

FILE

City of Lake Elmo
City Council Workshop
3800 Laverne Avenue North
Lake Elmo, MN 55042

August 23, 2011

5:30 p.m. – 6:30 p.m. (?)

Proposed Agenda *

1. Planning Commission Department Work Plan
2. 2012 Annual Budget Preview and Discussion
3. Adjourn

*** A social gathering may or may not be held at the Lake Elmo Inn following the meeting ***

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

August 23, 2011

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: ___ Johnston ___ Emmons, ___ Park ___ Pearson ___ 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. ACCEPT MINUTES:
 - 1. Accept August 9, 2011 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.

Proclamation Recognizing Joseph T. Janochoski Achieving the rank of Eagle Scout
- 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. 2011 Street and Water Quality Improvements; Partial Payment No. 2
 - 4. Fall Festival Proclamation and Budget Adjustment; Resolution No. 2011-032
 - 5. Advertisement for Library Board Members
 - 6. Approve off-sale intoxicating liquor license for new liquor store located at 11227 Stillwater Blvd.
 - 7. Approve Addendum to the 800 MHz Public Safety Radio System Agreement

J. REGULAR AGENDA:

8. Variance is to allow new construction to be located within the 100' setback to the OHWM for Lake Elmo and within 30' setback for a bluff line for construction of garage and home addition that would connect an existing detached garage to the home at 2976 Lake Elmo Avenue; Resolution No. 2011-034
9. Variance at 2860 Lake Elmo Avenue N. to allow septic holding tanks to be installed within the 10' setback to a property line & within the 75' setback of the OHWM; Resolution No. 2011-033
10. Interim Use Permit: Consider an application to allow the sale of agricultural produce and Christmas trees at Country Sun Farm and Greenhouses, 11211 North 60th Street that were produced off site; Resolution No. 2011-035
11. Conditional Use Permit Amendment: Consider application to amend a CUP for Hidden Meadows (Rockpoint Church) to allow an additional parking lot consisting of 84 parking stalls at 5825 Kelvin Avenue North; Resolution No. 2011-036
12. Second Quarter 2011 Financial Report
13. Request to Join the Transportation Alliance
14. Consideration of Migrating CodeRED Emergency Notification System to Washington County under a Joint Powers Agreement

K. REPORTS AND ANNOUNCEMENTS:

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

- Mayor and City Council
- Administrator
- City Engineer
- Planning Director

L. Adjourn

** A social gathering may or may not be held at the Lake Elmo Inn following the meeting **

City of Lake Elmo
City Council Meeting Minutes

August 9, 2011

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

PRESENT: Mayor Johnston and Council Members Emmons, Park (arrived at 7:30 p.m.), Pearson and Smith

Also Present: Planning Director Klatt, Attorney Snyder, City Engineer Griffin, Public Works Supervisor Mike Bouthilet, Finance Director Tom Bouthilet, and City Clerk Lumby

APPROVAL OF AGENDA:

MOTION: Council Member Smith moved to Approve the August 19, 2011 City Council Agenda as amended by moving Items 13 & 14 to the top of agenda. Council Member Pearson seconded the motion. The motion passed 4-0.

ACCEPTED MINUTES:

The July 19, 2011 City Council minutes were accepted as amended by consensus of the City Council.

PUBLIC COMMENTS: None

CONSENT AGENDA:

MOTION: Council Member Smith moved to approve Agenda Items 4, 5 & 6. Council Member Pearson seconded the motion. The motion passed 4-0.

- Approve the Joint Powers Agreement with the Washington County Sheriff's Office for provision of Animal Control Services
- Authorize the City to contract with ServiceMaster to clean the carpet at Fire Station One and City Hall and to clean the City Council chamber chairs, at an approximate cost of \$769.11, plus tax.
- Adopt a Medical Restrictions Policy pertaining to work-related and non-work related medical restrictions

Approve payment of disbursements and payroll

Council Member Smith commented on the following disbursements:

*Repairs to Fire Vehicle E1 - 4 claims for a total of \$11,000. This is an awful lot of money to put into an old vehicle.

*Nordquist Sign \$295. Additional charges for welcome sign at Keats Avenue

*Hilton Garden Inn, Rochester, MN \$112.49 City Administrator attended the League of MN Cities Conference

MOTION: Council Member Smith moved to approve payment of disbursements and payroll in the amount of \$367,662.53. Council Member Pearson seconded the motion. The motion passed 4-0.

Approve a premises lease agreement with the Lake Elmo Arts Center at 3585 Laverne Avenue North

For the last five years, the Lake Elmo Arts Center has leased the former dwelling and detached garage space. The lease agreement expires on August 9, 2011. The agreement would be for one year with the ability to renew.

Council Member Smith inquired, and Mayor Johnston answered, that there are scheduled activities at the Lake Elmo Art Center.

MOTION: Council Member Smith moved to approve a premises lease agreement with the Lake Elmo Arts Center at 3585 Laverne Avenue North. Council Member Pearson seconded the motion. The motion passed 4-0.

REGULAR AGENDA:

Resolution No. 2011-030 Authorizing a Master Joint Powers Agreement with Bureau of Criminal Apprehension

The City Council was requested to consider approving a resolution authorizing a Master Joint Powers Agreement between the City and the State of Minnesota's Department of Public Safety, Bureau of Criminal Apprehension (BA) for utilization of certain systems and tools available over the State's criminal justice data communications network. This item was scheduled at the request of the City Attorney. Associated costs for these services are already indirectly paid for via the current contracts with the City Attorney and Sheriff's Office.

MOTION: Council Member Pearson approved Resolution No. 2011-030, Authorizing a Master Joint Powers Agreement with the Bureau of Criminal Apprehension for the use of systems and tools available over the State's criminal justice data communications network. Council Member Emmons seconded the motion. The motion passed 4-0.

2nd Quarter 2011 Financial Report - Postponed until August 23, 2011

The City Council received a summary report highlighting the 2011 second quarter financials, along with the second quarterly report for year 2011.

MOTION: Council Member Smith moved to postpone discussion on this agenda item until the August 23, 2011 City Council meeting. Council Member Emmons seconded the motion. The motion passed 5-0.

Minnesota Blue Star Award Program – Receipt and Presentation of Award to the City

The City Council was requested to adopt Resolution No. 2011-031 recognizing the City with the Blue Star Award for Excellence in Community Storm Water Management. The Blue Star Program is brought to you by Friends of the Mississippi River in partnership with Emmons & Olivier Resources, Inc. Lake Elmo has achieved the third highest score of all 42 cities that have completed the program assessment and earned special recognition as the only Minnesota City to score in the top five overall in each of the three sections of the Blue Star Assessment.

MOTION: Council Member Emmons moved to approve Resolution No. 2011-031, recognizing the City of Lake Elmo with the Blue Star Award for Excellence in Community Storm Water Management. Council Member Smith seconded the motion. The motion passed 5-0.

Update on “No Wake” Provisions on Area Lakes

The City Council received an update on recent changes to “no wake” regulations on area lakes. Recent high water conditions led to City Council consideration of establishing “slow, no wake” provisions on area lakes, until such time as water levels recede. The City has received temporary approval by DNR of the “slow, no wake” provision until a more comprehensive review of the entire ordinance can be undertaken by the City, Minnesota Department of Natural Resources and Valley Branch Watershed District.

Council action resulted in the imposition of an advisory “slow, no wake” zone on Lakes Olson and DeMontreville for approximately three days. Lakes Jane and Elmo did not reach the OHW during these past rain events.

The following residents spoke against the “no wake” regulation stating the proposed OHW of 929.3 ft. versus the past OHW of 930 ft. was too low and overly restrictive.

Patrick Dean, 8028 Hill Trail N., stated he represented Lake DeMontreville/Olson Association Board of Directors who felt the new “no wake” ordinance is too restrictive and would greatly inhibit the use of Lake Olson and DeMontreville, consequently, affecting property values. Mr. Dean provided a history of water level readings to show how often the lakes maintained levels above the Ordinary High Water Mark. The association requested the City raise its OHWM to a level of 930 feet which has been the OHW level for the lakes until 2007.

David Carlson, 8554 Hidden Bay Trail N., stated the 929.34 ft. OHWM is overly restricting. He has seen minimal damage of lakeshore and recommended following DNR regulations of installing rip rock at the lakeshore to prevent erosion. Mr. Carlson also requested the elimination of regulation, "No person shall operate any motorboat at a speed other than slow, no wake speed between sunset and noon the following day....."

Jim Dillon, 8190 Hill Trail N., lives on the DeMontreville /Lake Olson channel, appreciated the Council taking action as quick as they did to prevent possible erosion on his property. He said the OHWM is set by the DNR and people ignore the No Wake buoys.

Justin Bloyer, 8881 Jane Road N. provided a petition representing 77 percent of the Lake Jane property owners requesting Lake Jane be exempted from the "No Wake" provision. In his opinion the restrictions reduce their market values.

Gary Kimlinger, 9461 Jane Road N., stated he would be against lowering the OHWM on Lake Jane to 920 ft.

Jerry Heroff, 9477 Jane Road N., requested consideration of elimination of regulation, "Hours of operation: No Wake speed between Sunset and Noon the following day".

The DNR approval of Ordinance 08-050 is valid through October 31, 2011. The City will work with Kim Elverum, MN DNR water safety coordinator, on review and approval of a permanent ordinance that would comply with the surface use statutes and rules. Residents will be notified when this item will be on a Council agenda.

Consider Ordinance No. 08-052 – No Parking at Carriage Station Park

The City Council was requested to consider Ordinance No. 08-052 regarding the proposed posting of "No Parking" signs at the access to Carriage Station Park. It has been reported that cars are parking on Marquess Avenue, blocking the asphalt trail going into the Park.

The Public Works Department will post two "No Parking" signs 45 feet apart, at the entrance to the Carriage Station Park. Posting "No Parking" signs at the trail access to the park is a legitimate, warranted request which would allow bikers and pedestrians safe passage into the park.

MOTION: Council Member Pearson moved to approve Ordinance No. 08-052 directing that NO PARKING BETWEEN SIGNS be posted with a 45 foot interval at the asphalt trail leading into Carriage Station Park from Marquess Trail N. and that such be added to the City's official no parking zones. Council Member Smith seconded the motion. The motion passed 4-0.

Hotel/Motel Water Rates – Discussion & Proposed Ordinance No. 08-051

The City Council received an update on efforts to address issues related to water service to the Wildwood Lodge and discuss Staff's evaluation of proposed alternatives to the City's commercial water rate structure to potentially address identified concerns with respect to hotel/motel water users.

On July 19th, 2011, the City Council discussed possible alternative domestic water rates for commercial hotel/motel customers. The Council also reviewed past considerations relating to infrastructure integrity and billing practices. This item was directed by Council to be placed on this meeting agenda.

Finance Director Bouthilet reviewed the impact of Options D1 and D2, modified Commercial Water Rate Structure.

Cathy Bendel, C&J Consulting reviewed the water utility analysis 2009-2010. Per Council Member Park's request, C&J Consulting provided for Council consideration the following modified commercial water rate structure, which Moe French, representative of Heart of America supported:

<u>Option D2</u> <u>Gallons Per Quarter</u>	<u>Cost Per</u> <u>1,000 gallons</u>
0-15,000	\$3.11
15,001 – 30,000	\$3.11
30,001 – 50,000	\$3.26
50,001 – 80,000	\$4.00
80,001 – 150,000	\$4.00
150,001 – 200,000	\$4.00
Over 200,000	\$4.00

(Quarterly domestic, non-irrigation usage only)

MOTION: Council Member Park moved to approve Ordinance No. 08-051, adopting Option D2, A modified Commercial Water Rate Structure for Hotel/Motels. Council Member Smith seconded the motion. The motion passed 5-0.

Council Member Smith thought it was only fair to go back to January 2010 because the City and Mo French, WWL have been trying to work on this, but was placed on the back burner for two years.

MOTION: Council Member Smith moved to adopt Scenario D-2 @\$4.00 Credit due through Q2-11, 2010 (\$10,901.54) and 2011 (\$5,746.66) for a total of \$16,648.19. Council Member Pearson seconded the motion. The motion passed 5-0.

Update re:Library Service Consideration

Attorney Snyder updated the City Council on efforts to retain and enhance library services for the Lake Elmo community. Snyder stated there does not appear to be any issues with the City's ability to take over a levy for library services. It is still uncertain whether Washington County will provide certain services and work in a partnership with the City.

Mayor Johnston and Council Member Pearson will attend the August 16th County Board meeting where the Library Budget will be discussed.

This was only an informational update so there was no action taken on the follow-on activities noted for Council consideration.

Consider Ordinance No 08-053 – Stop Sign at 47th St. N. and Kimbro Avenue N.

The City Council considered Ordinance 08-053 regarding the proposed modification from a Yield Sign to a Stop Sign at the intersection of 47th Street N, and Kimbro Avenue N. This item was scheduled at the request of the City Public Works Department and the Washington County Sheriff's Office. It has been requested that increased traffic and speeds along 50th St. N, and 43rd Street N. and Kimbro have increased safety concerns for the intersection of 47th St. N. and Kimbro Avenue N. An existing YIELD sign could be replaced with a STOP sign to increase safety at this intersection.

MOTION: Council Member Smith moved to approve Ordinance No. 08-053, directing replacement of an existing YIELD sign with a STOP sign at the intersection of 47th St. N. and Kimbro Avenue N. and that such be added to the City's official traffic control inventory. Council Member Pearson seconded the motion. The motion passed 4-0.

The Council adjourned the meeting at 9:10 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

PROCLAMATION

**A PROCLAMATION RECOGNIZING JOSEPH T. JANOSKI
ACHIEVING THE RANK OF EAGLE SCOUT**

WHEREAS, Joseph T. Janochoski, Lake Elmo Troop 162, has demonstrated the leadership skills necessary to be a Senior Patrol Leader; and

WHEREAS, Joseph T. Janochoski, Lake Elmo Troop 162, has demonstrated the leadership skills to be an Order of the Arrow representative; and

WHEREAS, Joseph T. Janochoski has achieved, and will be awarded, the rank of Eagle Scout on Thursday, August 25, 2011, at the Boy Scout Troop 162 Court of Honor.

NOW, THEREFORE, BE IT RESOLVED,

That the Lake Elmo City Council, on behalf of the Citizens of Lake Elmo, do hereby recognize the years dedicated with Lake Elmo Boy Scouts Troop 162; and

FURTHER, express the City of Lake Elmo's gratitude and appreciation for the construction of tables and benches for the River Valley Riders Association which assists disabled children and adults.

ADOPTED, by the Lake Elmo City Council on August 23, 2011.

Dean A. Johnston, Mayor

ATTEST:

Sharon Lumby, City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: 08/23/2011
CONSENT
ITEM #: 2
MOTION as part of *Consent Agenda*

AGENDA ITEM: Approve Disbursements in the Amount of \$ 506,779.38

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: City Staff

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$506,779.38 No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 7,404.34	Payroll Taxes to IRS 08/11/2011
ACH	\$ 1,244.25	Payroll Taxes to MN Dept. of Revenue 08/11/2011
ACH	\$ 3,751.40	Payroll Retirement to PERA 08/11/2011
DD3462 – DD3499	\$ 25,069.36	Payroll Dated 08/11/2011 (Direct Deposit)
37401 – 37405	\$ 16,863.07	Payroll Dated 08/11/2011 (Payroll)
37406 – 374443	\$ 452,446.96	Accounts Payable Dated 08/23/2011
TOTAL	\$ 506,779.38	

STAFF REPORT: City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction

RECOMMENDATION: It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$506,779.38

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda* or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the August 23, 2011, Disbursements, as
presented *[and modified]* herein.”**

ATTACHMENTS:

1. Accounts Payable Dated 08/23/2011

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

Accounts Payable

To Be Paid Proof List

User: joan z
 Printed: 08/18/2011 - 11:41 AM
 Batch: 002-08-2011

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ARAM Aramark, Inc.										
629-7279129	08/07/2011	30.16	0.00	08/23/2011	Uniforms		-		No	0000
101-430-3100-44170	Uniforms									
	629-7279129 Total:	30.16								
629-7299835	08/08/2011	83.60	0.00	08/23/2011	Monthly Rug Service - Station #2		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7299835 Total:	83.60								
629-7299836	08/08/2011	82.86	0.00	08/23/2011	Monthly Rug Service - Station #1		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7299836 Total:	82.86								
629-7304581	08/15/2011	115.38	0.00	08/23/2011	Linen City Hall		-		No	0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7304581 Total:	115.38								
629-7304582	08/15/2011	57.64	0.00	08/23/2011	Linen City Hall Annex		-		No	0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7304582 Total:	57.64								
	ARAM Total:	369.64								
ASPENMI Aspen Mills, Inc.										
111297	08/11/2011	1,862.15	0.00	08/23/2011	Uniform Coats		-		No	0000
101-420-2220-44170	Uniforms									
	111297 Total:	1,862.15								
111298	08/11/2011	532.61	0.00	08/23/2011	Name Tags		-		No	0000
101-420-2220-44170	Uniforms									
	111298 Total:	532.61								
	ASPENMI Total:	2,394.76								
CARQUEST Car Quest Auto Parts										
2055-231166	08/08/2011	95.22	0.00	08/23/2011	Battery and tire repair 03-2 Cushman		-		No	0000
101-450-5200-42210	Equipment Parts									
	2055-231166 Total:	95.22								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO.
CARQUEST Total:		95.22								
<hr/>										
CATCO Catco										
1-06388	07/13/2011	6.53	0.00	08/23/2011	Replacement Light		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	1-06388 Total:	6.53								
	CATCO Total:	6.53								
<hr/>										
CENTPOW Century Power Equipment										
533929	08/08/2011	37.35	0.00	08/23/2011	Stihl Trimmer Head		-		No	0000
101-450-5200-42210	Equipment Parts									
	533929 Total:	37.35								
	CENTPOW Total:	37.35								
<hr/>										
COMCAST COMCAST										
07/27/2011	07/27/2011	7.90	0.00	08/23/2011	Monthly Service		-		No	0000
101-420-2220-44300	Miscellaneous									
	07/27/2011 Total:	7.90								
	COMCAST Total:	7.90								
<hr/>										
CTYBAY City of Bayport										
POL - 8/11	08/09/2011	137.57	0.00	08/23/2011	Animal Humane Society - Sheltering		-		No	0000
101-420-2700-43160	Impounding									
	POL - 8/11 Total:	137.57								
	CTYBAY Total:	137.57								
<hr/>										
CTYOAKDA City of Oakdale										
10000460-01	08/31/2011	12,217.31	0.00	08/23/2011	Water Service - I94		-		No	0000
601-494-9400-43820	Water Utility									
	10000460-01 Total:	12,217.31								
	CTYOAKDA Total:	12,217.31								
<hr/>										
CTYROSEV City of Roseville										
0214976	08/02/2011	1,551.58	0.00	08/23/2011	Monthly IT Services August 2011		-		No	0000
101-410-1450-43180	Information Technology/Web									
	0214976 Total:	1,551.58								
	CTYROSEV Total:	1,551.58								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ECKBERG Eckberg Lamers Briggs Wolff										
113466	07/31/2011	7,312.67	0.00	08/23/2011	Legal Services - Civil		-		No	0000
101-410-1320-43040	Legal Services									
	113466 Total:	7,312.67								
	ECKBERG Total:	7,312.67								
EMERGAPP Emergency Apparatus Maint. INC										
56954	08/03/2011	676.17	0.00	08/23/2011	E1-Foam System and Rear Discharge		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	56954 Total:	676.17								
	EMERGAPP Total:	676.17								
ENVENTIS ENVENTIS										
737500	08/01/2011	455.75	0.00	08/23/2011	Telephone - Public Works August 2011		-		No	0000
101-430-3100-43210	Telephone									
	737500 Total:	455.75								
738507	08/01/2011	568.94	0.00	08/23/2011	Telephone - city Hall August 2011		-		No	0000
101-410-1940-43210	Telephone									
	738507 Total:	568.94								
	ENVENTIS Total:	1,024.69								
GENSAF General Safety Equipment LLC										
4112	08/10/2011	1,358.94	0.00	08/23/2011	Equipment Mounts		-		No	0000
101-420-2220-42400	Small Tools & Equipment									
	4112 Total:	1,358.94								
	GENSAF Total:	1,358.94								
HARDDRIV Harddrives, Inc.										
Pay Cert #2	08/05/2011	159,786.42	0.00	08/23/2011	2011 Street & Water Improvements		-		No	0000
418-480-8000-45300	Improvements Other Than Bldgs									
	Pay Cert #2 Total:	159,786.42								
	HARDDRIV Total:	159,786.42								
Hewlett Hewlett Packard										
49909280	08/11/2011	203.54	0.00	08/23/2011	LCD Monitor - Building Dept		-		No	0000
101-420-2400-44330	Dues & Subscriptions									
	49909280 Total:	203.54								
	Hewlett Total:	203.54								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POL
JOHNDEER John Deere										
58857276	08/08/2011	176.76	0.00	08/23/2011	Field Marketing Materials		-		No	0000
101-450-5200-42250	Landscaping Materials									
	58857276 Total:	176.76								
	JOHNDEER Total:	176.76								
LEOIL Lake Elmo Oil, Inc.										
07/31/2011	07/31/2011	39.50	0.00	08/23/2011	Fuel		-		No	0000
101-420-2220-42120	Fuel, Oil and Fluids									
	07/31/2011 Total:	39.50								
	LEOIL Total:	39.50								
Lillie Newspapers Inc. Lillie Suburban										
07/31/2011	07/31/2011	117.82	0.00	08/23/2011	Variance Publications		-		No	0000
101-410-1320-43510	Legal Publishing									
	07/31/2011 Total:	117.82								
	Lillie Total:	117.82								
MCALLIST McAllister Pat										
Fall Fest	08/16/2011	375.00	0.00	08/23/2011	Entertainment - Fall Festival		-		No	0000
204-450-5200-43150	Contract Services									
	Fall Fest Total:	375.00								
	MCALLIST Total:	375.00								
MTI MTI Distributing Inc.										
805853-00	08/08/2011	29.44	0.00	08/23/2011	Seal Kit		-		No	0000
101-450-5200-42210	Equipment Parts									
	805853-00 Total:	29.44								
	MTI Total:	29.44								
OVERHEAD Overhead Door Company										
70518	08/04/2011	294.30	0.00	08/23/2011	Garage Door Repair		-		No	0000
101-430-3100-44010	Repairs/Maint Bldg									
	70518 Total:	294.30								
	OVERHEAD Total:	294.30								
PRESSA Anastasia Press										
08/08/2011	08/08/2011	55.00	0.00	08/23/2011	Cabled Live Meeting - PZ 8/8/11		-		No	0000
101-410-1450-43620	Cable Operations									
	08/08/2011 Total:	55.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
08/09/2011	08/09/2011	27.50	0.00	08/23/2011	Cabled Live Meeting - Wkshp 8/9/11		-			No 0000
101-410-1450-43620	Cable Operations									
08/09/2011	08/09/2011	55.00	0.00	08/23/2011	Cabled Live Meeting - CC Mtg 8/9/11		-			No 0000
101-410-1450-43620	Cable Operations									
	08/09/2011 Total:	82.50								
	PRESSA Total:	137.50								
<hr/>										
RICHTMAN Richtman Karen										
08/09/2011	08/09/2011	2,500.00	0.00	08/23/2011	1st Half Recycling Contract 1/11-6/11		-			No 0000
101-430-3200-44300	Miscellaneous									
	08/09/2011 Total:	2,500.00								
	RICHTMAN Total:	2,500.00								
<hr/>										
RIVRCOOP River Country Cooperative										
07/31/2011	07/31/2011	1,205.03	0.00	08/23/2011	Fuel		-			No 0000
101-420-2220-42120	Fuel, Oil and Fluids									
	07/31/2011 Total:	1,205.03								
11111479181	08/17/2011	10.70	0.00	08/23/2011	Propane		-			No 0000
101-410-1940-44300	Miscellaneous									
	11111479181 Total:	10.70								
	RIVRCOOP Total:	1,215.73								
<hr/>										
ROGERS Rogers Printing Services, Corp										
18031	08/03/2011	118.36	0.00	08/23/2011	Envelopes - Reimburse		-			No 0000
204-450-5200-42000	Office Supplies									
	18031 Total:	118.36								
18033	08/03/2011	145.88	0.00	08/23/2011	Permit Application Form		-			No 0000
101-420-2400-42030	Printed Forms									
	18033 Total:	145.88								
	ROGERS Total:	264.24								
<hr/>										
S&T S&T Office Products, Inc.										
01054993	08/05/2011	261.37	0.00	08/23/2011	Office Supplies		-			No 0000
101-410-1320-42000	Office Supplies									
	01054993 Total:	261.37								
	S&T Total:	261.37								
<hr/>										
SAMSClub Sam's Club										
5508	08/17/2011	114.43	0.00	08/23/2011	Rehab Supplies, Station Supplies		-			No 0000
101-420-2220-44300	Miscellaneous									
	5508 Total:	114.43								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO#
SAMSCLUB Total:		114.43								
<hr/>										
STEINMAN Steinman Tom										
08/17/2011	08/17/2011	435.32	0.00	08/23/2011	Work comp Reimbursement		-		No	0000
101-000-0000-21706	Medical Insurance									
	08/17/2011 Total:	435.32								
	STEINMAN Total:	435.32								
<hr/>										
STILLMED Stillwater Medical Group										
1340	08/10/2011	1,747.16	0.00	08/23/2011	Annual Physicals		-		No	0000
101-420-2220-43050	Physicals									
	1340 Total:	1,747.16								
	STILLMED Total:	1,747.16								
<hr/>										
TASCH T.A. Schifsky & Sons Inc										
51773	08/01/2011	509.59	0.00	08/23/2011	Asphalt		-		No	0000
101-430-3120-42240	Street Maintenance Materials									
	51773 Total:	509.59								
51825	08/09/2011	119.50	0.00	08/23/2011	Asphalt		-		No	0000
101-430-3120-42240	Street Maintenance Materials									
	51825 Total:	119.50								
	TASCH Total:	629.09								
<hr/>										
TDS TDS METROCOM - LLC										
651-779-8882	08/13/2011	158.09	0.00	08/23/2011	Analog Lines - Fire		-		No	0000
101-420-2220-43210	Telephone									
651-779-8882	08/13/2011	155.39	0.00	08/23/2011	Analog Lines - Public Works		-		No	0000
101-430-3100-43210	Telephone									
651-779-8882	08/13/2011	104.61	0.00	08/23/2011	Analog Lines - Lift Station Alarms		-		No	0000
602-495-9450-43210	Telephone									
651-779-8882	08/13/2011	42.19	0.00	08/23/2011	Alarms - Well House #2		-		No	0000
601-494-9400-43210	Telephone									
	651-779-8882 Total:	460.28								
	TDS Total:	460.28								
<hr/>										
TKDA TKDA, Inc.										
002011002090	08/09/2011	1,383.67	0.00	08/23/2011	Development - Whistling Valley III		-		No	0000
203-490-9070-43030	Engineering Services									
	002011002090 Total:	1,383.67								
002011002091	08/09/2011	198.76	0.00	08/23/2011	Development - Sanctuary		-		No	0000
203-490-9070-43030	Engineering Services									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
002011002091	Total:	198.76								
002011002092	08/09/2011	267.67	0.00	08/23/2011	1-94 to 30th Street - Village Sanitary		-		No	0000
413-480-8000-43030	Engineering Services									
002011002092	Total:	267.67								
002011002093	08/09/2011	491.97	0.00	08/23/2011	Lake Elmo 2010 Street & Water Quality		-		No	0000
417-480-8000-43030	Engineering Services									
002011002093	Total:	491.97								
002011002094	08/09/2011	148.20	0.00	08/23/2011	Lake Elmo Water System Strategies/Fin.		-		No	0000
601-494-9400-43030	Engineering Services									
002011002094	Total:	148.20								
002011002095	08/09/2011	13,382.30	0.00	08/23/2011	2011 Street Improvement/Water Quality		-		No	0000
418-480-8000-43030	Engineering Services									
002011002095	Total:	13,382.30								
002011002096	08/09/2011	73.02	0.00	08/23/2011	General Engineering		-		No	0000
101-430-3100-43030	Engineering Services									
002011002096	08/09/2011	3,200.15	0.00	08/23/2011	General Engineering		-		No	0000
101-410-1930-43030	Engineering Services									
002011002096	08/09/2011	268.64	0.00	08/23/2011	General Engineering		-		No	0000
101-410-1910-43030	Engineering Services									
002011002096	Total:	3,541.81								
002011002097	08/09/2011	861.60	0.00	08/23/2011	General Engineering-VRA		-		No	0000
101-420-2400-43030	Engineering									
002011002097	08/09/2011	3,168.93	0.00	08/23/2011	General Engineering-VRA		-		No	0000
101-410-1910-43030	Engineering Services									
002011002097	08/09/2011	357.56	0.00	08/23/2011	General Engineering-VRA		-		No	0000
101-410-1930-43030	Engineering Services									
002011002097	08/09/2011	121.67	0.00	08/23/2011	General Engineering-VRA		-		No	0000
409-480-8000-43030	Engineering Services									
002011002097	08/09/2011	283.20	0.00	08/23/2011	General Engineering-VRA		-		No	0000
601-494-9400-43030	Engineering Services									
002011002097	08/09/2011	939.18	0.00	08/23/2011	General Engineering-VRA		-		No	0000
603-496-9500-43030	Engineering Services									
002011002097	Total:	5,732.14								
002011002098	08/09/2011	346.85	0.00	08/23/2011	2011 Seal Coat Project		-		No	0000
409-480-8000-43030	Engineering Services									
002011002098	Total:	346.85								
002011002099	08/09/2011	513.80	0.00	08/23/2011	Lake Elmo Crt Drainage Correction		-		No	0000
409-480-8000-43030	Engineering Services									
002011002099	08/09/2011	2,675.21	0.00	08/23/2011	Lake Elmo District Sidewalk Maint.		-		No	0000
409-480-8000-43030	Engineering Services									
002011002099	Total:	3,189.01								
TKDA	Total:	28,682.38								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO#
UNITEDPR NorthMarq										
8172011	08/17/2011	191.00	0.00	08/23/2011	Semi Annual Easement Hudson Blvd		-			No 0000
101-410-1320-44300	Miscellaneous									
	8172011 Total:	191.00								
	UNITEDPR Total:	191.00								
VISA-SL VISA										
08/01/2011	08/01/2011	227.70	0.00	08/23/2011	Animal Control Equipment		-			No 0000
101-420-2700-44300	Miscellaneous									
08/01/2011	08/01/2011	88.95	0.00	08/23/2011	Animal Control Equipment		-			No 0000
101-420-2700-44300	Miscellaneous									
08/01/2011	08/01/2011	106.06	0.00	08/23/2011	Animal Control Equipment		-			No 0000
101-420-2700-44300	Miscellaneous									
	08/01/2011 Total:	422.71								
	VISA-SL Total:	422.71								
VISALE40 VISA										
8040	07/31/2011	25.00	0.00	08/23/2011	Sensible Land Use Coalition Meeting		-			No 0000
101-410-1910-44370	Conferences & Training									
	8040 Total:	25.00								
	VISALE40 Total:	25.00								
WAS-SHER Washington County										
70108	08/04/2011	224,197.13	0.00	08/23/2011	Law Enforcement Svs - 01/11-06/11		-			No 0000
101-420-2100-43150	Law Enforcement Contract									
	70108 Total:	224,197.13								
	WAS-SHER Total:	224,197.13								
WASHTAX Washington County										
1833	06/30/2011	92.00	0.00	08/23/2011	Document Copies for Rain Gardens		-			No 0000
603-496-9500-44300	Miscellaneous Expenses									
	1833 Total:	92.00								
	WASHTAX Total:	92.00								
XCEL Xcel Energy										
51-4504807-7	08/04/2011	154.22	0.00	08/23/2011	Lights at Legion Park		-			No 0000
101-450-5200-43810	Electric Utility									
51-4504807-7	08/04/2011	87.08	0.00	08/23/2011	Lift Station		-			No 0000
602-495-9450-43810	Electric Utility									
51-4504807-7	08/04/2011	34.03	0.00	08/23/2011	Traffic Lights		-			No 0000
101-430-3160-43810	Street Lighting									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
	51-4504807-7 Total:	275.33								
51-5356323-8	08/04/2011	2,583.18	0.00	08/23/2011	Wells 1 & 2					
601-494-9400-43810	Electric Utility									
	51-5356323-8 Total:	2,583.18								
	XCEL Total:	2,858.51								
	Report Total:	452,446.96								



DATE: 08/23/2011
CONSENT
 ITEM #: 2 - Addendum
MOTION *as part of Consent Agenda*

AGENDA ITEM: Approve Disbursements in the Amount of \$ 250.00

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: City Staff

SUMMARY AND ACTION REQUESTED: As part of its *Consent Agenda*, the City Council is asked to approve disbursements in the amount of \$250.00 No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
37445	\$ 250.00	Mid-Day Entertainment Fall Festival
TOTAL	\$ 250.00	

STAFF REPORT: City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction

RECOMMENDATION: It is recommended that the City Council approve as part of the *Consent Agenda* proposed disbursements in the amount of \$250.00

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda* or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the August 23, 2011, Disbursements, as
presented [*and modified*] herein.”**

ATTACHMENTS:

1. Accounts Payable Dated 08/23/2011

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor Facilitates
- Action on Motion Mayor & City Council

Accounts Payable

To Be Paid Proof List

User: Administrator

Printed: 08/19/2011 - 11:15 AM

Batch: 004-08-2011

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine
hit HitPatrol										
Chk Req FF	08/19/2011	250.00	0.00	08/23/2011	Mid-Day Entertainment - Fall Festival		-			No 000
204-450-5200-43150	Contract Services									
	Chk Req FF Total:	250.00								
	hit Total:	250.00								
	Report Total:	250.00								



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/2011

CONSENT

ITEM #: 3

MOTION as part of Consent Agenda

AGENDA ITEM: 2011 Street and Water Quality Improvements – Partial Payment No. 2

SUBMITTED BY: Ryan Stempiski, Assistant City Engineer

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Jack Griffin, City Engineer
Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to approve partial payment to Hardrives, Inc., the Contractor for the 2011 Street and Water Quality Improvements project. The Contractor submitted Partial Payment Certificate No. 2 in the amount of \$159,786.42. This request has been reviewed and payment is recommended in the amount requested. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

ADDITIONAL INFORMATION: 5% of the total work completed has been retained in the amount of \$16,794.99 in accordance with the Contract documents.

RECOMMENDATION: Based upon the above information, it is recommended that the City Council approve as part of tonight's *Consent Agenda* Partial Payment No. 2 in the amount of \$159,786.42.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss, deliberate and/or, if appropriate, amend the recommended motion prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

**“Move to authorize Partial Payment No. 2 in the amount of \$159,786.42
to be paid from the Project Fund
for the 2011 Street and Water Quality Improvements project. [and amended
and/or modified at tonight's meeting].”**

ATTACHMENTS: (1)

1. Payment Certificate No. 2 for the 2011 Street and Water Quality Improvements project

SUGGESTED ORDER OF BUSINESS *(if removed from the Consent Agenda):*

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

TKDA

ENGINEERING • ARCHITECTURE • PLANNING

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

Owner

444 Cedar Street, Suite 1500
Saint Paul, MN 55101

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

Proj. No. 14732.001 Cert. No. 2 St. Paul, MN, August 5, 2011

To City of Lake Elmo, Minnesota Owner

This Certifies that Hardrives, Inc. Contractor

For 2011 Street and Water Quality Improvements

Is entitled to One Hundred Fifty Nine Thousand Seven Hundred Eighty Six Dollars and 42/100 (\$159,786.42)

being 2nd estimate for partial payment on contract with you dated April 19, 2011

Received payment in full of above Certificate.

[Signature]
Hardrives, Inc.
August 10, 2011

TKDA
[Signature]
Larry D. Bohrer, P.E.

RECAPITULATION OF ACCOUNT

	CONTRACT PLUS EXTRAS	PAYMENTS	CREDITS
Contract price plus extras	\$ 469,524.99		
All previous payments		\$ 159,318.82	
All previous credits			
Extra No.			
" "			
" "			
" "			
" "			
Credit No.			\$ -
" "			
" "			
" "			
" "			
AMOUNT OF THIS CERTIFICATE		\$ 159,786.42	
Totals	\$ 469,524.99	\$ 319,105.24	\$ -
Credit Balance		\$ -	
There will remain unpaid on contract after payment of this Certificate		\$ 150,419.75	
	\$ 469,524.99	\$ 469,524.99	\$ -

TKDA
Engineers-Architects-Planners Saint Paul, Minnesota 55101

PERIODICAL ESTIMATE FOR PARTIAL PAYMENTS

Estimate No. 2 Period Ending July 31, 20 11 Page 1 of 1 Proj. No. 14732.001
Contractor Hardrives, Inc. Original Contract Amount \$469,524.99
Project 2011 Street and Water Quality Improvements
Location City of Lake Elmo, Minnesota

Total Contract Work Completed	\$	<u>335,899.73</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>335,899.73</u>

Less Approved Credits	\$	<u>0.00</u>
Less <u>5</u> % Retained	\$	<u>16,794.99</u>
Less Previous Payments	\$	<u>159,318.32</u>
Total Deductions	\$	<u>176,113.31</u>
Amount Due This Estimate	\$	<u>159,786.42</u>

Contractor Anthony P. Kieger
Hardrives, Inc.

Date 8/10/11

Engineer Larry D. Bohrer
Larry D. Bohrer, P.E.

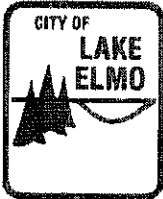
Date 8-8-11

ESTIMATE NO. 2

Date: July 31, 2011

2011 STREET AND WATER QUALITY IMPROVEMENTS
COLUMBUS, MINNESOTA LAKE ELMO
TKDA PROJECT NO. 14732.001

ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE	CONTRACT QUANTITY	QUANTITY TO DATE	CONTRACT AMOUNT	AMOUNT TO DATE
TARTAN MEADOWS NEIGHBORHOOD							
1	MOBILIZATION	LS	4,632.25	1	0.75	\$ 4,632.25	\$ 3,474.19
2	TRAFFIC CONTROL	LS	968.23	1	0.75	\$ 968.23	\$ 726.17
3	SILT FENCE	LF	2.69	285	0	\$ 766.65	\$ -
4	INLET PROTECTION	EA	96.82	14	0	\$ 1,355.48	\$ -
5	SAWCUT PAVEMENT (ALL TYPES)	LF	2.15	1,012	671	\$ 2,175.80	\$ 1,442.65
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAYS)	SY	4.30	155	288	\$ 668.50	\$ 1,242.70
7	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (FLUME)	EA	80.69	2	0	\$ 161.38	\$ -
8	REMOVE & DISPOSE OF EXIST. CONCRETE PAVEMENT (DRIVEWAYS)	SY	5.38	101	4	\$ 543.38	\$ 21.52
9	SUBGRADE CORRECTION	SY	2.00	966	966	\$ 1,932.00	\$ 1,932.00
10	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	0.80	18,294	18,294	\$ 15,435.20	\$ 15,435.20
11	HAUL OUT EXCESS MILLINGS (LV)	CY	8.00	1,084	978	\$ 6,504.00	\$ 5,888.00
12	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	220.03	49	49	\$ 10,781.47	\$ 10,781.47
13	2360 TYPE LV3 BITUMINOUS NON-WEARING COURSE	TN	48.85	1,797	1894	\$ 87,963.15	\$ 92,711.30
14	2360 TYPE LV4 BITUMINOUS WEARING COURSE	TN	51.06	1,537	0	\$ 78,479.22	\$ -
15	BITUMINOUS MATERIAL FOR TACK COAT	GAL	2.14	860	0	\$ 1,840.40	\$ -
16	2360 TYPE LV4 BITUMINOUS WEAR COURSE, DRIVES	SY	16.98	214	0	\$ 3,419.72	\$ -
17	SAW & SEAL STREET (40' INTERVALS)	LF	2.08	3,480	0	\$ 7,273.20	\$ -
18	ADJUST CATCH BASIN & INSTALL CONCRETE WINGS	EA	511.27	13	14	\$ 6,646.51	\$ 7,157.78
19	REPAIR CASTING AND ADJUST CATCH BASIN & INSTALL CONCRETE WINGS	EA	809.61	1	0	\$ 809.61	\$ -
20	ADJUST MANHOLE	EA	458.24	1	0	\$ 458.24	\$ -
21	6" CONCRETE DRIVE	SY	45.26	134	0	\$ 6,196.84	\$ -
22	CONCRETE CURB CUT FOR RAIN GARDEN	EA	263.68	12	10	\$ 3,162.96	\$ 2,636.80
23	CLASS 3 RIP RAP W/GEOTEXTILE FABRIC	CY	102.21	4	0	\$ 408.84	\$ -
24	DITCH GRADING	LF	2.37	210	0	\$ 497.70	\$ -
25	IMPORT AND PLACE TOPSOIL	CY	14.52	481	382	\$ 6,984.12	\$ 5,546.64
26	SEEDING, FERTILIZER AND WOOD FIBER BLANKET	SY	2.15	145	0	\$ 311.75	\$ -
27	SODDING	SY	2.70	4,354	0	\$ 11,755.80	\$ -
SUBTOTAL TARTAN MEADOWS NEIGHBORHOOD						\$ 262,132.40	\$ 148,976.42
DAVID NELSON ESTATES NEIGHBORHOOD							
1	MOBILIZATION	LS	1,639.88	1	0.75	\$ 1,639.88	\$ 1,229.91
2	TRAFFIC CONTROL	LS	288.95	1	0.75	\$ 288.95	\$ 201.71
3	SILT FENCE	LF	2.69	100	0	\$ 269.00	\$ -
4	INLET PROTECTION	EA	96.83	2	0	\$ 193.66	\$ -
5	SAWCUT PAVEMENT (ALL TYPES)	LF	2.15	163	89	\$ 350.46	\$ 191.35
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAYS)	SY	4.30	17	28	\$ 73.10	\$ 120.40
7	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (FLUME)	EA	80.69	1	0	\$ 80.69	\$ -
8	REMOVE & DISPOSE OF EXIST. CONCRETE PAVEMENT (DRIVEWAYS)	SY	5.34	13	0	\$ 69.42	\$ -
9	SUBGRADE CORRECTION	SY	2.00	138	0	\$ 276.00	\$ -
10	RECLAIM EX. BIT. AND BASE MATERIALS, 8-INCH DEPTH	SY	0.80	2,750	2,750	\$ 2,200.00	\$ 2,200.00
11	HAUL OUT EXCESS MILLINGS (LV)	CY	1.00	101	0	\$ 101.00	\$ -
12	SUBGRADE PREPARATION OF RECLAIMED SURFACE	RS	378.11	6	6	\$ 2,268.66	\$ 2,268.66
13	2360 TYPE LV3 BITUMINOUS NON-WEARING COURSE	TN	50.76	246	272.2	\$ 12,486.96	\$ 13,816.67
14	2360 TYPE LV4 BITUMINOUS WEARING COURSE	TN	53.69	207	0	\$ 11,113.63	\$ -
15	BITUMINOUS MATERIAL FOR TACK COAT	GAL	2.14	116	0	\$ 248.24	\$ -
16	2360 TYPE LV4 BITUMINOUS WEAR COURSE, DRIVES	SY	16.05	32	0	\$ 513.60	\$ -
17	SAW & SEAL STREET (40' INTERVALS)	LF	2.08	360	0	\$ 752.40	\$ -
18	ADJUST CATCH BASIN & INSTALL CONCRETE WINGS	EA	560.43	1	2	\$ 560.43	\$ 1,120.86
19	REPAIR CASTING AND ADJUST CATCH BASIN & INSTALL CONCRETE WINGS	EA	841.89	1	0	\$ 841.89	\$ -
20	6" CONCRETE DRIVE	SY	53.79	22	0	\$ 1,183.38	\$ -
21	CONCRETE CURB CUT FOR RAIN GARDEN	EA	295.86	2	2	\$ 591.72	\$ 591.72
22	DITCH GRADING	LF	10.76	5	0	\$ 53.80	\$ -
23	IMPORT AND PLACE TOPSOIL	CY	34.88	62	30	\$ 2,150.16	\$ 1,040.40
24	SEEDING, FERTILIZER AND WOOD FIBER BLANKET	SY	10.76	25	0	\$ 269.00	\$ -
25	SODDING	SY	2.70	531	0	\$ 1,433.70	\$ -
SUBTOTAL DAVID NELSON ESTATES NEIGHBORHOOD						\$ 39,989.92	\$ 22,781.88
60TH STREET AND KIMBRO AVENUE							
1	MOBILIZATION	LS	3,075.56	1	1	\$ 3,075.56	\$ 3,075.56
2	TRAFFIC CONTROL	LS	699.30	1	1	\$ 699.30	\$ 699.30
3	SILT FENCE	LF	2.69	100	0	\$ 269.00	\$ -
4	CLEAR AND GRUB TREE	EA	236.69	20	20	\$ 4,733.80	\$ 4,733.80
5	SAWCUT PAVEMENT (ALL TYPES)	LF	2.15	100	155	\$ 215.00	\$ 333.25
6	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT	SY	1.29	1,067	1,067	\$ 1,376.43	\$ 1,376.43
7	REMOVE & DISPOSE OF EXIST. BITUMINOUS PAVEMENT (DRIVEWAYS)	SY	4.30	8	33	\$ 34.40	\$ 141.90
8	COMMON EXCAVATION (CV) (P)	CY	7.42	289	289	\$ 2,144.38	\$ 2,144.38
9	SUBGRADE CORRECTION	SY	4.63	1,050	1,050	\$ 4,861.50	\$ 4,861.50
10	SUBGRADE PREPARATION OF GRAVEL SURFACE	RS	180.00	38	38	\$ 6,840.00	\$ 6,840.00
11	PLACE & COMPACT RECLAIM MATERIAL (FROM OTHER SITES) (LV)	CY	1.00	1,239	978	\$ 1,239.00	\$ 978.00
12	2360 TYPE LV3 BITUMINOUS NON-WEARING COURSE	TN	49.88	1,201	1,206.78	\$ 59,905.88	\$ 60,293.95
13	2360 TYPE LV4 BITUMINOUS WEARING COURSE	TN	50.74	1,201	1,209	\$ 60,936.74	\$ 61,344.66
14	BITUMINOUS MATERIAL FOR TACK COAT	GAL	2.14	504	260	\$ 1,078.56	\$ 535.00
15	2360 TYPE LV4 BITUMINOUS WEAR COURSE, DRIVES	SY	16.60	358	109	\$ 5,553.60	\$ 1,700.40
16	GUARDRAIL, MN/DOT TYPE 8307 OR 8388	LF	35.50	210	212	\$ 7,455.00	\$ 7,525.00
17	CLASS 5 AGGREGATE SHOULDERING - 100% CRUSHED LIMESTONE	TN	17.43	204	204	\$ 3,555.72	\$ 3,555.72
18	DITCH GRADING	LF	10.76	20	20	\$ 215.20	\$ 215.20
19	SEEDING, FERTILIZER AND WOOD FIBER BLANKET	SY	2.15	420	764	\$ 903.00	\$ 1,642.60
20	STRIPING - 4" YELLOW STRIPING	LF	0.22	2,320	2,375	\$ 510.40	\$ 522.50
21	STRIPING - 4" WHITE STRIPING	LF	0.22	7,440	7,574	\$ 1,636.80	\$ 1,622.28
22	INSTALL SIGN PANEL	SF	32.26	5	0	\$ 161.40	\$ -
SUBTOTAL 60TH STREET AND KIMBRO AVENUE						\$ 167,402.67	\$ 184,142.43
TOTAL ESTIMATE NO. 2						\$ 469,524.99	\$ 335,899.73



MAYOR & COUNCIL COMMUNICATION

DATE: 08/23/2011
CONSENT
ITEM #: 4
MOTION *as part of Consent Agenda*

AGENDA ITEM: 4th Annual Fall Festival Proclamation & Budget Transfer

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve Resolution 2011-032 proclaiming Saturday September 10, 2011 as the 4th Annual Fall Festival and authorize the transfer of \$5,000 from the General Fund Misc. Revenue account to the Fall Festival transfers in revenue account.

BACKGROUND INFORMATION: The City began celebrating the Fall Festival day on September 5th 2008. This event was intended to bring families, friends and neighbor together to celebrate "Community" spirit as well as an expression of appreciation to City volunteer.

At the January 18th City Council meeting the Lake Elmo Jaycees presented a check to the City in the total amount of \$8500 from its charitable gambling proceeds. For the past few years part of these funds were used to recognize the efforts of City volunteers and to cover some of the Fall Festival activities.

STAFF REPORT: The 4th Annual Fall Festival and activities is patterned after the previous Fall Festivals including a parade, face painting, inflatable jumpers, fire fighter water ball competition, pig roast and a live band. City volunteers will be acknowledged publicly and be presented with a \$25.00 gift certificate.

The Lake Elmo Rotary Club has agreed to partner with the City and will assume many responsibilities in operation of the activities. The City anticipates Rotary would continue to play a greater role with the Festival in future years.

RECOMMENDATION: It is recommended that the City Council approves Resolution 2011-032 proclaiming Saturday September 10, 2011 as the 4th Annual Lake Elmo Fall Festival and authorize a transfer of \$5,000 from the General Fund Misc. account to the Fall Festival Transfers in account.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

“Move to approve Resolution 2011-032 proclaiming Saturday September 10, 2011 as the Fourth Annual Fall Festival Day and authorize the transfer of \$5000 from the General Fund Misc. revenue account to the Fall Festival Transfers in account.

Presented [and modified] herein.”

ATTACHMENTS:

1. Resolution 2011 - 032

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation Finance Director
- Questions from Council to Staff Mayor Facilitates
- Public Hearing Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

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

RESOLUTION NO. 2011-032

**A RESOLUTION PROCLAIMING
THE 4th ANNUAL LAKE ELMO FALL FESTIVAL**

WHEREAS, the City and the Lake Elmo Rotary has many volunteers who serve countless hours to make the City of Lake Elmo a better place to live and work,

WHEREAS, the City and the Lake Elmo Rotary acknowledges their commitment and dedication,

WHEREAS, the City and the Lake Elmo Rotary wishes to express appreciation for their efforts,

WHEREAS, the City and the Lake Elmo Rotary also celebrates "Community" by bringing families, friends and neighbors together to enjoy many festivities,

NOW, THEREFORE, I, Dean A. Johnston, Mayor of Lake Elmo, do hereby proclaim Saturday, September 10th, 2011 as the 4th Annual Lake Elmo Fall Festival.

Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator



BUDGET ADJUSTMENT - 2011

DATE: 8/17/2011

ACTIVITY # 2011-005

DESCRIPTION: To Transfer \$5000.00 From the General Fund to Fall Festival Fund

TYPE OF ACTIVITY:

☒ **TRANSFER OF FUNDS**

FROM ACCOUNT # 101-000-0000-36200 AMOUNT: \$5000.00

TO ACCOUNT # 204-000-0000-39200 AMOUNT: \$5000.00

PURPOSE: To Transfer \$5000.00 From the General Fund to Fall Festival Fund

☒ **BUDGET ADJUSTMENT/DESIGNATION**

FROM ACCOUNT # _____ AMOUNT: _____

PURPOSE: _____

DESIGNATION/NEW ACCOUNT # _____

☐ **OTHER**

FROM ACCOUNT # _____ AMOUNT: _____

PURPOSE: _____

City
Approval:

Honorable Dean Johnston, Mayor
(on Behalf of City Council)

Bruce Messelt, Administrator
(Attest)



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/2011

CONSENT

ITEM #: 5

MOTION

AGENDA ITEM: Advertisement for Library Board Members

SUBMITTED BY: Sharon Lumby, City Clerk

REVIEWED BY: Bruce A. Messelt, City Administrator *BAM*

SUMMARY AND ACTION REQUESTED: Pursuant to City Council direction, the City Council is respectfully requested to authorize advertisement for the filling of positions on the Library Board. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION & STAFF REPORT: The City Council recently authorized the creation of a municipal library. Pursuant to state statute and the enabling City resolution, a Library Board is to be established and appointed.

City staff would like to begin advertisement of the vacancies for the Library Board. Appointments to the Library Board would be scheduled for consideration at a future Council Meeting.

RECOMMENDATION: Pursuant to City Council direction, the City Council is respectfully requested to authorize advertisement for the filling of positions on the Library Board. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

ATTACHMENTS: Enabling Library Resolution

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

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

RESOLUTION NO. 2011-029

A RESOLUTION ESTABLISHING A PUBLIC LIBRARY SYSTEM, AUTHORIZING A LIBRARY LEVY, AND ESTABLISHING A PUBLIC LIBRARY BOARD FOR THE CITY OF LAKE ELMO.

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

WHEREAS, the residents of the City currently receive library services through Washington County; and

WHEREAS, the City of Lake Elmo desires to establish and operate a City Public Library Service pursuant to Minnesota Statutes § 134.07 et seq.; and

WHEREAS, it is the intention of the City of Lake Elmo to provide well managed and quality library services for the residents of Lake Elmo; and

WHEREAS, the City of Lake Elmo intends to set aside public property of the City for the benefit of the Public Library Service; and

WHEREAS, the City Council has discussed the establishment and operation of a Public Library Service.

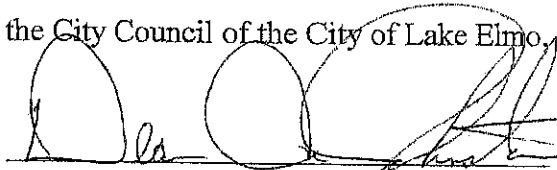
NOW, THEREFORE, IT IS HEREBY RESOLVED, the City Council of the City of Lake Elmo hereby establishes a City Public Library Service under Minnesota Statutes § 134.07 et seq., as follows:

- 1) Pursuant to Minnesota Statutes § 134.09, the City Council hereby establishes a five-person Library Board, with members to be appointed by the Mayor with the approval of the City Council from among the residents of the City.
- 2) The initial Library Board will have two residents of the City each appointed for a one-year term, two residents of the City each appointed for a two-year term, and one resident of the City appointed for a three-year term. Not more than one council member shall at any time be a member of the Library Board.

- 3) Said appointments will be effective on January 1, 2012, or a date to be determined by the City Council.
- 4) Following the initial appointment of the Library Board, all terms will be for three years, commencing on January 1 of the year the term begins, with Library Board members allowed to serve no more than three consecutive three-year terms.
- 5) The City Council will appoint an interim library director with the authority to organize and manage the Public Library System until a library director is appointed by the Library Board. The Library Board shall appoint a qualified library director and other staff, as necessary, establish the compensation of employees, and remove any of them for cause.
- 6) The City Council will levy an annual tax upon all taxable property within the City for the support of the library and will place such money in a designated Library Fund.
- 7) Pursuant to Minnesota Statutes § 134.11, the Library Board shall adopt bylaws and regulations for the library, and shall have exclusive control of the expenditure of all money collected for or placed to the credit of the Library Fund, of interest earned on all money collected for or placed to the credit of the Library Fund, of the construction of library buildings, and of the grounds, rooms, and buildings provided for library purposes.
- 8) The City shall set aside certain public property to be further specified by subsequent resolution for the benefit of the Public Library Service. With the approval of the council, the Library Board may erect a library building thereon.
- 9) The City Council may create a citizens' committee, to be comprised of residents from the City of Lake Elmo, to advise the City Council and the Library Board on issues of public concern related to the City of Lake Elmo Public Library Service.

Notwithstanding the foregoing, subsequent to date of this Resolution, the City will continue good faith discussions with Washington County for the purposes of maintaining and improving existing library services through continuation of existing Washington County Library System services or through the transfer of library services from the County to the City, subsequent affiliation, association or collaboration with Washington County, and adjustment of special levy limits therefore in accordance with Minnesota Statutes § 275.72.

Passed and duly adopted this 19th day of July 2011 by the City Council of the City of Lake Elmo, Minnesota.


Dean A. Johnston, Mayor

ATTEST:


Bruce Messelt, City Administrator



MAYOR & COUNCIL COMMUNICATION

DATE: 5/17/2011
CONSENT
ITEM #: 6
MOTION *as part of Consent Agenda*

AGENDA ITEM: Consider Approval of a New Off-Sale Intoxicating Liquor License for Village Wine and Spirits Located at 11227 Stillwater Blvd.

SUBMITTED BY: Sharon Lumby, City Clerk

THROUGH: Bruce A. Messelt, City Administrator *BAM*

SUMMARY AND ACTION REQUESTED: It is respectfully requested that the City Council approve a new off-Sale Intoxicating liquor license for Village Wine and Spirits, located at 11227 Stillwater Blvd. N. by applicant Richard Kosman, LFD, Inc. No specific action is required, as this item is included as part of tonight's the *Consent Agenda*.

BACKGROUND & STAFF REPORT: The City has received approval from the Washington County Sheriff's office and approval from the State Public Safety alcohol inspector is pending. Proof of liquor liability insurance has been provided and fees are paid. The Planning Director has approved the zoning for the proposed liquor store and advised Mr. Kosman about parking regulations.

RECOMMENDATION: As the application is in order, it is respectfully recommended that the City Council approve a new off-Sale Intoxicating liquor license for Village Wine and Spirits, as part of tonight's *Consent Agenda*.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda* and further discuss and deliberate prior to taking action. If done so, the appropriate motion to consider, following such discussion, would be:

"Move to approve a new Of-Sale Intoxicating liquor license for the Village Wine and Spirits, located at 11227 Stillwater Blvd N., to Richard Kosman, LFD, Inc., and submit application for approval by the Minnesota Public Safety Inspector."

ATTACHMENTS: None (a copy of the Application is on file for review).

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor Facilitates
- Action on Motion Mayor & City Council



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/2011
CONSENT
ITEM #: 7
MOTION *as part of Consent Agenda*

AGENDA ITEM: Consider Approval of an Addendum to the Communication System Subscriber Agreement with Washington County for City Participation in an 800 MHz Public Safety Radio Self-Insurance Program

SUBMITTED BY: Greg Malmquist, Fire Chief

THROUGH: Bruce A. Messelt, City Administrator *BAM*

REVIEWED BY: Tom Bouthilet, Finance Director
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: It is respectfully requested that the City Council approve an Addendum to the Communication System Subscriber Agreement with Washington County for City participation in a new 800 MHz Public Safety Radio self-insurance program. No specific action is required, as this item is included as part of tonight's the *Consent Agenda*.

BACKGROUND & STAFF REPORT: The City has received correspondence from the Washington County Sheriff's Office regarding a proposed new self-insurance program for repair and replacement of the 800 MHz Public Safety Radio System mobile units. The Motorola warranty for these units is starting to expire and contracting with Motorola for an extended warranty is more costly than the proposed self-insurance program.

A copy of the Washington County Sheriff's Office's analysis of option is attached. It shows the self-insurance program as the most cost effective alternative. The City has sufficient budgetary capacity for participation in this program for 2011 - \$34 dollars per month. The 2012 Budget will be adjusted to include this additional expense.

RECOMMENDATION: It is respectfully requested that the City Council approve an Addendum to the Communication System Subscriber Agreement with Washington County for City participation in a new 800 MHz Public Safety Radio self-Insurance program. No specific action is required, as this item is included as part of tonight's the *Consent Agenda*.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda* and further discuss and deliberate prior to taking action. If done so, the appropriate motion to consider, following such discussion, would be:

“Move to approve an Addendum to the Communication System Subscriber Agreement with Washington County for Participation in a New 800 MHz Public Safety Radio Self-Insurance Program [as modified at tonight’s meeting].”

ATTACHMENTS:

1. April 29th, 2011 Letter from Washington County Sheriff’s Office Regarding Radio Maintenance Options
2. August 2011 Letter from Washington County and Proposed Addendum

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor Facilitates
- Action on Motion Mayor & City Council



William M. Hutton
Sheriff

Daniel Starry
Chief Deputy

April 29, 2011

Fire Chiefs
Police Chiefs
Administrators
County Department Heads

The 800 MHz Public Safety Radio System Advisory Board met on March 11, 2011. There was discussion about the Motorola warranty on the portable and mobiles that are in use across the county. Many of these warranties will start expiring in June of 2011; see the attached spreadsheet for all agencies. The minimum cost to repair a radio through Motorola so far has been \$350.00.

As the warranties expire on all the radios on the 800 MHz system each agency has four options for the continued maintenance of their radios.

Agency Options

1. Each agency or department would take care of their own radio repair as needed at their cost without a warranty.
2. An extended warranty can be purchased through Motorola at the annual cost of \$36.48 per portable per year and \$51.24 per mobile per year. Each agency or department will be responsible for these costs and will deal directly with Motorola for warranty support. Motorola pays for shipping each way.
3. AnCom Inc has offered to enhance the Motorola warranty with an additional cost on top of the cost for option #2. For an additional \$3.00 per portable per month and \$4.00 per mobile per month, AnCom would be a first line trouble shooter for the radios. If an agency has a problem with a mobile radio, AnCom would come to their site and trouble shoot. If there was a problem with a mobile, they would remove it from the vehicle, install a spare if there was one available and then send the radio in for repair. They would then reinstall it when it the radio was repaired. If there was a minor problem with the power to the radios or an antenna connection in the vehicle, they would repair it. If there was a portable radio issue, they would pick up the radio and send it for repair and then return it.
4. Self-insure the radios as part of 800 MHz user group. The repair funds would be kept separate and be used only for the repair of a radio in the self-insured group.

Self-Insurance Program

The purpose of the program is to spread the risk of the maintenance cost among the users, thereby reducing the cost. This would be done by pooling money as a group to cover any necessary repairs. The intention of the plan is to cover all repairs, however if there is damage due to negligence or damage that is covered by a member's insurance those costs should not be the responsibility of the group.

If an agency or department decides to participate in the program, you will be invoiced monthly for the number of radios that you have on the system. The exact cost of this program per radio will be dependent on the number of agencies that are interested in participating. The anticipated fee is \$1.00 per radio per month. If all agencies on the system participated, we would raise \$16,596 in the first 12 months. The money collected for the radio repair fund shall remain in the fund and not be refunded if an agency or department decides to leave the radio repair program.

If an agency wants to join the radio repair fund, we will make an addendum to the Communications System Subscriber Agreement that the agency has with the County. This addendum will detail the Radio Repair Fund.

Program Management

I would propose that the \$1.00 per radio per month be invoiced per agency until the repair fund balance reaches \$16,000.00. Once the fund reaches \$16,000, the monthly charge would stop until the repair fund falls to \$5,000.00, at which time we would begin to invoice again until the repair fund was at \$16,000.00. We chose the \$16,000 balance due to minimum costs that would have been charged if we didn't have the current warranty in place. Below is the number of radios repaired by Motorola that came through the Washington County Sheriff's Office.

2009-29 radios at a minimum cost of \$350.00 per radio to repair, 2009 cost would have been \$10,150.00

2010-22 radios at a minimum cost of \$350.00 per radio to repair, 2010 cost would have been \$7,700.00

2011-10 as of 04/18/2011

As indicated in the attached spreadsheet, warranties on most of the radios on the system will expire in 2011. There are some radios that have been purchased individually by agencies or departments in the last couple of years that will have active extended warranties not listed on the spread sheet. Trying to track those radios and bill separately would be a challenge. I propose that if a majority of an agencies radio warranties expire in 2011, that agency would begin to pay the per month radio repair fee in June of 2011. If an agencies radio warranties expire in 2012, that agency would start to pay the per month radio repair fee in January of 2012. After January 2012, any agency or department that decides to participate in the program will pay the per month radio repair fee no matter when the warranty expires on the radio. The Radio Manager will maintain the maintenance records of the radios and will be responsible for shipping the radio to Motorola for service.

New Radios on the system

Any department or agency that opts in for the radio repair fee would not need to purchase the two (2) year extended warranty on any new radio that is purchased from a dealer. The two (2) year extended warranty from Motorola has been \$65.00 at the time of the radio purchase.

If your agency is interested in joining the Washington County Public Safety Radio System in self insuring your radios, please contact me by May 15, 2011 and I can put together a plan depending on the total number of radios that we will self insure.

Dean Tilley
Radio System Manager
Washington County Sheriff's Office
651-430-7863



Office of the Sheriff

Commitment to Excellence



William M. Hutton
Sheriff

Daniel Starry
Chief Deputy

August 5, 2011

Bruce Messelt, City Administrator
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

AUG - 8 2011

Bruce Messelt,

The 800 MHz Public Safety Radio System Advisory Board met on March 11, 2011. There was discussion about the Motorola warranty on the portable and mobiles that are in use across the county. Many of these warranties have already started expiring as of June of 2011.

A self insurance program was proposed and most cities were present for the discussions on this and have received information about this program in e-mails and letters. All users of the radio system have agreed in principal to this self insurance program.

On July 26, 2011, The County Board approved the addendum to the Communications System Subscriber Agreement that each city has with the County. Your city will be asked to review this addendum and approve it your next city council meeting. Once that is complete, we will start to invoice these funds for the radio repair fund.

Enclosed with letter is the Addendum to the Communication System Subscriber Agreement that has been signed by the County Board. Please review this addendum and when it has been approved by your city, please return it to me to be added to the Agreement that I have on file here.

If you have any questions, please feel free to contact me.

Sincerely,

Dean Tilley
Radio System Manager
Washington County Sheriff's Office
651-430-7863

This agreement hereby amends the Communication System Subscriber Agreement (hereinafter Agreement) between Washington County (hereinafter County) and the City of (name of the City) hereinafter USER) as follows:

Paragraph 3 of the Agreement is amended by adding the following subsection 3.2.1:

Radio Repair Fund Addendum to the Communications System Subscriber Agreement

3.2.1 Radio Repair Fund

USERS who agree to join the Radio Repair Fund will be billed \$1.00 per month per radio until a fund balance of \$16,000.00 is reached, at that time fee collection will be discontinued. When the fund balance drops to \$5,000.00 the Radio Repair Fee will be billed again until the fund balance is back to \$16,000.00.

All USERS may join the Radio Repair Fund at start of the program. After the initial start of the Radio Repair Fund, USERS that want to join the program can do so on January 1st of any year. Any USER can withdraw from the Radio Repair Fund with a 30 day written notice to the Radio System Manager. There will be no reimbursement of fees collected for the Radio Repair Fund.

The Radio Repair Fund fees will be segregated in the Radio System budget and will only be used for the repair of USER's portable, mobile and consollette radios. The Radio Repair funds will not be used for the replacement or purchase of batteries, shoulder microphones, antennas or any other accessory for the radios.

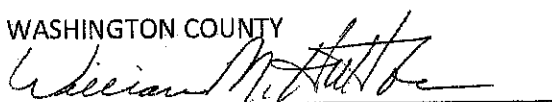
Any radio submitted for repair that appears to have been damaged by misuse or neglect will not be repaired using the Radio Repair fees. Any radio that cost more to repair than replace will not be repaired by the Radio Repair fund and will need to be replaced by USER. Radio repair or replacement decisions will be made with input from the USER and the Radio System Manager. Any dispute can be brought to the 800 Public Radio System Advisory Board for review.

All other terms and conditions of the Agreement unless expressly amended herein remain in full force and effect.

USERS, having signed this amendment, and the County having duly approved this amendment on the 26th day of July, 2011, and pursuant to such approval, the proper County officials having signed this amendment, the parties hereto agree to be bound by the provisions herein set forth.

WASHINGTON COUNTY

CITY OF (name of the City)

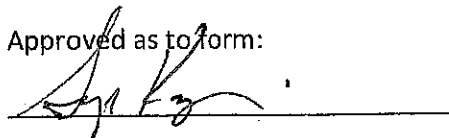


Title Sheriff
Washington County

Date 8/4/11

Date

Approved as to form:



Assistant Washington County Attorney



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/2011
REGULAR
ITEM #: 8
MOTION *Resolution No. 2011-034*

AGENDA ITEM: Ordinary High Water Elevation Setback – 2976 Lake Elmo Avenue

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider a variance application from Peter Vujovich, representing John and Bonnie Butenhof, to allow the construction of an addition to their home at 2976 Lake Elmo Ave, with a proposed set back of 48 feet from the Ordinary High Water Elevation (OHW) of Lake Elmo. A variance has been requested because the required structure setback from the OHW of Lake Elmo is 100 feet, in accordance with the City's Shoreland Management Overlay Zoning. Based upon Planning Commission recommendation, the recommended motion to act on this is as follows:

"Move adopt Resolution Number 2011-034 approving a Variance to allow John and Bonnie Butenhof to construct an addition to the primary structure at 2976 Lake Elmo Avenue North that is set back 48 feet from the Ordinary High Water Elevation of Lake Elmo"

BACKGROUND INFORMATION: The attached Staff report includes a detailed review of the application along with a Staff and Planning Commission recommendation.

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 would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. The criteria that are included in the City Code for making such a decision include the following:

Practical Difficulties. A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.

(1) Definition of practical difficulties. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

Unique Circumstances. The plight of the landowner is due to circumstances unique to the property not created by the landowner

Character of locality. The proposed variance will not alter the essential character of the locality in which the property in question is located.

Adjacent properties and traffic. The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

In reviewing the request against the four criteria listed above, staff determined that all of these criteria were met by the applicant and recommending approval of the request based on the suggested findings included in the attached Staff report.

PLANNING COMMISSION REPORT: The Planning Commission reviewed the variance request at its August 8, 2011 meeting and conducted a public hearing on the application at this time. One neighbor spoke in favor of the request, and specifically noted that the variance would allow for safer access to the garage.

The Commission supported approval of the request based on the draft findings of approval, and added one condition to those drafted by Staff to require that no part of the new structure encroach closer to the OHW line than the original structure. The Planning Commission unanimously recommended approval of the variance request with four conditions of approval.

RECOMMENDATION: Based upon the above background information, staff report and Planning Commission recommendation, it is recommended that the City Council approve the request from Peter Vujovich, representing John and Bonnie Butenhof, to allow the construction of an addition to their home at 2976 Lake Elmo Avenue that is set back 48 feet from the Ordinary High Water Elevation (OHW) of Lake Elmo by undertaking the following action:

"Move adopt Resolution Number 2011-034 approving a Variance to allow John and Bonnie Butenhof to construct an addition to the primary structure at 2976 Lake Elmo Avenue North that is set back 48 feet from the Ordinary High Water Elevation of Lake Elmo"

Alternatively, the City Council may table taking action on the application and direct either staff or the applicant to provide additional information concerning the request.

The Council may also consider denying the variance application and should develop findings of fact to support a motion for denial based on the evidence presented during the course of the City review.

ATTACHMENTS:

1. Resolution No 2011-034
2. Detailed staff report analyzing the request
3. Application form
4. Review comments from Valley Branch Watershed District
5. Site photographs – existing conditions
6. Architectural drawings:
 - a. Site and landscape plan with east building elevation
 - b. Interior layout
 - c. Upper level plan with west building elevation
7. Existing site plan
8. Aerial image of site
9. Current septic system plan (201 system)
10. Tree removal and replacement plan

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor Facilitates
- Action on Motion Mayor & City Council

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

RESOLUTION NO. 2011-034

*A RESOLUTION APPROVING A VARIANCE TO ALLOW THE CONSTRUCTION OF A
BUILDING ADDITION THAT IS CLOSER THAN THE REQUIRED SETBACK FROM THE
ORDINARY HIGH WATER ELEVATION OF LAKE ELMO*

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

WHEREAS, Peter Vujovich, representing John and Bonnie Butenhof, 2976 Lake Elmo Avenue (the "Applicants") have submitted an application to the City of Lake Elmo (the "City") for a variance to allow the construction of an addition to their home that is set back 48 feet from the Ordinary High Water Elevation (OHW) of Lake Elmo, 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 August 11, 2011; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated August 23, 2011; and

WHEREAS, the City Council considered said matter at its August 23, 2011 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council 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 an addition to a primary structure that is set back 48 feet at its closest point to the OHW of Lake Elmo. A

variance has been requested because the Lake Elmo Shoreland Management Ordinance requires a minimum setback of 100 feet from the OHW of Lake Elmo for structures.

- 4) That the Variance will be located on property legally described as follows:

Section 24, Township 029, Range 021 - Part of Lot 1 of said Section described as follows: Commencing at a point on the North line of said Section 993.5 feet west from the northeast corner of said lot, thence south 1 degree, 57 minutes east 823.1 feet to an iron monument which is 495.375 feet from the south line of said lot. Commonly known as 5761 Keats Avenue.

- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings: That the proposed use is reasonable because the applicants have demonstrated that it is not possible to construct an addition of any size to their house without encroaching on a property line or Ordinance High Water (OHW) Elevation setback. The addition will allow the construction of an attached garage with safe access while addressing current drainage problems that exist between the principal structure and existing detached garage. The proposed addition will comply with all other applicable code requirements except for the OHW setback. The addition will not be located any closer to Lake Elmo than the current structures on the property, and will allow the removal of an existing shed that is less than 30 feet from the OHW.*
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings: That the applicant's property is unique due to its location within a shoreland district and due to the curvature of Lake Elmo Avenue along the front of the property. The narrowness of the lot and location of the septic system prohibits the construction of an addition anywhere else on the property that would comply with the required setbacks for the property. The existing house and detached garage are already located within the OHW setback, and were constructed prior to adoption of the City's Shoreland Overlay Ordinance.*
- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings: That the applicant's house, as currently situated on the site, is generally smaller than other homes in the immediate vicinity along Lake Elmo, and the proposed addition would be built in such a manner as to minimize the impact of the garage by making it a side-loading garage. The location of the addition would take advantage of existing screening between the house and Lake Elmo, and would be located in a central portion of the site away from neighboring properties. The one story addition would not exceed the height of any other structures in the vicinity of the applicant's property.*
- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is granted with the following conditions:

- 1) The applicant shall submit a tree protection and replacement plan that identifies all trees to be removed from the site prior to construction and that specifies which trees are to remain on the property. Grading, or other construction activity, should not come within the branch spread of any tree to be retained. Tree protection fencing should be erected on the construction side of any trees which are less than 15 ft. from construction activity, and placed as far out from the branch spread of the tree as possible.
- 2) A revised landscape plan shall be submitted that provides for the replacement of any trees removed during construction.
- 3) Temporary erosion control measures that comply with the Lake Elmo Storm Water and Erosion and Sediment Control Ordinance shall be established prior to the start of any earthwork and shall be maintained throughout the duration of construction activity on the site.
- 4) No part of the new structure shall extend any closer to the Ordinance High Water Elevation of Lake Elmo than the original structure.

Passed and duly adopted this 23rd day of August 2011 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

City of Lake Elmo Planning Department
Variance Request

To: **City Council**

From: **Kyle Klatt, Planning Director**

Meeting Date: **8/23/11**

Applicant: **Peter Vujovich**

Location: **2976 Lake Elmo Avenue**

Zoning: **R1 – Single Family Residential**

Introductory Information

***Application
Summary:***

The City of Lake Elmo has received an application for a variance from Peter Vujovich representing John and Bonnie Butenhof to allow the construction of an addition to their home at 2976 Lake Elmo Avenue. A variance has been requested because the proposed addition would be located 48 feet at its closest point to the Ordinance High Water Elevation (OHW) of Lake Elmo, and the City's Shoreland Ordinance requires a minimum structure setback of 100 feet from the OHW. The proposed addition would extend between an existing detached garage and the principal residential structure on the property and would include garage space for two additional parking stalls on the site.

***Property
Information:***

The applicants' property is located on the western side of Lake Elmo Avenue near the intersection of 30th Street. It is the second to last house on the lake side of the road as one moves south from the center of the Old Village, and is bordered by another residential lot to the north, and an open lot to the south with some minor accessory buildings on it. There is a modest elevation change from the water level of the lake up to the elevation at which the house has been built, and there is a steep hillside separating the house from the lake. Access to Lake Elmo has been provided through a series of stairs leading down to a sandy beach area.

The size of the applicant's lot is typical for the Village area, at approximately 26,563 square feet (0.61 acres) excluding the road right-of-way for Lake Elmo Avenue. The house, at present, does not have an attached garage, and the detached garage on the premises is located approximately 35 feet from the main structure. There are several larger, mature trees around the house and between the house and the lake on the hillside leading to the shoreline.

County property records indicate that the house (not garage) was built in 1941. City records show that in 1987, the City approved a variance to allow an addition to be built on to the house that extended to within 65 feet of the OHW. The setback prior to

approval of the variance was 75 feet from the OHW. There is very little additional information in the address file for this property other than a diagram and report noting that this site was included as one of the City "201" projects. The 201 projects involved the use of federal funding to fix failing septic systems through the community. The location of the septic system for the house is identified on these plans, and the system would not be impacted by the proposed construction project.

**Applicable
Codes:**

Section 150.017 Variances.

(A-I) Variances. Identifies procedures and requirements for the processing and review of a variance application. Please note that this section was recently updated by the City to comply with revisions to Minnesota State Statutes.

Section 154.041 (C) R-1 Minimum District Requirements

Maximum impervious surface coverage of 25%.

Section 150.255 (D) Shoreland Standards. Subd. 1 Placement, design, and height of structures.

(1) Placement. When more than 1 setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows.

(a) Structure and on-site sewage system setbacks. Structure and on-site sewage system setbacks (in feet) from ordinary high water level. (100 feet from a recreational development lake.)

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).

Findings & General Site Overview

Site Data: Lot Size: 26,563 square feet (0.61 acres)

Existing Use: Residential
Existing Zoning: R1 – Single Family Residential;
Property Identification Number (PID): 24.029.21.22.0014

Application Review:

**Applicable
Definitions:**

BUILDING. Any structure either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separate from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.

DWELLING, SINGLE-FAMILY. A residential structure designed for or used exclusively as 1 dwelling unit of permanent occupancy.

PRACTICAL DIFFICULTIES “Practical difficulties,” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

UNIQUE CIRCUMSTANCES. The plight of the landowner is due to circumstances unique to the property not created by the landowner

ORDINARY HIGH WATER MARK OR ELEVATION (O.H.W.). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**Variance
Review:**

The applicant is proposing to construct an addition to the existing house at 2976 Lake Elmo Avenue that would add two garage stalls, guest bath (as an option), mudroom, and foyer, and that would provide room for an entry terrace as well. This new addition would be connected to the house via a small extension to the southern edge of the house and a narrow connection to the proposed foyer. One unique aspect of the proposed plans is that this narrow connection between the existing and proposed structure would act as a bridge over a proposed rain garden. This storm water feature is has been proposed by the applicant to manage an existing runoff that flows through the property and into Lake Elmo.

The current driveway will still be used to provide access to the new garage and also remain in its present location in front of the existing garage. There are some larger trees on the site that will need to be removed in order to make room for the addition,

and Staff has requested that these trees be delineated on the site plan. Because this property is located within a shoreland district, Staff is recommended that a tree replacement plan also be provided to off-set the loss of existing vegetation on the property.

The proposed plans note some additional changes to the current site, including the removal of a small tool shed located between the lake and the detached garage, the removal of a portion of the existing deck, the construction of a new deck to the north of the 1987 addition, and the moving of a hot tub to the newly constructed deck. As noted on the site plans, the applicant is planning to make use of pervious stepping stones to supplement other planned landscape improvements.

In reviewing the applicable codes that must be met by the applicant, Staff would like the City Council to consider the following as it reviews this request:

- **R-1 District Setbacks.** The proposed addition will comply with all setbacks required under the R-1 District regulations. In particular, the building will be set back just beyond the required 30 foot front yard setback, and will be situated 23 feet from the side yard (10 feet is the required setback). The existing detached garage is 14 feet from the side property line.
- **Impervious Coverage.** The R-1 District specifies a maximum impervious coverage of 25%. The proposed site plan documents a total lot coverage of 4,666 square feet, which represents an impervious surface calculation of 17.6%, well under the maximum allowed. The Shoreland Ordinance contains separate impervious coverage requirements, which for the applicant's lot would be a maximum of 6,000 square feet.
- **Accessory Building Size.** The Zoning Ordinance allows a maximum combined space of 1,200 square feet for both detached and attached garages in an R-1 District. The total garage space proposed with the addition is 868 square feet and in compliance with this provision.
- **Shoreland Setbacks.** Lake Elmo is classified as a "recreational development" lake, and structures within 1,000 feet of the lake are subject to a 100 foot setback. The proposed building would be setback 48 feet at its closest point to the OHW elevation of Lake Elmo, hence a setback variance to allow the construction of the addition 52 feet closer to the OHW line has been requested by the applicant.
- **Bluff Setbacks.** The steep slope on the applicant's property between the lake and the house does not meet the definition of a shoreland bluff and therefore no special setback from a bluff line is required for this lot.
- **Maximum Building Height.** The proposed addition will not exceed one story in height, and falls well under the maximum allowed building height of 35 feet

for the R-1 District.

- **Flood Ordinance.** The home's existing basement has been built above the Regulatory Flood Protection Elevation for Lake Elmo, and since the addition would not have a basement, it will comply with the City's Flood Ordinance.

The applicant has provided some of the rationale for the request in the attached submission materials, and based on this information, is intending to: 1) improve the access to the front entrance of the home, 2) address storm water issues that have been problematic in the past, and 3) create a safe and dry entry into the garage with a new attached structure and an addition that bridges over a storm water feature. Staff would also like to point out that there are no other locations on the lot for an addition that would not encroach further into a front yard, OHW, side yard, or other setback. Additionally, the septic system occupies nearly all of the front yard of the house, leaving only a very small portion of the rear yard that could be used for an addition (but not without a variance from the OHW setback as well). The proposed addition appears to be located in the most logical location on the lot should the City Council find that a variance is warranted in this instance.

**Variance
Criteria:**

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. Because the City has recently amended the variance provisions of the ordinance, some of these required findings will be relatively new to both staff and the City Council. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicants' request.

1. **Practical Difficulties.** *A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.*

The language concerning "practical difficulties" represents the bulk of the new provisions that were amended in the City Code. Under this standard, the City would need to find that the construction of the proposed addition at 2976 Lake Elmo Avenue is a reasonable use of the property not otherwise permitted under the zoning ordinance. The appropriate findings for this standard would therefore need to note the addition proposed is a reasonable improvement for a lot in one of the City's single family districts. Using this standard as a basis, Staff is suggesting that the City Council consider the following:

FINDINGS: That the proposed use is reasonable because the applicants have demonstrated that it is not possible to construct an addition of any size to their house without encroaching on a property line or Ordinance High Water (OHW) Elevation setback. The addition will allow the construction of an attached garage with safe access while addressing current drainage problems that exist between the principal structure and existing detached garage. The proposed addition will comply with all other applicable code requirements except for the OHW setback. The addition will not be located any closer to Lake Elmo than the current structures on the property, and will allow the removal of an existing shed that is less than 30 feet from the OHW.

2. ***Unique Circumstances.*** *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

In order to demonstrate compliance with this standard, the City Council would need to note those aspects of the applicant's property that would not pertain to other properties within the same zoning classification. In this case, configuration of the lot and its proximity to Lake Elmo are unique, especially considering that the house and detached garage are already located within the required OHW setback. Both structures were built prior to the adoption of the City's shoreland ordinance, and the lot was platted well before the City regulated shoreland areas separate from other aspects of the City Code. Again, Staff is suggesting some findings that could be considered by the City Council as follows:

FINDINGS: That the applicant's property is unique due to its location within a shoreland district and due to the curvature of Lake Elmo Avenue along the front of the property. The narrowness of the lot and location of the septic system prohibits the construction of an addition anywhere else on the property that would comply with the required setbacks for the property. The existing house and detached garage are already located within the OHW setback, and were constructed prior to adoption of the City's Shoreland Overlay Ordinance.

3. ***Character of locality.*** *The proposed variance will not alter the essential character of the locality in which the property in question is located.*

Because the only setback variance that has been requested is from the OHW elevation, the proposed addition will comply with all other applicable zoning requirements for an R1 – Single Family District and shoreland parcel. The applicant's house, as currently situated on the site, is generally smaller than other homes in the immediate vicinity along Lake Elmo, and the proposed addition would be built in such a manner as to minimize the impact of the garage by making it a side-loading garage. A more formal set of findings related to this standard is suggested as follows:

FINDINGS: The applicant's house, as currently situated on the site, is generally smaller than other homes in the immediate vicinity along Lake Elmo, and the proposed addition would be built in such a manner as to minimize the impact of

the garage by making it a side-loading garage. The location of the addition would take advantage of existing screening between the house and Lake Elmo, and would be located in a central portion of the site away from neighboring properties. The one story addition would not exceed the height of any other structures in the vicinity of the applicant's property.

4. ***Adjacent properties and traffic.*** *The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.*

Staff has found that the proposed building addition will comply with this provision since it is located in a manner that will minimize direct impacts to adjacent properties and will not create any additional traffic on the streets surrounding the applicants' property. No change to the current driveway is proposed or would be needed to support the new garage.

Considering the potential findings of fact as suggested in the preceding section, Staff is recommending approval of the variance request based on the findings noted in items 1-4 above. In order to address some potential issues during construction, Staff would further suggest conditions of approval that would require the applicant to document any trees to be lost due to construction, submit a replacement plan for the trees to be removed, and provide property erosion control measures during and after construction to prevent sediment from leaving the site.

Variance Conclusions: Based on the analysis of the review criteria in City Code and referenced in the preceding section, Staff is recommending **approval** of the applicant's request to construct an addition to the existing principal structure that is set back 48 feet at its closest point to the Ordinary High Water Elevation of Lake Elmo.

Resident Concerns: Staff has not received any correspondence or had any other communication with neighbors in advance of the public hearing.

Additional Information: The City Engineer has reviewed the proposed location of the addition and has not expressed any concerns regarding the proposed construction site. Valley Branch Watershed District has submitted review comments in the attached letter, and specifically noted that a Watershed District permit would not be required for the project. The variance request was forwarded to the Minnesota Department of Natural Resources for comment, but not response has been received in advance of the City Council meeting.

Conclusion:

The applicants are seeking approval of a variance to allow the construction of an addition to their home at 2976 Lake Elmo Avenue that is set back 48 feet from the Ordinance High Water Elevation of Lake Elmo.

**City Council
Options:**

The City Council has the following options:

- A) Recommend approval of the variance request;
- B) Recommend denial of the variance request;
- C) Table the request and direct staff or the applicant to provide additional information concerning this application.

The deadline for a Council decision on this item is September 21, 2011, which can be extended an additional 60-days if needed.

Rec:

The Planning Commission is recommending approval of a variance to allow the construction of an addition to the house at 2976 Lake Elmo Avenue that is set back 48 feet from the Ordinance High Water Elevation of Lake Elmo based on the findings documented in the above Staff report and provided the following condition are met:

- 1) The applicant shall submit a tree protection and replacement plan that identifies all trees to be removed from the site prior to construction and that specifies which trees are to remain on the property. Grading, or other construction activity, should not come within the branch spread of any tree to be retained. Tree protection fencing should be erected on the construction side of any trees which are less than 15 ft. from construction activity, and placed as far out from the branch spread of the tree as possible.
- 2) A revised landscape plan shall be submitted that provides for the replacement of any trees removed during construction.
- 3) Temporary erosion control measures that comply with the Lake Elmo Storm Water and Erosion and Sediment Control Ordinance shall be established prior to the start of any earthwork and shall be maintained throughout the duration of construction activity on the site.
- 4) No part of the new structure shall extend any closer to the Ordinance High Water Elevation of Lake Elmo than the original structure.

**Denial
Motion**

To deny the request, you may use the following motion as a guide:

Template:

I move to recommend denial of the request for a variance to allow the construction of an addition the house at 2976 Lake Elmo Avenue that is set back 48 feet from the Ordinance High Water Elevation of Lake Elmo ...*(please site reasons for the*

recommendation)

**Approval
Motion**

To approve the request, you may use the following motion as a guide:

Template:

I move to recommend approval of the request for a variance to allow the construction of an addition the house at 2976 Lake Elmo Avenue that is set back 48 feet from the Ordinance High Water Elevation of Lake Elmo *...(or cite your own)*
...with the conditions outlined in the staff report.

cc: Peter Vujovich, Vujovich Design Build
John and Bonnie Butenhof, 2976 Lake Elmo Avenue

2

Fee \$ _____

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

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

APPLICANT: Peter Vujovich 14888 50th St. So Apiton MN 55001
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-998-0533 612-889-5031 612-338-2323
(Home) (Work) (Mobile) (Fax)

FEE OWNER: John + Bonnie Butenhof (see below)
(Name) (Mailing Address) (Zip)

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

PROPERTY LOCATION (Address and Complete (Long) Legal Description):
2976 Lake Elmo Ave N.

DETAILED REASON FOR REQUEST: Proposed Garage addition would be closer then the 100' setback

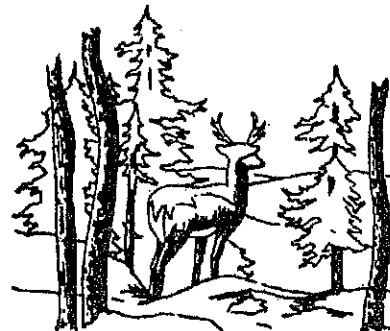
*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:
The existing front entrance causes guests to park on busy - dangerous Lake Elmo Ave. Present path from home to detached garage has caused injury due to water and ice draining across the only entrance to the home. The Butenhofs are a senior where this will get worse.
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.

Peter Vujovich
Signature of Applicant Date

Bonnie J Butenhof 7/18/11
Signature of Applicant Date

July 27, 2011

Mr. Kyle Klatt
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042



Re: 2976 Lake Elmo Avenue North – Variance Request

Dear Kyle:

Thank you for submitting information regarding the garage addition at 2976 Lake Elmo Avenue North. On behalf of the Valley Branch Watershed District (VBWD), I have reviewed the information and this letter provides my comments.

The proposed project involves constructing a new garage and connecting it to an existing garage and house. The project will create less than 6,000 square feet and does not involve grading of at least one acre of land or working below the VBWD-established 100-year flood level of Lake Elmo. Therefore, the project does not require a VBWD permit.

Based on one of the plan sheets submitted, the existing home's basement floor is at Elevation 896.5, which is higher than minimum floor elevation required by the VBWD. The new addition's minimum floor elevation should be no lower than Elevation 893.0.

Temporary erosion control measures should be installed prior to any earthwork. The erosion control measures should be inspected during construction and maintained as needed. Disturbed areas should be vegetated as soon as possible after disturbance, and no later than 14 days after final grading.

I am pleased to see that the project includes a rain garden. The property owners may wish to contact Rusty Schmidt, the Cost-Share Program Coordinator for the VBWD, at 651-275-1136, extension 36. He could help the property owners design an unmowed vegetative buffer adjacent to the lake. For new projects, VBWD requires a minimum 35-foot wide buffer strip measured perpendicular to the OHW (Ordinary High Water level, Elevation 885.6 at Lake Elmo) extending 35 feet inland. A mowed access and shoreline is allowed, but must not exceed 30% of the landowner's shoreline width or 30 feet, whichever is less. Access paths shall not be located where concentrated runoff will flow to the lake. For existing developed sites, the vegetative buffer is strongly encouraged, but not required.

If you have any questions, please contact me at 952-832-2622.

Sincerely,

John P. Hanson, P.E.
BARR ENGINEERING COMPANY
Engineers for the District

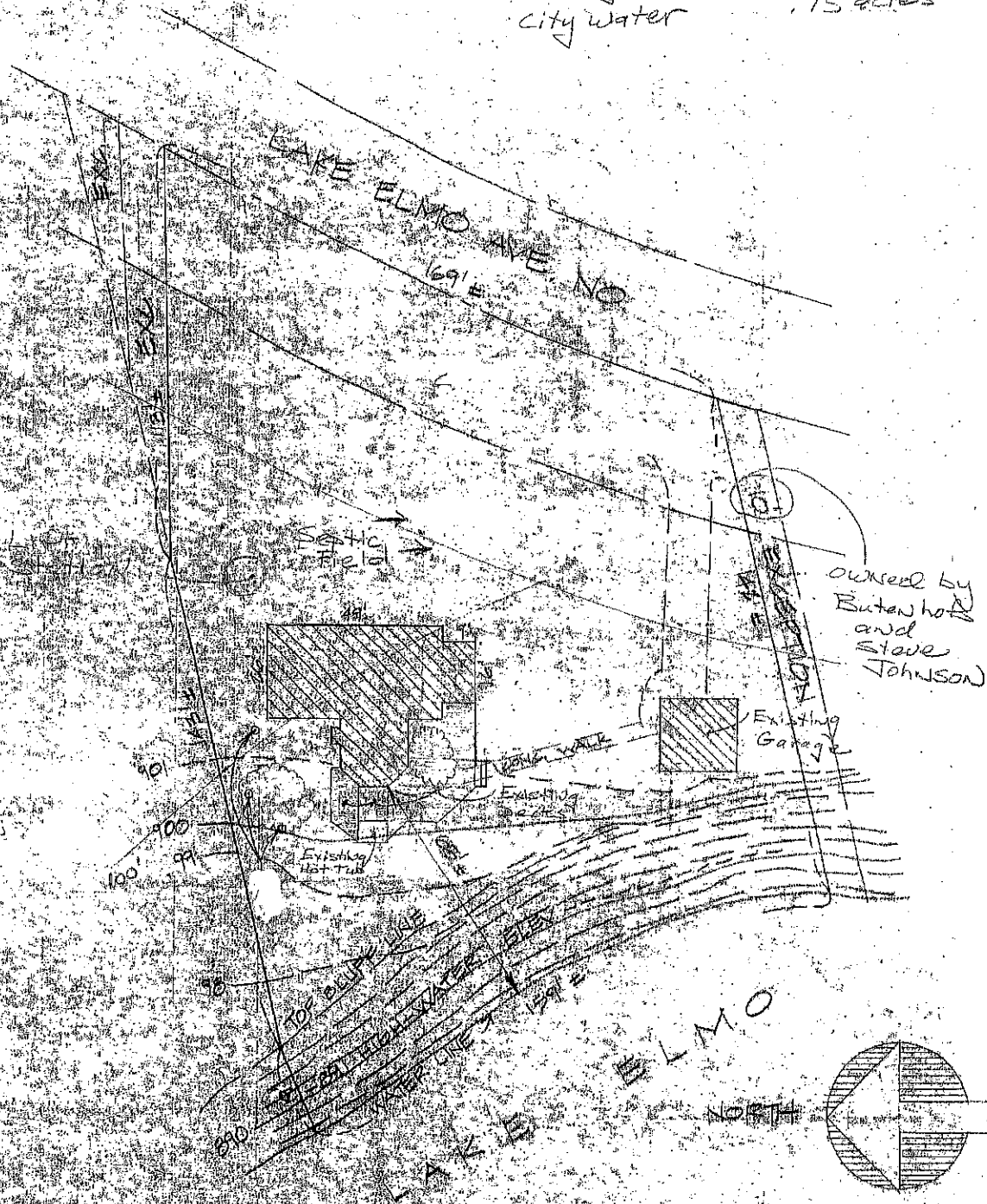


DAVID BUCHECK • LINCOLN FETÉCHER • DALE BORASH • JILL LUCAS • EDWARD MARCHAN

VALLEY BRANCH WATERSHED DISTRICT • P.O. BOX 838 • LAKE ELMO, MINNESOTA 55042-0538

www.vbwd.org

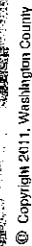
Existing Lot Size - 32,521 SF
City Water .75 acres



Existing
SITE PLAN
1" = 30'

\$17.00

7/9



MAP LAST UPDATED: January 26, 2011
NO ADDITIONAL CHANGES HAVE BEEN REPORTED TO DATE
DATE OF CONTOURS: April, 2000 DATE OF PHOTOGRAPHY: April, 2009

SCHOOL NUMBER	TOWNSHIP NUMBER	RANGE NUMBER	QUARTER QUANTY	SPEED PRICE
11	100	33	13	2000

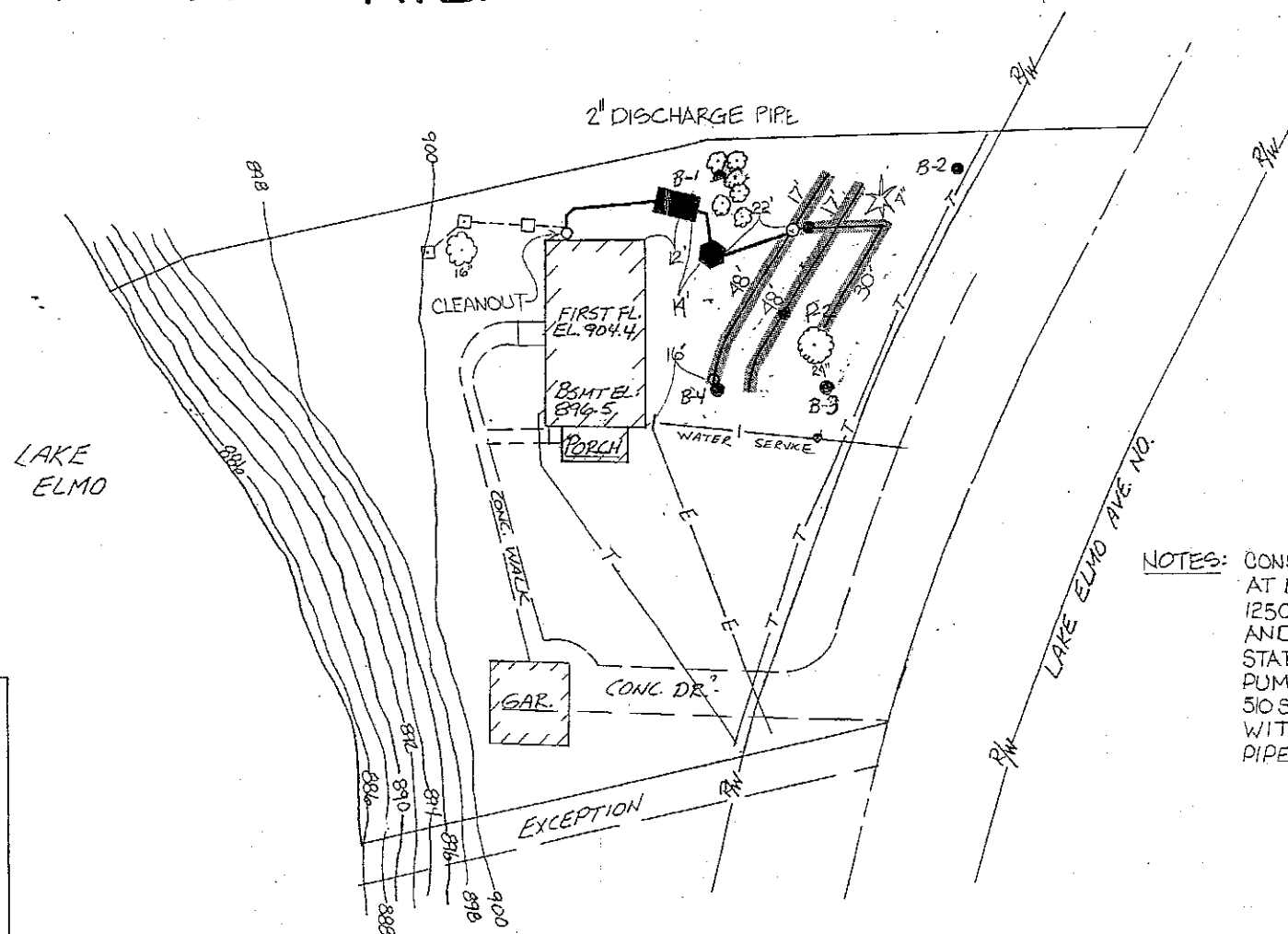
UNIT FOUR DIGITS OF PROPERTY IDENTIFICATION NUMBER

Printed June 7, 2011 at 1:46 p.m. by S1170001JAS

7340
2976 LAKE ELMO AVE.



1"=30'



NOTES: CONSTRUCTED CLEANOUT AT BUILDING. INSTALLED 1250 GAL. SEPTIC TANK AND A 500 GAL. PUMP STATION WITH A 1/3 HP PUMP. CONSTRUCTED 510 SF OF 3' WIDE TRENCHES WITH 2' OF ROCK UNDER PIPE.

LEGEND

- - EX. SEPTIC TANK
- - EX. DRYWELL
- - EX. WELL
- - EX. DRAINFIELD
- - PROP. SEPTIC TANK
- - PROP. PUMP STATION
- - PROP. DRAINFIELD
- - PROP. DISTRIB./DROP BOX
- - PROP. 2" DISCHARGE PIPE
- - PERCOLATION TEST OR SOIL BORING LOCATION
- - PROP. MOUND SYSTEM

LAST 50 RECORD DRAWING

NO. DATE BY DESCRIPTION REVISIONS

DESIGNED BY
LDB DLW
CHECKED
LDB

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
Paul D. Bohrer
DATE 12-3-79 NO. 121211

TKDA
ENGINEERS ARCHITECTS PLANNERS

TOLTZ, KING, DUYALL, ANDERSON
AND ASSOCIATES INCORPORATED
SAINT PAUL, MINNESOTA

Wastewater Facilities Improvements
Lake Elmo, Minnesota
EPA Project No. C 271411

7340
SHEET NO. 48 OF 107 SHEETS

COMMISSION NO.
8064



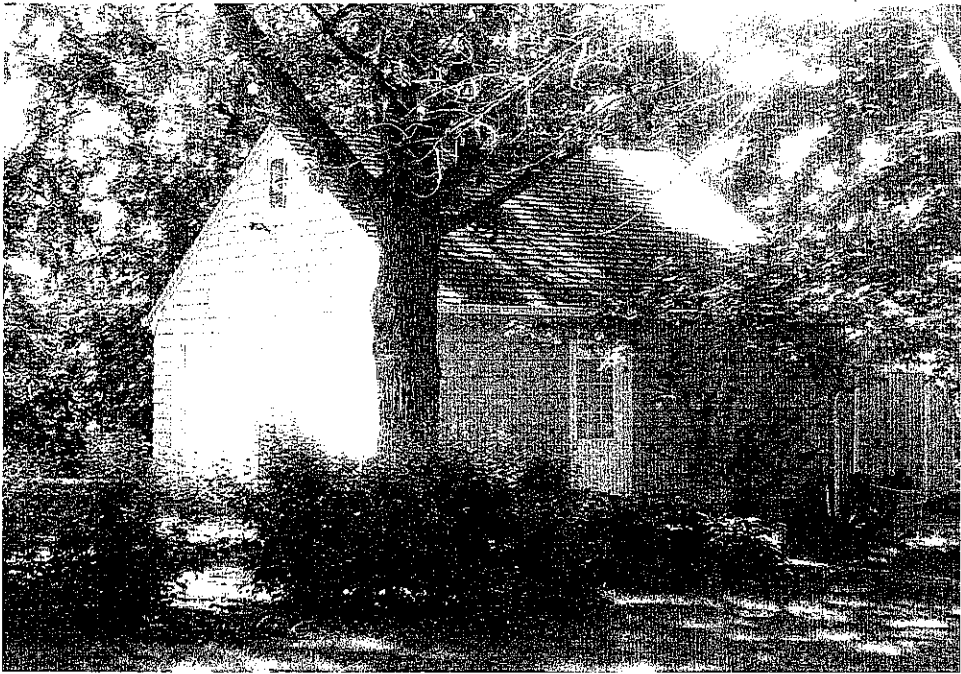
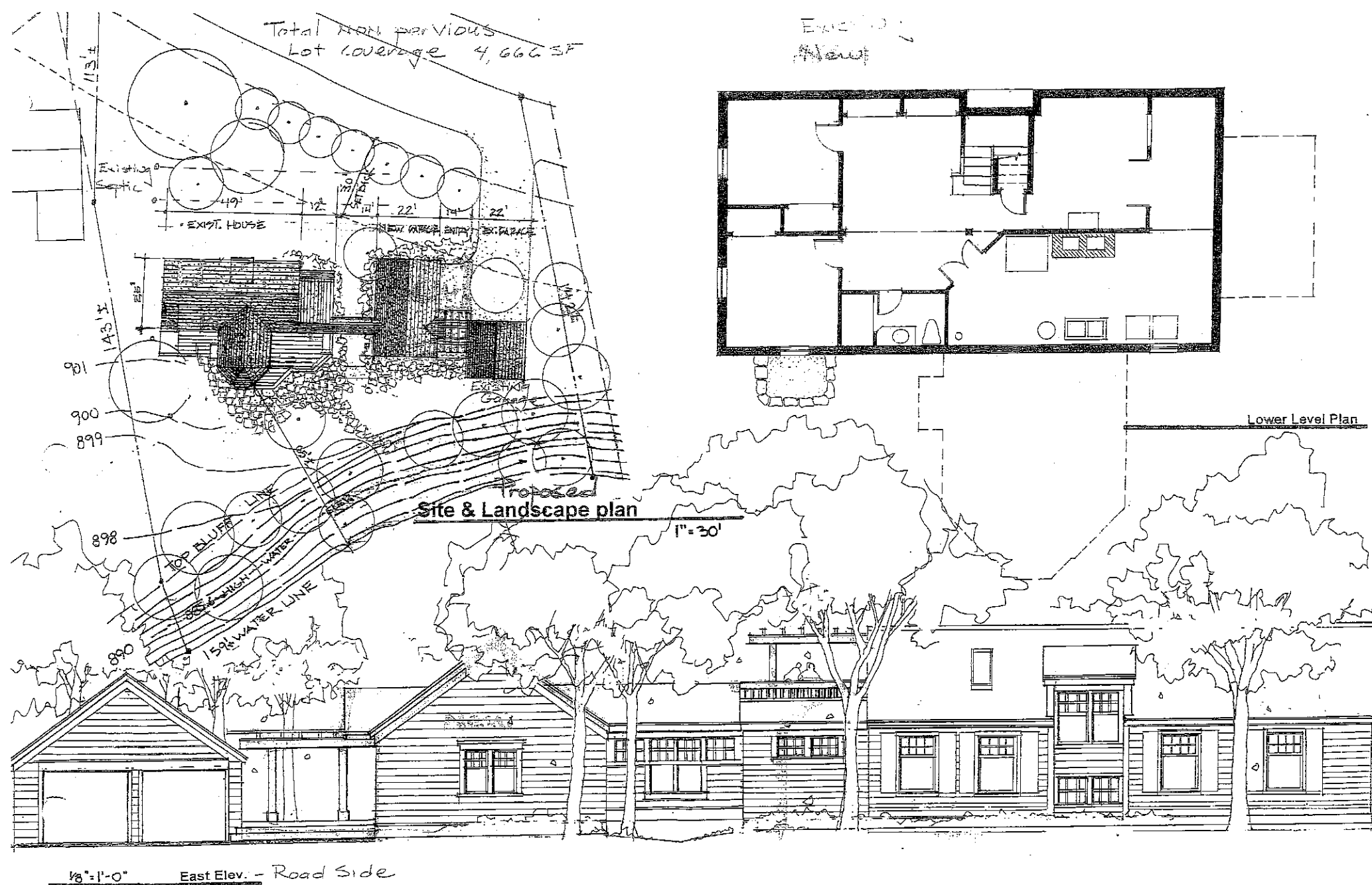
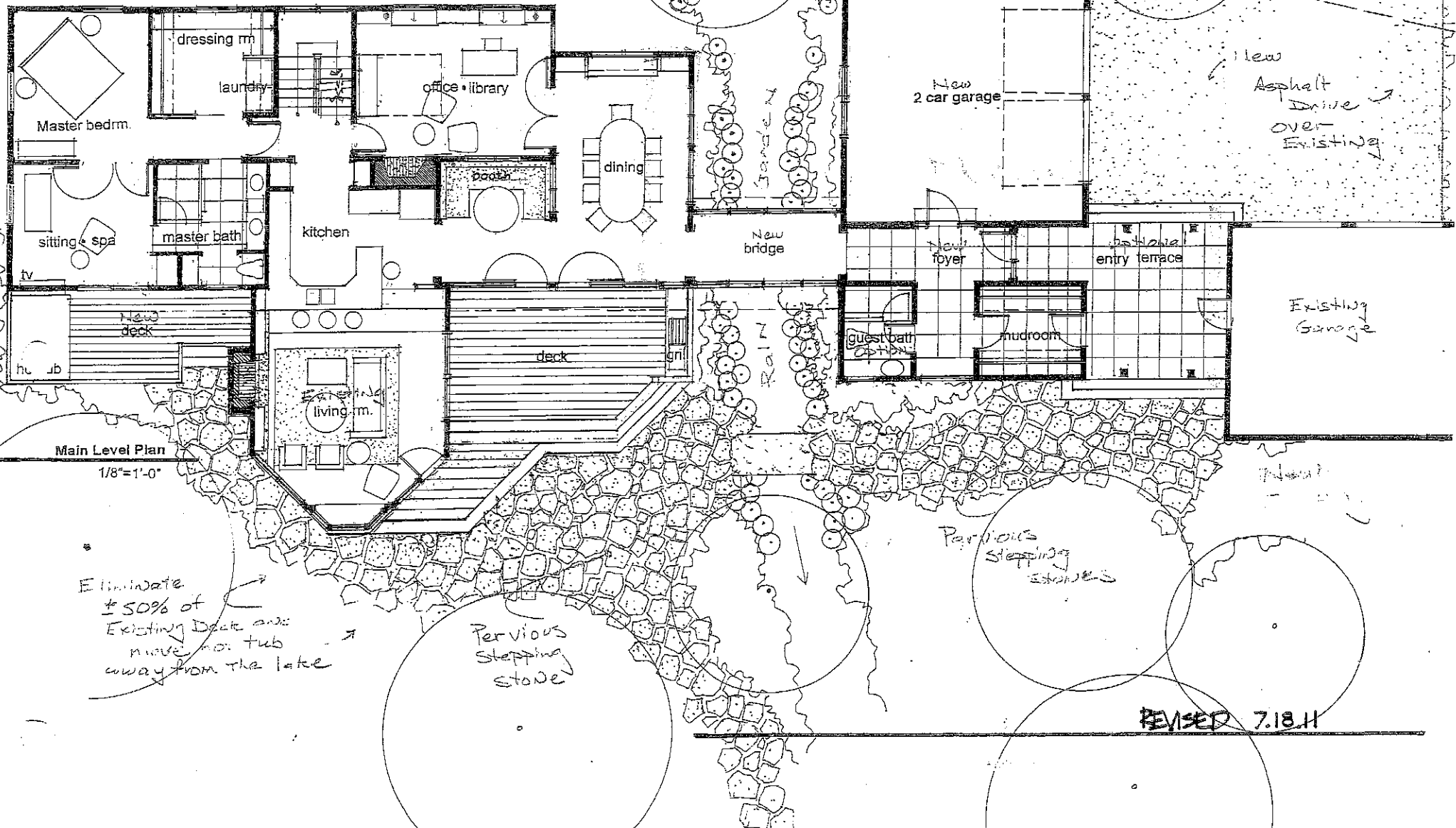


Exhibit
A-1

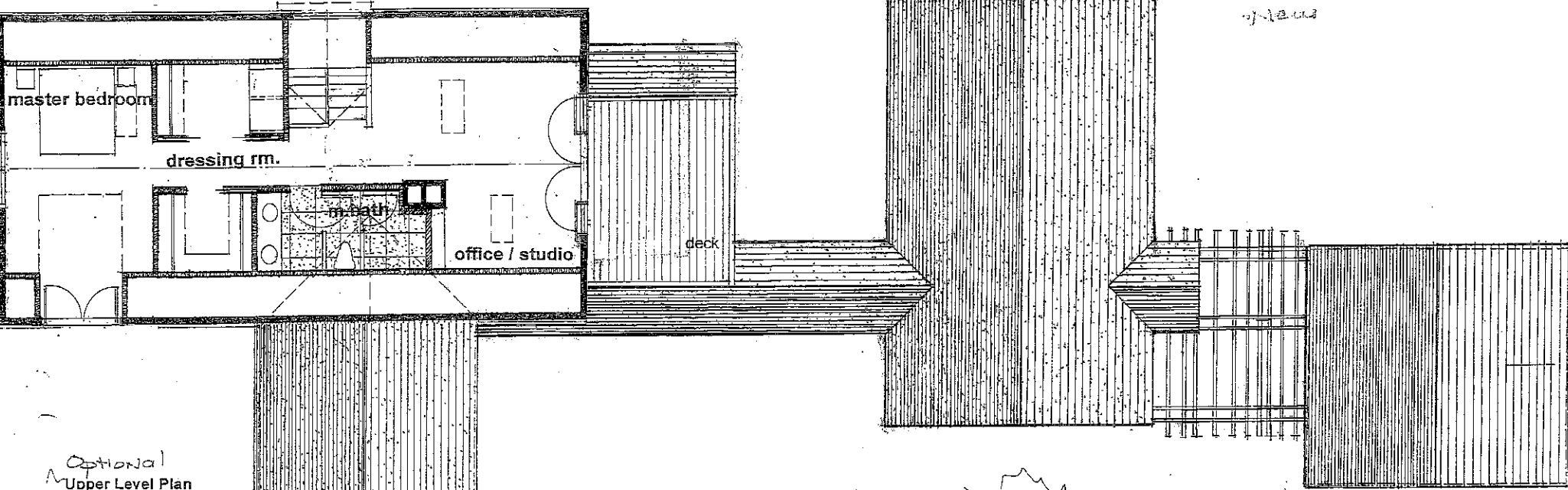


Option : MASTER BEDR.



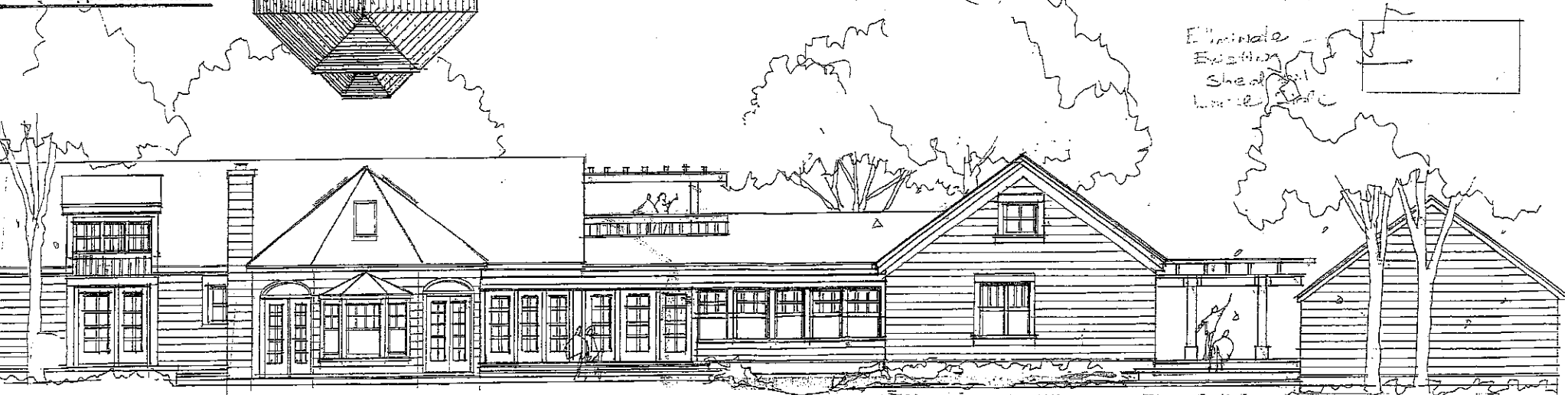
Option

Existing
Shed



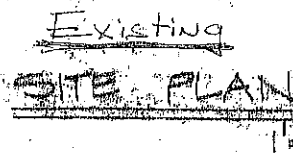
Optional
Upper Level Plan

Eliminate
Existing
Shed and
Landscape



West Elevation - Lake Side

Existing Lot Size - 74,511 SF
City Water 1.75 acres



Trees to be
Removed

For sale now
Trees



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/3011
REGULAR
ITEM #: 9
MOTION *Resolution No. 2011-033*

AGENDA ITEM: Consider a Variance Request to Allow Holding Tanks to be Installed for More than 12 Months at 2860 Lake Elmo Avenue North within the 10 foot Setback to a Property Line and Within the 75 foot Setback from the Ordinary High Waterline (OHW) for Lake Elmo

SUBMITTED BY: Planning Commission
Kelli Matzek, Planner

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Kyle Klatt, Planning Director
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider a request for a variance to allow holding tanks to be installed up to 45 feet from the OHW for Lake Elmo and up to 2 feet from the front property line at 2860 Lake Elmo Avenue North for more than 12 months. The applicant is trying to sell his home and is, therefore, required to bring his septic system into compliance as the dry well currently on-site is not allowed.

A septic designer has stated that there is no room on-site to provide a septic system and is, therefore, recommending two 1,500 gallon holding tanks with an alarm system. Washington County (the City's septic permitting agency) has stated that ordinances require holding tanks be a temporary measure – no longer than 12 months. This property has no other feasible alternatives for waste management at this time. Based upon the recommendation of the Planning Commission, the recommended motion to act on this is as follows:

“Move to approve Resolution 2011-033A approving the variances to allow holding tanks to be constructed for more than 12 months that are 2 feet from the property line and 45 feet from the OHW of Lake Elmo at 2860 Lake Elmo Avenue North with conditions outlined in the staff report.”

BACKGROUND INFORMATION: 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 would cause

practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. The criteria that are included in the City Code for making such a decision include the following:

Practical Difficulties. A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.

- Definition of practical difficulties. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

Unique Circumstances. The plight of the landowner is due to circumstances unique to the property not created by the landowner

Character of locality. The proposed variance will not alter the essential character of the locality in which the property in question is located.

Adjacent properties and traffic. The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

STAFF REPORT: The applicant's property is not guided for a future sewer connection in the Lake Elmo Comprehensive Plan. In addition, a septic designer has stated there are no other alternatives on-site and the applicant has stated that he does not believe having a septic system off-site is an option in his case. The City Engineer has stated that there is not capacity for Mr. Durand to connect to an existing 201 system (a City run community septic system).

Washington County's Department of Public Health and Environment (the septic permitting agency) has recommended against the variance, as they state holding tanks are not a long-term solution and future owners, should the home be used year-round to it's full capacity, *may* need to be pumping every ten days.

The Valley Branch Watershed District recommended that the elevation of the bottom of the new sewage tanks be no lower than 893 (2 feet above the 100-year flood level). The septic designer has stated that the bottom elevation is planned for approximately 888 – 5 feet lower then recommended (not required) by VBWD.

A representative from Washington County's Public Health Department will be attending the meeting to answer any questions the City Council may have regarding the technical aspect of the permit or his professional opinion.

While the City has generally granted septic variance requests, it should be considered by the City whether this property, at just 5,908 square foot lot should continue to be used for year-round residential purposes.

The City Council has the following options for consideration:

1. APPROVAL – Approve the variances requested to allow two 1,500 gallon holding tanks to be constructed, but require a document be recorded against the property stating that holding tanks is the method of waste management on the property and that the homeowner may need to pump those tanks frequently.

Motion – Move to approve Resolution 2011-033A, approving the proposed variances for the construction of two 1,500 gallon holding tanks at 2860 Lake Elmo Avenue with conditions outlined in the attached staff report.

2. APPROVAL – Recommend approval of the variances requested to allow two holding tanks to be constructed, but to require that the home be used seasonally.

Motion – Move to approve Resolution 2011-033B, approving the proposed variances for the construction of two 1,500 gallon holding tanks at 2860 Lake Elmo Avenue with conditions outlined in the staff report and to add the condition that the home be used for residential purposes for no more than ____ months a year and with conditions listed in the attached staff report.

3. DENIAL – Recommend denial of the variances requested to allow two 1,500 gallon holding tanks to be constructed, thus removing the ability to use the home for residential purposes unless an alternate waste management system is found.

Motion – Move to approve Resolution 2011-033C, denying the proposed variances for the construction of two holding tanks at 2860 Lake Elmo Avenue with the findings listed in the staff report.

Planning Commission Recommendation - At the August 8th Planning Commission meeting, the commission held a public hearing, took comments from the public and made a recommendation to the City Council. The Commission recommended Option 1 as listed above.

RECOMMENDATION: The City Council is respectfully requested to consider a request for a variance to allow holding tanks at 2860 Lake Elmo Avenue North for more than 12 months. In reviewing the request against the four variance criteria listed on page 2, staff determined that all of these criteria were met by the applicant and is recommending approval of the request based on the suggested findings included in the attached Staff report, ***should*** the City determine that this small lakeshore lot should continue to be used for residential purposes.

Based upon the recommendation of the Planning Commission, the recommended motion to act on this is as follows:

“Move to approve Resolution 2011-033A approving the variances to allow holding tanks to be constructed for more than 12 months that are 2 feet from the property line and 45 feet from the OHW of Lake Elmo at 2860 Lake Elmo Avenue North with conditions outlined in the staff report.”

Alternatively, the City Council may follow Option 2 or Option 3 as identified on page 3, or take another course of action crafted at the meeting by the City Planner and Attorney.

ATTACHMENTS: (9)

1. Detailed Staff Report Analyzing the Request
2. Resolution 2011-033A
3. Resolution 2011-033B
4. Resolution 2011-033C
5. Area Map Identifying Location of Property
6. Applicant's Submittals
7. Letter – Valley Branch Watershed District
8. Letter – Washington County Department of Public Health and Environment
9. Letter – Washington County Public Works Department

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... City Administrator
- Report/Presentation.....Planning Department
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion.....Mayor Facilitates

City of Lake Elmo Planning Department
Variance Request

To: City Council

From: Kelli Matzek, City Planner

Meeting Date: 8/23/11

Applicant: Clyde Durand

Owner: Same

Location: 2860 Lake Elmo Ave N

Zoning: R-1; Shoreland District

Introductory Information

<i>Application Summary:</i>	The City of Lake Elmo has received a request from Clyde Durand to construct a septic system consisting of two 1,500 gallon holding tanks with an alarm system to be located up to 8 feet within the 10 foot property line setback and up to 30 feet within the 75 foot setback to Lake Elmo's Ordinary High Waterline (OHW).
------------------------------------	--

<i>Property Information:</i>	<p>This small, lakeshore property is just 5,908 square feet in size, approximately 600 square feet of which is paved and utilized for County Road 17 (Lake Elmo Avenue). The old address file does not contain a building permit for the home, but does have a permit from April of 1968 to install and connect a water line from the main to the private dwelling.</p> <p>There is currently a two bedroom home on-site that is served by a non compliant drywell.</p> <p>The current property owner is interested in selling the property and is now required to bring the septic system into compliance.</p>
-------------------------------------	---

<i>Applicable Codes:</i>	<p>Section 150.253 Administration.</p> <p><u>(B 2) Variance.</u> Identifies procedures.</p> <p>Section 150.254 Shoreland Classification.</p> <p><u>(B 2) Recreational Development Lakes.</u> Identifies Lake Elmo's OHW at 885.6 and the 100-Year Elevation at 889.</p> <p>Section 150.255 Shoreland Standards.</p> <p><u>(D 1 a).</u> Identifies the sewage treatment system setback for recreational</p>
---------------------------------	--

development lakes to be 75 feet.

Section 150.253 Administration (Shoreland)

(B 2 b) Variance.

For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

Staff has interpreted this section as “conforming” to mean functioning as necessary to serve the home.

Section 150.255 Shoreland Standards. (D). Placement, Design and Height of Structures

States that on-site sewage systems must be setback a minimum of 75 feet from the OHW of Recreational Development classified lakes.

Findings & General Site Overview

Site Data:	<i>Lot Size:</i> 0.14 acres (including area below OHW and property used for Co Rd 17) <i>Existing Use:</i> Residential <i>Existing Zoning:</i> R-1 (One Family Residential); Shoreland District <i>Property Identification Number (PID):</i> 24-029-21-22-0015
-------------------	---

Application Review:

Applicable Definitions:	<p>DWELLING, SINGLE-FAMILY. A residential structure designed for or used exclusively as 1 dwelling unit of permanent occupancy.</p> <p>INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system, or other sewage treatment device.</p> <p>INDIVIDUAL SEWAGE TREATMENT SYSTEM. An on-site sewage treatment system connecting to a single dwelling or other establishment, consisting of soil treatment unit, septic tank, and any associated pumping and piping systems.</p> <p>LOT, RIPARIAN. A separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.</p> <p>MOUND SYSTEM. An alternative sewage treatment system designed with the soil treatment area built above existing grade to overcome the limitations of water table, bedrock, or soil permeability.</p> <p>NON-CONFORMITY – NON-CONFORMING USE. Any legal use, structure or</p>
--------------------------------	---

parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments to the zoning regulations that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded, or authorized.

ORDINARY HIGH WATER MARK OR ELEVATION (O.H.W.). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

PRACTICAL DIFFICULTIES. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposed to use the property in a reasonable manner not permitted by an official control.

SEPTIC TANK. A sound, durable, watertight sewage tank designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquids, digest organic matter, and store liquids through a period of detention.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or foliage; and 300 feet from a river or stream, or the landward extend of a flood plain designated by ordinance on a river or stream; whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

STANDARD SYSTEM. An individual sewage treatment system employing a building sewer, sewage tank, and the soil treatment system commonly known as a dram field or leach field.

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]

**Planning
Department
Review
Summary:**

Mr. Durand, the property owner, is attempting to sell his property at 2860 Lake Elmo Avenue North which requires him to bring the waste management for the home into compliance with regulations. The 2-bedroom lakeshore property is currently served by a dry well which is not allowed. According to a certified septic system designer and inspector as well as the Washington County Department of Public Health and Environment, the existing septic treatment system is considered a threat to the ground water. However, finding a suitable replacement, though required, has been a challenge.

The septic designer has stated in a letter that he does not believe there is enough area to install a subsurface sewage treatment system and that holding tanks with an alarm system seem to be the only option.

In a letter received by Washington County, who is the septic permitting authority, it was identified that the septic ordinance states holding tanks are intended for temporary purposes and should not be used for more than 12 months. The city is able to grant a variance from this provision. However, the County stated they would not be in favor of holding tanks as a permanent measure and was concerned about the frequency with which they would need to be pumped for a future buyer – potentially every two weeks all year round.

Exploring Options for Waste Management at 2860 Lake Elmo Avenue N:

1. 201 System - The City owns and operates a few 201 Systems which function as a community septic system that is located off-site for private residential homes. There is no current 201 system availability for Mr. Durand to connect to at this time.
2. City Sewer – The City's Comprehensive Plan does not designate Mr. Durand's property to be within an area guided for city sewer by 2030. The property is located **between** the Village area and the south of 10th street area – both of which are guided for future sewer service.
3. Locating Off Site – A **different** small lakeshore lot on Lake Elmo was permitted to pipe their sewage under a city road to a neighboring property where a septic system was constructed. A one acre septic easement was supplied on a 9+ acre property directly across the road by the person who owned both properties at the time.

The option to acquire an easement or land to create a septic system off-site was discussed with Mr. Durand who stated that he did not believe it was an option in his case.

4. Holding Tanks – This is the option being proposed by the septic designer and property owner, but as mentioned above, is not a preferred long-term solution. If holding tanks are utilized, the City should also discuss if additional conditions should be considered.

- a. If it is desirable to the City to allow this home to continue to be used for year-round residential purposes, it may be considered whether or not a document should be recorded against the property identifying

	<p>future perspective buyers of the potential for the holding tanks to be pumped every two weeks (or less).</p> <p>b. Should the city be interested in reducing the use of the property and therefore the use of the holding tanks (a "temporary" solution), it should be discussed whether the City should require the use of the home be reduced from year-round to a seasonal use and limited to a certain number of months each year. The restriction of a property to seasonal (such as three months a year) use would reduce the amount of times the holding tanks would be pumped. This solution would be more acceptable by Washington County and would be considered a temporary use.</p>
Variance Criteria:	<p>An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. Because the City has recently amended the variance provisions of the ordinance, some of these required findings will be relatively new to both staff and Planning Commissioners. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicants' request.</p> <p>1. <i>Practical Difficulties.</i> <i>A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.</i></p> <p>The language concerning "practical difficulties" represents the bulk of the new provisions that were amended in the City Code. Under this standard, the City would need to find that the installation of the proposed holding tanks at 2860 Lake Elmo Avenue is a reasonable use of the property not otherwise permitted under the zoning ordinance. The appropriate findings for this standard would therefore need to note the waste management system is a reasonable improvement for a lot in one of the City's single family districts. Using this standard as a basis, Staff is suggesting that the Planning Commission consider the following:</p> <p>FINDINGS: That the proposed use is reasonable because the applicants have demonstrated that the existing home would no longer be inhabitable without a waste management system. A certified septic designer has stated that holding tanks are the only form of on-site waste management possible. The inability to use the home for residential purposes would drastically reduce, but would not eliminate, the usability of the property. The ability to continue to use an existing</p>

residential dwelling for residential purposes in a residential zoning district would be a reasonable use of the property.

2. ***Unique Circumstances.*** *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

In order to demonstrate compliance with this standard, the Planning Commission would need to note those aspects of the applicant's property that would not pertain to other properties within the same zoning classification. In this case, the size of the lot (just under 6,000 square feet), that a portion of the land is utilized for County Road 17, and its proximity to Lake Elmo are unique, especially considering that there is no garage taking up additional space on the property. A septic system of any type would likely require a variance of some kind at any point on this property.

The city run 201 systems do not have capacity for the applicant's property to join. This property is not in an area designated by the 2030 Lake Elmo Comprehensive Plan to be served with city sewer. The applicant's property is located between two larger planning areas guided for future sewer (the Village Area and south of 10th Street).

Prior to 1968, it was determined this lot could be utilized for residential purposes and a building permit was issued for a new home. The property is just over a tenth of an acre in size where a 1.5 acre minimum lot size is required and is located on a lake which, in combination with the house location and driveway, create a difficult situation in which to find a conforming location for a replacement septic system.

Again, Staff is suggesting some findings that could be considered by the Planning Commission as follows:

FINDINGS: That the applicant's property is unique due to its location within a shoreland district and the small size of the property. This property is unable to connect to an existing 201 system and is not guided for a future sewer connection.

3. ***Character of locality.*** *The proposed variance will not alter the essential character of the locality in which the property in question is located.*

Because the holding tanks would be located underground, they would not be visible and would have no visual impact on the neighborhood. The holding tanks would allow the residential dwelling to continue to be used for residential purposes as it has for the last few decades. This property is zoned R-1 residential and is located in a residential neighborhood.

A more formal set of findings related to this standard is suggested as follows:

FINDINGS: The applicant's house is located in a residential area of the city and is guided to continue on in that manner. The proposed holding tanks would allow

that use to continue on at that site.

4. **Adjacent properties and traffic.** *The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.*

Staff has found that the proposed holding tanks, given that they would be located below ground would have no impact on the supply of light and air to properties adjacent to the property in question and would not impact the congestion of the public streets or impact property values within the neighborhood.

Considering the potential findings of fact as suggested in the preceding section, Staff is recommending approval of the variance request based on the findings noted in items 1-4 above. In order to address some potential issues, Staff would further suggest conditions of approval that would require the applicant to survey the front property line prior to construction to ensure it is outside the right-of-way for County Road 17 (Lake Elmo Avenue North) and provide property erosion control measures during and after construction to prevent sediment from leaving the site.

**Variance
Conclusions:**

Based on the analysis of the review criteria in City Code, City Staff would state that there is merit to grant an approval of the variances requested for 2860 Lake Elmo Avenue North.

**Resident
Concerns:**

See Planning Commission Review Section.

**Additional
Information:**

In speaking with a representative of Washington County's Public Health and Environment Department, the information was conveyed to City Staff that additional properties near Mr. Durand's home will be coming forward soon with this same problem. He suggested the City reconsider providing sewer service to this area for a long-term solution.

In speaking with the septic designer, Mr. Eklin, he stated that another property in Lake Elmo will be coming in shortly seeking a septic variance as well. He identified a business located in the Village Area that does not have room to replace the septic system and holding tanks will be necessary as well.

The Valley Branch Watershed District stated that a VBWD permit would not be required, but recommended the elevation of the bottom of the new sewage tank be no lower than elevation 893 (two feet above the VBWD-established 100-year flood level of Lake Elmo).

**Planning
Commission
Review**

The Planning Commission reviewed this item at the August 8th meeting. The item was discussed, a public hearing was held and a recommendation was made.

Donald Durand spoke during the public hearing portion of the meeting. Though he did not outright speak against the variance, he had a number of questions and expressed some concerns. He stated that he owns the property adjacent to the applicant's property and across the street. He stated that he is not interested in working with the applicant on citing an additional septic system on his property as it would deter his ability to sell the property in the future.

Conclusion:

The applicants are seeking approval of a variance to allow holding tanks to be constructed within 55 feet of Lake Elmo's OHW and within 2 feet of a property line at 2860 Lake Elmo Avenue North.

**Council
Options:**

The City Council has the following options:

- A) Approve the variances requested with conditions;
- B) Deny the variances requested with findings provided on page 9;
- C) Table the request and direct staff or the applicant to provide additional information concerning this application.

The deadline for a Council decision on this item is September 18, 2011, which can be extended an additional 60-days if needed.

Rec:

Staff is recommending approval of the variance to allow holding tanks to be constructed within 45 feet of Lake Elmo's OHW and within 2 feet of a property line at 2860 Lake Elmo Avenue North for longer than 12 months based on reasons stated above **should the City determine that this lot should continue to be used for residential purposes** with the following conditions:

1. No adverse impacts are allowed to the adjacent lots. Existing drainage patterns must be maintained.
2. The right-of-way line of CSAH 17 shall be identified and staked by a licensed surveyor in order to determine the exact location of the property line.
3. Any work in the CSAH 17 right-of-way shall require a right-of-way permit. Any disturbance of the CSAH 17 roadway and shoulder shall be restored according to county standards.
4. The County retains all rights to work within the county right-of-way and

within any drainage/utility easement. Adverse effects on the septic system resulting from such work within the right-of-way by the County or any other permittee will be without compensation to the property owner.

5. Temporary erosion control measures shall be installed prior to any earthwork. Disturbed areas shall be vegetated as soon as possible after disturbance and no later than 14 days after final grading.
6. A document shall be recorded against the property owner identifying that holding tanks are the method of waste management for the site which may require pumping every two weeks (or less depending on useage).

**Denial
Motion
Template:**

To deny the request, you may use the following motion as a guide:

I move to approve Resolution 2011-033C denying the proposed variances for the construction of two 1,500 gallon holding tanks at 2860 Lake Elmo Avenue North for the following reasons: ...*(please site additional reasons for the recommendation if warranted)*

1. The property is insufficient in size to continue to accommodate a residential dwelling that requires an on-site waste management system.
2. The lot size for the R-1 district is 1.5 acres. The Comprehensive Plan does not identify this site as being served by City sewer now or in the future.
3. Other waste management options such as a 201 system or City sewer are not available to this site. The applicant has stated an off-site system is not an option.
4. City ordinances identify that holding tanks are not a suitable long-term solution for providing waste management service for residential uses.
5. The regulations for holding tanks state that they may be used for up to 12 months.
5. It is estimated that a two bedroom home, such as at 2860 Lake Elmo Avenue, would utilize approximately 300 gallons a day which would enter into the proposed holding tanks. At that rate, the two 1,500 gallon tanks would need to be pumped every ten days. Utilizing holding tanks as a long-term solution for a residential use is not reasonable given the financial hardship that would result for future buyers needing to pump the tanks frequently.
6. It is not in the City's or future residents' best interest to grant a variance to allow a holding tank to be the long-term solution for waste management to a residential home.

**Approval
Motion
Template:**

To approve the request, you may use the following motion as a guide:

I move to approve Resolution 2011-033A of the request for the construction of two holding tanks 45 feet from Lake Elmo's OHW and 2 feet from a property line at 2860 Lake Elmo Avenue North for longer than 12 months based on the findings provided in the staff report...*(or cite your own)*

...with the conditions outlined in the staff report.

cc: Clyde Durand, applicant

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

RESOLUTION NO. 2011-033A

*A RESOLUTION APPROVING A VARIANCE TO ALLOW THE CONSTRUCTION OF TWO
1,500 GALLON HOLDING TANKS 45 FEET FROM THE OHW AND 2 FEET FROM THE
FRONT PROPERTY LINE AT 2860 LAKE ELMO AVENUE NORTH FOR MORE THAN 12
MONTHS*

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

WHEREAS, Clyde Durand, 2860 Lake Elmo Avenue (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to allow the construction of a two 1,500 gallon holding tanks with an alarm system up to 45 feet from the OHW for Lake Elmo and up to 2 feet from the front property line at 2860 Lake Elmo Avenue North for more than 12 months on the property zoned R-1 – One Family Residential, 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 August 8, 2011; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated August 23, 2011; and

WHEREAS, the City Council considered said matter at its August 23, 2011 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council 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 two 1,500 gallon holding tanks with an alarm system up to 45 feet from the OHW for Lake Elmo where a 75 foot setback is required and up to 2 feet from the front property line where a 10 foot setback is required at 2860 Lake Elmo Avenue North. In addition, a variance is needed to allow the holding tanks to be the method of waste management on the site for more than 12 months.
- 4) That the Variance will be located on property legally described as PT GOV LOT 1 BEING THAT PT OF FOLL DESC LYING WLY OF C/L OF WASH CO HWY#17; ALL THAT PT LOT 1 DESC AS FOLLOWS: COMM AT PT ON N LINE OF SD SEC 993.5FT W FROM NE CORN OF SD LOT THN S1DEG57'E 823.1FT TO AN IRON MONUMENT WHICH IS 495.375FT FROM SO LINE OF SD LOT THN RETURN NLY ALG SD LAST DESC COURSE 120FT TO PT OF BEG FROM SD PT OF BEG SO1DEG57'E 120FT TO LAST MENTIONED IRON MONUMENT THN WLY PAR WITH THE S LINE OF SD LOT THE BEARING THEREOF BEING S88DEG17'W 447.9FT TO AN IRON MONUMENT THN NLY AT RT ANG 60FT THN WLY PAR WITH SD S LINE OF SD LOT TO SHORE OF LAKE ELMO THN NLY ALG SD SHORE 60FT M/L TO A LINE DRAWN THRU SD PT OF BEG PAR WITH SD SO LINE OF SD LOT THN ELY TO PT OF BEG TOG WITH ALL RIPARIAN & OTHER RTS TITLE INTER EST IN & TO THE WATERS BED & SHORE OF THAT PT OF SD LK ELMO BORDERING UPON & APPURTENANT TO ABOVE DESC TRACT & LYING WITHIN THE NLY & SLY BOUNDARIES OF SD TRACT AS EXTEND TO & INTO SD LAKE SUBJ TO SURFACE WATER DRAINAGE EASEMENT Section 24 Township 029 Range 021 Commonly known as 2860 Lake Elmo Avenue.
- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings:*
 - a) *The requested variances allow the continued use of the property for residential purposes. A continuation of a residential use is reasonable as the property is in a residential neighborhood, has been used for residential purposes for decades and is guided in the Lake Elmo Comprehensive Plan for residential purposes. It is reasonable to continue to use this property for residential purposes.*
 - b) *No other alternative waste management system has been found for this property outside of the proposed holding tanks. A method of waste management is necessary for the property to continue to be used for residential purposes.*
 - c) *The inability to continue to use this property for residential purposes would drastically reduce the value of the applicant's property.*
 - d) *The applicant is interested in selling the property and is thus required to bring the septic system into compliance.*
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings:*
 - a) *The applicant's property is just 0.14 acres in size where 1.5 acres is required.*

- b) *The property has been in use for residential purposes since at least 1968, though no building permit has been found on record.*
 - c) *The small residential property is on Lake Elmo, the water body, and is therefore also subject to lakeshore requirements.*
 - d) *It is believed that this is the second smallest residential property used for single family detached dwelling purposes within the City limits.*
 - e) *The property does not have access to other methods of waste management. A City-run 201 system (community collector) does not have capacity for this home to connect. The Lake Elmo Comprehensive Plan does not guide this property for future sewer connection. The applicant has stated that a septic system off-site is not an option for this property.*
 - f) *A portion of the 5,908 square feet is paved and utilized for County Road 17 (Lake Elmo Avenue North).*
- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings:*
- a) *The requested variances allow the continued use of the property for residential purposes. A continuation of a residential use is reasonable as the property is in a residential neighborhood, has been used for residential purposes for decades and is guided in the Lake Elmo Comprehensive Plan for residential purposes. It is reasonable to continue to use this property for residential purposes.*
- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *Specific findings:*
- a) *The requested variances would be to utilize a method of underground management for waste. This would allow the continued use of the home for residential purposes which would not change the existing impact to the neighborhood.*

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is granted with the following conditions:

- 1) That the use of the proposed accessory building be restricted to agricultural activities only, and that it not be used for the storage of personal automobiles, home based business activities, or other non-agricultural equipment.
- 2) That a substantial portion of the acreage will continue to be used for farming.

Passed and duly adopted this 19th day of July 2011 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

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

RESOLUTION NO. 2011-033B

*A RESOLUTION APPROVING A VARIANCE TO ALLOW THE CONSTRUCTION OF TWO
1,500 GALLON HOLDING TANKS 45 FEET FROM THE OHW AND 2 FEET FROM THE
FRONT PROPERTY LINE AT 2860 LAKE ELMO AVENUE NORTH FOR MORE THAN 12
MONTHS*

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

WHEREAS, Clyde Durand, 2860 Lake Elmo Avenue (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to allow the construction of a two 1,500 gallon holding tanks with an alarm system up to 45 feet from the OHW for Lake Elmo and up to 2 feet from the front property line at 2860 Lake Elmo Avenue North for more than 12 months on the property zoned R-1 – One Family Residential, 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 August 8, 2011; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated August 23, 2011; and

WHEREAS, the City Council considered said matter at its August 23, 2011 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council 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 two 1,500 gallon holding tanks with an alarm system up to 45 feet from the OHW for Lake Elmo where a 75 foot setback is required and up to 2 feet from the front property line where a 10 foot setback is required at 2860 Lake Elmo Avenue North. In addition, a variance is needed to allow the holding tanks to be the method of waste management on the site for more than 12 months.
- 4) That the Variance will be located on property legally described as PT GOV LOT 1 BEING THAT PT OF FOLL DESC LYING WLY OF C/L OF WASH CO HWY#17; ALL THAT PT LOT 1 DESC AS FOLLOWS: COMM AT PT ON N LINE OF SD SEC 993.5FT W FROM NE CORN OF SD LOT THN S1DEG57'E 823.1FT TO AN IRON MONUMENT WHICH IS 495.375FT FROM SO LINE OF SD LOT THN RETURN NLY ALG SD LAST DESC COURSE 120FT TO PT OF BEG FROM SD PT OF BEG SO1DEG57'E 120FT TO LAST MENTIONED IRON MONUMENT THN WLY PAR WITH THE S LINE OF SD LOT THE BEARING THEREOF BEING S88DEG17'W 447.9FT TO AN IRON MONUMENT THN NLY AT RT ANG 60FT THN WLY PAR WITH SD S LINE OF SD LOT TO SHORE OF LAKE ELMO THN NLY ALG SD SHORE 60FT M/L TO A LINE DRAWN THRU SD PT OF BEG PAR WITH SD SO LINE OF SD LOT THN ELY TO PT OF BEG TOG WITH ALL RIPARIAN & OTHER RTS TITLE INTER EST IN & TO THE WATERS BED & SHORE OF THAT PT OF SD LK ELMO BORDERING UPON & APPURTENANT TO ABOVE DESC TRACT & LYING WITHIN THE NLY & SLY BOUNDARIES OF SD TRACT AS EXTEND TO & INTO SD LAKE SUBJ TO SURFACE WATER DRAINAGE EASEMENT Section 24 Township 029 Range 021 Commonly known as 2860 Lake Elmo Avenue.
- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings:*
 - a) *The requested variances allow the continued use of the property for residential purposes. A continuation of a residential use is reasonable as the property is in a residential neighborhood, has been used for residential purposes for decades and is guided in the Lake Elmo Comprehensive Plan for residential purposes.*
 - b) *It is reasonable to continue to use this property for residential purposes on a seasonal basis, which means for ___ months out of the year.*
 - c) *A seasonal use is considered low-usage and is more reasonable for the long-term utilization of holding tanks.*
 - d) *No other alternative waste management system has been found for this property outside of the proposed holding tanks. A method of waste management is necessary for the property to continue to be used for residential purposes.*
 - e) *The inability to continue to use this property for residential purposes would drastically reduce the value of the applicant's property.*
 - f) *The applicant is interested in selling the property and is thus required to bring the septic system into compliance.*

- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings:*

- a) *The applicant's property is just 0.14 acres in size where 1.5 acres is required for the R-1 district.*
- b) *The property has been in use for residential purposes since at least 1968, though no building permit has been found on record.*
- c) *The small residential property is on Lake Elmo, the water body, and is therefore also subject to lakeshore requirements.*
- d) *It is believed that this is the second smallest residential property used for single family detached dwelling purposes within the City limits.*
- e) *The property does not have access to other methods of waste management. A City-run 201 system (community collector) does not have capacity for this home to connect. The Lake Elmo Comprehensive Plan does not guide this property for future sewer connection. The applicant has stated that a septic system off-site is not an option for this property.*
- f) *A portion of the 5,908 square feet is paved and utilized for County Road 17 (Lake Elmo Avenue North).*

- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings:*

- a) *The requested variances allow the continued use of the property for residential purposes. A continuation of a residential use is reasonable as the property is in a residential neighborhood, has been used for residential purposes for decades and is guided in the Lake Elmo Comprehensive Plan for residential purposes. It is reasonable to continue to use this property for residential purposes.*
- b) *Utilizing the home for seasonal, residential use would not alter the essential character of the neighborhood as the temporary use would still be for single family residential purposes.*

- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

Specific findings:

- a) *The requested variances would be to utilize a method of underground management for waste. This would allow the continued use of the home for residential purposes which would not change the existing impact to the neighborhood.*

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is granted with the following conditions:

1. No adverse impacts are allowed to the adjacent lots. Existing drainage patterns must be maintained.
2. The right-of-way line of CSAH 17 shall be identified and staked by a licensed surveyor in order to determine the exact location of the property line.
3. Any work in the CSAH 17 right-of-way shall require a right-of-way permit. Any disturbance of the CSAH 17 roadway and shoulder shall be restored according to county standards.
4. The County retains all rights to work within the county right-of-way and within any drainage/utility easement. Adverse effects on the septic system resulting from such work within the right-of-way by the County or any other permittee will be without compensation to the property owner.
5. Temporary erosion control measures shall be installed prior to any earthwork. Disturbed areas shall be vegetated as soon as possible after disturbance and no later than 14 days after final grading.
6. A document shall be recorded against the property owner identifying that holding tanks are the method of waste management for the site which may require pumping every two weeks (or less depending on usage).
7. The property can not be used for year-round residential purposes. The residential structure can be used for seasonal purposes as a single family residence, which means for ___ months out of the year the home may be inhabited. For the remaining months, the property owner must work with the City to have the water supply turned off. The property owner is responsible for ensuring other items are taken care of to adequately close up the home for the remainder of the year.
8. The information in item 7 shall also be recorded in a document with Washington County against the property.

Passed and duly adopted this 23rd day of August 2011 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator

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

RESOLUTION NO. 2011-033C

*A RESOLUTION DENYING THE CONSTRUCTION OF TWO 1,500 GALLON HOLDING
TANKS 45 FEET FROM THE OHW AND 2 FEET FROM THE FRONT PROPERTY LINE AT
2860 LAKE ELMO AVENUE NORTH FOR MORE THAN 12 MONTHS*

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

WHEREAS, Clyde Durand, 2860 Lake Elmo Avenue (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to allow the construction of a two 1,500 gallon holding tanks with an alarm system up to 45 feet from the OHW for Lake Elmo and up to 2 feet from the front property line at 2860 Lake Elmo Avenue North for more than 12 months on the property zoned R-1 – One Family Residential, 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 August 8, 2011; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated August 23, 2011; and

WHEREAS, the City Council considered said matter at its August 23, 2011 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council 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 two 1,500 gallon holding tanks with an alarm system up to 45 feet from the OHW for Lake Elmo where a 75 foot setback

is required and up to 2 feet from the front property line where a 10 foot setback is required at 2860 Lake Elmo Avenue North. In addition, a variance is needed to allow the holding tanks to be the method of waste management on the site for more than 12 months.

- 4) That the Variance will be located on property legally described as PT GOV LOT 1 BEING THAT PT OF FOLL DESC LYING WLY OF C/L OF WASH CO HWY#17; ALL THAT PT LOT 1 DESC AS FOLLOWS: COMM AT PT ON N LINE OF SD SEC 993.5FT W FROM NE CORN OF SD LOT THN S1DEG57'E 823.1FT TO AN IRON MONUMENT WHICH IS 495.375FT FROM SO LINE OF SD LOT THN RETURN NLY ALG SD LAST DESC COURSE 120FT TO PT OF BEG FROM SD PT OF BEG SO1DEG57'E 120FT TO LAST MENTIONED IRON MONUMENT THN WLY PAR WITH THE S LINE OF SD LOT THE BEARING THEREOF BEING S88DEG17'W 447.9FT TO AN IRON MONUMENT THN NLY AT RT ANG 60FT THN WLY PAR WITH SD S LINE OF SD LOT TO SHORE OF LAKE ELMO THN NLY ALG SD SHORE 60FT M/L TO A LINE DRAWN THRU SD PT OF BEG PAR WITH SD SO LINE OF SD LOT THN ELY TO PT OF BEG TOG WITH ALL RIPARIAN & OTHER RTS TITLE INTER EST IN & TO THE WATERS BED & SHORE OF THAT PT OF SD LK ELMO BORDERING UPON & APPURTENANT TO ABOVE DESC TRACT & LYING WITHIN THE NLY & SLY BOUNDARIES OF SD TRACT AS EXTEND TO & INTO SD LAKE SUBJ TO SURFACE WATER DRAINAGE EASEMENT Section 24 Township 029 Range 021 Commonly known as 2860 Lake Elmo Avenue.
- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings:*
 - a) *Although no documents exist as to when the existing home was built, it appears as though it was built in the 1960's. At that time a dry well was constructed to manage the waste from the residential home. Since that time, dry wells are no longer an allowed waste management system.*
 - b) *No other alternative waste management system has been found for this property outside of the proposed holding tanks.*
 - c) *The applicant is interested in selling the property and is thus required to bring the septic system into compliance.*
 - d) *It was found by a certified septic designer that a conforming sewage treatment system was not able to be constructed.*
 - e) *A certified septic designer stated that holding tanks are the only method of on site waste management.*
 - f) *The regulations regarding residential septic systems state that holding tanks shall not be used for more than 12 months.*
 - g) *Holding tanks are not a reasonable long-term solution for waste management at 2860 Lake Elmo Avenue North given the estimated pumping needs for a two bedroom home of once every ten days.*

- h) Because a reasonable waste management system has not been found for the property, the existing residential home could no longer be used for residential purposes.*
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings:*
- a) The applicant's property is just 0.14 acres in size where 1.5 acres is required for the R-1 district.*
 - b) The property has been in use for residential purposes since at least 1968, though no building permit has been found on record.*
 - c) The small residential property is on Lake Elmo, the water body, and is therefore also subject to lakeshore requirements.*
 - d) It is believed that this is the second smallest residential property used for single family detached dwelling purposes within the City limits.*
 - e) The property does not have access to other methods of waste management. A City-run 201 system (community collector) does not have capacity for this home to connect. The Lake Elmo Comprehensive Plan does not guide this property for future sewer connection. The applicant has stated that a septic system off-site is not an option for this property.*
 - f) A portion of the 5,908 square feet is paved and utilized for County Road 17 (Lake Elmo Avenue North).*
- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings:*
- a) The continued use of the home for residential purposes would not alter the residential neighborhood.*
 - b) The proposed holding tanks would potentially require the pumping of sewage two to three times a month. This additional traffic may be noticeable to the adjoining residential neighborhood.*
- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.
- Specific findings:*
- a) The requested variances would be to utilize a method of underground management for waste. This would allow the continued use of the home for residential purposes which would not change the existing impact to the neighborhood.*

CONCLUSIONS AND DECISION

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

Passed and duly adopted this 23rd day of August 2011 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator



Applicant property

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

Fee \$ _____

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

APPLICANT: Clyde J. Durand
(Name) (Mailing Address) (Zip)

TELEPHONES: 2860 Lake Elmo ave. No.
(Home) (Work) (Mobile) (Fax)

FEE OWNER: 651-770-4864
(Name) (Mailing Address) (Zip)

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

PROPERTY LOCATION (Address and Complete (Long) Legal Description): _____

DETAILED REASON FOR REQUEST: _____

*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:

JUL 21 2011

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.

Clyde J. Durand 7-21-11
Signature of Applicant Date Signature of Applicant Date

Ed Eklin Septic System Design & Inspection LLC
2303 County Road F East
White Bear Lake, MN 55110
651.485-2300

July 14, 2011

Clyde Durand
2860 Lake Elmo Ave. N.
Lake Elmo, MN 55042

Dear Clyde:

At your request, a site evaluation was performed at the property located at 2860 Lake Elmo Ave. N., Lake Elmo, MN., for a subsurface sewage treatment system.

There are two existing tanks, after speaking to you and looking at the tanks, I believe this is a very old system and has a dry well. Dry wells are considered a threat to the ground water and must be pumped, broken up and filled with sand, or removed.

Since your lot is very limited, I do not believe that there is enough area to install a subsurface sewage treatment system. Holding tanks seem to be the only option.

The existing sewer pipe from the house exits toward the north end of the home and angles over to the tanks. This pipe is cast iron and is under concrete slabs. Since there is a city water line coming into the home, the sewer pipe and water line may be crossing each other. Also; if the sewer pipe needs to be replaced, removal of much of the concrete may be needed. The new sewer pipe must be insulated to prevent freezing.

I propose that the new holding tanks be placed within a couple feet of the right of way of Lake Elmo Ave., the tanks would be placed within 10 feet or so of the main city water line, which is in the road right of way. Also; the tanks would be placed approximately 55 feet from Lake Elmo.

For your 2 bedroom home, I propose installing two 1,500 gallon holding tanks. An alarm must be installed at the second tank as a high water warning. This alarm should activate when the tank has approximately 500 gallons of reserve capacity. The tanks must be pumped promptly when the alarm is activated to prevent sewage back up in the home.

This proposed design may require permission from the Department of Natural Resources and the local watershed department as well as the City of Lake Elmo and Washington County Public Health.

MPCA License #3321/Certification #C3268

SEPTIC SYSTEM DESIGNS • PERCOLATION TESTS
SOIL BORINGS • SUB-DIVISION PLANNING

I suggest installing posts, or a small retaining wall to ensure that the tanks are not driven over.

Because I propose holding tanks, I have designed a Type 2 sewage treatment system.

In winter, it is best to leave the snow over the holding tanks uncompacted for better insulation to prevent freezing.

Footing or roof drains, chemically-treated hot tubs, pool water, paint, and other products containing hazardous chemicals must not discharge into the sewage treatment system.

Low-flow shower heads and toilets can cut down on water usage. Leaky faucets and toilets can add too much water to the treatment system and should be fixed promptly. Also, I recommend using a lint screen on your washing machine discharge pipe.

It is the homeowner's responsibility to get the septic tanks pumped when the alarm activates. A licensed maintainer (pumper) will be required to do this.

This design must be reviewed by Washington County Public Health and a permit must be obtained before the installation of any part this design.

If you have any questions or concerns, please feel free to call me. I would be glad to help.

Sincerely,



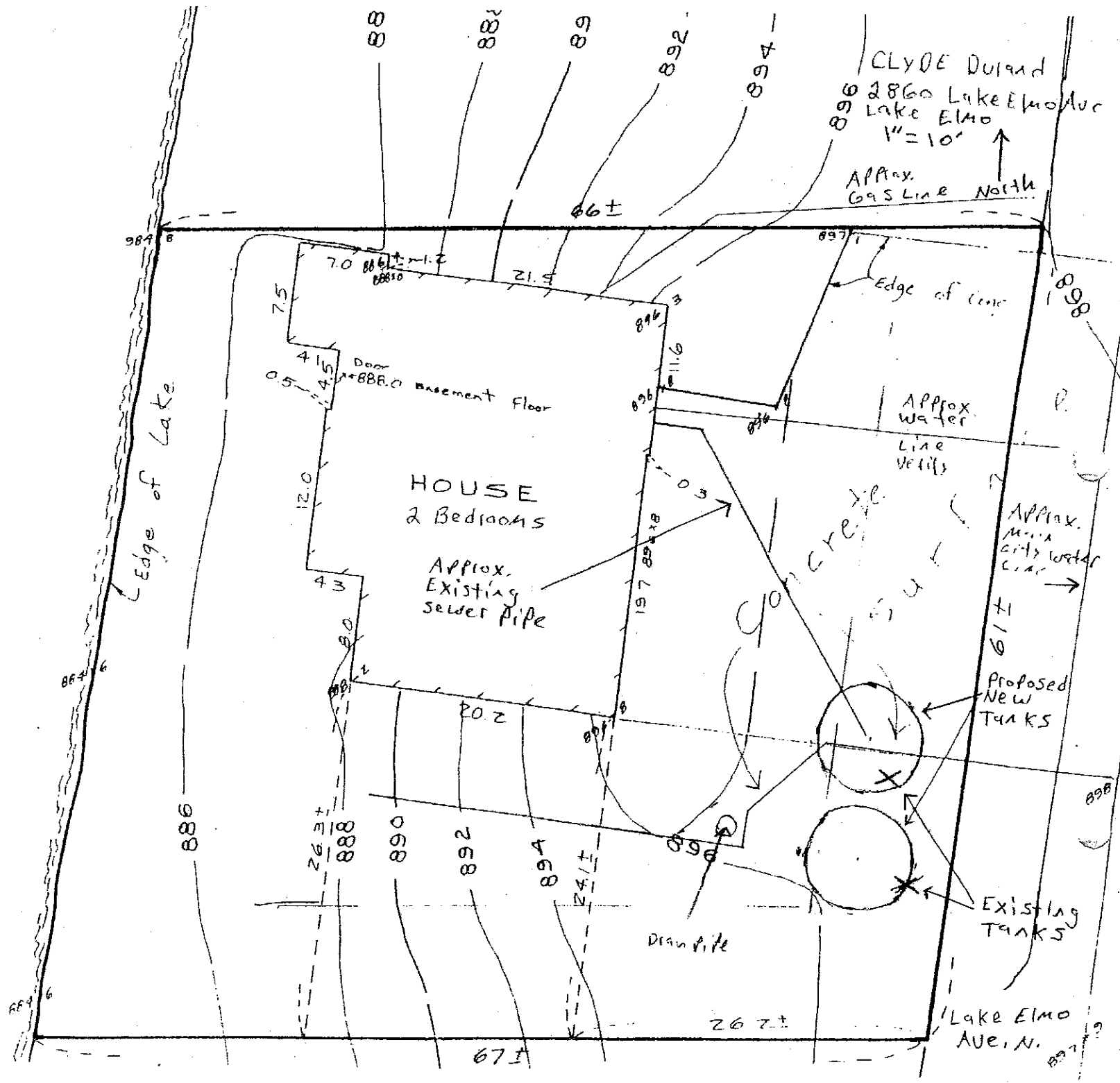
Ed Eklind

MPCA License #3321/Certification #C3268

SEPTIC SYSTEM DESIGNS • PERCOLATION TESTS
SOIL BORINGS • SUB-DIVISION PLANNING

LAKE

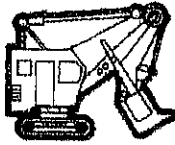
ELMO



PROPOSAL

Fuhr Trenching, Inc.

RICK FUHR
12539 MANNING TRAIL NORTH
HUGO, MINNESOTA 55038
651-430-2782



No. _____

Date 7/18/11

Sheet No. _____

Proposal Submitted To:

Name Clyde Durand
Street 2860 Lake Elmo Ave. N.
City Lake Elmo, MN 55042
State 651-770-4864
Phone _____

Work To Be Performed At:

Name _____
Street _____
City _____ State _____
Date of Plans _____
Architect _____

We hereby propose to furnish the materials and perform the labor necessary for the completion of

Estimate to install new Holding Tanks for your Home to include:

Owner to obtain Septic Tank Permit from Washington County.

We will do the Following work for this Job.

Inspect and Camera existing Cast Iron Sewer Pipe from House to
Septic Tank. \$ 350.00

We will Pump out existing Tanks and Remove and Haul away.

Install 2-1500 Gallon Concrete Septic Tanks with Manhole Covers
to above Grade.

Bury Wire to House and Install Septic Tank Alarm in 2nd Tank
at approx. 500 Gallons below Full Mark for Reserve.

Have work inspected and Backfill and Cleanup area.

Seed and Mulch over Tank area. \$ 4,580.00

If needed We will Remove Concrete in Pipe area and Haul away.

Remove and Replace Cast Iron Pipe with 4" Solid Core Sch 40

PVC Pipe from House to Tanks. Backfill and Compact Owner to

Replace Concrete as needed. \$ 975.00

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of Dollars (\$ _____).

With payment to be made as follows: _____

Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance upon above work. Workmen's Compensation and Public Liability Insurance on above work to be taken out by _____

Respectfully submitted Rick Fuhr

Per _____

Note-This proposal may be withdrawn by us if not accepted within _____ days.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Date _____

Signature _____

Signature _____

July 27, 2011



Mr. Kyle Klatt
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

Re: 2860 Lake Elmo Avenue North – Variance Request

Dear Kyle:

Thank you for submitting information regarding the proposed septic system replacement at 2860 Lake Elmo Avenue North. On behalf of the Valley Branch Watershed District (VBWD), I have reviewed the information and this letter provides my comments.

The proposed project involves replacing an existing system that may include a dry well. A new system should be installed to protect Lake Elmo from contamination. The proposed project, which includes installing two 1,500-gallon holding tanks that will be pumped as necessary, does not require a VBWD permit.

Based on the grading plan submitted, the home's basement floor is at Elevation 888.0, which is below the VBWD-established 100-year flood level of Lake Elmo (El. 891.0). The proposed elevation of the bottoms of the new sewage tanks is unclear. I recommend that they be no lower than Elevation 893.0 (i.e., two feet above the VBWD-established 100-year flood level of Lake Elmo).

Temporary erosion control measures should be installed prior to any earthwork. The erosion control measures should be inspected during construction and maintained as needed. Disturbed areas should be vegetated as soon as possible after disturbance, and no later than 14 days after final grading.

If you have any questions, please contact me at 952-832-2622.

Sincerely,

John P. Hanson, P.E.
BARR ENGINEERING COMPANY
Engineers for the District



DAVID BUCHECK • LINCOLN FETECHEER • DALE BORASH • JILL LUCAS • EDWARD MARCHAN

VALLEY BRANCH WATERSHED DISTRICT • P.O. BOX 838 • LAKE ELMO, MINNESOTA 55042-0538

www.vbwd.org



Public Works Department

Donald J. Theisen, P.E.
Director/County Engineer

Wayne H. Sandberg, P.E.
Deputy Director/Assistant County Engineer

August 3, 2011

Kyle Klatt
Planning Director
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55082

RE: Variance Application for the placement of two septic tanks, 2860 Lake Elmo Avenue in the City of Lake Elmo, Clyde Durand, applicant

Dear Mr. Klatt

Washington County Public Works has been notified of a variance application for the placement of septic tanks within a few feet from the CSAH 17 right-of-way in the City of Lake Elmo. The property is located at 2860 Lake Elmo Avenue and is an existing residential property on Lake Elmo. The applicant has indicated that septic tanks are the only option for sewage storage at this time and it appears that the new septic tanks will be located under the existing concrete driveway within a few feet of the CSAH 17 right-of-way.

There are concerns regarding the right-of-way line of CSAH 17 in relation to the proposed septic tanks since the application does not include a certificate of survey. Also, due limited space between the house and the CSAH 17 right-of-way, there may be a need to work in the right-of-way and disturb the existing roadway as part of the project to install the septic tanks.

Based on the application provided to the county, the following are recommended conditions of approval:

1. The right-of-way line of CSAH 17 shall be identified and staked by a licensed surveyor in order to determine the exact location property line.
2. Any work in the CSAH 17 right-of-way shall require a right-of-way permit. Any disturbance of the CSAH 17 roadway and shoulder shall be restored according to county standards.
3. The County retains all rights to work within the county right-of-way and within any drainage/utility easement. Adverse effects on the septic system resulting from such work within the right-of-way by the County or any other permittee will be without compensation to the property owner.

Thank you for the opportunity to comment on this variance application. Please call me at 651-430-4362 or e-mail me at Ann.pung-terwedo@co.washington.mn.us if you have questions or comments.

Sincerely,
A handwritten signature in cursive script, appearing to read "Ann Pung-Terwedo".

Ann Pung-Terwedo
Senior Planner

c: Joe Gustafson, Traffic Engineer
Carol Hanson, Office/Right-of-Way Specialist
Pete Ganzel, Senior Environmental Specialist, Public Health and Environment



8/3/2011

Department of Public
Health and Environment

Lowell Johnson
Director

Sue Hedlund
Deputy Director

GEO: 24-029-21-22-0015

Kyle Klatt
Planning Director
City of Lake Elmo
3800 Laverne Ave N
Lake Elmo, MN 55042

RE: 2860 Lake Elmo Avenue (Clyde Durand Residence) Holding Tank Variances.

The dwelling is currently served by a non compliant cesspool or tank/drywell. Holding tanks are not a reasonable long term sewage disposal solution for a residence. Section 18.5(1) of the Washington County SSTS Regulations only allows holding tanks for residences on a temporary basis (up to 12 months) until such time that municipal sewer service can be provided.

It is my understanding that this dwelling fronts the route of a planned sewer extension within Lake Elmo. A variance to section 18.5(1) of the Washington County SSTS Regulations will be required if connection to city sewer service is delayed by more than 12 months.

The requested variances to the OHW of Lake Elmo and front lot line setbacks to the holding tanks are necessary considering the severe lot constraints and there appears no option for an on-site solution for sewage treatment and disposal.

If you have any questions, call me at (651)430-6676.

Sincerely,



Pete Ganzel
Senior Environmental Specialist



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/11

REGULAR

ITEM #: 10

MOTION *Resolution No. 2011-035*

AGENDA ITEM: Consider an Interim Use Permit (IUP) application from Country Sun Farm and Greenhouses Inc to allow the sale of agricultural produce and Christmas trees at 11211 North 60th Street that were produced off site.

SUBMITTED BY: Kelli Matzek, City Planner

THROUGH: Bruce Messelt, City Administrator
Planning Commission

BAM

REVIEWED BY: Dave Snyder, City Attorney
Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider an application for an Interim Use Permit (IUP) to allow an Agricultural Sales Business (ASB) for Country Sun Farm & Greenhouses Inc. They are requesting the IUP allow the sale of agricultural products at their business that would expire after ten years or if it is sold to an outside party (non-family member), whichever would occur first. The agricultural products would include flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas trees produced off the premises.

Based upon the recommendation of the Planning Commission, the recommended motion to act on this is as follows:

"Move to approve Resolution 2011-035 approving the Interim Use Permit for an Agricultural Sales Business and to authorize the Mayor to execute the Consent Agreement presented to the City Council related to an interim use permit at 11211 60th Street North."

BACKGROUND INFORMATION: Prior to 2008, Lake Elmo regulations allowed agricultural uses such as greenhouses and the sale of produce **grown on site** in the Agricultural, Rural Residential and OP zoning districts. In 2008, the City added Agricultural Sales Business (ASB) and Agricultural Entertainment Business (AEB) as conditional uses in certain zoning districts. The definitions for ASB and AEB stated the use was restricted to allow the sale of produce produced on the premises. When the City was first setting the performance standards in 2008 for ASB and AEB, such language served to limit the scale of commercial activity.

In 2009, Country Sun Farm & Greenhouses Inc. applied for a CUP for 67 acres to allow an Agricultural Entertainment Business which was approved. Also at that time they requested a rezoning for 33.44 acres from Rural Residential to Agricultural which was denied. The third part of their application was a CUP Amendment to expand their existing CUP to include an additional 24 acres which would allow a future movement of a greenhouse which was denied. The CUP was amended to allow an overflow parking area.

In 2010, the City then amended codes to allow the sale of produce grown off site in Agricultural, Rural Residential and OP Zoning Districts. In addition, changes were made to require an interim use permit for both the AEB and ASB uses subject to performance standards whereas previously an AEB was allowed by CUP and an ASB was allowed outright.

STAFF REPORT: There are 19 review criteria used for evaluation of Agricultural Sales Businesses and an additional 6 review criteria for all Interim Use Permit applications. The detailed staff report goes into a more detailed review.

RECOMMENDATION: The Planning Commission reviewed the application, held a public hearing and recommended approval of the Interim Use Permit. Based upon the Planning Commission's action, it is recommended that the City Council approve the application by undertaking the following action:

"Move to approve Resolution 2011-035 approving the Interim Use Permit for an Agricultural Sales Business and to authorize the Mayor to execute the Consent Agreement presented to the City Council related to an interim use permit at 11211 60th Street North."

Alternatively, the City Council may table the application or deny the requested Interim Use Permit (*please provide findings*). The 60-day review period for this application expires on 8-27-11, but can be extended an additional 60 days if more time is needed.

ATTACHMENTS: (7)

1. Detailed Staff Report
2. Resolution 2011-035
3. Consent Agreement
4. Ordinance 08-031-A Amending Agricultural Business Definitions and Regulations
5. Ordinance 08-032 Amending the Interim Use Permit Requirements and Adding a Definition of an Interim Use
6. Applicant's Submittals
7. Letter from Minnesota Department of Transportation

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... Planning Department
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

City of Lake Elmo Planning Department
Interim Use Permit Request

To: City Council

From: Kelli Matzek, Planner

Meeting Date: 8-23-11

Applicant: Country Sun Farm and Greenhouses, Inc.

Representatives: Keith Bergmann

Location: 11211 Stillwater Boulevard North (Hwy 5)

Zoning: Agricultural (A) and Rural Residential (RR)

Introductory Information

<i>Application Summary:</i>	The applicant is seeking an interim use permit (IUP) to allow the sale of agricultural produce and Christmas trees that were produced off site.
------------------------------------	---

<i>Applicable Codes:</i>	<p>Section 154.019 Interim Use Permits.</p> <p>Outlines the general requirements for all interim permitted uses in Lake Elmo.</p> <p>Section 154.033 Agricultural Zoning District.</p> <p><u>(C) 1. Uses permitted by Interim Use Permit. Agricultural Sales Businesses subject to performance standards outlined in Section 154.110.</u></p>
---------------------------------	---

Findings & General Site Overview

<i>Site Data:</i>	<p>Lot Size: The applicants own a total of 149 contiguous acres (including road right-of-way for Highway 36 and a 24 acre parcel in conservation easement)</p> <p>Existing Use: Country Sun Farm and Greenhouses Operations on 47 acres (including approximately 4 acres of road right-of-way); Open Space on the remaining land</p> <p>Existing Zoning: Agricultural (A) on 53 acres; Rural Residential (RR) on the remaining land</p> <p>Property Identification Number (PID): 01-029-21-22-0002; 01-029-21-22-0008; 01-029-21-23-0004; 01-029-21-22-0003; 01-029-21-21-0007; 01-029-21-12-0006; 01-029-21-24-0001</p>
--------------------------	--

Application Review:

History: Prior to 2008, Lake Elmo regulations allowed agricultural uses such as greenhouses and the sale of produce **grown on site**.

In 2008, the City added Agricultural Sales Business (ASB) and Agricultural Entertainment Business (AEB) as conditional uses in certain zoning districts. The definitions for ASB and AEB stated the use was restricted to allow the sale of produce produced on the premises. When the City was first setting the performance standards in 2008 for ASB and AEB, such language served to limit the scale of commercial activity.

In 2009, Country Sun Farm & Greenhouses Inc. applied for a CUP for 67 acres to allow an Agricultural Entertainment Business which was approved. Also at that time they requested a rezoning for 33.44 acres from Rural Residential to Agricultural which was denied. The third part of their application was a CUP Amendment to expand their existing CUP to include an additional 24 acres which would allow a future movement of a greenhouse which was denied. The CUP was amended to allow an overflow parking area.

In 2010, the City then amended codes to allow the sale of produce grown off site in Agricultural, Rural Residential and OP Zoning Districts. In addition, changes were made to require an interim use permit subject to performance standards instead of allowing the use outright.

IUP Review Criteria: Interim uses must be reviewed under both the general criteria as well as the specific criteria outlined for the requested use. Keep in mind that for these types of applications, the burden is on the City to show why the use should or should not be permitted.

For the sale of produce grown off site, the following performance standards apply:

- 1. *Activities shall be limited to those listed within the definition for Agricultural Sales Business.***
 - The applicant has requested to sell flowering and vegetable plants, pumpkins, squash, corn, vegetables and Christmas trees produced off the premises. The ordinance allows "the retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products. Therefore, staff finds that this criterion is met.
- 2. *The agricultural sales business shall be located on land owned or leased by the producer or the operator of the business and not within or on any public right-of-way or easements.***
 - The applicants have submitted documents identifying that they are owners of the property on which the application is being applied. Therefore, staff finds that this criterion is met.

(cont.)

3. ***The operator must be able to demonstrate at all times to the city that there is sufficient access, parking, and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.***

- The property owners applied for and received approval of an amendment to their Conditional Use Permit to allow a 39,900 square foot overflow parking lot addition in 2009. This overflow parking area was approved to the east of the sales building and is in an area that is in close proximity to the agricultural sales building. The primary parking lot is just to the west of the sales building. In order to address the ongoing requirement of this performance standard, Staff has added this standard as a condition of approval.

4. ***All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.***

- Staff has not received any complaints regarding impacts on adjacent properties due to waste materials being insufficiently contained. However, to address the standard, Staff has added this standard as a condition of approval.

5. ***All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.***

- Staff has not received any complaints regarding impacts on adjacent properties due to dust impacts. However, to continue to address the standard, Staff has added this standard as a condition of approval.

6. ***The maximum gross floor area that can be devoted to sales activities is limited to 20,000 square feet.***

- The applicant has identified that the gross floor area of the existing greenhouse and sales building, where agricultural sales takes place, is 26,976 square feet in size. The sales area is where the agricultural products are also stored. This structure has been in existence and used in this manner prior to the adoption of the applicable ordinance in 2010 when the City was drafting this requirement. Because the applicants are not proposing at this time to add any additional buildings for agricultural sales or to expand the sales area by constructing an addition to any existing buildings and because this structure and the sale of agricultural produce existed prior to this ordinance, staff finds this criterion is met.

- The applicants have not identified if agricultural sales operations will occur outside of this building and is therefore not included in this Interim Use Permit.

- Staff has suggested as a condition of approval that the addition of any new structures, regardless of size, shall require notification to City Staff prior to construction with the potential for an amendment to the Interim Use Permit if the building is in anyway related to the agricultural sales use on site.

7. ***Parking shall be provided in accordance with the parking requirements for***

other commercial uses, as per City Code 154.051 (C). All parking must occur on-site, be on a primary surface such as class five gravel or pavement; and must be set back at least 30 feet from all property lines.

(cont.)

- The applicants have a main parking area utilized for both the Agricultural Entertainment Business and existing agricultural sales activities taking place on the site. An overflow parking lot was approved in 2010. Both parking lots are located on site and meet the requirements specified. The parking lots meet the 30 foot requirement from all external property lines. Therefore, Staff finds that this criterion is met.

8. The minimum lot size shall be 40 acres for any agricultural sales business.

- Although the property on which the sales building is located is on approximately 21 acres, the Country Sun Farm Agricultural Entertainment Business operations and sales business activities have taken place on approximately 47 acres (including road right-of-way). This is the area identified for the Agricultural Entertainment Business. However, the applicants own a total of 149 contiguous acres (including road right-of-way for Highway 36 and a 24 acre parcel in conservation easement). Staff is suggesting as a condition of approval, that the applicant maintain at least 40 acres for the agricultural sales business, but not be required to combine the individual lots which function as a whole.

9. On-site wastewater handling system shall be planned and designed by a licensed professional and approved by the City or its designated responsible authority. Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the property shall be identified on the property. Alternate site shall be protected in the site plan design, and will only need to be used upon failure of a primary site.

- Country Sun Farm and Greenhouses has been in operation for many years and has an established septic system and well in place. Given the amount of contiguous land owned by the Bergmanns, Staff finds that this criterion is met.

10. Any structures constructed for the agricultural sales business shall be consistent on design and appearance with other agricultural buildings in the area.

- The applicants are not proposing any additional buildings or building additions at this time. Staff finds this criterion is met.

11. Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres.

- As mentioned, the applicants own a total of 126 contiguous acres at the Country Sun Farm and Greenhouse site (or 149 acres if the property held in conservation easement is included). Approximately 43 acres of that land is included in a Conditional Use Permit (excluding road right-of-way) for an

(cont.)

Agricultural Entertainment Business which was approved in 2010. The applicants have requested the entire 149 acres be included in the Interim Use Permit.

- In utilizing the requested 149 acres for calculating trip generation, the business would be allowed a daily trip generation peak of 670 vehicle trips per day.
- The property is **not** allowed to have 670 vehicle trips per day, **every day** year round. The 670 vehicle trips per day is considered allowed for peak usage. The yearly average daily trips must continue to be below 180 vehicle trips per day for every 40 acres. This requirement takes into account that there will be "down" seasons for all agricultural sales businesses (as winter is not a busy agricultural season in Minnesota). Therefore, the average trip when calculated year round shall be less than that stated.
- To ensure that this requirement is clear, Staff has added this performance standard as a condition of approval.

12. The maximum impervious coverage for the buildings, parking areas and other uses devoted to the agricultural sales business shall not exceed 40,000 square feet and the remainder shall be suitably landscaped.

- The applicant has identified the impervious surface (square footages) of all buildings on the site. However, the performance standard recognizes that only those buildings "devoted" to the agricultural sales business shall be counted toward the 40,000 square foot allotment. Therefore, Staff has made the determination that the petting zoo shelters (358 sq ft), hay barn (240 sq ft), haunted house (374 sq ft), ticket booths (100 sq ft + 142 sq ft), animal/farm buildings (1,050 sq ft + 260 sq ft + 384 sq ft + 168 sq ft + 2,304 sq ft + 1,440 sq ft) and pole barn/shop (5,600 sq ft) do not count towards this total as they are oriented more towards the existing, permitted Agricultural Entertainment Business instead of the Agricultural Sales Business. Any additional buildings that are constructed by the property owner for the Agricultural Entertainment Business may require an amendment to the AEB CUP; the property owner shall contact City Staff before constructing any other structures on-site.

- The applicant has identified that the existing agricultural sales building and attached greenhouse is 26,976 square feet in size. In addition, there is another greenhouse/growing range identified at 17,400 square feet in size. There are two parking lots on site that are utilized for both the Agricultural Sales and Agricultural Entertainment aspects of the Country Sun Farm and Greenhouse business. Though the applicant is over the 40,000 square foot allotment currently, they have also been in operation in this manner for a number of years. The applicants are not proposing any additional buildings, parking areas or other uses at this time and therefore, staff finds that this criterion is met.

13. Any activities that are defined as an Agricultural Entertainment Business shall require a separate Interim Use Permit.

- The applicants have received a Conditional Use Permit for an Agricultural

Entertainment Business on this site that was granted in December of 2009.

14. Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the property shall be prohibited, unless otherwise exempted in accordance with Section 150.001 through 150.003 of the City Code.

- Staff has added this performance standard as a condition of approval.

15. There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.

- The sales building as identified by the applicant as where agricultural sales will take place, is approximately 950 feet from the nearest home, which is the applicant's place of residence at this time. Though Staff does not believe there is a concern of this performance standard not being met, it was added as a condition of approval.

16. Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s).

- Staff has added this performance standard as a condition of approval.

17. Trash containers must be located inside or screened in an acceptable manner.

- Staff has added this performance standard as a condition of approval.

18. The operator shall adhere to the general review criteria applicable to all Interim Use Permit applications.

- This is identified in the review criteria provided at the bottom of this page.

19. No activities or structures beyond those specified in the Interim Use Permit shall be added before review by the city to determine compliance with this ordinance.

- Staff has added as a condition of approval that any additional activities or structures related to Agricultural Sales shall require the applicant to amend the Interim Use Permit moving forward.

- The applicant is requesting an interim use permit to sell agricultural products grown off site such as flower and vegetable plants, pumpkins, squash, corn, vegetables and Christmas trees.

As mentioned, there are additional general review criteria required for all interim use permits.

1. The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.

- The Agricultural zoning district was amended in 2010 to include Agricultural Sales Business as an Interim Use.
- 2. ***The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.***
 - The subject property is located along a major roadway – State Highway 36 which, in part, minimizes the impact due to the ability to minimize or in some cases eliminate traffic through residential areas.
 - The applicants own 149 acres of which a portion of this is utilized for an approved Agricultural Entertainment Business. The applicants own land which is held in a conservation easement as a wide buffer to the nearest established neighborhood – St. Croix's Sanctuary.
 - A number of the nuisance items are addressed through the performance standards identified for Agricultural Sales Businesses.
- 3. ***Use will not adversely impact implementation of the comprehensive plan.***
 - The applicants are asking to sell agricultural product from their site. As identified in the Findings of Ordinance 08-031A, the Comprehensive Plan expresses a desire to preserve its rural character, open space and green corridors while regulating commercial uses of an agricultural nature. The Findings provided in Ordinance 08-031A identified that an Agricultural Sales Business would not adversely impact implementation of the Comprehensive Plan when regulated through an Interim Use Permit.
 - The applicant's property is guided for RAD – 0.45 DU/Acre. This residential designation correlates to the city's Open Space Preservation developments. The existing use as an Agricultural Entertainment Business and permit being sought for the Agricultural Sales Business will not create the inability for the properties to be used for the designated residential purposes in the future.
- 4. ***The date or event that will terminate the use is identified with certainty.***
 - The applicant has requested the Interim Use Permit terminate 10 years from the date on which the permit is granted or if the property is sold to an outside party. Staff has added as a condition that whichever of the two occur first would be the expiration for an approved permit.
- 5. ***The user agrees to all conditions that the City Council deems appropriate for permission of the use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the City to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.***

- Because the applicant is not requesting to add any additional structures at this time, Staff is not recommending any financial surety be requested.

6. There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.

- City staff is not aware of any fees due.

**Resident
Concerns:**

Staff is not aware of any resident concerns surrounding the requested interim use permit.

At the August 8th Planning Commission meeting, no one spoke for or against the application during the public hearing.

**Other Agency
Reviews:**

- The VBWD and the DNR did not have any comment for or against the application.
- The Minnesota Department of Transportation provided a letter stating a drainage permit from MnDOT was never received. The letter is attached to this packet and a condition of approval is suggested.

Conclusion:

The applicant is seeking approval of an IUP for an Agricultural Sales Business to allow the sale of produce brought in from off site.

**City Council
Options**

The City Council has the following options:

- A) Approve the Interim Use Permit requested;
- B) Approve the Interim Use Permit for a time other than that requested;
- C) Deny the Interim Use Permit requested;

The 60-day review period for this application expires on 8-27-11, but can be extended an additional 60 days if more time is needed.

**Commission
Rec.:**

The Planning Commission reviewed the application, held a public hearing and recommended approval of the application with two additional conditions – that the amount of property used for calculating trip generation is clarified and that at least 40 acres should be included in the IUP as that is what is required.

Staff Rec:

Staff is recommending approval of an Interim Use Permit to allow an Agricultural Sales Business which would allow bringing in produce as identified by the applicant for sale at 11211 60th Street North, based on the following:

1. The applicants are requesting an Interim Use Permit to allow an Agricultural Sales Business. The request is to allow the sale of agricultural products such as vegetables and Christmas trees that were produced off the premises.
2. The City Council approved Ordinance 08-031-A in February 2011 which allowed the sale of agricultural produce grown off-site. The ordinance was written to work towards achieving aspects of the City's Comprehensive Plan related to preserving rural character, open space and green corridors. It was determined that commercially-related land uses in Agriculture, Rural Residential and Open Space districts should be regulated for the following reasons:
 - to control or mitigate the impact on other properties or the environment
 - to ensure that the scale of the business does not exceed what is compatible with a rural or semi-rural setting
 - to ensure that adequate space is available, on site, for such operations
 - to ensure that customers attracted to such business, including their children, are not unreasonably subjected to risks
 - to ensure that such uses do not present an added risk of disease
 - to ensure that the acreage of the site is sufficiently large for a traditional agricultural use
 - and to otherwise preserve the rural character of Agricultural, Rural Residential, and Open Space districts.
3. The Country Sun Farm & Greenhouse operation has been in operation for a number of years and has not proven to be a nuisance with regards to health, safety or welfare of its patrons or neighborhood.
4. Richard and Eileen Bergmann, owners of the Country Sun Farm & Greenhouse operation, own approximately 149 contiguous acres. Their business is run on approximately 47 acres of this land. There is adequate space available on site for their continued operations.

With the following conditions:

- The operator must be able to demonstrate at all times to the city that there is sufficient access, parking, and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.
- All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.
- All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.

- Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres. It was determined that 149 acres of land will be utilized for calculating trip generation.
- Should the property owners sell or utilize any of the 149 acres of land for uses not compatible with an Agricultural Entertainment Business or Agricultural Sales Business, this Interim Use Permit shall be brought back to the City Council for review.
- Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the property shall be prohibited, unless otherwise exempted in accordance with Section 150.001 through 150.003 of the City Code.
- There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.
- Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s).
- Trash containers must be located inside or screened in an acceptable manner.
- The Interim Use Permit is to allow the sale of agricultural products that were grown off site, which would include flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas trees. Any other items wishing to be sold that are not otherwise grown on site or considered an ancillary item shall require an amendment to the Interim Use Permit.
- The Interim Use Permit shall expire on August 23, 2021 or at such time as the property on which this Interim Use Permit applies is sold to an outside party (non-family member) whichever occurs first.
- The addition of any new structures or buildings, regardless of size, shall require notification to City Staff prior to construction. The City Administrator will determine if additional proposed structures will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.
- The expansion, intensification or alteration of an existing use shall also require notification to City Staff prior to any change in the existing use. The City Administrator will determine if the proposed expansion, intensification or alteration of the use will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.

Approval Motion | To approve the request, you may use the following motion as a guide:
Template: | **I move to approve Resolution 2011-035 approving the requested IUP based on the findings cited by staff in the report with conditions (and others as you deem appropriate).**

Denial Motion | To deny the request, you may use the following motion as a guide:
Template: | **I move to deny the requested IUP based on the findings of fact...(please site reasons for the recommendation)**

cc: Keith Bergmann, Applicant

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

RESOLUTION NO. 2011-035

**A RESOLUTION GRANTING AN INTERIM USE PERMIT TO AN
AGRICULTURAL SALES BUSINESS FOR COUNTRY SUN FARMS AND
GREENHOUSES INC. AT 11211 60TH STREET AND APPROVING A CONSENT
AGREEMENT FOR THE INTERIM USE**

WHEREAS, Keith Bergman, Country Sun Farms & Greenhouses Inc., 11211 60th Street North, has submitted an application for an Interim Use Permit related to an Agricultural Sales Business to allow the sale of agricultural produce grown off-site.

WHEREAS, the Lake Elmo Planning Commission held a Public Hearing on August 8, 2011, and reviewed and recommended approval of the Interim Use Permit for an Agricultural Sales Business on the site based on the following findings:

1. The applicants are requesting an Interim Use Permit to allow an Agricultural Sales Business. The request is to allow the sale of agricultural products such as vegetables and Christmas trees that were produced off the premises.
2. The City Council approved Ordinance 08-031-A in February 2011 which allowed the sale of agricultural produce grown off-site. The ordinance was written to work towards achieving aspects of the City's Comprehensive Plan related to preserving rural character, open space and green corridors. It was determined that commercially-related land uses in Agriculture, Rural Residential and Open Space districts should be regulated for the following reasons:
 - to control or mitigate the impact on other properties or the environment
 - to ensure that the scale of the business does not exceed what is compatible with a rural or semi-rural setting
 - to ensure that adequate space is available, on site, for such operations
 - to ensure that customers attracted to such business, including their children, are not unreasonably subjected to risks
 - to ensure that such uses do not present an added risk of disease
 - to ensure that the acreage of the site is sufficiently large for a traditional agricultural use
 - and to otherwise preserve the rural character of Agricultural, Rural Residential, and Open Space districts.
3. The Country Sun Farm & Greenhouse operation has been in operation for a number of years and has not proven to be a nuisance with regards to health, safety or welfare of its patrons or neighborhood.
4. Richard and Eileen Bergmann, owners of the Country Sun Farm & Greenhouse operation, own approximately 149 contiguous acres. Their business is run on

approximately 47 acres of this land. There is adequate space available on site for their continued operations.

5. That the applicant has demonstrated compliance with all applicable City Code standards for the issuance of an interim use.

WHEREAS, Section 154.019, Subd. (B, 5) of the City Code requires the applicant to enter into a consent agreement with the City the specifies the terms and conditions of the interim use; and

WHEREAS, the Lake Elmo City Council reviewed the Interim Use Permit request and consent agreement at its August 28, 2011 meeting and approved the Interim Use Permit and consent agreement at its August 28, 2011 meeting; and

NOW, THEREFORE, BE IT RESOLVED that the Lake Elmo City Council hereby approves the Interim Use Permit at 11211 60th Street North for an Agricultural Sales Business to allow the sale of agricultural products grown off-site such as flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas trees and authorizes the execution of the consent agreement for this interim use subject to the following conditions:

- 1) That the applicant signs the approved consent agreement with the City in accordance with Section 154.019, Subd. (B, 5) of the City Code.
- 2) The Applicant, and its successors and assigns, shall have no entitlement to future re-approval of the Interim Use Permit.
- 3) The Interim Use Permit is valid until any one of the events listed below occurs:
 - a. For ten (10) years from the date of the approval of the Interim Use Permit (August 23, 2011);
 - b. Upon the sale of the property or a transfer of ownership to an outside party (non-family member) - the City will review said Permit with prospective and/or new owner(s) for potential renewal without new application.
 - c. Until a violation of the conditions of this Consent Agreement;
 - d. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or
 - e. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.
- 4) The operator must be able to demonstrate at all times to the city that there is sufficient access, parking, and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians,

and that customer parking is away from the travel way and in close proximity to the agricultural sales business.

- 5) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.
- 6) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.
- 7) Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres. It was determined that 149 acres of land will be utilized for calculating trip generation.
- 8) Should the property owners sell or utilize any of the 149 acres of land for uses not compatible with an Agricultural Entertainment Business or Agricultural Sales Business, this Interim Use Permit shall be brought back to the City Council for review.
- 9) Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the property shall be prohibited, unless otherwise exempted in accordance with Section 150.001 through 150.003 of the City Code.
- 10) There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.
- 11) Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s).
- 12) Trash containers must be located inside or screened in an acceptable manner.
- 13) The Interim Use Permit is to allow the sale of agricultural products that were grown off site, which would include flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas trees. Any other items wishing to be sold that are not otherwise grown on site or considered an ancillary item shall require an amendment to the Interim Use Permit.
- 14) The Interim Use Permit shall expire on August 23, 2021 or at such time as the property on which this Interim Use Permit applies is sold to an outside party (non-family member) whichever occurs first.
- 15) The addition of any new structures or buildings, regardless of size, shall require notification to City Staff prior to construction. The City Administrator will determine if additional proposed structures will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.

- 16) The expansion, intensification or alteration of an existing use shall also require notification to City Staff prior to any change in the existing use. The City Administrator will determine if the proposed expansion, intensification or alteration of the use will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.

This resolution was adopted by the City Council of the City of Lake Elmo on the 28th day of August 2011, by a vote of ____ Ayes and ____ Nays.

Dean A. Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

(SEAL)

CONSENT AGREEMENT INTERIM USE PERMIT

- 1.0 Parties. This Consent Agreement/Interim Use Permit ("Agreement") is entered into by and between the City of Lake Elmo, a Minnesota statutory ("City"); and Country Sun Farm & Greenhouses Inc., ("Applicant").
- 2.0 Recitals.
- A. Applicant is the record fee owner of the following described property situated in Lake Elmo, MN ("Property"):

See Attachment A.

More commonly known as 11211 60th Street North.
 - B. The Property is zoned Agricultural and Rural Residential.
 - C. Interim uses are allowed in the Agricultural and Rural Residential zoning district subject to the regulations contained in Lake Elmo City Code Section 154.019.
 - D. Applicant has requested that the City allow the Property to be used for Agricultural Sales in the sales building and attached greenhouses as identified on Map #1 / Site Plan attached as Exhibit A (Site Plan):
 - E. On the 29th day of June, 2011, Applicant submitted a completed application for an Interim Use Permit.
 - F. On the 8th day of August, 2011, the Lake Elmo Planning Commission, at a public hearing, reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and recommended approval of the interim agricultural sales use subject to certain conditions.
 - G. On the 28th day of August, 2011, the Lake Elmo City Council reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and the recommendations of the Lake Elmo Planning Commission, and agreed to authorize the interim use subject to the terms and conditions as specified in Section 154.019 of the Zoning Ordinance and Resolution 2011-035 approving the interim use permit.
- 3.0 Terms and Conditions. The Lake Elmo City Council and Applicant, for itself, and its successors and assigns, agree that the interim open sales lot use shall be subject to the following conditions:

- A. The Applicant, and its successors and assigns, shall have no entitlement to future re-approval of the Interim Use Permit.
- B. The operator must be able to demonstrate at all times to the city that there is sufficient access, parking, and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.
- C. All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.
- D. All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.
- E. Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres. It was determined that 149 acres of land will be utilized for calculating trip generation.
- F. Should the property owners sell or utilize any of the 149 acres of land for uses not compatible with an Agricultural Entertainment Business or Agricultural Sales Business, this Interim Use Permit shall be brought back to the City Council for review.
- G. Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the property shall be prohibited, unless otherwise exempted in accordance with Section 150.001 through 150.003 of the City Code.
- H. There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.
- I. Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s).
- J. Trash containers must be located inside or screened in an acceptable manner.
- K. The Interim Use Permit is to allow the sale of agricultural products that were grown off site, which would include flower and vegetable

plants, pumpkins, squash, corn, vegetables, and Christmas trees. Any other items wishing to be sold that are not otherwise grown on site or considered an ancillary item shall require an amendment to the Interim Use Permit.

- L. The addition of any new structures or buildings, regardless of size, shall require notification to City Staff prior to construction. The City Administrator will determine if additional proposed structures will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.
- M. The expansion, intensification or alteration of an existing use shall also require notification to City Staff prior to any change in the existing use. The City Administrator will determine if the proposed expansion, intensification or alteration of the use will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.
- N. Applicant and its successors and assigns, agree that in the event of a full or partial taking of the Property by a governmental unit that the value of the Property taken will be based on its highest and best use as it existed prior to the approval of the Interim Use Permit.
- O. The interim use shall allow an Agricultural Sales Business which allows the sale of agricultural products – flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas trees produced off the premises to be sold at the Agricultural Sales Building identified at Country Sun Farm & Greenhouses, Inc.
- P. The Interim Use Permit is valid until any one of the events listed below occurs:
 - 1. For ten (10) years from the date of the approval of the Interim Use Permit (August 23, 2011);
 - 2. Upon the sale of the property or a transfer of ownership to an outside party (non-family member) - the City will review said Permit with prospective and/or new owner(s) for potential renewal without new application.
 - 3. Until a violation of the conditions of this Consent Agreement;
 - 4. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or
 - 5. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.

- 4.0 Renewal of Interim Use Permit. The interim use permit may be renewed by the Council upon the occurrence of either events listed in Section (P, 1) or (P, 2) above. With the exception of (P, 2), a renewal application shall be requested in accordance with Section 154.019 (J) of the City Code.
- 5.0 Acknowledgement of the Conditional Use. Any Conditional Use Permit that was previously issued for the Property is allowed to continue in conjunction with the Interim Use Permit.
- 6.0 Acknowledgement and Consent. Applicant acknowledges that this is a legally binding agreement and that Applicant has had an opportunity to review the Agreement with legal counsel. Applicant consents to the terms of this Agreement and its restrictions on the use of the Property and the Interim Use Area.
- 7.0 Effective Date. This Consent Agreement/Interim Use Permit shall be effective upon execution by all parties.

Date: 8/23/11

CITY OF LAKE ELMO

By: _____
Dean Johnston
Mayor

**Country Sun Farm and
Greenhouses, Inc.**

By: _____
Keith Bergmann

Its: _____

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

ORDINANCE NO. 08-031-A

**AN ORDINANCE TO AMEND AGRICULTURAL BUSINESS DEFINITIONS
AND REGULATIONS**

FINDINGS:

1. Under the Municipal Planning Act and the Metropolitan Land Use Planning Act, a central and required purpose of a zoning ordinance is to give effect to a city's comprehensive plan.
2. According to the City's Comprehensive Plan, the RAD land use designation "represents low density semi-rural residential development. Working farms, Alternative Ag uses, single family detached residences, and limited life cycle housing." Most of the City's outer areas are guided in this fashion. This includes areas that are zoned Agriculture, Rural Residential, and Open Space.
3. By contrast, around the City's "village center" is an area with a "Commercial" land use designation.
4. Commercially-zoned areas within the City include areas that are zoned General Business, General Business Park Holding, General Business Commercial Holding, General Business Sewered Residential Holding, Village Residential General Business Holding, Convenience Business, and Limited Business.
5. The Land Use Plan chapter of the City's Comprehensive Plan places special emphasis on three precepts, among them "the City's desire to preserve its rural character, open space, and green corridors," and "the City's desire to retain its identity and sense of community by preserving the historic village center." It further states that the Plan "supports a community focused from its village core out, rather than a lock step continuation of urbanization from the community borders."
6. These aspects of the City's Comprehensive Plan are more likely to be achieved if the zoning ordinance regulates commercially-related land uses in Agriculture, Rural Residential, and Open Space districts so as to further the following objectives:
 - a. controlling or mitigating the impact on other properties or the environment,

- b. ensuring that the scale of the business does not exceed what is compatible with a rural or semi-rural setting,
 - c. ensuring that adequate space is available, on site, for such operations,
 - d. ensuring that customers attracted to such business, including their children, are not unreasonably subjected to risks;
 - e. ensuring that such uses do not present an added risk of disease;
 - f. insuring that the acreage of the site is sufficiently large for a traditional agricultural use; and
 - g. otherwise preserving the rural character of Agriculture, Rural Residential, and Open Space districts.
7. The current definitions of Agricultural Sales Business ("ASB") (and, indirectly, of Agricultural Entertainment Business) ("AEB") restrict produce sales by those who hold conditional use permits for such uses to sales of produce that is produced on the premises. When the City was first setting the performance standards in 2008 when those categories of conditional uses were created, such language served to limit the scale of commercial activity by those property owners who complied with that limitation. If the City removes that limitation, but leaves the remaining performance standards unchanged, the City's ability to achieve the objectives described above will be threatened.
8. If land with a rural zoning designation cannot be used in an economically-beneficial fashion, that will increase the likelihood that the property owner will press the City to rezone the property for rezoning to a non-rural designation. For this reason, the City finds that the goal of preserving the rural character of areas guided and zoned for rural uses is best accomplished if the City's regulation of commercially-related land uses in Agriculture, Rural Residential, and Open Space districts is not overly restrictive.
9. The City is changing, and will continue to change, as expected and unexpected opportunities and challenges emerge. In particular, the City expects that certain areas with rural zoning designations, or areas adjacent to them, will eventually be converted to more intensive uses. Because of those changes, restrictions on commercially-related land uses in a rural residential that are appropriate today may be less reasonable in the future. The authority provided by the Minnesota Legislature for cities to issue interim use permits (IUPs) is a sound planning tool to address this dynamic, and is generally more effective than classification of such uses as permitted or conditional uses.

10. The objective of controlling or mitigating the impact on other properties or the environment is served by requiring performance standards that limit the floor area that can be devoted to sales activities, require compliance with the City Code's parking requirements for retail sales activities, require planned and designed on-site wastewater handling systems that are approved by the City or its designated responsible authority, limit trip generation related to the underlying zoning (both on an average basis and as a reasonable multiple of that figure for peak periods), set a maximum impervious coverage limit that keeps such land uses from unreasonably adding to the runoff appropriate for rural areas and rural stormwater systems, and require a buffer area beside any adjacent residential property lines.
11. The objective of ensuring that the scale of the business does not exceed what is compatible with a rural or semi-rural setting is served through such floor area requirements, trip generation limitations, and limitations on impervious coverage.
12. The objective of ensuring that adequate space is available, on site, for such operations, is served by requiring a minimum lot size for any agricultural sales business.
13. The objective of ensuring that customers attracted to such business, including their children, are not unreasonably subjected to risks is served by requiring compliance with parking requirements for retail sales activities, requiring planned and designed on-site wastewater handling systems that are approved by the City or its designated responsible authority, and limiting unscreened or inadequately screened exterior storage of equipment and materials.
14. The objective of insuring that the acreage of the site is sufficiently large for a traditional agricultural use is served through a minimum lot size for any agricultural sales business.
15. The objective of otherwise preserving the rural character of Agriculture, Rural Residential, and Open Space districts is served by the same restrictions, and by requiring that structures constructed for the agricultural sales business be consistent on design and appearance with other agricultural buildings in the area, and requiring screening mechanical equipment in certain settings.
16. As the text of the City's zoning ordinance has been revised over time, certain definitions have become obsolete or unnecessary, yet remain. Removing such definitions reduces the likelihood of confusion or misunderstanding.
17. Because a business that is not an ASB cannot satisfy the definition of an AEB, it is important that the ordinance clarify that an AEB must satisfy performance standards applicable to ASBs and AEBs. For the same reason, it is important that

the performance standards for ASBs and AEBs complement each other, and not contradict each other.

18. The added kinds of activities allowed for ASBs that are also AEBs pose additional challenges because of the size and the nature of the crowds that could be attracted to AEBs. Those challenges are best addressed by imposing additional requirements on AEBs related to direct access to a collector or arterial street, prohibition of the discharge of firearms, and requiring reasonable steps to prevent trespassing on adjacent properties.

Based upon the above Findings of Fact, which the City Council of the City of Lake Elmo hereby adopt, The City Council of the City of Lake Elmo does ordain:

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby amended to *add* the following definition:

GREENHOUSES. A building used for the growing of plants, all or part of which are sold at retail or wholesale.

Section 2. The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby changed to *amend or eliminate* the following definitions as shown:

AGRICULTURAL SALES BUSINESS. The retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products, ~~produced on the premises.~~ The operation may be indoors or outdoors, ~~include pick-your-own or cut-your-own opportunities include pick-your-own opportunities,~~ and may involve the ancillary sale of items considered accessory to the agricultural products being sold or accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25% of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the AGRICULTURAL SALES BUSINESS.

~~COMMERCIAL FOOD PRODUCING FARM OPERATIONS. See FARM/RURAL.~~

FARMER. Person permanently residing on a tract of land of not less than ~~75~~10 acres in the city and who farms the land for a livelihood.

~~NATURE FARMS. The keeping of animals and/or the growing and keeping of agricultural products for the purpose of display to the public, not including the breeding and keeping of animals for boarding or sale. Examples of this use would include "petting~~

farms," or the display of unique horticulture. Retail or wholesale sales of any product are specifically excluded.

~~NURSERY, LANDSCAPE. A business growing and selling trees, flowering and decorative plants, and shrubs and which may be conducted within a building or without.~~

~~ROADSIDE SALES STAND. A structure used only for the display and sale of products, with no space for customers within the structure, on a seasonal basis.~~

WAYSIDE STAND. A temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the WAYSIDE STAND on site, which is clearly a secondary use of the premises and does not change the character thereof.

Section 3. The City Council of the City of Lake Elmo hereby ordains that Section 154.033 (Agricultural Use Regulations) subsections (A) and (B) are hereby amended as follows:

(A) Permitted uses and structures.

(1) Agriculture

(2) Farm, suburban or rural;

(3) Poultry facilities meeting state and federal regulations;

(4) Farm buildings;

(5) Farm drainage and irrigation systems;

(6) Forestry meeting state and federal regulations;

(7) One farm dwelling per farm (also see §§ 154.091 and 154.105);

(8) One non-farm dwelling per each 40 acres, or part of a dwelling on a prorated basis, not already containing a farm or non-farm dwelling, provided:

(a) The dwelling unit is located on a separate parcel of record in the office of the County Recorder and/or County Auditor, which shall be at least 1-1/2 acres in size;

(b) The parcel on which the dwelling unit is located must have at least 125 feet of frontage along a public street, be rectangular in shape and no dimension to be greater than 3 times the other; and

(c) The dwelling is separated by at least 300 feet from the nearest farm building.

(98) Wayside stands;

~~(9) Agricultural sales businesses subject to performance standards outlined in § 154.110; and~~

(10) Joint ownership of property or ownership by association or rental for the purpose of providing private gardens, ~~or forest plots, or subplots~~ to its members or lessees.

(B) Uses permitted by conditional use permit.

(1) Greenhouses;

(2) Kennels;

(3) Stables;

(4) Commercial recreation of a rural nature, including outdoor target ranges;

(5) Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis, including sorting, grading, and packing fruits and vegetables for the owner, lessee, or sublessee; agricultural produce milling and processing for the owner, lessee, or sublessee; horticultural services; fruit picking; grain cleaning; veterinary services; boarding and training of horses;

(6) Open space development projects, as regulated by §§ 150.175 et seq.;

(7) Non-agricultural low impact uses pursuant to the standards described in division (F) of this section; and

~~(8) Agricultural entertainment businesses subject to the following performance standards:~~

~~(a) The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the comprehensive plan;~~

~~(b) All parking must occur on-site, be on a primary surface such as class five gravel or pavement; and must be set back at least 30 feet from all property lines;~~

~~_____ (c) No more than 25% of the site may be covered with impervious surface and the remainder shall be suitably landscaped;~~

~~_____ (d) Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s);~~

~~_____ (e) Trash containers must be located inside or screened in an acceptable manner;~~

~~_____ (f) Discharge of firearms, including blanks, shall not be allowed on the property;~~

~~_____ (g) The property owner shall give the city permission to conduct inspections of the property in order to investigate complaints;~~

~~_____ (h) The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons;~~

~~_____ (i) Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the property shall be identified on the property. Alternate sites shall be protected in the site plan design, and will only need to be used upon failure of a primary site; and~~

~~_____ (j) Adherence to the general review criteria applicable to all CUP applications.~~

(Am. Ord. 97-57, passed 7-18-2000; Am. Ord. 97-191, passed 4-3-2007)

(C) Uses permitted by Interim Use Permit:

(1) Agricultural Sales Businesses subject to performance standards outlined in § 154.110; and

(2) Agricultural Entertainment Businesses subject to the performance standards outlined in § 154.111

(DC) Accessory uses and structures (see §§ 154.092 and 154.093).

(1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses and structures as defined in § 11.01;

(2) Private garages, carports, screen houses, conservatories, playhouses, swimming pools and storage buildings, as defined in § 11.01, for use by occupants of the principal structures; and

(Am. Ord. 97-38, passed 11-17-1998)

- (3) Home occupations.

Section 4. The City Council of the City of Lake Elmo hereby ordains that Section 154.036 (Rural Residential Use Regulations) subsections (A), (B), (C), and (D) are hereby amended as follows:

- (A) Permitted uses and structures.

- (1) Agriculture

(2) One-family residential dwellings (also see §§ 154.091 and 154.105);

(3) Farm, suburban or rural within the limits defined in the performance standards for livestock;

- (4) Wayside stands; and

~~(4) Agricultural sales businesses subject to performance standards outlined in § 154.110.~~

(B) Accessory uses and structures (also see §§ 154.092 and 154.093). Uses and structures which are customarily accessory and clearly incidental and subordinate to allowed uses and structures; accessory structures cannot exceed the size of the principal building.

- (C) Conditionally permitted uses.

- (1) Kennels;

- (2) Open space development as regulated by §§ 150.175 et seq.;

- (3) Home occupations; and

~~(4) Agricultural entertainment businesses subject to the requirements outlined in § 154.033(B)(8).~~

- (D) Uses permitted by Interim Use Permit:

(1) Agricultural Sales businesses subject to performance standards outlined in § 154.110; and

(2) Agricultural Entertainment Businesses subject to the performance standards outlined in § 154.111

Section 5. The City Council of the City of Lake Elmo hereby ordains that Section 150.178 (OP Use Regulations) subsections (A), (B) and (C) are hereby amended as follows:

(A) Permitted uses.

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

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

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

Section 6. The City Council of the City of Lake Elmo hereby ordains that the City's Design and Performance Standards are hereby amended to incorporate the following additions and changes:

Current Sections 154.090 through 154.109 and their subdivisions are restated and incorporated herein without change.

Current Section 154.111 and its subdivisions are restated and incorporated herein as section 154.112

154.110 Agricultural Sales Businesses

Agricultural Sales Businesses shall be permitted as allowed upon the issuance of an interim use permit in agricultural and rural areas that are guided for Rural Agricultural

Density or future sewered development in accordance with the Comprehensive Plan.
Agricultural Sales Businesses shall be subject to the following performance standards:

(A) Activities shall be limited to those listed within the definition for Agricultural Sales Business.

(B) The agricultural sales business shall be located on land owned or leased by the producer or the operator of the business, and not within or on any public right-of-ways or easements.

(C) The operator must be able to demonstrate at all times to the city that there is sufficient access, parking and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.

(D) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.

(E) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.

(F) The maximum gross floor area that can be devoted to sales activities is limited to 20,000 square feet.

(G) Parking shall be provided in accordance with the parking requirements for other commercial uses, as per City Code § 154.051 (C). All parking must occur on-site, be on a primary surface such as class five gravel or pavement; and must be set back at least 30 feet from all property lines.

(H) The minimum lot size shall be 40 acres for any agricultural sales business.

(I) On-site wastewater handling system shall be planned and designed by a licensed professional and approved by the City or its designated responsible authority. Usable primary and alternate well and septic sites sized for the maximum anticipated usage of the property shall be identified on the property. Alternate sites shall be protected in the site plan design, and will only need to be used upon failure of a primary site.

(J) Any structures constructed for the agricultural sales business shall be consistent on design and appearance with other agricultural buildings in the area.

(K) Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres.

(L) The maximum impervious coverage for the buildings, parking areas and other uses devoted to the agricultural sales business shall not exceed 40,000 square feet and the remainder shall be suitably landscaped.

(M) Any activities that are defined as an Agricultural Entertainment Business shall require a separate Interim Use Permit.

(N) Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the property shall be prohibited, unless otherwise exempted in accordance with §150.001 through §150.003 of the City Code .

(O) There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.

(P) Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s).

(Q) Trash containers must be located inside or screened in an acceptable manner.

(R) The operator shall adhere to the general review criteria applicable to all Interim Use Permit applications.

(S) No activities or structures beyond those specified in the Interim Use Permit shall be added before review by the city to determine compliance with this ordinance.

154.111 Agricultural Entertainment Businesses

Agricultural Entertainment Businesses shall be allowed upon the issuance of an interim use permit in agricultural and rural areas that are guided for Rural Agricultural Density or future sewered -development in accordance with the Comprehensive Plan. Agricultural Entertainment Businesses shall be subject to the following performance standards:

(A) An Agricultural Entertainment Business shall adhere to all performance standards as outlined in Section 154.110 for an Agricultural Sales Business

(B) The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the comprehensive plan;

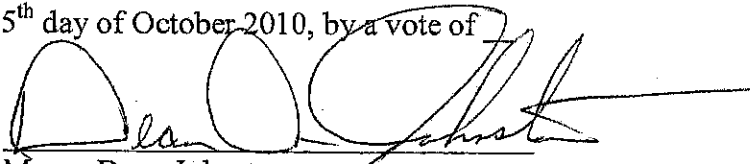
(C) Discharge of firearms, including blanks, shall not be allowed on the property;

(D) The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons;

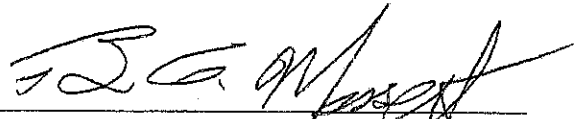
Section 7. Adoption Date

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

This Ordinance No. 08-031 was adopted on this 5th day of October 2010, by a vote of ___ Ayes and ___ Nays.


Mayor Dean Johnston

ATTEST:


Bruce Messelt
City Administrator

This Ordinance No. 08-031 was published on the 3rd day of Feb 2010.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-032

AN ORDINANCE AMENDING THE INTERIM USE PERMIT
REQUIREMENTS OF SECTION 154.019 AND ADDING A DEFINITION
OF AN INTERIM USE

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to add the following definition:

Interim Use – a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by amending the following language:

§ 154.019 INTERIM USE PERMITS.

(A) *Purpose and intent.* The purpose and intent of allowing interim uses are:

~~(1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction;~~

(1) To allow a use for a limited period of time that reasonably utilizes the property where such use is not consistent with the Future Land Use Map in the Comprehensive Plan; and

(2) To allow a use that is presently acceptable, but that with anticipated development or redevelopment or other significant change, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district; ~~and~~

~~(3) To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.~~

(B) *General standards.* An interim use permit may be granted only if the City Council finds as follows:

(1) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.

(2) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.

(3) The use will not adversely impact implementation of the Comprehensive Plan.

(4) The date or event that will terminate the use is identified with certainty.

~~—(5)—The applicant has signed a consent agreement agreeing that the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit as well as agreeing that The interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future.~~

(6) (5) The user agrees to all conditions that the City Council deems appropriate for permission of the use. This may include including the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the City to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.

(7) (6) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.

(8) (7) The term date or event terminating of the interim use does not exceed 2 years shall be set by the City Council at the time of approval.

(C) *Recordkeeping.* The Zoning Administrator shall maintain a record of all applications and all interim use permits issued, including information on the use, location, conditions imposed by the community, time limits, review dates, and such other information as may be appropriate.

(D) *Application.* Applications for an interim use permit shall be made by the fee owner or authorized representative of the fee owner of the property upon which the interim use is proposed. All applications shall include the following:

(1) A completed application form signed by the fee owner of the property or by the fee owner's authorized representative;

(2) Application fee;

(3) Proof of ownership consisting of an abstract of title or registered property certificate or authorized representation for the property on which the interim use is requested;

(4) Development Plans for the proposed use showing all information deemed necessary by the Administrator to ensure the community can determine whether the proposed development

use and/or improvements will meet all applicable ~~development~~ standards. Such information may include but shall not be limited to the following:

- (a) Site plan drawn to scale showing parcel and existing topography;
- (b) Location of all buildings and their size, including square footage;
- (c) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
- (d) Landscaping and screening plans, including species and size of trees and shrubs proposed;
- (e) Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
- (f) Type of business or activity and proposed number of employees;
- (g) Proposed floor plan and elevations of any building with use indicated;
- (h) Sanitary sewer and water plan with estimated flow rates;
- (i) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application; and
- ~~_____ (j) A location map showing the general location of the proposed use within the community;~~
- ~~_____ (k) A map showing all principal land use within 500 feet of the parcel for which the application is being made;~~
- ~~(l) The applicant shall supply proof of ownership of the property for which the conditional interim use permit is requested, consisting of an abstract of title or registered property certificate, certified by a licensed abstractor, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership; and~~
- ~~(m) (5) The application form shall be accompanied by an accurate list showing the names and the mailing address of the record owners of all property within a minimum of 350 feet of the property for which the conditional use permit is sought; verified as to accuracy by the applicant. A certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor;~~
- (5)(8) A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;

~~(6)-(9)~~ A signed consent agreement, subject to review and approval by the City Council provided by the city, agreeing documenting:

(a) That the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit;

(b) That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and

(c) That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.

~~(7)~~ A location map showing the general location of the proposed use within the community;

~~(8)~~ A map showing all principal land uses within 500 feet of the parcel on which the interim use is proposed;

~~(9)~~ A certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor; and

~~(10)-(10)~~ and any other information that may be reasonably required by the city to evaluate the application.

(E) *Planning Commission review and public hearing.* The Zoning Administrator shall refer completed applications to the Planning Commission for consideration and a public hearing at the next available regular meeting as determined by staff. Prior to the meeting, the Zoning Administrator shall complete the following.

(1) Distribute the application to appropriate city departments and commenting agencies to receive feedback;

(2) Publish notice of the purpose, time and place of the public hearing in the official newspaper of the community, and mail notices to all property owners located within a minimum of 350 feet of the property described in the application, at least 10 days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bone fide attempt to comply with the provisions of this section has been made.

(3) Prepare a staff report analyzing the request under city code requirements for consideration by the Planning Commission.

(4) After considering the application, the staff report, testimony from the applicant and the public and any other relevant information; the Planning Commission shall recommend

approval, approval with conditions, or denial. The recommendation of the Planning Commission shall be forwarded to the City Council as soon as practical, and in a manner which allows the City Council time to make a final determination on the request within the state mandated timelines for reviewing land use applications.

(F) *City Council action.* After considering the application, recommendation of the Planning Commission, any staff reports, testimony from the public hearing and any other relevant information; the City Council shall take action on the application through approval, approval with conditions, or denial. Should the City Council approve the application, the City Council shall make findings on conformance to the IUP general standards, specify the term of the interim use permit, the event(s), circumstances or conditions that shall cause termination, and any conditions of approval.

(G) *Termination.* An interim use shall terminate on the happening of any of the following events, whichever occurs first:

- (1) The date or event stated in the permit;
- (2) Upon violation of conditions under which the permit was issued;
- (3) Upon change in the city's zoning regulations which renders the use nonconforming;

or

(4) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(H) *Suspension and revocation.* The City Council may suspend or revoke an interim use permit upon finding that the activities allowed under the permit adversely affect the public health, safety, or welfare in ways not anticipated during approval of the permit. A suspension or revocation of an interim use permit shall be preceded by written notice to the permittee and a hearing. The notice shall provide at least 10 days notice of the time and place of the hearing and shall state the nature of the violations. The notice shall be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case may, at the City Council's option, be before the City Council or in accordance with M.S. §§ 14.57 to 14.60, but informal disposition of a contested case by stipulation, pursuant to M.S. § 14.59, may provide an adequate basis for imposition of sanctions.

(I) *Amendments.* All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.

(J) *Renewal.* The following process may be used to renew an active interim use permit that is set to expire. Terminated or suspended interim use permits cannot be renewed unless the City Administrator has received and approved a one-time 30 day extension to continue processing the renewal application.

(1) *Application.* Application requirements for renewal of an existing interim use permit be the same as for a new application.

(2) *Review.* Upon receiving a completed application for an interim use permit renewal, the Zoning Administrator shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Zoning Administrator shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the City Council. Council—at its discretion—may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.

SECTION 3. Effective Date

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

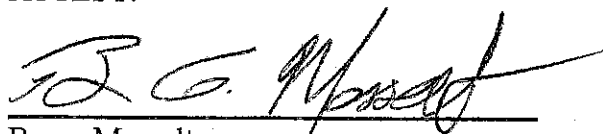
SECTION 4. Adoption Date

This Ordinance No. 08-032 was adopted on this 19th day of October 2010, by a vote of 4 Ayes and 0 Nays.



Mayor Dean A. Johnston

ATTEST:



Bruce Messelt
City Administrator

This Ordinance No 08-032 was published on the 3rd day of February, 2010.

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

MAR -4 2011 Fee \$ 250.00

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

APPLICANT: Keith Bergmann 5833 Lake Elmo Ave. N. 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-357-9139 651-439-4156 651-399-7423 651-391-3172
(Home) (Work) (Mobile) (Fax)

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

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

PROPERTY LOCATION (Address and Complete Legal Description): County Sun Farm
and Greenhouses Inc. 11211 N. 60th street, Lake Elmo, Mn. 55042

DETAILED REASON FOR REQUEST: SEE ATTACHED

*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:

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.

Keith Bergmann 3/4/11
Signature of Applicant Date

Signature of Applicant Date

COUNTRY SUN FARM & GREENHOUSES INC.

5500 Lake Elmo Avenue North
Lake Elmo, Minnesota, 55042
Phone (651) 351-5139
Cell (651) 399-7423
Keithbergmann@msn.com

June 29, 2011

City of Lake Elmo
3800 Laverne Ave. N.
Lake Elmo, Mn. 55042

JUN 29 2011

Dear Ms. Matzek,

In response to your letter March 15, 2011 I submit the following information:

The proposed event and time frame that will terminate the Interim Use Permit, and require a new permit application, would be upon sale of the property to an outside party, or ten years from the adoption date of the permit.

The peak traffic count for the site shall not exceed the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. With the base daily trip generation established at 180 vehicle trips per day for every 40 acres. The property at this site is 149 acres.

Also enclosed are 3 maps of the site:

On Map #1, the area highlighted in blue represents the current greenhouse and sales building where agricultural sales take place. This sales area is also where agricultural products brought in from off site will be stored and sold from. This sales area is 26,976 sq. ft. and was previously constructed and approved. It also includes a greenhouse of 1,440 sq. ft. used solely for growing and holding product, with no sales activity. The area highlighted in red represents the 149 acres of property at this site.

On Map #2, the area highlighted in orange depicts the driveway access from Lake Elmo Avenue to the West, and Highway 36 to the North, where agricultural products will be brought in from off-site. It also depicts the parking areas for customers. This highlighted area is 131,820 sq. ft. and holds 244 parking spaces, and was previously constructed and approved. This is also the parking area previously established for the Ag. Entertainment Business.

On Map #3, the relative square footages, and uses of buildings on the site are given.

No landscaping to this site is being proposed.

Also included with this letter is a list of property owners within 350 feet of the subject property.

Finally, copies of deeds for the property are included.

Thank you for your consideration in this matter, and please let me know if you need any more information to go forward with this Interim Use Permit application.

Sincerely,

A handwritten signature in cursive script, appearing to read "Keith Bergmann", with a long horizontal flourish extending to the right.

Keith Bergmann
Country Sun Farm & Greenhouses Inc.

Country Sun Farm and Greenhouses Inc. has operated within the City of Lake Elmo in one form or another since 1978, and since 1986 at its current greenhouse and sales area along the south side of highway 36 near Lake Elmo avenue. Since its inception it has operated under various special use and conditional use permits issued by the City of Lake Elmo. Its most current Conditional Use Permit is for an Agricultural Entertainment Business. At the time this current CUP was granted, the definition of Agricultural Sales Businesses, a division of an Agricultural Entertainment Business, only allowed for products to be sold which were grown on the premises, and did not allow an Agricultural Sales Business to sell products produced off site. Under the new definition of an Agricultural Sales Business with an Interim Use Permit, sales of products produced off the premises is allowed.

Country Sun Farm and Greenhouses Inc. has always sold agricultural products which include flowering and vegetable plants, pumpkins, squash, corn and other vegetables, and Christmas trees. In keeping with the new definitions of an Agricultural Sales Business, Country Sun Farm and Greenhouses Inc. is seeking an Interim Use Permit which would allow for agricultural products which would include; flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas tress produced off the premises to be allowed to be sold at its current facility.

MAR -4 2011

Map #3

Paving 2nd Streets 358 sq. ft.

Hay Barn 240 sq. ft.

Hand Saw House 374 sq. ft.

Robert B. House

Wash. Hl.

280 sq. ft.

304 sq. ft.

168 sq. ft.

250 sq. ft.

144 sq. ft.

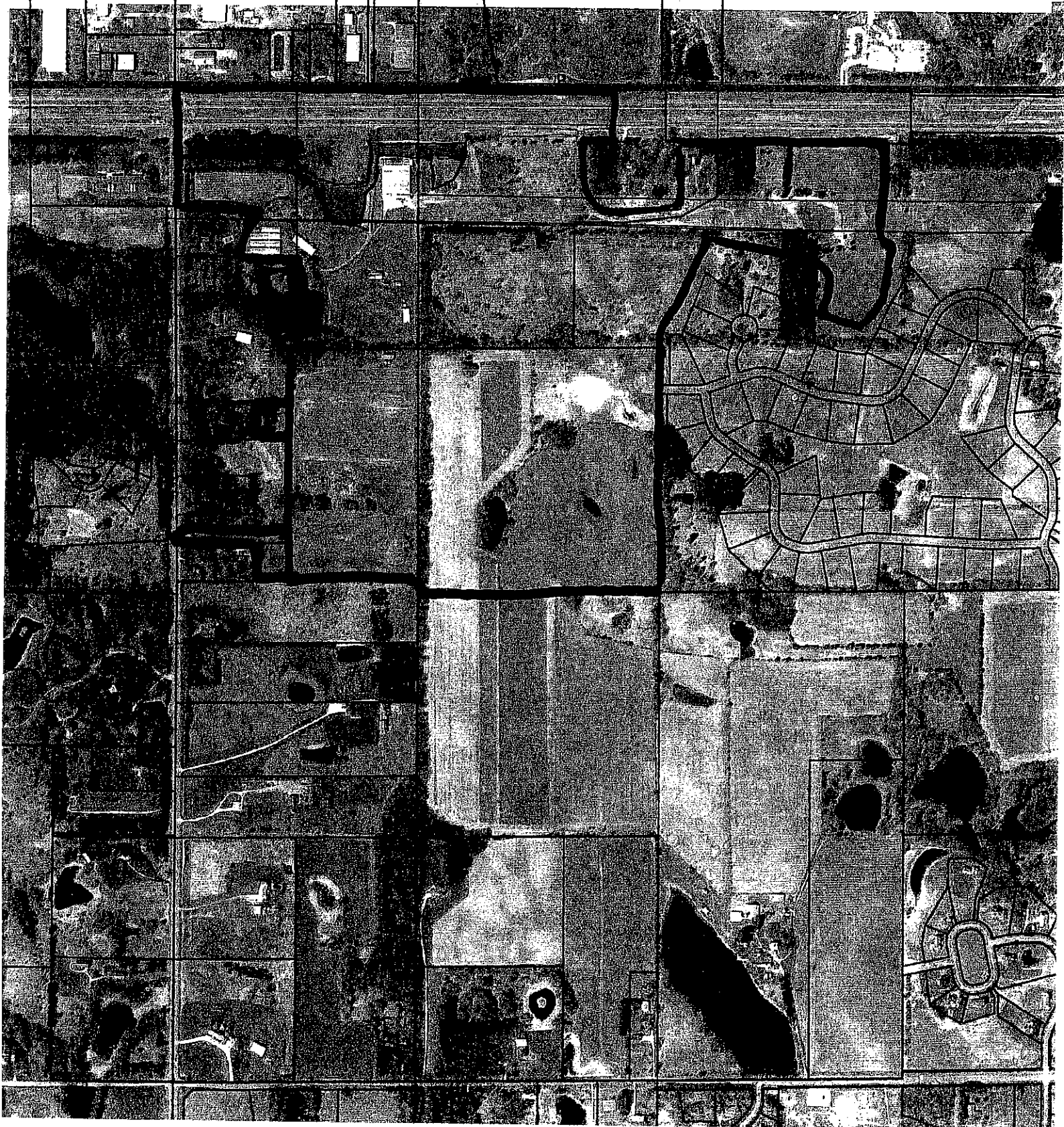
Animal/ Farm Buildings

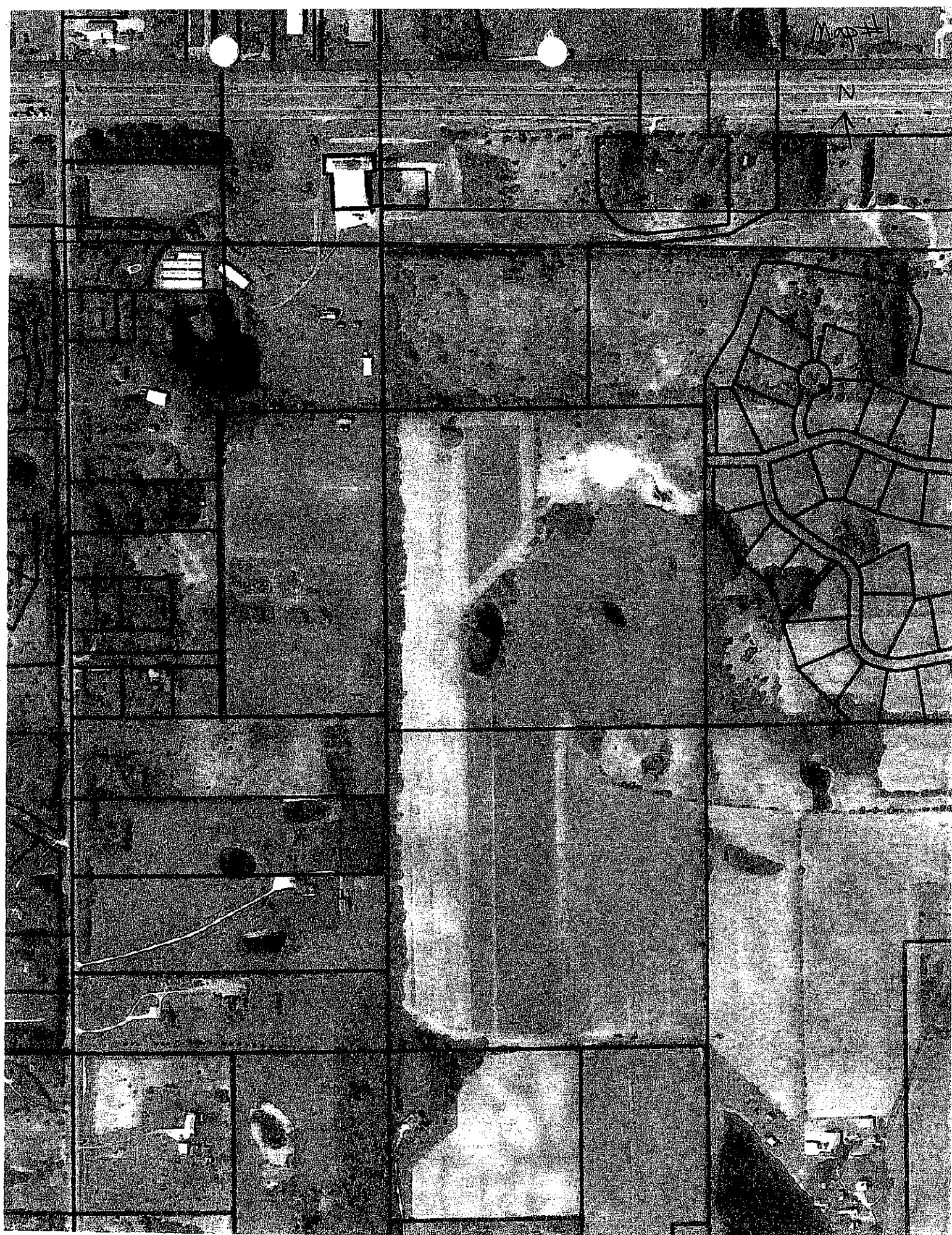
Greenhouse
Grocery range
1740 sq. ft.

Pile Barn/Shop
5600 sq. ft.

OP #2

N
↑





Kyle Klatt

From: Goff, William (DOT) [william.goff@state.mn.us]
Sent: Wednesday, July 27, 2011 12:42 PM
To: Kyle Klatt
Cc: Craig, E.Buck (DOT); Fossand, Bryce (DOT); Sherman, Tod (DOT); Briesse, Marc (DOT)
Subject: Country Sun Farm and Garden Center - Interim Use Permit
Attachments: 20110727124135669.pdf

Dear Kyle,

As a follow up to the Interim Use Permit application from Country Sun Farm and Garden Center, please be advised that our comments from their conditional use permit back in 2009 are still applicable (see attached). It is important to highlight that according to our records, the property owners never obtained a drainage permit from Mn/DOT for the improvements back in 2009. Therefore, your assistance in insuring that the petitioner gets any and all necessary permits would be very much appreciated.

If you have any questions, please do not hesitate to contact me at (651) 234-7797.

Sincerely,

William Goff
Mn/DOT Senior Planner



Minnesota Department of Transportation

Metropolitan District
Waters Edge
1500 West County Road B-2
Roseville, MN 55113-3174

September 15, 2009

Mr. Kyle Klatt
Planning Director
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

SUBJECT: **Country Sun Farm and Garden Center**
(Mn/DOT) Review #S09-034
SE Quadrant of TH 36 and Lake Elmo Ave (CR 17)
Lake Elmo/Washington County
Control Section 8204

Dear Mr. Klatt:

The Minnesota Department of Transportation (Mn/DOT) has reviewed the above referenced site plan. Please address the following comments before any further development:

Mn/DOT supports the owner's plan for parking expansion. This should provide enough parking on site accessibility to eliminate the need for parking on the TH 36 shoulder, which has serious safety concerns. Currently, the property has right-in right-out access off TH36 as well as reasonable access off CSAH 17. Washington County has been reviewing concepts for a potential interchange at Lake Elmo Ave (CSAH17) /TH36 in the future. A future interchange at this location will impact this property and its current access locations.

Water Resources:

A Mn/DOT drainage permit will be required to ensure that current drainage rates to Mn/DOT right-of-way will not be increased. The additional parking area will add impervious surface, which could increase flow to Mn/DOT Right-of-Way. Also, with the current submittal it is unknown if any drainage work or grading is proposed on Mn/DOT Right-of-Way.

The drainage permit application along with a current plan sheets, site layout, and copies of the information listed below, should be submitted to:

Minnesota Department of Transportation
Metropolitan District - Permit Office
1500 W. County Road B-2
Roseville, MN 55113

The following information must be submitted with the drainage permit application:

- 1) A grading plan showing existing and proposed contours,
- 2) Drainage area maps for the proposed project showing existing and proposed drainage areas. Any off-site areas that drain to the project area should also be included in the drainage area maps. The direction of flow for each drainage area must be indicated by arrows,
- 3) Drainage computations for pre and post construction conditions during the 2, 10, 50 and 100 year rain events, and

- 4) An electronic copy of any computer modeling used for the drainage computations.

Please direct questions concerning drainage issues to Bryce Fossand (651-234-7529) or bryce.fossand@dot.state.mn.us of Mn/DOT's Water Resources section.

Permits:

As noted previous, a drainage permit is required. Further, any work that impacts Mn/DOT right-of-way will require a permit. Permit forms are available from MnDOT's utility website at <http://www.dot.state.mn.us/utility/forms/index.html>. Please include 1 full size plan set and 1 11x17 plan set for each application. Please direct any questions regarding permit requirements to Buck Craig, MnDOT's Metro Permits Section, at (651) 234-7911.

As a reminder, please address all initial future correspondence for development activity such as plats and site plans to:

Development Reviews
Mn/DOT - Metro Division
Waters Edge
1500 West County Road B-2
Roseville, Minnesota 55113

Mn/DOT document submittal guidelines require either:

1. One (1) electronic pdf. version of the plans (the electronic version of the plan needs to be developed for 11" x 17" printable format with sufficient detail so that all features are legible);
2. Seven (7) sets of full size plans.

If submitting the plans electronically, please use the pdf. format. Mn/DOT can accept the plans via e-mail at metrodevreviews@state.mn.us provided that each separate e-mail is less than 20 megabytes. Otherwise, the plans can be submitted on a compact disk.

If you have any questions regarding this review please feel free to contact me at (651) 234-7792.

Sincerely,

Jon P. Solberg
Senior Planner



Copy via Groupwise to:

Ann Braden
Richard Scarrow
Adam Josephson
Buck Craig
Douglas Nelson
Wayne Lemaniak
Tod Sherman
Bryce Fossand



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/2011
REGULAR
ITEM #: 11
MOTION *Resolution No. 2011-036*

AGENDA ITEM: Conditional Use Permit Amendment: Rockpoint Church- Overflow Parking Lot Expansion

SUBMITTED BY: Nick Johnson, Planning Intern

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Kyle Klatt, Planning Director
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider a request from Rockpoint Church, 5825 Kelvin Avenue North, for a Conditional Use Permit amendment to allow the expansion of an overflow parking lot on the eastern portion of their property in Lake Elmo. The proposed parking lot would primarily be used as additional parking during holidays, special events, and other instances when parking is at capacity.

As the Planning Commission recommended approval of the CUP Amendment, the suggested motion to act on this is as follows:

“Move adopt Resolution Number 2011-036 approving a Conditional Use Permit amendment for Rockpoint Church at 5825 Kelvin Avenue North to allow the expansion of an overflow parking lot”

BACKGROUND INFORMATION: The attached Staff report includes a detailed review of the application along with a Staff and Planning Commission recommendation.

PLANNING COMMISSION REPORT: The Planning Commission reviewed the Conditional Use Permit amendment request at its August 8, 2011 meeting and conducted a public hearing on the application at this time. No public comments concerning the request were received by the Planning Commission. The Commission reviewed the findings drafted by Staff and found that the proposed amendment met the requirements for a Conditional Use Permit, with the attached condition of providing a storm water management plan. The Planning Commission unanimously recommended approval of the amendment request with six conditions of approval.

RECOMMENDATION: Based upon the above background information, staff report and Planning Commission recommendation, it is recommended that the City Council approve the Conditional Use Permit amendment request from Rockpoint Church to construct an overflow parking lot at 5825 Kelvin Avenue North by undertaking the following action:

“Move adopt Resolution Number 2011- approving a Conditional Use Permit amendment for Rockpoint Church at 5825 Kelvin Avenue North to allow the construction of an overflow parking lot with the six conditions of approval as recommended by the Planning Commission”

Alternatively, the City Council may table taking action on the application and direct either staff or the applicant to provide additional information concerning the request. The Council may also consider denying the Conditional Use Permit amendment and should develop findings of fact to support a motion for denial based on the evidence presented during the course of the City review.

ATTACHMENTS:

1. Resolution No 2011-036
2. Staff Report
3. Application Form
4. Location Map
5. Review Letter from Focus Engineering, Inc.
6. Review Letter from Valley Branch Watershed District
7. Site Photographs
8. Aerial Image of Site
9. Site Plans
10. Letter detailing need for additional parking

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... City Planner
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

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

RESOLUTION NO. 2011-036

*A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AMENDMENT FOR THE
ROCKPOINT CHURCH AT 5825 KELVIN AVENUE NORTH TO ALLOW THE
CONSTRUCTION OF AN OVERFLOW PARKING LOT*

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

WHEREAS, Rockpoint Church, 5825 Kelvin Avenue North (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a Conditional Use Permit amendment to allow the construction of an overflow parking lot on the eastern portion of its 20 acre property, 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 154.018; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on August 8, 2011; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated August 23, 2011; and

WHEREAS, the City Council considered said matter at its August 23, 2011 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) That the procedures for obtaining said Conditional Use Permit (CUP) Amendment are found in the Lake Elmo Zoning Ordinance, Section 154.018.
- 2) That all the submission requirements of said 154.018 have been met by the Applicant.
- 3) That the proposed CUP Amendment is to allow the construction of an overflow parking lot on the eastern portion of the Rockpoint Church property.

- 4) That the proposed CUP Amendment will be located on property legally described as follows and commonly known as 5825 Kelvin Avenue North:

Lot 1, Block1, Hidden Meadows of Lake Elmo.

All in Washington County, State of Minnesota. PID Number: 02-029-21-21-0003

- 5) That the proposed structure will not negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands. *The proposed parking lot will be located in a screened portion of the applicant's site, and will not generate any additional traffic, noise, or other impacts beyond what presently exists on the property.*
- 6) The proposed improvements will not affect traffic or parking conditions. *The proposed parking lot will provide additional overflow parking in another portion of the site, alleviating congestion caused by a shortage of parking during holidays, special events, and other times when parking is at or near capacity. No additional traffic from off-site will be generated from the new parking lot.*
- 7) The proposed improvements will not have an effect on utility or school capacities. *Sanitary sewer facilities will not be provided to the parking lot.*
- 8) The proposed improvements would have no effect on property values of surrounding lands. *The proposed parking lot will not be visible from surrounding lands and will accommodate activities already occurring on the site.*
- 9) The proposed improvements would be consistent with the Comprehensive Plan. *Rockpoint Church is considered a "Place of Worship" and permitted as a Conditional Use in the PF Zoning District. The property is guided for Public and Semi-Public Facilities in the Comprehensive Plan.*
- 10) No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive. *The proposed parking lot will not result in any increase in the septic system capacity for the site.*
- 11) Direct access is provided to a public street classified by the Comprehensive Plan as a major collector or arterial. *Kelvin Avenue North is classified as a local/municipal street, which connects to Keats Avenue North, which is classified as a major collector.*

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Conditional Use Permit Amendment is granted subject to the following conditions:

1. The applicant must obtain a permit from the Valley Branch Watershed District prior to construction.
2. The applicant shall agree to grant an easement to the City of Lake Elmo across the northern portion of Outlot A of Hidden Meadows of Lake Elmo in the location of the proposed 16" Watermain.
3. The applicant shall provide a letter of credit in the amount of 125% of the cost of paving and landscaping to complete the overflow parking lot. This letter of credit shall be returned to the Church upon completion of the improvements.
4. The applicant shall provide additional year-round screening with evergreen trees on the South side of the parking lot to shield the future residential development, which shall be planted as soon as the parking lot is constructed.
5. The applicant shall provide an erosion control plan, a landscaping plan, as well as specify the proposed material for the parking lot, per the City Engineer's request.
6. The applicant shall provide a storm water management plan, per the request of the Planning Commission

Passed and duly adopted this 23rd day of August 2011 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

City of Lake Elmo Planning Department
Conditional Use Permit Amendment Request

To: **City Council**

From: Nick Johnson, Planning Intern

Meeting Date: **8/23/11**

Applicant: **Rockpoint Church**

Owner: Rockpoint Church

Location: **5825 Kelvin Avenue North**

Zoning: PF – Public and Quasi-Public Open Space/Public Facilities

Introductory Information

<i>Application Summary:</i>	The City of Lake Elmo has received a request from the Rockpoint Church, 5825 Kelvin Avenue North, for a Conditional Use Permit amendment to allow the expansion of the parking lot on the eastern portion of their property in Lake Elmo. The proposed overflow parking lot would create additional parking on the eastern end of the property, and would be used to serve overflow parking needs for holidays, special events, and other times when the church is at or near capacity.
------------------------------------	---

<i>Property Information:</i>	Rockpoint Church is located to the East of the intersection of Keats Avenue North and 59 th Street North in the Northern area of Lake Elmo. It was established within what was formerly known as the Deer Glen subdivision, and currently platted as Hidden Meadows of Lake Elmo. The site is zoned PF- Public and Quasi-Public Open Space, and is 20 acres in size. Under the PF designation, Rockpoint Church would be classified as a “place of worship” in accordance with the general City Code. In the PF zoning district, this use is permitted as a Conditional Use.
-------------------------------------	---

The applicant has provided a site building plan showing the proposed overflow parking lot, creating an additional 84 parking spots. According to the site plan, the proposed parking lot is 90' from the 150' buffer width setback for impervious surface, as required of sites between 10 and 20 acres within the PF Zoning District. In addition, construction of the additional parking lot will not increase the amount of allowable impervious surface over the 35% threshold for sites ranging from 10-20 acres in size.

Rockpoint Church was proposed as part of a larger residential subdivision. The preliminary plat was approved in 2006 for the subdivision. The Church planned to submit a final plat for residential area sometime after construction of the Church. Following construction of the Church, the City has since granted the applicant two extensions for submitting the final plat of the residential area, first in 2007, and second

in 2008. The applicant now has until January, 2013 to submit a final plat of the residential area.

Applicable Section 154.063 PF – Public and Quasi-Public Open Space

Codes:

(B) *Uses allowed by conditional use permit*

(2) Places of Worship

(E) *Minimum District Requirements*

(2) Maximum lot area, buffer width and impervious coverage shall be in compliance with the following table:

Section 154.018 Conditional Use Permits.

(A) Granting/Denial. Outlines the general requirements for all conditionally permitted uses in Lake Elmo.

(K) Amendment. In accordance with Section 154.018 K of the Zoning Ordinance, an amended conditional use may be administered in a manner similar to that required for a new permit.

Section 154.095 Off-Street Parking

(A) *General Provisions*

7. *Use of parking area.* Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale, or for rent.

9. *Surfacing and drainage.*

(B) *Design and maintenance of off-street parking area.*

6. *Planting requirements with parking and vehicular use areas.*

Section 150.020 Screening

(B) *Business, industrial screening.* Where any business or industrial use (structure, parking, or storage) is adjacent to property zoned or developed for residential use, that business or industry shall be screened along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential zone, but not on the side of a business or industry considered to be the front.

Findings & General Site Overview

Site Data: Lot Size: 20 acres

Existing Use: Place of Worship

Existing Zoning: PF – Public and Quasi-Public Facilities

Property Identification Number (PID): 02-029-21-21-0003

Application Review:

Review Requirements	With this application, staff will be reviewing the proposed amendments to the site as a conditional use permit amendment and use the applicable criteria in the review.
CUP Review:	<p>The two sections of code that contain requirements for this project include the PF District regulations and Conditional Use Permit section.</p> <p>First, the PF District requirements contain specific criterion for "Places of Worship". These requirements, with Staff comments, are as follows:</p> <ul style="list-style-type: none"> • Direct access is provided to a public street classified by the Comprehensive Plan as major collector or arterial. <i>Kelvin Avenue North is classified as a local/municipal street, which connects to Keats Avenue North, which is classified as a major collector.</i> • No use may exceed 235 gallons wastewater generation per day per net acre of land. <i>The proposed building will not create any additional generation of wastewater from the site.</i> • No on-site sewer system shall be designed to handle more than 5,000 gallons per day. <i>The proposed parking lot will not require the expansion or alteration of any existing septic systems.</i> • Exterior athletic fields shall not include spectator seating, public address facilities or lighting. <i>There are no athletic fields on this site.</i> • No freestanding broadcast or telecast antennas are permitted. No broadcast dish or antenna shall extend more than 6 feet above or beyond the principal structure. <i>There are no broadcast antennas on the site.</i> <p>In addition to this information, it should be noted that an extension has been granted for the final plat of the 2nd addition of Hidden Meadows that allows Rockpoint Church to delay submitting a final plat for the residential portion of the subdivision until January, 2013, in accordance to Resolution 2007-097. Despite the fact that Hidden Meadows 2nd addition has not yet been platted, Staff feels that this issue is unrelated to the expansion of the parking lot on the eastern portion of the property. However, in order to allow the connection of the 16" Trunk Watermain necessary to loop the water system per the City's 2030 Comprehensive Water System Plan in this area, Staff is suggesting that the applicants consent to grant an easement to the City over the northern section of Outlot A. With the completion of this condition, the Planning Commission and City Council would be able to move forward with this Conditional Use Permit amendment while securing the ability to build the Watermain should construction of the residential area be delayed.</p>

It is also important to note that Rockpoint Church is requesting a 5 year window to leave the parking lot unpaved. This grace period would include waiting the same amount of time to install the necessary landscape islands required by City Code. Staff feels that this be an acceptable request given the condition that the applicant provides a letter of credit to the City in the amount of 125% of the paving and landscaping costs until all proposed work on the parking lot is complete.

Additionally, the City Engineer has outlined the same previous concerns in his report. In addition to the previously discussed conditions, the City Engineer also would like the applicant to submit an erosion control plan, a landscaping plan, as well as specify the proposed material for the parking lot. Finally, the City Engineer reiterated that the applicants would have to obtain a permit from the Valley Branch Watershed District.

**Conditional
Use Permit
Criteria:**

The City is required to make findings specific to the Conditional Use Permit. For these types of applications, the burden is on the City to show why the use should not be permitted due to impacts that cannot be controlled by reasonable conditions. These findings include the following:

1. Effects on the health, safety, morals, convenience, or general welfare of surrounding lands
2. Existing and anticipated traffic conditions including parking facilities on adjacent streets and land
3. The effect on utility and school capacities
4. The effect on property values of property in the surrounding area
5. The effect of the proposed use on the Comprehensive Plan

Given that congestion has previously occurred due to a lack of sufficient parking spaces, construction of the overflow lot should alleviate this ongoing problem that has previously occurred during larger events. In addition, the expansion of the overflow parking lot should not affect utility capacity or property values in the surrounding area. Finally, the proposed parking lot should have no affect on the Comprehensive Plan being that the property was rezoned PF according to Resolution 2005-27.

**Conditional
Use Permit
Conclusions:**

Based on the above analysis of the review criteria in City Code, Staff recommends approval of the request by the Rockpoint Church, 5825 Kelvin Avenue North, for a Conditional Use Permit amendment to allow the construction of an overflow parking lot on the eastern portion of their property based on the following:

- The proposed parking lot would have no impact on the Health, Safety, Morals, Convenience, General Welfare of Surrounding Lands.

- The proposed parking lot would alleviate ongoing incidents of congestion on nearby streets during special events and holidays.
- The use would have no effect on utility capacities.
- The proposed amendment would have no effect on property values of surrounding lands.
- The use would be consistent considering that the Rockpoint Church property has been rezoned Public/Semi-Public Facilities according to Resolution 2005-027, amending the Comprehensive Plan.

**Planning
Commission
Report:**

The Planning Commission reviewed the proposed Conditional Use Permit amendment at its August 8, 2011 meeting. The Commission conducted a public hearing at this time, at which time Bob Brydges, Executive Pastor of Rockpoint Church, outlined the need for additional parking and answered various questions posed by the Planning Commission. Staff has not received any other feedback from neighboring property owners regarding the Conditional Use Permit amendment.

The Commission reviewed the proposed request and found that the overflow parking lot expansion met all applicable requirements for the granting of a Conditional Use Permit. The applicant specifically noted at the meeting that the overflow lot would be used as additional parking for staff at times when the other parking facilities are at capacity. The Commission unanimously recommended that the City Council approve the amendment request, given that the applicants provide a storm water management plan in addition to the other conditions recommended by Staff.

**Additional
Information:**

The Valley Branch Watershed District has reviewed the proposed site plans and found that the parking lot expansion will require a VBWD permit due to the fact that the project involves the construction of 36,500 square feet of additional impervious surface. Therefore, from the perspective of the Staff, obtaining this permit should be included as a condition of approval.

The Lake Elmo Fire Chief had no concerns or comment regarding this proposal.

Conclusion:

The Rockpoint Church, 5825 Kelvin Avenue North, has applied for a Conditional Use Permit amendment to allow the construction of a new overflow parking lot on the eastern portion of their property in Lake Elmo. The proposed parking lot would be used during special or larger events when additional parking beyond the primary parking lot is needed.

**Council
Options:**

The City Council has the following options:

- A) Approve the conditional use permit amendment request based on the findings

of fact drafted by Staff and the Planning Commission;

- B) Deny the conditional use permit amendment request based on findings of fact developed by the City Council;
- C) Table taking action on the conditional use permit amendment and direct Staff and/or the applicant to provide additional information.

The 60-day review period for this application expires on September 27, 2011, but can be extended an additional 60 days if more time is needed.

**Planning
Commission
Rec:**

The Planning Commission is recommending approval of the request to amend a conditional use permit for Rockpoint Church at 5825 Kelvin Avenue North based on the reasons stated above with the following conditions:

1. The applicant must obtain a permit from the Valley Branch Watershed District prior to construction.
2. The applicant shall agree to grant an easement to the City of Lake Elmo across the northern portion on Outlot A in the location of the proposed 16" Watermain.
3. The applicant shall provide a letter of credit in the amount of 125% of the cost of paving and landscaping to complete the overflow parking lot. This letter of credit shall be returned to the Church upon completion of the improvements.
4. The applicant shall provide additional year-round screening with evergreen trees on the South side of the parking lot to shield the future residential development, which shall be planted as soon as the parking lot is constructed.
5. The applicant shall provide an erosion control plan, a landscaping plan, as well as specify the proposed material for the parking lot, per the City Engineer's request.
6. The applicant shall provide a storm water management plan, per the request of the Planning Commission

**Denial
Motion**

Template:

To deny the request, you may use the following motion as a guide:

I move to recommend denial of the request by Rockpoint Church to amend a conditional use permit...(please site reasons for the recommendation)

**Approval
Motion**

Template:

To approve the request, you may use the following motion as a guide:

I move to recommend approval of the request by Rockpoint Church to amend a

conditional use permit based on the findings provided in the staff report...(or cite your own)

...with the conditions as recommended by the Planning Commission.

cc: Bob Brydges, Rockpoint Church
Gary Van Beek, Rockpoint Church

MAY 17 2011

Fee \$ 1000.00

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

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

APPLICANT: Rockpoint Church 5825 Kelvin Ave. N. Lake Elmo, Mn. 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-770-3122 651-770-3476
(Home) (Work) (Mobile) (Fax)

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

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

PROPERTY LOCATION (Address and Complete (Long) Legal Description):

Outlot A, Hidden Meadows of Lake Elmo
Outlot B, " " "
Lot 1 Block 1, " " "

DETAILED REASON FOR REQUEST:

Need For overflow Parking space

*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:

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.

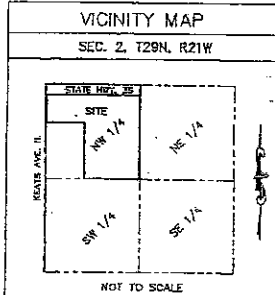
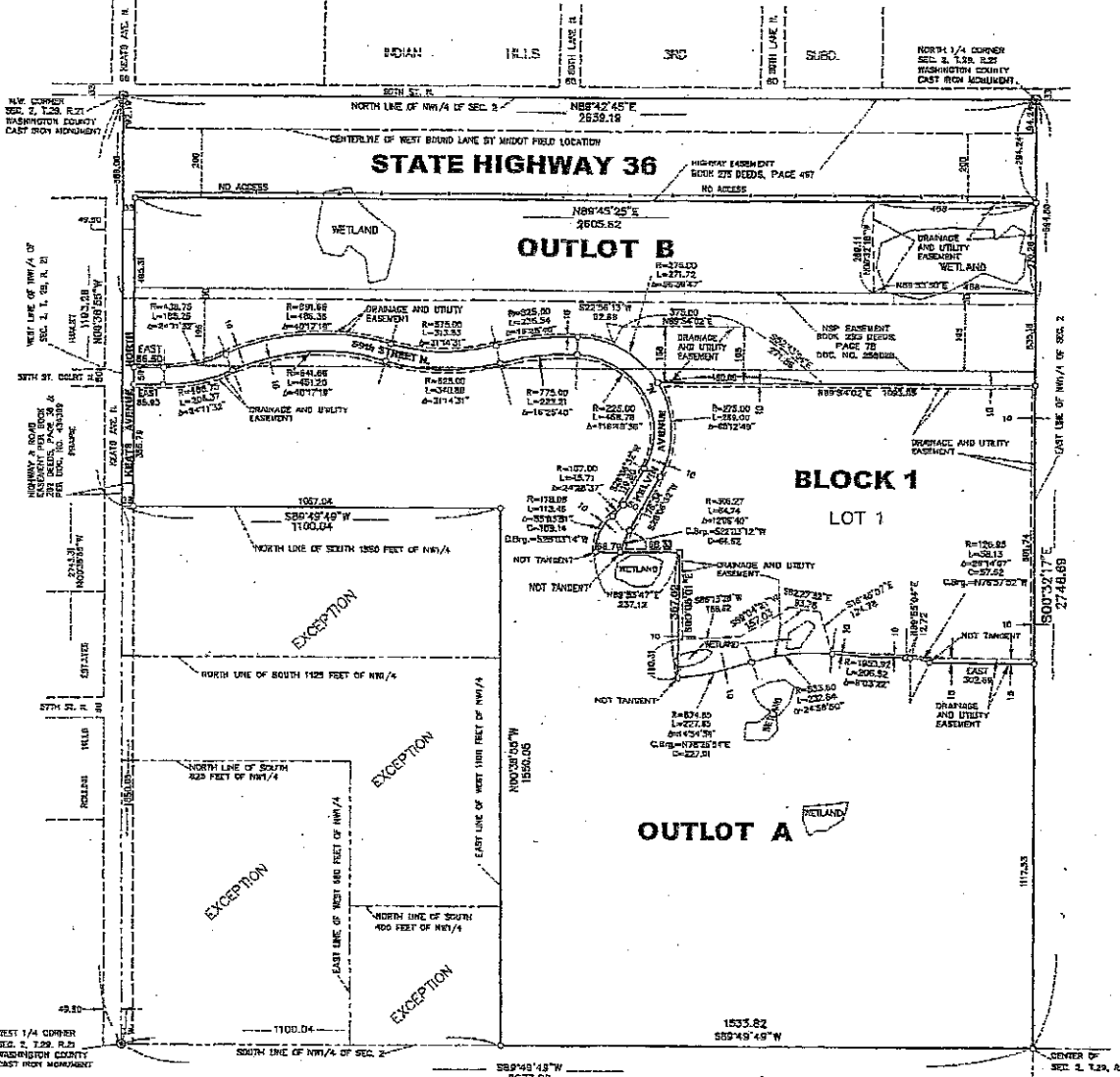
Yang Van Boep
Signature of Applicant

Date


Signature of Applicant

Date

HIDDEN MEADOWS OF LAKE ELMO



ORIGINAL SCALE
1 INCH = 200 FEET



0 100 200 300 400
SCALE IN FEET

LEGEND

○ DENOTES A SET 1/2 INCH X 14 INCH IRON PIPE MONUMENT MARKED WITH A PLASTIC CAP INSCRIBED "RLS 10632" UNLESS SHOWN OTHERWISE.

DENOTES NO ACCESS

NOTES

1) ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SEC. 2, T29N, R21W, WHICH BEARS NORTH 89 DEGREES 42 MINUTES 45 SECONDS EAST.

**COMSTOCK
AVIS, INC.**

MEMORANDUM

FOCUS ENGINEERING, inc.

August 4, 2011

Cara Geheren, P.E. 651.300.4261
Jack Griffin, P.E. 651.300.4264
Ryan Stempski, P.E. 651.300.4267

To: Nick Johnson, Planning Intern
CC: Kyle Klatt, Planning Director
From: Ryan Stempski, P.E.

RE: Rock Point Church
Parking Lot Expansion
Lake Elmo, MN

We have reviewed the C.U.P. application for the parking lot expansion at Rock Point Church received from the Kyle Klatt on July 26, 2011. The C.U.P. application included an aerial drawing showing the location of the proposed overflow parking lot and an 11X17 site plan of the proposed parking lot.

The following comments must be addressed prior to engineering approval of this application:

- 1) The proposed material to construct the parking lot should be specified on the plan.
- 2) A typical section of the parking lot must be provided on the plan.
- 3) A landscaping plan must be provided to show the type and location of proposed trees, plants, and vegetative cover.
- 4) An erosion control plan must be provided.
- 5) It is our understanding that the applicant is proposing to leave the parking lot gravel for a specified time prior to paving and installing the landscape islands. It is our recommendation that the applicant provide a letter of credit in an amount sufficient to cover 125% of the paving and landscaping costs until all proposed work is complete.
- 6) A permit from the VBWD is required.
- 7) An easement must be negotiated with the property owner(s) of Rock Point Church to allow the connection of the 16" Trunk Watermain necessary to loop the water system per the City's 2030 Comprehensive Water System Plan.

Should you have any questions please contact me at (651) 300-4267.

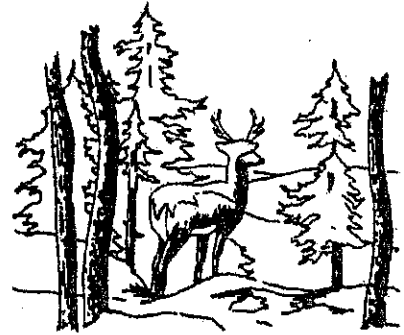
Sincerely,

Ryan W. Stempski, P.E.
Principal / Municipal Engineer

Cc: Jack Griffin, P.E., City Engineer

July 27, 2011

Mr. Kyle Klatt
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042



Re: 5825 Kelvin Avenue North, Rockpoint Church Overflow Parking Lot, Conditional Use Permit

Dear Kyle:

Thank you for submitting information regarding the proposed overflow parking lot at Rockpoint Church. On behalf of the Valley Branch Watershed District (VBWD), I have reviewed the information and this letter provides my comments.

The proposed project involves constructing approximately 36,500 square feet of new impervious surface. Therefore, the project requires a VBWD permit. Please instruct the owner to apply for a VBWD permit. Permit submittal materials are posted on the VBWD's website at <http://www.vbwd.org/permitting.htm>. Once a VBWD permit application is submitted, I will review the project for conformance to the VBWD Rules and Regulations.

If you have any questions, please contact me at 952-832-2622.

Sincerely,

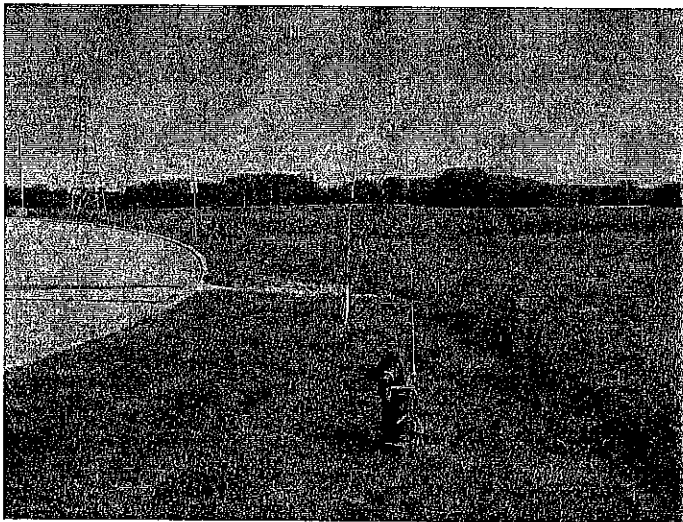
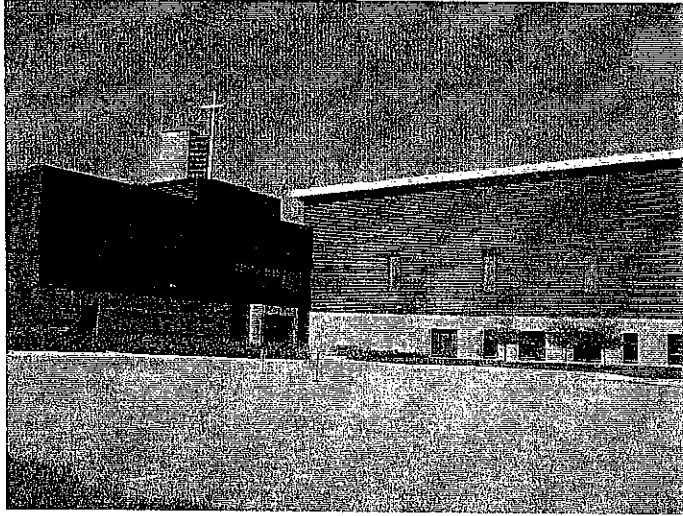
John P. Hanson, P.E.
BARR ENGINEERING COMPANY
Engineers for the District



DAVID BUCHECK • LINCOLN FETECHEER • DALE BORASH • JILL LUCAS • EDWARD MARCHAN

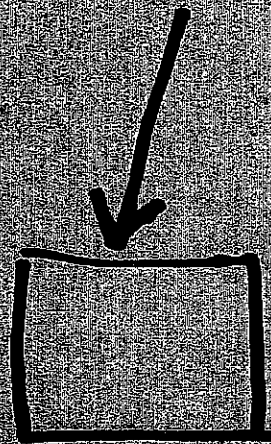
VALLEY BRANCH WATERSHED DISTRICT • P.O. BOX 838 • LAKE ELMO, MINNESOTA 55042-0538

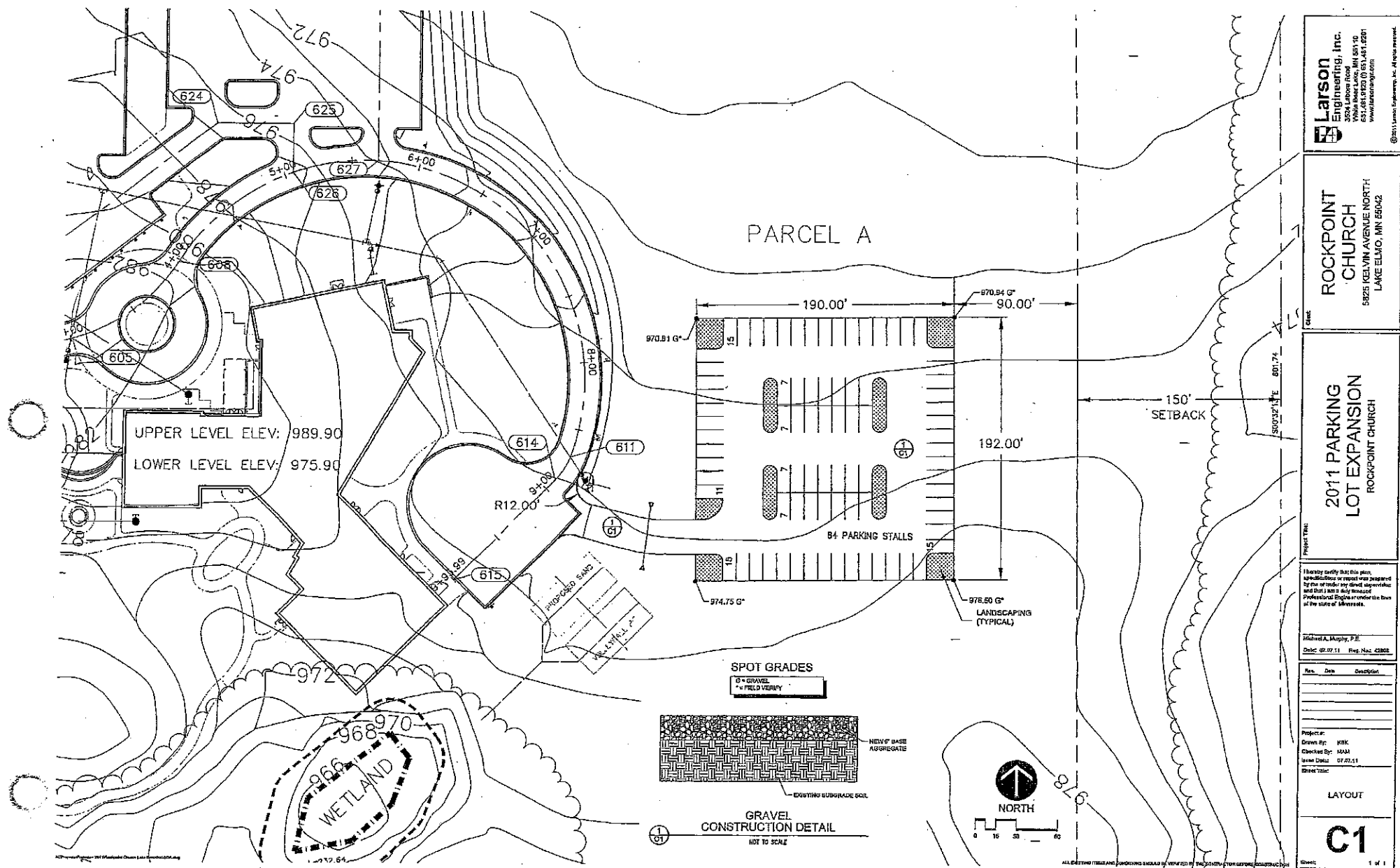
www.vbwd.org



Kelvin Ave.

PROPOSED OVERFLOW PARKING LOT





Larson Engineering, Inc.
3024 Labor Road NW
Lake Elmo, MN 55042
612.461.9120 (T) 612.461.9281
www.larsoneng.com

ROCKPOINT CHURCH
5825 KELVIN AVENUE NORTH
LAKE ELMO, MN 55042

2011 PARKING LOT EXPANSION
ROCKPOINT CHURCH

Project Title:

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the state of Minnesota.

Michael A. Murphy, P.E.
Date: 07.07.11 File No: C205

Rev.	Date	Description

Project:
Drawn By: KAK
Checked By: KAK
Issue Date: 07.07.11
Sheet Title:

LAYOUT

C1

Sheet: 1 of 1

Reason for needed overflow parking

Due to the tremendous growth we have experienced in the past 4 years, our parking has reached its maximum and beyond. With holidays such as Christmas, Easter,; during other special events including concerts, conventions, guest speakers, special services, etc., we have maximized our parking on numerous occasions.

Gary Van Beek

Facility Manager

Rockpoint Church



MAYOR & COUNCIL COMMUNICATION

DATE:
CONSENT
ITEM #:
DISCUSSION

08-23-2011

05/03/2011

X 12

AGENDA ITEM: 2nd Quarter 2011 Financial Report

SUBMITTED BY: Tom Bouthilet, Finance Director
Joe Rigdon, KDV

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to receive and review the 2nd Quarter Financial Report. No specific motion or action is needed, and this update is included for information/discussion purposes only.

BACKGROUND INFORMATION: The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation and report the financial (unaudited) statement to the City Council. City guidelines suggest the Council be updated on a quarterly basis.

STAFF REPORT: Attached please find a summary report highlighting the 2011 second quarter financials, along with the second quarterly report for year 2011. There are no major findings or considerations from the City staff's perspective to highlight. A written report is submitted to the Council. City Staff are available to address specific questions or comments from the Mayor and City Council Members

RECOMMENDATION: Based upon the above background information it is recommended that the City Council receive the 2nd quarter Financial Report.

ATTACHMENTS:

1. Memorandum from KDV
2. 2nd Quarter 2011 Financial Report

SUGGESTED ORDER OF BUSINESS:

- Introduction/Brief Presentation (*if requested*) City Staff
- Questions from Council to Staff (*if any*) Mayor Facilitates
- Discussion Mayor & City Council

Memorandum

To: City of Lake Elmo City Council

From: Joe Rigdon, KDV

Date: July 22, 2011

Re: General Fund Revenues/Expenditures through 2nd Quarter 2011 (Unaudited)

The attached report details year-to-date City of Lake Elmo General Fund revenues and expenditures through June 30, 2011 (unaudited). Highlights are as follows:

Revenues:

- Property taxes are at 0.0% of budget, as projected (1st half General Fund taxes were recorded in early July 2011 in the amount of \$1,214,858).
- Building permits through June 30, 2011 amounted to \$70,823 (64.4% of budget), as compared to \$70,388 through June 30, 2010.
- Plan check fees through June 30, 2011 amounted to \$26,031 (81.3% of budget), as compared to \$27,467 through June 30, 2010.
- Through June 30, 2011, both the 1st half and 2nd half 2011 MSA maintenance aid payments were received from the State, amounting to \$83,018. Through June 30, 2010, \$38,674 was received, with the 2nd half 2010 payment not received until July 2010.
- Total revenues were \$304,071 (10.4% of budget) through June 30, 2011, increasing 19.4% from \$254,610 through June 30, 2010. The majority of this increase is due to the timing of the MSA maintenance aid receipts.

Expenditures:

- General government expenditures totaled \$500,291 (51.5% of budget) through June 30, 2011, increasing 16.0% from \$431,198 through June 30, 2010. Administration department legal services for the first half of 2011 were approximately \$25,000 greater than for the comparable prior year period. Finance department contract services are shown at 135.6% of the \$30,000 finance department budget but are subject to a year-end allocation to the Water, Sewer, and Surface Water funds based on estimates of actual time incurred (\$41,000 of contract services are budgeted for 2011 in the utility funds).
- Public safety expenditures totaled \$213,980 (20.0% of budget) through June 30, 2011, decreasing 0.8% from \$215,742 through June 30, 2010.
- Public works expenditures totaled \$231,728 (46.2% of budget) through June 30, 2011, increasing 3.7% from \$223,490 through June 30, 2010.

- Parks and recreation expenditures totaled \$72,992 (37.8% of budget) through June 30, 2011, decreasing 7.9% from \$79,271 through June 30, 2010.
- Total expenditures and transfers out were \$1,018,991 (34.9% of budget) through June 30, 2011, increasing 6.4% from \$957,701 through June 30, 2010.

Quarterly Report

Quarterly Report
07/22/2011
11:40 AM
Periods 01 to 06
Fiscal Year 2011 to 2011

Account Number	Description	2011 Budget	2011 Year-to-Date (06/30/11)	2011 Percentage of Budget	2010 Year-to-Date (06/30/10)
101	General Fund				
000	Revenue				
0000	General				
101-000-0000-31010	Current Ad Valorem Taxes	-\$2,447,385.00	\$0.00	0.0%	\$0.00
101-000-0000-31030	Mobile Home Tax	-\$8,000.00	\$0.00	0.0%	\$0.00
101-000-0000-32110	Liquor License	-\$7,200.00	-\$1,725.00	24.0%	-\$750.00
101-000-0000-32180	Wastehauler License	-\$1,000.00	\$0.00	0.0%	-\$230.00
101-000-0000-32181	General Contractor License	-\$2,000.00	-\$1,725.00	86.3%	-\$3,110.00
101-000-0000-32183	Heating Contractor License	-\$100.00	\$0.00	0.0%	\$0.00
101-000-0000-32184	Blacktopping Contractor License	-\$60.00	\$0.00	0.0%	\$0.00
101-000-0000-32210	Building Permits	-\$110,000.00	-\$70,822.55	64.4%	-\$70,388.04
101-000-0000-32220	Heating Permits	-\$3,000.00	-\$4,055.50	135.2%	-\$4,320.50
101-000-0000-32230	Plumbing Permits	-\$3,000.00	-\$3,565.00	118.8%	-\$3,355.50
101-000-0000-32231	Sewer Permits	-\$500.00	\$0.00	0.0%	-\$561.00
101-000-0000-32240	Animal License	-\$2,100.00	-\$1,601.00	76.2%	-\$2,721.00
101-000-0000-32250	Utility Permits	-\$6,000.00	-\$2,863.21	47.7%	-\$4,519.84
101-000-0000-32260	Burning Permit	-\$1,000.00	-\$870.00	87.0%	-\$1,015.00
101-000-0000-33418	MSA - Maintenance	-\$68,500.00	-\$83,018.00	121.2%	-\$38,673.50
101-000-0000-33420	State Fire Aid	-\$40,000.00	-\$3,000.00	7.5%	\$0.00
101-000-0000-33422	PERA Aid	-\$2,749.00	\$0.00	0.0%	\$0.00
101-000-0000-33620	Gravel Tax	-\$3,100.00	-\$817.54	26.4%	\$0.00
101-000-0000-33621	Recycling Grant	-\$15,000.00	-\$15,588.00	103.9%	-\$15,588.00
101-000-0000-33622	Cable Franchise Revenue	-\$35,000.00	-\$38,894.09	111.1%	-\$35,366.96
101-000-0000-34103	Zoning & Subdivision Fees	-\$4,000.00	-\$5,475.00	136.9%	-\$4,370.00
101-000-0000-34104	Plan Check Fees	-\$32,000.00	-\$26,031.24	81.3%	-\$27,466.71
101-000-0000-34105	Sale of Copies, Books, Maps	-\$200.00	-\$42.00	21.0%	-\$67.00
101-000-0000-34107	Assessment Searches	-\$200.00	-\$150.00	75.0%	-\$240.00
101-000-0000-34109	Clean Up Days	-\$4,000.00	-\$3,058.00	76.5%	-\$3,425.00
101-000-0000-34111	Cable Operation Reimbursement	-\$2,000.00	-\$697.42	34.9%	-\$999.84
101-000-0000-35100	Fines	-\$52,000.00	-\$28,517.60	54.8%	-\$28,561.53
101-000-0000-36200	Miscellaneous Revenue	-\$11,129.00	-\$2,054.90	18.5%	-\$858.40
101-000-0000-36210	Interest Earnings	-\$50,000.00	\$0.00	0.0%	\$0.00
101-000-0000-36230	Donations	-\$8,000.00	-\$9,500.00	118.8%	-\$8,022.46
0000	General	-\$2,919,223.00	-\$304,071.05	10.4%	-\$254,610.28
000	General	-\$2,919,223.00	-\$304,071.05	10.4%	-\$254,610.28
	Revenue	-\$2,919,223.00	-\$304,071.05	10.4%	-\$254,610.28
	Expense				
410	General Government				
1110	Mayor & Council				
101-410-1110-41030	Part-time Salaries	\$16,435.00	\$8,217.50	50.0%	\$8,217.50
101-410-1110-41220	FICA Contributions	\$1,019.00	\$509.49	50.0%	\$509.49
101-410-1110-41230	Medicare Contributions	\$238.00	\$119.14	50.1%	\$119.14
101-410-1110-43310	Mileage	\$1,000.00	\$0.00	0.0%	\$0.00
101-410-1110-44300	Miscellaneous	\$2,000.00	\$742.66	37.1%	\$518.15
101-410-1110-44330	Dues & Subscriptions	\$9,800.00	\$3,813.00	38.9%	\$3,987.00
101-410-1110-44370	Conferences & Training	\$3,500.00	\$1,852.81	52.9%	\$745.71
1110	Mayor & Council	\$33,992.00	\$15,254.60	44.9%	\$14,096.99

Quarterly Report

Quarterly Report
07/22/2011
11:40 AM
Periods 01 to 06
Fiscal Year 2011 to 2011

Account Number	Description	2011 Budget	2011 Year-to-Date (06/30/11)	2011 Percentage of Budget	2010 Year-to-Date (06/30/10)
1320	Administration				
101-410-1320-41010	Full-time Salaries	\$221,094.00	\$102,764.27	46.5%	\$94,334.93
101-410-1320-41210	PERA Contributions	\$8,634.00	\$3,901.56	45.2%	\$3,465.08
101-410-1320-41215	ICMA Employer Contribution	\$7,395.00	\$3,548.87	48.0%	\$3,020.15
101-410-1320-41220	FICA Contributions	\$13,708.00	\$6,197.91	45.2%	\$5,770.39
101-410-1320-41230	Medicare Contributions	\$3,206.00	\$1,449.51	45.2%	\$1,349.55
101-410-1320-41300	Health/Dental Insurance	\$38,682.00	\$16,707.00	43.2%	\$19,309.51
101-410-1320-41420	Unemployment Benefits	\$0.00	\$6,637.41	0.0%	\$0.00
101-410-1320-41510	Workers Compensation	\$2,579.00	\$2,141.00	83.0%	\$1,921.00
101-410-1320-42000	Office Supplies	\$7,500.00	\$2,109.26	28.1%	\$1,772.80
101-410-1320-42030	Printed Forms	\$1,000.00	\$0.00	0.0%	\$457.56
101-410-1320-43040	Legal Services	\$60,000.00	\$45,871.68	76.5%	\$20,452.05
101-410-1320-43100	Assessing Services	\$45,500.00	\$17,383.84	38.2%	\$12,000.00
101-410-1320-43220	Postage	\$7,500.00	\$2,685.00	35.8%	\$2,000.00
101-410-1320-43310	Mileage	\$3,500.00	\$929.76	26.6%	\$1,015.50
101-410-1320-43610	Insurance	\$39,500.00	\$34,381.24	87.0%	\$38,563.04
101-410-1320-44300	Miscellaneous	\$6,000.00	\$12,611.55	210.2%	\$553.72
101-410-1320-44330	Dues & Subscriptions	\$4,000.00	\$1,495.53	37.4%	\$1,195.00
101-410-1320-44370	Conferences & Training	\$3,500.00	\$458.96	13.1%	\$2,204.05
101-410-1320-44380	Staff Development	\$1,000.00	\$0.00	0.0%	\$125.00
1320	Administration	\$474,298.00	\$261,274.35	55.1%	\$209,509.33
1410	Elections				
101-410-1410-42000	Office Supplies	\$0.00	\$0.00	0.0%	\$55.68
101-410-1410-44300	Miscellaneous	\$1,350.00	\$940.00	69.6%	\$940.00
1410	Elections	\$1,350.00	\$940.00	69.6%	\$995.68
1450	Communications				
101-410-1450-41010	Full-time Salaries	\$11,139.00	\$2,609.81	23.4%	\$3,182.39
101-410-1450-41210	PERA Contributions	\$808.00	\$189.23	23.4%	\$222.49
101-410-1450-41220	FICA Contributions	\$691.00	\$161.83	23.4%	\$197.31
101-410-1450-41230	Medicare Contributions	\$162.00	\$37.84	23.4%	\$46.12
101-410-1450-41510	Workers Compensation	\$563.00	\$467.00	82.9%	\$430.00
101-410-1450-43090	Newsletter	\$5,400.00	\$1,911.99	35.4%	\$2,394.89
101-410-1450-43180	Information Technology/Web	\$31,500.00	\$10,519.11	33.4%	\$16,244.25
101-410-1450-43510	Public Notices	\$4,000.00	\$1,507.13	37.7%	\$594.93
101-410-1450-43620	Cable Operations	\$4,000.00	\$1,527.85	38.2%	\$1,557.79
1450	Communications	\$58,263.00	\$18,931.79	32.5%	\$24,870.17
1520	Finance				
101-410-1520-41010	Full-time Salaries	\$34,741.00	\$16,670.00	48.0%	\$15,196.00
101-410-1520-41210	PERA Contributions	\$2,519.00	\$1,208.56	48.0%	\$1,061.75
101-410-1520-41220	FICA Contributions	\$2,154.00	\$1,020.36	47.4%	\$935.74
101-410-1520-41230	Medicare Contributions	\$504.00	\$238.58	47.3%	\$218.86
101-410-1520-41300	Health/Dental Insurance	\$4,114.00	\$2,011.97	48.9%	\$2,131.05
101-410-1520-41510	Workers Compensation	\$279.00	\$232.00	83.2%	\$176.00
101-410-1520-42000	Office Supplies	\$500.00	\$477.18	95.4%	\$0.00
101-410-1520-42030	Printed Forms	\$0.00	\$542.96	0.0%	\$0.00
101-410-1520-43010	Audit Services	\$29,500.00	\$16,585.00	56.2%	\$21,000.00
101-410-1520-43150	Contract Services	\$30,000.00	\$40,674.49	135.6%	\$36,017.25
101-410-1520-43310	Mileage	\$250.00	\$0.00	0.0%	\$0.00
101-410-1520-44300	Miscellaneous	\$3,000.00	\$855.73	28.5%	\$2,007.00

Quarterly Report

Quarterly Report

07/22/2011

11:40 AM

Periods 01 to 06

Fiscal Year 2011 to 2011

Account Number	Description	2011 Budget	2011 Year-to-Date (06/30/11)	2011 Percentage of Budget	2010 Year-to-Date (06/30/10)
101-410-1520-44330	Dues & Subscriptions	\$100.00	\$0.00	0.0%	\$0.00
101-410-1520-44350	Books	\$100.00	\$0.00	0.0%	\$0.00
101-410-1520-44370	Conferences & Training	\$300.00	\$20.00	6.7%	\$0.00
1520	Finance	\$108,061.00	\$80,536.83	74.5%	\$78,743.65
1910	Planning & Zoning				
101-410-1910-41010	Full-time Salaries	\$104,312.00	\$53,175.82	51.0%	\$42,481.42
101-410-1910-41210	PERA Contributions	\$7,563.00	\$3,698.18	48.9%	\$2,784.55
101-410-1910-41220	FICA Contributions	\$6,467.00	\$3,099.39	47.9%	\$2,522.47
101-410-1910-41230	Medicare Contributions	\$1,513.00	\$724.82	47.9%	\$589.87
101-410-1910-41300	Health/Dental Insurance	\$26,487.00	\$11,240.14	42.4%	\$10,198.32
101-410-1910-41510	Workers Compensation	\$838.00	\$696.00	83.1%	\$526.00
101-410-1910-42000	Office Supplies	\$1,000.00	\$27.95	2.8%	\$87.53
101-410-1910-42030	Printed Forms	\$0.00	\$494.01	0.0%	\$0.00
101-410-1910-43020	Comprehensive Planning	\$20,000.00	\$0.00	0.0%	\$0.00
101-410-1910-43030	Engineering Services	\$10,000.00	\$10,032.09	100.3%	\$6,791.13
101-410-1910-43150	Contract Services	\$5,000.00	\$45.00	0.9%	\$2,128.00
101-410-1910-43310	Mileage	\$500.00	\$0.00	0.0%	\$0.00
101-410-1910-44300	Miscellaneous	\$500.00	\$6.00	1.2%	\$19.26
101-410-1910-44330	Dues & Subscriptions	\$750.00	\$515.00	68.7%	\$495.00
101-410-1910-44350	Books	\$250.00	\$305.00	122.0%	\$0.00
101-410-1910-44370	Conferences & Training	\$1,500.00	\$115.00	7.7%	\$725.00
1910	Planning & Zoning	\$186,680.00	\$84,174.40	45.1%	\$69,348.55
1930	Engineering Services				
101-410-1930-43030	Engineering Services	\$70,000.00	\$22,169.57	31.7%	\$17,881.78
1930	Engineering Services	\$70,000.00	\$22,169.57	31.7%	\$17,881.78
1940	City Hall				
101-410-1940-42110	Cleaning Supplies	\$550.00	\$361.87	65.8%	\$280.17
101-410-1940-42230	Building Repair Supplies	\$1,000.00	\$0.00	0.0%	\$159.98
101-410-1940-43210	Telephone	\$7,125.00	\$4,316.36	60.6%	\$3,010.86
101-410-1940-43810	Electric Utility	\$12,500.00	\$4,630.68	37.0%	\$3,822.22
101-410-1940-43840	Refuse	\$1,300.00	\$640.58	49.3%	\$414.64
101-410-1940-44010	Repairs/Maint Contractual Bldg	\$11,000.00	\$5,794.31	52.7%	\$6,419.82
101-410-1940-44040	Repairs/Maint Contractual Eqpt	\$5,000.00	\$1,265.53	25.3%	\$974.38
101-410-1940-44300	Miscellaneous	\$1,000.00	\$0.00	0.0%	\$669.64
1940	City Hall	\$39,475.00	\$17,009.33	43.1%	\$15,751.71
410	General Government	\$972,119.00	\$500,290.87	51.5%	\$431,197.86
420	Public Safety				
2100	Police				
101-420-2100-43150	Law Enforcement Contract	\$483,765.00	\$0.00	0.0%	\$0.00
2100	Police	\$483,765.00	\$0.00	0.0%	\$0.00
2150	Prosecution				
101-420-2150-43045	Attorney Criminal	\$51,000.00	\$19,439.02	38.1%	\$19,175.62
2150	Prosecution	\$51,000.00	\$19,439.02	38.1%	\$19,175.62
2220	Fire				
101-420-2220-41010	Full-time Salaries	\$64,701.00	\$31,024.02	47.9%	\$28,234.26

Quarterly Report

Quarterly Report
07/22/2011
11:40 AM
Periods 01 to 06
Fiscal Year 2011 to 2011

Account Number	Description	2011 Budget	2011 Year-to-Date (06/30/11)	2011 Percentage of Budget	2010 Year-to-Date (06/30/10)
101-420-2220-41030	Part-time Salaries	\$100,000.00	\$22,497.67	22.5%	\$24,041.61
101-420-2220-41210	PERA Contributions	\$9,008.00	\$4,342.08	48.2%	\$3,862.87
101-420-2220-41220	FICA Contributions	\$6,468.00	\$1,511.61	23.4%	\$1,596.18
101-420-2220-41230	Medicare Contributions	\$2,388.00	\$750.87	31.4%	\$741.39
101-420-2220-41300	Health/Dental Insurance	\$16,722.00	\$7,234.21	43.3%	\$8,070.83
101-420-2220-41510	Workers Compensation	\$15,892.00	\$13,190.00	83.0%	\$12,472.00
101-420-2220-42000	Office Supplies	\$1,000.00	\$5.30	0.5%	\$319.73
101-420-2220-42080	EMS Supplies	\$1,200.00	\$1,129.69	94.1%	\$0.00
101-420-2220-42090	Fire Prevention	\$3,000.00	\$0.00	0.0%	\$0.00
101-420-2220-42120	Fuel, Oil and Fluids	\$10,000.00	\$5,156.68	51.6%	\$3,919.29
101-420-2220-42400	Small Tools & Equipment	\$10,000.00	\$2,803.84	28.0%	\$4,815.47
101-420-2220-43050	Physicals	\$9,250.00	\$334.42	3.6%	\$396.00
101-420-2220-43210	Telephone	\$5,000.00	\$1,615.73	32.3%	\$1,765.50
101-420-2220-43230	Radio	\$18,500.00	\$7,554.63	40.8%	\$4,114.20
101-420-2220-43310	Mileage	\$600.00	\$25.01	4.2%	\$408.48
101-420-2220-43630	Vehicle Insurance	\$15,475.00	\$10,754.00	69.5%	\$13,980.20
101-420-2220-43810	Electric Utility	\$12,500.00	\$6,219.02	49.8%	\$5,247.98
101-420-2220-43840	Refuse	\$1,000.00	\$281.96	28.2%	\$182.48
101-420-2220-44010	Repairs/Maint Bldg	\$11,000.00	\$6,971.92	63.4%	\$12,405.76
101-420-2220-44040	Repairs/Maint Eqpt	\$25,000.00	\$6,445.58	25.8%	\$10,751.10
101-420-2220-44170	Uniforms	\$9,200.00	\$1,122.54	12.2%	\$1,213.28
101-420-2220-44300	Miscellaneous	\$1,500.00	\$1,159.46	77.3%	\$305.89
101-420-2220-44330	Dues & Subscriptions	\$3,300.00	\$2,295.20	69.6%	\$1,264.00
101-420-2220-44350	Books	\$1,000.00	\$788.74	78.9%	\$635.91
101-420-2220-44370	Conferences & Training	\$22,000.00	\$12,756.17	58.0%	\$10,946.23
2220	Fire	\$375,704.00	\$147,970.35	39.4%	\$151,690.64
2250	Fire Relief				
101-420-2250-44920	Fire State Aid	\$40,000.00	\$0.00	0.0%	\$0.00
101-420-2250-44925	City Contribution	\$7,175.00	\$0.00	0.0%	\$1,000.00
2250	Fire Relief	\$47,175.00	\$0.00	0.0%	\$1,000.00
2400	Building Inspection				
101-420-2400-41010	Full-time Salaries	\$80,935.00	\$28,509.85	46.8%	\$25,822.61
101-420-2400-41210	PERA Contributions	\$4,418.00	\$2,066.90	46.8%	\$1,804.17
101-420-2400-41220	FICA Contributions	\$3,778.00	\$1,720.80	45.5%	\$1,572.57
101-420-2400-41230	Medicare Contributions	\$884.00	\$402.54	45.5%	\$367.78
101-420-2400-41300	Health/Dental Insurance	\$9,487.00	\$4,274.66	45.1%	\$4,432.64
101-420-2400-41510	Workers Compensation	\$2,451.00	\$2,034.00	83.0%	\$2,319.00
101-420-2400-42000	Office Supplies	\$300.00	\$116.94	39.0%	\$0.00
101-420-2400-42030	Printed Forms	\$300.00	\$0.00	0.0%	\$0.00
101-420-2400-42120	Fuel, Oil and Fluids	\$3,750.00	\$0.00	0.0%	\$0.00
101-420-2400-43030	Engineering	\$5,000.00	\$4,273.19	85.5%	\$2,281.34
101-420-2400-43050	Plan Review Charges	\$1,000.00	\$0.00	0.0%	\$0.00
101-420-2400-43060	Surcharge Payments	\$0.00	-\$3,356.54	0.0%	-\$5,106.36
101-420-2400-43150	Inspector Contract Services	\$1,000.00	\$0.00	0.0%	\$118.25
101-420-2400-43210	Telephone	\$425.00	\$91.71	21.6%	\$140.20
101-420-2400-43310	Mileage	\$250.00	\$0.00	0.0%	\$0.00
101-420-2400-43630	Insurance	\$1,000.00	\$242.00	24.2%	\$903.41
101-420-2400-44040	Repairs/Maint Eqpt	\$750.00	\$340.58	45.4%	\$364.90
101-420-2400-44170	Uniforms	\$300.00	\$0.00	0.0%	\$0.00
101-420-2400-44300	Miscellaneous	\$500.00	\$0.00	0.0%	\$15.41
101-420-2400-44330	Dues & Subscriptions	\$200.00	\$75.00	37.5%	\$100.00

Quarterly Report

Quarterly Report
07/22/2011
11:40 AM
Periods 01 to 06
Fiscal Year 2011 to 2011

Account Number	Description	2011 Budget	2011 Year-to-Date (06/30/11)	2011 Percentage of Budget	2010 Year-to-Date (06/30/10)
101-420-2400-44350	Books	\$200.00	\$0.00	0.0%	\$0.00
101-420-2400-44370	Conferences & Training	\$500.00	\$85.00	17.0%	\$155.00
2400	Building Inspection	\$97,428.00	\$40,876.63	42.0%	\$35,290.92
2500	Emergency Communications				
101-420-2500-43150	Contract Services	\$2,500.00	\$5,250.00	210.0%	\$5,250.00
2500	Emergency Communications	\$2,500.00	\$5,250.00	210.0%	\$5,250.00
2700	Animal Control				
101-420-2700-42030	Printed Forms	\$150.00	\$0.00	0.0%	\$0.00
101-420-2700-43150	Contract Services	\$12,600.00	\$444.00	3.5%	\$3,335.00
101-420-2700-44300	Miscellaneous	\$100.00	\$0.00	0.0%	\$0.00
2700	Animal Control	\$12,850.00	\$444.00	3.5%	\$3,335.00
420	Public Safety	\$1,070,422.00	\$213,980.00	20.0%	\$215,742.18
430	Public Works				
3100	Public Works				
101-430-3100-41010	Full-time Salaries	\$126,033.00	\$59,848.61	47.5%	\$53,064.64
101-430-3100-41030	Part-time Salaries	\$12,824.00	\$0.00	0.0%	\$0.00
101-430-3100-41210	PERA Contributions	\$10,067.00	\$4,338.92	43.1%	\$3,707.59
101-430-3100-41220	FICA Contributions	\$8,609.00	\$3,466.96	40.3%	\$3,127.39
101-430-3100-41230	Medicare Contributions	\$2,013.00	\$810.76	40.3%	\$731.46
101-430-3100-41300	Health/Dental Insurance	\$38,177.00	\$16,215.32	42.5%	\$18,580.40
101-430-3100-41510	Workers Compensation	\$13,946.00	\$11,376.00	81.6%	\$13,541.00
101-430-3100-42000	Office Supplies	\$500.00	\$0.00	0.0%	\$108.41
101-430-3100-42150	Shop Materials	\$4,000.00	\$739.59	18.5%	\$542.10
101-430-3100-42210	Equipment Parts	\$0.00	\$1,505.22	0.0%	\$0.00
101-430-3100-42230	Building Repair Supplies	\$1,000.00	\$277.46	27.7%	\$0.00
101-430-3100-42400	Small Tools & Minor Equipment	\$3,000.00	\$728.11	24.3%	\$914.91
101-430-3100-43030	Engineering Services	\$1,000.00	\$851.64	85.2%	\$462.85
101-430-3100-43150	Contract Services	\$7,500.00	\$677.70	9.0%	\$721.30
101-430-3100-43210	Telephone	\$6,375.00	\$4,030.11	63.2%	\$3,406.79
101-430-3100-43230	Radio	\$500.00	\$0.00	0.0%	\$0.00
101-430-3100-43310	Mileage	\$100.00	\$0.00	0.0%	\$0.00
101-430-3100-43630	Insurance	\$15,670.00	\$13,274.00	84.7%	\$14,156.37
101-430-3100-43810	Electric Utility	\$25,000.00	\$9,296.63	37.2%	\$10,152.97
101-430-3100-43840	Refuse	\$1,800.00	\$1,229.02	68.3%	\$855.48
101-430-3100-44010	Repairs/Maint Bldg	\$1,500.00	\$1,811.55	120.8%	\$2,027.93
101-430-3100-44030	Repairs/Maint Imp Not Bldgs	\$0.00	\$11,779.00	0.0%	\$0.00
101-430-3100-44040	Repairs/Maint Eqpt	\$6,000.00	\$548.65	9.1%	\$519.77
101-430-3100-44170	Uniforms	\$1,675.00	\$857.01	51.2%	\$926.06
101-430-3100-44300	Miscellaneous	\$2,000.00	\$20.25	1.0%	\$267.98
101-430-3100-44330	Dues & Subscriptions	\$150.00	\$60.00	40.0%	\$0.00
101-430-3100-44370	Conferences & Training	\$1,000.00	\$620.00	62.0%	\$875.09
101-430-3100-44380	Clean-up Days	\$7,500.00	\$0.00	0.0%	\$0.00
3100	Public Works	\$297,939.00	\$144,362.51	48.5%	\$128,690.49
3120	Streets				
101-430-3120-42120	Fuel, Oil and Fluids	\$30,000.00	\$13,287.53	44.3%	\$10,077.41
101-430-3120-42210	Equipment Parts	\$8,500.00	\$964.24	11.3%	\$1,187.82
101-430-3120-42240	Street Maintenance Materials	\$15,000.00	\$3,939.12	26.3%	\$1,871.82

Quarterly Report

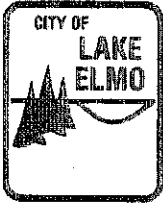
Quarterly Report
07/22/2011
11:40 AM
Periods 01 to 06
Fiscal Year 2011 to 2011

Account Number	Description	2011 Budget	2011 Year-to-Date (06/30/11)	2011 Percentage of Budget	2010 Year-to-Date (06/30/10)
101-430-3120-42260	Sign Repair Materials	\$3,000.00	\$0.00	0.0%	\$2,398.93
101-430-3120-43150	Contract Services	\$16,500.00	\$1,112.40	6.7%	\$2,548.25
101-430-3120-44040	Repairs/Maint Eqpt	\$5,000.00	\$4,676.45	93.5%	\$71.60
3120	Streets	\$78,000.00	\$23,979.74	30.7%	\$18,155.83
3125	Ice and Snow Removal				
101-430-3125-42250	Landscaping Materials	\$1,000.00	\$445.57	44.6%	\$301.82
101-430-3125-42290	Sand/Salt	\$65,000.00	\$36,579.93	56.3%	\$57,410.89
101-430-3125-43150	Contract Services	\$7,500.00	\$5,254.80	70.1%	\$0.00
101-430-3125-44040	Repairs/Maint Eqpt	\$2,500.00	\$387.26	15.5%	\$1,694.64
3125	Ice and Snow Removal	\$76,000.00	\$42,667.56	56.1%	\$59,407.35
3160	Street Lighting				
101-430-3160-43810	Street Lighting	\$24,000.00	\$14,814.78	61.7%	\$9,304.22
3160	Street Lighting	\$24,000.00	\$14,814.78	61.7%	\$9,304.22
3200	Recycling				
101-430-3200-42100	Recycling Supplies	\$3,500.00	\$970.78	27.7%	\$0.00
101-430-3200-43090	Newsletter	\$4,000.00	\$0.00	0.0%	\$931.96
101-430-3200-44300	Miscellaneous	\$7,500.00	\$358.03	4.8%	\$12.24
3200	Recycling	\$15,000.00	\$1,328.81	8.9%	\$944.20
3250	Tree Program				
101-430-3250-43150	Contract Services	\$10,500.00	\$4,575.00	43.6%	\$6,988.00
3250	Tree Program	\$10,500.00	\$4,575.00	43.6%	\$6,988.00
430	Public Works	\$501,439.00	\$231,728.40	46.2%	\$226,490.09
450	Culture, Recreation				
5200	Parks & Recreation				
101-450-5200-41010	Full-time Salaries	\$77,977.00	\$31,713.83	40.7%	\$30,208.15
101-450-5200-41030	Part-time Salaries	\$31,162.00	\$10,371.23	33.3%	\$8,392.35
101-450-5200-41210	PERA Contributions	\$7,912.00	\$2,859.35	36.1%	\$2,465.02
101-450-5200-41220	FICA Contributions	\$6,767.00	\$2,512.09	37.1%	\$2,329.55
101-450-5200-41230	Medicare Contributions	\$1,583.00	\$587.58	37.1%	\$544.82
101-450-5200-41300	Health/Dental Insurance	\$14,852.00	\$6,248.93	42.1%	\$7,079.64
101-450-5200-41510	Workers Compensation	\$8,426.00	\$6,994.00	83.0%	\$7,253.00
101-450-5200-42000	Office Supplies	\$300.00	\$0.00	0.0%	\$0.00
101-450-5200-42120	Fuel, Oil and Fluids	\$3,000.00	\$0.00	0.0%	\$0.00
101-450-5200-42150	Shop Materials	\$750.00	\$128.55	17.1%	\$0.00
101-450-5200-42160	Chemicals	\$1,000.00	\$79.64	8.0%	\$0.00
101-450-5200-42210	Equipment Parts	\$2,500.00	\$286.69	11.5%	\$342.17
101-450-5200-42230	Building Repair Supplies	\$500.00	\$0.00	0.0%	\$220.17
101-450-5200-42250	Landscaping Materials	\$3,500.00	\$40.01	1.1%	\$0.00
101-450-5200-42400	Small Tools & Minor Equipment	\$1,000.00	\$0.00	0.0%	\$369.79
101-450-5200-43210	Telephone	\$550.00	\$278.02	50.5%	\$78.55
101-450-5200-43310	Mileage	\$100.00	\$0.00	0.0%	\$0.00
101-450-5200-43630	Insurance	\$5,500.00	\$3,595.00	65.4%	\$4,968.73
101-450-5200-43810	Electric Utility	\$10,164.00	\$4,752.77	46.8%	\$4,756.22
101-450-5200-43840	Refuse	\$2,500.00	\$1,229.02	49.2%	\$795.48
101-450-5200-44010	Repairs/Maint Bldg	\$700.00	\$0.00	0.0%	\$0.00
101-450-5200-44030	Repairs/Maint imp Not Bldgs	\$4,000.00	\$43.18	1.1%	\$7,571.72

Quarterly Report

Quarterly Report
07/22/2011
11:40 AM
Periods 01 to 06
Fiscal Year 2011 to 2011

Account Number	Description	2011 Budget	2011 Year-to-Date (06/30/11)	2011 Percentage of Budget	2010 Year-to-Date (06/30/10)
101-450-5200-44040	Repairs/Maint Eqpt	\$2,000.00	\$0.00	0.0%	\$0.00
101-450-5200-44120	Rentals - Buildings	\$5,000.00	\$1,272.16	25.4%	\$1,751.77
101-450-5200-44300	Miscellaneous	\$1,500.00	\$0.00	0.0%	\$144.00
5200	Parks & Recreation	\$193,243.00	\$72,992.05	37.8%	\$79,271.13
450	Culture, Recreation	\$193,243.00	\$72,992.05	37.8%	\$79,271.13
493	Other Financing Uses				
9360	Transfers Out				
101-493-9360-47200	Transfers Out	\$182,000.00	\$0.00	0.0%	\$8,000.00
9360	Transfers Out	\$182,000.00	\$0.00	0.0%	\$8,000.00
493	Other Financing Uses	\$182,000.00	\$0.00	0.0%	\$8,000.00
	Expense	\$2,919,223.00	\$1,018,991.32	34.9%	\$957,701.26
101	General Fund	\$0.00	\$714,920.27	0.0%	\$703,090.98



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/2011
REGULAR
ITEM #: 13
DISCUSSION

AGENDA ITEM: Consideration of Request for the City of Lake Elmo to Join the Transportation Alliance

SUBMITTED BY: The Transportation Alliance

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider and discuss a request for the City of Lake Elmo to join the Transportation Alliance. If so inclined to affirmatively consider joining, the suggested motion is as follows:

“Move to Direct City Staff to Prepare a Resolution for the City of Lake Elmo to Join the Transportation Alliance and to Prepare the Necessary Budget Adjustment.”

BACKGROUND INFORMATION: The City Council of Lake Elmo has been asked by the Transportation Alliance to consider joining the organization. Attached is the request and listing of other participating cities, counties and organizations.

STAFF REPORT: City staff seeks Council direction as to interest in joining the Transportation Alliance. Based upon Council direction, an Agenda item can be prepared for formal consideration at an upcoming Regular Meeting.

RECOMMENDATION: Council direction is respectfully requested regarding a request for the City of Lake Elmo to join the Transportation Alliance. If so inclined to affirmatively consider the request, the suggested motion is as follows:

“Move to Direct City Staff to Prepare a Resolution for the City of Lake Elmo to Join the Transportation Alliance and to Prepare the Necessary Budget Adjustment.”

ATTACHMENTS: Request from the Transportation Alliance

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor Facilitates
- Action on Motion Mayor & City Council



AUG 18 2011

CITY OF LAKE ELMO

August 15, 2011

Bruce Messelt, City Administrator
City of Lake Elmo
3800 Laverne Ave N
Lake Elmo, MN 55042-9629

Dear Mr. Messelt:

The Minnesota Transportation Alliance has been fighting for increased transportation funding for decades – working to increase the funding you rely on for the transportation system in your city. With a strong coalition of diverse interests – public and private – all working together, we've been able to raise awareness and increase funding for transportation throughout the state.

Our strength is in numbers. Lawmakers pay attention to membership so your membership in the Transportation Alliance gives us a stronger voice at the Capitol as we advocate for transportation dollars. The Alliance is recognized as the Voice for transportation in Minnesota.

Membership in the Transportation Alliance provides you with many benefits:

- A modest annual membership fee can translate into significant increased funding for local roads and transit;
- You receive up-to-the-minute information on what's happening in St. Paul and Washington, D.C.;
- Our events bring you together with your colleagues in transportation along with key decision makers in the state;
- You can help shape our legislative agenda, our research and our outreach to the public;
- Your membership leverages private sector funds that allow us to use more avenues to reach out to the public, the media and transportation leaders to build support for infrastructure investments.

The Alliance has a proven track record that includes the 2008 Transportation Funding bill which increased the state gas tax and license tab fees. Funding for the Municipal State Aid System has increased from \$115.372 million in 2008 to an appropriation of \$145.455 for fiscal year 2012.

The Alliance has also been a strong champion for the Local Bridge Program and the Local Road Improvement Program as part of the capital bonding bill. **The 2010 Capital Bonding bill provided \$66 million for the Local Bridge Program. The 2011 Capital Bonding bill included \$33 million for local bridges and \$10 million for the Local Road Improvement program.** With your support we can build on these efforts, working with legislators to increase funding for these local road and bridge programs.

Since 1893

525 Park St., Ste. 240 • Saint Paul, MN 55103 • 651/659-0804 • Fax 651/659-9009
Email: alliance@transportationalliance.com • www.transportationalliance.com

Page 2

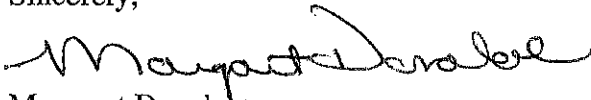
The Transportation Alliance speaks out for you, lobbying in both St. Paul and Washington, D.C. and effectively using media to make the case for the need to repair, maintain and improve local transportation systems.

The Transportation Alliance brings together private sector companies, public sector organizations and transportation advocates from all across the state, developing consensus and building a strong coalition that gets results.

You can learn more about the Alliance on our web site: www.transportationalliance.com including a quick 3 minute video that shows all that the Transportation Alliance can do for you. You can also follow us on Facebook, You Tube and Twitter.

Join your colleagues today and help shape the future of transportation in Minnesota. This is a critical time with the latest extension of SAFETEA-LU expiring at the end of September and more budget battles looming at the state level. **Join now and make a difference for your city.**

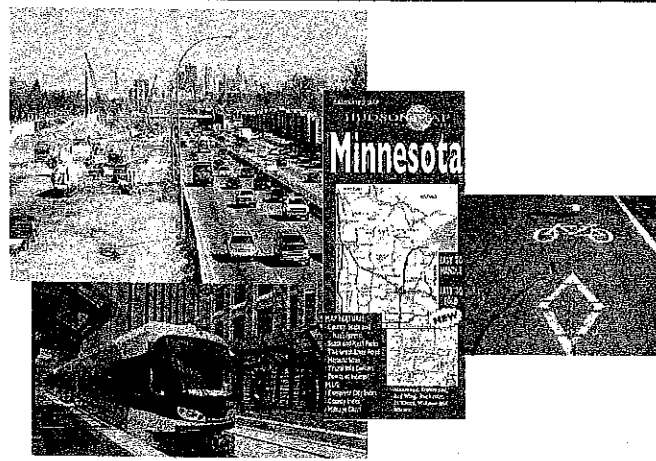
Sincerely,

A handwritten signature in black ink, appearing to read "Margaret Donahoe", written in a cursive style.

Margaret Donahoe
Executive Director

THE TRANSPORTATION ALLIANCE

Highways • Transit • Rail • Waterways • Air



What will the Future Hold for Transportation in Minnesota?

What decisions are being made now that will impact your city?

How will projects be funded in the future and what are the trend lines for highway and transit funds?

What construction projects are scheduled in the coming year? The coming 3 years?

You need to know the answers to these questions - The Transportation Alliance Annual Meeting provides the information you need.

Join your colleagues from around the state for a discussion of short and long-term transportation plans and projects, the prospects for the coming legislative session, what's happening in Washington and what you can expect to happen in transportation in Minnesota.

You'll also get **The Manager's Survival Kit** - How to create systems that eliminate unnecessary work, how to get more done and take back your life!

118th Annual Minnesota Transportation Alliance Annual Meeting

Thursday, November 10, 2011
Spectacular Events
Isanti, MN

Register Today at:
www.transportationalliance.com

Featuring the 2012 Construction Forecast



Membership

With over 250 members, our statewide coalition of organizations includes local units of government, businesses, labor, the construction industry, and advocates for all modes of transportation.

Public Sector- Cities

City of Albertville
City of Alexandria
City of Bemidji
City of Bloomington
City of Buffalo
City of Burnsville
City of Crookston
City of Crystal
City of Eden Prairie
City of Faribault
City of Fergus Falls
City of Forest Lake
City of Fridley
City of Golden Valley
City of Granite Falls
City of Hibbing
City of Hutchinson
City of Lake City
City of Lake Crystal
City of Maple Grove
City of Maplewood
City of Marshall
City of Minneapolis
City of New Ulm
City of North Mankato
City of Northfield
City of Owatonna
City of Plymouth
City of Ramsey
City of Red Wing
City of Redwood Falls
City of Richfield
City of Saint Cloud
City of Saint Louis Park
City of Saint Michael
City of Saint Paul
City of Saint Peter
City of Shoreview
City of Sauk Rapids
City of Virginia
City of Waite Park
City of Willmar
City of Winona
City of Worthington

Public Sector -Counties

Aitkin County, Aitkin
Anoka County, Anoka
Becker County, Detroit Lakes
Beltrami County, Bemidji

Benton County, Foley
Big Stone County, Ortonville
Blue Earth County, Mankato
Brown County, New Ulm
Carlton County, Carlton
Carver County, Chaska
Cass County, Walker
Chisago County, Center City
Clay County, Moorhead
Cook County, Grand Marais
Cottonwood County, Windom
Crow Wing County, Brainerd
Dakota County, Apple Valley
Dodge County, Dodge Center
Douglas County, Alexandria
Faribault County, Blue Earth
Fillmore County, Preston
Freeborn County, Albert Lea
Goodhue County, Red Wing
Hennepin County, Minneapolis
Houston County, Caledonia
Hubbard County, Park Rapids
Isanti County, Cambridge
Itasca County, Grand Rapids
Jackson County, Jackson
Kandiyohi County, Willmar
Kittson County, Hallock
Koochiching County, International Falls
Lake County, Two Harbors
Lake of the Woods County Hwy Dept, Baudette
Le Sueur County, Le Center
Lincoln County, Ivanhoe
Lyon County, Marshall
Martin County, Fairmont
McLeod County, Glencoe
Meeker County, Litchfield
Mille Lacs County, Milaca
Morrison County, Little Falls
Murray County, Slayton
Nicollet County, Saint Peter
Nobles County, Worthington
Olmsted County, Rochester
Otter Tail County, Fergus Falls
Pennington County, Thief River Falls
Pope County, Pipestone
Polk County, Crookston
Pope County, Glenwood
Ramsey County, St Paul
Red Lake County, Red Lake Falls
Redwood County, Redwood Falls

Renville County, Olivia
Rice County, Faribault
Rock County, Luverne
Roseau County, Roseau
Saint Louis County, Duluth
Scott County, Shakopee
Sherburne County, Elk River
Sibley County, Gaylord

Stearns County, Saint Cloud
Steele County, Owatonna
Todd County, Long Prairie
Wabasha County, Wabasha
Wadena County, Wadena
Waseca County, Waseca
Washington County, Stillwater
Watonwan County, Saint James
Winona County, Winona
Wright County, Buffalo
Yellow Medicine, Granite Falls

Private Sector

3M, St. Paul
AECOM, Minneapolis
AFSCME Council 5, South St Paul
AGC of Minnesota, Saint Paul
Aggregate Industries, Eagan
Alliant Engineering, Inc., Minneapolis
Amalgamated Transit Union, Local 1005,
Minneapolis
American Agency Inc, Minneapolis
American Council of Engineering Companies of
Minnesota, Minnetonka
American Engineering Testing, Inc, Saint Paul
Ames Construction, Burnsville
Associated Builders & Contractors Inc., MN Chapter,
Eden Prairie
Association of Minnesota Counties, Saint Paul
Bemidji Area Airport
Bituminous Roadways, Inc., Mendota Heights
Bolton & Menk Inc, Mankato
Bonestroo, Rochester
Braun Intertec Corporation, Edina
Bryan Rock Products Inc, Shakopee
Burlington Northern & Santa Fe Ry Co, Saint Paul
Cedarleaf Cedarleaf & Cedarleaf Inc, Saint Paul
Cement Masons, Plasterers and Shophands,
Local No. 633
Central Minnesota Transportation Alliance,
Saint Cloud
Central Specialties, Inc., Alexandria
CH2M Hill, St. Paul
Cobb Strecker Dunphy & Zimmermann Inc.,
Minneapolis
Commercial Fabricators Inc, Bridgeview
Concrete Paving Assn of Minnesota,
Brooklyn Center
Construction & General Laborers' Union Local #563,
Minneapolis
Cottage Grove Area Chamber of Commerce
Design-Build Institute of America
Duinink, Inc., Prinsburg
Duluth Airport Authority, Duluth
Duluth Building & Construction Trades Council,
Duluth
Duluth Seaway Port Authority, Duluth
Duluth Transit Authority, Duluth

Edwin B Thoreson Inc, Grand Marais
Erickson Engineering Company, Minneapolis
Bull's Manufacturing, St. Michael
Figg Bridge Inspection Inc, Saint Paul
Flaherty & Hood, P.A., Saint Paul
Forest Lake Contracting Inc, Forest Lake
Fresh Energy, Saint Paul
Geyer Signal of Saint Cloud Inc, Saint Cloud
Gladden Construction Inc, Laporte
Global Traffic Technologies, Saint Paul
Greater Metropolitan Area Foreign Trade Zone
H & R Construction Company, Dalton
Hancock Concrete Products Company Inc, North
Mankato
Hawkinson Construction Company Inc, Grand
Rapids
Hay-Dobbs PA, Minneapolis
HDR Engineering, Minneapolis
Highway 55 Corridor Coalition, Buffalo
HNTB Corporation, Minneapolis
Hoffman Construction, Black River Falls, WI
Howard R. Green Company, Saint Paul
I 494 Wakota Bridge Coalition, South St Paul
Int'l Union of Operating Engineers Local #49,
Minneapolis
Jacobs Engineering Group, Minneapolis
J&R Larson Grounds Maintenance, Lakeville
JPJ Group, LLC, Minneapolis
KGM Contractors Inc, Angora
Killmer Electric Company, Crystal
Kimley-Horn and Associates Inc, Saint Paul
Knife River North Central, Sauk Rapids
Kris Engineering, Saint Cloud
Laborers District Council of MN & ND, Hugo
League of Minnesota Cities
Lehigh Portland Cement, Company, Burnsville
LHB Engineers & Architects, Duluth
Lyle Signs Inc, Eden Prairie
Marshall Area Chamber of Commerce
Mathiowetz Construction Company, Sleepy Eye
Mayo Foundation, Rochester
Metropolitan Inter-County Association, St. Paul
Messerli & Kramer PA, St. Paul
Metro Cities
Minnesota Agri-Growth Council Inc, Saint Paul

Private Sector Continued

Minnesota Asphalt Pavement Assn, New Brighton
Minnesota Association of Townships, Saint Michael
Minnesota Building Movers Association, Maple Plain
Minnesota Chamber of Commerce, Saint Paul
Minnesota Corn Growers Assn.
Minnesota County Engineers Association
Minnesota Government Engineers Council
Minnesota Pork Producers Association
Minnesota Ports Association, Saint Paul
Minnesota Public Transit Association
Minnesota Regional Development Organizations
Minnesota State Building and Construction Trades Council, Saint Paul
Minnesota Timber Producers Association, Duluth
Minnowa Construction, Inc., Harmony
MR Paving & Excavating, New Ulm
MR Sign Company Inc, Fergus Falls
New Ulm Quartzite Quarries Inc, New Ulm
North Central Cement Council
North Central States Regional Council of Carpenters
North Metro Mayors Association
Northern Lines Railway
Parsons Brinckerhoff, Minneapolis
Parsons Transportation Group
Pfeffer Company, Inc.
R & G Construction, Marshall
R.J. Ahmann Company, Eden Prairie
Rainbow Inc, Minneapolis
Rajala Construction Company, Cohasset
Rani Engineering, Minneapolis

Rear Window Media, Inc., Minneapolis
Robert R. Schroeder Construction, Inc., Glenwood
Royal Concrete Pipe Inc, Stacy
Ruffridge Johnson Equipment Co. Inc., Minneapolis
Safety Signs Inc, Lakeville
Saint Cloud Area Planning Organization, Saint Cloud
Saint Cloud Metropolitan Transit Commission, Saint Cloud
Schumacher Excavating Inc, Zumbrota
SEH, Saint Paul
SIMCOTE Inc, Saint Paul
Southwest Corridor Transportation Coalition, Minneapolis
SRF Consulting Group Inc, Plymouth
Stanley Consultants, Minneapolis
State Bank of Taunton, Taunton
Stonebrooke Engineering, Savage
TC Field & Company, Saint Paul
Teamsters Local Union No. 120, Saint Paul
Tiller Corporation, Maple Grove
TKDA & Associates Inc., Saint Paul
Transit for Livable Communities, Saint Paul
Twin Cities and Western Railroad, Glencoe
Twin City Wire, Eagan
Union Bank and Trust, Minneapolis
United Transportation Union, MN Legislative Board
URS, Minneapolis
U.S. Highway 14 Partnership
Wayne Transports Inc, Rosemount
Wheeler Consolidated Inc, Minneapolis
Widseth Smith Nolting & Associates Inc, Baxter
WSB & Associates, Minneapolis



New members receive a 12-month membership regardless of when they join the Alliance. Join Today and you will receive all the benefits of membership for the next 12 months.

2011 Membership Dues

Contact Name (please print) _____
 Title _____
 Referred by _____
 Organization _____
 Mailing Address _____
 Telephone (____) _____ Fax (____) _____
 E-Mail _____

Dues Information

Dues are based on projected 2011 State-Aid Allocation

Counties Receiving

Under \$2 million	\$1,025
\$2 million to \$2.5 million	1,240
\$2.5 million to \$3 million	1,515
\$3 million to \$3.5 million	1,795
\$3.5 million to \$4 million	2,005
\$4 million to \$4.5 million	2,285
\$4.5 million to \$5 million	2,615
\$5 million to \$8 million	3,120
\$8 million to \$11 million	4,295
\$11 million and above	5,115

- ☐ Please send me an invoice for my membership
☐ Enclosed is my membership check payable to:
 The Minnesota Transportation Alliance, Inc.

**Alliance Office: 525 Park St, Suite 240
 St. Paul, Minnesota 55103-2106
 651-659-0804**

Cities Receiving

No State Aid	\$ 190
Under \$500,000	270
\$.5 million to \$1 million	435
\$1 million to \$1.5 million	735
\$1.5 million to \$2 million	1,030
\$2 million to \$2.5 million	1,265
\$2.5 million to \$5 million	1,520
\$5 million and above	2,075

Note: Dues may be deductible as an ordinary and necessary business expense but are not deductible as a charitable contribution. Due to the "Omnibus Budget Reconciliation Act of 1993" dues attributable to lobbying are not deductible as a business expense. For 2011, 25% of dues are non-deductible.

Townships

Fixed Rate of \$ 130

Associations/Coalitions - \$340



MAYOR & COUNCIL COMMUNICATION

DATE: 8/23/2011
REGULAR
ITEM #: 14
MOTION Consider - Approve

AGENDA ITEM: Consideration of Migrating CodeRED Emergency Notification System to Washington County under a Joint Powers Agreement

SUBMITTED BY: Washington County Sheriff's Office

THROUGH: Bruce A. Messelt, City Administrator

REVIEWED BY: Fire Chief Greg Malmquist
Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: It is respectfully recommended that the City Council affirmatively consider approval of the proposed Joint Powers Agreement with Washington County to allow for migration of the CodeRED Emergency Notification System from the City to the County, at a significant cost savings and operational benefit to the City.

This item has been scheduled at the request of the Washington County Sheriff's Office. The Sheriff's Office has purchased the CodeRED Emergency Notification System and deployed such countywide. Under a proposed Joint Powers Agreement (JPA), interested communities may elect to utilize the now-centralized CodeRED system for emergency purposes at a fraction of the cost of a free-standing local system.

In addition, non-emergency use of the system will still be available and charged only for minutes used. Should the City wish to migrate its CodeRED system to the county-sponsored system under the proposed JPA, it is recommended the Council undertake the following action:

SUGGESTED MOTION: *Move to approve the proposed Joint Powers Agreement with Washington County for utilization of the CodeRED Emergency Notification System and to migrate as soon as possible the City's current agreement into the countywide program.*

BACKGROUND INFORMATION: The City has employed the CodeRED Emergency Notification System since 2010. The City has utilized the system for certain official communications and has benefitted from the automated weather warnings on several occasions.

CodeRED has wide usage and strong support among a variety of local and regional governments, including several in Minnesota.

Based upon the endorsements of several communities within Washington County, as well as from Dakota and Houston counties, the Washington County Sheriff acquired CodeRED earlier this year for county-wide deployment. Under its agreement, the County may allow its affiliate jurisdictions to utilize the system for emergency purposes. Cities and townships may also elect to employ the system for official, non-emergency purposes on a fee-for-use basis of \$0.25 per minute.

STAFF REPORT: In addition to communicating through a variety of media – land-lines, cell phones, text messaging and email, the CodeRED system also allows for various pre-set and ad hoc selection of geographic and/or operational sub-sets with which to communicate. Emergency calls can be generated by any number of means; in the field, via the Dispatch Center, or from the office. Additionally, real-time data generation and call tracking allows for monitoring, follow-up and additional response, if needed.

Attached is the proposed JPA with Washington County. Under this agreement, the City of Lake Elmo would see its annual costs for Code RED reduced from \$5,250 to approximately \$635. The County will provide a “pool” of 150,000 minutes to be used for Public Safety notifications only (i.e. emergencies). For non-emergency notification there will be a \$0.25 per minute fee, billed by the county. Some additional funds would continue to be budgeted within the Communications Budget for these types of official non-emergency communications. For example, the recent deployment of Code RED for the temporary “no wake restrictions” utilized 204 minutes, or \$51 under the proposed JPA.

In addition to the significant savings, “launching” the calls will become much easier. Washington County Dispatchers will be trained on the system and all we will need to do is contact Dispatch and advise them of the message and area to be notified. The county-wide system will also allow us to notify residents of neighboring communities that may be impacted by the emergency event.

The Term of the JPA Agreement will be from January 1, 2012 and end December 31, 2012. The Agreement will automatically renew for two additional one year periods with final termination on December 32, 2014. The City does have the option of terminating the agreement at any time with a 30 day written notice. The existing City contract with Emergency Communication’s Network will be terminated as soon as possible, as part of the migration to the County system. The JPA has been reviewed by the City Attorney, with his approval.

RECOMMENDATION: Based upon the above background information and Staff Report, it is recommended that the City Council affirmatively consider approval of the proposed Joint Powers Agreement with Washington County to allow for migration of the CodeRED Emergency

Notification System from the City to the County, at a significant cost savings and operational benefit to the City. The suggested motion to do so is as follows:

“Move to approve the proposed Joint Powers Agreement with Washington County for utilization of the CodeRED Emergency Notification System and to migrate as soon as possible the City’s current agreement into the countywide program.”

Alternatively, the City Council may elect to not proceed as recommended, to continue discussions, as appropriate, and/or to determine if additional follow-up activity is warranted.

ATTACHMENTS:

1. Letter from Washington County Office of the Sheriff on Code RED System Adoption
2. Proposed Joint Powers Agreement for CodeRED Services with the Washington County Sheriff’s Office
3. Washington County Code RED Policy and Guidelines

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Questions from Council Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor Facilitates
- Action on Motion..... Mayor & City Council



Office of the Sheriff

Commitment to Excellence



William M. Hutton
Sheriff

Daniel Starry
Chief Deputy

Bruce Messelt
3800 Laverne Av N
Lake Elmo, MN 55042

Dear Mr. Messelt:

The Washington County Sheriff's Office was approached by a number of our city partners asking us to spearhead the purchase and implementation of a Mass Notification System. These systems allow public entities the ability to quickly communicate to the public through phone and web based messages.

We are happy to announce that the Washington County Sheriff's Office in cooperation with Washington County Public Health has entered into contract with Emergency Communications Network for a Mass Notification System known as Code Red. The Code Red System will allow Public Safety and other government agencies the ability to send mass messages to a specific area or jurisdiction that can be selected by the user. Messages sent by the Code Red System can be received by a home phone, cell phone as a message or text or by an email. Messages are sent by using the Code Red web based program that utilizes the Code Red infrastructure. The system has the ability to send a very high number of calls in a short period of time. In one recent situation in Dakota County, the Code Red system was activated to assist in the search for a missing vulnerable adult. Because of the Code Red message a local citizen located the missing person and was able to notify authorities.

What does the Code Red System offer the citizens of Washington County? The intention of purchasing the Code Red System is to provide emergency notification to the citizens in a timely fashion utilizing the latest mass notification technology. In 2012 there will be 150,000 minutes available for emergency notifications as proposed in the financial model (see below). Code Red can be used for non emergency applications, however, those notifications would be paid for by the entity that sends the message. The goal is to ensure there are adequate amount of minutes in the case of an emergency. Code Red does allow free text messaging capabilities within the System, making it available to use as a staff notification resource for participants.

The cost of the the Code Red System for Washington County is \$33,750.00 per year. The Sheriff's Office and Public Health have both dedicated money to pay for the Code Red System for the rest of 2011. In 2012, the County is paying \$15,000 or nearly half of the cost, however, we are asking for help from the cities/townships to assist in paying for the remainder. The fee structure that has been presented to the city administrators during a recent meeting is to have each city/township pay \$.07860 x the population of the city/township. This fee structure appears to be the most equitable solution for raising the necessary funds to provide this valuable tool to the citizens of Washington County. As an example, the City of Pine Springs would pay \$32.06 a year while the City of Woodbury would pay \$4,870.13 a year.

We are hoping all of the cities and townships will be interested partnering with us in the Code Red System. Please let me know if your city/township is interested in using and helping fund the program in 2012. I have attached a spreadsheet with the cost by city/township for your review. We have developed a policy for the use of the system in addition to a joint powers agreement. Those documents have been included for your review as well. In an effort to ensure that the Code Red system is available for use by all as soon as possible, I am asking that you notify the Sheriff's Office if you will be or not be participating by August 1st 2011. Those that are going to participate in the system will need to have a copy of the Joint Powers Agreement signed and returned to the Sheriff's Office no later than August 18th 2011. Please contact Commander Anschutz at 651-430-7846 with any questions about the system.

Sincerely,

William M. Hutton
Sheriff

Enclosed: Mass Telephone Notification System Policy
Cost by population worksheet
Joint Powers Agreement

CC: Fire Chief Malmquist



Office of the Sheriff

Commitment to Excellence



William M. Hutton
Sheriff

Daniel Starry
Chief Deputy

City or Township	2010 US Census Population	Code Red Cost per year Formula: (Population X .07860)
Afton	2,886	\$226.83
Bayport	3,471	\$272.82
Baytown Township	1,723	\$135.42
Birchwood Village	870	\$68.38
Cottage Grove	34,589	\$2,718.69
Dellwood	1,063	\$83.55
Denmark Township	1,737	\$136.52
Forest Lake	18,375	\$1,444.27
Grant	4,096	\$321.94
Grey Cloud Island Twp	289	\$22.71
Hugo	13,332	\$1,047.89
Lake Elmo	8,069	\$634.22
Lake St Croix Beach	1,051	\$82.60
Lakeland	1,796	\$141.16
Lakeland Shores	311	\$24.44
Landfall	686	\$53.92
Mahtomedi	7,676	\$603.33
Marine St Croix	689	\$54.15
May Township	2,776	\$218.19
Newport	3,435	\$270.00
Oak Park Heights	4,339	\$341.04
Oakdale	27,378	\$2,151.91
Pine Springs	408	\$32.06
Scandia	3,936	\$309.36
St. Marys Point	368	\$28.92
St. Paul Park	5,279	\$414.92
Stillwater	18,225	\$1,432.49
Stillwater Twp	2,366	\$185.97
West Lakeland Twp	4,046	\$318.01
White Bear Lake	403	\$31.67
Willernie	507	\$39.85
Woodbury	61,961	\$4,870.13
Total	238,136	\$18,717.36

Law Enforcement Center • 15015 62nd Street North — P.O. Box 3801, Stillwater, Minnesota 55082-3801

Phone: 651-430-7600 • Fax: 651-430-7603 • TTY: 651-430-6246

www.co.washington.mn.us

Equal Employment Opportunity / Affirmative Action

**JOINT POWERS AGREEMENT BETWEEN THE WASHINGTON COUNTY SHERIFF'S
OFFICE AND THE CITY OF LAKE ELMO**

THIS AGREEMENT is made by and between political subdivisions organized and existing under the Constitution and laws of the State of Minnesota. Washington County a political subdivision by and through its Sheriff's Office (hereinafter "Provider") and the City of Lake Elmo Minnesota, a municipal corporation, (hereinafter referred to as the "City") are the parties to this agreement.

WHEREAS, both political subdivisions through their law enforcement agencies manage threats to public health and safety.

WHEREAS, Minnesota Statutes Section 471.59 provides that two or more governmental units may by Agreement jointly exercise any power common to the contracting parties.

WHEREAS, The Provider has entered into a contract with Emergency Communications Network for the purpose of providing a Mass Emergency Notification System also known as Code Red.

WHEREAS, The provider has agreed to purchase 150,000 minutes from Emergency Communications Network for the purpose of sending Mass Emergency Notifications to home, business or cell phones.

WHEREAS, the Provider has agreed to purchase the Mass Emergency Communication system to assist agencies within Washington County provide necessary emergency and non emergency mass notifications.

WHEREAS, The City is in need of having the ability to communicate with the public in a timely fashion during both emergency and non emergency situations.

WHEREAS, At the request of the City, the Provider is willing to provide a Mass Emergency Notification System.

NOW THEREFORE, Pursuant to the authority contained in Minnesota Statute Section 471.59, commonly known as the Joint Powers Act which authorizes two or more governmental units to jointly exercise any power common to them and /or Minnesota Statutes Sections 626.76 and in consideration of the mutual covenant herein contain and the benefits that each party hereto shall derive hereby the Provider and City agree to the following terms and conditions.

PURPOSE

The purpose of this joint powers agreement is set forth in the recitals contained in the above whereas clauses which are incorporated by references if fully set forth herein.

CITY'S RESPONSIBILITIES

1. When needed, the City's representative shall be able to utilize the Mass Emergency Notification Communication System by notifying the Washington County Sheriff's Office 911 PSAP for Emergency Notifications. Emergency Notifications are those that are related to public safety as defined in the Code Red Policy. The 150,000 minutes purchased by the provider will be used for all Emergency Notifications at no additional cost to the City.
2. The City agrees to pay the Provider \$634.22 for the purpose of purchasing its proportionate share of 150,000 Emergency Notification minutes per year.
3. The City will conform to any Policy developed by Provider related to the use and maintenance of Code Red.
4. The City's representative shall be responsible for determining the content of any Emergency Notification message in addition to the geographic area the message is to be sent.
5. The Washington County 911 PSAP Center personnel will assist in preparing Emergency Notifications as defined in the Code Red Policy and will be responsible for initiating the call procedures through Code Red at the direction of the City's authorized representative.
6. The City's representative will be responsible for sending any General Notifications, as defined in the Code Red Policy, through a web based server. General Notification minutes used will be paid by the City to the Provider at an additional contracted rate of .25 per minute. Those funds will be retained by the provider for the sole purpose of purchasing minutes on the Code Red System.
7. For every additional year this agreement is extended the Provider will invoice the City at a rate of \$634.22 per year for emergency notification minutes.

8. City will be responsible for the payment of additional year(s) extension upon receipt of the invoice from the Provider.

PROVIDER'S RESPONSIBILITIES

1. Provider agrees to enter into a contract with Emergency Communications Network for the purchase of 150,000 minutes of the Code Red Mass Notification System in 2012.
2. Provider will develop a policy related to the use and maintenance of the Code Red System.
3. Provider will assign a 911 PSAP employee as the Code Red System administrator.
4. Provider agrees to train the 911 PSAP personnel in the operation of the Code Red System.
5. Provider agrees to train the City representative in the use of the Code Red System.
6. The Provider will test the Code Red System to ensure the system is operating properly.
7. The Provider will monitor the number of minutes used by all agencies to ensure there is sufficient number of minutes available in the event of an emergency.

TERM OF AGREEMENT

The initial Term of this Agreement shall be from January 01, 2012 and ends December 31, 2012, the date of the signature of the parties notwithstanding, unless earlier terminated in accordance with the termination clause. After the initial Term, this Agreement will automatically renew for two additional one year periods with the final termination date of December 31st 2014, unless the automatic extension is cancelled by the City in accordance with the termination clause.

PAYMENT

The City shall pay the Provider within 30 days of being invoiced for the City's annual portion of the Code Red System or for any General Message minute usage.

INDEPENDENT CONTRACTOR

It will be agreed that nothing within the contract is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties or as constituting the City as the agent, representative, or employee of the Provider for any purpose or in any manner whatsoever.

ASSIGNMENT

The City shall not assign any services contemplated under this agreement.

RECORD DISCLOSURES/MONITORING

Pursuant to Minn. Statute 16C.05 SUBD. 5, the books, records, documents and accounting procedures and practices of the contractor relevant to the contract are subject to examination by the County and either the legislative auditor or the state auditor, as appropriate. The contractor agrees to maintain and make available these records for a period of six years from the date of termination of this agreement.

INDEMNIFICATION

- a. The City agrees it will defend, indemnify and hold harmless the Provider, its officers and employees against any and all liability, loss, costs, damages, and expenses which the Provider, its officers, or employees may hereafter sustain, incur, or be required to pay arising out of the negligent or willful acts or omissions of the City in the performance of this agreement.
- b. The liability of the parties under this agreement shall be governed by Minnesota Statutes section 471.59 subdivision 1a. Each party to this agreement shall be liable for its own acts or omissions and shall not be liable for the acts or omissions of any other party to this agreement.

INSURANCE REQUIREMENTS

The City agrees that in order to protect itself, as well as the Provider, under the indemnity provisions set forth above, it will at all times during the term of this Agreement, keep in force the following insurance protection in the limits specified:

1. Maintain membership and participation in the Minnesota League of Cities Trust or Commercial General liability Insurance with contractual liability coverage in the amount of the City's and Provider's tort liability limits set forth in Minnesota Statute Section 466.04 and as amended from time to time.
2. Automobile coverage in the amount of the City's and Provider's tort liability limits set forth in Minnesota Statute Section 466.04 and as amended from time to time.
3. Worker's Compensation in statutory amount.

Prior to the effective date of this Agreement, the City will furnish the Provider, with certificates of insurance as proof of insurance. This provision shall be set as a condition subsequent; failure to abide by this provision shall be deemed a substantial breach of contract.

Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty days notice thereof to the Provider.

DATA PRACTICES

All data collected, created, received, maintained, or disseminated for any purposes by the activities of the contractor, because of this agreement, is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as amended, the Minnesota Rules implementing such Act now in force or as adopted, as well as federal regulations on data privacy.

TERMINATION

- a. Provider may cancel this Agreement with or without cause at any time upon giving a 30 days written notice to the City Administrator or designee. The City may cancel this Agreement with or without cause at anytime upon giving a 30 days notice to the Washington County Sheriff or designee. No monies paid will be refunded to the City upon termination of this contract.
- b. During the initial or subsequent term if the City does not want to exercise the automatic one year renewal, it must provide written notice of such to Provider at least 90 days prior to December 31st of the current year.
- c. If Provider does not renew its contract with Emergency Communication Network for 150,000 minutes of the Code Red Mass Notification System for years 2013 and or 2014, the Provider will notify the City 30 days prior to December 31st 2012 or December 31st 2013 respectively.

WASHINGTON COUNTY

LAKE ELMO

BY: _____
County Board Chair

DATE: _____

BY: _____ DATE: _____

BY: _____
County Administrator

DATE: _____

BY: _____
Sheriff

DATE: _____

Approved to as form:

Asst County Attorney

1. Policy Overview

The Washington County Sheriff's Office 911 PSAP(Public Safety Answering Point) has implemented a Mass Telephone Notification System (MTNS) that allows the PSAP and authorized users to contact citizens and staff regarding an imminent danger or emergency that may affect public health, safety, or welfare.

The Washington County Sheriff's Office PSAP operates the MTNS on behalf of all participating departments in Washington County and is responsible for assuring the system is used in accordance with the guidance set forth in this document.

1.1 System Overview

The Mass Telephone Notification System (or MTNS, or System) is a rapid communication service available for Mass Emergency Notifications. MTNS employs internet mapping capability for geographic targeting of calls, coupled with high speed telephone calling system capable of delivering customized pre-recorded emergency messages directly to homes, mobile phone devices and business, whether answered by an individual or answering machine at the rate of up to 60,000 calls per hour. It also has the capability to notify subscribers through text message, email, Facebook, SMS and Twitter. MTNS subscribers control their emergency broadcasts from anywhere in the world via a secure internet portal.

1.2 Definitions

1.2.2 Notification Scenario

A Notification Scenario is a situation where property or human life is in jeopardy or where notification would assist a public safety agency in the accomplishment of a critical task.

1.2.3 Scenario Types

In order to provide for standardized conditions of use, the WCSO shall define authorized message types that will be transmitted using the MTNS system as:

- a. **Emergency Notifications:** Notifications that are sent by a participating agency that are related to public safety or public health.

- b. General Notifications: Notifications that are sent by an agency for the purpose of public notification. General Notifications are those that do not meet the criteria of a Emergency Notification.

1.2.4 Authorized System User

Authorized System User means:

- (1) The Washington County Administrator, the Sheriff, and/or the county Emergency Management Manager. A city administrator, police chief and/or fire chief of a jurisdiction in Washington County. The department head of a jurisdiction non-public safety department within Washington County. It shall be the responsibility of the county/city administrator to identify any other appropriate users.
- (2) An individual designated in writing by an Authorizing System User described above. The Authorized System User has the authority to request a Trained User to activate a notification scenario.

1.2.5 Other Participating Entities

Government organizations not defined in section 1.2.4 and private organizations which by the nature of their business activities have the potential need to contact citizens and staff regarding an imminent danger or emergency that may affect public health, safety, or welfare may be authorized by the Washington County Sheriff to utilize the MTNS. Such participation is conditioned upon a properly executed written agreement with the Washington County Sheriff's Office establishing terms, conditions and costs for system use. Their use of the system will be approved through the public safety entity within the jurisdiction.

1.2.6 Trained User

Trained User means an individual who has satisfactorily completed the training curriculum prescribed by the Sheriff's Office for accessing and activating the Notification Scenario and been designated by an Authorized System User as someone who has permission to activate a Notification Scenario. In its sole discretion, the Washington County Sheriff may limit the number and identity of Trained Users that have direct access to the System.

1.2.7 WCSO MTNS System Administrator

The Washington County Sheriff's Office will designate an employee of the PSAP as the System Administrator. The WCSO System Administrator is responsible for the overall administration of the System which includes maintaining lists of Authorized System Users and Trained System Users and acts as the primary contact for all users for System related changes or issues.

1.3 Participating Entity Requirements

1.3.1 Point of Contact

A participating entity, whether public or private that is authorized to activate the WCSO MTNS System, shall provide the MTNS System Administrator with a Point of Contact who administers the System for that entity.

1.3.2 System Maintenance and Integrity

The Point of Contact named in section 1.3.1 shall:

- Maintain an up-to-date roster of all Authorized Users and Trained Users and send a copy of the roster to the MTNS System Administrator and notify the same of any changes in Users.
- Ensure that Trained Users are available during their normal work hours and receive annual refresher training on the MTNS system or as needed.
- Request training, or training materials as needed.
- Ensure that access to the MTNS system is limited to Trained Users.
- Protect and limit the use of the assigned user name and password which grants access to the system website. In the event a Trained User is no longer authorized to access and activate the system, the password shall be changed immediately.
- Take any and all steps necessary to protect the information within the MTNS database from misuse or release to unauthorized parties.
- Notify the MTNS System Administrator of any system security breaches or suspected tampering.

1.4 Testing Procedures

1.4.1 Frequency

The MTNS System Administrator will coordinate with Authorized System Users to conduct quarterly testing of the system.

1.4.2 System Discrepancies

Any problems or discrepancies within the system identified during testing shall be reported to the MTNS System Administrator immediately for action.

1.5 Activation Procedures

1.5.1 Voice Messages

Authorized System Users will submit a request to the WCSO PSAP to initiate a voice notification consisting of an outbound telephone notification by voice message. The WCSO PSAP Shift Supervisor or designee will then activate the MTNS system for such requests for outbound telephone notifications. Private sector users will coordinate activation through their public safety partner.

1.5.2 Pager, Text, and Email Notifications

Pager, text, and email notifications through the MTNS can be sent by Trained Users of any Participating Entity at no additional cost to the user agency.

1.6 Allocation of Minutes

The Washington County Sheriff's Office MTNS system designates 150,000 minutes per year of connected call time for usage by the Sheriff's Office and authorized users.

1.6.1 Designation of Time

- All Emergency Notifications, as defined in section 1.2.3 will be activated by WCSO at no additional cost to the member agency, except that Emergency Message Notifications sent at the request of a non-public safety government

entity as defined in section 1.2.5 shall be billed to the requesting agency at the current approved rate.

- General Notifications, as defined in section 1.2.3, sent at the request of the member agency will be billed to the requesting agency at the current approved rate.
- General Notification billing rates may be adjusted by the Sheriff. These rates will be established in the current Code Red agreement.
- The WCSO System Administrator is responsible for coordinating the use of 500 system minutes for testing and training.
- Funds resulting from General Notifications and monthly recurring fees from other participating entities will be maintained by the WCSO and applied to the purchase of additional voice call minutes once the allotted 150,000 prepaid minute bank is exhausted.
- In the event that not all of the 150,000 prepaid minutes are used during a contract period, the funds collected from a participating agency for General Notifications will be carried forward to the following year. The WCSO will retain those funds and apply them towards any future General Notifications sent by that agency or for the purchase of "roll over minutes" as defined in the Code Red Contract.

1.7 Official Use Only

The WCSO MTNS system will be used for official use only. It is the responsibility of Authorized Users to assure that all notifications they request are compliant with the message definitions described in section 1.2 of this policy.

The PSAP shall be informed of all activations in order to respond to follow up calls and questions from the public or agency staff.

1.9 Message Types

The MTNS system shall be used for incidents where rapid and accurate notification is essential for public safety.

1.9.1 Emergency Notifications

Emergency voice notifications shall be limited to:

- Incidents requiring the public to evacuate.

- Incidents requiring the public to shelter in place.
- Incidents involving missing children.
- Incidents involving missing vulnerable adults.
- Incidents involving any other imminent threat to public health or safety where protective actions by the public are necessary.
- Notification of Member Agency or other participating entity critical staff when Emergency Notification methods are not functioning or are otherwise unavailable for use.

The WCSO system may be used for incidents where authorized entities deem the situation suitable for activation.

1.9.2 General Notifications

General Notifications shall be limited to:

- Missing person notifications not including those described in section 1.9.1
- Dissemination of Crime Prevention information with no imminent threat to public safety.
- Special Notifications.
- Member agency requested tests/drills.

DRAFT

City of Lake Elmo
City Council Meeting Minutes

August 23, 2011

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

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

Also Present: Administrator Messelt, Attorney Snyder, City Engineer Griffin, Planners Klatt and Matzek, Finance Director Bouthilet, and City Clerk Lumby

APPROVAL OF AGENDA:

MOTION: Council Member Smith moved to amend the August 23, 2011 agenda by pulling Item No. 6 off the Consent Agenda and place item on Regular agenda. Council Member Park seconded the motion. The motion passed 4-0.

ACCEPTED MINUTES:

The August 9, 2011 City Council minutes were accepted as amended by consensus of the City Council.

Mayor Johnston read a proclamation recognizing Joseph T. Janochoski achieving the rank of Eagle Scout

PUBLIC COMMENTS:

The following property owners on Lake DeMontreville, Pat Dean, 8028 Hill Trail and Brenda Jo Carlson, 8553 Hidden Bay Trail, requested the "No Wake" ordinance be suspended. The city staff and Council were invited for a boat tour around the lakes. Those on the tour found no monetary damage.

Justin Bloyer, 8881 Jane Road N., asked the Council to go back to the original No Wake ordinance.

The City will be meeting with the Department of Natural Resources in coming weeks to discuss the ordinance and the Council will revisit the issue this fall.

Paul Ryberg, President of Friends of the Library, stated this organization meets Tuesday, 1 p.m. at the Lake Elmo Arts Center.

CONSENT AGENDA:

MOTION: Council Member Smith moved to approve Agenda Items 2, 3, 4, 5, and 7 on the Consent Agenda. Council Member Pearson seconded the motion. The motion passed 4-0.

- Approve payment of disbursements and payroll in the amount of \$506,779.38
- Approve Addendum payment of disbursements in the amount of \$250.00
- Authorize Partial Payment No. 2 in the amount of \$159,786.42 to be paid from the Project Fund 2011 Street and Water Quality Improvements Project
- Approve Resolution No. 2011-032 Proclaiming Saturday, September 10, 2011, as the 4th Annual Fall Festival Day and authorize the transfer of \$5000 from the General Fund Misc. Revenue account to the Fall Festival Transfers in account
- Approve advertisement of the vacancies for the Library Board
- Approve addendum to the Communication System Subscriber Agreement with Washington County for Participation in a New 800 MHz Public Safety Radio Self-Insurance Program

REGULAR AGENDA:

Consider approval of a new off-sale intoxicating liquor license for Village Wine and Spirits located at 11227 Stillwater Blvd.

The City Council was requested to approve a new off-sale intoxicating liquor license for Village Wine and Spirits, located at 11227 Stillwater Blvd. N. by applicant Richard Kosman, LFD, Inc. Village Wine and Spirits will be the fourth license-holder in the Old Village, joining Twin Points Tavern, the Lake Elmo Wine Company and the Lake Elmo Inn.

Dennis LaCroix, owner of Twin Points, is concerned of the number of off-sale licenses clustered in a one-block area and adding another would affect their business.

Kimberly Ommerborn, owner of the Lake Elmo Wine Company, had concerns on the location itself and saturation of how much can be supported. She provided regulations from the City of St. Paul where one of the conditions for off-sale liquor license establishment must be at least one-half mile apart.

Bill Wacker, 3603 Laverne, would like the neighbors notified of this application

Richard Kosman, owner of the Village Wine and Spirits, stated in his opinion he would be attracting different clientele, customers would come outside the Lake Elmo area. Kosman estimated he had approximately 10 parking spots, five spots located in front of building. The length of time people park in the area while shopping, Kosman thought the parking area should be enough to accommodate customers.

MOTION: Mayor Johnston moved to table a decision until September 6, 2011 to allow time to research the spacing and parking and to notify residents living within a four block radius of the September 6th Council meeting. The motion passed 3-1 (Council Member Pearson voting against.)

Ordinary High Water Elevation Setback – 2976 Lake Elmo Avenue

The City Council considered a variance application from Peter Vujovich, representing John and Bonnie Butenhof, to allow the construction of an addition to their home at 2976 Lake Elmo Avenue, with a proposed set back of 48 feet from the Ordinary High Water Elevation of Lake Elmo. A variance has been requested because the required structure set back from the OHW of Lake Elmo is 100 feet, in accordance with the City's Shoreland Management Overlay Zoning.

The Planning Commission supported the request based on the draft findings of approval, and added one condition to those drafted by Staff to require that no part of the new structure encroach closer to the OHW line than the original structure.

Mayor Johnston asked Mr. Vujovich, architect, if the set back from the Ordinary High Water elevation could be held to 50 feet because the City is sensitive to increasing the encroachment over time to the OHWM. Mr. Vujovich thought moving the addition 2 feet would be workable.

MOTION: Council Member Pearson moved to adopt Resolution No. 2011-034 approving a variance to allow John and Bonnie Butenhof to construct an addition to the primary structure at 2976 Lake Elmo Avenue North that is set back 50 feet from the Ordinary High Water Elevation of Lake Elmo. Mayor Johnston seconded the motion. The motion passed 4-0.

Consider a variance request to allow holding tanks to be installed for more than 12 months at 2860 Lake Elmo Avenue North within the 10 foot setback to a property line and within 75 foot set back from the OHW for Lake Elmo

The City Council considered a request for a variance to allow holding tanks to be installed up to 45 feet from the OHW for Lake Elmo and up to 2 feet from the front property line at 2860 Lake Elmo Avenue North for more than 12 months. The applicant is trying to sell his home and is, therefore, required to bring the septic system into compliance as the dry well currently on-site is not allowed.

A septic designer has stated that there is no room on-site to provide a septic system and is, therefore, recommending two 1,500 gallon holding tanks with an alarm system. Washington County (the City's septic permitting agency) has stated that ordinances require holding tanks be a temporary measure...no longer than 12 months.

Council Member Pearson wanted to look at alternative options because he and the Mayor were not comfortable with approving holding tanks. Council Member Pearson named a business, Equaris, located in Afton, MN, provides an alternative system using gray water.

MOTION: Mayor Johnston moved to table the variance required until the September 20th meeting so the applicant could meet with City staff to look at alternatives and grant possibilities for environmental purposes for a lakeshore lot. Council Member Pearson seconded the motion. The motion passed 4-0.

Consider an Interim Use Permit (IUP) application from Country Sun Farm and Greenhouses Inc. to allow the sale of agricultural produce and Christmas trees at 11211 North 60th Street that were produced off site

The City Council considered an application for an Interim Use Permit (IUP) to allow an Agricultural Sales Business for Country Sun Farm & Greenhouses Inc. They are requesting the IUP to allow the sale of agricultural products at their business that would expire after ten years or if it is sold to an outside party (non-family member), whichever would occur first. The agricultural products would include flower and vegetable plants, pumpkins, squash, corn vegetables, and Christmas trees produced off the premises.

Planner Matzek reported in 2010, the City amended codes to allow the sale of produce grown off site in Agricultural, Rural Residential and OP Zoning districts. In addition, changes were made to require an interim use permit for both the AEB and ASB uses subject to performance standards whereas previously an AEB was allowed by CUP and an ASB was allowed outright.

The Planning Commission reviewed the application, held a public hearing, and recommended approval of the Interim Use Permit.

MOTION: Council Member Park moved to approve Resolution No. 2011-035 approving the Interim Use Permit for an Agricultural Sales Business and to authorize the Mayor to execute the Consent Agreement presented to the City Council related to an interim use permit for five years from the date of approval at 11211 60th Street North. Council Member Pearson seconded the motion.

MOTION: Council Member Park moved to approve the IUP for one year. Council Member Pearson seconded the motion. The motion **failed** 2-2 (Council Member Smith and Mayor Johnston voting against.)

MOTION: Mayor Johnston moved to amend the motion to approve interim use permit for two years. Council Member Park seconded the motion. The motion passed 4-0.

MOTION: Council Member Park moved to approve Resolution No. 2011-035 approving the Interim Use Permit for an Agricultural Sales Business and to authorize the Mayor to execute the Consent Agreement presented to the City Council related to an interim use permit for two years from the date of approval at 11211 60th Street North. Council Member Pearson seconded the motion. Motion **failed** 2-2 (Council Members Smith and Pearson voting against)

MOTION: Council Member Pearson moved to direct staff to have conversations to elevate traffic concerns by addressing a safety plan acceptable by the City, County, MnDOT and Bergmanns. Council Member Park seconded the motion. The motion **failed** 2-2 (Council Member Smith and Johnston voting against.)

MOTION: Mayor Johnston moved to direct staff to work with the Bergmanns, MnDOT, Washington County on a resolution to traffic issues and planning for a possible frontage road along Highway 36. Council Member Smith seconded the motion. The motion passed 4-0.

Mayor Johnston voted against the motions because of traffic issues and safety concerns with entrance. Council Member Smith voted against the motions because 1.) Trip generation – all clumped together in a small number of weekends, 2.) Minimum lot size is 40 acres – only 21 acres in the CUP; 3.) Structures were not approved, no building permits, are not AG in nature, and should be removed. 4.) No limit to how much non-produce can be brought in and sold.

Conditional Use Permit Amendment: Rockpoint Church – Overflow Parking Lot Expansion

The City Council considered a request from Rockpoint Church, 5825 Kelvin Avenue North, for a Conditional Use Permit amendment to allow the expansion of an overflow parking lot on the eastern portion of their property. The proposed parking lot would be used as additional parking during holidays, special events, and other instance when parking is at capacity.

The Planning Commission unanimously recommended approval of the amendment request with six conditions of approval.

MOTION: Mayor Johnston moved to table this item for two weeks (September 6th) so staff, City-Engineer and MnDOT can discuss options for improving traffic by planning a frontage road along Highway 36. Council Member Park seconded the motion. The motion passed 4-0.

The City Council received and reviewed the 2nd Quarter Financial Report which highlighted the 2011 second quarter financials, along with the second quarterly report for year 2011.

Consideration of Request for the City of Lake Elmo to Join the Transportation Alliance

The City Council considered and denied the request for the City to join the Transportation Alliance.

Consideration of Migrating CodeRED Emergency Notification System to Washington County under a Joint Powers Agreement

The City Council considered approval of the proposed Joint Powers Agreement with Washington County to allow for migration of the CodeRED Emergency Notification System from the City to the County, at a significant savings and operational benefit to the City.

The Sheriff's Office has purchased the CodeRED Emergency Notification System and deployed such countywide. Under a proposed Joint Powers Agreement (JPA) the City of Lake Elmo would see its annual costs for Code RED reduced from \$5,250 to approximately \$635. The County will provide a "pool" of 150,000 minutes to be used for Public Safety notifications only. For non-emergency notification there will be a \$0.25 per minute fee billed by the County. Some additional funds would continue to be budgeted within the communications Budget for these types of official non-emergency communications.

The term of the JPA Agreement will be from January 1, 2012 and end December 31, 2012, and will automatically renew for two additional one year periods with final termination on December 31, 2014. The City does have the option of termination the agreement at any time with a 30-day written notice. The existing City contract with Emergency Communication's Network will be terminated as soon as possible, as part of the migration to the County system.

MOTION: Council Member Pearson moved to approve the Joint Powers Agreement with Washington County for utilization of the Code RED Emergency Notification System and to migrate as soon as possible the City's current agreement into the countywide program. Council Member Park seconded the motion. The motion passed 4-0.

The Council adjourned the meeting at 10:40 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

PROCLAMATION
RECOGNIZING 100-YEAR ANNIVERSARY OF
LAKE ELMO BANK

WHEREAS, Lake Elmo Bank, a community bank, has been serving the changing needs of businesses and residents in the Lake Elmo and surrounding communities for 100 years; and

WHEREAS, Lake Elmo Bank has a tradition of personal service and a commitment to its nearly 100 employees; and

WHEREAS, Lake Elmo Bank remains a locally owned and managed bank, working and investing dollars in the communities it serves; and

WHEREAS, Lake Elmo Bank's mission is to be a community-focused business based on building solid financial relationships and this mission continues to guide the operations of the Bank; and

NOW, THEREFORE, BE IT RESOLVED,

FURTHER, the City of Lake Elmo, on behalf of the Citizens of Lake Elmo, proclaims Friday, September 9, 2011, to be Lake Elmo Bank Day honoring its 100-Year Anniversary.

ADOPTED, by the Lake Elmo City Council on September 9, 2011.

Dean A. Johnston, Mayor

ATTEST:

Sharon Lumby, City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: 09/06/2011
CONSENT
ITEM #: 2
MOTION *as part of Consent Agenda*

AGENDA ITEM: Approve Disbursements in the Amount of \$ 120,418.32

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: City Staff

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$120,418.32 No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 6,890.92	Payroll Taxes to IRS 08/25/2011
ACH	\$ 1,229.94	Payroll Taxes to MN Dept. of Revenue 08/25/2011
ACH	\$ 3,901.49	Payroll Retirement to PERA 08/25/2011
DD3500 – DD3515	\$ 21,067.31	Payroll Dated 08/25/2011 (Direct Deposit)
37444 – 37445	\$ 250.00	Fall Festival Entertainment (Chk 37445 Voided)
37446 – 37453	\$ 4,575.41	Payroll Dated 08/25/2011 (Payroll)
37454 – 37496	\$ 82,503.25	Accounts Payable Dated 09/06/2011
37497 – 37499		Voided Checks
TOTAL	\$ 120,418.32	

STAFF REPORT: City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction

RECOMMENDATION: It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$120,418.32

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the September, 2011, Disbursements as
Presented *[and modified]* herein.”**

ATTACHMENTS:

1. Accounts Payable Dated 09/06/2011

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

Accounts Payable

To Be Paid Proof List

User: Administrator
 Printed: 09/01/2011 - 2:55 PM
 Batch: 006-08-2011

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
10000 10,000 Lakes Chapter										
08/25/2011	08/25/2011	85.00	0.00	09/06/2011	Building Official Code Seminar		-			No 0000
101-420-2400-44370	Conferences & Training									
	08/25/2011 Total:	85.00								
	10000 Total:	85.00								
<hr/>										
ADVGR Advanced Graphix, Inc.										
184080	08/18/2011	154.97	0.00	09/06/2011	Animal Control Car Graphics		-			No 0000
101-420-2700-44300	Miscellaneous									
	184080 Total:	154.97								
	ADVGR Total:	154.97								
<hr/>										
ARAM Aramark, Inc.										
629-7293369	07/28/2011	21.29	0.00	09/06/2011	Uniforms		-			No 0000
101-430-3100-44170	Uniforms									
	629-7293369 Total:	21.29								
629-7298070	08/04/2011	21.29	0.00	09/06/2011	Uniforms		-			No 0000
101-430-3100-44170	Uniforms									
	629-7298070 Total:	21.29								
629-7302802	08/11/2011	21.29	0.00	09/06/2011	Uniforms		-			No 0000
101-430-3100-44170	Uniforms									
	629-7302802 Total:	21.29								
629-7307498	08/18/2011	21.29	0.00	09/06/2011	Uniforms		-			No 0000
101-430-3100-44170	Uniforms									
	629-7307498 Total:	21.29								
629-7312287	08/25/2011	21.29	0.00	09/06/2011	Uniforms		-			No 0000
101-430-3100-44170	Uniforms									
	629-7312287 Total:	21.29								
629-7314150	08/29/2011	115.38	0.00	09/06/2011	Linen City Hall		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7314150 Total:	115.38								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ARAM Total:		221.83								
<hr/>										
ASPENMI Aspen Mills, Inc.										
111296	08/11/2011	165.00	0.00	09/06/2011	Coveralls for Medical Response		-		No	0000
101-420-2220-42400	Small Tools & Equipment									
	111296 Total:	165.00								
ASPENMI Total:		165.00								
<hr/>										
AVENET AVENET, LLC										
29076	08/24/2011	700.00	0.00	09/06/2011	Annual Web Support		-		No	0000
101-410-1450-43180	Information Technology/Web									
	29076 Total:	700.00								
AVENET Total:		700.00								
<hr/>										
BIFFS Biff's Inc.										
Multiple	08/24/2011	612.89	0.00	09/06/2011	Portable Restrooms		-		No	0000
101-450-5200-44120	Rentals - Buildings									
	Multiple Total:	612.89								
BIFFS Total:		612.89								
<hr/>										
CINDYS Cindy's Creative Celebrations										
08/31/2011	08/31/2011	1,005.00	0.00	09/06/2011	Face Painting, etc.		-		No	0000
204-450-5200-43150	Contract Services									
	08/31/2011 Total:	1,005.00								
CINDYS Total:		1,005.00								
<hr/>										
COMPENSA Compensation Consultants, Ltd										
August	09/01/2011	40.00	0.00	09/06/2011	Admin Fee FSA		-		No	0000
101-410-1320-44300	Miscellaneous									
	August Total:	40.00								
COMPENSA Total:		40.00								
<hr/>										
CORNE Cornerstone Land Surveying, In										
7597	08/05/2011	950.00	0.00	09/06/2011	Land Survey Lake Elmo Annexation		-		No	0000
101-410-1910-43150	Contract Services									
	7597 Total:	950.00								
CORNE Total:		950.00								
<hr/>										

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
COVERALL Coverall of The Twin Cities										
70701696000	09/01/2011	321.38	0.00	09/06/2011			-		No	0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	70701696000 Total:	321.38								
	COVERALL Total:	321.38								
CTYOAKDA City of Oakdale										
201108192882	08/19/2011	29.23	0.00	09/06/2011	Repair, L1		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	201108192882 Total:	29.23								
201108192883	08/19/2011	149.57	0.00	09/06/2011	Repair fan on T2		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	201108192883 Total:	149.57								
	CTYOAKDA Total:	178.80								
EARLANDE Earl F. Andersen, Inc.										
0096492-IN	08/18/2011	377.80	0.00	09/06/2011	Cones		-		No	0000
101-430-3100-42260	Sign Repair Materials									
	0096492-IN Total:	377.80								
0096514-IN	08/18/2011	1,255.57	0.00	09/06/2011	Signs & Posts		-		No	0000
101-430-3100-42260	Sign Repair Materials									
	0096514-IN Total:	1,255.57								
	EARLANDE Total:	1,633.37								
FOCUS Focus Engineering, Inc.										
1	08/22/2011	45.00	0.00	09/06/2011	General Engineering		-		No	0000
101-430-3100-43030	Engineering Services									
1	08/22/2011	8,220.64	0.00	09/06/2011	General Engineering		-		No	0000
101-410-1930-43030	Engineering Services									
	1 Total:	8,265.64								
10	08/22/2011	943.00	0.00	09/06/2011	10th Street Infrastructure Planning		-		No	0000
602-495-9450-43030	Engineering Services									
	10 Total:	943.00								
11	08/22/2011	1,441.50	0.00	09/06/2011	Supply Well & Pumphouse 4		-		No	0000
601-494-9400-43030	Engineering Services									
	11 Total:	1,441.50								
2	08/22/2011	1,836.50	0.00	09/06/2011	General Engineering - VRA		-		No	0000
101-420-2400-43030	Engineering									
2	08/22/2011	2,275.50	0.00	09/06/2011	General Engineering - VRA		-		No	0000
101-410-1910-43030	Engineering Services									
2	08/22/2011	2,527.51	0.00	09/06/2011	General Engineering - VRA		-		No	0000
409-480-8000-43030	Engineering Services									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
2	08/22/2011	90.00	0.00	09/06/2011	General Engineering - VRA		-			No 0000
404-480-8000-43030	Engineering Services									
2	08/22/2011	1,805.94	0.00	09/06/2011	General Engineering - VRA		-			No 0000
601-494-9400-43030	Engineering Services									
2	08/22/2011	995.00	0.00	09/06/2011	General Engineering - VRA		-			No 0000
602-495-9450-43030	Engineering Services									
2	08/22/2011	2,594.00	0.00	09/06/2011	General Engineering - VRA		-			No 0000
603-496-9500-43030	Engineering Services									
	2 Total:	12,124.45								
3	08/22/2011	1,732.61	0.00	09/06/2011	Development - Whistling Valley III		-			No 0000
203-490-9070-43030	Engineering Services									
	3 Total:	1,732.61								
4	08/22/2011	180.00	0.00	09/06/2011	Sanctuary		-			No 0000
203-490-9070-43030	Engineering Services									
	4 Total:	180.00								
5	08/22/2011	135.00	0.00	09/06/2011	Lake Elmo 2010 Street & Water Quality		-			No 0000
417-480-8000-43030	Engineering Services									
	5 Total:	135.00								
6	08/22/2011	180.00	0.00	09/06/2011	2011 Seal Coat Project		-			No 0000
409-480-8000-43030	Engineering Services									
	6 Total:	180.00								
7	08/22/2011	2,542.50	0.00	09/06/2011	2011 Street Improvement/Water Quality		-			No 0000
418-480-8000-43030	Engineering Services									
	7 Total:	2,542.50								
8	08/22/2011	135.00	0.00	09/06/2011	Lake Elmo Court Drainage Correction		-			No 0000
409-480-8000-43030	Engineering Services									
	8 Total:	135.00								
9	08/22/2011	1,306.00	0.00	09/06/2011	Lake Elmo District Sidewalk Maint		-			No 0000
409-480-8000-43030	Engineering Services									
	9 Total:	1,306.00								
	FOCUS Total:	28,985.70								
<hr/>										
FXL FXL, Inc.										
Sept 2011	09/01/2011	2,000.00	0.00	09/06/2011	Assessing Services - September 2011		-			No 0000
101-410-1320-43100	Assessing Services									
	Sept 2011 Total:	2,000.00								
	FXL Total:	2,000.00								
<hr/>										
GOPHER Gopher State One-Call										
17717	09/01/2011	228.05	0.00	09/06/2011	Line Locates - August -		-			No 0000
101-430-3100-43150	Contract Services									
	17717 Total:	228.05								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
GOPHER Total:		228.05								
<hr/>										
GREATERM Greater MSP										
1027	08/18/2011	5,000.00	0.00	09/06/2011	Annual Investment		-		No	0000
101-410-1320-44300	Miscellaneous									
1027 Total:		5,000.00								
GREATERM Total:		5,000.00								
<hr/>										
GRUBER Gruber's Power Equipment										
100481	08/25/2011	5.89	0.00	09/06/2011	Gas Cap		-		No	0000
101-450-5200-42210	Equipment Parts									
100481 Total:		5.89								
GRUBER Total:		5.89								
<hr/>										
HAWKINS Hawkins, Inc.										
3253949	08/11/2011	500.50	0.00	09/06/2011	Chlorine		-		No	0000
601-494-9400-42160	Chemicals									
3253949 Total:		500.50								
HAWKINS Total:		500.50								
<hr/>										
KDV Kern DeWenter Viere Ltd										
132992	08/26/2011	4,644.00	0.00	09/06/2011	Financial Services - August 2011		-		No	0000
101-410-1520-43150	Contract Services									
132992 Total:		4,644.00								
KDV Total:		4,644.00								
<hr/>										
LKBLDG Lake Elmo Builders										
Chk Req	08/25/2011	3,000.00	0.00	09/06/2011	Escrow Rtn 5630 Keats Permit 7545		-		No	0000
803-000-0000-22900	Deposits Payable									
Chk Req Total:		3,000.00								
LKBLDG Total:		3,000.00								
<hr/>										
LOPEZLIL Lopez Lillian										
chk Req	08/31/2011	38.29	0.00	09/06/2011	Refund Overpayment of final Bill		-		No	0000
601-494-9400-43820	Water Utility									
chk Req Total:		38.29								
LOPEZLIL Total:		38.29								
<hr/>										

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
LTG PWR L.T.G. Power Equipment										
146219	08/19/2011	165.35	0.00	09/06/2011	Jackshaft Kit		-		No	0000
101-450-5200-42210	Equipment Parts									
	146219 Total:	165.35								
	LTG PWR Total:	165.35								
MAINSTR Main Street Builders										
Chk Req	08/29/2011	3,000.00	0.00	09/06/2011	Escrow Return 10278 Tapestry #7772		-		No	0000
803-000-0000-22900	Deposits Payable									
	Chk Req Total:	3,000.00								
	MAINSTR Total:	3,000.00								
MCALLIST McAllister Pat										
08/31/2011	08/31/2011	375.00	0.00	09/06/2011	Entertainment - Fall Festival		-		No	0000
204-450-5200-43150	Contract Services									
	08/31/2011 Total:	375.00								
	MCALLIST Total:	375.00								
MENARDSO Menards - Oakdale										
6724	08/23/2011	15.36	0.00	09/06/2011	Lumber Benches Pebble		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
6724	08/23/2011	5.64	0.00	09/06/2011	Ear Muffs		-		No	0000
101-430-3100-42150	Shop Materials									
	6724 Total:	21.00								
	MENARDSO Total:	21.00								
MENARDST Menards - Stillwater										
8838	08/23/2011	45.79	0.00	09/06/2011	Floor Dri		-		No	0000
101-420-2220-42400	Small Tools & Equipment									
8838	08/23/2011	1.58	0.00	09/06/2011	Kitchen Supplies		-		No	0000
101-420-2220-44300	Miscellaneous									
8838	08/23/2011	15.06	0.00	09/06/2011	Cleaning Supplies		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	8838 Total:	62.43								
	MENARDST Total:	62.43								
MILLSCOL Mills Cole										
08/23/2011	08/23/2011	55.00	0.00	09/06/2011	Cable CC Meeting 8/23/11		-		No	0000
101-410-1450-43620	Cable Operations									
	08/23/2011 Total:	55.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MILLSCOL Total:		55.00								
MNDOH MN Department of Health 30002011 09/01/2011 601-494-9400-43820 Water Utility		1,508.00	0.00	09/06/2011	3rd Quarter Water Supply Connection Fee		-		No	0000
30002011 Total:		1,508.00								
MNDOH Total:		1,508.00								
MNFIRECH MN State Fire Chiefs Assn 08/24/2011 08/24/2011 101-420-2220-44370 Conferences & Training		175.00	0.00	09/06/2011	MSFCA Conference Registration		-		No	0000
08/24/2011 Total:		175.00								
MNFIRECH Total:		175.00								
MUNICI-P Munici-Pals 08/31/2011 08/31/2011 101-410-1320-44380 Staff Development		74.00	0.00	09/06/2011	Munici-Pals Banquet - Sharon & Carole		-		No	0000
08/31/2011 Total:		74.00								
MUNICI-P Total:		74.00								
NEXTEL Nextel Communications 761950227-101 08/14/2011 101-410-1940-43210 Telephone		18.54	0.00	09/06/2011	Cell Phone Services - Admin		-		No	0000
761950227-101 08/14/2011 101-420-2220-43210 Telephone		81.00	0.00	09/06/2011	Cell Phone Services - Fire Dept		-		No	0000
761950227-101 08/14/2011 101-420-2400-43210 Telephone		17.48	0.00	09/06/2011	Cell Phone Services - Building Dept		-		No	0000
761950227-101 08/14/2011 101-430-3100-43210 Telephone		34.96	0.00	09/06/2011	Cell Phone Services - Public Works Dept		-		No	0000
761950227-101 08/14/2011 101-450-5200-43210 Telephone		102.56	0.00	09/06/2011	Cell Phone Services - Parks Dept		-		No	0000
761950227-101 08/14/2011 101-410-1940-43210 Telephone		-13.99	0.00	09/06/2011	Credit		-		No	0000
761950227-101 Total:		240.55								
NEXTEL Total:		240.55								
NICOLLET Nicollet Partners 9777 06/24/2011 602-495-9450-43150 Contract Services		3,500.00	0.00	09/06/2011	Land Consultation South of 10th Sewer		-		No	0000
9777 Total:		3,500.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
NICOLLET Total:		3,500.00								
<hr/>										
PITNEYRE Reserve Account Pitney Bowes										
08/31/2011	08/31/2011	750.00	0.00	09/06/2011	Postage		-		No	0000
101-410-1320-43220	Postage									
08/31/2011	08/31/2011	500.00	0.00	09/06/2011	Postage		-		No	0000
601-494-9400-43220	Postage									
08/31/2011 Total:		1,250.00								
PITNEYRE Total:		1,250.00								
<hr/>										
POSTOFFI POSTMASTER										
08/31/2011	08/31/2011	250.00	0.00	09/06/2011	Postage		-		No	0000
101-410-1320-43220	Postage									
08/31/2011	08/31/2011	500.00	0.00	09/06/2011	Newsletter		-		No	0000
101-410-1450-43510	Public Notices									
08/31/2011 Total:		750.00								
POSTOFFI Total:		750.00								
<hr/>										
PRESSA Anastasia Press										
08/30/2011	08/30/2011	27.50	0.00	09/06/2011	Cabled Workshop 8/30/11		-		No	0000
101-410-1450-43620	Cable Operations									
08/30/2011 Total:		27.50								
PRESSA Total:		27.50								
<hr/>										
PRIMARY Primary Products Company										
45918	08/23/2011	173.30	0.00	09/06/2011	EMS Gloves		-		No	0000
101-420-2220-42080	EMS Supplies									
45918 Total:		173.30								
PRIMARY Total:		173.30								
<hr/>										
REGIONS Regions Hospital										
768923	08/18/2011	1,448.00	0.00	09/06/2011	First Responder Training x 4		-		No	0000
101-420-2220-44370	Conferences & Training									
768923 Total:		1,448.00								
REGIONS Total:		1,448.00								
<hr/>										
TASCH T.A. Schifsky & Sons Inc										
51825	08/09/2011	8.22	0.00	09/06/2011	Asphalt		-		No	0000
101-430-3120-42240	Street Maintenance Materials									
51825 Total:		8.22								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
TASCH Total:		8.22								
<hr/>										
USA USA Inflatables Corp										
110162	08/31/2011	347.35	0.00	09/06/2011	Fall Festival inflatable Jumpers		-		No	0000
204-450-5200-43150	Contract Services									
	110162 Total:	347.35								
USA Total:		347.35								
<hr/>										
WEBER Weber Electric										
78086	08/17/2011	14,900.00	0.00	09/06/2011	New Lights Lions Field		-		No	0000
404-480-8000-45300	Improvements Other Than Bldgs									
	78086 Total:	14,900.00								
WEBER Total:		14,900.00								
<hr/>										
XCEL Xcel Energy										
51-0117417-0	08/31/2011	36.39	0.00	09/06/2011	Welcome Sign - Keats		-		No	0000
101-430-3160-43810	Street Lighting									
	51-0117417-0 Total:	36.39								
51-4572945-7	08/31/2011	26.97	0.00	09/06/2011	Steet Lights		-		No	0000
101-430-3160-43810	Street Lighting									
	51-4572945-7 Total:	26.97								
51-4576456-3	08/31/2011	373.50	0.00	09/06/2011	Fire Station 2		-		No	0000
101-420-2220-43810	Electric Utility									
	51-4576456-3 Total:	373.50								
51-4733556-8	08/31/2011	10.32	0.00	09/06/2011	Tennis Court		-		No	0000
101-450-5200-43810	Electric Utility									
	51-4733556-8 Total:	10.32								
51-5044219-0	08/31/2011	45.13	0.00	09/06/2011	Parks Building		-		No	0000
101-450-5200-43810	Electric Utility									
	51-5044219-0 Total:	45.13								
51-5275289-3	08/31/2011	9.95	0.00	09/06/2011	Pebble Park		-		No	0000
101-450-5200-43810	Electric Utility									
	51-5275289-3 Total:	9.95								
51-5522332-2	08/31/2011	41.37	0.00	09/06/2011	Traffic Lights - Inwood		-		No	0000
101-430-3160-43810	Street Lighting									
	51-5522332-2 Total:	41.37								
51-5747685-4	08/31/2011	163.18	0.00	09/06/2011	Arts Center		-		No	0000
101-450-5200-43810	Electric Utility									
	51-5747685-4 Total:	163.18								
51-5916043-7	08/31/2011	17.30	0.00	09/06/2011	Lift Station		-		No	0000
602-495-9450-43810	Electric Utility									
	51-5916043-7 Total:	17.30								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
51-6429583-8	08/31/2011	19.50	0.00	09/06/2011	Lift Station		-			No 0000
602-495-9450-43810	Electric Utility									
	51-6429583-8 Total:	19.50								
51-6433976-2	08/31/2011	396.82	0.00	09/06/2011	Fire Station I		-			No 0000
101-420-2220-43810	Electric Utility									
	51-6433976-2 Total:	396.82								
51-6625457-1	08/31/2011	76.51	0.00	09/06/2011	Legion Park		-			No 0000
101-450-5200-43810	Electric Utility									
	51-6625457-1 Total:	76.51								
51-6928283-3	08/31/2011	30.50	0.00	09/06/2011	Lights		-			No 0000
101-430-3160-43810	Street Lighting									
	51-6928283-3 Total:	30.50								
51-8126093-5	08/31/2011	19.26	0.00	09/06/2011	Traffic Lights - Inwood		-			No 0000
601-494-9400-43810	Electric Utility									
	51-8126093-5 Total:	19.26								
51-8711719-3	08/31/2011	10.18	0.00	09/06/2011	Speed Sign Hwy 5		-			No 0000
101-430-3160-43810	Street Lighting									
	51-8711719-3 Total:	10.18								
	XCEL Total:	1,276.88								
<hr/>										
ZIERT Ziertman Joan & Steve										
09062011	09/01/2011	62.50	0.00	09/06/2011	Silly String Set-up		-			No 0000
204-450-5200-43150	Contract Services									
	09062011 Total:	62.50								
	ZIERT Total:	62.50								
<hr/>										
ZIERTMAN Joan Ziertman										
08-2011	09/01/2011	2,612.50	0.00	09/06/2011	Monthly Accounting Services-August		-			No 0000
101-410-1520-43150	Contract Services									
	08-2011 Total:	2,612.50								
	ZIERTMAN Total:	2,612.50								
<hr/>										
	Report Total:	82,503.25								



MAYOR & COUNCIL COMMUNICATION

DATE: 09/6/2011

CONSENT

ITEM #: 3

MOTION

AGENDA ITEM: Parks Commission Appointment

SUBMITTED BY: Sharon Lumby, City Clerk

REVIEWED BY: Bruce A. Messelt, City Administrator

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to appoint Justin Bloyer to fill the vacancy of 2nd Alternate on the Parks Commission.

"Move to appoint Justin Bloyer, 8881 Jane Road N. to 2nd Alternate on the Lake Elmo Park Commission"

BACKGROUND INFORMATION:

The following are the members serving on the Parks Commission:

NAME	Term	Term Expires
Mike Zeno	Second term	12/31/13
Rolf Larson	Second Term	12/31/11
John Ames	Third Term	12/31/13
Judith Blackford	First Term	12/31/12
Marty Dobbs	First term	12/31/11
David Steele	First term	12/31/12
Pam Hartley	First term	12/31/13
Steve DeLapp	1st Alternate	
Justin Bloyer	2 nd Alternate	

RECOMMENDATION:

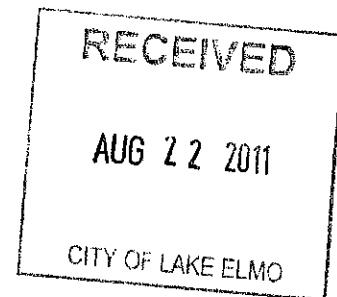
Staff is requesting Council to appoint Justin Bloyer to fill the 2nd Alternate vacancy. Staff will continue advertizing for Park Commission applications because there are no applications on file.

***"Move to appoint Justin Bloyer, 8881 Jane Road N., to 2nd Alternate
on the Park Commission"***

ATTACHMENTS:

1. Application

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Minnesota 55042
651.777.5510 FAX: 777.9615



**APPLICATION FOR PARK COMMISSION APPOINTMENTS
CITY OF LAKE ELMO**

Date: AUG / 22 / 2011

Name: Justin Bloyer **Address:** 8881 Jane Rd N

Phone Number W) 651-334-9721 **H)** 651-777-7944

E-mail address: jwbloyer@aol.com **How long have you lived in Lake Elmo:** 83-01, 06-

1. Why are you interested in serving on the Lake Elmo Park Commission? What personal interests and expertise will you bring?
When I was younger I worked as a life guard at the park reserve and spent a lot of time in sunfish park. I feel the parks should be for the benefit of all of Lake Elmo's residents. I know the parks very well and want my children to have the same opportunity.
2. How will those skills and interests be of service to the development and management of the City's parks, trails and natural areas?
I bring a young perspective of the wants and needs of our younger residents.
3. What do you see as the role and function of the Park Commission? How does this relate to the roles and responsibility of the City Council in park matters?
To make sure "all" residents concerns regarding the parks are addressed. To ensure all residents have access to the parks. The commission will then take recommendations to the council regarding current and future ordinances.
4. What value do parks and trails have to our citizens? What role or function do they provide?
They have an effect on our home values as well as an effect on the quality of life of the citizens of Lake Elmo. They provide a healthy and safe environment for the people of Lake Elmo to enjoy the outdoors.
5. How much time do you have or are you willing to devote to Park Commission activities?
I have the ability to make the meeting and any other activities required for the commission.

Please complete and return to the City office. Thank you for your interest in the Lake Elmo Park Commission.



MAYOR & COUNCIL COMMUNICATION

DATE: 9/06/2011
CONSENT
ITEM #: 4
MOTION

AGENDA ITEM: Approve Sidewalk Surface Solution for City Hall

SUBMITTED BY: Sharon Lumby, City Clerk

REVIEWED BY: Bruce A. Messelt, City Administrator
Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: City Council consideration is respectfully requested for sidewalk surface solution at City Hall. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION & STAFF REPORT:

Sufficient funds have been budgeted in 2011 Facilities Fund for undertaking of maintenance activity; thus no formal budget amendment is required. However, City Council approval is requested given the highly visible nature of this activity and in order to allow for recognition of efforts by the City to maintain existing assets. The following cost estimates have been received:

AbsoVersa LLC \$3,504.07 Replace 61 sq.ft. of damaged sidewalk spots at \$10.00 per sq.ft. Incorporate a decorative design pattern to add color appeal to make the imperfections less noticeable, 964.69 sq.ft. at \$3.00 per sq.ft. This proposal is a more cost effective approach to handle the work to be completed.

AbsoVersa LLC \$6,189.57 Replace 549.25 sq.ft. of damaged sidewalk sections at \$6.00 per sq.ft. Incorporate a decorative design pattern to add color appeal to make the imperfections less noticeable, 964.69 sq.ft. at \$3.00 per sq.ft. This proposal is a more realistic approach to handle the work to be completed.

RECOMMENDATION: City Council consideration is respectfully requested for replacement of damaged sidewalk spots at City Hall. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, further discuss, deliberate and modify any decision prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

“Move to authorize the City to contract with AbsoVersa LLC, 135 Northland Avenue, Stillwater, MN to replace damaged sidewalk spots at City Hall, at an approximate cost of \$3,504.07 [as amended/modified at tonight’s meeting].”

ATTACHMENTS: Proposals

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor Facilitates
- Action on Motion Mayor & City Council

Proposal

AbsoVersa LLC

135 Northland Ave
Stillwater, MN 55082
651-755-4844

Proposal created for		Job Name	
City of Lake Elmo Attn: Mike Bothilet		Sidewalk surface solution	
Address		Job Address	
3800 Laverne Ave. N.		same	
City, State Zip		City State Zip	
Lake Elmo		same	
Phone	Date Submitted	Estimator	Date of Plans
651-233-5414	8-30-11	Shane Pulver	8-22-2011

Sidewalk Repair:

Scope:

Replace 61 sq ft of damaged sidewalk spots at \$10.00 per sq ft. Incorporate a decorative design pattern to add color appeal to make the imperfections less noticeable, 964.69 sq ft at \$3.00 per sq ft. This proposal is a more cost effective approach to handle the work to be completed

Start Date: After acceptance of proposal a start date will be determined.

Ref:

Note:

We hereby propose to furnish material and labor in accordance to the above specifications, for the sum of:

\$ 3,504.07

Payment to be made as follows:

Half down \$1,752.04 and half due once completed \$1,752.04

Authorized
Signature

Proposal
Valid for 30

Days

Acceptance of Proposal - The above specifications, prices and conditions are acceptable. I hereby authorize all work as specified. Payment to be remitted as outlined above

Signature

Date
Authorized:

Signature

Proposal

AbsoVersa LLC

135 Northland Ave
Stillwater, MN 55082
651-755-4844

Proposal created for		Job Name	
City of Lake Elmo Attn: Mike Bothlet		Sidewalk surface solution	
Address		Job Address	
3800 Laverne Ave. N.		same	
City, State Zip		City State Zip	
Lake Elmo		same	
Phone	Date Submitted	Estimator	Date of Plans
651-233-5414	8-30-11	Shane Pulver	8-22-2011

Sidewalk Repair:

Scope:

Replace 549.25 sq ft of damaged sidewalk sections at \$6.00 per sq ft. Incorporate a decorative design pattern to add color appeal to make the imperfections less noticeable, 964.69 sq ft at \$3.00 per sq ft. This proposal is a more realistic approach to handle the work to be completed

Start Date: After acceptance of proposal a start date will be determined.

Ref:

Note:

We hereby propose to furnish material and labor in accordance to the above specifications, for the sum of:

\$ 6,189.57

Payment to be made as follows:

Half down \$3,094.79 and half due once completed \$3,094.79

Authorized
Signature

Proposal
Valid for 30

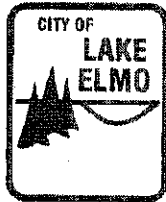
Days

Acceptance of Proposal - The above specifications, prices and conditions are acceptable. I hereby authorize all work as specified. Payment to be remitted as outlined above

Signature

Date
Authorized:

Signature



MAYOR & COUNCIL COMMUNICATION

DATE: 9/6/2011

CONSENT

ITEM #: #5

MOTION

AGENDA ITEM: Sunfish Lake Parking Lot Improvements

SUBMITTED BY: Mike Bouthilet, Parks & Public Works Supt.
Carol Kriegler, Project Asst.

THROUGH: Bruce Messelt

REVIEWED BY: Parks Commission
Tom Bouthilet, Finance Director
Ryan Stempiski, Asst. City Engineer

SUMMARY AND ACTION REQUESTED:

The Public Works Department and Parks Commission are requesting authorization to proceed with improvements to the Sunfish Lake Park parking area. The proposed improvements include 1) contracting for services related to the delineation and grading of the parking area, 2) purchase and placement of boulders around the parking area in an effort to further define the area and restrict unauthorized vehicle entry, and (3) purchase of sign panels and wood posts to serve as interpretive and regulatory signage.

BACKGROUND INFORMATION:

The 2011 Park CIP budget includes improvements to the Sunfish Lake Park parking area. Additionally, in the fall of 2010 the City Council approved concept a plan for installing rain gardens and grading the parking area in an effort to eliminate ongoing standing water in the northeast corner of the parking area. In addition, the concept plan included the placement of boulders in an effort to further define the parking area and restrict unauthorized vehicle entry. Three rain gardens were installed along the south side of the parking area late last fall.

The improvements recommended for implementation at this time include:

- 1) Grading the millings into a defined lot to achieve proper drainage and eliminating ongoing standing water in the northeast corner of the lot. Additionally, this portion of the project will include grading black dirt (100 yds.) into the border/buffer areas with the Public Works staff seeding, fertilizing and watering.
- 2) The purchase and placement of approximately 70 boulders, approximately 3' in diameter, around the parking area for the purpose of further defining the area and preventing unauthorized vehicle access.

- 3) The purchase of miscellaneous sign panels and wood posts for placement of regulatory signage on the information kiosk and at various trail junctions. The regulatory signage / symbols are intended to address issues such as unleashed dogs, dog waste pick-up, park hours, walking on groomed ski trails, etc. Additionally, interpretive signage is proposed to support the rain gardens that were installed last fall.

STAFF REPORT:

Three contractors were solicited to provide quotes for the delineation/drainage grading, black dirt and grading.

- Miller Excavating \$3,060.00
- Buelow Excavating \$3,300.00
- C & K Excavating \$3,882.00

Three quotes were solicited for the purchase and delivery of boulders to the parking area.

- Miller Excavating \$36.73 / ton delivered
- Aggregate Industries \$41.31 / ton delivered
- Gerten's Wholesale Nursery \$75.00 / ton delivered

Three quotes were solicited for the fabrication of outdoor durable sign panels:

- Advantage Sign and Graphics \$35.00 s.f.
- Creative Color Graphic Studio \$50.00 s.f.
- Sign-A-Rama \$45.00 s.f.

RECOMMENDATION:

- (1) Authorize contracting with Miller Excavating for the grading and black dirt in and around the parking lot at Sunfish Lake Park at a cost of \$3,060.00.
- (2) Authorize the purchase and delivery of approximately 70 boulders from Miller Excavating at a cost of \$36.73 / ton (not to exceed 80 ton, or \$2,938.40), as well as contracting for the placement of the boulders with a skid steer at a cost of \$95.00 / hour.
- (3) Authorize the purchase of miscellaneous regulatory and interpretive sign panels from Advantage Sign and Graphics and wood posts at a cost not to exceed \$1,000.00.

ATTACHMENTS: Sign panel layouts and concept drawings

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation.....
- Questions from Council to Staff Mayor Facilitates

- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

RAINGARDEN

This garden is designed to catch rainwater runoff, growing plants that are adapted to getting partially flooded on occasion. Raingardens provide wildlife habitat, slow stormwater runoff, help prevent erosion, and remove pollutants.

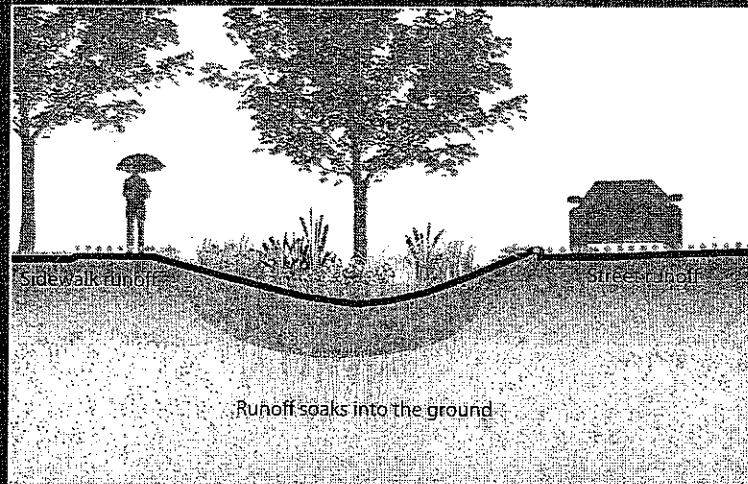


SUNFISH LAKE PARK RAIN GARDENS



RAIN GARDENS

Controlling Water Pollution and Improving Habitat



Rain gardens were planted along the south edge of the parking area in the fall of 2010 to reduce stormwater from running across the parking area and entering Sunfish Lake. Rain gardens help filter pollution from the stormwater that runs off streets, rooftops and parking areas. Stormwater runoff pollutes our lakes and streams and the St. Croix River with leaves, grass clippings, road salt, trash, and auto fluids. These gardens reduce water pollution by collecting runoff after a rain or snowmelt and allowing it to soak into the ground.

Rain gardens also provide food and habitat for butterflies, birds and other wildlife. Unlike the surrounding turf grass which requires much more upkeep, rain gardens contain plants that need little maintenance once they are established.

Rain gardens keep about 95% of the runoff pollution entering them from entering lakes and rivers. For more information about the effectiveness of rain gardens, or for rain garden grant information, contact Washington County Conservation District at wccd.org

YOU CAN HELP

Every citizen can help prevent pollution in Lake Elmo:

- Prevent pollution in your own yard by planting a rain garden
- Rake and bag your leaves from the street in front of your house
- After mowing, sweep up grass clippings from streets and sidewalks
- Redirect your gutter downspouts from driveways or alleys onto lawn or garden areas
- Pick up after your pet
- Never put anything in a storm drain





6"x6" x 50" above grade



12"x12" and 12"x18" regulatory signs
for kiosk

WELCOME to Sunfish Lake Park

PARK HOURS:

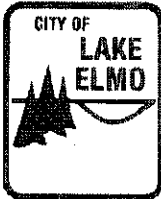
1/2 hour before sunrise to 1/2 hour after sunset

ALL CITY ORDINANCES ENFORCED

Enjoy your visit to the park!

THE CITY OF
LAKE ELMO





MAYOR & COUNCIL COMMUNICATION

DATE: 9/6/2011

CONSENT

ITEM #: 6

MOTION

AGENDA ITEM: 2010 Street & Water Quality Improvements - Resolution Declaring Cost to be Assessed, Ordering Preparation of Proposed Assessment, and Calling for Hearing on Proposed Assessment

SUBMITTED BY: Ryan Stempiski, Assistant City Engineer

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: Jack Griffin, City Engineer
Tom Bouthilet, Finance Director
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to approve a Resolution Declaring Cost to be Assessed, Ordering Preparation of Proposed Assessment, and Calling for Hearing on Proposed Assessment for the 2010 Street & Water Quality Improvements. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

STAFF REPORT: The 2010 Street & Water Quality Improvement Project has been completed and the total project costs are known. Pursuant to Minnesota Statutes, Section 429 the Council must declare the amount to be assessed against the benefiting properties and Call the Hearing on the Proposed Assessment for these improvements. The Assessment Hearing is proposed for October 4, 2011. The Final Assessment Roll must be certified to the County Auditor by November 30, 2011. The final costs and unit assessments compared to planned costs are as follows:

	Final Project Costs	Preliminary Project Costs
Total Project Costs	\$572,307	\$654,296 (Feasibility)
Assessments: Jane Rd N (Concrete Curb)	\$2,900	\$2,900
Assessments: Isle Ave N (Concrete Curb)	\$2,700	\$3,150
Assessments: 53RD Street N (Bit. Curb)	\$3,000	\$3,950
Assessments: 57TH Street N (Bit. Curb)	\$4,900	\$5,300
Total City Share	\$404,407	\$457,296

The final project costs have been tabulated for each street improvement area. Through careful management of the construction contract and coordination with the Contractor, T.A. Schifsky & Sons, the final project costs for the assessable street improvements were below the Feasibility project cost estimate amount of \$654,296. The final costs came in 12.5% below the Feasibility project cost estimate, resulting in a total savings of \$81,989. The City portion was reduced by \$52,889.

Planned versus final project costs by street area are summarized as follows: The Jane Road unit assessment was the same as proposed at \$2,900; The Isle Avenue unit assessment was reduced by \$450 (14.3%); The 53rd Street unit assessment was reduced by \$950 (24%); and the 57th Street unit assessment was reduced by \$400 (7.5%). Jane Road was completely reconstructed with new concrete curb. Isle Avenue was reclaimed with new concrete curb. 53rd Street and 57th Street were both reclaimed with new bituminous curb.

RECOMMENDATION: Based upon the above information, it is recommended that the City Council approve as part of tonight's *Consent Agenda* Resolution No. 2011-35 by undertaking the following action:

“Move to approve Resolution No. 2011-35; A Resolution Declaring Costs to be Assessed, Ordering Preparation of Proposed Assessment, and Calling for the Hearing on the Proposed Assessment for the 2010 Street & Water Quality Improvements.”

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss, deliberate and/or, if appropriate, amend the recommended motion prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

“Move to approve Resolution No. 2011-35; A Resolution Declaring Costs to be Assessed, Ordering Preparation of Proposed Assessment, and Calling for the Hearing on the Proposed Assessment for the 2010 Street & Water Quality Improvements [and amended and/or modified at tonight's meeting].”

ATTACHMENTS: (3)

1. Resolution No. 2011-35
2. Notice of Hearing
3. Final Assessment Roll

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

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

RESOLUTION NO. 2011-35

**A RESOLUTION DECLARING COST TO BE ASSESSED, ORDERING
PREPARATION OF PROPOSED ASSESSMENT, AND CALLING FOR
HEARING ON PROPOSED ASSESSMENT FOR THE
2010 STREET & WATER QUALITY IMPROVEMENTS**

WHEREAS, a contract has been let for the 2010 Street & Water Quality Improvements including street reclamation, water quality, and storm sewer improvements located on Isle Avenue, 53rd Street, and 57th Street and street reconstruction, water quality, and storm sewer improvements on Jane Road.

AND WHEREAS, the total cost of the improvements will be \$572,307;

AND WHEREAS, the clerk has prepared the proposed assessment roll and will maintain said assessment roll on file in the City offices for public inspection.

NOW, THEREFORE, BE IT RESOLVED,

- 1. The portion of the cost of such improvement to be paid by the City is hereby declared to be \$404,407, and the portion of the cost to be assessed against benefited property owners is declared to be \$167,900.*
- 2. The City Clerk, with the assistance of the City Engineer, has calculated the proper amount to be specially assessed for such improvements against every assessable lot, piece or parcel of land to be benefited by the improvements, and the Clerk has filed a copy of such proposed assessment in the City offices for public inspection.*
 - a. The amount to be specially assessed against each particular lot, piece, or parcel of land located along the street of Jane Road North is declared to be \$2,900.*
 - b. The amount to be specially assessed against each particular lot, piece, or parcel of land located along the street of Isle Avenue North is declared to be \$2,700.*
 - c. The amount to be specially assessed against each particular lot, piece, or parcel of land located along the street of 53rd Street North is declared to be \$3,000.*
 - d. The amount to be specially assessed against each particular lot, piece, or parcel of land located along the street of 57th Street North is declared to be \$4,900.*

3. *Assessments shall be payable in equal annual installments extending over a period of 10 years, the first of the installments to be payable on or before the first Monday in January, 2011, and shall bear interest at the rate of 5 percent per annum from the date of the adoption of the assessment resolution.*
4. *A public hearing shall be held on the 4th day of October, 2011, in the council chambers of the city hall at 7:00 pm to pass upon such proposed assessment and at such time and place all persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.*
5. *The City Clerk is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and she shall state in the notice the total cost of the improvement. She shall also cause mailed notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearings.*
6. *The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the entire assessment on such property, with interest accrued to the date of payment, to the City Clerk. No interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessment. A property owner may at any time thereafter, pay to the City Clerk the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.*

Date: _____, 2011

CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Bruce A. Messelt
City Administrator

CITY OF LAKE ELMO
NOTICE OF HEARING ON PROPOSED ASSESSMENT
2010 STREET & WATER QUALITY IMPROVEMENTS

Notice is hereby given that the City Council of Lake Elmo will meet in the Council Chambers of the City Hall at or approximately after 7:00 P.M. on Tuesday, October 4, 2011, to consider, and possibly adopt, the proposed assessment against abutting property for the 2010 Street & Water Quality Improvements. Adoption by the Council of the proposed assessment may occur at the hearing. The following are the areas proposed to be assessed:

Jane Road North:

The amount to be specially assessed against each particular lot, piece, or parcel of land located along Jane Road North from Jamaca Avenue North to the west end, is \$2,900.

Isle Avenue North:

The amount to be specially assessed against each particular lot, piece, or parcel of land located along Isle Avenue North from Jamaca Avenue North to the south end, is \$2,700.

53rd Street North:

The amount to be specially assessed against each particular lot, piece, or parcel of land located along 53rd Street North from Keats Avenue North to the west approximately 3,135 feet, is \$3,000.

57th Street North:

The amount to be specially assessed against each particular lot, piece, or parcel of land located along 57th Street North from Julep Way to the western edge of Rolling Hills Estates, is \$4,900.

Said assessments are proposed to be payable in equal annual installments extending over a period of 10 years, the first of the installments to be payable on or before the first Monday in January 2011, and will bear interest at the rate of 5.00 percent per annum from the date of adoption of the assessment resolution. To the first installment shall be added interest on the entire assessment from the date of the assessment resolution until December 31, 2011. To each subsequent installment when due shall be added interest for one year on all unpaid installments.

You may at any time prior to certification of the assessment to the county auditor, pay the entire assessment on such property, with interest accrued to the date of payment, to the City Clerk. No interest shall be charged if the entire assessment is paid 30 days from the adoption of this assessment. You may at any time thereafter, pay to the City Clerk the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year. If you decide not to prepay the assessment before the date given above the rate of interest that will apply is 5.00 percent per year.

The proposed assessment roll is on file for public inspection at the City Clerk's office. The total amount of the proposed assessment is \$167,900. *The City contribution for the project is \$404,407.* Written or oral objections will be considered at the meeting. No appeal may be taken as to the amount of an assessment unless a written objection signed by the affected property owner is filed with the municipal clerk prior to the assessment hearing or presented to the presiding officer at the hearing. The Council may upon such notice consider any objection to the amount of a proposed individual assessment at an adjourned meeting upon such further notice to the affected property owners as it deems advisable.

An owner may appeal an assessment to district court pursuant to Minnesota Statutes, Section 429.081 by serving notice of the appeal upon the Mayor or Clerk within 30 days after the adoption of the assessment and filing such notice with the district court within ten days after service upon the Mayor or Clerk.

The City Council is authorized in its discretion to defer the payment of an assessment for any homestead property owned by a person for whom it would be a hardship to make payment if the owner is 65 years of age or older and/or the owner is a person retired by virtue of a permanent and total disability or by a person who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service, as defined in section 190.05 subdivision 5b or 5c, as stated in the person's military orders, for whom it would be a hardship to make the payments. The owner must request a deferment of the assessment at or before the public hearing at which the assessment is adopted and make application on forms prescribed by the City Clerk within 30 days after the adoption.

Notwithstanding the standards and guidelines established by the City for determining a hardship, a deferment of an assessment may be obtained pursuant to Minnesota Statutes Section 435.193.

DATED: September 6, 2011

BY ORDER OF THE LAKE ELMO CITY COUNCIL

Dean Johnston, Mayor

(Published in the Oakdale-Lake Elmo Review on September 14, 2011)

JANE ROAD NORTH

NO.	NAME		ADDRESS				PID	UNITS	AMOUNT
1	THOMAS C SKALBECK	8879	JANE ROAD N	LAKE ELMO	55042	0902921110023	1	\$2,900	
2	RICHARD A & CATHERINE WEIL	8880	JANE ROAD N	LAKE ELMO	55042	0902921110020	1	\$2,900	
3	JUSTIN W & DANA N BLOYER	8881	JANE ROAD N	LAKE ELMO	55042	0902921110006	1	\$2,900	
4	PATRICK M MCALLISTER & DERVAL F HAYES MCALLIST	8883	JANE ROAD N	LAKE ELMO	55042	0902921110008	1	\$2,900	
5	MANFRED E & ANKE RIECHERT	8884	JANE ROAD N	LAKE ELMO	55042	0902921110002	1	\$2,900	
6	WILLIAM W & LOWELLA M STEVENSON	8895	JANE ROAD N	LAKE ELMO	55042	0902921110009	1	\$2,900	
7	STEVEN R & SHAUN M COLLIER	8896	JANE ROAD N	LAKE ELMO	55042	0902921110022	1	\$2,900	
8	MARK A & SHANNON GD HELS	8903	JANE ROAD N	LAKE ELMO	55042	0902921110010	1	\$2,900	
9	JOHN F & VIRGINIA SCHNEIDER	8919	JANE ROAD N	LAKE ELMO	55042	0902921110011	1	\$2,900	
10	WILLIAM F & VALERIE B BRASS	8930	JANE ROAD N	LAKE ELMO	55042	0902921110016	1	\$2,900	
11	JEFFREY P & JOAN M WIEDEN	8955	JANE ROAD N	LAKE ELMO	55042	0902921110012	1	\$2,900	
12	SUZANNE & ROBERT HORNING	8991	JANE ROAD N	LAKE ELMO	55042	0902921110013	1	\$2,900	
TOTAL							12	\$34,800	

ISLE AVENUE NORTH

NO.	NAME	ADDRESS	PID	UNITS	AMOUNT
1	DANNY M & GAIL L COLLYARD	5011 ISLE AVENUE N LAKE ELMO	55042 0902921110004	1	\$2,700
2	MARY P & SAMUEL R DINER	5014 ISLE AVENUE N LAKE ELMO	55042 0902921110001	1	\$2,700
3	RICHARD C GUSTAFSON III & JEANNE TREPANIER	5025 ISLE AVENUE N LAKE ELMO	55042 0402921440015	1	\$2,700
4	PAUL & ANNE GELBMANN	5034 ISLE AVENUE N LAKE ELMO	55042 0402921440011	1	\$2,700
5	JOHN & EUGENIA CHERNY	5040 ISLE AVENUE N LAKE ELMO	55042 0402921440016	1	\$2,700
6	DANIEL R & SUZANNE A STARKS	5065 ISLE AVENUE N LAKE ELMO	55042 0402921440017	1	\$2,700
7	KAREN M MAGILL	5072 ISLE AVENUE N LAKE ELMO	55042 0402921440012	1	\$2,700
8	THOMAS W & LINDA L S BOCHE	5085 ISLE AVENUE N LAKE ELMO	55042 0402921440018	1	\$2,700
9	JAMES E & LISA M CIHON	5121 ISLE AVENUE N LAKE ELMO	55042 0402921440019	1	\$2,700
10	CRAIG T & MAUREEN D FALZONE	5124 ISLE AVENUE N LAKE ELMO	55042 0402921440013	1	\$2,700
11	LAURA A EASTMAN & DEBRA K NELSON	5158 ISLE AVENUE N LAKE ELMO	55042 0402921440014	1	\$2,700
12	PHILIP & THERESA LYNN CRAMPTON	5171 ISLE AVENUE N LAKE ELMO	55042 0402921440020	1	\$2,700
13	MICHAEL J & SALLY E MUELLER	5200 ISLE AVENUE N LAKE ELMO	55042 0402921410001	1	\$2,700
13	MICHAEL J & SALLY E MUELLER (DEFERRED)	5200 ISLE AVENUE N LAKE ELMO	55042 0402921410001	1	\$2,700
14	MICHAEL J & SALLY E MUELLER (DEFERRED)		0402921440001	2	\$5,400
15	THOMAS M & MARY JO JASICKI	5221 ISLE AVENUE N LAKE ELMO	55042 0402921440021	1	\$2,700
16	JAMES A & EILEEN H BLASKO	5180 JAMACA AVENUE N LAKE ELMO	55042 0402921440008	1	\$2,700
TOTAL				18	\$48,600

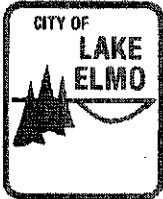
53RD STREET NORTH

NO.	NAME		ADDRESS				PID	UNITS	AMOUNT
1	JEROD F & SUSUAN C DREIS	9480	53rd STREET N	LAKE ELMO	55042	0302921310003	1	\$3,000	
2	MARY LOU KERAN	9535	53rd STREET N	LAKE ELMO	55042	0302921420014	1	\$3,000	
3	DOUGLAS RICHARD & KAREN PEPIN	9571	53rd STREET N	LAKE ELMO	55042	0302921420013	1	\$3,000	
4	STEVEN J & HEIDI MOELLER	9580	53rd STREET N	LAKE ELMO	55042	0302921420008	1	\$3,000	
5	WILLIAM D & RAE ANN MICHEL	9605	53rd STREET N	LAKE ELMO	55042	0302921420012	1	\$3,000	
6	ROBERT E & REBECCA L KOHLER	9618	53rd STREET N	LAKE ELMO	55042	0302921420007	1	\$3,000	
7	GREGG A & JULIE A NIELSEN	9636	53RD STREET N	LAKE ELMO	55042	0302921420006	1	\$3,000	
8	TIMOTHY & CONSTANCE KERAN	9655	53RD STREET N	LAKE ELMO	55042	0302921420011	1	\$3,000	
9	KIRBY R & JULIE R SPIKE	9670	53RD STREET N	LAKE ELMO	55042	0302921420005	1	\$3,000	
10	ROGER C & JERI L STODDARD	9710	53RD STREET N	LAKE ELMO	55042	0302921420004	1	\$3,000	
11	DARRELL J & CONNIE M OMAN	9715	53RD STREET N	LAKE ELMO	55042	0302921420010	1	\$3,000	
12	EDWARD J & VIRGINA HILDEBRANT	9765	53RD STREET N	LAKE ELMO	55042	0302921420009	1	\$3,000	
13	ROBERT A & JOANNE F LEMONDS	9768	53RD STREET N	LAKE ELMO	55042	0302921420003	1	\$3,000	
14	WILLIAM J & CHONG H WEINBERGER	9805	53RD STREET N	LAKE ELMO	55042	0302921410010	1	\$3,000	
15	GERARD T & DEBORAH M COONS	9834	53RD STREET N	LAKE ELMO	55042	0302921410006	1	\$3,000	
16	REXFORD K & LYNN B CATTANACH	9855	53RD STREET N	LAKE ELMO	55042	0302921410009	1	\$3,000	
17	DANIEL J & JULIE L HOPKINS	9890	53RD STREET N	LAKE ELMO	55042	0302921410005	1	\$3,000	
18	JOHN P MEUWISSEN	9895	53RD STREET N	LAKE ELMO	55042	0302921410008	1	\$3,000	
19	BRUCE R & LEANN M KAUFENBERG	9940	53RD STREET N	LAKE ELMO	55042	0302921410004	1	\$3,000	
20	CHANG HA & KIMBERLY M CHO	9945	53RD STREET N	LAKE ELMO	55042	0302921410007	1	\$3,000	
TOTAL							20	\$60,000	

FINAL ASSESSMENT ROLL

57TH STREET NORTH

NO.	NAME	ADDRESS	PID	UNITS	AMOUNT
1	BRADLEY L & MARCIA A BERGIE	9481 57TH STREET N LAKE ELMO 55042	0302921130006	1	\$4,900
2	GREGORY J STEELE	9543 57TH STREET N LAKE ELMO 55042	0302921130007	1	\$4,900
3	ERIK E & DENISE JOSTES	9568 57TH STREET N LAKE ELMO 55042	0302921130005	1	\$4,900
4	JOHN E & PATRICIA J JESKA	9605 57TH STREET N LAKE ELMO 55042	0302921130008	1	\$4,900
5	JOHN H & LISA L BURBAN	9612 57TH STREET N LAKE ELMO 55042	0302921130004	1	\$4,900
TOTAL				5	\$24,500



MAYOR & COUNCIL COMMUNICATION

DATE: 9/6/2011
REGULAR
ITEM #: 7
DISCUSSION

AGENDA ITEM: Presentation by Ms. Ginny Holder, Ramsey/Washington Suburban Cable Commission Representative

SUBMITTED BY: Sharon Lumby, City Clerk

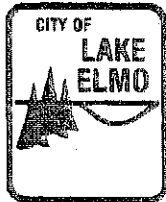
THROUGH: Bruce A. Messelt, City Administrator

SUMMARY AND ACTION REQUESTED: This item has been scheduled as a periodic update for the Mayor and City Council, as well as the larger community, on issues related to the Ramsey/Washington Suburban Cable Commission. It is respectfully requested that the City Council receive an update from Ms. Ginny Holder, the City's Representative on the Ramsey/Washington Suburban Cable Commission.

BACKGROUND INFORMATION: This item has been scheduled at the request of Ms. Ginny Holder, Lake Elmo's representative on the Ramsey/Washington Suburban Cable Commission. Ms. Holder will be asking for comments from the City Council relating to preparation for franchise renewal.

STAFF REPORT: This item is scheduled as part of periodic updates to the Mayor and City Council and community on timely and relevant issues of interest or concern. No specific Council action or direction emanating from this Agenda Item or anticipated discussion is requested at this time.

RECOMMENDATION: It is respectfully requested that the City Council receive an update on franchise renewal from Ms. Ginny Holder, the City's Representative on the Ramsey/Washington Suburban Cable Commission.



MAYOR & COUNCIL COMMUNICATION

DATE: 9/06/2011
REGULAR
ITEM #: 8
DISCUSSION/ACTION

AGENDA ITEM: Reconsideration of Modifications to Ordinance Section 97.21 (B)
Regarding "No Wake" Provisions on Area Lakes

SUBMITTED BY: Council Members Pearson and Park

THROUGH: Bruce A. Messelt, City Administrator *BA*
Dave Snyder, City Attorney
Mike Bouthilet, Public Works Director

SUMMARY AND BACKGROUND INFORMATION: City Council reconsideration has been requested for recent modifications to City Ordinance Section 97.21 (B) governing operation of motor craft above "no wake" speeds on area lakes. These lakes include Olson-Demontreville, Jan and Elmo.

Summer high water conditions prompted the City Council on July 19th, 2011 to amend City Ordinance Section 97.21 (B) to impose an emergency "slow, no wake" restriction on area lakes when water levels exceed the Ordinary High Water (OHW) level. A copy of the Ordinance and the new provisions – underlined - is attached.

As the State of Minnesota's Department of Natural Resources has jurisdiction and statutory review over such local ordinances (to ensure they are not in conflict with State law), temporary approval of the City's changes as sought and received, through the end of October, 2011 (attached).

Only Lake Olson-Demontreville recorded sustained lake levels in excess of the OHW. As the State of Minnesota was shut down at this time, the OHW level used for Olson-Demontreville was 930 ft – the historic OHW, not the current OHW of 929.3 ft. Moreover, as State approval was not immediately received, advisory restrictions were on place for only three days (July 20th – 22nd, 2011).

Lake Elmo has had "no wake" restrictions in the past during high water periods. However, there is no record of any enforcement actions taken with respect to this provision. Enforcement is undertaken by the Washington County Sheriff's Office on behalf of the City of Lake Elmo.

OTHER CONSIDERATIONS: The Minnesota DNR has not undertaken its review of the City's Ordinance, including previous changes made but apparently not submitted for DNR review. It is anticipated that this effort will be completed sometime this fall.

In addition, the City Council did approve additional Ordinance changes to establish certain deviations from the standard "no wake" provisions, approved by Resolution, for special events and other circumstances. Finally, the City Attorney added language to allow for better enforcement of such provisions.

RECOMMENDATION: It has been requested that the City Council reconsider Ordinance Section 97.21 (B) Regarding "No Wake" Provisions on Area Lakes. The City Attorney can advise the City Council, should the Council wish to take specific action at tonight's meeting. Should formal changes be made to the Ordinance, however, it should be noted that DNR approval will still be required (temporary approval took approximately 1 week for the last revision).

ATTACHMENTS:

1. Ordinance Section 97.21 (B) – With Line In/Out Markings
2. DNR Letter

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Council Members Pearson & Park
- Questions from Council Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion, if Appropriate Mayor & City Council
- Discussion Mayor Facilitates
- Action on Motion, if Appropriate Mayor & City Council

**City Ordinance Regarding No Wake Prior to July 2011 Amendments
(Ordinance No. 08-050)**

**§ 97.21 WATERCRAFT AND WATER SURFACE USE
REGULATIONS.**

The following regulations shall apply to the use of watercraft on lakes within the city, to the use of a lake within the city, and to the use of ice surfaces on lakes within the city.

(A) *Dumping.* No person shall dump or throw garbage, paper, bottles, cans, refuse, or debris into any lake or on the shore of any lake or in any public area around any lake in the city.

(B) *Hours of operation.* No person shall operate any motorboat at a speed other than a slow, no-wake speed between sunset and noon the following day unless an alternative no-wake time period is established by the City Council as part of a special event.

(C) *Operation regulations.* No person shall operate any watercraft in violation of the provisions of this code, or in violation of the provisions of Minnesota Statutes, and/or the regulations of the Department of Natural Resources which statutes and regulations are hereby adopted and incorporated herein. In the event of a conflict between the various city and state regulations, the more restrictive regulation shall apply.

(D) *Buoys.* No person shall place a buoy on a lake unless the buoy is specifically authorized by the City Council and the Washington County Sheriff.

(E) *Operation.* All motorboats, operating in excess of a slow, no-wake speed shall operate in a counter clockwise direction. Personal watercraft engaging in constant turning activity shall confine that activity to the center of the lake.

(F) *Non-public lake access.* No person, except riparian owners, shall launch a watercraft or gain access to or egress from a lake other than at a designated public access point except in the case of any emergency or except with the written permission of the riparian lot owner. A person who has written permission to launch a watercraft from a riparian lot shall park their vehicle(s) and trailer(s) on the lot of the riparian owner. Riparian lot owners who grant permission to use their property as a launch site shall otherwise comply with all of the land use regulations of the city.

(G) *Public launching areas.* No person shall launch a watercraft or gain access to or egress from a lake except from a public right-of-way or other public park area in those locations specifically designated and posted for the purpose.

(H) *Safe operating distance.*

(1) No person shall operate or permit the operation of a motorboat, in excess of slow, no-wake speed, within 100 feet of a shoreline.

(2) No person shall operate or permit the operation of a motorboat in excess of a slow, no-wake speed when towing a person on water skis or other devices within 100 feet of a shoreline.

(3) Launching or landing a personal watercraft or towing a person on skis or other devices must be done by using the most direct route to or from open water.

(I) *Non-motorized watercraft.* Non-motorized watercraft always have the right-of-way over motorized watercraft.

(1997 Code, § 1380.03)

(J) *Permanent "slow – no wake" areas.* The channels and narrows between Lake Olson and Lake DeMontreville are hereby designated as permanent "slow – no wake" areas and appropriate signs shall be posted.

(K) *Special water ski show permit.* A special permit may be issued by the City Administrator or the administrator designee for waiving water ski shows. A permit shall specify the dates and times of use, and the regulation that will apply to the water ski show. Applicant for special permits shall provide evidence of insurance coverage and consent from the Washington County Sheriff's Department. Applicant shall also make arrangements with the Lake Elmo Fire Department to provide an emergency vehicle during the water ski show.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-050

AN ORDINANCE TO ALLOW THE CITY COUNCIL TO EXTEND THE "NO
WAKE" REQUIREMENTS UNDER THE WATER SURFACE USE
ORDINANCE

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 97.21 subdivision (B) is hereby amended to read as follows:

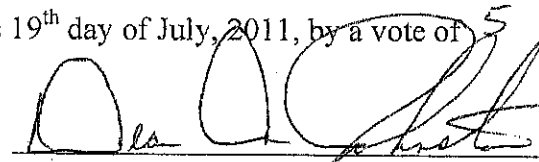
(B) *Hours of operation.*

- (1) Normal Conditions - No person shall operate any motorboat at a speed other than a slow, no-wake speed between sunset and noon the following day.
- (2) High Water Conditions - No person shall operate any motorboat at a speed other than a slow, no-wake speed when a lake level exceeds the ordinary high water mark.
- (3) Other Conditions - Alternative or modified no-wake time periods may be established by the City Council by Resolution as part of a special event or other condition. No person shall operate any motor boat in a manner which creates a wake when no-wake signs are posted.

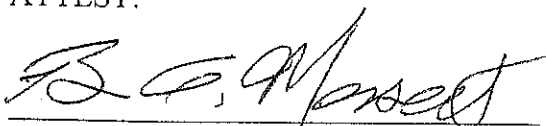
Section 2. Adoption Date

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

This Ordinance No. 08-050 was adopted on this 19th day of July, 2011, by a vote of 5 Ayes and 0 Nays.


Mayor Dean Johnston

ATTEST:


Bruce A. Messelt, City Administrator

This Ordinance No. 08-50 was published on the 27th day of July, 2011

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-4046



August 1, 2011

AUG -5 2011

Mr. Bruce A. Messelt
City Administrator
City of Lake Elmo
3800 Laverne Avenue N.
Lake Elmo, Minnesota 55042

Mr. Messelt:

Department of Natural Resources (DNR) staff has now completed review of the materials received from your office on July 28th, requesting approval of a temporary amendment, regarding high water levels, to the Lake Elmo water surface use ordinance.

The action by the City Council Ordinance 08-050 on, July 19, 2011 amends Section 5. (B.) (2) of the existing county ordinance regarding "High Water Conditions" This amends the Lake Elmo City Code to allow for imposition of a slow no-wake ordinance when the water levels exceed the Ordinary High Water (OHW) mark on Lakes Elmo, Jane, DeMontreville and Olson.

After review, this action appears to be measured and reasonable, and therefore I am approving the amendment to the Ordinance, specifically 08-050(B) (2), as noted in the previous paragraph. This approval, however, is valid only through October 31, 2011. The City will have the responsibility monitoring lake levels, informing the public of the restrictions and enforcing the ordinance.

The City also needs to work with our boat and water safety coordinator, Kim Elverum, on review and approval of a permanent ordinance that would comply with the surface use statutes and rules.

Sincerely,

Col Jim Konrad, Director
Enforcement Division

c: Capt. Greg Salo – DNR Region 3 Enf. Manger
Lt. Jason Peterson – DNR District 14 Enf. Supervisor
Sgt Jerry Cusick – Washington Co. Sheriff's Office
WSUM File



HIGHLIGHTS

Valley Branch Watershed - Lake Levels, 2011

August 1, 2011

July's precipitation was 10.6 inches, or an astonishing 262% of average. As a result, all lakes were up with Long Lake and Eagle Point up 2.09 and 2.00 feet respectively. Eagle Point is the highest in at least 25 years. I couldn't see the gages on either Sunfish or Downs. Water is entering the upper storage area where I got the first reading since 2007.

On a yearly basis, all lakes are significantly higher. Olson & DeMontreville and Long lakes were up over three feet and Horseshoe was 7.32 feet higher than in August of 2010.

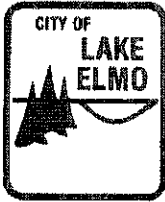
Storage values in the Project 1007 lakes showed a decrease in storage of 858 acre feet since last month and a decrease of 2896 acre feet since August 1, 2010. In fact, this is the 3rd month with negative storage values in the Project 1007 lakes.

	Acres	Overflow Elev.	Level	Acre ft. Storage	Total
Long Lake	90	937.50	940.86	-302.40	-481.80
O+D	220	928.35	929.34	-217.80	
Jane	160	922.35	922.11	38.40	
Eagle Pt.	130	894.00	896.76	-358.80	-588.14
Elmo	274	884.10	884.81	-194.54	
Horseshoe	60	875.20	875.78	-34.80	
					-1069.94

		Tri Lakes	Lower Lakes	Total
	6/1/10	1051	943	1994
	7/1/10	873	928	1801
	8/1/10	886	940	1826
	9/1/10	913	950	1863
Storage	10/1/10	697	894	1591
Below	11/1/10	780	923	1703
Overflow	4/1/11	310	262	572
	5/1/11	-130	232	102
	6/1/11	-73	46	-27
	7/1/11	-104	-108	-212
	8/1/11	-482	-588	-1070

VALLEY BRANCH WATER LEVELS

DATE	LONG	O-D	JANE	SUNFISH	EAGLE POINT	ELMO	HORSE- SHOE	DOWNS	CLOVER-Mc. DALE	Goetschel DONALD	GRAVEL POND	WLSS PIT	LOWER
2007													
1/1	937.13	927.89	921.31		<893	884.20	874.01	886.13	901.73		886.91	864.70	852.20
2/1	936.79	927.34	921.29		<893	884.20	874.16	886.41	901.34		887.06		
3/1	936.77	927.31	921.38		<893	884.24	874.19	886.00	901.39		886.59		
4/1	938.38	927.78	921.70		894.73	884.46	875.90	889.73	902.49		887.31	865.81	856.08
5/1	938.05	927.95	921.64	893.63	893.92	884.25	875.41	889.15	902.31		887.20	864.97	856.30
6/1	937.90	927.93	921.58	893.45	893.63	884.24	874.73	888.68	902.11		887.06	864.97	855.02
7/1	937.07	927.43	921.14	892.81	<893	883.80	873.80	887.94	901.39		886.38	864.72	852.00
8/1	936.27	926.79	920.65	892.31	<893	883.51	873.04	887.10	901.67		886.67		
9/1	936.91	926.79	920.72	892.35	<893	883.64	873.09	886.77	902.31		886.75		
10/1	937.86	926.90	920.92	892.45		883.76	873.19	886.80	902.75		886.92		
10/27	938.60	927.45	921.06	892.60	894.28	883.90	874.06	886.85	903.29		886.28		
12/1	937.63	927.07	920.86	892.29	893.64	883.60	873.50	886.73	902.69		886.94		
2008													
1/1	937.49	927.47	920.97		893.58	883.75	873.74	886.63	902.67				
2/1	937.24	927.30	920.86		<893	883.70	873.54	886.09					
3/1	936.89	927.16	920.87		<893	883.67	873.22	886.35					
4/1	937.35	927.26	920.96		893.39	883.92	873.42	886.41					
5/1	939.05	928.24	921.40	891.84	894.47	884.17	875.52	886.84					
6/1	939.09	928.90	921.39	891.74	894.18	884.20	875.41	886.67					
7/1	938.07	928.75	921.34	891.60	894.15	884.14	875.41	886.43					
8/1	937.33	928.31	921.02	891.15	893.20	883.83	874.36	886.24					
9/1	936.77	927.87	920.78	890.90	<893	883.71	873.80	886.41					
10/1	936.81	927.58	920.68	890.47		883.56	873.26	886.17					
11/1	936.43	927.32	920.52	889.37		883.54	872.95	884.79					
12/1	936.41	927.08	920.52			883.58	872.78	884.75					
2009													
1/1	936.18	927.23	920.58			883.43	872.65	884.94					
2/1	935.92	926.96	920.55			883.44	872.45	884.74					
3/1	935.81	927.02	920.62			883.48	872.43	884.64					
4/1	936.82	927.13	920.73			883.58	872.58	887.91					
5/1	936.60	927.09	920.53			883.49	872.24	887.39					
6/1	936.03	926.58	920.11			882.94	871.61	886.89					
7/1	935.84	926.30	919.91			882.82	871.22	886.69					
8/1	935.48	925.91	919.61			882.58	870.71	886.06					
9/1	936.56	925.97	919.74			882.70	870.66	886.28					
10/1	935.90	925.53	919.36			882.34	870.14	885.74					
11/1	937.34	925.89	919.81			882.65	871.53	885.86					
12/1	937.12	925.45	919.76			882.69	871.04	886.04					
2010													
1/1	937.08	925.67	919.96			882.72	871.14	886.14					
2/1	936.67	925.58	919.91										
3/1	936.45	925.49	919.86										
4/1	937.35	925.50	919.90			882.66	871.05	885.85					
5/1	937.31	925.35	919.87	888.86		882.64	868.70	884.82					
6/1	937.49	925.38	919.87	888.75		882.60	868.50	884.60					
7/1	938.48	925.70	920.00	888.75		882.66	868.48	884.50					
8/1	937.62	926.05	919.91	888.54		882.62	868.46	884.37					
9/1	937.35	926.08	919.85	888.49		882.56	868.56	884.59					
10/1	936.52	926.46	920.02	888.74		882.70	868.86	884.57					
11/1	937.76	926.56	919.79	888.54		882.60	868.84	884.37					
12/1	937.74	926.52	919.79										
2011													
4/1	939.14	927.79	920.26		894.45	883.68	871.78	886.16					
5/1	940.07	929.14	920.67	889.62	894.58	883.53	872.68	885.42					
6/1	938.99	929.22	920.77	889.78	894.55	883.76	874.79	886.32					
7/1	938.77	929.30	920.99	890.00	894.76	884.04	875.63	885.22					
8/1	940.86	929.34	922.11		896.76	884.81	875.78				866.88		
Month diff.	2.08	0.04	1.12		2.00	0.77	0.15						
Year Diff.	3.24	3.29	2.20			2.19	7.32						
Overflow	937.50	926.35	922.35	927.80	894.00	884.10	875.20	891.50	908.50	908.50	929.50	865.70	861.00



MAYOR & COUNCIL COMMUNICATION

DATE: 9/06/2011
REGULAR
ITEM #: 9
DISCUSSION/ACTION

AGENDA ITEM: Accept Petition for Lake Rule Change on Lakes Jane, DeMontreville and Olson

SUBMITTED BY: Sharon Lumby, City Clerk

THROUGH: Bruce A. Messelt, City Administrator

SUMMARY AND ACTION REQUESTED: The City Council is respectfully being requested to accept a petition from property owners on Lake Jane and three property owners on Lakes DeMontreville/Olson requesting changes to City Ordinance Section 97.21 (B) governing Hours of Operation.

BACKGROUND INFORMATION & STAFF REPORT: At the August 9th and 23rd Council Meeting, property owners living on Lakes DeMontreville/Olson/Jane requested consideration of the following modification:

(B) Hours of Operation: No person shall operate any motorboat at a speed other than a slow, no-wake speed between sunset and noon the following day except Lake Jane/DeMontreville/Olson. On these lakes no person shall operate any motorboat at a speed other than a slow, no-wake speed between sunset and 9 a.m. the following day.

RECOMMENDATION: It is recommended the City Council accept the petition for the requested lake rule modification and schedule this item to a future Council workshop or meeting.

“Move to schedule discussion on the petition for changes to City Ordinance Section 97.21 (B) Hours of Operation, as stated, on Lakes Jane/DeMontreville/Olson to a future Council workshop date”

ATTACHMENTS:

1. Petition provided by Justin Bloyer for lake rule change on Lake Jane
2. Request from three property owners for lake rule change on Lakes DeMontreville/Olson
3. Comments received from property owners.

August 25, 2011

Mr. Mayor and Council Members,

The home owners and tax payers of Lake Jane respectfully request to have city ordinance 97.21 sub section b changed. We request the changed ordinance read: *Hours of operation*. No person shall operate any motorboat at a speed other than a slow, no-wake speed between sunset and noon the following day except Lake Jane. On Lake Jane no person shall operate any motorboat at a speed other than a slow, no-wake speed between sunset and 9 am the following day.

Respectfully,

Justin W. Bloyer 8881 Jane Rd N

NAME	ADDRESS	CITY
KELLY & SUSAN SCHMIDT	8644 LAKE JANE TRL N	ELMO, MN :
JOHN & KEIKO MAYEK	8680 LAKE JANE TRL N	ELMO, MN :
JEREMEY DUVAL	8690 LAKE JANE TRL N	ELMO, MN :
RICHARD & BEV GUSTAFSON	8718 LAKE JANE TRL N	ELMO, MN :
DARLENE MOGREN	8738 LAKE JANE TRL N	ELMO, MN :
JEAN SCHMIDT	8766 LAKE JANE TRL N	ELMO, MN :
THOMAS & BONNIE RASMUSSEN	8784 LAKE JANE TRL N	ELMO, MN :
ROBERT & KATHLEEN GOULD	8802 LAKE JANE TRL N	ELMO, MN :
PAUL & KATHLYN MENCKE	8838 LAKE JANE TRL N	ELMO, MN :
MICHAEL & JULIE BILLSTEIN	8866 LAKE JANE TRL N	ELMO, MN :
BRET J & WENDI J LANNING	8896 LAKE JANE TRL N	ELMO, MN :
ROBERT J & DIANNE L MCADAM	8950 LAKE JANE TRL N	ELMO, MN :
JAMES RIDENOUR MCGEE	9040 LAKE JANE TRL N	ELMO, MN :
DANIEL & JEAN OLINGER	9057 LAKE JANE TRL N	ELMO, MN :
DANIEL OLINGER	9095 LAKE JANE TRL N	ELMO, MN :
DONAVEN & TRISHA CHASE	9125 LAKE JANE TRL N	ELMO, MN :
JOHN M & ADA J STASNY	9250 LAKE JANE TRL N	ELMO, MN :
DENNIS & SUSAN OELTJEN	9302 LAKE JANE TRL N	ELMO, MN :
BRIAN HARVIEUX	9322 LAKE JANE TRL N	ELMO, MN :
AKIRA & NAOKO FUJIOKA	9366 LAKE JANE TRL N	ELMO, MN :
GEOFFREY & STEPHANIE LARAMY	9404 LAKE JANE TRL N	ELMO, MN :
Aaron Runk	9497 JANE RD N	ELMO, MN :
GERALD & LISA HEROFF	9477 JANE RD N	ELMO, MN :
GARY & REBECCA KIMLINGER	9461 JANE RD N	ELMO, MN :
JOHN & LAURIE HAMERLY	9429 JANE RD N	ELMO, MN :
DOUGLAS & JILL FOSTER	9409 JANE RD N	ELMO, MN :
MARK & SHARON VANDEMMELETRAADT	9399 JANE RD N	ELMO, MN :
NANG TRI & THU HUONG TRAN	9393 JANE RD N	ELMO, MN :
ROBERT & LUCY GOLISH	9369 JANE RD N	ELMO, MN :
SCOTT DROMMERHAUSEN	9359 JANE RD N	ELMO, MN :
DAVID & MARY JOHNSON	9287 JANE RD N	ELMO, MN :
DOROTHY MARTIN	9233 JANE RD N	ELMO, MN :
KATHRYN ANN KLECKER	9199 JANE RD N	ELMO, MN :
DONALD & LORETTA SINGER	9161 JANE RD N	ELMO, MN :
BASIL O'SULLIVAN	9133 JANE RD N	ELMO, MN :

DEXTER & TONI ZITON	9109 JANE RD N	ELMO, MN :
WARREN JR & BARBARA BAUERFELD	9112 JANE RD N	ELMO, MN :
FREDERICK KING	9077 JANE RD N	ELMO, MN :
MARILYN KENNEDY	9051 JANE RD N	ELMO, MN :
JEFFERY & LEEANN LEITCH	9025 JANE RD N	ELMO, MN :
SUZANNE & ROBERT HORNING	8991 JANE RD N	ELMO, MN :
JEFF & JOAN WIEDEN	8955 JANE RD N	ELMO, MN :
JOHN & VIRGINIA SCHNEIDER	919 JANE RD N	ELMO, MN :
MARK & SHANNON Hels	8903 JANE RD N	ELMO, MN :
WILLIAM STEVENSON	8895 JANE RD N	ELMO, MN :
PATRICK & Derval McALLISTER	8883 JANE RD N	ELMO, MN :
JUSTIN & DANA BLOYER	8881 JANE RD N	ELMO, MN :
THOMAS SKALBECK	8879 JANE RD N	ELMO, MN :
JOHN & DIANA MEIER	4731 BIRCH BARK TRL N	ELMO, MN :
TIMOTHY MCDONOUGH	4711 BIRCH BARK TRL N	ELMO, MN :
WILFRED & MYRA HIRSCH	4689 BIRCH BARK TRL N	ELMO, MN :
CHARLES & JOAN TAYLOR	4677 BIRCH BARK TRL N	ELMO, MN :
RONALD & MARY ANN WARNER	4633 BIRCH BARK TRL N	ELMO, MN :
JOHN MARCELLUS	4611 BIRCH BARK TRL N	ELMO, MN :
WILLIAM & GLORIA PARK	4589 BIRCH BARK TRL N	ELMO, MN :
MARK FRITSCH	4563 BIRCH BARK TRL N	ELMO, MN :
SUZANNE CALLAS	4539 BIRCH BARK TRL N	ELMO, MN :
NORMAN & EVELYN LYALL	4515 BIRCH BARK TRL N	ELMO, MN :
Lori Swanon	8374 Windbreak TRL	ELMO, MN :
PHILIP & NANCY TSCHUMPERLIN	9149 LAKE JANE TRL N	ELMO, MN :
JEFFREY M YLINEN	9401 LAKE JANE TRL N	ELMO, MN :

Paul Huot	4955 Jamaca	ELMO, MN
Corporation 14	8374 Windbreak TRL	55042
John Blake	1201 Frost Ave Stp	55109
Conrad Adams	1530 English #2 Stp	55106
Stacy Fernandez	5090 Marquess Trail Ct N	55042
Derek LaBere	9406 Jane Rd N	

August 31, 2011

Mr. Mayor and Council Members,

The home owners and tax payers of the City of Lake Elmo respectfully request to have city ordinance 97.21 sub section b changed. We request the changed ordinance read: *Hours of operation*. No person shall operate any motorboat at a speed other than a slow, no-wake speed between sunset and 9am the following day.

Respectfully,

Brenda Jo Carlsson
Carmi L. Olson
Pat L. Olson

August 31, 2011

Mr. Mayor and Council Members,

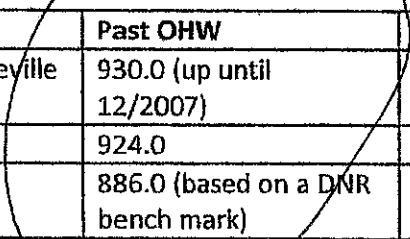
The home owners and tax payers of the City of Lake Elmo respectfully request to have city ordinance 97.21 sub section B changed. We request the changed ordinance read:

Hours of operation.

- (2) High Water Conditions - No person shall operate any motorboat at a speed other than a slow, no-wake speed when the lake level exceeds the following levels: 930.0' on Olson Lake-Lake DeMontreville, 924.0' on Lake Jane, or 886.0' on Lake Elmo.
- (3) delete this section.

Respectfully,

Connie L. Beatty
Brande J. Carlson



Lake	Past OHW	Current OHW	JUL 1/JUL 25 Water Level
Olson-DeMontreville	930.0 (up until 12/2007)	929.3	929.3/929.6 (+/- 0.1)
Jane	924.0	924.0	920.99/922.1 (+/- 0.1)
Elmo	886.0 (based on a DNR bench mark)	885.6 (corrected to 1929 datum around 2005)	884.04/UNKN

Sharon Lumby

From: Richard Engdahl [rle2491@msn.com]
Sent: Thursday, September 01, 2011 8:36 PM
To: deanjohnston@comcast.net; mikepearson1965@yahoo.com; jjemmons@comcast.net; annejsmith@msn.com; nikkipark@comcast.net; Sharon Lumby
Subject: Requesting no wake on Lake Elmo

Our lake front has been very negatively impacted by the wake from the larger, more powerful boats on the lake; erosion is considerable. The advent in the past two-three years of the large "wake boats" is the primary source of concern. Please consider enforcing a no wake policy when the lake is high.

In fact, we would be interested in limiting the motor size on this lake due to its small size. Wild life, shore quality, noise pollution, and all around enjoyment by the public would benefit greatly -- not only for those land owners along the east and south side but also for the growing numbers benefiting from the County Park Reserve. We have a pontoon and have at times stopped fishing and cruising the lake due to being bounced around by the huge wakes. For those with larger boats the St.Croix River is close and can more easily accomodate the larger boats and motors.

At the very least, please pass an ordinance to protect the lake shore when the water is high.

Thank you,

Richard and Sharon Engdahl
2491 Lake Elmo Ave N
Lake Elmo, Mn 55042

Richard L. Engdahl, CFRE
651/779-6793
cell: 651/260-0879
rle2491@msn.com



MAYOR & COUNCIL COMMUNICATION

DATE: 9/6/11
REGULAR
ITEM #: 10
MOTION

AGENDA ITEM: Consideration of an Off-Sale Intoxicating Liquor License for a new liquor store located at 11227 Stillwater Blvd.

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider an application for an Off-Sale Intoxicating Liquor License for a new liquor store request for Village Wine and Spirits, located at 11227 Stillwater Blvd. N by applicant Richard Kosman, LFD, Inc. This item was in front of the City Council at the August 23rd meeting, at which time the item was tabled. The City Council directed City Staff to review the parking and spacing on the site and to notify residents within a four block radius of the property.

The recommended motion to act on this is as follows:

"Move to approve a new Off-Sale Intoxicating liquor license for the Village Wine and Spirits, located at 11227 Stillwater Blvd N., to Richard Kosman, LFD, Inc., and submit application for approval by the Minnesota Public Safety Inspector."

BACKGROUND INFORMATION: City Staff has sent out mailed notification to nearby property owners in conformance with the request by the City Council.

Parking Requirements

A non-specified commercial use in the General Business Zoning District has a parking requirement of one parking space for each 200 square feet of gross floor area. The building is approximately 3,700 square feet which would therefore result in 19 required parking stalls. The applicant has five stalls striped in the front of his property. Given the eastern property line location, angle of the building and septic system location, there is likely room for additional parking spaces in the rear, though maybe only a few.

In October of 2010, the City Council approved an amendment to allow a waiver for businesses located in the Village Area south of Highway 5, of which this property is included. The language approved states:

"The Off-Street Parking requirements for properties located in the Old Village District and south of Minnesota State Highway 5 may be waived by the Zoning Administrator upon demonstration that there are no suitable locations to provide off-street parking in a manner that complies with requirements found below and in 154.095 and 154.096."

The entrance to the property is approximately 30 feet off of State Highway 5.

The Engineers reviewed the existing information on traffic counts for Highway 5 near this intersection and may have additional information.

RECOMMENDED MOTION:

"Move to approve a new Off-Sale Intoxicating liquor license for the Village Wine and Spirits, located at 11227 Stillwater Blvd N., to Richard Kosman, LFD, Inc., and submit application for approval by the Minnesota Public Safety Inspector."

Alternatively, the City Council may table taking action on the application and direct either staff or the applicant to provide additional information concerning the request.

The Council may also consider denying the Liquor License.

ATTACHMENTS:

1. Ordinance 08-030

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation Planning Department
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-030

AN ORDINANCE TO AMEND THE GENERAL BUSINESS DISTRICT
REGULATIONS FOR SETBACKS AND PARKING IN THE OLD VILLAGE
DISTRICT

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 154.051 (General Business Regulations) subsection (C) and is hereby amended as follows:

(C) *Minimum district requirements.*

(1) The Old Village District shall be defined as the Old Village Sign District described in § 151.117 (S. 1, a).

General Business		
Lot Size	1-1/2 acres (except as required by Interstate Corridor Overlay District, §§ <u>150.230</u> - <u>150.238</u>)	
Lot Width	150 Feet Minimum	
Building Setback from property lines: (Also see § <u>154.082</u>)		
Front:	10 Feet Minimum	<u>No setback required for properties located in the Old Village District and south of Minnesota State Highway 5</u>
Side (Interior):	20 Feet Minimum	<u>No setback required for properties located in the Old Village District and south of Minnesota State Highway 5</u>
Side (Corner):	50 Feet Minimum	
Rear:	50 Feet Minimum	
Building Height (Also see § <u>154.083</u>)	35 Feet Maximum	
Maximum area to be covered by buildings, parking lots, driveways and other hard surfaces:		
Lot Size	Covered Area	
Up to 4 acres	45% of lot size	

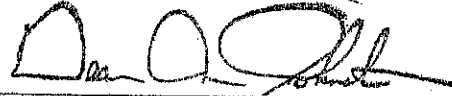
Larger than 4 acres to 8 acres	35% of lot size
Larger than 8 acres	25% of lot size
Lot Configuration	Maximum lot depth to width dimension ratio shall be no more than 3:1
Off-Street Parking: (Also See §§ 154.095 and 154.096) <u>The Off-Street Parking requirements for properties located in the Old Village District and south of Minnesota State Highway 5 may be waived by the Zoning Administrator upon demonstration that there are no suitable locations to provide off-street parking in a manner that complies with requirements found below and in §§ 154.095 and 154.096.</u>	
Eating and Drinking Places	One space for every 2 seats and 1 space for every 2 employees on the average maximum shift
Automobile Service Stations	Three spaces for each enclosed bay plus 1 space for each day shift employee plus a minimum of 2 spaces for service vehicles and 1 additional space for each service vehicle over 2 in number
Retail Stores or Centers	Eleven spaces for the first 1,000 square feet of gross floor area or fraction of floor area: 8 spaces for each 1,000 square feet of gross floor area in excess of 1,000 square feet, but not exceeding 15,000 square feet; 6 spaces for each 1,000 square feet of gross floor area in excess of 15,000 square feet of gross floor area exceeding 30,000 square feet.
Motels and Hotels	One space for each unit plus 1 space for each employee on any 1 shift.
Medical and Dental Clinics	Four spaces for each doctor or dentist, plus 1 space for every employee or 1 for each 150 square feet of gross floor area, whichever requirement is greater.
Other Commercial Uses (excluding wholesale)	One space for each 200 square feet of gross floor area.
Maximum Width of Driveways	See § 93.26
Signage	See §§ 151.115 through 151.124
Septic Drainage Regulation (Also see §§ 51.002 through 51.008)	<p>All newly subdivided lots shall have a minimum of 20,000 square feet of land dedicated for septic system use and suitable for that use. This land may comprise up to 2 separate areas, each of which is contiguous to the 1.25-acre building site or contained within it, and each of which contains at least 10,000 contiguous square feet.</p> <p>Placement of the second required drainfield between the</p>

trenches of the first drainfield is prohibited.

Section 2. Adoption Date

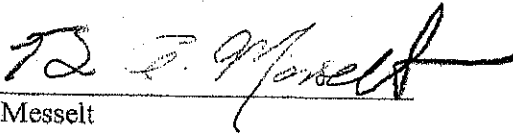
This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

This Ordinance No. 08-030 was adopted on this 5th day of October 2010, by a vote of ___ Ayes and ___ Nays.



Mayor Dean Johnston

ATTEST:



Bruce Messelt
City Administrator

This Ordinance No. 08-030 was published on the ___ day of ___, 2010.

FOCUS ENGINEERING, inc.

MEMORANDUM

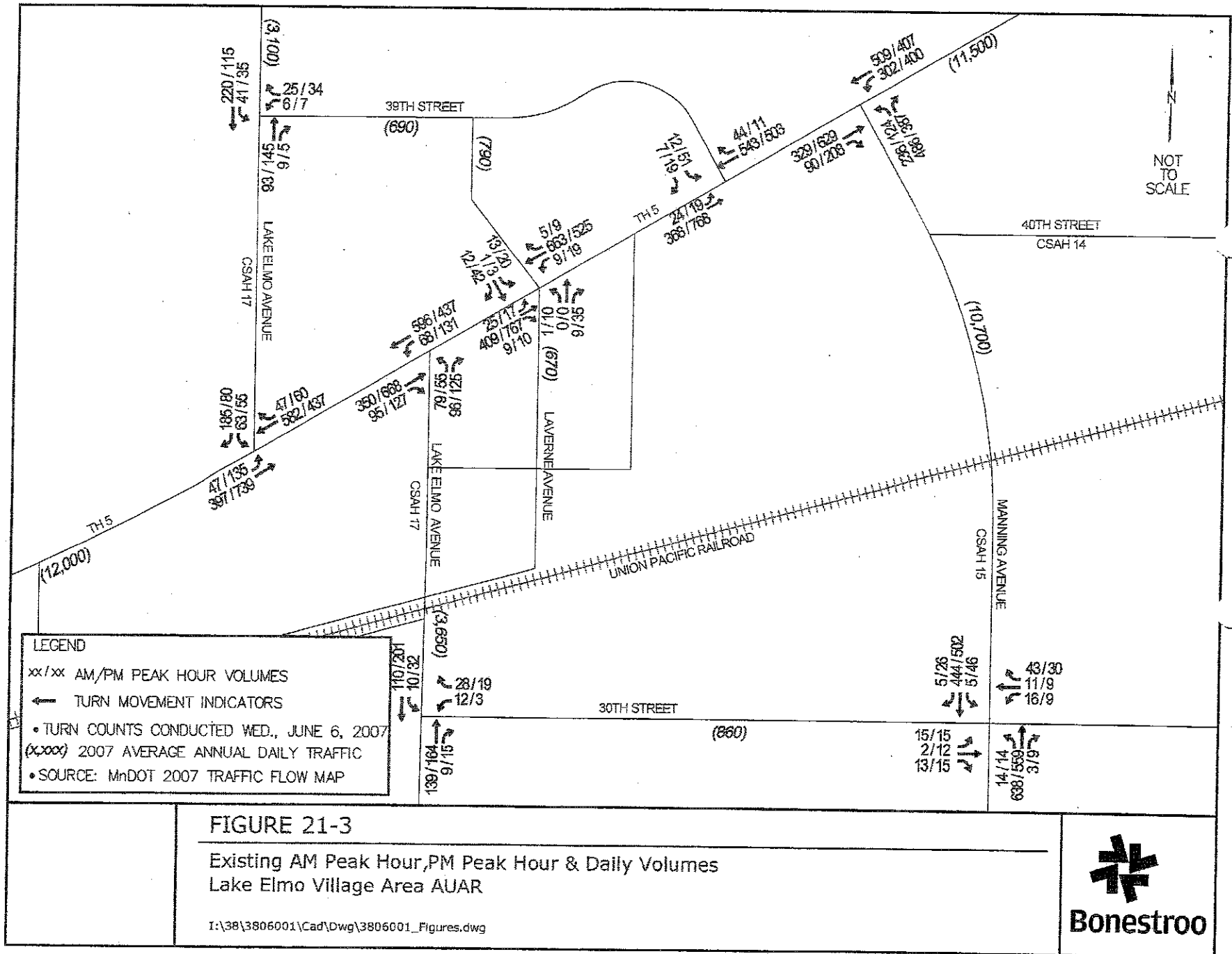
September 2, 2011

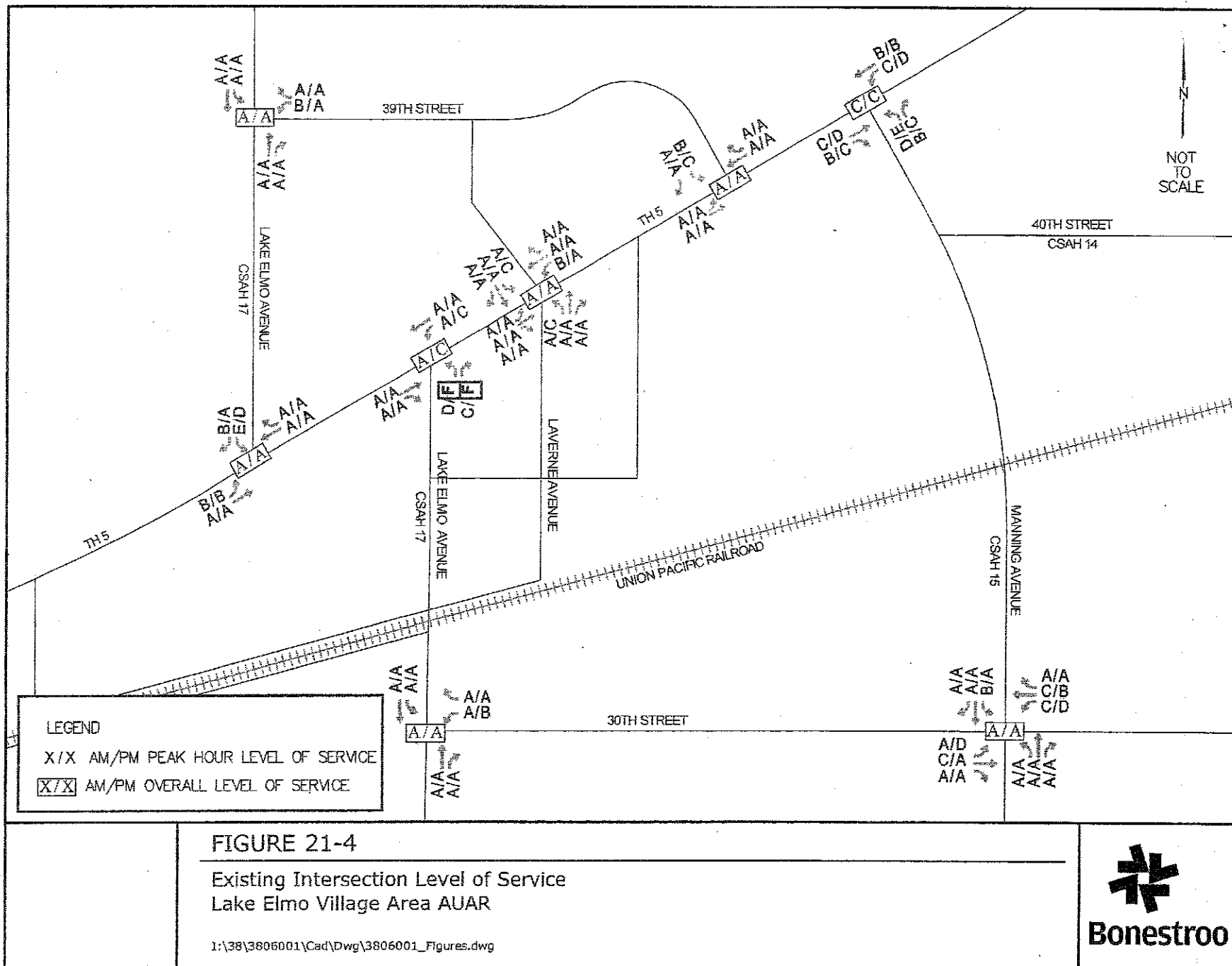
Cara Geheren, P.E. 651.300.4261
Jack Griffin, P.E. 651.300.4264
Ryan Stempski, P.E. 651.300.4267

To: Kelli Matzek, Planner
CC:
From: Jack Griffin, P.E.
City Engineer

RE: Village Wine and Spirits
11227 Stillwater Blvd. N
Existing Traffic

The AUAR completed for the Village Area conducted a Traffic Analysis for the intersection of Trunk Highway 5 and Laverne Avenue North in 2007. This analysis shows very low traffic counts for the Peak AM and Peak PM hours. The intersection received a Grade A Level of Service for intersection performance, indicating lower traffic volumes, little to no delay, and unimpeded movements. The existing Traffic Volumes and Intersection Level of Service Grades are attached to provide further detail regarding the existing traffic situation.







MAYOR & COUNCIL COMMUNICATION

DATE: 9/6/11

REGULAR

ITEM #: 11

MOTION

AGENDA ITEM: Conditional Use Permit Amendment: Rockpoint Church- Overflow Parking Lot Expansion Update

SUBMITTED BY: Kelli Matzek, City Planner

THROUGH: Bruce Messelt, City Administrator

SUMMARY AND ACTION REQUESTED: The City Council is being asked to table this item to the September 20th City Council meeting. The City Council reviewed the request from Rockpoint Church for a Conditional Use Permit Amendment to allow an expansion of an overflow parking lot during the August 23rd meeting. At that time, the City Council expressed concern regarding potential impacts from vehicular traffic visiting the site. The Council then tabled the item and directed City Staff to meet with the City Engineer and MnDOT to discuss options for improving traffic. Staff is in the process of setting a date for that meeting, but it will not take place in advance of the September 6th meeting, which is why Staff is requesting the item be tabled.

The recommended motion to act on this is as follows:

"Move to table the Conditional Use Permit Amendment for Rockpoint Church to the September 20th meeting."

BACKGROUND INFORMATION: None.

ATTACHMENTS (None):

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation Planning Department
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates



MAYOR & COUNCIL COMMUNICATION

DATE: 9/6/11

REGULAR

ITEM #: 12

MOTION

AGENDA ITEM: Special Event Permit Ordinance – Revised Ordinance Limiting Scope to Larger Events Only

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: David Synder, City Attorney
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider and adopt a new ordinance to regulate special events within the City of Lake Elmo. A draft ordinance concerning special events, as recommended by the Planning Commission, was presented to the City Council on December 7, 2010 but was not acted upon by the Council at this time. After subsequent discussion by the Council, it was decided to revisit this ordinance with the direction that the regulations should only apply to larger events.

Based on the work that was done with the Planning Commission late last year, Staff is recommending that the City Council reconsider the ordinance as originally drafted by the Planning Commission, but with a specific notation that a special event would only include those events at which more than 100 people in a given day would be present. Should the Council decide that a "larger event" comprises more people than this (or if the Council would like to consider an alternate definition for a larger event), the proposed ordinance could be revised accordingly.

The recommended motions to act on this are as follows:

"Move to adopt Ordinance No. 08-053 adding provisions to the Lake Elmo City Code to regulate special events within the City of Lake Elmo"

"Move to adopt Resolution No. 2011-36 authorizing summary publication of Ordinance 08-053"

BACKGROUND INFORMATION: A Special Event Permit is intended to provide some regulation of temporary events on a case-by-case basis and is intended to promote the orderly, compatible, and safe use of property for temporary special events and to assure adequate

provision of parking, traffic, sanitary facilities, utilities, public safety services, and peace and tranquility of residential neighborhoods.

Based on the direction from the Council as noted above, Staff has attached the proposed draft ordinance in addition to the Staff report presented to the Council back in December of 2011. This report contains a summary of the Ordinance, some of the background concerning its preparation, and the Planning Commission's recommendation to approve the Ordinance.

RECOMMENDATION: Based upon the above background information and Staff report, the Planning Commission and Staff recommend that the City Council adopt the proposed Special Event Permit Ordinance, which has been drafted to promote the orderly, compatible, and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, public safety services, and peace and tranquility of residential neighborhoods, by undertaking the following action:

"Move to adopt Ordinance No. 08-053 adding provisions to the Lake Elmo City Code to regulate special events within the City of Lake Elmo"

"Move to adopt Resolution No. 2011-36 authorizing summary publication of Ordinance 08-053"

Alternatively, as this is a City-initiated action, the City Council may make changes to the document as drafted by the Planning Commission or may table taking action of the request to solicit additional feedback from Staff. The Council may also choose to not adopt the proposed ordinance if it finds that Special Events should not be regulated within the City of Lake Elmo.

ATTACHMENTS

1. Ordinance 2011-053– Special Event Permits
2. Resolution 2011-36 (Authorizing summary publication)
3. City Council Report Dated 12/7/10

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

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

ORDINANCE NO. 08-053

**AN ORDINANCE ADDING TO THE LAKE ELMO CITY CODE OF ORDINANCES BY
ADDING TO CHAPTER 110 OF THE BUSINESS REGULATIONS: BUSINESS
REGULATIONS TO PROMOTE THE ORDERLY, COMPATIBLE AND SAFE USE OF
PROPERTY FOR TEMPORARY SPECIAL EVENTS AND TO ASSURE ADEQUATE
PROVISION OF PARKING, TRAFFIC, SANITARY FACILITIES, UTILITIES, PEACE
AND TRANQUILITY OF RESIDENTIAL NEIGHBORHOODS AND SAFETY
SERVICES**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XI: Business Regulations; Chapter 110 – General Licensing Provisions, by adding the following language:

§ 110.070 SPECIAL EVENT PERMITS.

(A) *Purpose and intent.* The purpose of this Chapter is to promote the orderly, compatible and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.

(B) A Special Event shall include the following:

(1) Any temporary, privately-sponsored event, typically conducted outdoors, open to the general public, held on public or privately owned property ~~that will be attended by over 100 people within a 24-hour period~~ where such event would not otherwise be permitted under the City's zoning regulations.

(2) An Agricultural Sales Business as defined in Section 11.01 that is conducted for less than three (3) months in any calendar year. A Special Event Permit for an Agricultural Sales Business may be issued once per year and for no more than two consecutive years.

(C) Exceptions: "Special Event" shall not apply to the following:

(1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium, or fairs conducted pursuant to Minn. Stats. Chapter 38.

(2) Special events or activities permitted or permitted by other State laws or regulations of the City of Lake Elmo, including publicly-sponsored activities in the local park system and any other lawfully established event for which the City Council has expressly

granted approval prior to adoption of this ordinance, unless said event is expanded or enlarged, in which case a Special Event Permit will be required.

(3) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, etc.

(4) Garage sales

(5) National Night-Out or Night-to-Unite established through the City of Lake Elmo.

(D) Permit Required

(1) No person on or after the effective date of this Chapter shall conduct or allow to be conducted any special event as defined in this ordinance without first obtaining a Special Event Permit.

(E) Requirements for Issuance of a Permit

(1) The following standards shall apply to all special events:

(a) Maximum Number of People. The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.

(b) Sound Equipment. Sound producing equipment, including but not limited to public address systems, radios, amplifiers, musical instruments and other recording and playback devices, shall not be operated on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of Lake Elmo.

(c) Sanitary Facilities. In accordance with Minnesota State Board of Health regulations and standards and local specifications, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of persons expected to attend the event.

(d) Security. The permittee shall employ at his/her own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless Washington County Sheriff's Department is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.

(e) Food Service. The operator of the special event shall be responsible for securing any permits, if necessary, from the Washington County Health Department for any food services that are made available on the premises.

(f) Fire Protection. The permittee shall, at his/her own expense, take adequate steps to insure fire protection as determined by the City of Lake Elmo Fire Chief.

(g) Duration of Special Event. The permittee shall operate the special event only on those days and during the hours specified on the permit.

(h) Cleanup Plan. The special event applicant is responsible for clean up of the site upon completion of the special event, and shall specify the amount of time anticipated to restore the site to its pre-event condition as part of an application. Any clean up or restoration work required by the City may be charged to the applicant. Any City service that requires overtime will be at the expense of the applicant.

(i) Waiver. The City Council, or City Administrator for those permits that are subject to an administrative review and approval process, may grant a waiver from the requirements of this Chapter in any particular case where the applicant can show that strict compliance with this Chapter would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this Chapter unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.

(j) Insurance. Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the City Administrator if reasonably determined necessary. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the City Clerk in writing at least ten (10) days before the expiration or cancellation of said insurance.

(k) Miscellaneous. Prior to the issuance of a permit, the City Council, or City Administrator for those permits that are subject to an administrative review and approval process, may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons, attendant or of the citizens of the City of Lake Elmo including, but not limited to, restrictions on parking and vehicle access, lighting, litter and noise.

(2) In addition to the requirements listed above, the following shall also apply to a Special Event Permit for an Agricultural Sales Business:

(a) All performance standards as specified in Section 154.110 for Agricultural Sales Businesses. The City Council, or City Administrator for those permits that are subject to an administrative review and approval process, may exempt the applicant from any of these standards that are deemed unnecessary given the nature or duration of the event.

(F) Application Procedures.

(1) A written application for a Special Event Permit shall be filed on forms provided by the City with the City Administrator not less than thirty (30) days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or

parties conducting the event and the property owner, if different, and shall be accompanied by the fee payable hereunder. Upon submission of an application for a Special Event Permit, City staff will review the request and advise the applicant of the need for additional information, if any.

(G) Fees

- (1) The fee for a Special Event Permit shall be as established by the City Council.

(H) Granting a Permit

(1) Administrative Review and Approval. The City Administrator, or his/her designee, shall review and determine whether or not a request for a special event and/or street closing is acceptable. The City Administrator shall have the authority to issue Special Event Permits for those events that meet the criteria of this Ordinance. In the event the City Administrator determines the activity does not meet these criteria, such applications shall be referred to the City Council for consideration.

(2) City Council Review and Approval. The City Administrator shall refer any application for a Special Event Permit that may adversely affect the safety, health and welfare of the citizens of Lake Elmo due to the size, location, or potential impacts of the event to the City Council for final action.

(J) Denial of Permit

(1) The City Council shall have the right to deny the permit if, in the judgment of the City Council, the granting of a permit would adversely affect the safety, health and welfare of the citizens of Lake Elmo or if other criteria herein are not met. The applicant shall be notified of such denial and may appear before the City Council to appeal such denial.

(K) Transferability

(1) No permit granted under this Chapter shall be transferred to any other person or place without consent of the City Council, upon written application made therefore.

(L) Enforcement and Penalties

(1) The City Administrator and other such officers, employees, or agents as the City Council or City Administrator may designate, shall enforce the provisions of this Chapter in accordance with Section 10.99 of the City Code.

(2) The holding of a special event in violation of any provision of this Chapter shall be deemed a public nuisance and may be abated as such.

(3) Any person violating any provision of this Chapter is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(M) Revocation of Permit

(1) The permit for a special event may be revoked by the City Council at any time if any of the conditions necessary for the issuing of or contained in the permit are not complied with or if any of the provisions of this Chapter are violated.

SECTION 2. Effective Date

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

SECTION 3. Adoption Date

This Ordinance No. 08-053 was adopted on this 6th day of September, 2011, by a vote of ____ Ayes and ____ Nays.

Mayor Dean A. Johnston

ATTEST:

Bruce Messelt
City Administrator

This Ordinance No 08-034 was published on the ____ day of _____, 2010.

CITY OF LAKE ELMO

RESOLUTION NO. 2010-036

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 08-053 BY TITLE AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-053, an ordinance to regulate Special Events within the City of Lake Elmo to promote the orderly, compatible, and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, public safety services, and peace and tranquility of residential neighborhoods; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Administrator shall cause the following summary of Ordinance No. 08-053 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-053. The ordinance amends Title XI of the City Code, Business Regulations, and adds a new section concerning Special Events to Chapter 110 – General Licensing Provisions. Any activity defined as a Special Event will need to secure a Special Event Permit from the City in accordance with the ordinance. The Ordinance defines a Special Event as either: 1) any temporary, privately-sponsored event, typically conducted outdoors, open to the general public and held on public or privately owned property, where such event would not otherwise be permitted under the City's zoning regulations, or 2) an Agricultural Sales Business as defined in Section 11.01 that is conducted for less than three months in any calendar year.

Other provisions in the Ordinance include a list of exceptions, permit requirements, application procedures, process for granting a permit, and enforcement and penalties.

The full text of Ordinance No.08-053 is available for inspection at Lake Elmo city hall during regular business hours.

Mayor Dean A. Johnston

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance in his office at city hall for public inspection and that he post a full copy of the ordinance in a public place within the city.

Dated: _____, 2011.

Mayor Dean Johnston

ATTEST:

Bruce Messelt
City Administrator

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member _____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.



MAYOR & COUNCIL COMMUNICATION

DATE: 12/07/2010
REGULAR
ITEM #: 14
MOTION *Resolution No. 2010-073*
Ordinance No. 08-034

AGENDA ITEM: Consider Adoption of Special Event Permit Ordinance

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: David Synder, City Attorney
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to review and, if appropriate, affirmatively consider a new ordinance to regulate special events within the City of Lake Elmo. A Special Event Permit is intended to provide some regulation of temporary events on a case-by-case basis, is intended to promote the orderly, compatible, and safe use of property for temporary special events, and is designed to assure adequate provision of parking, traffic, sanitary facilities, utilities, public safety services, and peace and tranquility of residential neighborhoods.

Should the City Council wish to go further than a review at tonight's meeting, the recommended motions to act approve the proposed Ordinance are as follows:

SUGGESTED *"Move to adopt Ordinance No. 08-034 adding provisions to the Lake*
MOTIONS: *Elmo City Code to regulate special events within the City of Lake Elmo"*

*"Move to adopt Resolution No. 2010-073 authorizing summary
publication of Ordinance 08-034"*

BACKGROUND INFORMATION: This ordinance was first brought forward as a follow-up to several requests for events within the City of Lake Elmo that would normally not be allowed under the City's zoning regulations. The most significant of these events was a Rowing Regatta on Lake Elmo that was ultimately permitted in the absence of any formal regulations concerning such events (and also due to the fact that the event took place on a public water body and within the regional park preserve).

Staff has over the past several years also received requests for a "pet carnival" and other such events, as well as promotions by local businesses. This ordinance is very similar to a document that was reviewed by the Planning Commission more than a year ago, but never further refined or adopted by the City.

One of the more significant changes to the proposed ordinance since the version previously reviewed by Planning Commission has been the addition of a new category of special events for Agricultural Sales Businesses. Specifically, the Ordinance now includes a provision that would allow an Agricultural Sales Business that is conducted for a period of three months or less to be permitted by a Special Event Permit. The ordinance would allow such a permit to be issued for two consecutive years; otherwise, any agricultural sales businesses operating for a longer term would need to obtain an Interim Use Permit in accordance with recent amendments to the City Code.

The Agricultural Sales provision is a direct result of recent discussions and action by the Planning Commission and City Council regarding agricultural businesses. The proposed ordinance would provide an alternate to a full interim use permit in cases where a grower or importer would like to sell agricultural products for a limited time. As an example of how this permit would be applied is a situation in which a grower needs to supplement the sales of their produce grown on-site, due to the loss of a crop due to bad weather or other unforeseen circumstances.

The proposed ordinance does include several exemptions for events sponsored by a public entity, events that take place in an athletic field, family gatherings, and other such activities.

ADDITIONAL INFORMATION: The model used for the draft ordinance was taken from the City of North St. Paul. This ordinance was chosen as it was fairly broad in terms of its coverage, while some other examples staff researched were very specific to certain types of events. This broad and simple ordinance will be easier to administer, as Lake Elmo currently has just a few events to which the permit may pertain.

City History - In 2006 the Council approved an ordinance allowing Commercial Social Outdoor Events as a conditional use in the agricultural zoning district, which it then repealed in April of 2007. A Special Event Permit is different than the Commercial Social Outdoor Events in the following ways:

- 1) A Special Event Permit would be required and reviewed for each event and would not guarantee a future permit would be received by the applicant or property owner. A Commercial Social Outdoor event was established as a Conditional Use Permit (CUP) and would have run with the property in perpetuity.
- 2) The City Council would have the discretion to deny a Special Event Permit. If a CUP was received and the conditions of a Commercial Social Outdoor Event were being met, the City would have a difficult time revoking the permit.

- 3) A Special Event Permit would not necessarily be based on a zoning district. A CUP for a Commercial Social Outdoor Event was allowed only in the Agricultural zoning district.
- 4) Special Event Permit could be intended to regulate temporary, outdoor privately-sponsored events open to the general public, held on public or privately-owned property, and impacting city facilities or services. The draft ordinance provided identifies specific gathering types that would not require a permit, such as a wedding. The only application received by the City to implement the Commercial Social Outdoor Event ordinance was to hold weddings on a property in the city.

Should the City Council adopt the propose ordinance as prepared by the Planning Commission, the Council will need to determine the fees for this type of permit. Because the 2011 Fee Schedule will be considered by the Council at its next meeting, Staff is recommending that the fees for Special Events be addressed with other fees at the Council's subsequent meeting.

Part of the justification for requiring a Special Event Permit for certain events is to help ensure that any potential public costs associated with the event are properly addressed. As noted in the attached ordinance, the City may charge for any required clean-up from the event, and provisions are included that require the applicant to provide adequate police, fire, and sanitary services during the duration of the event.

PLANNING COMMISSION REPORT: The Planning Commission conducted a public hearing regarding the proposed Special Event Permit Ordinance at its November 8, 2010 meeting. No public comments were received at the meeting; however, the Commission tabled taking action on the Ordinance and requested that Staff review the Ordinance with the City Attorney before making its recommendation to the City Council. Staff reviewed the proposed ordinance with the City Attorney and City Administrator in order to provide some clarity concerning the intent of the ordinance, and based on these discussions, suggested that the following modifications be made to the ordinance:

- That special events that last less than three consecutive days be permitted through an administrative review process rather than requiring action by the City Council.
- That a special event permit be required for non-profit organizations in addition to other property owners. The intent of the proposed ordinance is to ensure that larger events do not create any problems that may negatively impact the public or result in costs that must be born by the City. Whether an event is sponsored by a private business or non-profit entity, requiring a special event permit can help the City reduce the potential for any unforeseen costs or impacts. The Attorney has offered an opinion that private clubs should not be regulated differently than a for-profit business.

- That the provisions related to exceptions specifically state that only activities that have been previously authorized by the City are exempt from the ordinance, and that if expanded or enlarged, these events would need to secure a permit.

The Commission considered these changes, and ultimately recommended further modifications to allow the City Administrator to approve all Special Event Permits, with a provision that allows the Administrator to refer permits to the Council as necessary. Staff has further clarified the review requirements in the draft ordinance so that all denials must be made by the City Council.

The City Attorney has noted that the City could try to define a threshold for small events based on experience, such as by reference to an event that is known to bring in less than 30 people but does not implicate public infrastructure, traffic, etc. In looking back at previous events that were conducted in the City that would be considered a special event under the proposed ordinance, Staff has been unable to identify any specific type of activity that would seem to have met this threshold.

The Attorney has also suggested that the Planning Commission and City Council may want to consider special events that have occurred in the past to determine if they can be used as a guide concerning any problems that arose and how these issues may have been addressed. Some typical problems include traffic back-ups, informal road closures, late night noise, minor trespassing, insufficient restrooms, and other similar occurrences.

Staff has made other minor revisions to the ordinance based on comments from the Planning Commissions, and all changes and revisions recommended by the Planning Commission are included in the attached ordinance.

The Planning Commission unanimously recommended approval of the Special Event Ordinance at its November 22, 2010 meeting.

RECOMMENDATION: Based upon the above background information and Staff report, the Planning Commission and Staff recommend that the City Council review the proposed Ordinance at tonight's meeting. If appropriate, the Council may also consider adoption of the proposed Special Event Permit Ordinance, which has been drafted to promote the orderly, compatible, and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, public safety services, and peace and tranquility of residential neighborhoods.

Should the City Council wish to go further than a review at tonight's meeting, the recommended motions to act approve the proposed Ordinance are as follows:

***SUGGESTED
MOTIONS:***

"Move to adopt Ordinance No. 08-034 adding provisions to the Lake Elmo City Code to regulate special events within the City of Lake Elmo"

***“Move to adopt Resolution No. 2010-073 authorizing summary
publication of Ordinance 08-034”***

Alternatively, as this is a City-initiated action, the City Council may make changes to the document as drafted by the Planning Commission or may table taking action of the request to solicit additional feedback from the community and staff. The Council may also choose to not adopt the proposed ordinance, if it finds that Special Events should not be regulated within the City of Lake Elmo. Should any changes be made during tonight's review, the recommended revised motions for consideration would be:

“Move to adopt Ordinance No. 08-034 adding provisions to the Lake Elmo City Code to regulate special events within the City of Lake Elmo [as amended at tonight's meeting].”

“Move to adopt Resolution No. 2010-073 authorizing summary publication of Ordinance 08-034 [as amended at tonight's meeting].”

ATTACHMENTS

1. Ordinance 2008-034 – Special Event Permits
2. Resolution 2010-073 (Authorizing summary publication)

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor Facilitates
- Action on Motion..... Mayor & City Council

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

ORDINANCE NO. 08-034

**AN ORDINANCE ADDING TO THE LAKE ELMO CITY CODE OF ORDINANCES BY
ADDING TO CHAPTER 110 OF THE BUSINESS REGULATIONS: BUSINESS
REGULATIONS TO PROMOTE THE ORDERLY, COMPATIBLE AND SAFE USE OF
PROPERTY FOR TEMPORARY SPECIAL EVENTS AND TO ASSURE ADEQUATE
PROVISION OF PARKING, TRAFFIC, SANITARY FACILITIES, UTILITIES, PEACE
AND TRANQUILITY OF RESIDENTIAL NEIGHBORHOODS AND SAFETY
SERVICES**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XI: Business Regulations; Chapter 110 – General Licensing Provisions, by adding the following language:

§ 110.070 SPECIAL EVENT PERMITS.

(A) *Purpose and intent.* The purpose of this Chapter is to promote the orderly, compatible and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.

(B) A Special Event shall include the following:

(1) Any temporary, privately-sponsored event, typically conducted outdoors, open to the general public, held on public or privately owned property ~~that will be attended by over 100 people within a 24-hour period~~ where such event would not otherwise be permitted under the City's zoning regulations.

(2) An Agricultural Sales Business as defined in Section 11.01 that is conducted for less than three (3) months in any calendar year. A Special Event Permit for an Agricultural Sales Business may be issued once per year and for no more than two consecutive years.

(C) Exceptions: "Special Event" shall not apply to the following:

(1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium, or fairs conducted pursuant to Minn. Stats. Chapter 38.

(2) Special events or activities permitted or permitted by other State laws or regulations of the City of Lake Elmo, including publicly-sponsored activities in the local park system and any other lawfully established event for which the City Council has expressly

granted approval prior to adoption of this ordinance, unless said event is expanded or enlarged, in which case a Special Event Permit will be required.

(3) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, etc.

(4) Garage sales

(5) National Night-Out or Night-to-Unite established through the City of Lake Elmo.

(D) Permit Required

(1) No person on or after the effective date of this Chapter shall conduct or allow to be conducted any special event as defined in this ordinance without first obtaining a Special Event Permit.

(E) Requirements for Issuance of a Permit

(1) The following standards shall apply to all special events:

(a) Maximum Number of People. The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.

(b) Sound Equipment. Sound producing equipment, including but not limited to public address systems, radios, amplifiers, musical instruments and other recording and playback devices, shall not be operated on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of Lake Elmo.

(c) Sanitary Facilities. In accordance with Minnesota State Board of Health regulations and standards and local specifications, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of persons expected to attend the event.

(d) Security. The permittee shall employ at his/her own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless Washington County Sheriff's Department is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.

(e) Food Service. The operator of the special event shall be responsible for securing any permits, if necessary, from the Washington County Health Department for any food services that are made available on the premises.

(f) Fire Protection. The permittee shall, at his/her own expense, take adequate steps to insure fire protection as determined by the City of Lake Elmo Fire Chief.

(g) Duration of Special Event. The permittee shall operate the special event only on those days and during the hours specified on the permit.

(h) Cleanup Plan. The special event applicant is responsible for clean up of the site upon completion of the special event, and shall specify the amount of time anticipated to restore the site to its pre-event condition as part of an application. Any clean up or restoration work required by the City may be charged to the applicant. Any City service that requires overtime will be at the expense of the applicant.

(i) Waiver. The City Council, or City Administrator for those permits that are subject to an administrative review and approval process, may grant a waiver from the requirements of this Chapter in any particular case where the applicant can show that strict compliance with this Chapter would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this Chapter unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.

(j) Insurance. Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the City Administrator if reasonably determined necessary. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the City Clerk in writing at least ten (10) days before the expiration or cancellation of said insurance.

(k) Miscellaneous. Prior to the issuance of a permit, the City Council, or City Administrator for those permits that are subject to an administrative review and approval process, may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons, attendant or of the citizens of the City of Lake Elmo including, but not limited to, restrictions on parking and vehicle access, lighting, litter and noise.

(2) In addition to the requirements listed above, the following shall also apply to a Special Event Permit for an Agricultural Sales Business:

(a) All performance standards as specified in Section 154.110 for Agricultural Sales Businesses. The City Council, or City Administrator for those permits that are subject to an administrative review and approval process, may exempt the applicant from any of these standards that are deemed unnecessary given the nature or duration of the event.

(F) Application Procedures.

(1) A written application for a Special Event Permit shall be filed on forms provided by the City with the City Administrator not less than thirty (30) days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or

parties conducting the event and the property owner, if different, and shall be accompanied by the fee payable hereunder. Upon submission of an application for a Special Event Permit, City staff will review the request and advise the applicant of the need for additional information, if any.

(G) Fees

- (1) The fee for a Special Event Permit shall be as established by the City Council.

(H) Granting a Permit

(1) Administrative Review and Approval. The City Administrator, or his/her designee, shall review and determine whether or not a request for a special event and/or street closing is acceptable. The City Administrator shall have the authority to issue Special Event Permits for those events that meet the criteria of this Ordinance. In the event the City Administrator determines the activity does not meet these criteria, such applications shall be referred to the City Council for consideration.

(2) City Council Review and Approval. The City Administrator shall refer any application for a Special Event Permit that may adversely affect the safety, health and welfare of the citizens of Lake Elmo due to the size, location, or potential impacts of the event to the City Council for final action.

(J) Denial of Permit

(1) The City Council shall have the right to deny the permit if, in the judgment of the City Council, the granting of a permit would adversely affect the safety, health and welfare of the citizens of Lake Elmo or if other criteria herein are not met. The applicant shall be notified of such denial and may appear before the City Council to appeal such denial.

(K) Transferability

(1) No permit granted under this Chapter shall be transferred to any other person or place without consent of the City Council, upon written application made therefore.

(L) Enforcement and Penalties

(1) The City Administrator and other such officers, employees, or agents as the City Council or City Administrator may designate, shall enforce the provisions of this Chapter in accordance with Section 10.99 of the City Code.

(2) The holding of a special event in violation of any provision of this Chapter shall be deemed a public nuisance and may be abated as such.

(3) Any person violating any provision of this Chapter is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(M) Revocation of Permit

(1) The permit for a special event may be revoked by the City Council at any time if any of the conditions necessary for the issuing of or contained in the permit are not complied with or if any of the provisions of this Chapter are violated.

SECTION 2. Effective Date

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

SECTION 3. Adoption Date

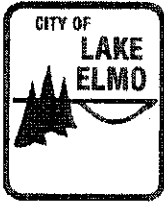
This Ordinance No. 08-034 was adopted on this 7th day of December 2010, by a vote of ____ Ayes and ____ Nays.

Mayor Dean A. Johnston

ATTEST:

Bruce Messelt
City Administrator

This Ordinance No 08-034 was published on the ____ day of _____, 2010.



MAYOR & COUNCIL COMMUNICATION

DATE: 9/6/2011

REGULAR

ITEM #: 13

MOTION

AGENDA ITEM: Well & Pumphouse No. 4 -- Approve Option Agreement for 1 Acre Parcel at 11240 50th Street North for future Well Site and Authorize Test Well Construction

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Bruce A Messelt, City Administrator

REVIEWED BY: Ryan Stempiski, Assistant City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider approval of the proposed Option Agreement for a 1 Acre Parcel at 11240 50th Street North for a future Municipal Well Site; and to Authorize the design, construction and testing of a Test Well on the site. The purchase Option Agreement provides the City the right to secure the property for \$14,018 at any time over the next 180 days. The Option Agreement also includes a Right of Entry provision to allow the City access for survey and site investigation work needed to verify the site's adequacy for the purpose of a Municipal Water Supply Well.

BACKGROUND INFORMATION AND STAFF REPORT:

SITE ACQUISITION FOR WELL AND PUMPHOUSE NO. 4

Acquiring the site for future Well No. 4 is important to the City for two primary reasons.

- 1) *It positions the City to be responsive to potential water system customer opportunities.* Having the property in hand will allow the City to order the design and construction of Well No. 4 and have it operational and able to deliver water to the system within a 9-12 month time frame from that decision. Without the property acquired in advance, an additional 1-2 years could be added to this implementation schedule.
- 2) *It allows the City to potentially include Well No. 4 as a project to be designed and constructed using the \$1.0 Million Water System DEED Grant.* To be included in the application, the City must demonstrate ownership of the property for the facilities to be constructed.

The need for Well No. 4 is well documented in the City's Capital Improvement Program and its construction will be required before any additional subdivisions or major water users are added to the system. The purchase of the property is a major step to position the City to be responsive with Municipal Water Service to new users within a 9-12 month period.

Over the past two years, staff has been working to identify and scope potential properties for acquisition to locate the next Municipal Water Supply Well for the City (Well No. 4). A one (1) acre parcel is needed for the Well site. In addition, the following criteria were used in assessing available properties:

- 1) Located near existing trunk watermain infrastructure to minimize connecting costs,
- 2) Within the Intermediate Water System Pressure Zone, but near the Lower Water System Pressure Zone,
- 3) Away from other Municipal Wells to avoid drawdown interference,
- 4) Outside of identified Drinking Water Supply Management Areas (DWSMA) from other Wells,
- 5) Outside of and away from the pathway of known PFC contaminant plumes,
- 6) Outside of the Special Well Construction Area,
- 7) Adjacent to existing streets for Public Works maintenance access.

Investigation efforts lead staff to conduct preliminary acquisition discussions with Jean Madrinich at 11240 50th Street North. Through the Lake Elmo Property Acquisition Team, a preliminary offer has been negotiated and accepted by the property owner. The tentative terms of the deal are as follows:

- 1) City pays \$500 for Option Agreement. City then has 180 days to close the deal solely at their discretion (the \$500 is applied toward the purchase) or terminate the deal and the \$500 remains with the property owner.
- 2) The Agreement includes Right-of-Entry to conduct surveys and construct a Test Well.
- 3) Should the City purchase the property the purchase price will be \$14,018 for 1 Acre.
- 4) The City has also agreed to prepare the legal surveys and will facilitate the Minor Subdivision process for both the 1 Acre Well site and an additional lot split on behalf of the property owner (subdividing the 20 acre parcel into 3 lots, one being for the City).

DESIGN AND CONSTRUCTION OF TEST WELL

In order to confirm that the property is adequate for a Municipal Water Supply Well, the City must design and construct a test well that allows the City to obtain both aquifer capacity tests and water quality tests. It is anticipated that an 8-inch test well will be needed at a depth in excess of 180 feet into the Jordan Aquifer. The test well is estimated to cost between \$35,000 and \$50,000 including engineering, construction, sampling, testing and abandonment. Quotes for a Test Well will be solicited from at least three Well Drilling Contractors.

RECOMMENDATION: Based upon the above staff report, the City Council is respectfully requested to consider approving the proposed Option Agreement for a 1 Acre Parcel at 11240 50th Street North for a future Municipal Well Site; and to Authorize the design, construction and testing of a Test Well on the site. The proposed motion to approve this action is as follows:

“Move to approve the Option Agreement with Jean Madrinich to secure the right to purchase property for a future municipal well site and to obtain a right of entry to complete survey work and Test Well construction; and authorize the design, construction and testing of a Test Well on this parcel.”

Alternatively, the City Council does have the authority to further discuss, deliberate and/or, if appropriate, amend the recommended motion prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

“Move to approve the Option Agreement with Jean Madrinich to secure the right to purchase property for a future municipal well site and to obtain a right of entry to complete survey work and Test Well construction; and authorize the design, construction and testing of a Test Well on this parcel.”
[as amended and/or modified at tonight’s meeting].”

ATTACHMENTS:

1. Option Agreement

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report..... City Engineer
- Questions from Council to staff..... Mayor Facilitates
- Public Input (if appropriate)..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor Facilitates
- Action on Motion..... Mayor & City Council

OPTION AGREEMENT

THIS OPTION AGREEMENT ("Agreement"), made this _____ day of _____, 2011, between Jean Madrinich, an individual, as Optionor (hereinafter referred to for convenience as "Seller"), whose address is 11240 50th Street North, Lake Elmo, Minnesota, and the City of Lake Elmo, a Minnesota municipal corporation, as Optionee (hereinafter referred to for convenience as "Buyer"), whose address is 3800 Laverne Avenue North, Lake Elmo, Minnesota;

WITNESSETH:

1. Option: In consideration of Five Hundred Dollars (\$500.00) delivered to Seller concurrently herewith (the "Option consideration"), the receipt and sufficiency of which Seller hereby acknowledges, Seller hereby gives and grants unto Buyer the exclusive right and option to purchase, for the purchase price and upon the terms and conditions hereinafter set forth, certain real property consisting of approximately one (1) acre located in the State of Minnesota and County of Washington, said real property being more particularly described on Exhibit A attached hereto and made a part hereof, together with all buildings, structures, improvements and fixtures of every kind and nature whatsoever located thereon as of the date hereof, and all rights of Seller in and to any appurtenances, easements, rights of way, and all other rights benefiting the real property (all of the foregoing being collectively referred to herein as the "Premises").

2. Exercise of Option: Buyer may exercise the option granted herein at any time during the period that commences with the date of last execution of this Agreement and the date which terminates at midnight on the One Hundred Eightieth (180th) day following said date of last execution (the "Option Period") by notifying Seller, in writing, of its election to purchase the

Premises. If Buyer exercises the option granted herein and thereafter purchases the Premises pursuant to the terms and conditions hereof, the Option Consideration shall be credited against the purchase price stated in Section 3(b) hereof. In the event Buyer does not exercise the option granted herein, this Agreement shall become null and void, and both parties shall be relieved of any liability hereunder.

3. Conditions of Purchase and Sale: If Buyer exercises the option granted herein:

(a) This Agreement shall become the contract of purchase and sale between Seller and Buyer with respect to the Premises.

(b) The total purchase price for the Premises shall be \$14,018.

(c) Closing Date: Subject to the satisfaction of all contingencies set forth in this Agreement and Buyer's election, in its sole discretion, to exercise this option, the transaction shall be closed and settled within thirty (30) days following the occurrence of both (i) Buyer's exercise of the option, and (ii) Buyer's satisfaction or waiver in writing of the contingencies set forth in Section 4 below; provided, however, that such date may be changed to a later date which is mutually agreeable to Buyer and Seller (such date, as the same may be so changed, being referred to herein as the "Closing Date"). The closing shall be held at the office of the Title Company [as defined in Section 3(e) hereof], or at such other location as may be mutually agreeable to Buyer and Seller.

(d) Closing and Possession: On the Closing Date, the transaction for the purchase and sale of the Premises shall be closed by (i) Buyer paying to Seller, by cash, cashier's check, certified check or wire transfer of funds, the total purchase price for the Premises (less any credits provided for herein) and (ii) Seller delivering to Buyer, or its designee, a duly executed transferable and recordable general warranty deed or deeds for

the Premises in conformity with the provisions of Section 3(f) hereof. Possession of the Premises shall be given to Buyer on the Closing Date, at which time the Premises shall be unoccupied and free of any leases to, or rights of possession or claims of rights of possession by, any party other than Buyer.

(e) Evidence of Title: Following Seller's execution of this option herein, Buyer shall obtain a title insurance commitment issued by FSA Title Services, LLC, 5645 Memorial Avenue North, Stillwater, MN 55082 (the "Title Company") in which the Title Company commits that upon delivery and recordation of the Deed [as defined in Section 3(f) hereof], it will issue, at its usual rates, its Extended Policy of Owner's Title Insurance on ALTA 1970 Owner's Form B, or on such other Owner's Form as may be acceptable to Buyer, insuring in Buyer, for the total amount of the purchase price, fee simple title to the Premises, free and clear of any and all encumbrances except for those expressly permitted in Section 3(f) hereof. The title commitment shall include a copy of all applicable plats or surveys, together with copies of all instruments referred to in the title commitment. In the event that buyer shall exercise the option granted herein, Buyer shall pay all of the costs of the title commitment and of the owner's policy of title insurance. Seller shall, within seven (7) days after the date of last execution of this Agreement, deliver to the Title Company all title information available to Seller relating to the Premises. If the title commitment or any endorsement or any other title evidence obtained by Buyer shows any exceptions to title other than those permitted in Section 3(f) hereof, Seller shall, prior to the Closing, secure the removal of such exceptions to title to the Premises. If Seller has not corrected or removed such exceptions within such period, Buyer may take any one or more of the following actions, and the Closing Date shall be

extended for a sufficient period of time to allow for the completion of any such actions(s): (a) by written notice to Seller, give Seller additional time to remove such exceptions to title; (b) at Buyer's expense, take such steps as Buyer shall deem proper to remove such exceptions, deducting from the purchase price those liens of a definite or ascertainable amount; (c) waive such exceptions and proceed with the transaction in accordance with the provisions hereof; or (d) terminate this Agreement by giving written notice to Seller, in which case Buyer shall be relieved from all obligations and liabilities hereunder. Escrow Agent shall return to Buyer the Deposit and all interest earned thereon, and Seller shall return to Buyer the Option consideration and the Extension Consideration (if applicable). Without limiting the foregoing or being limited thereby, all of the so-called "standard exceptions", including those for parties in possession, mechanic's liens and matters which would be disclosed by a survey, shall be eliminated from the title insurance policy, and at closing Seller shall provide to the Title Company a standard ALTA Owner's Lien Affidavit stating that the Premises are free of any mechanics' and materialmen's liens or claims for liens on the Premises and free of any parties in possession other than Buyer. Seller covenants and agrees not to offer the Premises for sale to any other parties, nor transfer or pledge or hypothecate in any manner its interest in the Premises, during the period commencing on the date of full execution of this Agreement and terminating on the date of Closing, the expiration of the Option Period or the date of any permitted termination of this Agreement.

(f) Warranty Deed: On the Closing Date, the Seller shall convey the Premises to Buyer, or its nominee, by a duly executed transferable and recordable General Warranty Deed (the "Deed"), conveying good and marketable title in fee simple,

free and clear of all liens, encumbrances, easements, tenancies or claims of rights to tenancies, memorials, rights, covenants, restrictions, reservations, conditions, charges, agreements, encroachments or other exceptions to title, except the lien of real property taxes which are a lien but are not due and payable until after the Closing Date and such other exceptions to title as buyer may in its discretion expressly approve in writing. At closing Seller shall provide a certificate, in a form acceptable to Buyer and the Title Company, that Seller is not a "foreign person" within the meaning of the foreign Investment in Real Property Tax Act. Seller shall pay for all documentary stamps required on the Deed, and shall pay all transfer and conveyance taxes and fees. Seller shall submit the proposed form of Deed to Buyer for approval at least five (5) days prior to the Closing Date. Any and all easements and other rights benefiting the Premises shall be assigned to Buyer by transferable and recordable instruments in form and substance satisfactory to Buyer, and Seller shall execute and deliver with the Deed such other instruments as may be required by the title insurance company to issue the required policy of title insurance.

(g) Taxes and Assessments: On or before the Closing Date, Seller will pay to the applicable governmental authority or credit in full against the purchase price: all delinquent real property taxes, including penalties and interest, which are a lien against the Premises; all special assessments which are a lien against the Premises on the Closing Date, whether or not such assessments are past due, then due or are thereafter to become due; and all assessments which are then pending, but which will be payable in whole or in part after the Closing Date. On the Closing Date, Seller shall pay to the applicable governmental authority, or credit in full against the purchase price, all real estate taxes for

the year of closing, prorated through the Closing Date. If the final taxes and assessments assessed with respect to the Premises should differ from the amounts upon which the foregoing payments and prorations were based, Buyer and Seller shall make such adjustments as may be required on the basis of such final figures. Seller, at Seller's cost, shall furnish certificates from each governmental subdivision which has authority to levy ad valorem taxes against the Premises evidencing payment of all such taxes for all years prior to the year in which the Closing Date occurs.

(h) Utility Charges: All utility charges and all charges for service of any type furnished to the Premises by governmental agencies and public or private utilities shall be paid by Seller to the date upon which possession of the Premises is given to Buyer or until the Closing Date, whichever is later.

(i) Subdivision: Buyer shall, with Seller's cooperation, take all reasonable steps necessary to accomplish any needed subdivision of the property necessary to convey it to Buyer and pay all fees associated therewith.

(j) Damage: If the Premises or any part thereof shall be damaged by environmental contamination or any other cause, Seller shall immediately give notice thereof to Buyer. Upon the occurrence of any such damage, Buyer shall have the right to terminate this Agreement by giving written notice thereof to Seller on or before the Closing Date, in which event Buyer shall be released of all further obligations hereunder and the Deposit shall be returned to Buyer. If Buyer does not so terminate this Agreement, the purchase price shall be reduced by the total amount of any insurance proceeds or other proceeds received by Seller on or prior to the Closing Date with respect to any such damage. The risk of loss, damage or destruction of the Premises and any

improvements thereon shall be borne by Seller until the Closing Date. Seller agrees to maintain, until the Closing Date, such insurance as is now in force and, in the event of any loss which might be covered by any such insurance policy, to advise Buyer of the terms thereof. In the event of any negotiations for the settlement of any claims under any insurance policy, Seller will inform Buyer of all such negotiations of which Seller has knowledge and will permit Buyer to take part therein.

4. Contingencies: Seller acknowledges that Buyer intends to attempt to satisfy the following contingencies within the Option Period:

(a) To ensure to the sole satisfaction of the Buyer that the acreage meets the City's needs for installation of a municipal well and related improvements.

(b) Governmental Permits and Approvals: To secure from jurisdictionally appropriate governmental entities, or duly constituted agencies thereof, in form and substance satisfactory to Buyer, in its sole discretion, (i), all such permits, approvals and written verifications, to permit the subdivision of the Premises.

(c) Survey and Title Work: To receive and approve, in Buyer's sole discretion, the title commitment described in Section 3(e) above and survey work. The legal description of the Premises prepared by the surveyor shall, at the request of Buyer, be utilized in the Deed.

(d) Tests: To receive and approve, in Buyer's sole discretion, the results of soil tests (including soil borings), environmental tests (including soil borings), wetlands delineations and such other tests or studies as Buyer may deem necessary or desirable, and to construct a Test Well and receive and approve the results of a well capacity test and water quality test of the underlying aquifer. In connection therewith, Seller

)

promptly shall furnish to Buyer true and complete copies of any such tests in Seller's possession.

In the event that any of the foregoing contingencies shall not be fully satisfied in Buyer's sole discretion within the Option Period and Buyer shall not waive such contingency, then Buyer may terminate this Agreement by written notice delivered to Seller at any time thereafter, and upon the giving of such notice both parties shall be released and forever discharged from any and all obligations imposed by this Agreement.

5. Right of Entry for Survey and Tests: Seller hereby grants to Buyer, and any person designated by Buyer, the right and license to enter upon the Premises at any and all times following the date of this Agreement to inspect, appraise and survey the Premises and to conduct such tests as are necessary to determine the suitability of the Premises for any use which Buyer may wish to make of the Premises, including the construction of a Test Well; provided, however, that said tests shall be conducted so as not to damage the Premises.

6. Representations and Warranties: As positive representations which shall survive the delivery of the Deed provided for herein, Seller hereby represents and warrants that Seller has good and marketable fee simple title to the Premises, free and clear of all liens, encumbrances and other exceptions to title as stated above; that all taxes, charges or assessments against the Premises for benefits or betterments arising from sidewalks, curbing, street paving, water, gas, electric, sewer, drainage facilities or other improvements which are presently installed on or serve the Premises shall be paid, discharged or satisfied by Seller or the amount thereof credited to Buyer at the time of delivery of the Deed; and that Seller has no knowledge of any actual or threatened service or use restriction, or other action, that would adversely affect

Seller's ability to fulfill its obligations under this Agreement or Buyer's development and operation of a trust terminal and freight distribution facility on the Premises.

Seller further represents and warrants to Buyer as follows:

(a) Each of Seller and the Premises is currently in compliance with all applicable Environmental Laws (as defined below), and Seller has obtained all permits, licenses, registrations and other authorizations and approvals needed to operate, maintain and occupy the Premises, and has not, and to the best of Seller's knowledge none of its predecessors have, violated any applicable Environmental Law.

(b) Seller has not, and to the best of Seller's knowledge none of its predecessors have, disposed of or released any hazardous waste, hazardous substance, pollutants and contaminants or regulated substances on, in or under the Premises, and to the best of Seller's knowledge there are no hazardous wastes, solid wastes, hazardous substances, pollutants, contaminants or regulated substances on, in or under the Premises.

(c) As used in this Section 6, (i) the term "Environmental Laws" shall mean and include but not be limited to, any federal, state or local law, statute, chapter or ordinance, including without limitation applicable safety/environmental laws such as the Resource Conservation and Recovery Act of 1976, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Federal Emergency Planning and Community Right-to-Know Law, and the OSHA Hazardous Communication Standard, as any of same have been amended, and any rule, regulation, binding interpretation, binding policy, permit, order, court order or consent decree issued pursuant to any of the foregoing, which pertains to, governs or otherwise regulates environmental matters, including without limitation: (a) the emission, discharge, release or spilling of any

substance in the air, surface water, groundwater, soil or substrata; or (b) the manufacturing, processing, sale, generation, treatment, storage, disposal, transportation, labeling or other management of any waste, hazardous substance, hazardous waste, pollutant, contaminant or regulated substance; (ii) the terms "solid waste", "hazardous substance", "hazardous waste" and "pollutant or contaminant" shall mean and include any substance now or hereafter defined as such by any fraction thereof, any asbestos-containing material, any urea formaldehyde and any polychlorinated biphenyls; and (iii) the term "regulated substance" shall mean any substance the manufacturing, processing, sale, generation, treatment, transportation, storage, disposal, labeling or other management of which is regulated by any applicable Environmental Law. This Section shall survive the closing of this transaction and the delivery of the Deed.

7. Brokers: Buyer represents and warrants to Seller that Buyer has not dealt with any real estate broker with respect to this transaction.

8. Notices: Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to have been duly given on the date (i) delivered personally, (ii) deposited in the United States mail, marked certified or registered, return receipt requested, with postage prepaid, or (iii) deposited, postage prepaid, with an overnight express mail courier, proof of delivery requested, in each such instance addressed to the party to which notice is to be given at the party's address set forth above, or at such other address as the party may hereafter designate by notice given in accordance with this Section 8.

9. Disposition of Deposit/Default: The Deposit shall be forfeited to Seller as Seller's sole and exclusive remedy, legal or equitable, if after the exercise of the option granted herein Buyer shall default in any of its obligations under this Agreement. In the event Seller

shall default in any of its obligations hereunder, Buyer shall have the right to terminate this Agreement, in which event the Deposit and any interest earned thereon shall be returned to Buyer, and Buyer shall have the right to pursue without limitation any other remedies to which Buyer is entitled at law or in equity, including the right to compel the specific performance of Seller's obligations hereunder.

10. Miscellaneous:

(a) All representations, warranties, covenants, and agreements of Seller contained in this Agreement shall survive the execution and delivery of the Deed unless otherwise expressly specified herein.

(b) This Agreement shall inure to the benefit of and bind the parties hereto and their respective heirs, executors, administrators, personal and/or legal representatives, successors and assigns. The headings to the sections hereof have been inserted for convenience only and shall in no way modify or restrict any provisions hereof or be used to construe any such provisions. If two or more persons constitute the Seller, the word "Seller" shall be construed as if it reads "Sellers" throughout the Agreement. This Agreement may be executed in multiple counterparts, each of which shall be considered to be an original document, but all of which, taken together, shall be deemed to constitute a single instrument.

(c) This Agreement contains the entire undertaking of all parties hereto relative to the subject matter hereof, and no oral agreements or representations inconsistent with the terms of this Agreement shall be binding on the parties. This Agreement may not be amended except by written instrument signed by all parties hereto.

(d) This Agreement shall be governed by the laws of the State of Minnesota.

11. Acceptance: In the event this Agreement is not signed simultaneously by both parties, it shall be considered to be an offer made by the party first executing it to the other party.

SELLER:

Jean Madrinich

BUYER:

CITY OF LAKE ELMO

By _____

Its _____

By _____




Its _____

EXHIBIT A

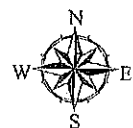


PROPOSED LOT LINE ADJUSTMENT WELL NO. 4 SITE

Legend

-  1-ACRE WELL SITE
-  PROPOSED LOT LINE ADJUSTMENT
-  PROPOSED EASEMENT

JEAN MADRINICH
11240 50TH STREET NORTH
PID 01029221330002
PARCEL AREA = 19.71 AC



1 inch equals 50 feet
Map Date: JULY 2011

Created By

TKDA
ENGINEERS • ARCHITECTS • PLANNERS



MAYOR & COUNCIL COMMUNICATION

DATE: 9/06/2011
REGULAR
ITEM #: 14 + 15 & 16
DISCUSSION/ACTION

AGENDA ITEM: Update Re: Library Service Considerations

SUBMITTED BY: City Council (Follow-up from August 9th Council Action)

THROUGH: Bruce A. Messelt, City Administrator *BAM*

REVIEWED BY: Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: This item has been scheduled for the City Council in order to update the Council and public on efforts to retain and enhance library services for the Lake Elmo community.

BACKGROUND INFORMATION & STAFF REPORT: On July 19th, 2011, the Lake Elmo City Council voted (5-0) to approve Resolution No. 2011-029, establishing a Municipal Library, and directed City staff to work with Washington County to address considerations for continued resident access to Washington County Libraries and potential contracting with Washington County for certain library services

On Thursday, July 28th, 2011, City staff met with Washington County staff to discuss the City's action (attached), review the aforementioned service considerations, and clarify issues relating to establishment of a library levy. No issues remain with respect to establishing a municipal library levy and supplanting the former County library levy; and no further City action is required.

The County Board addressed the County Library Budget on August 16th, 2011 but did not provide a formal response to its request for clarification regarding both resident access to County libraries and contracting for library services.

Prior to these actions, several formal meetings and informal discussions among City and County officials have led to an understanding that long-term provision of County library services in Lake Elmo is not viable, given both County budgetary considerations and County-wide consolidation of services to address identified efficiencies, economies of scale and customer preferences.

Other historical markers include:

- On June 29th, 2010, the City Council adopted Resolution No. 2010-031 establishing a Public Library System, authorizing a Library Levy, and establishing a Public Library Board for the City of Lake Elmo. However, this Resolution could be dissolved by action of the City Council, if sufficient progress was made in discussions directed at "maintaining and improving existing library services or transferring library services from the County to the City ..."
- On August 17th, 2010, the City Council approved Resolution 2010-041 "staying establishment of a Public Library System, authorizing a Library Levy, and Establishing a Public Library Board for the City of Lake Elmo," pending outcome of further discussions with the County.
- In May 2011, the City Council directed City staff to explore the feasibility of the City undertaking library service provision, within some form of continued affiliation or association with Washington County. Since that time, City staff has also engaged the assistance of the Friends of the Rosalie E. Wahl Library in exploration of alternative service models.
- On July 5th, 2011, the City Council directed that County Library representatives be invited to attend an upcoming Council Workshop to further discuss this item. The County respectfully declined this invitation, pending County Board discussion of future Library services at its July 12th, 2011 Meeting and a stated desire for Lake Elmo to prepare a position statement for the County to consider.
- On July 12th, the County Board received a report from Library Director Conley (attached), which outlined budget scenarios for 2012. The County Board did not take further action on this item.

RECOMMENDATION: It is recommended the City Council briefly review and discuss the actions, decisions and research undertaken, to date,. Appropriate staff direction is also recommended, should the City Council wish to proceed with a specific action. In particular, three follow-on activities are noted for Council consideration:

- The County has informed the City that the Rosalie A. Wahl Library would be closing, regardless of the City's decision to remain a part of the Washington County Library system;
- The City does have the option of rescinding its actions and remaining a part of the Washington County Library System. The only option for continuation and any library services would be to enter into a Joint Powers Agreement with Washington County for an "express library" and/or kiosk service. A couple of key points on this option:

- The City would be asked to provide facility and staffing, as well as internet services. City policies would then apply to paid staffing and volunteers, as well as programming, etc.;
 - The "express library" would not be considered a part of the Washington County Library system;
 - The County would provide some computer access, support for a limited reading collection, check-out and pick-up services, and other related support activities;
 - The only reasonable City-owned facilities for such a service would be either the Arts Center building or the old Parks building. With a smaller collection, weight restrictions would most likely not be a factor;
 - Due to the unique nature of this facility, the County could be asked to support its location and operation *to a very limited extent*, should a public purpose be defined and deemed acceptable to the County;
 - Should the Council wish to pursue this option further, an expedited timeline would be needed in order to take specific action by the City and County on September 13th (this will be previewed at tonight's meeting, if appropriate).
- An Executive Session on legal Library issues has been scheduled for tonight's Agenda to discuss some of the concerns regarding citizen access to County-owned library facilities.

ATTACHMENTS:

1. City of Lake Elmo Transmittal Letter to Washington County (including Res. 2011-029)
2. City Position Paper

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item & Brief Staff Report City Staff
- Questions from Council to Staff Mayor & City Council
- Public Input, if Appropriate Mayor Facilitates
- Discussion Mayor & City Council
- Recess to Executive Session City Attorney
- Return to Regular Meeting - Direction or Action Mayor Facilitates



City of Lake Elmo

3800 Laverne Avenue North • Lake Elmo, MN 55042 • www.lakeelmo.org
Phone: (651) 777-5510 • Fax: (651) 777-9615

July 21st, 2011

Honorable Gary Kriesel, Chairperson
and Members of the
Washington County Board of Commissioners
14949 62nd Street North
P.O. Box 6
Stillwater, MN 55082-0006

Re: City of Lake Elmo Resolution 2011-029

Dear Mr. Kriesel:

I would like to take this opportunity to forward to you City of Lake Elmo Resolution 2011-029. Through this Resolution, the City of Lake Elmo notices the County of the City's intent to establish a municipal library, effective January 1st, 2012, unless agreement can be reached with Washington County to maintain library services in Lake Elmo under the Washington County Library system.

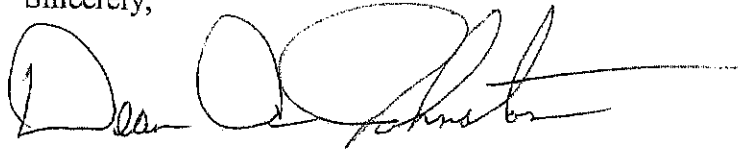
The City of Lake Elmo is committed to continuing good faith discussion among County and City representatives, as well as appropriate representatives from other involved organizations, aimed at formulating either a mutually acceptable service arrangement for continuation of Washington County Library System-provided services at the Rosalie E. Wahl Branch Library or, if necessary, establishment of a municipal public library system and development of a mutually-satisfactory relationship with Washington County for efficient provision of library services not readily available to County citizens residing in Lake Elmo through a small, independent municipal library.

The City Council of the City of Lake Elmo recognizes the legal, financial, and public policy considerations involved in this action and pledges its good faith commitment toward reaching a mutually satisfactory resolution to the current uncertainty regarding library services at the Rosalie E. Wahl Branch Library in 2012 and beyond. *At a minimum*, I am hopeful we can endeavor to identify a mutually-satisfactory arrangement to retain library services at the Rosalie E. Wahl Branch Library through 2012. Such agreement would allow for a more paced and comprehensive discussion regarding the future provision of library services to the City and community of Lake Elmo.

The City's staff point of contact for addressing this issue is Mr. Kyle Klatt, City Planner. Mr. David Snyder, City Attorney, and Mr. Tom Bouthilet, City Finance Director, will also be assisting, as appropriate and needed.

I thank you in advance for your attention of this Resolution. Should the situation warrant, please do not hesitate to contact me directly regarding this issue.

Sincerely;

A handwritten signature in black ink, appearing to read "Dean Johnston", with a long horizontal flourish extending to the right.

Dean A. Johnston
Mayor

Attachment(s): Lake Elmo Resolution 2011-029

CC: Honorable City Council Members, City of Lake Elmo
Mr. James Schug, Washington County Administrator
Mr. Bruce Messelt, Lake Elmo City Administrator
Mr. Kyle Klatt, Lake Elmo Planning Director
Mr. Dave Snyder, Lake Elmo City Attorney
Mr. Tom Bouthilet, Lake Elmo City Finance Director
Official File

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

RESOLUTION NO. 2011-029

A RESOLUTION ESTABLISHING A PUBLIC LIBRARY SYSTEM, AUTHORIZING A LIBRARY LEVY, AND ESTABLISHING A PUBLIC LIBRARY BOARD FOR THE CITY OF LAKE ELMO.

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

WHEREAS, the residents of the City currently receive library services through Washington County; and

WHEREAS, the City of Lake Elmo desires to establish and operate a City Public Library Service pursuant to Minnesota Statutes § 134.07 et seq.; and

WHEREAS, it is the intention of the City of Lake Elmo to provide well managed and quality library services for the residents of Lake Elmo; and

WHEREAS, the City of Lake Elmo intends to set aside public property of the City for the benefit of the Public Library Service; and

WHEREAS, the City Council has discussed the establishment and operation of a Public Library Service.

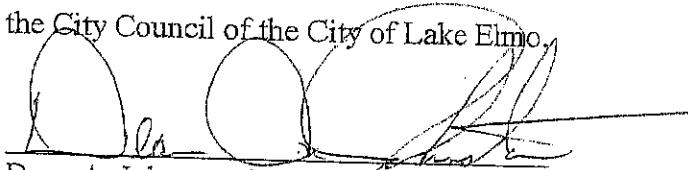
NOW, THEREFORE, IT IS HEREBY RESOLVED, the City Council of the City of Lake Elmo hereby establishes a City Public Library Service under Minnesota Statutes § 134.07 et seq., as follows:

- 1) Pursuant to Minnesota Statutes § 134.09, the City Council hereby establishes a five-person Library Board, with members to be appointed by the Mayor with the approval of the City Council from among the residents of the City.
- 2) The initial Library Board will have two residents of the City each appointed for a one-year term, two residents of the City each appointed for a two-year term, and one resident of the City appointed for a three-year term. Not more than one council member shall at any time be a member of the Library Board.

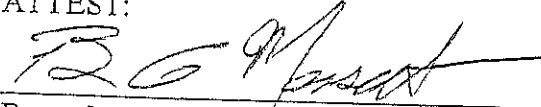
- 3) Said appointments will be effective on January 1, 2012, or a date to be determined by the City Council.
- 4) Following the initial appointment of the Library Board, all terms will be for three years, commencing on January 1 of the year the term begins, with Library Board members allowed to serve no more than three consecutive three-year terms.
- 5) The City Council will appoint an interim library director with the authority to organize and manage the Public Library System until a library director is appointed by the Library Board. The Library Board shall appoint a qualified library director and other staff, as necessary, establish the compensation of employees, and remove any of them for cause.
- 6) The City Council will levy an annual tax upon all taxable property within the City for the support of the library and will place such money in a designated Library Fund.
- 7) Pursuant to Minnesota Statutes § 134.11, the Library Board shall adopt bylaws and regulations for the library, and shall have exclusive control of the expenditure of all money collected for or placed to the credit of the Library Fund, of interest earned on all money collected for or placed to the credit of the Library Fund, of the construction of library buildings, and of the grounds, rooms, and buildings provided for library purposes.
- 8) The City shall set aside certain public property to be further specified by subsequent resolution for the benefit of the Public Library Service. With the approval of the council, the Library Board may erect a library building thereon.
- 9) The City Council may create a citizens' committee, to be comprised of residents from the City of Lake Elmo, to advise the City Council and the Library Board on issues of public concern related to the City of Lake Elmo Public Library Service.

Notwithstanding the foregoing, subsequent to date of this Resolution, the City will continue good faith discussions with Washington County for the purposes of maintaining and improving existing library services through continuation of existing Washington County Library System services or through the transfer of library services from the County to the City, subsequent affiliation, association or collaboration with Washington County, and adjustment of special levy limits therefore in accordance with Minnesota Statutes § 275.72.

Passed and duly adopted this 19th day of July 2011 by the City Council of the City of Lake Elmo, Minnesota.


Dean A. Johnston, Mayor

ATTEST:


Bruce Messelt, City Administrator

cc: kyle



ATTORNEYS AT LAW

Writer's Direct Dial:
(651) 351-2134

Writer's E-mail:
ksandstrom@eckbergglammers.com

RECEIVED

AUG 22 2011

CITY OF LAKE ELMO

Stillwater Office:

1809 Northwestern Avenue
Stillwater, Minnesota 55082
(651) 439-2878
Fax (651) 439-2923

Hudson Office:

430 Second Street
Hudson, Wisconsin 54016
(715) 386-3733
Fax (715) 386-6456

www.eckbergglammers.com

August 19, 2011

Peter J. Orput, Esq.
Washington County Attorney's Office
15015 62nd Street North
Stillwater, MN 55082

Re: *Lake Elmo Library Services*
Our File No.: 22702-19839

Dear Mr. Orput:

As you may know, the City of Lake Elmo is considering establishing its own city library in light of an apparent desire by Washington County to eliminate services being provided at the Rosalie E. Wahl branch of the Washington County Library System located in Lake Elmo. This library branch has served the community for many decades. Lake Elmo has invited, and continues to invite, discussion with the county about alternatives, including alternatives involving financial or personnel contributions by Lake Elmo to bolster this library or at least maintain service there.

Pursuant to Minn. Stat. § 134.07, Lake Elmo's establishment of and levy of taxes for its own city library will displace the County's tax upon citizens of Lake Elmo for the County library system. As a result, there has been some suggestion that the County will, in turn, attempt to limit the citizens of Lake Elmo from utilizing the County library system.

Presently, the Washington County Library provides access to all persons, regardless of their place of residence. This includes Minnesota residents from outside Washington County, and residents of Wisconsin. A visitor from Moorhead, Minnesota, for example, may use these libraries as may an inhabitant of Madison, Wisconsin. Similarly access is provided to residents of Stillwater and Bayport based upon cooperative agreements with those cities even though they have their own private libraries and are outside the County Library System.

Given the broad policy of allowing such access, we anticipate that there is no assertion that Lake Elmo residents would be excluded from the county library system. If this is not accurate, however, then we would like to review the legal basis upon which the County asserts, if any, the ability to exclude Lake Elmo residents from use of the County Library system or if it asserts that it will, or may, exclude them at all. We would appreciate your advising as to whether or not the county claims that there is an intention to do this and, if so, what legal basis purportedly allows such disparate handling.

Peter J. Orput, Esq.

August 19, 2011

Page 2 of 2

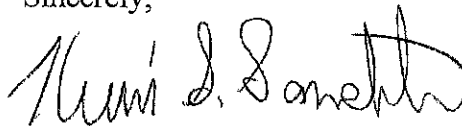
Pursuant to cooperative agreements with the cities of Stillwater and Bayport, those residents are permitted to use the County library system (including interlibrary book loans, research, participation in MELSA, etc.) for payment from those cities on the order of \$1.00-3.00 per resident, which appears to represent the approximate actual cost incurred by the County for providing such services.

Moreover, in the interest of orderly planning and communication, Lake Elmo has inquired with County Administration as to whether Lake Elmo will be provided a cooperative agreement with the County, similar to those in place with Stillwater and Bayport, allowing that Lake Elmo residents be permitted to utilize the County library system for payment at cost on the order of \$1.00-3.00 per capita per year. Elsewhere, apparently, there has been a suggested disinclination to provide such an agreement to Lake Elmo, and instead demand a charge of upwards of \$60.00 per user. While your office may not be engaged in handling the details of that arrangement, we would welcome your sharing with us the legal basis that would support that disparate charge, or if it is planned at all.

As noted, I recognize that your office may not be handling the policy issues which are being evaluated by and discussed between the County and the City but we would like to review the legal framework with you in this context.

We look forward to receiving your comments on the foregoing issues or discussing them with you informally. Thank you.

Sincerely,



Kevin S. Sandstrom

DKS/kss

cc: Bruce Messelt, City Administrator
David K. Snyder, Esq.