staff solicited proposals for Cimarron gas service line replacement from 10 plumbing firms. The single bid that was received was reviewed and accepted by the Building Official.

The Council was disappointed at the price because this would mean that the natural gas lines of approximately one-third of the units would be replaced, but several Council members agreed the project needed to get started.

M/S/P Johnston/Johnson - to accept the proposal submitted by Murr Plumbing for Cimarron Gas Service Replacement. (Motion passed 3-1:Smith:Disappointed that there was only one bid with a price that would only replace the gas lines for one-third of Cimarron units.)

G. Update on Comprehensive Plan

Planner Dillerud stated he will bring the Planning Commission's recommendation on the amendments to the Comprehensive Plan responsive to the City/METC Memorandum of Agreement to the next Legislative Council Committee meeting.

10. CITY ATTORNEY'S REPORT:

Attorney Filla reported he had not received any correspondence from the Attorney representing the Ziertmans.

11. CITY ADMINISTRATOR'S REPORT

A. By Pass TH5 Study

Mayor Johnston requested discussion of redirection of Highway 5 be placed on the April 12th council committee meeting so the Council is informed on the study.

B. Meeting with Fields HOA and Bob Engstrom

The City Administrator indicated that the representatives from the Tana HOA should have been asked to sit in the meeting. The development of the park was discussed. The Parks Commission approved a plan for the park which is still is going to be completed. He said the original proposal seems acceptable to the residents at the meeting. Once the plan is finalized, he will contact all the residents involved.

C. Proposal Requested Assisting Council Performance of the City Administrator

Mayor Johnston suggested having a workshop with Jim Brimeyer to provide objectives in evaluating the performance of the City Administrator. This proposal would cost approximate \$750 and would set objectives where the Council would become more

formally involved in our personnel responsibility. The Council decided to place this item on the Human Resources Council Committee.

D. Fire Study Report

The Fire Study Report was passed out and will be an agenda item on the April 12th Council Committee meeting.

12. CITY COUNCIL REPORT:

Mayor Johnston reported he met with the Financial Director of the Stillwater School District, who was receptive on planning in a proactive manner. He is meeting with people from the Guardian Angels Church on expansion and wants to know about future growth in Lake Elmo. He also noted that the library is near approval as the Library Board recommended to Washington County Board to approve a lease on the Gathering Garden building. He said he was informed there is an effort to establish a rotary club and encouraged anyone to attend the meeting at the Lake Elmo Inn a week from Wednesday.

Council member Conlin asked that the Parks Commission review the suggestion of placing city parks in a land trust so park land can be used as parks. This item will be placed on the April 12th Council Committee meeting.

Council member Smith suggested taking some of the money from the sale of the Berschen property and uses it to purchase property for a maintenance facility.

Council adjourned the meeting at 11 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2005-034 Claims

Resolution No. 2005-035 Deny CUP for Public Works Facility in Sunfish Park

Resolution No; 2005-036 Award Bid for Phase I of the Water System Interconnect Project to Chris Riley Utilities

Resolution No. 2005-037 Approve Minor Subdivision Dan Olinger, 9057 Lake Jane Trail

Resolution No. 2005-038 Approve the OP Concept Plan of Farm of Lake Elmo

Resolution No. 2005-039 Approve Section 520 Site Plan for addition to 11051 Stillwater Blvd.

Ordinance No. 97-154 Amend Chapter 300 add Home Occupation in the RR Zoning District

MINUTES APPROVED: APRIL 5, 2005
LAKE ELMO CITY COUNCIL MINUTES

MARCH 15, 2005

1. AGENDA
2. MINUTES: MARCH 1, 2005
3. PUBLIC INQUIRIES/INFORMATIONAL:
 - A. St. Croix Valley Community Family Center: Select representative to guidance committee and authorize \$2,000 donation: Resolution No. 2005-024
 - B. Appointment to Community Improvement Commission
4. CONSENT AGENDA:
 - A. Resolution No. 2005-021: Approving Claims
 - B. Authorization for Professional Services: GIS Mapping of the Surface Water System and Sanitary Sewer System
 - C. Authorization for Professional Services: Construction Details and Engineering Design Standard Update
 - D. Next Genesis Contract
 - (1) Website Redesign
 - (2) DSL Service
 - (3) Monthly Maintenance Service
 - E. Resolution No. 2005-022: Worker's Compensation
 - F. Ordinance 97-150: Relating to Waiving Water Surface Use Regulations
5. FINANCE:
 - A. Monthly Operating Report
6. NEW BUSINESS:
 - A. Ordinance No. 97-151: Relating to Dogs (Adoption postponed)
 - B. Appointments to Regional Park Comprehensive Planning Committee
7. MAINTENANCE/PARK/FIRE/BUILDING:
 - A. Update on Building Department Activities: Jim McNamara
8. CITY ENGINEER'S REPORT
 - A. Ordinance No. 97-152: Installation of Stop Sign at the Intersection of Highlands Trail and Hilltop Avenue
9. PLANNING, LAND USE & ZONING:
 - A. Preliminary Plat, Comprehensive Plan Amendment Rezoning, Conditional Use permit and OP Concept Plan – Deer Glen: Resolution No. 2005-027 through Resolution No. 2005-032
 - B. Minor Subdivision/Site Plan and Zoning Variance, Amendment to the Development Moratorium, Public Hearing: Vacation of drainage easements – Lynsky (Brookman 3rd Addition), Resolution No. 2005-025, Resolution No. 2005-026, Ordinance No. 97-153
 - C. Conditional Use Permit, Variance and Section 520 Site plan – City of Lake Elmo
 - D. Fields of St. Croix II/Little Blue Stem – Developer Improvements
 - E. Resolution No. 2005-023: Capital Improvements Program Amendment – Street Improvements

10. CITY ATTORNEY'S REPORT:

A. Sunfish Lake Park Legal

11. CITY ADMINISTRATOR'S REPORT

12. CITY COUNCIL REPORTS:

Mayor Johnston called the Council meeting to order at 7:00 p.m. in the City Council Chambers: PRESENT: Johnston, Conlin, Smith, Johnson, DeLapp, City Engineer Prew, Planner Dillerud, Building Official Jim McNamara, City Attorney Filla, Finance Director Tom Bouthilet and Administrator Rafferty

1. AGENDA

M/S/P DeLapp/Johnson - to approve the March 15, 2005 City Council agenda, as amended. (Motion passed 5-0).

2. MINUTES: MARCH 1, 2005

M/S/P Johnson/Conlin - to approve the March 1, 2005 City Council minutes, as amended. (Motion passed 5-0).

3. PUBLIC INQUIRIES/INFORMATIONAL:

A. St. Croix Valley Community Family Center:Select representative to guidance committee and authorize \$2,000 donation:Resolution No. 2005-024

The Partners of the St. Croix Valley Area Community Family Center are requesting the support of a one-time financial contribution for the Project Coordinator position and would like to have a volunteer to serve on the guiding team. Mayor Johnston said he would volunteer to serve on the team and bring information back to the city in a timely manner.

M/S/P Johnson/Smith - to adopt Resolution No. 2005-024, A Resolution by the Partners of the St. Croix Valley Area Community Family Center Supporting a one-time Financial Contribution of \$2,000 for the Position of a Project Coordinator and name Mayor Johnston to serve on the guiding team. (Motion passed 4-1: DeLapp: The city has a past record of dealing with such requests by placing donation requests on the website. Money is not in our budget.)

B. Appointment to Community Improvement Commission

The Community Improvement Commission consists of seven members. If Deborah Lyzengas's resigns because of her appointment to the Planning Commission, this will create two vacancies on the Community Improvement Commission. The City has received an application form Gloria Knoblauch.

M/S/P Smith/Conlin - to appoint Gloria Knoblauch to the Community Improvement Commission. (Motion passed 5-0).

4. CONSENT AGENDA:

A. Resolution No. 2005-021: Approving Claims

M/S/P Johnson/DeLapp - to adopt Resolution No. 2005-021, approving claim numbers 245, 246, 247, DD363 through DD372, 26999 through 27005, which were used for staff payroll dated March 3, 2005, claims 27006 through 27059, in the total amount of \$68,659.52. (Motion passed 5-0).

B. Authorization for Professional Services: GIS Mapping of the Surface Water System and Sanitary Sewer System

M/S/P Johnson/DeLapp - to approve the authorization for Professional Services from TKDA for the GIS Mapping of the Surface Water System and Sanitary Sewer System in the amount of \$32,000. (Motion passed 5-0).

C. Authorization for Professional Services: Construction Details and Engineering Design Standard Update

M/S/P Johnson/DeLapp - to approve authorization for Professional Services from TKDA for the Construction Details and Engineering Design Standard Update in the amount of \$5,000. (Motion passed 5-0).

D. Next Genesis Contract

(1) Website Redesign

The Finance Director reported that the city's current website was designed as a start-up program for the purpose of disseminating information to the residents. Next Genesis has provided a proposal in the amount of \$12,380.63 that entails the complete redesign and requires little time from staff. The primary goal is to make the site more "user friendly" and to improve the overall appearance. The Council Finance Committee reviewed this proposal and recommended approval of the web-site redesign.

M/S/P Johnson/DeLapp - to approve the Next Genesis proposal for web-site redesign in the amount of \$12,380.63 per the recommendation of the Council Finance Committee. (Motion passed 5-0).

(2) DSL Service

The Finance Director reported the city receives its existing internet service through Comcast Cable Company at no charge, but the city is continually interrupted in accessing the internet due to Comcast frequent changes to the Internet Protocol (IP) address. Next Genesis has submitted a proposal to provide DSL service at a \$253.88 start-up cost and \$90 per month thereafter. The Council Finance Committee reviewed this proposal and recommended approval of this service.

M/S/P Johnson/DeLapp - to approve the Next Genesis proposal for DSL service in the amount of a \$253.88 start-up cost and \$90 per month thereafter per the recommendation of the Council Finance Committee. (Motion passed 5-0)

(3) Monthly Maintenance Service

The Finance Director reported in 2004 the cost for Management Information Systems (MIS) support services cost the city approximately \$1080.00/month. Next Genesis has submitted a proposal for monthly support services for \$900/month which will enable the city to lock into a constant rate for at least a year and will assist in calculating expenses in future budgets. The Council Finance Committee has reviewed this proposal and has recommended approval.

M/S/P Johnson/DeLapp - to approve the Next Genesis Proposal for Monthly Maintenance Services in the amount of \$900.00/month per the recommendation of the Council Finance Committee. (Motion passed 5-0).

E. Resolution No. 2005-022: Worker's Compensation

The Finance Director reported that Minnesota Statute 176.011 subd 9, (5) provides that "municipal officers elected or appointed for a regular term of office" are considered to be "employees" for workers' compensation purposes only if the city has passed a resolution to that effect. This would provide coverage for elected officials injured while performing his or her duties. The total premium for all elected officials in 2005 will be \$71.00.

M/S/P Johnson/DeLapp - to adopt Resolution No. 2005-022 regarding workers' compensation coverage for all elected officials at a cost of \$71.00 for all elected officials in 2005. (Motion passed 5-0).

F. Ordinance 97-150: Relating to Waiving Water Surface Use Regulations

At the March 1st meeting, Joe Kiesling, Tri lakes Association, requested Council approval of a Water Surface Use Permit for the Annual Water Ski Show on Lake Jane. Mr. Kiesling also requested a waiver from the Water Surface Use Regulations for this event. Attorney Filla advised that the municipal code would have to be amended in order for the City to permit a temporary suspension of the rules. A draft Ordinance waiving the Water Surface Use regulations by authorizing a special permit was submitted for Council approval.

M/S/P Johnson/DeLapp - to adopt Ordinance No. 97-150, An Ordinance Relating to Water Surface Use Regulations of the Municipal Code. (Motion passed 5-0).

5. FINANCE:

A. Monthly Operating Report INFORMATIONAL

The Finance Director reported the City is on-track with all of our expenditures.

6. NEW BUSINESS:

A. Ordinance No. 97-151:Relating to Dogs

At the Public Health and Safety Council Committee, the committee recommended the modifications to the animal control ordinance prepared by the Community Improvement Commission. This issue has been studied by the CIC for a number of months, has gone to Council for action and referred back to the PH&S Committee for final review. In the proposed ordinance; if any owner is not at home a dog may not be secured by an invisible fence.

Lake Elmo resident Jeanette Behr pointed out that the consequences for dogs that are found loose are already established in the ordinance. If you leave home with your dog in the invisible fence, you have already violated the proposed ordinance. Ms. Behr noted that the ordinance needs to be fine tuned because it does not give enough definition of owner at home and places the animal control officer in an uncomfortable and difficult situation. She suggested that "invisible fencing" be changed to "underground pet containment system" because invisible fencing is a trademark. Ms. Behr volunteered to assist in amending the ordinance.

Lake Elmo resident Linda Wagner said she has had an invisible fence since 1994 so will these fences be grandfathered in. She asked if this was a city-wide issue. If the dog is at large, cite the dog as at large and use the 3 strike rule. Mayor Johnston responded that the Council discussed the 3-strike system and it became too complicated to work with.

Council member Johnson didn't think the amendment was warranted based on the ACO report that only four dogs wearing the collars picked up both in 2003 and 2004. Johnson said if a dog is at large, it's at large and we have a system in place to handle that. Both Johnson and Lake Elmo resident Bret Emmons indicated the ordinance was penalizing individuals using an underground system and who have done good work in following through with training.

Council member Smith said the Animal Control Officer lives 25 miles away and doesn't always get here in time to see the dog out. Council member Johnson responded that if the problem is response time may be we should look at who we are using for animal control.

Attorney Filla agreed that the amendment lacked clear language as to the definition of owner at home and as to enforcement.

M/S/P Smith/Johnston - to table Ordinance No. 97-151, An Ordinance Relating to Confinement of Dogs for clarification by staff for the definition of owner at home, enforcement if an animal is not properly confined and change the name of invisible fencing to underground pet containment system and bring this ordinance back to the council committee for review. (Motion passed 5-0).

Council member DeLapp suggested, once the ordinance has been adopted, request the Animal Control Officer report back in a year on how effective this ordinance.

B. Appointments to Regional Park Comprehensive Planning Committee

Jim Lugar, Director for the Regional Park, met with the city administrator to discuss the need to develop a new comprehensive plan for the park. He asked that the City appoint two committee representatives so the City's interest would be represented. Three individuals agreed to participate should the Council decide to select them for this purpose, Sue Dunn, Margaret Carlson and Bob Schumacher.

M/S/P Johnson/Conlin - to appoint Margaret Carlson and Bob Schumacher, with Susan Dunn as backup as committee representatives to the Regional Park Comprehensive Planning Committee. (Motion passed 5-0).

7. MAINTENANCE/PARK/FIRE/BUILDING:

A. Update on Building Department Activities: Jim McNamara

The Building Official reported there were no residential or commercial building permits issued in the month of February. He will be attending a radon seminar presented by the State of MN next week.

8. CITY ENGINEER'S REPORT

A. Ordinance No. 97-152: Installation of Stop Sign at the Intersection of Highlands Trail and Hilltop Avenue

The City Engineer and Public Works Supervisor reviewed the request for a stop sign on west bound Highland Trail at Hilltop Avenue. They recommended a stop sign be installed due to the limited sight distance due to surrounding landscaping and the topography. At the March 8th Council Committee workshop, the Council asked staff to invite surrounding property owners for their input.

Mike Moss said he was not opposed to the stop sign, but caution neighbors it could be creating more of a hazard because it is a false sense of safety for children. He has seen drivers, who are residents, drive down the hill very fast. Maybe it should be a 3-way stop and install speed bumps.

Dave Bendel said he petitioned for the stop sign for safety reasons. He has three children and worries about their safety because he himself has been close to getting hit at least six times.

Council member Johnson noted the stop sign may help provide accountability and enforceability.

M/S/P Johnson/Smith - to adopt Ordinance No. 97-152, Approving Installation of a Stop Sign at the Intersection of Highlands Trail and Hilltop Avenue. (Motion passed 5-0)

9. PLANNING, LAND USE & ZONING:

A. Preliminary Plat, Comprehensive Plan Amendment, Rezoning, Conditional Use permit and OP Concept Plan – Deer Glen:Resolution No. 2005-027 – Resolution No. 2005-033 (Adoption of Resolutions Postponed)

The City Planner reported the Planning Commission adopted a recommendation to deny all of the subject multiple applications for the platting of 108 acres, an Op Concept Plan covering 40+ acres; a Comprehensive Plan Amendment (from RAD to PF) for 20 acres; and rezoning (from RR to PF) for 20 acres, and a Conditional use Permit for a 52,000 sq.ft. church facility on the 20 acre site. No action was taken regarding the church Section 520 Site Plan pending Council action on the precedent applications.

Chuck Palmer, Lakewood Evangelical Free Church, stated this plan fits in the future direction of Lake Elmo. The church traffic will have a minimal impact except for weekends when church is in session. He would like to work with the city and MnDOT to resolve any problems.

Jim Arkell stated he is a Lake Elmo resident who attends this church and had served on the Planning Commission when they worked on the 1990 comp plan. Then the Commission realized it didn't have an ordinance that would deal with churches. This is a perfect transition buffer moving south from a major highway.

Paul Danielson, Consulting Engineer, Kimley-Horn & Associates, reported this is the best site for the church in this 108 acre site which is in the middle on higher ground with buffers from other potential developments. They have modified the plan for a buffer on the west side, wetlands on north side and a small wetland throughout the site. There is no wetland litigation proposed. He said he spent time with the VBWD in how to deal with water quality and storm water management plan and have obtained a permit from the VBWD. The roadway avoids the wetlands and follows contours as much as possible to minimize tree impact. There are various areas that don't drain out and have flood storage issues. Outlot B is slightly less than 10 acres and will be adjusted to ensure that the proposed Outlot B is a minimum of 10 acres in the Preliminary Plat.

Craig Peterson, BWBR, said the building would be rising from the landscape without screaming for attention and nestled into the landscape with building materials of natural colors. It will be welcoming and inviting reflecting the personality of the church.

Mayor Johnston asked the council to deal with all development applications separately.

Preliminary Plat:

The City received a letter stating the applicant would be willing to correct Outlot B that is substandard. Attorney Filla noted the Council is addressing the preliminary plat illustrated on preplat drawing, prepared by Kimley-Horn & Associates, Inc, dated February 7, 2005 which would create Lot 1, Block 1 and Outlots A, B, C and Deer Glen. If the Council should approve the preliminary plat, it should be subject to: 1) Outlot B is

a minimum of ten acres, 2) Lot lines adjusted to ensure that Outlot D is a minimum of 10 acres or combined with proposed Lot 1, Block 1, and 3) If the open space development concept for proposed Outlot A is approved, it's use shall be restricted so that it can only be used in conjunction with the proposed open space project on Outlot A.

Peter Beck, attorney for the applicant, explained Outlot D is a dedicated open space development concept plan. It is not intended to be a buildable parcel because it is dedicated open space. There will be a condition in Preliminary Plat approval that places this in dedicated open space.

M/S/ Johnson/Conlin – to direct the City Attorney to draft a resolution approving the preliminary plat subject to the conditions stated by Attorney Filla.

Council member DeLapp stated the applicant has exempted the road and asked for the same rights the others have been given.

Open Space Preservation Plan

The City Planner explained the Planning Commission indicated the concept plan is inconsistent with the Lake Elmo Comprehensive Plan Environmental Protection policies regarding residential developments conforming to the limitations presented by natural features including natural drainage systems, by proposing significant modifications of natural grades and existing floodplain on the site.

The City Planner stated it is a subjective call regarding how much floodplain can be filled or moved around. The Planning Commission thought it was significant enough to deny. The engineer for the church responded there is no impact on the jurisdictional wetlands. The soils are not conducive to create wetlands.

The open space development plan proposes significant modifications to natural grade and to existing floodplains on the applicant's property and is inconsistent with the City's Comprehensive Plan Environmental Protection policy. The plan is inconsistent with the purpose of the City's Open Space Preservation Ordinance because it proposes to significantly alter the natural drainage feature of the site.

Comprehensive Plan Change for the 20 acres for the Church

Mayor Johnston said he did not see the justification to change the City's Comprehensive Plan from RAD to PF. The Council reviewed the current comprehensive plan land use designation for this property and decided the current land use designations continue to reflect the Council's vision plan for development of land in this section of the city. The current comp plan land use designations will not require modifications as a result of the settlement between the City and the Met Council.

Attorney Filla indicated the Council may want to consider the Comprehensive Plan changes required as a result of its settlement with the Metropolitan Council before it re-evaluates comp plan designations for specific areas of the City which should known by May.

Rezoning from and RR Designation to a PF Designation

Mayor Johnston noted that the hardship does not exist for a rezoning and there is a reasonable use of land under the current zoning. Attorney Filla pointed out that the rezoning would not be consistent with the City's 1990 Comp Plan, the City approved 2000 Comp Plan and with any changes to the City approved 2000 Comp Plan as a result of the agreement between the city and the Met Council.

Conditional Use Permit

The City Planner explained based on the traffic study the traffic generated by the proposed development would create traffic congestion at the intersection of Keats Avenue and Highway 36. Mr. Danielson reported that Mn/DOT said that this development would not create any unsatisfactory problem on Hwy 36, but does present delays on Keats approaching Hwy 36. There would be a minimal impact on the intersection except on weekends. Danielson said MnDOT would say the 3-corner intersection could be in now. The church is willing to spend \$150,000 to improve this intersection.

The requested Conditional Use Permit for proposed Lot 1, Block 1 would allow development that is not consistent with the current zoning for the applicant's property and because of the traffic generated by the proposed development would create serious traffic congestion at Keats Avenue and Hwy 36.

Attorney Filla will draft a resolution incorporating Council direction. The council recommended denial of the comprehensive plan amendment and the rezoning from RR to a PF designation so the use will be denied because it is not consistent with the zoning.

M/S/P Conlin/Johnson - to table the development applications for the Lakewood Evangelical Free Church until the April 5th Council meeting where resolutions will be provided for council approval. (Motion passed 5-0.)

- B. Minor Subdivision/Site Plan and Zoning Variance, Amendment to the Development Moratorium, Public Hearing: Vacation of drainage easements – Lynsky (Brookman 3rd Addition), Resolution No. 2005-025, Resolution No. 2005-026, Ordinance No. 97-153

Planner Dillerud reported the Planning Commission adopted a recommendation for denial of the applications for Minor Subdivision and Section 520 Site Plan that are proposed by the applicant to allow construction of a 10,000 sq.ft. office building on 39th Street North. Prior to the Commission's vote on the motion, the Chair offered the applicant's representative an opportunity to waive the 60 day city review window to allow time to process the variance issue, but that offer was declined. Dillerud noted that subsequent to February 14 one of the partners of the project formally requested the 60 day review waiver, and a variance application will be heard by the Planning Commission on March 14, 2005. Staff committed to the applicant to bring the applications to the Council on March 15, along with the Planning Commission recommendation on the variance.

The Planner asked Council action on 1.) Moratorium; 2.) Site Plan; 3.) Variance; 4.) Minor Subdivision, and 5.) Hearing and Easement Vacation. A Resolution denying the Site Plan and Minor Subdivision, Ordinance regarding the Moratorium and a Resolution for the easement vacation is provided for Council review.

Tracy Galowitz, applicant, explained it would be a prairie style building, similar to the professional buildings in Carriage Station. They simply want to keep their business in town. They need the moratorium lifted, a minor subdivision and are asking for a variance for asphalt shingles.

DeLapp/No Second - to deny the moratorium because the City is still waiting for a master plan to see how this building fits into the plan.

M/S/P Johnson/Johnston – to approve Ordinance 97-153, An Ordinance removing property from the restrictions of the Village Area Development Moratorium. (Motion passed 4-1:DeLapp)

M/S/P Johnson/Johnston - to approve Resolution No. 2005-025 , approving the Section 520 Site Plan and Minor subdivision applications of Mike Lynsky/Lake Elmo Business Park Co. (Motion passed 4-1:DeLapp - They should put in a holding tank as proposed, take 5 credits of sewer. It is a waste of their money).

M/S/P DeLapp/Smith – to approve the asphalt roofing material as the same approved asphalt shingles used on the Prairie Ridge Office Park and in the County, City Credit Union used based on the Findngs by the City Planner. (Motion passed 5-0).

Mayor Johnston opened the Public Hearing at 11:29 p.m..
There was no one to speak for or against vacating the drainage easement.
Mayor Johnston closed the Public Hearing at 11:30 p.m.

M/S/P Conlin/DeLapp - to approve Resolution No. 2005-026, A Resolution Vacating Existing Platted Drainage and Utility Easements in Brookman 3rd Addition. (Motion passed 5-0).

C. Conditional Use Permit, Variance and Section 520 Site plan – City of Lake Elmo

The City Planner reported the City has made application to construct an 11,000 sq.ft. Public Works/Park Maintenance building and a 500,000 gallon water storage tank on a 20 acre site adjacent Sunfish Park. The Conditional Use Permit is to locate a Public Facility on a PF zoned site. The variance is to the standards of the PF zone to allow standing seam metal exterior surfacing to retain the rural image of the proposed structure.

Merle Olson said Lehart Friedrich sold 150 acres at \$2,000 an acre, which at that time was much less than the going price. The City, Parks Commission voted and passed this so a covenant was made for this land to be used only for park purposes. Olson had talked to

the Stillwater cross country ski coach who has 120 students using Sunfish Park trails and with maintenance facility built next to the park would be opening the City up to liability issues. Olson said his family intends to purchase this land back if not used for park purposes.

Dave Morgan said this park is everybody's neighborhood. You don't make water towers look like silos. The City Administrator was wrong when he said the City was free to use the land any way they wanted because it was not stated for park purposes only in the deeds and was trying to sell the facility by stating the building would hold 85% for park purposes. The bond issue was for park land and it was park land for perpetuity. He said he was surprised that the Planning Commission members and some of the Parks Commission members didn't even know we had so many parks.

Jim Blackford said this is the wrong place for a tower and building to be placed. The Council should honor the wishes of all the people that came before us. There was a retired Supreme Court Justice, who is a Lake Elmo resident, asked the Council to honor its commitments. He asked the Council to consider your legacy to the city. The proposed project is inconsistent to what the City stands for.

Dick Hedquist reminded the Council it is loosing a park and you will not get it back. He thought the water tower should be located where the people are using Oakdale water.

Sue Dunn said she saw the entire presentation before the Planning Commission. She said there is condemn land by the Lake Jane Landfill the City could look into for locating a maintenance facility. She asked that the City proceed through the process which includes the commissions and make the Council Committee meetings formal meetings that can be cancelled.

In his letter dated March 3, 2005, Attorney Filla provided his review of all the documents which were recorded relating to Sunfish park property. Based on the information that he reviewed, it was his opinion that the City owns fee title to the Sunfish Park property. The city is not legally restricted in its use of the Sunfish Park property provided that it is used for a public purpose.

Administrator Rafferty stated there was an additional piece of property of 110 acres known as the West Sunfish acquisition. Some of the documents sated the land went to Washington County and the City acquired it for \$75,000.

Mayor Johnston recommended sending this item back to staff to look into other locations for a water tower. Also, ask the Parks Commission if they want to place the City parks in a land trust.

M/S/P Johnson/Conlin – to turn back to staff to determine other possible locations for the water storage tower. (Motion passed 5-0).

Ed Nielsen said he had no problem with the landfill area for a maintenance garage. There is also acreage owned by Ramsey County that could be explored. Jim Blackford said this is not a commercial corridor.

M/S/P Johnson/DeLapp - to send this agenda item back to staff to look into locations in Sunfish Park as discussed for location of the maintenance garage. (Motion passed 5-0).

D. Fields of St. Croix II/Little Blue Stem -- Developer Improvements

The City Planner reported staff requested direction from the Council regarding incomplete developer improvements within the Fields of St. Croix II plat, and the pending expiration of the Letter of Credit guaranteeing completion of those improvements. The three primary areas of incomplete work are interior street island landscaping, the Public Park located between Fields II and Tana Ridge; and buffer screen forestation along the plat west property line. The Council directed staff to secure an extension of the Letter of Credit (\$77,500), and advise the developer (Robert Engstrom Companies) to, within 30 days provided the City Council with his plans and schedule to complete the work.

Robert Engstrom has requested an amendment to the landscape island planting plan to substitute for the prairie grass plan that was approved for those areas 5 years ago. The Planner noted it appears that the HOA has concurred in this plan, and staff also concurs that this is a better approach than prairie grass. While no mention is made of the ball field/soccer field improvements, work had already commenced late last year. Park Superintendent Bouthilet directed work be suspended pending resolution of the property location of the ball field and soccer field per the plan approved by the Park Commission.

Cindy Silkworth said there is a big departure from what the plan as presented in number of trees and landscaping that is done. Dillerud pointed out the landscape plan in the packet is the official plan. Engstrom said the plan is very schematic. Mayor Johnston said the City can take the money and complete the plan and then bill Mr. Engstrom for the difference. Engstrom said he thought he had an agreement with the HOA Board of Directors.

The Council asked that the staff schedule a meeting to discuss the landscape plan with Bob Engstrom, Planner Dillerud, Cindy Silkworth, President of the FoSC HOA when Planner Dillerud comes back from vacation

E. Resolution No. 2005-023:Capital Improvements Program Amendment – Street Improvements

M/S/P Johnson/DeLapp – to adopt Resolution 2005-023, Amending the 2005-2009 Capital Improvements Program regarding staging of street overlay projects in 2005-2006. (Motion passed 5-0).

10. CITY ATTORNEY'S REPORT:

A. Sunfish Lake Park Legal – See Agenda Item 9C.

11. CITY ADMINISTRATOR'S REPORT

12. CITY COUNCIL REPORTS:

The Council adjourn the meeting at 12:13 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2005-021 Approve Claims

Resolution No. 2005-022 Worker's Compensation

Resolution No. 2005-023 CIP Amendment for Street Improvements

Resolution No. 2005-024 St. Croix Valley Community Family Center

Resolution No. 2005-025 Section 520 Site Plan/Minor Subdivision applications of Mike Lynsky/Lake Elmo Business Park Co.

Resolution No. 2005-026 Vacating Drainage Easements

Resolution No. 2005-027-Resolution No. 2005-033 Lakewood Evangelical Church (Postponed)

Ordinance No. 97-151 relating to dogs (Postponed)

Ordinance No. 97-152 Installation of stop sign at Intersection of Highlands Trail and Hilltop Avenue

Ordinance No. 97-153 Amendment to Development Moratorium Lynsky