

File

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

September 20, 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 September 6, 2011 City Council Minutes
 - Accept September 13, 2011 Special Council Minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by City staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
 - 2. Approve payment of disbursements and payroll
 - 3. 2011 Street Improvements Rain Garden Project: Pay Request Final
 - 4. Approve Preparation of City Communication on Tax Levy
 - 5. Easement Encroachment Agreement for 9360 Whistling Valley Trail
- J. REGULAR AGENDA:
 - 6. Consider a Variance at 2860 Lake Elmo Avenue N to allow holding tanks be installed for more than 12 months within the 10' setback to a property line & within the 75' setback of the OHWM

7. Reconsider an application of an interim use permit 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. 2011-040
8. Conditional Use Permit Amendment: Rockpoint Church – overflow parking lot expansion; Resolution No. 2011-041
9. Downtown Sidewalk Maintenance – Accept quotes and award contract
10. Trunk Highway 36 Corridor – Discussion on Access Management Planning and the MnDOT/Hilton Trail Interchange & J-turn projects
11. Update ReLibrary service considerations

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

September 6, 2011

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

PRESENT: Mayor Johnston and Council Members Emmons, Park, Pearson and Smith

Also Present: Administrator Messelt, Attorney Snyder, City Engineer Griffin, Planning Director Klatt, Finance Director Bouthilet, and City Clerk Lumby

APPROVAL OF AGENDA:

MOTION: Council Member Park moved to amend the September 6, 2011 agenda by allowing people to speak on Agenda Item #14 Library Update. Council Member Emmons seconded the motion. The motion passed 5-0.

ACCEPTED MINUTES:

The August 23, 2011 City Council minutes were accepted as amended by consensus of the City Council.

MOTION: Council Member Emmons approved the proclamation recognizing 100-Year Anniversary of Lake Elmo Bank. Council Member Smith seconded the motion. The motion passed 5-0.

Mayor Johnston read a proclamation recognizing 100-Year Anniversary of Lake Elmo Bank

PUBLIC INQUIRIES:

Paul Pallmeyer , 8989 Lake Jane Trail, asked if Lake Elmo pulls out of the Washington County Library System, would the residents have to pay the \$60 per household to use the County-wide library system and, if so, could they be reimbursed by the City. Mayor Johnston responded other communities that have its own municipal library, its residents don't pay a fee.

CONSENT AGENDA:

MOTION: Council Member Emmons moved to approve Agenda Items 3-6 on the Consent Agenda. Council Member Pearson seconded the motion. The motion passed 5-0.

- Appoint Justin Bloyer, 8881 Jane Road N, to 2nd Alternate on the Lake Elmo Park Commission
- 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
- 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
- Approve Resolution No. 2011-035, 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

REGULAR AGENDA:

Disbursements:

The Weber Electric claim for new lights at Lions field will come out of the Park Fund. Council Member Smith pointed out the claim for Kern DeWenter Viere Ltd, for \$4,644.00.

MOTION: Council Member Smith moved to approve payment of disbursements and payroll in the amount of \$120,418.32. Council Member Pearson seconded the motion. The motion passed 5-0.

Presentation by Ms. Ginny Holder, Ramsey/Washington Suburban Cable Commission Representative

Ms. Ginny Holder, the City's Representative on the Ramsey/Washington Suburban Cable Commission requested comments from the City Council relating to preparation for franchise renewal. The franchise agreement expires November 29, 2014. The Council asked Ms. Holder to serve as the City's representative and provide Council direction for renewal of the franchise agreement and keep the Council informed.

Reconsideration of Modifications to Ordinance Section 97.21 (B) Regarding "No Wake" Provisions on Area Lakes

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 Olson/DeMontreville/Jane and Elmo lakes.

Summer high water conditions prompted the Council on July 19th, 2011 to amend City ordinance to impose an emergency "Slow, no wake" restriction on area lakes when water levels exceed the OHW level. Only Olson/Lake DeMontreville recorded sustained lake levels in excess of the OHW. As the State of MN 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. There is no record of any enforcement action by Washington County Sheriff's office on behalf of the City with respect to this provision.

The Minnesota DNR has not undertaken its review of the City's Ordinance, including previous changes made, but not submitted for DNR review. This will be completed sometime this fall.

The following residents spoke and letters were received in favor of rescinding Ordinance No. 08-050.

These comments are summarized below:

Using the high water mark of 929.3 feet greatly inhibits the use of Lake Olson and DeMontreville which often exceeds their OHW mark of 929.3 feet. Historical water level readings were provided to show how often the lakes maintained levels above the OHWM. The Lake DeMontreville/Olson Assoc. Board requested the City raise its requirement to a level of 930 feet, which had been the OHWM for the lakes until 2007. As lake owners, they are worried about their property values with the required restrictions. They want the ability to use the lake and have not seen erosion by boat traffic.

Property owners on Lake Jane expressed concern about values noting that while the lake wasn't likely to exceed its OHWM of 924 feet; homebuyers would be deterred by the ordinance as a whole.

Residents in favor of rescinding Ordinance No. 08-50

| | |
|--------------------|--|
| Justin Bloyer, | 8881 Jane Road N. |
| John Hamerly, | 9429 Jane Road N. |
| Angie Abraham | 8548 Hidden Bay Trail N. |
| Charlie Schultz, | 4709 Olson Lake Trail N. |
| Dave Carlson, | 8554 Hidden Bay Trail N. |
| Brenda Jo Carlson, | 8554 Hidden Bay Trail N. |
| Angie Abraham, | 8548 Hidden Bay Trail N. |
| Beckie Jo Olson | |
| Karl Bogum, | 8032 Hill Trail N. |
| Joe Kraase, | 4655 Olson Lake Trail, |
| Tom Hills, | 4455 Olson Lake Trail wanted a support survey. |

Pat Dean, 8028 Hill Trail N., provided information re: feet of bounce before "No Wake" on the lakes and lake levels taken by the Valley Branch Watershed District. Mr. Dean noted that he placed the buoys out from his property onto Lake DeMontreville because the buoys mark the sandbar. Washington County Sheriff's Office appreciated Mr. Dean's assistance in the placement, removal and the off-season storage of the buoys.

Bob Van Zandt, 8110 Hidden, stated there are many accusations being said and asked the residents to just stay with the facts.

Jim Dillon, 8190 Hill Trail N., lives on the channel and watches people ignoring the no-wake buoys. He is not anti water recreation events, only when damage is done to the lots. He provided pictures showing erosion at various addresses on Lake DeMontreville.

Nadine Obermueller, 8696 42nd Street N. the weir erected in 1987 is doing a good job.

Council discussion followed. Council Member Smith came up with a compromise of 929.7 feet for a duration time of five days. She asked that the Council wait to make a motion until they discuss Item No. 9.

MOTION: Council Member Pearson moved to rescind Ordinance No. 08-050

MOTION: Mayor Johnston moved to amend motion to set the emergency no-wake level for Lakes Olson/DeMontreville at 929.7 feet if existing condition exists after 5 consecutive days. Council Member Emmons second the motion. The motion passed 3-2 (Council Members Pearson and Smith voting against.)

MOTION: Council Member Pearson moved to rescind Ordinance No. 08-050 and to set the emergency no-wake level for Lakes Olson/DeMontreville at 929.7 feet if existing conditions exists after 5 consecutive days. Councilmember Park seconded the motion. The motion passed 3-1 (Council Members Pearson and Smith voting against.)

Accept Petition for Lake Rule Change on Lakes Jane, DeMontreville and Olson

The City Council received a petition from property owners on Lake Jane and a request from three property owners on Lakes DeMontreville/Olson a change to Ordinance No. 08-050, Section 97.21 (B) governing Hours of Operation.

These residents spoke in favor 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.

The biggest turnoff for people to live on the lake is the limited hours of operation for no-wake. The majority of people who desire to live on a lake do so for recreational value of the lake (swimming, fishing, boating, water skiing). Negative comments have been received from potential buyers who were no longer interested once they discovered the no wake time restriction. They believe restrictions would cause a drastic drop in the value of homes.

Residents in favor of removal:

Justin Bloyer, 8881 Jane Road N.,
John Hamerly, 9429 Jane Road N.
Jerry Heroff, 9477 Jane Road N.
Patrick Dean 8028 Hill Trail N.
Jim Arkell, 8131 Hidden Bay Trail N.
Mary Ann Warner, 4633 Birchbark Trail N.
Doug Foster, 9409 Jane Road N.
Link Lavey, 8510 Hidden Bay Trail N.
Donaven Chase, 9125 Lake Jane trail
Tom Hills, 4455 Olson Lake Trail
John Mayek, 8680 Lake Jane Trail
Frank Fernandez, 5090 Marquess Trail Ct. N.
Angie Abraham 8548 Hidden Bay Trail N.
Dave/Brenda Carlson 8554 Hidden Bay Trail N.
Mark Frisch

Against the requested change:

William Rowe, 8286 Hidden Bay Ct., likes the balance and requests the no-wake rule stay.

Mary Ann Warner, 4633 Birchbark Trail N., requested rule be left as is. If the rules change skiing will start at 9:00 a.m. and affect fishermen and kayaking.

Joe/Joyce Kraase, 4655 Olson Lake Trail N, likes the multi-purpose rule, and the quiet morning and the safety provided for children playing.

Robin Dillon, 8190 Hill Tail N. enjoys the no-wake morning with a cup of coffee and read the Sunday paper.

Barb Walsh, 8027 50th Street provided the OHWM designation that was stated on the DNR site.

Tom Bucher, 8282 Hidden Bay Ct.

Jill Lundgren, 8282 Hidden Bay Ct. N. enjoys the peace and quiet.

Ross Lavosseau likes the quiet peace in the morning, and water skiers don't wait until noon or end at sunset.

Bill Stevenson 8895 Jane Road N.

The following residents did not oppose a reduction in the slow, no-wake hours from sunset to noon down to sunset to 9 a.m. for Lakes Jane/DeMontreville/Olson. They strongly opposed any such reduction in slow/no wake hours on Lake Elmo Lake. They noted that everybody could share the lake by all sports (fishing, canoe, kayaking, and pontoon) and enjoy morning tranquility.

Steve Bachman, 3141 Klondike Avenue,
Stephen Johnson, 2915 Lake Elmo Avenue N.
Dennis Trembl, 2715 Lake Elmo Avenue N.
Wendy Griffin, 2835 Lake Elmo Avenue N.
John/Bonnie Butenhoff, 2976 Lake Elmo Avenue N.
Donald Durand, 2901 Lake Elmo Avenue N.
Marlon Gunderson and Julie Bunn, 2986 Lake Elmo Avenue N.
Mike Denoma, 3065 Klondike Avenue N.

The Council will 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 meeting in October.

Consideration of an Off-Sale Intoxicating Liquor License for a New Liquor Store Located at 11227 Stillwater Blvd.

The City Council considered 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.

Planner Matzek reported there are five stalls striped in the front of this 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 business located in the Village Area south of Highway 5 of which this property is included.

City Engineer Jack Griffin reported the AUAR completed for the Village Area conducted a traffic analysis for the intersection of Trunk Highway 5 and Laverne Avenue N. in 2007. This analysis shows very low traffic counts for the peak am and peak pm hours.

Bill Wacker, 3603 Laverne Avenue N., voiced a concern about product being delivered because there are no provisions for unloading and there is a 3-ton road limit. The alley is not a thoroughfare and parking of delivery trucks would block the alley.

Dan Turnquist, 2964 30th Street Circle N., had a problem with concentration of two off-sale liquor stores in a small area. He asked if this proposal would fit in the overall Village Plan.

Deb and Neal Kruger, 4452 Lake Elmo Avenue N., submitted notes indicating there is inadequate parking, proposal is not in Village plan, and there are enough places in the Old Village to buy liquor.

Dennis LaCroix, owner of Twin Point Tavern, concerned about the inadequate parking and possible overflow into his parking lot. He asked the Council to look at the close proximity of the off-sale locations.

MOTION: Council Member Pearson moved to approve the Off-Sale Intoxicating License for a new liquor store located at 11227 Stillwater Blvd. on the condition that the City Engineer review number of parking stalls (front and back) and delivering of product (would deliveries block alley, is loading dock adequate for large trucks, large trucks driving on a 3-ton road). Council Member Park seconded the motion. The motion passed 3-2 (Council Members Emmons and Smith voting against.)

Conditional Use Permit Amendment: Rockpoint Church-Overflow Parking Lot Expansion Update

The City Council expressed concerns on potential impacts from vehicular traffic visiting the site. Staff will meet with the City Engineer to review the concerns and an update will be provided on September 20th Council meeting.

MOTION: Council Member Pearson moved to table the Conditional Use Permit Amendment for Rockpoint Church to the September 20th meeting. Council Member Park seconded the motion. The motion passed 5-0.

Specialized Event Permit Ordinance – Revised Ordinance Limiting Scope to Larger Events Only *This item was tabled.*

Well & Pump House No. 4 – Approve Option Agreement for 1-Acre Parcel at 11240 50th Street North for future Well Site and Authorize Test Well Construction

The City Council considered 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 City will pay \$500 for Option Agreement. The Option Agreement 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.

MOTION: Council Member Pearson moved 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. Council Member Park seconded the motion. The motion passed 5-0.

Update Re: Library Service Considerations

The City Council received an update on public efforts to retain and enhance library services for the City. Discussion ensued regarding potential costs to the City of running a library, of renting or purchasing a collection, of reimbursing Lake Elmo households for access to the Washington County library system, and of potential litigation regarding the latter.

The City Attorney briefly covered the sources and uses of Library Levy monies and of the City's statutory rights to opt out of the Washington County library system.

Mr. Don Slinger spoke and opined that a kiosk would serve the needs of the City. He uses the Lake Elmo library and had found 35 people in there at the most.

Mr. Paul Ryberg noted that many smaller libraries operate on a budget of approximately \$130,000.

The consensus of the City Council is that the Council is willing to meeting with the Washington County team to further discuss possible library arrangements. Mayor Johnston, Council Member Smith and the City Administrator will meet with the Washington County team comprised of Pat Conley, Jim Schug and Gary Kriesel.

The Council moved and seconded to recess its Regular Meeting at 12 midnight and entered into Executive Session, pursuant to Minnesota Statutes, to discuss potential litigation issues and strategies regarding Library Services (unanimous).

The City Council moved and seconded to close its Executive Session at 12:10 AM and reconvened its Regular Meeting (unanimous). The City Attorney summarized the purpose and outcome of the Executive Session and noted for the record that the City Attorney provided advice to the City Council relating to potential litigation issues and strategies regarding Library Services. The City Council received this advice and no further direction was given to the City Attorney at this time.

The Meeting was adjourned at 12:15 AM.

Respectfully submitted by Sharon Lumby, City Clerk

City of Lake Elmo
Lake Elmo Special City Council Meeting

September 13, 2011

Mayor Johnston called the Special Council Meeting to order at 8:20 p.m.

Present: Mayor Johnston and Council Members Emmons, Pearson, Park and Smith

Also Present: Administrator Messelt, Attorney Snyder, Planner Klatt, Finance Director Tom Bouthilet, Public Works Supervisor Mike Bouthilet, Fire Chief Malmquist and City Clerk Lumby

Issuance of G.O. Improvement Bond; Series 2011A & Order 429; Public Hearing for Kindred Court Improvements

The City Council considered approving the issuance of General Obligation Improvement Bonds; Series 2011A, in the amount not to exceed \$845,000 for 2011 Street Improvements. As part of this action, the Council will order a public hearing to include the Kindred Court Improvements in the 2011A Bond Series.

MOTION: Council Member Smith moved to approve Resolution No. 2011-036 approving the issuance of General Obligation Bond Series 2011A in the amount not to exceed \$845,000

And

approve Resolution No. 2011-039 calling for a Public Hearing relating to Kindred Court Drainage Corrections. Council Member Emmons seconded the motion. The motion passed 5-0.

2012 Proposed General Levy and Annual Budget

The Council considered and adopted the Preliminary 2012 Levy and Annual Budget.

Mayor Johnston added \$10,000 to the Total General Fund Levy and reallocating \$6,525 from health care coverage into a combined \$16,525 compensation fund to be used to address identified inequities in individual employee compensations. Further City staff was directed to devise for city council review a compensation program to address identified inequities.

Finance was asked to continue to look into a more modest Health Insurance plan rather than the Double Gold Health Care.

The Council discussed collecting a library levy and how to proceed developing a functioning municipal library. Council Member Smith voiced her concern that the City did not have the expertise, nor the funding, to run a library.

MOTION: Mayor Johnston moved to approve Resolution No. 2011-037 adopting the preliminary 2012 General Levy and Budget, Scenario C5, plus library levy. Council Member Park seconded the motion. The motion passed 4-1 (Council Member Smith voting against the motion.)

Set Hearing Date for 2012 Budget & Levy Discussion

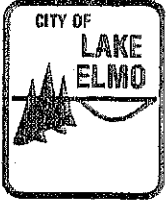
The City Council considered setting the Truth in Taxation Public Meeting on December 6, 2011 at 7:00 p.m. as part of the regularly scheduled City Council Meeting.

MOTION: Council Member Emmons moved to approve Resolution No. 2011-038 Setting December 6th, 2011 at 7:00 p.m. for the Budget and Levy discussion an time set aside to allow the public to speak. Council Member Park seconded the motion. The motion passed 5-0.

The Council adjourned the meeting at 9:20 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

DRAFT



MAYOR & COUNCIL COMMUNICATION

DATE: 09/20/2011
CONSENT
ITEM #: 2
MOTION *as part of Consent Agenda*

AGENDA ITEM: Approve Disbursements in the Amount of \$ 176,671.14

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BMM*

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 \$176,671.14 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 | \$ 7,115.59 | Payroll Taxes to IRS 09/08/2011 |
| ACH | \$ 1,164.75 | Payroll Taxes to MN Dept. of Revenue 09/08/2011 |
| ACH | \$ 3,946.33 | Payroll Retirement to PERA 09/08/2011 |
| DD3516 – DD3554 | \$ 25,329.33 | Payroll Dated 09/08/2011 (Direct Deposit) |
| 37500 – 37503 | \$ 15,979.91 | Payroll Dated 09/08/2011 (Payroll) |
| 37504 – 37555 | \$ 123,134.68 | Accounts Payable Dated 09/20/2011 |
| | | |
| | | |
| | | |
| | | |
| TOTAL | \$ 176,671.14 | |

STAFF REPORT: City staff has compiled 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 \$176,134.68

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 09/20/2011

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: 09/15/2011 - 12:48 PM

Batch: 002-09-2011

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|---|-----------------------------|-----------|----------|------------|-------------------------------------|-----------|------|------|------|----------------|
| ABSOVERS Absoversa, LLC | | | | | | | | | | |
| 273800 | 09/15/2011 | 3,679.07 | 0.00 | 09/20/2011 | City Hall Sidewalk Repairs | | - | No | | 0000 |
| 411-480-8000-45200 | Buildings and Structures | | | | | | | | | |
| | 273800 Total: | 3,679.07 | | | | | | | | |
| | ABSOVERS Total: | 3,679.07 | | | | | | | | |
| ALLIED Allied Electrical Cont., Inc. | | | | | | | | | | |
| 2016 | 09/01/2011 | 463.00 | 0.00 | 09/20/2011 | Repair Outdoor Lights | | - | No | | 0000 |
| 101-430-3100-44030 | Repairs/Maint Imp Not Bldgs | | | | | | | | | |
| | 2016 Total: | 463.00 | | | | | | | | |
| 2017 | 09/01/2011 | 295.00 | 0.00 | 09/20/2011 | Repair Breakers | | - | No | | 0000 |
| 101-430-3100-44030 | Repairs/Maint Imp Not Bldgs | | | | | | | | | |
| | 2017 Total: | 295.00 | | | | | | | | |
| | ALLIED Total: | 758.00 | | | | | | | | |
| ALLWEATH All Weather Services | | | | | | | | | | |
| 09/20/2011 | 09/20/2011 | 25,837.00 | 0.00 | 09/20/2011 | 2011 Street Improvement Raingardens | | - | No | | 0000 |
| 418-480-8000-43150 | Contract Services | | | | | | | | | |
| | 09/20/2011 Total: | 25,837.00 | | | | | | | | |
| | ALLWEATH Total: | 25,837.00 | | | | | | | | |
| AMERWATE WORKS ASSOCIATION AMERICAN WATER | | | | | | | | | | |
| Memb Renewal | 08/01/2011 | 71.00 | 0.00 | 09/20/2011 | AWWA Membership | | - | No | | 0000 |
| 601-494-9400-44370 | Conferences & Training | | | | | | | | | |
| | Memb Renewal Total: | 71.00 | | | | | | | | |
| | AMERWATE Total: | 71.00 | | | | | | | | |
| ARAM Aramark, Inc. | | | | | | | | | | |
| 629-7312838 | 09/08/2011 | 21.29 | 0.00 | 09/20/2011 | Uniforms | | - | No | | 0000 |
| 101-430-3100-44170 | Uniforms | | | | | | | | | |
| | 629-7312838 Total: | 21.29 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|---|--------------------------------|----------|----------|------------|--------------------------------------|-----------|------|------|------|----------------|
| 629-7317085 | 09/01/2011 | 21.29 | 0.00 | 09/20/2011 | Uniforms | | - | No | | 0000 |
| 101-430-3100-44170 | Uniforms | | | | | | | | | |
| | 629-7317085 Total: | 21.29 | | | | | | | | |
| 629-7318862 | 09/05/2011 | 83.60 | 0.00 | 09/20/2011 | Monthly Rug Service Station #2 | | - | No | | 0000 |
| 101-420-2220-44010 | Repairs/Maint Bldg | | | | | | | | | |
| | 629-7318862 Total: | 83.60 | | | | | | | | |
| 629-7318863 | 09/05/2011 | 82.86 | 0.00 | 09/20/2011 | Monthly Rug Service Station #1 | | - | No | | 0000 |
| 101-420-2220-44010 | Repairs/Maint Bldg | | | | | | | | | |
| | 629-7318863 Total: | 82.86 | | | | | | | | |
| 629-7323637 | 09/12/2011 | 115.38 | 0.00 | 09/20/2011 | Linen City Hall | | - | No | | 0000 |
| 101-410-1940-44010 | Repairs/Maint Contractual Bldg | | | | | | | | | |
| | 629-7323637 Total: | 115.38 | | | | | | | | |
| 629-7323638 | 09/12/2011 | 57.64 | 0.00 | 09/20/2011 | Linen City Hall Annex | | - | No | | 0000 |
| 101-410-1940-44010 | Repairs/Maint Contractual Bldg | | | | | | | | | |
| | 629-7323638 Total: | 57.64 | | | | | | | | |
| | ARAM Total: | 382.06 | | | | | | | | |
| | | | | | | | | | | |
| BIFFS Bifff's Inc. | 09/13/2011 | 610.62 | 0.00 | 09/20/2011 | Portable Restrooms - Fall Festival | | - | No | | 0000 |
| W443077 | Miscellaneous | | | | | | | | | |
| 204-450-5200-44300 | Miscellaneous | | | | | | | | | |
| | W443077 Total: | 610.62 | | | | | | | | |
| | BIFFS Total: | 610.62 | | | | | | | | |
| | | | | | | | | | | |
| C&J CONS C & J Consulting Services, LLP | 09/01/2011 | 2,615.50 | 0.00 | 09/20/2011 | Monthly Accig Services - August 2011 | | - | No | | 0000 |
| 08-2011 | Contract Services | | | | | | | | | |
| 101-410-1520-43150 | Contract Services | | | | | | | | | |
| | 08-2011 Total: | 2,615.50 | | | | | | | | |
| | C&J CONS Total: | 2,615.50 | | | | | | | | |
| | | | | | | | | | | |
| COMCAST COMCAST | 08/27/2011 | 7.90 | 0.00 | 09/20/2011 | Monthly Service | | - | No | | 0000 |
| 08/27/2011 | Miscellaneous | | | | | | | | | |
| 101-420-2220-44300 | Miscellaneous | | | | | | | | | |
| | 08/27/2011 Total: | 7.90 | | | | | | | | |
| | COMCAST Total: | 7.90 | | | | | | | | |
| | | | | | | | | | | |
| CREATIVE Creative Color | 07/18/2011 | 478.05 | 0.00 | 09/20/2011 | Park Signs | | - | No | | 0000 |
| 2491 | Improvements Other Than Bldgs | | | | | | | | | |
| 404-480-8000-45300 | Improvements Other Than Bldgs | | | | | | | | | |
| | 2491 Total: | 478.05 | | | | | | | | |
| | CREATIVE Total: | 478.05 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close PO Line # |
|---|------------|-----------|----------|------------|---|-----------|------|------|------|-----------------|
| CTYBLOOM City of Bloomington | | | | | | | | | | |
| August 2011 | 08/31/2011 | 40.00 | 0.00 | 09/20/2011 | Lab Bacteria Testing | | - | | | 0000 |
| 601-494-9400-42270 Utility System Maintenance | | | | | | | | | | |
| August 2011 Total: 40.00 | | | | | | | | | | |
| CTYBLOOM Total: 40.00 | | | | | | | | | | |
| CTYOAKDA City of Oakdale | | | | | | | | | | |
| 10000460-01 | 08/31/2011 | 15,580.19 | 0.00 | 09/20/2011 | Water Service 194 | | - | | | 0000 |
| 601-494-9400-43820 Water Utility | | | | | | | | | | |
| 10000460-01 Total: 15,580.19 | | | | | | | | | | |
| CTYOAKDA Total: 15,580.19 | | | | | | | | | | |
| CTYROSEV City of Roseville | | | | | | | | | | |
| 215085 | 09/02/2011 | 1,551.58 | 0.00 | 09/20/2011 | Monthly IT Services - September 2011 | | - | | | 0000 |
| 101-410-1450-43180 Information Technology/Web | | | | | | | | | | |
| 215085 Total: 1,551.58 | | | | | | | | | | |
| CTYROSEV Total: 1,551.58 | | | | | | | | | | |
| ECKBERG Eckberg Lamers Briggs Wolff | | | | | | | | | | |
| 114163 | 08/31/2011 | 8,252.44 | 0.00 | 09/20/2011 | Legal Services - Civil | | - | | | 0000 |
| 101-410-1320-43040 Legal Services | | | | | | | | | | |
| 114163 | 08/31/2011 | 227.50 | 0.00 | 09/20/2011 | Legal Services - Development | | - | | | 0000 |
| 203-490-9070-43040 Legal Services | | | | | | | | | | |
| 114163 Total: 8,479.94 | | | | | | | | | | |
| August 2011 | 08/31/2011 | 3,918.23 | 0.00 | 09/20/2011 | Legal Services - Prosecution | | - | | | 0000 |
| 101-420-2150-43045 Attorney Criminal | | | | | | | | | | |
| August 2011 Total: 3,918.23 | | | | | | | | | | |
| ECKBERG Total: 12,398.17 | | | | | | | | | | |
| EMERGAPP Emergency Apparatus Maint. INC | | | | | | | | | | |
| 57102 | 09/12/2011 | 382.15 | 0.00 | 09/20/2011 | T1 Repairs | | - | | | 0000 |
| 101-420-2220-44040 Repairs/Maint Eqpt | | | | | | | | | | |
| 57102 Total: 382.15 | | | | | | | | | | |
| 57155 | 09/12/2011 | 997.21 | 0.00 | 09/20/2011 | T2 Repairs | | - | | | 0000 |
| 101-420-2220-44040 Repairs/Maint Eqpt | | | | | | | | | | |
| 57155 Total: 997.21 | | | | | | | | | | |
| EMERGAPP Total: 1,379.36 | | | | | | | | | | |
| ENVENTIS ENVENTIS | | | | | | | | | | |
| 737500 | 09/01/2011 | 455.75 | 0.00 | 09/20/2011 | Telephone/Data Service - PW August 2011 | | - | | | 0000 |
| 101-430-3100-43210 Telephone | | | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|---|-------------------------------|----------|----------|------------|---|-----------|------|------|------|----------------|
| 738507 | 09/01/2011 | 455.75 | 0.00 | 09/20/2011 | Telephone/Data Service - September 2011 | | - | No | | 0000 |
| 101-410-1940-43210 | Telephone | 567.87 | | | | | | | | |
| | 738507 Total: | 567.87 | | | | | | | | |
| | ENVENTIS Total: | 1,023.62 | | | | | | | | |
| FASTENAL Fastenal | | | | | | | | | | |
| MNT1127879 | 08/30/2011 | 70.19 | 0.00 | 09/20/2011 | Asphalt Late | | - | No | | 0000 |
| 101-450-5200-42400 | Small Tools & Minor Equipment | 70.19 | | | | | | | | |
| | MNT1127879 Total: | 15.59 | 0.00 | 09/20/2011 | Grinding Discs | | - | No | | 0000 |
| MNT1127943 | 09/01/2011 | 15.59 | | | | | | | | |
| 101-450-5200-42150 | Shop Materials | 15.59 | | | | | | | | |
| | MNT1127943 Total: | 85.78 | | | | | | | | |
| | FASTENAL Total: | | | | | | | | | |
| GAUSMANB Gausman Brothers Construction | | | | | | | | | | |
| Chk Req | 09/08/2011 | 97.25 | 0.00 | 09/20/2011 | Permit Refund Address not in LE | | - | No | | 0000 |
| 101-000-0000-32210 | Building Permits | 2.00 | 0.00 | 09/20/2011 | Refund Surcharge | | - | No | | 0000 |
| Chk Req | 09/08/2011 | 99.25 | | | | | | | | |
| 101-000-0000-32215 | Surcharge | 99.25 | | | | | | | | |
| | Chk Req Total: | 99.25 | | | | | | | | |
| | GAUSMANB Total: | 99.25 | | | | | | | | |
| GILBERTM Gilbert Mechanical Contractors | | | | | | | | | | |
| Chk Req | 09/11/2011 | 1,631.82 | 0.00 | 09/20/2011 | Refund on Building Permit | | - | No | | 0000 |
| 101-000-0000-32210 | Building Permits | 5.50 | 0.00 | 09/20/2011 | Refund Surcharge | | - | No | | 0000 |
| Chk Req | 09/11/2011 | 1,637.32 | | | | | | | | |
| 101-000-0000-32215 | Surcharge | 1,637.32 | | | | | | | | |
| | Chk Req Total: | 1,637.32 | | | | | | | | |
| | GILBERTM Total: | 1,637.32 | | | | | | | | |
| HAGBERGS Hagbergs Country Market | | | | | | | | | | |
| 09/10/2011 | 09/10/2011 | 20.23 | 0.00 | 09/20/2011 | Fire Prevention Handouts | | - | No | | 0000 |
| 101-420-2220-42090 | Fire Prevention | 20.23 | | | | | | | | |
| | 09/10/2011 Total: | 20.23 | | | | | | | | |
| | HAGBERGS Total: | 20.23 | | | | | | | | |
| JOHNSONH Johnson Homes | | | | | | | | | | |
| Chk Request | 09/09/2011 | 3,000.00 | 0.00 | 09/20/2011 | Eserow Return 1543 15th Permit 7491 | | - | No | | 0000 |
| 803-000-0000-22900 | Deposits Payable | 3,000.00 | | | | | | | | |
| | Chk Request Total: | 3,000.00 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|--|--------------------------------|----------|----------|------------|---|-----------|------|------|------|----------------|
| JOHNSONH Total: | | | | | | | | | | |
| | | 3,000.00 | | | | | | | | |
| KRAUSAND Kraus Anderson | | | | | | | | | | |
| Chk Req | 09/11/2011 | 6,703.75 | 0.00 | 09/20/2011 | Refund Building Permit | | | No | | 0000 |
| 101-000-0000-32210 | Building Permits | | | | | | | | | |
| Chk Req | 09/11/2011 | 650.00 | 0.00 | 09/20/2011 | Refund Surcharge | | | No | | 0000 |
| 101-000-0000-32215 | Surcharge | | | | | | | | | |
| Chk Req Total: | | | | | | | | | | |
| KRAUSAND Total: | | | | | | | | | | |
| | | 7,353.75 | | | | | | | | |
| | | 7,353.75 | | | | | | | | |
| LEINN Lake Elmo Inn | | | | | | | | | | |
| 09/09/2011 | 09/09/2011 | 1,500.00 | 0.00 | 09/20/2011 | Gift Certificates-Volunteer Recognition | | | No | | 0000 |
| 204-450-5200-44300 | Miscellaneous | | | | | | | | | |
| 09/09/2011 Total: | | | | | | | | | | |
| LEINN Total: | | | | | | | | | | |
| | | 1,500.00 | | | | | | | | |
| | | 1,500.00 | | | | | | | | |
| LEOIL Lake Elmo Oil, Inc. | | | | | | | | | | |
| 08/31/2011 | 08/31/2011 | 24.53 | 0.00 | 09/20/2011 | Fuel | | | No | | 0000 |
| 101-420-2220-42120 | Fuel, Oil and Fluids | | | | | | | | | |
| 08/31/2011 Total: | | | | | | | | | | |
| Multiple | 08/13/2011 | 24.53 | | | | | | | | |
| 101-420-2220-42120 | Fuel, Oil and Fluids | | | | | | | | | |
| Multiple | 08/31/2011 | 3,336.31 | 0.00 | 09/20/2011 | Fuel | | | No | | 0000 |
| 101-420-2220-42120 | Fuel, Oil and Fluids | | | | | | | | | |
| Multiple | 08/31/2011 | 161.14 | 0.00 | 09/20/2011 | Fuel | | | No | | 0000 |
| 101-420-2220-42120 | Fuel, Oil and Fluids | | | | | | | | | |
| Multiple Total: | | | | | | | | | | |
| LEOIL Total: | | | | | | | | | | |
| | | 3,497.45 | | | | | | | | |
| | | 3,521.98 | | | | | | | | |
| Lillie Newspapers Inc. Lillie Suburban | | | | | | | | | | |
| 08/31/2011 | 08/31/2011 | 22.50 | 0.00 | 09/20/2011 | Publishing Ordinances | | | No | | 0000 |
| 101-410-1320-43510 | Legal Publishing | | | | | | | | | |
| 08/31/2011 Total: | | | | | | | | | | |
| Lillie Total: | | | | | | | | | | |
| | | 22.50 | | | | | | | | |
| | | 22.50 | | | | | | | | |
| LOFF Loffler Companies, Inc. | | | | | | | | | | |
| 1291294 | 09/01/2011 | 204.83 | 0.00 | 09/20/2011 | Copy Machine Overage & Base 08/11 | | | No | | 0000 |
| 101-410-1940-44040 | Repairs/Maint Contractual Eqpt | | | | | | | | | |
| 1291294 Total: | | | | | | | | | | |
| LOFF Total: | | | | | | | | | | |
| | | 204.83 | | | | | | | | |
| | | 204.83 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|------------------------------------|-----------------------------|--------|----------|------------|-----------------------------------|-----------|------|------|------|----------------|
| MADRINIC Madrinich Jean | | | | | | | | | | |
| 09/15/2011 | 09/15/2011 | 500.00 | 0.00 | 09/20/2011 | Well No 4 Site Acquisition Option | | | No | | 0000 |
| 601-494-9400-43150 | Contract Services | | | | Agreem | | | | | |
| | 09/15/2011 Total: | 500.00 | | | | | | | | |
| | MADRINIC Total: | 500.00 | | | | | | | | |
| MALMQ Malmquist Greg | | | | | | | | | | |
| 09/06/2011 | 09/06/2011 | 375.40 | 0.00 | 09/20/2011 | Airfare to VCOS | | | No | | 0000 |
| 101-420-2220-44370 | Conferences & Training | | | | | | | | | |
| | 09/06/2011 Total: | 375.40 | | | | | | | | |
| | MALMQ Total: | 375.40 | | | | | | | | |
| MARONEYS Maroney's Sanitation, Inc | | | | | | | | | | |
| 403027 | 09/02/2011 | 108.30 | 0.00 | 09/20/2011 | Waste Removal - City Hall | | | No | | 0000 |
| 101-410-1940-43840 | Refuse | | | | | | | | | |
| 403027 | 09/02/2011 | 47.68 | 0.00 | 09/20/2011 | Waste Removal - Fire | | | No | | 0000 |
| 101-420-2220-43840 | Refuse | | | | | | | | | |
| 403027 | 09/02/2011 | 207.82 | 0.00 | 09/20/2011 | Waste Removal - Public Works | | | No | | 0000 |
| 101-430-3100-43840 | Refuse | | | | | | | | | |
| 403027 | 09/02/2011 | 207.82 | 0.00 | 09/20/2011 | Waste Removal - Parks | | | No | | 0000 |
| 101-450-5200-43840 | Refuse | | | | | | | | | |
| | 403027 Total: | 571.62 | | | | | | | | |
| | MARONEYS Total: | 571.62 | | | | | | | | |
| MARVS Marv's Professional Tools | | | | | | | | | | |
| 241025 | 09/15/2011 | 69.40 | 0.00 | 09/20/2011 | Trailer Plug with Cap Screws | | | No | | 0000 |
| 101-450-5200-42210 | Equipment Parts | | | | | | | | | |
| | 241025 Total: | 69.40 | | | | | | | | |
| | MARVS Total: | 69.40 | | | | | | | | |
| MENARDSO Menards - Oakdale | | | | | | | | | | |
| 12687 | 09/09/2011 | 21.27 | 0.00 | 09/20/2011 | Garbage Barrel Fastners | | | No | | 0000 |
| 101-450-5200-44030 | Repairs/Maint Imp Not Bldgs | | | | | | | | | |
| | 12687 Total: | 21.27 | | | | | | | | |
| 13116 | 09/10/2011 | 132.88 | 0.00 | 09/20/2011 | Power cords - Fall Festival | | | No | | 0000 |
| 204-450-5200-44300 | Miscellaneous | | | | | | | | | |
| | 13116 Total: | 132.88 | | | | | | | | |
| | MENARDSO Total: | 154.15 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|---|------------|----------|----------|------------|--|-----------|------|------|------|----------------|
| METCOU Metropolitan Council 969551 602-495-9450-43820 Sewer Utility - Met Council 969551 Total: METCOU Total: | 09/02/2011 | 1,282.98 | 0.00 | 09/20/2011 | Monthly Wastewater Svs - October 2011 | | - | No | | 0000 |
| MICHAEL Michael Lee Inc. Chk Req 803-000-0000-22900 Deposits Payable Chk Req Total: MICHAEL Total: | 09/13/2011 | 5,000.00 | 0.00 | 09/20/2011 | Escrow Rtn - 2919 Jonquil #7927 | | - | No | | 0000 |
| MILLEREX Miller Excavating, Inc. 15729 101-430-3120-43150 Contract Services 15729 101-450-5200-42250 Landscaping Materials 15729 101-430-3120-42240 Street Maintenance Materials 15729 Total: MILLEREX Total: | 08/31/2011 | 324.45 | 0.00 | 09/20/2011 | Grading Gravel Roads | | - | No | | 0000 |
| | 08/31/2011 | 166.78 | 0.00 | 09/20/2011 | Volley Ball Court Sand | | - | No | | 0000 |
| | 08/31/2011 | 272.28 | 0.00 | 09/20/2011 | Gravel for Upper 33rd | | - | No | | 0000 |
| | | 763.51 | | | | | | | | |
| | | 763.51 | | | | | | | | |
| MILLSCOL Mills Cole 09/13/2011 101-410-1450-43620 Cable Operations 09/13/2011 101-410-1450-43620 Cable Operations 09/13/2011 Total: MILLSCOL Total: | 09/13/2011 | 27.50 | 0.00 | 09/20/2011 | Budget Workshop | | - | No | | 0000 |
| | 09/13/2011 | 55.00 | 0.00 | 09/20/2011 | Special Council Meeting | | - | No | | 0000 |
| | | 82.50 | | | | | | | | |
| | | 82.50 | | | | | | | | |
| MSFCB MN Fire Service Cert. Board 1033 101-420-2220-44330 Dues & Subscriptions 1033 Total: MSFCB Total: | 09/08/2011 | 75.00 | 0.00 | 09/20/2011 | FFII Test x 1 | | - | No | | 0000 |
| | | 75.00 | | | | | | | | |
| | | 75.00 | | | | | | | | |
| NORTHTOO HSBC Business Solutions 3852 204-450-5200-44300 Miscellaneous 3852 Total: | 09/15/2011 | 269.90 | 0.00 | 09/20/2011 | Power Cords - Fall Festival | | - | No | | 0000 |
| | | 269.90 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|-------------------------------------|--------------------------------|----------|----------|------------|---------------------------------------|-----------|------|------|------|----------------|
| 561015660 | 09/01/2011 | 64.24 | 0.00 | 09/20/2011 | Tie Downs | | | No | | 0000 |
| 101-430-3100-42400 | Small Tools & Minor Equipment | 64.24 | | | | | | | | |
| | 561015660 Total: | 334.14 | | | | | | | | |
| | NORTHTOO Total: | | | | | | | | | |
| PLANTH PLANT HEALTH ASSOCIATES, INC | | | | | | | | | | |
| 1056-11 | 09/11/2011 | 912.50 | 0.00 | 09/20/2011 | June, July & August Forester Services | | | No | | 0000 |
| 101-430-3100-43150 | Contract Services | 912.50 | | | | | | | | |
| | 1056-11 Total: | 912.50 | | | | | | | | |
| | PLANTH Total: | 912.50 | | | | | | | | |
| PLUNKETT Plunkett's Pest Control | | | | | | | | | | |
| 2819123 | 09/01/2011 | 83.36 | 0.00 | 09/20/2011 | Pest Control Service - City Hall | | | No | | 0000 |
| 101-410-1940-44010 | Repairs/Maint Contractual Bldg | 83.36 | | | | | | | | |
| | 2819123 Total: | 83.36 | | | | | | | | |
| | PLUNKETT Total: | 83.36 | | | | | | | | |
| PRAXAIR PRAXAIR DISTRIBUTION INC. | | | | | | | | | | |
| 40612305 | 08/26/2011 | 48.21 | 0.00 | 09/20/2011 | Welding Tank Lease | | | No | | 0000 |
| 101-430-3100-43150 | Contract Services | 48.21 | | | | | | | | |
| | 40612305 Total: | 48.21 | | | | | | | | |
| | PRAXAIR Total: | 48.21 | | | | | | | | |
| PRESSA Anastasia Press | | | | | | | | | | |
| 09/06/2011 | 09/06/2011 | 27.50 | 0.00 | 09/20/2011 | 9/6/11 Workshop | | | No | | 0000 |
| 101-410-1450-43620 | Cable Operations | 68.75 | | | | | | | | |
| 09/06/2011 | 09/06/2011 | 96.25 | 0.00 | 09/20/2011 | 9/6/11 City Council Meeting | | | No | | 0000 |
| 101-410-1450-43620 | Cable Operations | 27.50 | | | | | | | | |
| | 09/06/2011 Total: | 27.50 | | | | | | | | |
| 09/12/2011 | 09/12/2011 | 27.50 | 0.00 | 09/20/2011 | 9/6/11 Planning commission meeting | | | No | | 0000 |
| 101-410-1450-43620 | Cable Operations | 123.75 | | | | | | | | |
| | 09/12/2011 Total: | 27.50 | | | | | | | | |
| | PRESSA Total: | 123.75 | | | | | | | | |
| RIVRCCOOP River Country Cooperative | | | | | | | | | | |
| 08/31/2011 | 08/31/2011 | 1,049.33 | 0.00 | 09/20/2011 | Fuel | | | No | | 0000 |
| 101-420-2220-42120 | Fuel, Oil and Fluids | 1,049.33 | | | | | | | | |
| | 08/31/2011 Total: | 1,049.33 | | | | | | | | |
| | RIVRCCOOP Total: | 1,049.33 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Fmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|--|------------|----------|----------|------------|-----------------------------|-----------|------|------|------|----------------|
| ROGERS Rogers Printing Services, Corp 18088 101-410-1450-43090 Newsletter | 09/02/2011 | 1,836.11 | 0.00 | 09/20/2011 | Quarterly Newsletter | | - | No | | 0000 |
| 18088 Total: | | 1,836.11 | | | | | | | | |
| ROGERS Total: | | 1,836.11 | | | | | | | | |
| S&T S&T Office Products, Inc. 01OT7676 09/07/2011 101-410-1320-42000 Office Supplies | 09/07/2011 | 196.65 | 0.00 | 09/20/2011 | Office Supplies | | - | No | | 0000 |
| 01OT7676 Total: | | 196.65 | | | | | | | | |
| 101-410-1320-42000 Office Supplies | 09/08/2011 | 33.70 | 0.00 | 09/20/2011 | Office Supplies | | - | No | | 0000 |
| 01OT8167 Total: | | 33.70 | | | | | | | | |
| 101-410-1320-42000 Office Supplies | 09/08/2011 | 17.05 | 0.00 | 09/20/2011 | Office Supplies | | - | No | | 0000 |
| 01OT8307 Total: | | 17.05 | | | | | | | | |
| 101-410-1320-42000 Office Supplies | 09/08/2011 | 22.54 | 0.00 | 09/20/2011 | Office Supplies - Fire Dept | | - | No | | 0000 |
| 01OT8307 Total: | | 22.54 | | | | | | | | |
| 101-410-1320-42000 Office Supplies | 09/09/2011 | 39.59 | 0.00 | 09/20/2011 | Credit Office Supplies | | - | No | | 0000 |
| 01OT9324 Total: | | 39.59 | | | | | | | | |
| 101-410-1320-42000 Office Supplies | 09/09/2011 | -42.26 | 0.00 | 09/20/2011 | Credit Office Supplies | | - | No | | 0000 |
| 01OT9324 Total: | | -42.26 | | | | | | | | |
| S&T Total: | | 227.68 | | | | | | | | |
| SCHILLS Schill's Dumpster Svc Inc 8125 204-450-5200-43150 Contract Services | 09/11/2011 | 338.68 | 0.00 | 09/20/2011 | Dumpster for Fall Festival | | - | No | | 0000 |
| 8125 Total: | | 338.68 | | | | | | | | |
| SCHILLS Total: | | 338.68 | | | | | | | | |
| SMITHANN Anne Smith 09/14/2011 204-450-5200-44300 Miscellaneous | 09/14/2011 | 1,304.55 | 0.00 | 09/20/2011 | Fall Festival Supplies | | - | No | | 0000 |
| 09/14/2011 Total: | | 1,304.55 | | | | | | | | |
| SMITHANN Total: | | 1,304.55 | | | | | | | | |
| TASCH T.A. Schifsky & Sons Inc 51921 101-430-3120-42240 Street Maintenance Materials | 08/25/2011 | 358.15 | 0.00 | 09/20/2011 | Asphalt | | - | No | | 0000 |
| 08/25/2011 Total: | | 358.15 | | | | | | | | |
| 101-430-3120-42240 Street Maintenance Materials | 08/30/2011 | 505.75 | 0.00 | 09/20/2011 | Asphalt | | - | No | | 0000 |
| 08/30/2011 Total: | | 505.75 | | | | | | | | |
| 101-430-3120-42240 Street Maintenance Materials | 08/30/2011 | 505.75 | 0.00 | 09/20/2011 | Asphalt | | - | No | | 0000 |
| 08/30/2011 Total: | | 505.75 | | | | | | | | |
| SMITHANN Total: | | 505.75 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close POLine # |
|------------------------|----------------------|-----------|----------|------------|---------------------------------------|-----------|------|------|------|----------------|
| TASCH Total: | | 863.90 | | | | | | | | |
| TDS TDS METROCOM - LLC | | | | | | | | | | |
| 651-779-8882 | 09/14/2011 | 156.99 | 0.00 | 09/20/2011 | Analog Lines - Fire | | - | No | | 0000 |
| 101-420-2220-43210 | Telephone | | | | | | | | | |
| 651-779-8882 | 09/14/2011 | 155.49 | 0.00 | 09/20/2011 | Analog Lines - Public Works | | - | No | | 0000 |
| 101-430-3100-43210 | Telephone | | | | | | | | | |
| 651-779-8882 | 09/14/2011 | 104.61 | 0.00 | 09/20/2011 | Analog Lines - Lift Station Alarms | | - | No | | 0000 |
| 602-495-9450-43210 | Telephone | | | | | | | | | |
| 651-779-8882 | 09/14/2011 | 42.19 | 0.00 | 09/20/2011 | Alarm - Well House #2 | | - | No | | 0000 |
| 601-494-9400-43210 | Telephone | | | | | | | | | |
| 651-779-8882 Total: | | 459.28 | | | | | | | | |
| TDS Total: | | 459.28 | | | | | | | | |
| TKDA TKDA, Inc. | | | | | | | | | | |
| 002011002458 | 09/15/2011 | 9,556.07 | 0.00 | 09/20/2011 | 2011 Street Improvement/Water Quality | | - | No | | 0000 |
| 418-480-8000-43030 | Engineering Services | | | | | | | | | |
| 002011002458 Total: | | 9,556.07 | | | | | | | | |
| 002011002459 | 09/15/2011 | 327.75 | 0.00 | 09/20/2011 | General Engineering | | - | No | | 0000 |
| 101-410-1930-43030 | Engineering Services | | | | | | | | | |
| 002011002459 | 09/15/2011 | 75.24 | 0.00 | 09/20/2011 | General Engineering | | - | No | | 0000 |
| 101-410-1910-43030 | Engineering Services | | | | | | | | | |
| 002011002459 Total: | | 402.99 | | | | | | | | |
| 002011002460 | 09/15/2011 | 2,441.33 | 0.00 | 09/20/2011 | General Engineering - VRA | | - | No | | 0000 |
| 601-494-9400-43030 | Engineering Services | | | | | | | | | |
| 002011002460 Total: | | 2,441.33 | | | | | | | | |
| 002011002461 | 09/15/2011 | 107.36 | 0.00 | 09/20/2011 | 2011 Seal Coat Project | | - | No | | 0000 |
| 409-480-8000-43030 | Engineering Services | | | | | | | | | |
| 002011002461 Total: | | 107.36 | | | | | | | | |
| 002011002462 | 09/15/2011 | 74.21 | 0.00 | 09/20/2011 | Lake Elmo Ct Drainage Correction | | - | No | | 0000 |
| 409-480-8000-43030 | Engineering Services | | | | | | | | | |
| 002011002462 Total: | | 74.21 | | | | | | | | |
| 002011002463 | 09/15/2011 | 506.81 | 0.00 | 09/20/2011 | Lake Elmo District Sidewalk Maint. | | - | No | | 0000 |
| 409-480-8000-43030 | Engineering Services | | | | | | | | | |
| 002011002463 Total: | | 506.81 | | | | | | | | |
| TKDA Total: | | 13,088.77 | | | | | | | | |
| Tousley Motorsports | | | | | | | | | | |
| 151646 | 09/09/2011 | 205.71 | 0.00 | 09/20/2011 | Service on Ranger | | - | No | | 0000 |
| 101-420-2220-44040 | Repairs/Maint Eqpt | | | | | | | | | |
| 151646 Total: | | 205.71 | | | | | | | | |

| Invoice # | Inv Date | Amount | Quantity | Pmt Date | Description | Reference | Task | Type | PO # | Close PO Line # |
|-------------------------------|----------------------------|----------|----------|------------|-------------------------------------|-----------|------|------|------|-----------------|
| TOUSLEY Total: | | 205.71 | | | | | | | | |
| VISALE40 VISA | | | | | | | | | | |
| 8040 | 08/31/2011 | 520.00 | 0.00 | 09/20/2011 | Sensible Land Use Coalition Meeting | | | No | | 0000 |
| 101-410-1910-44370 | Conferences & Training | | | | | | | | | |
| 8040 | 08/31/2011 | 181.98 | 0.00 | 09/20/2011 | Utility Marking Flags | | | No | | 0000 |
| 601-494-9400-42270 | Utility System Maintenance | | | | | | | | | |
| | 8040 Total: | 701.98 | | | | | | | | |
| VISALE40 Total: | | 701.98 | | | | | | | | |
| XCEL Xcel Energy | | | | | | | | | | |
| 51-4504807-7 | 09/15/2011 | 134.02 | 0.00 | 09/20/2011 | Lights at Legion Park | | | No | | 0000 |
| 101-450-5200-43810 | Electric Utility | | | | | | | | | |
| 51-4504807-7 | 09/15/2011 | 87.27 | 0.00 | 09/20/2011 | Lift Station | | | No | | 0000 |
| 602-495-9450-43810 | Electric Utility | | | | | | | | | |
| 51-4504807-7 | 09/15/2011 | 33.75 | 0.00 | 09/20/2011 | Traffic Lights | | | No | | 0000 |
| 101-430-3160-43810 | Street Lighting | | | | | | | | | |
| | 51-4504807-7 Total: | 255.04 | | | | | | | | |
| 51-4580376-5 | 09/15/2011 | 388.56 | 0.00 | 09/20/2011 | City Hall | | | No | | 0000 |
| 101-410-1940-43810 | Electric Utility | | | | | | | | | |
| 51-4580376-5 | 09/15/2011 | 32.04 | 0.00 | 09/20/2011 | Traffic Lights | | | No | | 0000 |
| 101-430-3160-43810 | Street Lighting | | | | | | | | | |
| 51-4580376-5 | 09/15/2011 | 469.95 | 0.00 | 09/20/2011 | City Hall | | | No | | 0000 |
| 101-410-1940-43810 | Electric Utility | | | | | | | | | |
| | 51-4580376-5 Total: | 890.55 | | | | | | | | |
| 51-5356323-8 | 09/15/2011 | 2,452.12 | 0.00 | 09/20/2011 | Wells 1 & 2 | | | No | | 0000 |
| 601-494-9400-43810 | Electric Utility | | | | | | | | | |
| | 51-5356323-8 Total: | 2,452.12 | | | | | | | | |
| 51-6736544-2 | 09/15/2011 | 3,777.59 | 0.00 | 09/20/2011 | Street Lights | | | No | | 0000 |
| 101-430-3160-43810 | Street Lighting | | | | | | | | | |
| | 51-6736544-2 Total: | 3,777.59 | | | | | | | | |
| 51-6956201-4 | 09/15/2011 | 445.77 | 0.00 | 09/20/2011 | VFW Ballfield Lights | | | No | | 0000 |
| 101-450-5200-43810 | Electric Utility | | | | | | | | | |
| | 51-6956201-4 Total: | 445.77 | | | | | | | | |
| 51-7538112-1 | 09/15/2011 | 521.28 | 0.00 | 09/20/2011 | Public Works | | | No | | 0000 |
| 101-430-3100-43810 | Electric Utility | | | | | | | | | |
| | 51-7538112-1 Total: | 521.28 | | | | | | | | |
| XCEL Total: | | 8,342.35 | | | | | | | | |
| YOCUM Yocum Oil Company, Inc. | | | | | | | | | | |
| 203847 | 08/30/2011 | 482.06 | 0.00 | 09/20/2011 | Bulk Oil Tanks | | | No | | 0000 |
| 101-430-3100-44010 | Repairs/Maint Bldg | | | | | | | | | |
| | 203847 Total: | 482.06 | | | | | | | | |

Invoice # Inv Date Amount Quantity Pmt Date Description Reference Task Type PO # Close POLine #

YOCUM Total: 482.06

Report Total: 123,134.68



MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/2011
CONSENT
ITEM #: 3
MOTION *as part of Consent Agenda*

AGENDA ITEM: 2011 Street Improvement Raingarden Project – Final Payment

SUBMITTED BY: Ryan Stempski, 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 final payment to All Weather Services, the Contractor for the 2011 Street Improvement Raingarden Project in the amount of \$25,837. The warranty period began on August 26, 2011, and extends to August 26, 2012. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

STAFF REPORT AND BACKGROUND INFORMATION: The 2011 Street Improvement Raingarden Project has been fully completed, including all restoration and punch list items. The project Certificate of Completion has been issued by Rusty Schmidt, the Project Manager from Washington Conservation District, and the one-year warranty period was initiated.

Final Payment in the amount of \$25,837 has been requested by the Contractor, All Weather Services, based upon actual quantities of product installed. The original construction contract, based on estimated quantities was for \$25,074. As part of the Valley Branch Watershed District (VBWD) Community Grant, the City will receive \$17,000.

The overall scope of this project has changed several times. At the planning phase, the project was authorized by the City Council with a total project budget amount of \$38,200 (construction amount of \$20,736 with \$5,000 in contingencies), including construction, engineering and coordination. This estimate was for the installation of 8 Raingardens. On January 23, 2011, the VBWD Board approved the Lake Elmo 2011 Street Improvement Raingarden Project Community Grant in the amount of \$17,000. The project was designed and bid with the total number of Raingardens increasing to 13. The construction price bid for the 13 Raingardens was \$25,074, the amount of the original contract with All Weather Services. In construction, one Raingarden was removed; however additional retaining wall quantities were required throughout the project to better fit the Raingardens to the existing landscape. The actual installed project

included 12 Raingardens at a construction cost of \$25,837. The overall project will be completed within the \$38,200 budget and all Raingardens have maintenance agreements executed with the adjacent property owner.

RECOMMENDATION: Based upon the above staff report and background information, it is recommended that the City Council approve as part of tonight's *Consent Agenda* Final Payment in the amount of \$25,837 to All Weather Services.

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 Final Payment to All Weather Services for the
2011 Street Improvement Raingarden Project in the amount
of \$25,837; to be paid from the Surface Water Fund [as amended and/or
modified at tonight's meeting].”**

ATTACHMENTS:

1. Certificate of Completion from the Washington Conservation District
2. Payment Voucher
3. Final Quantities Spreadsheet

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

CERTIFICATE OF COMPLETION

DATE OF ISSUANCE: Date 9/13/11

OWNER: CITY OF LAKE ELMO, MN
CONTRACTOR: ALL WEATHER SERVICES
PROJECT NAME: 2011 STREET IMPROVEMENT RAINGARDEN PROJECT
PROJECT NO.: N/A

- This Certification of Completion applies to all work under the Contract Documents
 This Certification of Completion applies to the following specified parts of the Contract Documents

I do hereby certify that the work to which this Certificate applies has been constructed in accordance with the Contract dated July 19, 2011, and related Contract Documents as prepared by Washington Conservation District dated June 21, 2011, the above-mentioned improvement is hereby declared to be complete and acceptance of this work is recommended.

DATE OF COMPLETION: Date 8/25/11

Rusty Schmidt

Rusty W. Schmidt
WASHINGTON CONSERVATION DISTRICT

THE WARRANTY PERIOD BEGINS Date 8/26/11 AND ENDS Date 8/26/12

All Weather Services - 2011 Lake Elmo Roadway Raingarden Final Payment - September 13, 2011

| Material | QTY | Unit | Unit Cost | Amount | |
|---|------------|-------------|------------------|---------------|------------|
| Anderson | | | | | |
| Plants | | | | | |
| | | plugs | \$4.00 | \$0.00 | |
| | 19 | #1 gal. | \$12.00 | \$228.00 | |
| | 9 | #2 gal. | \$22.00 | \$198.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 40 | Ln. Ft. | \$8.00 | \$320.00 | |
| Retaining Wall - Glacial Field Stone 12"-24" | 2.5 | TON | \$150.00 | \$375.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,766.00 |
| Gergen | | | | | |
| Plants | | | | | |
| | 38 | plugs | \$4.00 | \$152.00 | |
| | 30 | #1 gal. | \$12.00 | \$360.00 | |
| | | #2 gal. | \$22.00 | \$0.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 60 | Ln. Ft. | \$8.00 | \$480.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,637.00 |
| Gibson/ Pike | | | | | |
| Plants | | | | | |
| | 33 | plugs | \$4.00 | \$132.00 | |
| | 42 | #1 gal. | \$12.00 | \$504.00 | |
| | | #2 gal. | \$22.00 | \$0.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 60 | Ln. Ft. | \$8.00 | \$480.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,761.00 |
| Hammerlund | | | | | |
| Plants | | | | | |
| | 32 | plugs | \$0.00 | \$0.00 | |

| | | | | | |
|----------------------------------|-----|---------|--------|--------|--------|
| | 42 | #1 gal. | \$0.00 | \$0.00 | |
| | | #2 gal. | \$0.00 | \$0.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$0.00 | \$0.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$0.00 | \$0.00 | |
| Bullet Edgers | 60 | Ln. Ft. | \$0.00 | \$0.00 | |
| Excavation | 15 | CY | \$0.00 | \$0.00 | |
| Sod | 120 | SF | \$0.00 | \$0.00 | \$0.00 |

Lee
Plants

| | | | | | |
|----------------------------------|-----|---------|---------|----------|------------|
| | 18 | plugs | \$4.00 | \$72.00 | |
| | 12 | #1 gal. | \$12.00 | \$144.00 | |
| | 7 | #2 gal. | \$22.00 | \$154.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 60 | Ln. Ft. | \$8.00 | \$480.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,495.00 |

Linder
Plants

| | | | | | |
|----------------------------------|-----|---------|---------|----------|------------|
| | 35 | plugs | \$4.00 | \$140.00 | |
| | 42 | #1 gal. | \$12.00 | \$504.00 | |
| | | #2 gal. | \$22.00 | \$0.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 60 | Ln. Ft. | \$8.00 | \$480.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,769.00 |

Schauer
Plants

| | | | | | |
|----------------------------------|-----|---------|---------|------------|--|
| | 65 | plugs | \$4.00 | \$260.00 | |
| | 86 | #1 gal. | \$12.00 | \$1,032.00 | |
| | 14 | #2 gal. | \$22.00 | \$308.00 | |
| Mulch - double shredded hardwood | 6 | CY | \$30.00 | \$180.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 100 | Ln. Ft. | \$8.00 | \$800.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |

| | | | | | |
|-----|-----|----|--------|----------|------------|
| Sod | 130 | SF | \$3.00 | \$390.00 | \$3,195.00 |
|-----|-----|----|--------|----------|------------|

Schneider
Plants

| | | | | | |
|----------------------------------|----|---------|---------|----------|--|
| | 39 | plugs | \$4.00 | \$156.00 | |
| | 39 | #1 gal. | \$12.00 | \$468.00 | |
| | | #2 gal. | \$22.00 | \$0.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 78 | Ln. Ft. | \$8.00 | \$624.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |

| | | | | | |
|-----|-----|----|--------|----------|------------|
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,893.00 |
|-----|-----|----|--------|----------|------------|

Schumacher
Plants

| | | | | | |
|--|-----|---------|----------|----------|--|
| | | plugs | \$4.00 | \$0.00 | |
| | 8 | #1 gal. | \$12.00 | \$96.00 | |
| | 14 | #2 gal. | \$22.00 | \$308.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 40 | Ln. Ft. | \$8.00 | \$320.00 | |
| Retaining Wall - Glacial Field Stone 12" -24" | 2.5 | TON | \$150.00 | \$375.00 | |

| | | | | | |
|------------|----|----|---------|----------|--|
| Excavation | 15 | CY | \$11.00 | \$165.00 | |
|------------|----|----|---------|----------|--|

| | | | | | |
|-----|-----|----|--------|----------|------------|
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,744.00 |
|-----|-----|----|--------|----------|------------|

Voeller
Plants

| | | | | | |
|----------------------------------|----|---------|---------|----------|--|
| | 46 | plugs | \$4.00 | \$184.00 | |
| | 37 | #1 gal. | \$12.00 | \$444.00 | |
| | | #2 gal. | \$22.00 | \$0.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 60 | Ln. Ft. | \$8.00 | \$480.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |

| | | | | | |
|-----|-----|----|--------|----------|------------|
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,753.00 |
|-----|-----|----|--------|----------|------------|

Wemeier
Plants

| | | | | | |
|--|----|---------|---------|----------|--|
| | 34 | plugs | \$4.00 | \$136.00 | |
| | 44 | #1 gal. | \$12.00 | \$528.00 | |

| | | | | | |
|---|------|---------|----------|--------------------|--------------------|
| | | #2 gal. | \$22.00 | \$0.00 | |
| Mulch - double shredded hardwood | 2 | CY | \$30.00 | \$60.00 | |
| Compost - MnDOT Grade 2 | 2 | CY | \$30.00 | \$60.00 | |
| Bullet Edgers | 70 | Ln. Ft. | \$8.00 | \$560.00 | |
| Excavation | 15 | CY | \$11.00 | \$165.00 | |
| Sod | 120 | SF | \$3.00 | \$360.00 | \$1,869.00 |
| Whalen | | | | | |
| Plants | | | | | |
| | 21 | plugs | \$4.00 | \$84.00 | |
| | 59 | #1 gal. | \$12.00 | \$708.00 | |
| | 17 | #2 gal. | \$22.00 | \$374.00 | |
| Mulch - double shredded hardwood | 5.5 | CY | \$30.00 | \$165.00 | |
| Compost - MnDOT Grade 2 | 5.5 | CY | \$30.00 | \$165.00 | |
| Bullet Edgers | 126 | Ln. Ft. | \$8.00 | \$1,008.00 | |
| Excavation | 28 | CY | \$11.00 | \$308.00 | |
| Sod | 316 | SF | \$3.00 | \$948.00 | |
| Retaining Wall - Glacial Field Stone 12" - 24" | 2.5 | TON | \$150.00 | \$375.00 | \$4,135.00 |
| Additional Glacial Field Stone - retaining walls | 16.8 | TON | \$150.00 | \$2,520.00 | \$2,520.00 |
| Mobilization | | JOB | \$500.00 | \$300.00 | \$300.00 |
| Total Cost Estimate | | | | \$25,837.00 | \$25,837.00 |



MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/2011
CONSENT
ITEM #: 4
MOTION

AGENDA ITEM: Approve Preparation of City Communication on Tax Levy

SUBMITTED BY: September 13th, 2011 City Council Discussion

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

REVIEWED BY: Tom Bouthilet, Finance Director
Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED: September 13th, 2011 City Council discussion regarding approval of the preliminary 2012 Tax Levy and General Fund Budget included comments regarding the challenge faced this year in communicating key changes to City residents and businesses. To begin this effort, it is respectfully recommended that the City Council authorize as part of tonight's *Consent Agenda* preparation of a letter to City residents and businesses addressing these issues.

BACKGROUND INFORMATION & STAFF REPORT: During the September 13th, 2011 City Council discussion regarding approval of the preliminary 2012 Tax Levy and General Fund Budget, it was noted that communicating effectively with City residents and businesses would be of particular importance. Among the key budgetary challenges for 2012 are the ending of the State's Market Value Homestead Credit program, continued City funding of street rehabilitation projects, and adoption of a new Library Levy.

Further, at the September 14th, 2011 luncheon meeting of the Washington County local administrators, the County shared with attendees its own draft communication piece addressing the complex changes in property taxes from 2011 to 2012. Similarly, Metro Cities and the State of Minnesota have also begun to craft and utilize set communication pieces on some of these complex topics.

Given this, City staff proposes drafting a Communication Letter from the City to residents and businesses addressing these topics, as well as a related webpage on the City's website. It is anticipated that such effort would cost approximately \$1,500 in materials and postage; the City's approved 2011 Budget has sufficient capacity to undertake the action at this time. However, future City publication plans may have to be slightly revised or revisited later this year, should

additional communications be considered at a later date. City Council review would be solicited prior to distribution.

RECOMMENDATION: It is respectfully recommended that the City Council authorize as part of tonight's *Consent Agenda* preparation of a letter to City residents and businesses addressing these issues.

Alternatively, the City Council does have the authority to remove item from the Consent Agenda and table, further discuss or modify, as appropriate. If the latter, the suggested motion would be:

**SUGGESTED
MOTION:**

“Move to authorize City staff to prepare a City letter to residents and businesses further explaining the preliminary 2012 Levy and Budget, as directed at tonight’s meeting.”

ATTACHMENTS:

1. Draft Washington County Communication Piece
2. Metro Cities/State of Minnesota Communication Pieces

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

IMPORTANT PROPERTY TAX LAW CHANGE

2011 Law Change: A New Homestead Market Value Exclusion replaces the Homestead Market Value Credit

The 2011 Legislature repealed the Homestead Residential Market Value Credit and replaced it with a new program called the Homestead Market Value Exclusion. This change is impacting the property taxes on all homesteaded and non-homesteaded property for Pay 2012.

Old Law: All homesteaded property under \$413,800 in value received a Homestead Residential Market Value Credit. This credit reduced the property taxes billed and was shown on line 4 of the property tax statement mailed in March of each year.

- Homesteaded property received a credit or reduction on the amount of property taxes
- The credit was equal to .4% of the first \$76,000 in market value. If your value was above \$76,000, the credit was reduced by 0.09% of the market value over \$76,000. Homes valued at \$413,800 and above received no homestead credit. The chart below gives examples of the amount of credit on various valued homes.

| Estimated Market Value | Taxable Market Value | "Old Law" Homestead Credit |
|------------------------|----------------------|----------------------------|
| \$ 76,000 | \$ 76,000 | \$ 304.00 |
| \$ 150,000 | \$ 150,000 | \$ 237.40 |
| \$ 250,000 | \$ 250,000 | \$ 147.40 |
| \$ 350,000 | \$ 350,000 | \$ 57.40 |
| \$ 400,000 | \$ 400,000 | \$ 12.40 |
| \$ 425,000 | \$ 425,000 | \$ - |

New Law: All homestead property under \$413,800 in value will receive a Homestead Market Value Exclusion. This value exclusion will be identified on the valuation notices mailed in March of each year. The taxable value listed on your Proposed Property Tax Statement has been reduced by the homestead exclusion amount your property qualifies for.

- Homesteaded property no longer receives a credit that reduces the property taxes paid. Instead, a portion of the homestead's property value will be excluded from taxation.
- The Homestead Market Value Exclusion excludes from taxation 40% of the value on the first \$76,000 of a property's value. The amount excluded is reduced as the value rises over \$76,000 (the exclusion reduction is equal to 9% of the value over \$76,000). Homesteads that exceed \$413,800 in value will receive no homestead exclusion. The chart below gives examples of the exclusion amount on various valued homes.

| Estimated Market Value | Homestead Exclusion | Taxable Market Value (after Homestead Exclusion) |
|------------------------|---------------------|--|
| \$ 76,000 | \$ 30,400 | \$ 45,600 |
| \$ 150,000 | \$ 23,740 | \$ 126,260 |
| \$ 250,000 | \$ 14,740 | \$ 235,260 |
| \$ 350,000 | \$ 5,740 | \$ 344,260 |
| \$ 400,000 | \$ 1,240 | \$ 398,760 |
| \$ 425,000 | \$ - | \$ 425,000 |

Why the State Change:

- The elimination of the market value homestead credit was included in the 2011 budget bills passed in the special session in July of 2011. By eliminating the credit, the state no longer has to pay roughly \$260 million each year. This was one cost saving measure the state used to close the \$5 billion state budget deficit.
- Under the old credit law, the state was reducing the taxes paid by homesteaded property and instead the state was promising to pay that portion of the tax to the local taxing districts (i.e., your city, county, school, and other local taxing districts). However, in seven of the last eight years, the state, because of its budget problems, was not paying the full credit amount to each local government. This meant most years many local governments were left with a deficit in their budgets because of the state's inability to pay the amount they owed.

What is the Impact: The impact of this state change will vary for each property depending on a variety of factors. However, in general, the elimination of the homestead credit and replacement with a homestead exclusion is going to mean higher property taxes for most property owners, even if property tax levies adopted by local governments do not increase. The bullets below explain the most significant impacts of this change:

- The state is no longer providing a homestead credit and instead the entire levy is being paid by local property taxpayers. In Washington County this means a total of more than \$11 million in credits that were paid by the state to all the local governments will now be paid by property owners.
- The new homestead exclusion lowers the county's tax base by roughly 4%, which has led to increases in the property tax rates of most local taxing jurisdictions. A property tax rate is calculated by dividing the amount of the property tax levy by the total tax base.
- For properties that are non-homestead or commercial and industrial, the higher property tax rates are likely to mean higher property tax bills even if its value has declined.
- For properties that are homestead, the new homestead exclusion may not be enough to offset the increases in the tax rates and the elimination of the homestead credit thus many properties will experience tax increases.

Washington County Tax Impact: Washington County did not increase its proposed property tax amount for 2012 from the 2011 amount (a 0% increase). For a \$250,000 valued home that experienced the median value change from 2011 to 2012 of a 2.8% reduction, the county tax portion of the total tax bill is increasing by \$30. If the homestead credit had not been repealed and replaced by the homestead exclusion that same 0% levy increase on that same property would have led to a \$24 reduction in property taxes in 2012. The difference between those two amounts illustrates the impact on the county tax of the repeal of the homestead credit on a typical home in the county.

| Home Valued at \$250,000 for Pay 2012 (assuming a 2.8% value reduction from 2011 to 2012) | | | | | |
|---|----------------------|------------------------------|---------------------------------|-----------|----------|
| Scenario | County Levy Increase | Actual Pay 2011 Property Tax | Estimated Pay 2012 Property Tax | \$ Change | % Change |
| Net Tax Under Spec. Session Law conversion of Market Value Credit to Exclusion | 0% | 729 | 759 | 30 | 4.12% |
| Net Tax Under Pay 2011 Laws (MVHC in place) | 0% | 729 | 705 | -24 | -3.29% |

Impact of State Elimination of Homestead Credit on County Tax on Typical Washington County Home: + \$54

Information contained in this flyer was gathered from bulletins and documents prepared by the Minnesota House Research Department and Minnesota Department of Revenue and from information prepared by the Washington County Department of Property Records and Taxpayer Services.

Homestead Credit Eliminated For Taxes Payable in 2012

Taxes Payable in 2011:

Homestead Credit was 0.40% of the first 76,000 of taxable market value, reduced by 0.09% on the value over 76,000. A 76,000 home received the maximum credit of \$304, and the credit phased out to \$0 at a value of 413,800. Following are credit amounts for selected property values:

| Estimated Market Value | Taxable Market Value | Homestead Credit |
|------------------------|----------------------|------------------|
| 76,000 | 76,000 | \$304.00 |
| 100,000 | 100,000 | \$282.40 |
| 200,000 | 200,000 | \$192.40 |
| 250,000 | 250,000 | \$147.40 |
| 500,000 | 500,000 | \$0.00 |

This credit was "state paid" (although the state did not always reimburse the taxing districts for the full amount of the credit) so this brought in additional money to reduce homestead property taxes without affecting taxes on other types of property. Countywide, property taxes were reduced by approximately \$11 million in 2011 due to the homestead credit.

Taxes Payable in 2012:

Homestead Credit is eliminated. The benefit is converted to a homestead market value exclusion. The exclusion is 40% of the first 76,000 of market value, reduced by 9% of the value over 76,000. The exclusion phases out to 0 at 413,800 of market value. This reduces the taxable market value of homestead property. Following are exclusion amounts for selected property values:

| Estimated Market Value | Homestead Exclusion | Taxable Market Value |
|------------------------|---------------------|----------------------|
| 76,000 | 30,400 | 45,600 |
| 100,000 | 28,240 | 71,760 |
| 200,000 | 19,240 | 180,760 |
| 250,000 | 14,740 | 235,260 |
| 500,000 | 0 | 500,000 |

Under this method there is no state funding of the tax benefit given to homestead properties. Instead, taxpayers are responsible for paying the full amount levied by the taxing authorities. Since homestead properties will pay taxes on a lower market value, this will cause the property tax burden to shift to other properties.

Cutting out the previously state funded portion means that under this scenario taxpayers in a jurisdiction will generally pay more if levies remain the same. Reduction in value means that the tax rate will increase, so this change will affect all property types, not just homesteads.

What is the impact of the value exclusion?

The value exclusion reduces taxable market value, which reduces the tax capacity used as the tax base for calculating local tax rates. This will increase tax rates.

The impact of the value exclusion will vary from jurisdiction to jurisdiction depending on factors such as:

Number and makeup of homesteads – lower value homes get more credit, therefore a tax base made up of lower valued homes will tend to have more of an impact from the exclusion.

Extent of tax base from other property types such as commercial-industrial.

Ultimately, what percentage of the total value is excluded from taxation.

Why are taxes projected to go up in some cities but not others?

As well as being impacted by the new value exclusion, all the same factors that apply every year are in play this year as well. Look at the other factors that influence the tax rate calculation:

Market value before exclusion.

Homestead market value exclusion. What percentage of value is excluded.

Value captured by TIF. Value captured by TIF is not available for local taxing purposes. Several cities had large reductions in TIF due to decertification of several districts: Stillwater, St Paul Park, Cottage Grove, Hugo. This tends to reduce local tax rates.

Fiscal disparity contribution value. Each municipality contributes 40% of the increase in CI value from 1971 to the prior into the fiscal disparity pool. This reduces the value available for calculating the local tax rate. Although the countywide average is a 4% reduction in fiscal disparity contribution, several cities experienced double digit increases in contribution value, which leaves less value to fund the local tax rate.

Value used to calculate the local tax rate. This is the tax capacity after reductions for the homestead value exclusion, TIF, and fiscal disparities.

Portion of the levy funded by fiscal disparities. The greater the portion of the levy funded by fiscal disparities, the less that is needed from the local taxpayers. Conversely, the less that is funded by fiscal disparities, the more that will need to be funded locally. Although in total taxing authorities are receiving 4% more from fiscal disparities in 2012, there are many tax authorities with a significant reduction in the amount they will receive from fiscal disparities, which will tend to increase local tax rates.

Tax rate. It is important to look at tax rates in context. When looking at the percentage change in tax rate, it is also important to keep in mind how values are changing. A 10% increase in tax rate when the median value change is a 10% reduction will tend to lead to flat taxes, while a 10% increase in tax rate applied to flat values will lead to a 10% tax increase.

Why is the tax impact greater on lower valued homes?

Areas with lower tax rates (under 100%) will see a greater tax impact on lower valued homes. Areas with higher tax rates (over 100%) will see a greater tax impact on higher valued homes.

The credit was a dollar for dollar reduction in property taxes. 0.40% on the first 76,000 of market value reduced by .09% on the value over 76,000. On a 250,000 that equates to \$147.40. The market value exclusion is calculated in a similar way. 40% of the first 76,000 of market value reduced by 9% of the value over 76,000. On a 250,000 that equates to a 14,700 value exclusion. With a class rate of 1%, that yields a tax capacity reduction of 147. Multiply that by the tax rate to arrive at the tax benefit of the market value exclusion. So if the tax rate is less than 100%, the exclusion yields less of a benefit than the old credit. Conversely, if the tax rate is greater than 100% then the exclusion yields more of a benefit than the old credit.

How will the value exclusion appear on the tax statement?

For taxes payable in 2011, the credit was shown on line 4A.



Spruce County
Jane Smith, Auditor-Treasurer
345 12th Street East, Box 78
Spruceville, MN 55555-5555
(218) 345-6789
www.co.spruce.mn.us



Property ID Number: 01.234.56.7890.R1

Property Description:

Lot 5, Block 13 of the Spruceville Estates Addition to the City of Spruceville.

TAXPAYER(S):

John and Mary Johnson
123 Pine Road South
Spruceville, MN 55555-5555

| 2011 | | PROPERTY TAX STATEMENT | |
|--|-----------|------------------------|--|
| PROPERTY TAX VALUES & CLASSIFICATION | | | |
| Taxes Payable Year: | 2010 | 2011 | |
| Estimated Market Value: | \$100,000 | \$115,000 | |
| Improvements Excluded: | N/A | \$5,000 | |
| New Improvements/ Expired Exclusions: | \$0 | \$0 | |
| Taxable Market Value: | \$100,000 | \$110,000 | |
| Property Classification: | RES HMSTD | RES HMSTD | |

\$\$\$

You may be eligible for one or even two refunds to reduce your property tax.

REFUNDS?

Read the back of this statement to find out how to apply.

| Taxes Payable Year: | 2010 | 2011 | |
|--|------------|------------|--|
| 1. Use this amount on Form M1PR to see if you are eligible for a property tax refund. File by August 15. If this box is checked, you owe delinquent taxes and are not eligible. <input type="checkbox"/> | | \$1,212.60 | |
| 2. Use these amounts on Form M1PR to see if you are eligible for a special refund. | \$1,104.34 | | |
| Property Tax and Credits | | | |
| 3. Property taxes before credits | \$1,386.74 | \$1,486.00 | |
| 4. Credits that reduce property taxes | | | |
| A. Homestead and agricultural market value credits | \$282.40 | \$273.40 | |
| B. Taconite tax relief | \$0.00 | \$0.00 | |
| C. Other Credits | \$0.00 | \$0.00 | |
| 5. Property taxes after credits | \$1,104.34 | \$1,212.60 | |

The format for taxes payable in 2012 has not been finalized yet, but the changes will likely look something like this. The exclusion amount will be shown in the values section, as well as the new Taxable Market Value after exclusion. This will be different than the taxable market value received on the value notice earlier this year. There will no longer be a homestead credit amount on line 4.



Spruce County
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345 12th Street East, Box 78
Spruceville, MN 55555-5555
(218) 345-6789
www.co.spruce.mn.us



Property ID Number: 01.234.56.7890.R1

Property Description:

Lot 5, Block 13 of the Spruceville Estates Addition to the City of Spruceville.

TAXPAYER(S):

John and Mary Johnson
123 Pine Road South
Spruceville, MN 55555-5555

| 2012 | | PROPERTY TAX STATEMENT | |
|--|-----------|------------------------|--|
| PROPERTY TAX VALUES & CLASSIFICATION | | | |
| Taxes Payable Year: | 2011 | 2012 | |
| Estimated Market Value: | \$141,100 | \$143,200 | |
| Improvements Excluded: | \$8,000 | \$4,000 | |
| Homestead Exclusion: | N/A | \$24,352 | |
| Taxable Market Value: | \$133,100 | \$114,848 | |
| New Improvements/ Expired Exclusions: | \$4,000 | \$4,000 | |
| Property Classification: | RES HMSTD | RES HMSTD | |

\$\$\$

You may be eligible for one or even two refunds to reduce your property tax.

REFUNDS?

Read the back of this statement to find out how to apply.

| Taxes Payable Year: | 2011 | 2012 | |
|--|------------|------------|--|
| 1. Use this amount on Form M1PR to see if you are eligible for a property tax refund. File by August 15. If this box is checked, you owe delinquent taxes and are not eligible. <input type="checkbox"/> | | \$1,212.60 | |
| 2. Use these amounts on Form M1PR to see if you are eligible for a special refund. | \$1,104.34 | | |
| Property Tax and Credits | | | |
| 3. Property taxes before credits | \$1,386.74 | \$1,486.00 | |
| 4. Credits that reduce property taxes | | | |
| A. Agricultural credit | \$0.00 | \$0.00 | |
| B. Taconite tax relief | \$0.00 | \$0.00 | |
| C. Other Credits | \$0.00 | \$0.00 | |
| 5. Property taxes after credits | \$1,104.34 | \$1,212.60 | |

The proposed "Truth in Taxation" notice will only include the new Taxable Market Value after the exclusion. A note will be printed near the values indicating that there was a change for 2012.

Your Proposed Property Tax for 2012
County of Spruce
 — This is Not a Bill • Do Not Pay —

Your local units of government have proposed the amount of property taxes that they will need for 2012. Column (1) below shows your actual 2011 property taxes. Column (2) below shows what your 2012 property taxes will be if your local jurisdictions approve the property tax amounts they are now considering. Any upcoming referendums, legal judgments, natural disasters, voter approved levy limit increases, or special assessments could change these amounts.

Your county commissioners, school board, city council (if your property is located in a city over 500 population), and metropolitan special taxing districts will soon be holding public meetings to discuss their proposed 2012 budgets and proposed 2012 property taxes. (The school board will discuss the 2011 budget). You are invited to attend these meetings to express your opinion. The meeting places and times for these meetings are listed on the bottom of this notice. Also shown are the addresses and telephone numbers for these local units of government if you have comments or questions concerning the proposed property tax amounts shown on this notice. There is no public meeting on the state general tax.

Owner(s): John J. and Mary A. Johnson
 Route 1, Box 283
 Spruceville, Minnesota 55555

Legal description: Section 32, Township 123, Range 37
 East 1/2 of Northwest 1/4

Property address: Route 1, Box 283
 Spruceville, Minnesota 55555

| | Taxes payable in 2011 | Taxes payable in 2012* |
|---------------------------------|--------------------------|---------------------------|
| Property classification: | Res. Hstd. | Res. Hstd. |
| Taxable market value: | \$100,000 | \$82,000 |

Your taxable market value for property tax payable in 2012 was sent to you in the spring of 2011. The period to discuss possible changes has passed and changes can no longer be made to your property valuation. It is included here for your information only.

**A new law effective beginning for pay 2012 converts the homestead market value credit to a market value exclusion. The pay 2012 taxable market value for homesteads reflects this exclusion.*

Future valuation notices will also identify the exclusion amount.



MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/11
CONSENT
ITEM #: 5
APPROVAL

AGENDA ITEM: Easement Encroachment Agreement -- 9360 Whistling Valley Trail

SUBMITTED BY: Kelli Matzek, City Planner

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Kyle Klatt, Planning Director
Ryan Stempski, City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to authorize as part of tonight's *Consent Agenda* the execution of an easement encroachment agreement. The City has received a request to install a fence within a drainage and utility easement area as part of a swimming pool permit at 9360 Whistling Valley Trail. Approval of the requested agreement would allow the property owners to construct the requested improvement within the City's drainage and utility easements located on their private property.

BACKGROUND INFORMATION: The City holds easements of different sizes and for different purposes on many residential and commercial properties throughout the city. When a resident is interested in putting a structure within an easement, the city has requested the property owner provide a site plan showing where the improvement is proposed to be located, a detail of what the improvement will look like and how it will function.

After that information is received, the City Engineer reviews the proposed improvement and the use of the easement to determine if the proposed improvement will impede the functionality of the easement. If the engineer determines that the improvement will not negatively impact the functionality of the easement, an approved building permit showing the requested work and an Easement Encroachment Agreement is needed before the work may commence.

Of Note: The City Council has reviewed and approved easement encroachment agreements at the April 20, 2010 regular meeting. At that time, the City Council agreed to place future applications on the *Consent Agenda*, unless unique circumstances occur in which case the agreement will be placed on the regular agenda.

STAFF REPORT: The Easement Encroachment Agreement that has been submitted for Council consideration is for a fence and has been reviewed by planning and engineering staff. The proposed fence meets all city code requirements and Staff would have otherwise authorized construction of the fence if it did not encroach into a drainage and utility easement.

LEGAL CONSIDERATIONS: The Easement Encroachment Agreement is a legal document which has been signed by all property owners seeking to install an improvement within an easement. The document, among other things, indemnifies the city from responsibility if damage occurs to the improvement or if it needs to be removed at some point in the future.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council approve the Easement Encroachment Agreement 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, table, deliberate and, 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 proposed Easement Encroachment Agreement for 9360 Whistling Valley Trail, as presented [*and modified/amended*] at tonight's meeting.”

ATTACHMENTS:

1. Proposed Easement Encroachment Agreement for 9360 Whistling Valley Trail

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

Return to:
Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P.
1809 Northwestern Ave.
Stillwater, MN 55082

ENCROACHMENT AGREEMENT

THIS AGREEMENT is made this 13 day of September, 2011, by and between the CITY OF LAKE ELMO, a Minnesota municipality (hereinafter "City"), and Sarah M. Cotter and Daren M. Cotter (hereinafter "Owner"), husband and wife, and their successors in title.

WHEREAS, the City has an easement for drainage and utility purposes over that part of the property legally described on the attached Exhibit A, located in Washington County, Minnesota;

WHEREAS, Owner is desirous of constructing a fence ("The Improvements") within the Easement; and,

WHEREAS, the permission granted herein is limited to The Improvement proposed within the easement.

NOW, THEREFORE, in consideration of the premises and for good and valuable consideration, the receipt of which is acknowledged, the City will permit the encroachment on its

easement area as set forth herein and subject to the conditions set forth below:

1. Owner and successors in title may install and maintain The Improvements in the configuration directed by the City and in accordance herewith.

2. Owner must notify the City at least forty-eight (48) hours before construction, repair and/or maintenance work commences within the easement. No such work shall take place without the City staff being given the opportunity to be present at the site. Further, if the City determines in its reasonable estimation that any proposed work may potentially cause an unsafe condition or damage or impair the City's easement area, the City shall have the authority to prevent such work from being done by giving notice to Owner; notwithstanding the foregoing, in the event of an emergency situation and/or the existence of an unsafe condition of Owner's land, the prescribed forty-eight (48) hour notice requirement shall be waived by the City. However, in the event of such situation, said waiver shall not relieve Owner from their obligation to notify the City in a timely and practical manner. The City shall have no obligation to notify Owner of their intent to do work.

3. To the fullest extent permitted by law, Owner, their successors and assigns agree to release, defend, protect, indemnify, save and hold harmless the City, its agents, directors, employees and contractors against any and all claims, costs and liabilities, including the costs of defense for damages, injury or death arising from or in any way connected to the installation, maintenance, repair, removal and/or presence of The Improvements permitted hereunder, regardless of whether such harm is to Owner, the City, the employees or officers of either or any other person or entity, except shall not be liable under this paragraph for loss or damage to the extent resulting from the negligence or intentional acts of the indemnified parties.

4. The permission granted herein is limited exclusively to the proposed improvement

within the City's easement. Owner shall not alter the grade, perform any other site disturbing activities, or permit such alteration anywhere upon the land upon which the City has reserved its easement without proper express written consent of the City. Owner shall construct and maintain The Improvements in compliance with all applicable laws and in good repair.

Owner shall, at all times, use best efforts to conduct all of activities on said easement area in such a manner as to not interfere with or impede the operation of the City's easement and related activities in any manner whatsoever and shall remove The Improvements at no cost to the City when directed by the City. The work shall be done and The Improvements maintained in conformance with the direction of the City.

[SIGNATURES ON FOLLOWING PAGES]

By *Sarah M. Cotter*
[Sarah M. Cotter], wife

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

On this 13th day of September, 2011, before me, a Notary Public, personally appeared Sarah M. Cotter, property owner, who signed the foregoing instrument and acknowledged said instrument to be his free act and deed.

Jennifer Kay Gaines
Notary Public

By *Daren M. Cotter*
[Daren M. Cotter], husband



STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

On this 13th day of September, 2011, before me, a Notary Public, personally appeared Sarah M. Cotter, property owner, who signed the foregoing instrument and acknowledged said instrument to be his free act and deed.

Jennifer Kay Gaines
Notary Public



THIS INSTRUMENT DRAFTED BY:
David K. Snyder
Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P.
1809 Northwestern Avenue
Stillwater, MN 55082



MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/2011
REGULAR
ITEM #: 6
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 reviewed the variance request for two holding tanks to be installed at 2860 Lake Elmo Avenue North at the August 23rd City Council meeting. The applicant was requesting 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.

At the August 23rd meeting, the City Council requested the applicant research additional alternatives to the two holding tanks being requested. At this time, the applicants would like to bring forward additional options they have since explored. Should the City Council wish to grant the original request, the following motion would apply:

“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.”

Should the City Council wish to direct the applicant which option (or options) should be further explored and request additional information be submitted, the following motion would apply:

“Move to table the variance requested at 2860 Lake Elmo Avenue and direct the applicant to further explore Option # ___ as identified in the staff report and to bring additional information back for further consideration by the City Council.”

OTHER OPTIONS CONSIDERED:

1. *Off-Site System on Private Property:* The applicant asked the neighbors to identify in writing if they would be interested in working with him to place a drainfield off-site. The two property owners across the street (non-lakeshore property) identified that they would not be willing to work with Mr. Durand on that type of arrangement.

2. *A Third Holding Tank:* Because the City Council expressed concern that the future property owner would have to frequently pump the holding tanks, the applicant explored the option of installing three holding tanks instead of the originally proposed two. The applicant's septic designer has stated that a third holding tank could be added if some of the existing concrete in the front yard is removed.

Staff has not received a site plan showing where this third holding tank could be added and if any additional variances would be needed. In addition, a representative from Washington County stated that a third tank **may** require a second pumper truck to visit the site when it is time to pump as a pumper truck's capacity may not be able to handle three tanks worth of sewage. A second truck visit would require additional fees.

3. *Equaris System:* (<http://www.equaris.com/>). The Equaris Corporation website states that their system utilizes Biomatter Resequencing Converter Technology to solve onsite water conservation and pollution prevention toilet problems. It identifies that the technology was applied to develop advanced wastewater treatment systems. In 1999, they developed the Equaris Household Water Treatment and Wastewater Recycling System.

The applicant's are awaiting a bid from the Equaris company for installation of a system that would greatly reduce (or possibly eliminate) the amount of water and waste that would enter the originally proposed holding tanks. This would, therefore, reduce (or eliminate) the need for pumping of holding tanks on the site.

Information was received from Equaris on Friday, September 16th. As of the writing of this staff report, the information has not been reviewed by City Staff or Washington County (the City's septic permitting agency) as to its permissibility.

4. *Soil Investigation and Design, Inc.:* (<http://www.soilinvestigations.us/>). The Soil Investigation & Design, Inc. website states that they design sewage treatment systems for challenging sites, such as those with high water tables, limited space, unusual soils or near wetlands, lakes or other sensitive areas. The company states that they track research and development of new sewage system technologies

Soil Investigation and Design has submitted a letter (attached) identifying their interest in working with Mr. Durand and provided an example of a design they provided for a challenging site - this is not Mr. Durand's property, but an example elsewhere.

As of the writing of this staff report, a designed system has not been submitted for review as to its permissibility.

BACKGROUND INFORMATION: 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 in this case.

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.

In reviewing the request against the four variance criteria listed above, 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.

STAFF REPORT: The following is background information on the original request – two 1,500 gallon holding tanks and the applicant's property:

- 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 Attorney has provided a letter (attached) stating that the City Council has the ability to deny the variance should it conclude it is necessary for public health, safety and welfare reasons.

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 – Approve 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 – Deny 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.

4. TABLE – Table the variances requested and direct the applicant to further explore one (or more) of the options identified in this staff report or an additional option not identified in this report.

Motion – Move to table the variance requested at 2860 Lake Elmo Avenue and direct the applicant to further explore Option ___ as identified in the staff report and to bring additional information back for further consideration by the City Council.

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: 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.”

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, 3 or 4 as identified on page 4 and 5, or take another course of action crafted at the meeting by the City Planner and Attorney.

The full staff report provided at the August 23rd meeting is not attached, but is available upon request.

ATTACHMENTS: (8)

1. Resolution 2011-033A
2. Resolution 2011-033B
3. Resolution 2011-033C
4. Letter from City Attorney dated September 16, 2011
5. Letters from Neighbors Identifying No Interest
6. Pricing Information Submitted Regarding 3rd Holding Tank
7. Letter from Equaris
8. Letter from Soil Investigation & Design
9. Applicant's Submittals
10. Area Map Identifying Location of Property

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 Facilitates
- Action on Motion..... Mayor & City Council

**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 and tabled the item; and

WHEREAS, the City Council reconsidered said matter at its September 20, 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 20th day of September 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 and tabled the item; and

WHEREAS, the City Council reconsidered said matter at its September 20, 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 useage).
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 20th day of September 2011 by the City Council of the City of Lake Elmo, Minnesota.

ATTEST:

Dean A. Johnston, Mayor

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 and tabled the item; and

WHEREAS, the City Council reconsidered said matter at its September 20, 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 20th day of September 2011 by the City Council of the City of Lake Elmo, Minnesota.

ATTEST:

Dean A. Johnston, Mayor

Bruce A. Messelt, City Administrator

Writer's Direct Dial:
(651) 351-2131

Writer's E-mail:
dsnyder@eckbergglammers.com

September 16, 2011

Via Email and Fax

Kelli Matzek
City of Lake Elmo

Re: *Durand Variance*
Our File No.: 22702-19796

Dear Kelli:

In response to your question, I conclude that the Council is within its rights to deny a variance for the septic system here if it concludes as necessary for public health, safety and welfare grounds. If you have any questions regarding this matter, please feel free to contact me. Thank you.

Sincerely,



David K. Snyder

DKS/mah

Stillwater Office:

1809 Northwest 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

Mr. & Mrs. Donald Durand,

August 29, 2011

Your neighbor, Mr. Clyde Durand currently owns the residential home at 2860 Lake Elmo Avenue and is looking to sell his home. Because of recent septic requirements he is required to upgrade his system, but because of his small lakeshore property his only option on-site is for holding tanks. There is no room on his property for a drainfield

One option that Mr. Durand is exploring is the ability to put a septic system outside of the property he owns. He has spoken with City Staff and has been told it may be possible for his contractor to construct a pipe under Lake Elmo Avenue to a septic system on another private residence if that private property owner agrees to it.

At this time Mr. Durand is asking if you would be interested in exploring the idea of allowing a septic system on your property which would serve his home. This may mean either an acquisition of land or an easement. Please fill out the questionnaire below to let Mr. Durand (and the City of Lake Elmo) know if this is an option Mr. Durand can explore further with you. Since time is of the essence a quick response would be appreciated. We have enclosed a stamped, self addressed envelope for your convenience.

Thank you for your time.

Sincerely,



Carl Baglio

Keller Williams Premier Realty

651-246-1060

Yes, I would be willing to work with Mr. Durand and the City of Lake Elmo allowing the construction of a septic system on my property.

No, I will not be willing to work with Mr. Durand and the City of Lake Elmo allowing construction of a septic system on my property.

Mr. & Mrs. John Bourdaghs,

August 29, 2011

Your neighbor, Mr. Clyde Durand currently owns the residential home at 2860 Lake Elmo Avenue and is looking to sell his home. Because of recent septic requirements he is required to upgrade his system, but because of his small lakeshore property his only option on-site is for holding tanks. There is no room on his property for a drainfield.

One option that Mr. Durand is exploring is the ability to put a septic system outside of the property he owns. He has spoken with City Staff and has been told it may be possible for his contractor to construct a pipe under Lake Elmo Avenue to a septic system on another private residence if that private property owner agrees to it.

At this time Mr. Durand is asking if you would be interested in exploring the idea of allowing a septic system on your property which would serve his home. This may mean either an acquisition of land or an easement. Please fill out the questionnaire below to let Mr. Durand (and the City of Lake Elmo) know if this is an option Mr. Durand can explore further with you. Since time is of the essence a quick response would be appreciated. We have enclosed a stamped, self addressed envelope for your convenience.

Thank you for your time.

Sincerely,



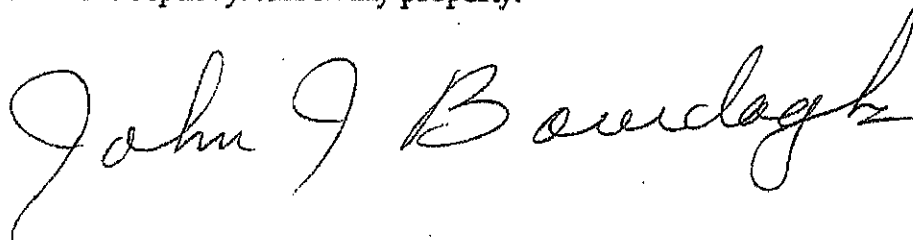
Carl Baglio

Keller Williams Premier Realty

651-246-1060

Yes, I would be willing to work with Mr. Durand and the City of Lake Elmo allowing the construction of a septic system on my property.

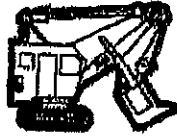
No, I will not be willing to work with Mr. Durand and the City of Lake Elmo allowing construction of a septic system on my property.



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 work, 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.

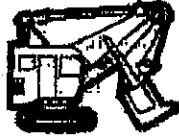
Signature _____
 Signature _____

ate _____

PROPOSAL

Fuhr Trenching, Inc.

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



| | |
|-----------|---------|
| No. | _____ |
| Date | 8/24/11 |
| Sheet No. | # 2 |

Proposal Submitted To:

| | |
|--------|-----------------------|
| Name | Clyde Durand |
| Street | 2860 Lake Elmo Ave.N. |
| City | Lake Elmo, MN 55042 |
| State | _____ |
| 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 add another 1500 Gallon Concrete Septic Tank to
 Original Bid on 7/18/11. This will make a Total of 3- 1500
 Gallon Holding Tanks for This Home. Add to Original Bid.
 Remove Concrete as Needed and Haul away. \$ 2,060.00

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

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.

Signature _____

Signature _____

Date _____

September 14, 2011



Mr. Clyde Durand
2860 Lake Elmo Avenue North
Lake, Elmo, MN 55042

Dear Clyde,

After touring your property on Lake Elmo and at the request of the Lake Elmo City Council we are submitting water and wastewater treatment options to you and the Lake Elmo City Council in order to receive approval to allow your property to be sold in accordance with existing Minnesota Pollution Control Agency (MPCA) 7080 Subsurface Sewage Treatment Systems (SSTS) regulations.

Option 1 - Remove the existing cesspool system and install holding tanks. Holding Tank Permit required by Lake Elmo charges?

Annual estimated Lake Elmo water supply rates and holding tank pumping costs for a 2 bedroom and 2 bathroom home. Utilizing an estimated average family of 2 parents and 2 children the following figures are based upon MPCA 7080 calculations and requirements.

Annual Operational Costs:

1. 75 gallons of potable water consumed per person per day x 365 days provided by the City of Lake Elmo and charged quarterly, 90 days, at a \$25 base rate charge plus a water rate consumption charge based upon 300 gallons of commingled black and greywater produced per day x 90 days = 27,000 gallons of water per quarter @ \$2.86/1,000 gallons = \$77.22 per quarter or \$308.88 annually plus the \$25 quarterly charge = \$408.88
2. 75 gallons of commingled black and greywater produced per person per day x 365 days, pumped and removed by a septic hauling company @ 300 gallons of commingled black and greywater produced per family of 4 per day would require pumping every 3 days @ \$100 per pumping, requiring 122 pumpings annually = \$12,200 annually
3. Total estimated material and labor costs = \$9,000

Option 2 - Within the subject property's bathrooms and the basement on the north side of the home would be to retrofit the existing ABS plumbing piping system by installing:

1. 2 each new Dometic/SeaLand Ultra-Ultra Low Flushing Gravity toilets and utilizing 3" ABS pipe, plumb the toilet resources to the Equaris BioMatter Resequencing Converter (BMRC). - \$3,000
2. An Equaris BMRC and run a 4" ABS pipe up to exhaust odorless carbon dioxide and water vapor to the atmosphere at the highest point of the subject property's roof. - \$14,500
3. 5 each 200 gallon polyethylene greywater holding tanks with alarms and internet monitoring with data collection and reporting capabilities and vent those tanks through the highest point of the subject property's roof - \$5,000
4. Total installed cost = \$22,500

Annual estimated Lake Elmo water supply rates and holding tank pumping costs for a 2 bedroom and 2 bathroom home. Utilizing an estimated average family of 2 parents and 2 children the following figures are based upon MPCA 7080 calculations and requirements.

Annual Operational Costs:

1. 40 gallons of greywater produced per person per day x 365 days provided by the City of Lake Elmo, charged quarterly, 90 days, at a \$25 base charge plus a water rate consumption charge based upon 160 gallons of potable water per day x 90 days = 14,400 gallons of potable water at \$2.14/1,000 gallons = \$30.82 per quarter or \$123.26 annually plus the \$25 quarterly charge = \$223.26

2. 40 gallons of greywater produced per person per day x 365 days pumped and removed by a septic hauling company @ 160 gallons of greywater produced per family of 4 per day would require pumping every 6 days at \$100 per pumping requiring 61 pumpings annually = \$6,100 annually
3. Annual maintenance charges for the toilets and BMRC - \$600

Option 3 – Recycle the greywater utilizing the Equaris Enfinity Greywater Treatment and Recycling Systems

1. Install 1 each Equaris Greywater Treatment System - \$6,500
2. Install 1 each Equaris Enfinity Water Recycling System - \$30,000
3. Install rainwater harvesting system and plumb the rainwater to the holding tanks installed in the basement of the subject property as outlined in Option 2, which are then converted to cisterns for water storage and supply - \$3,000
4. Total estimated material and labor costs = \$62,000

Annual estimated Lake Elmo water supply rates and holding tank pumping costs for a 2 bedroom and 2 bathroom home. Utilizing an estimated average family of 2 parents and 2 children the following figures are based upon MPCA 7080 calculations and requirements with rainwater as the primary water supply and total recycling of the greywater into potable water for total recycle and consumption with no discharge to the environment.

Annual Operational Costs:

1. 0 gallons of potable water per person per day x 365 days provided by the City of Lake Elmo = \$0
2. 0 gallons of greywater per person per day x 365 days pumped and removed by a septic hauling company = \$0
3. Annual operating and maintenance charges for the toilets, BMRC, Greywater Treatment and Recycling Systems - \$2,000

First Year, Annual, Five and Ten Year Financial Cost Comparisons Between Commingled Blackwater and Greywater and the Equaris Separation Technologies:

| Options | Installed Costs | Operation Costs | Water Costs | Total Costs First Year | Costs/Five Years | Ten Years |
|----------|-----------------|-----------------|-------------|------------------------|------------------|-----------|
| Option 1 | \$9,000 | \$12,200 | \$408.88 | \$21,609 | \$72,044 | \$135,089 |
| Option 2 | \$22,500 | \$6,700 | \$223.26 | \$29,423 | \$57,116 | \$91,733 |
| Option 3 | \$62,000 | \$2,000 | \$0 | \$64,000 | \$72,000 | \$82,000 |

We would like to also add that the installation of the Equaris BMRC also reduces organic kitchen resources normally being picked up by garbage trucks and buried in landfills by 95%. This decentralized onsite composting reduces highway infrastructure cost and landfill operations, thereby reducing taxes to the public.

Options 1 and 2 will increase based upon the rates charged for water and septic pumping fees. Option 3 also provides the best quality potable water possible utilizing ozone and reverse osmosis. Option 3 also reduces the use of soaps and laundry detergents, eliminates water softener costs and provides internet security protection for the homeowner. The Equaris Technologies are financially the better option and a much more sustainable choice for this property as well as other properties that are seeking alternative and sustainable water supply and wastewater treatment options.

Sincerely,

Clint Elston
 Chief Executive Officer
 Equaris Corporation

Soil Investigation and Design, Inc.

2809 78th Ave. N
Brooklyn Park, MN 55444
Metro: 651-260-3783

16 South 5th Avenue East
Melrose, MN 56352
320-260-8874

pbrandt@sollinvestigations.us

September 14, 2011

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

Mr. Carl Baglios
Keller Williams Realty
2850 Curve Crest Blvd,
Stillwater, MN 55082

Dear Clyde and Carl,

We are pleased to offer this information regarding our firm and our capabilities relating to onsite septic designs. Our firm has practiced in the area of commercial and residential individual septic systems for over 35 years. We have participated or been responsible for the investigation and design of thousands of sewage systems ranging from 80,000 gallon per day systems down to systems that serve one bedroom homes but had significant design problems.

Design problems that we have encountered include restricted space available for placing the system on a property because of regulatory imposed setbacks (side lot, lakes, roads and such) to small lots that had little space available to sites that had no suitable soils to use as part of the soil treatment system.

This work is normally completed for high value clients that prefer to remain anonymous. We have numerous clients with standard system designs that are willing to endorse our designs. Two reference are:

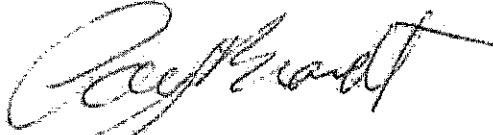
Paul Lambrecht at 320-249-2030 and Dale Lewendoski at 763-219-7079, these gentlemen are familiar with my capabilities.

Some examples of design problems we have overcome include design and creation wetland treatment systems constructed on bedrock and powered by solar cells. Design and creation of systems inside the second story of a garage with distribution of the treated water to raised flower beds. Design and installation of large aerobic treatment systems for a large resort complex near Brainerd, and a half a dozen youth treatment facilities around the Midwest.

The attached drawings are from a recent design. One figure shows the design problems, including setbacks, failed soils and marginally suitable soils. The other attachments include information about several of the approved products and a list of MPCA approved products.

If you have any questions please feel free to contact me at 651-260-3783 and/or aquol110@hotmail.com

Sincerely,



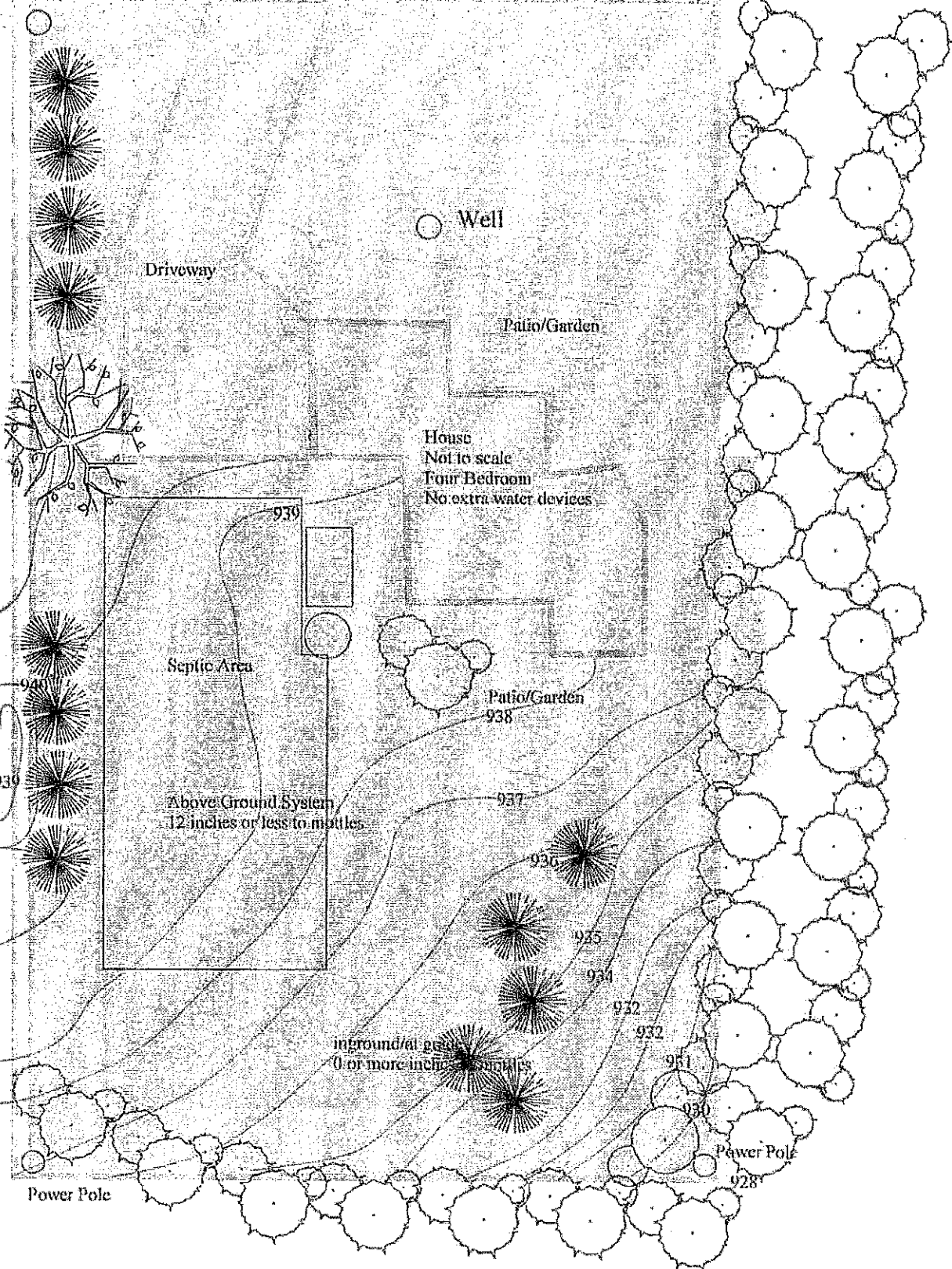
Paul Brandt PSS
Soil Investigation & Design, Inc.

Please Note we have used
These technologies we do not
represent these manufacturers or
their sales efforts. They are here for
your information Paul



Decrpass Trail

Power Pole



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 SOIL SCIENTIST UNDER THE LAWS OF THE STATE OF MISSISSIPPI.

Project Name

PLAN SHEET

Approved by: PJB

Date: 5/12/2011

Title:

President

Location of EIR Project Site

Plan Sheet

Soil Investigation

46 Dumbay, Inc.
2959 - Tolly Ave N
Irishdale Park, MS 38944
661-264-5783
229-264-6814 (credit: Manufacturer)

PRINT NAME

Paul Brandt

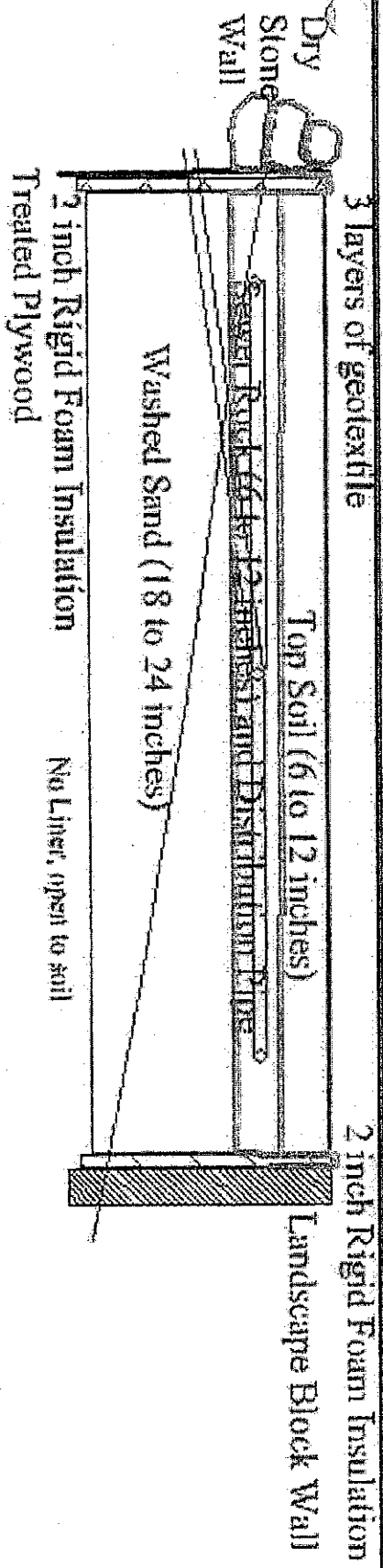
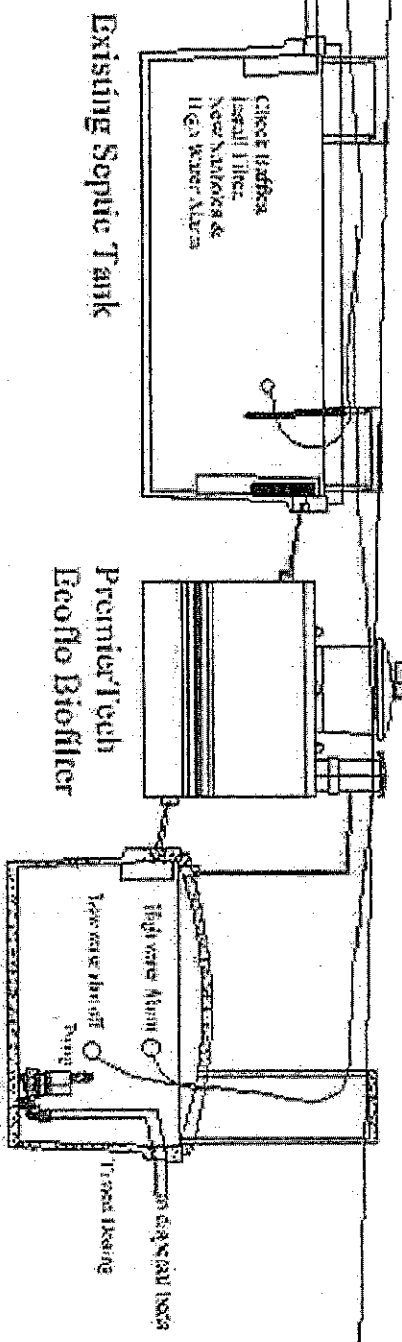
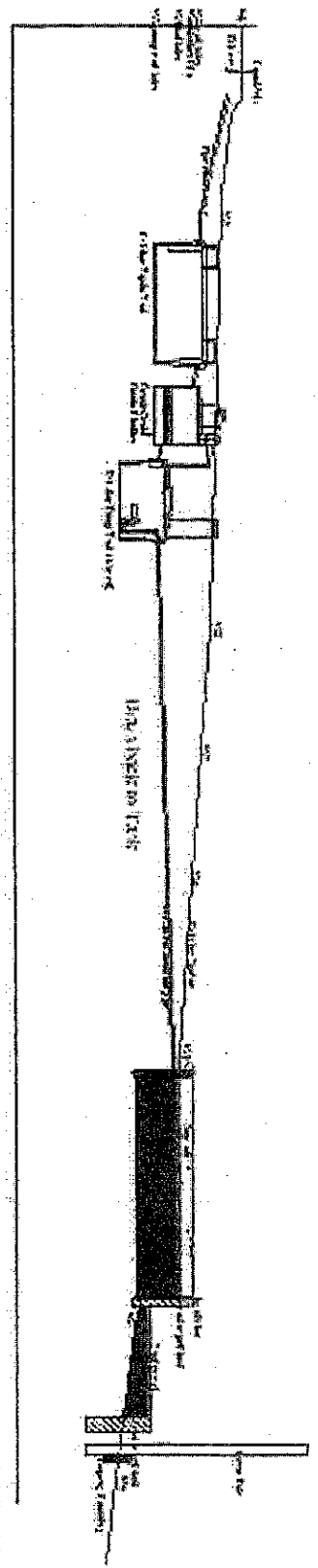
SIGNATURE

DATE 5/27/11

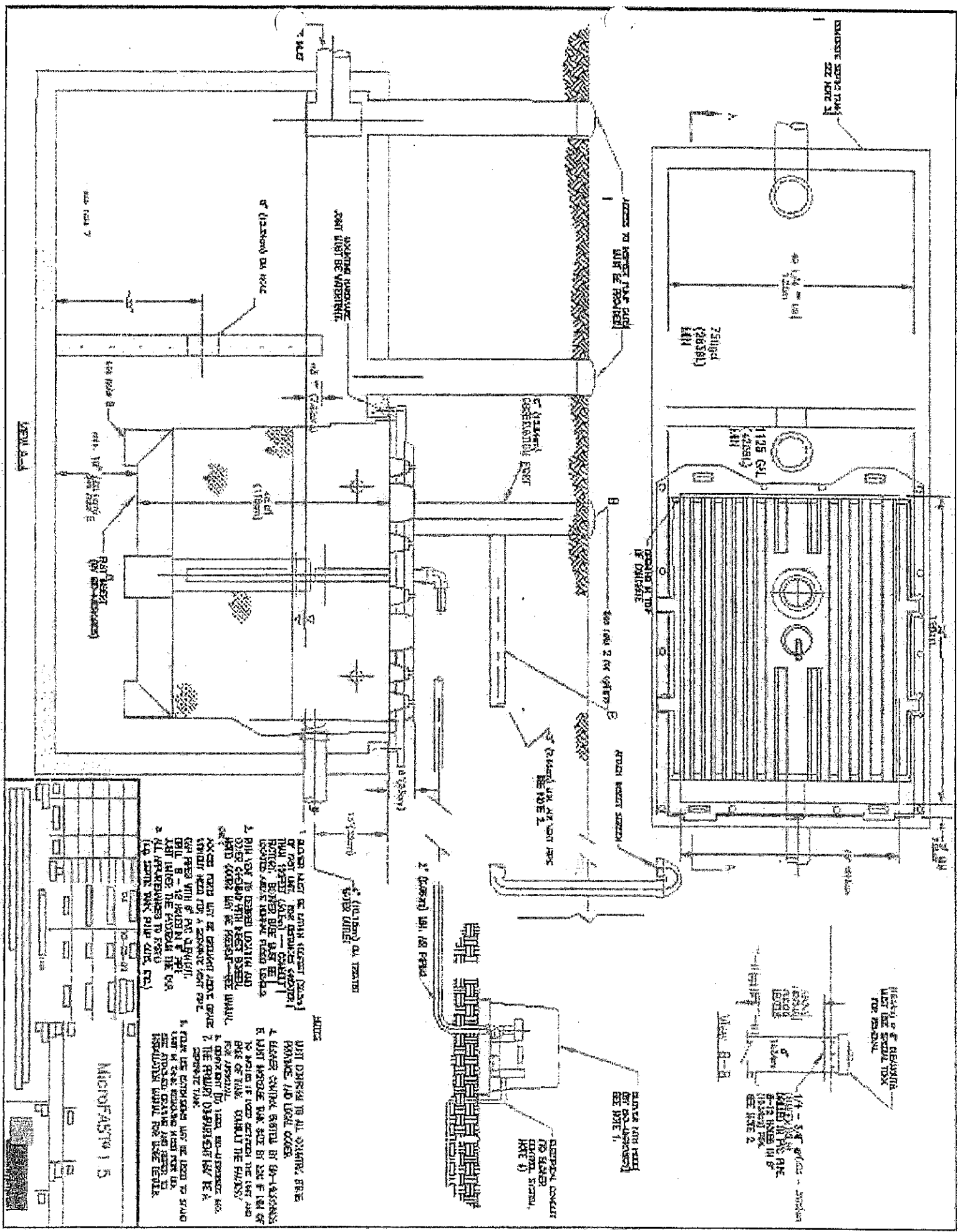
LICENSE #

30007

Figure 3: Existing Site Detail



| | | | |
|---|---|----------------------------|---|
| PRINT NAME: <u>Paul Braudt</u> SIGNATURE: _____ DATE: <u>5/12/11</u> LICENSE # <u>38867</u> | Client Information Approved By: <u>PJB</u> Date: <u>5/12/2011</u> | | Soil Investigation R. J. J. Co., Inc. 1234 N. 20th St. Phoenix, AZ 85004 602.995.1234 www.rjjco.com |
| | Title: <u>President</u> Drawn On Project No: _____ | Page: <u>7</u> of <u>7</u> | |



- NOTES:**
1. ALWAYS MAKE SURE THAT THE CO-GENERATOR IS PROPERLY MOUNTED ON THE AIR FLOW. THE CO-GENERATOR MUST BE PROPERLY MOUNTED ON THE AIR FLOW. THE CO-GENERATOR MUST BE PROPERLY MOUNTED ON THE AIR FLOW.
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MICROFAST 15

List of Registered SSTS Treatment Products for Residential Strength Sewage - Updated January 2011

Product Registration for Residential Strength Wastewater Treatment Products

This page provides the current list of registered treatment products for Type IV Subsurface Sewage Treatment Systems (SSTS) in Minnesota for residential strength sewage. See separate list of products for the treatment of "high strength wastewater" at the following location:

Click here for list of products to treat high strength wastewater:

<http://www.pca.state.mn.us/publications/wastwa1-19.pdf>

Please read "How to Use the List of Registered Treatment and Distribution Products" at the following location:

<https://www.pca.state.mn.us/wastwa1-19.pdf>

Each manufacturer's name is linked to an individual tab or page at the bottom of this spreadsheet; simply click on the company's name to get more product information.

Products are listed by Treatment Level per Minnesota Rules Chapter 7082, as shown at the following location:

Treatment Level A = 15 mg/L CBOD5, 15 mg/L TSS, and 1000 colonies/100mL

Treatment Level B = 25 mg/L CBOD5, 30 mg/L TSS, and 10,000 colonies/100mL

Treatment Level C = 125 mg/L CBOD5, 80 mg/L TSS, and 20 mg/L oil and grease

Treatment Level TN = 20 mg/L Total Nitrogen

| Product Manufacturer | Product Name and Model | Treatment Process | Design Flow (gal/day) | BOD5 Removal (lbs/day) | Highest Treatment Level | Nutrient Removal |
|-------------------------------|--------------------------------|---|-----------------------|------------------------|-------------------------|------------------|
| Ecospid | ES0 with 1 Salcor UV light | Attached Growth, with Ultraviolet (UV) Light Disinfection | 500 | 1.25 | A | TN |
| | ES0 with 1 Salcor UV light | Attached Growth, with Ultraviolet (UV) Light Disinfection | 900 | 1.50 | A | TN |
| | ES0 | Attached Growth | 500 | 1.25 | C | TN |
| | ES0 | Attached Growth | 900 | 1.50 | C | TN |
| OranTox | AX20 with 1 Salcor UV light | Attached Growth, Recirculating Filter, with Ultraviolet (UV) Light Disinfection | 500 | 0.65 | A | TN |
| | AX20-2 with 2 Salcor UV lights | Attached Growth, Recirculating Filter, with Ultraviolet (UV) Light Disinfection | 1000 | 1.30 | A | TN |
| | AX20-3 with 3 Salcor UV lights | Attached Growth, Recirculating Filter, with Ultraviolet (UV) Light Disinfection | 1500 | 1.90 | A | TN |
| | AX20-4 with 4 Salcor UV lights | Attached Growth, Recirculating Filter, with Ultraviolet (UV) Light Disinfection | 2000 | 2.60 | A | TN |
| | AX20-5 with 5 Salcor UV lights | Attached Growth, Recirculating Filter, with Ultraviolet (UV) Light Disinfection | 2500 | 3.20 | A | TN |
| | AX20 | Attached Growth, Recirculating Filter | 500 | 0.65 | C | TN |
| Purillo Post Filter Biofilter | P150-1A and 1B | Media Filter Bed (Peak) | 150 | 0.37 | B | TN |
| | P150-1A and 2B | Media Filter Bed (Peak) | 300 | 0.75 | B | TN |
| | P150-1A and 3B | Media Filter Bed (Peak) | 450 | 1.27 | B | TN |
| | P150-1A and 4B | Media Filter Bed (Peak) | 600 | 1.50 | B | TN |
| | P150-2A and 2B | Media Filter Bed (Peak) | 750 | 1.67 | B | TN |
| | P150-2A and 3B | Media Filter Bed (Peak) | 900 | 2.25 | B | TN |
| Purillo Post Filter Biofilter | P150-7A and 7B | Media Filter Bed (Peak) | 1200 | 3.00 | B | TN |
| | P150-7A and 8B | Media Filter Bed (Peak) | 1350 | 3.38 | B | TN |
| | P150-7A and 9B | Media Filter Bed (Peak) | 1500 | 3.75 | B | TN |
| | P150-8A and 8B | Media Filter Bed (Peak) | 1500 | 3.75 | B | TN |
| | P150-8A and 9B | Media Filter Bed (Peak) | 1500 | 3.75 | B | TN |
| | P150-10A and 10B | Media Filter Bed (Peak) | 1500 | 3.75 | B | TN |

| Product Manufacturer | Product Name and Model | Treatment Process | Design Flow (gal/day) | BOD5 Removal (lb/day) | Highest Treatment Level | Nutrient Removal | |
|--|--|---|---|-----------------------|-------------------------|------------------|----|
| Ecofit Systems | Closed Bottom - Fiberglass Shell | | | | | | |
| | STB-500 (Gravity discharge) | Media Filter Bed (Front) | 400 | 0.48 | A | | |
| | STB-500-2 (Gravity discharge) | Media Filter Bed (Front) | 840 | 0.96 | A | | |
| | STB-850 (Gravity discharge) | Media Filter Bed (Front) | 600 | 0.59 | A | | |
| | STB-850-2 (Gravity discharge) | Media Filter Bed (Front) | 1200 | 1.89 | A | | |
| | STB-850-3 (Gravity discharge) | Media Filter Bed (Front) | 1500 | 1.72 | A | | |
| | Cereda Bottom - Concrete Shell | STP-555S (Gravity discharge) | Media Filter Bed (Front) | 600 | 0.69 | A | |
| | | STB-800-2 (Gravity discharge) | Media Filter Bed (Front) | 1200 | 1.28 | A | |
| | | STB-850B-3 (Gravity discharge) | Media Filter Bed (Front) | 1500 | 1.72 | A | |
| | | STB-850ER (Pump discharge) | Media Filter Bed (Front) | 600 | 0.50 | A | |
| STB-850ER-2 (Pump discharge) | | Media Filter Bed (Front) | 1200 | 1.39 | A | | |
| STB-850ER-3 (Pump discharge) | | Media Filter Bed (Front) | 1500 | 1.72 | A | | |
| Heat H-Series | | Heat H-500 with 1 Selector UV light | Suspended Growth, with Ultraviolet (UV) Light Disinfection | 500 | 0.82 | A | |
| | | Heat H-650 with 1 Selector UV light | Suspended Growth, with Ultraviolet (UV) Light Disinfection | 600 | 0.99 | A | |
| | | Heat H-750 with 2 Selector UV lights | Suspended Growth, with Ultraviolet (UV) Light Disinfection | 750 | 1.22 | A | |
| | | Heat H-1000 with 2 Selector UV lights | Suspended Growth, with Ultraviolet (UV) Light Disinfection | 1000 | 1.63 | A | |
| RetroFAST Series | Heat H-500 | Suspended Growth | 500 | 0.82 | B | | |
| | Heat H-600 | Suspended Growth | 600 | 0.96 | B | | |
| | Heat H-750 | Suspended Growth | 750 | 1.23 | B | | |
| | Heat H-1000 | Suspended Growth | 1000 | 1.63 | B | | |
| | RetroFAST 0.150 with 1 Selector UV light | Attached and Suspended Growth, with Ultraviolet (UV) Light Disinfection | 150 | 0.28 | B | TN | |
| | RetroFAST 0.250 with 1 Selector UV light | Attached and Suspended Growth, with Ultraviolet (UV) Light Disinfection | 250 | 0.45 | B | TN | |
| RetroFAST Series | RetroFAST 0.375 with 1 Selector UV light | Attached and Suspended Growth, with Ultraviolet (UV) Light Disinfection | 375 | 0.72 | B | TN | |
| | RetroFAST 0.150 | Attached and Suspended Growth | 150 | 0.28 | C | TN | |
| | RetroFAST 0.250 | Attached and Suspended Growth | 250 | 0.45 | C | TN | |
| | RetroFAST 0.375 | Attached and Suspended Growth | 375 | 0.72 | C | TN | |
| | MicroFAST Series | MicroFAST 0.5 with 1 Selector UV light | Attached and Suspended Growth, with Ultraviolet (UV) Light Disinfection | 500 | 1.0 | A | TN |
| | | MicroFAST 0.75 with 2 Selector UV lights | Attached and Suspended Growth, with Ultraviolet (UV) Light Disinfection | 750 | 1.5 | A | TN |
| MicroFAST 0.8 with 2 Selector UV lights | | Attached and Suspended Growth, with Ultraviolet (UV) Light Disinfection | 850 | 2.0 | A | TN | |
| MicroFAST 1.5 with 2 Selector UV lights | | Attached and Suspended Growth, with Ultraviolet (UV) Light Disinfection | 1500 | 3.2 | A | TN | |
| MicroFAST 3.0 with Chlorine Disinfection | | Attached and Suspended Growth, with Chlorination and Disinfection | 3000 | 6.0 | A | TN | |
| MicroFAST 4.5 with Chlorine Disinfection | | Attached and Suspended Growth, with Chlorination and Disinfection | 4500 | 9.0 | A | TN | |
| MicroFAST Series | MicroFAST 6.0 with Chlorine Disinfection | Attached and Suspended Growth, with Chlorination and Disinfection | 6000 | 18.0 | A | TN | |
| | MicroFAST 0.5 | Attached and Suspended Growth | 500 | 1.0 | C | TN | |
| | MicroFAST 0.75 | Attached and Suspended Growth | 750 | 1.5 | C | TN | |
| | MicroFAST 0.8 | Attached and Suspended Growth | 850 | 2.0 | C | TN | |
| | MicroFAST 1.5 | Attached and Suspended Growth | 1500 | 3.2 | C | TN | |
| | MicroFAST 3.0 | Attached and Suspended Growth | 3000 | 6.0 | C | TN | |
| | MicroFAST 4.5 | Attached and Suspended Growth | 4500 | 9.0 | C | TN | |
| | MicroFAST 6.0 | Attached and Suspended Growth | 6000 | 18.0 | C | TN | |

| Product Manufacturer: | Product Name and Model | Treatment Process | Design Flow (gpd/day) | BOD5 Removal (lb/day) | Highest Treatment Level | Nutrient Removal | | |
|--|---|---|---|--|----------------------------------|-----------------------|--------|--|
| Crownline Treatment Systems | Enviro-Guard Series Enviro-Guard ENV-G 75 with 1 Salcor UV light Enviro-Guard ENV-G 75M with 1 Salcor UV light | Suspended Growth and Filtration, with Ultraviolet (UV) Light Disinfection | 750 750 | 3.8 3.8 | A A | | | |
| | Enviro-Guard ENV-G 75 Enviro-Guard ENV-G 75M | Suspended Growth and Filtration Suspended Growth and Filtration | 750 750 | 3.8 3.8 | C C | | | |
| | Multi-Flo Series | Multi-Flo FTB-0.5 with 1 Salcor UV light Multi-Flo FTB-0.5 with 1 Salcor UV light | Suspended Growth and Filtration, with Ultraviolet (UV) Light Disinfection Suspended Growth and Filtration, with Ultraviolet (UV) Light Disinfection | 500 500 | 3.6 3.6 | A A | | |
| | | Multi-Flo FTB-0.75 with 2 Salcor UV lights Multi-Flo FTB-1.0 with 2 Salcor UV lights | Suspended Growth and Filtration, with Ultraviolet (UV) Light Disinfection Suspended Growth and Filtration, with Ultraviolet (UV) Light Disinfection | 750 1000 | 3.6 7.2 | A A | | |
| | | Multi-Flo FTB-1.5 with 3 Salcor UV lights | Suspended Growth and Filtration, with Ultraviolet (UV) Light Disinfection | 1500 | 10.8 | A | | |
| | | Multi-Flo FTB-0.5 Multi-Flo FTB-0.6 Multi-Flo FTB-0.75 Multi-Flo FTB-1.0 Multi-Flo FTB-1.5 | Suspended Growth and Filtration Suspended Growth and Filtration Suspended Growth and Filtration Suspended Growth and Filtration Suspended Growth and Filtration | 500 500 750 1000 1500 | 3.6 3.6 3.6 7.2 10.8 | C C C C C | | |
| | Crownline Treatment Systems | Nayadic Series Nayadic M-BA Nayadic M-BA Nayadic M-1050A Nayadic M-1200A Nayadic M-2000A | Suspended Growth Suspended Growth Suspended Growth Suspended Growth Suspended Growth | 500 500 500 1000 1500 | 2.5 4.0 4.5 4.8 7.7 | C C C C C | | |
| | | Fusion Series Fusion ZF-450 Fusion ZF-450 Fusion ZF-600 | Attached and Suspended Growth Attached and Suspended Growth Attached and Suspended Growth | 450 500 600 | 0.84 1.23 1.87 | C C C | | |
| | | | Vacuum Bubble Technology (VBT) 109 (101 and 102) | Suspended Growth | See Footnote 1 | 0.5 to 1.8 | C | |
| | | | Sludgehammer S-400 S-600 | Extended Aeration Fixed Film Extended Aeration Fixed Film | 400 600 | 0.88 0.87 | C C | |
| ARSA Manufacturing (Hydro-Acraon Industries) | Hydro-Acraon AP-500 with 2 Salcor UV light AP-600 with 2 Salcor UV lights AP-750 with 2 Salcor UV lights AP-1000 with 2 Salcor UV lights AP-1500 with 3 Salcor UV lights | Extended Aeration, with Ultraviolet (UV) Light Disinfection Extended Aeration, with Ultraviolet (UV) Light Disinfection Extended Aeration, with Ultraviolet (UV) Light Disinfection Extended Aeration, with Ultraviolet (UV) Light Disinfection Extended Aeration, with Ultraviolet (UV) Light Disinfection | 500 600 750 1000 1500 | 1.25 1.50 1.88 2.50 3.75 | B B B B B | | | |
| | AP-500 AP-600 AP-750 AP-1000 AP-1500 | Extended Aeration Extended Aeration Extended Aeration Extended Aeration Extended Aeration | 500 600 750 1000 1500 | 1.25 1.50 1.88 2.50 3.75 | C C C C C | | | |

Footnote 1: Please read the details in the manufacturer's product registration letter on the web at the following location: <http://www.arsa.com/usa/usa.html>

Ecoflo® Septic System



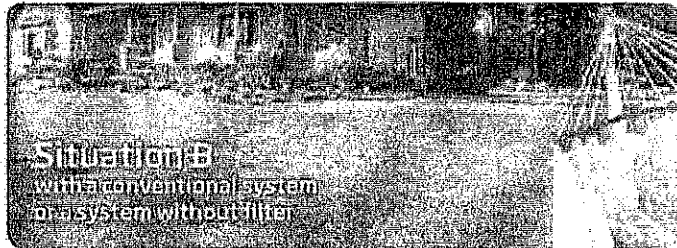
Chosen by over 50 000 families

- ✓ Protect the investment of your property
- ✓ Save on your electricity bills
- ✓ Maximize the use of your lot
- ✓ Enjoy some peace of mind thanks to a unique and proven maintenance program

Why limit the activities in your backyard?



Fully enjoy your lot and increase the value of your property. Ecoflo®, a compact system that requires much less space.



Which would you prefer in 10 to 15 years?



Protect the investment of your property. Ecoflo®, a permanent and definitive solution.



Stability and performance

A functional and efficient system that is not impacted by water quality and living habits (variable flows, power outages and seasonal homes) for total protection.

Energy savings

No electrical power is required for the treatment.

Superior quality and reliability

The organic peat filter acts as a physical barrier that ensures the long-term protection of the wastewater infiltration surface in the soil, which is your immediate environment.

Flexibility

A solution addressing new homes, failing systems and the retrofit of existing systems.

Peace of mind

The system is supported by an annual maintenance program that costs no more than a municipal sewage system.

A complete line for all site conditions!

① Septic tank

It collects all wastewater and retains solids.

② Effluent filter

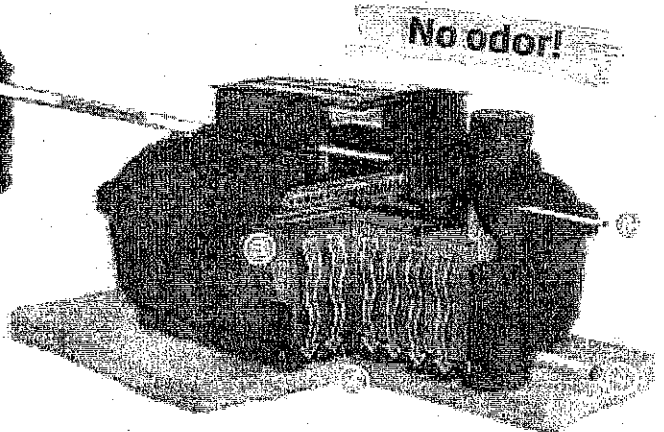
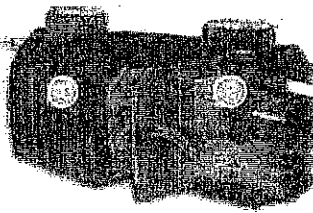
It prevents large particles from entering the Ecoflo®.

③ Shell and Ecoflo® filter

It directs pre-treated water towards the shell, where it is distributed over the entire surface of the Ecoflo® filter, thanks to a gravitational distribution system consisting of a tipping bucket and distribution plates. It purifies water through the filter, which retains pollutants and provides a biological treatment.

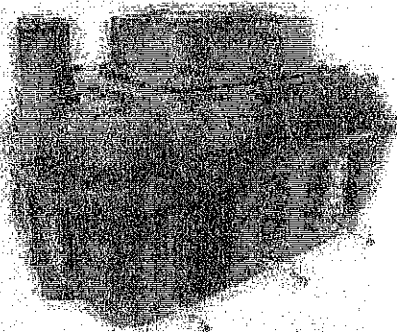
④ Infiltration surface

99% treated, the water infiltrates the ground via a crushed stone bed or a disposal area, and a layer of natural soil located under or near the Ecoflo®.



Polyethylene

With or without a pump

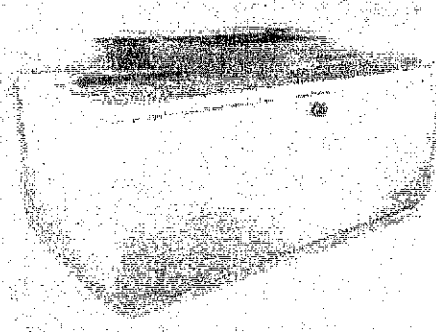


- Ready to install – reduces installation time
- Light – easy handling even in tight areas
- Integrated pump vault for less work

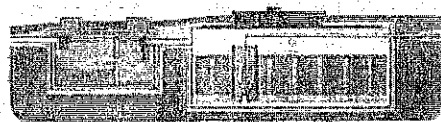


Concrete

With or without a pump

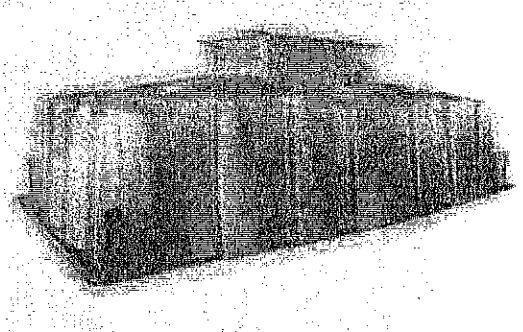


- Completely buried in the soil (no mound)
- Space-saving with its integrated pump
- Ideal for low permeability soils (clay)



Fiberglass

With or without a pump



- Entry level model
- Most compact installation
- Ideal for permeable soils



- 8-year warranty on the filtering media – 75% of installed filters show a life span of over 10 years!
- Filter warranty automatically renewed when it is replaced

P PREMIER TECH
AQUA

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The information contained in this document is based upon the latest information available at the time of publication and is designed to provide you with a general introduction to our products. We make no warranties or representations as to its accuracy. We are continually improving and upgrading our products and reserve the right to amend, change, substitute, alter or change specifications and prices without prior notice. Ecoflo® is a brand of Premier Tech Ltd. The Ecoflo® Re-filter is protected under patents: Canada 2 140 782, 2 022 897, USA 5 678 416, 5 796 905 and 2 459 637 and 2 017 768 and Foreign 0 836 585 and 1 539 326.

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Lakeside or riverside property

Ecoflo®, our commitment to protect lakes and watercourses

Search:

NEWS

Canadian Institute of Public Health Inspectors - NB Branch at the Deux Rivières Resort, Tracadie-Sheila, NB, Canada
September 13-16, 2011

ACWWA 2011 Annual Conference at the Delta-Hotels and Resorts
St. John's, NL, Canada
October 2-4, 2011

CWWA Conference 2011 In Guadeloupe
October 2-8, 2011

APEGBC 2011 Annual Conference & AGM at the Delta Grand Okanagan Resort & Conference Center Kelowna, BC, Canada
October 13-15, 2011

Fall Cottage Life Show 2011 at the International Center Toronto, ON, Canada
November 25-27, 2011

Ecoflo®, our commitment to protect lakes and watercourses

Given the extent of the cyanobacteria problem that has been plaguing our lakes and watercourses since the early 2000's, Premier Tech Aqua's team of experts has decided to announce the results* of two independent studies¹ that illustrate the stability of the Ecoflo® under all types of conditions and confirm that the Ecoflo® technology is the best solution for the long-term protection of lakes, watercourses and groundwater, as well as the preservation of property values.

The septic installation that retains 98% of phosphorus

A study conducted in Virginia confirms that an Ecoflo® septic installation that meets regulations can retain up to 98% of the phosphorus contained in domestic wastewater.

These results can be attributed to the physicochemical characteristics of the soil combined with the hydraulic and chemical properties of the effluent from the Ecoflo®. By retaining most pollutants (including suspended solids) the patented filtering media of the Ecoflo® Biofilter minimize the risk of soil saturation and favor long-term phosphorus retention.

* A summarized version of the studies is available upon request.

¹ Rubin R.A. (2007). Field performance assessment of Premier Tech Ecoflo® wastewater treatment system in Virginia. Preliminary project report, 25 p. VEOLIA EAU (2006). Comparative Study on the Performance of Eight Treatment Systems

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Ecoflo®, the number one choice for more than 45 000 families

Nowadays, water consumption is intermittent (overloads, stop/start periods) not only in secondary or seasonal dwellings (e.g., cottages) but increasingly in main homes as well. Therefore, it is important to use a proven and stable treatment technology that ensures proper system functioning and environmental protection.

During the past two decades, family lifestyles have changed a great deal. People travel more, eat out more often, and in many families both parents work outside the home. An increase in divorce rate has also affected house occupancy. The house occupancy of a

blended family may vary from week to week because of factors such as joint custody.

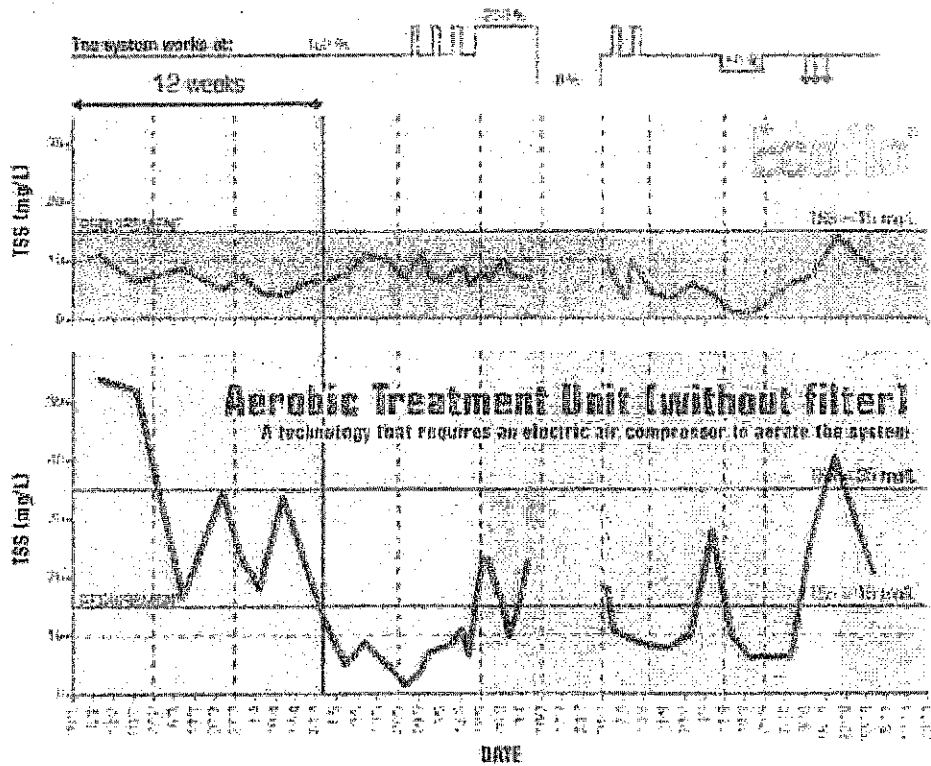
✶ The only technology to have proven it to date!

In an effort to submit wastewater treatment technologies to testing that represents today's lifestyles and constraints better, in 2006 a group of European experts developed a new testing protocol to compare and evaluate eight different treatment technologies for 40 weeks. Performance results, which were rigorously measured, show that the Ecoflo® ranks first among the eight technologies evaluated.

The performance of the Ecoflo®, when submitted to the new constraints imposed by the changes in family lifestyles, is much better and more stable than that of an Aerobic Treatment Unit (ATU) with submerged fixed film media.

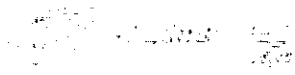
In fact, it takes 12 weeks to stabilize an ATU with submerged fixed film media.

Overloads (high-use periods) and power failures cause increases in the concentrations of suspended solids in the effluent and have a negative impact on the performance of an ATU with submerged fixed film media. Every decrease in performance saturates the absorption bed, thus reducing its service life and its ability to retain pollutants like phosphorus.



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City of Lake Elmo
DEVELOPMENT APPLICATION FORM

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

APPLICANT: 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:

RECEIVED

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

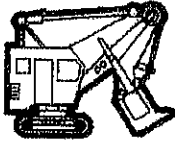
MPCA License #3321/Certification #C3268

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

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.

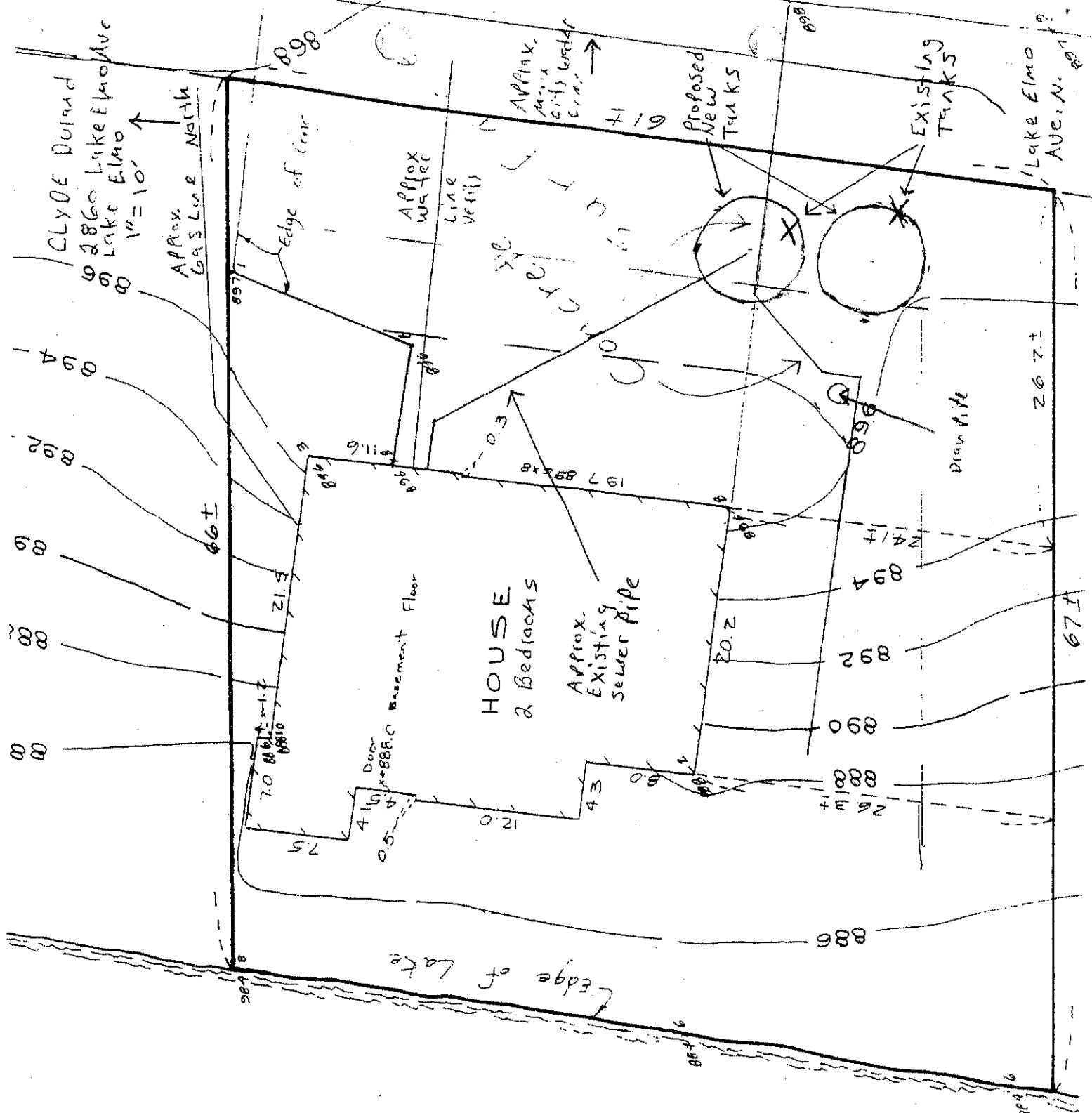
ACCEPTANCE OF PROPOSAL

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 _____

ELMO

LAKE







MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/11
REGULAR
ITEM #: 7
MOTION *Resolution No. 2011-040*

AGENDA ITEM: Reconsideration of 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: Following subsequent discussions between the applicant and the City, the City Council is requested to reconsider the Interim Use Permit application from Country Sun Farm & Greenhouse. The request is to reconsider an application for an Interim Use Permit (IUP) – now updated - to allow an Agricultural Sales Business (ASB) for Country Sun Farm & Greenhouses Inc.

The applicant originally requested an 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.

The application was originally denied at the August 23rd City Council meeting. Since that time, Staff has met with the applicant and discussed the items of concern expressed with the denial: traffic concerns and future improvements along State Highway 36, existing non-conforming uses and buildings, the length of time requested for the IUP and the amount of land included in the IUP which would then be used for trip generation.

After further discussions and clarifications made to the Interim Use Permit Agreement, the recommended motion to act on this is as follows:

“Move to approve Resolution 2011-040 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.

The changes made to the Interim Use Permit Agreement since last reviewed by the City Council at the August 23rd meeting is as follows:

- The applicant has submitted a Special Event Traffic Management Plan to the Minnesota Department of Transportation for review. Staff added a condition that the applicant must abide by any recommendations or requirements in response to this plan by MnDOT.
- A condition was added to state that the free flow of traffic shall not be impeded at the entrance off of State Highway 36.
- Another condition added states that the applicant shall work with a traffic expert to prepare a traffic count study documenting the number of vehicles trips which must be submitted as part of a request to extend the Interim Use Permit.
- The permit is identified for **two years**, not ten as requested by the applicant.
- A condition was added to state that the applicant shall work with City Staff to create a master inventory of buildings and activities taking place on the premises.

It was also clarified with MnDOT that a grading/drainage permit was not required, though stated so at the time their CUP was approved in 2009.

Staff would request additional clarification on which land the City Council would approve for inclusion in the Interim Use Permit. The applicant has requested the IUP over their 149 contiguous acres and would thus be able to use that for applicable calculations (such as trip generation). Another option would be if the City Council would prefer to utilize the same 43 acres that is currently used in their CUP for the Agricultural Entertainment Business. The City Council is able to review this information along with the traffic counts provided by the applicant should they choose to reapply when the IUP expires.

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 2011-040 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.”

ATTACHMENTS: (4)

1. Consent Agreement
2. Resolution 2011-040
3. Applicant's Submittals
4. Email from MnDOT Regarding Drainage Permit

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 Facilitates
- Action on Motion Mayor & City Council

**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 Exhibit 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 B (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 denied the interim use permit requested

H. On the 20th day of September, 2011, the Lake Elmo City Council reconsidered the Interim Use Permit application along with 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 2011-040 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 agricultural sales 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 or a permitted use, 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 or expansion of existing structures or buildings, regardless of size, shall require notification to City Staff prior to construction. The City Administrator will determine if the changes 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. In addition, any new uses shall also require advanced notice to City Staff. The City Administrator will determine if the proposed expansion, intensification or alteration of the existing use or a new 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 applicant must abide by any recommendations or requirements imposed by the Minnesota Department of Transportation concerning their Special Event Traffic Management Plan submitted as part of their application for special event signage along State Highway 36.
- Q. There shall be no impediments to the free flow of traffic at the entrance to the site along State Highway 36, including the collection of parking or entrance fees when such collection requires vehicles to stop at the entrance.

- R. The applicant shall work with City Staff to create a master inventory of all buildings and activities taking place on the premises, including any permitted agricultural activities, agricultural entertainment uses, and all other sales activities associated with the Interim Use Permit. This inventory shall include the building size, location, activity and date of construction among other relevant information.
- S. The Interim Use Permit does not authorize the conduct of any activity that would otherwise require a permit as an Agricultural Entertainment use.
- T. The applicant shall work with a traffic expert to prepare a traffic count study documenting the number of vehicle trips (both daily and peak counts) and peak times associated with the conduct of the Agricultural Sales operation. This traffic study must be submitted with any request to extend the Interim Use Permit beyond the initial termination date.
- U. The Interim Use Permit is valid until any one of the events listed below occurs:
 - 1. For two (2) years from the date of the approval of the Interim Use Permit (September 20, 2013);
 - 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.
- V. The applicant agrees to work in good faith with the City in efforts to address planning and identification of easement/right-of-way needs for long-term improvements to TH 36 and associated intersections, especially those that minimize impacts on the usage of the rest of the property.

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 (U, 1) or (U, 2) above. With the exception of (U, 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: 9/20/11

CITY OF LAKE ELMO

By: _____
Dean Johnston
Mayor

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

By: _____
Keith Bergmann

Its: _____

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

RESOLUTION NO. 2011-040

**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 originally denied the Interim Use Permit and consent agreement at its August 28, 2011 meeting;

WHEREAS, the Lake Elmo City Council reconsidered the application after minor alterations were made to the consent agreement and approved the Interim Use Permit and consent agreement at its September 20, 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 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.
- 3) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.
- 4) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.
- 5) 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.
- 6) 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 or a permitted use, this Interim Use Permit shall be brought back to the City Council for review.

- 7) 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.
- 8) There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.
- 9) 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).
- 10) Trash containers must be located inside or screened in an acceptable manner.
- 11) 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.
- 12) The addition of any new structures or buildings or expansion of existing structures or buildings, regardless of size, shall require notification to City Staff prior to construction. The City Administrator will determine if the changes will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.
- 13) The expansion, intensification or alteration of an existing use shall also require notification to City Staff prior to any change in the existing use. In addition, any new uses shall also require advanced notice to City Staff. The City Administrator will determine if the proposed expansion, intensification or alteration of the existing use or a new use will require an amendment to the Interim Use Permit or to the existing Conditional Use Permit on the site.
- 14) 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.
- 15) 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.

- 16) The applicant must abide by any recommendations or requirements imposed by the Minnesota Department of Transportation concerning their Special Event Traffic Management Plan submitted as part of their application for special event signage along State Highway 36.
- 17) There shall be no impediments to the free flow of traffic at the entrance to the site along State Highway 36, including the collection of parking or entrance fees when such collection requires vehicles to stop at the entrance.
- 18) The applicant shall work with City Staff to create a master inventory of all buildings and activities taking place on the premises, including any permitted agricultural activities, agricultural entertainment uses, and all other sales activities associated with the Interim Use Permit. This inventory shall include the building size, location, activity and date of construction among other relevant information.
- 19) The Interim Use Permit does not authorize the conduct of any activity that would otherwise require a permit as an Agricultural Entertainment use.
- 20) The applicant shall work with a traffic expert to prepare a traffic count study documenting the number of vehicle trips (both daily and peak counts) and peak times associated with the conduct of the Agricultural Sales operation. This traffic study must be submitted with any request to extend the Interim Use Permit beyond the initial termination date.
- 21) The Interim Use Permit is valid until any one of the events listed below occurs:
 1. For two (2) years from the date of the approval of the Interim Use Permit (September 20, 2013);
 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.

22)The applicant agrees to work in good faith with the City in efforts to address planning and identification of easement/right-of-way needs for long-term improvements to TH 36 and associated intersections, especially those that minimize impacts on the usage of the rest of the property.

This resolution was adopted by the City Council of the City of Lake Elmo on the 20th day of September 2011, by a vote of ___ Ayes and ___ Nays.

Dean A. Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

(SEAL)

MAR -4 2011 Fee \$ 250.00

City of Lake Elmo
DEVELOPMENT APPLICATION FORM

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

IUP - Ag Sales +
Entertainment

APPLICANT: Keith Bergmann 5833 Lake Elmo Ave. N. 55012
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-351-5139 651-439-4156 651-399-7423 651-351-3173
(Home) (Work) (Mobile) (Fax)

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

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

PROPERTY LOCATION (Address and Complete (Long) Legal Description): Country Sun Farm
and Greenhouses Inc. 11211 N. 60th street, Lake Elmo, Mn. 55012

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 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

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.

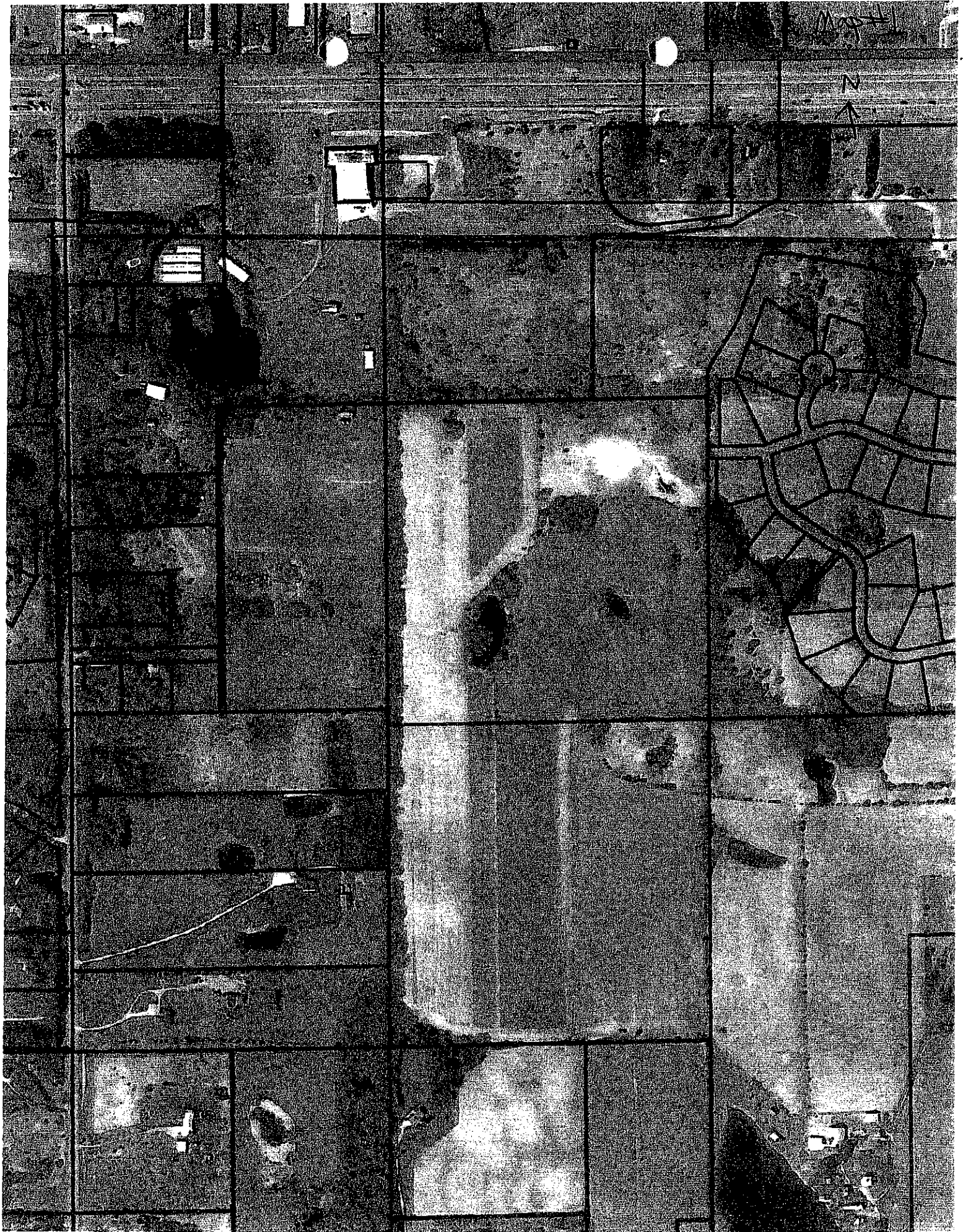
Finally, copies of deeds for the property are included.

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,

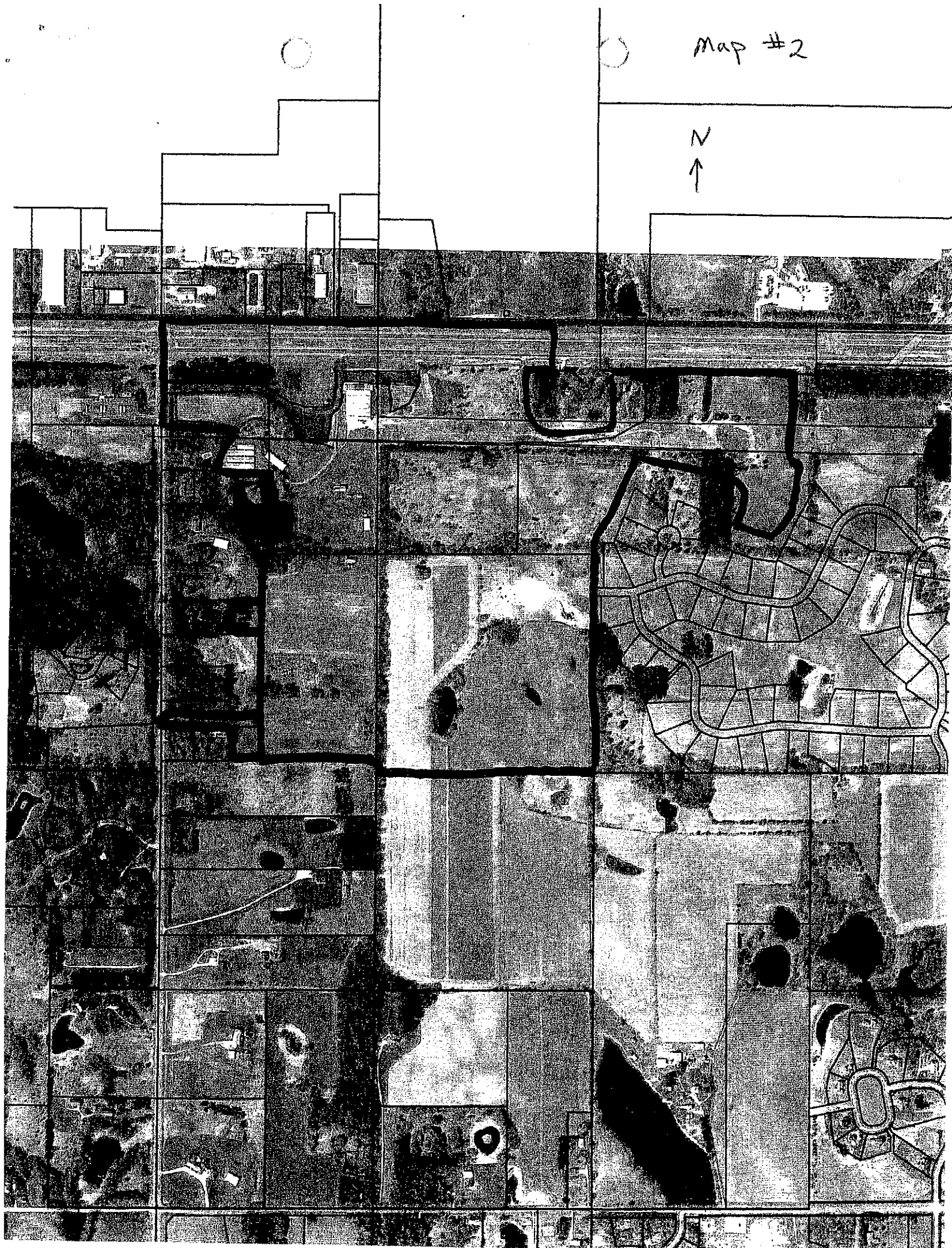
A handwritten signature in cursive script, appearing to read "Keith Bergmann".

Keith Bergmann
Country Sun Farm & Greenhouses Inc.



Map #2

N
↑



Map #3

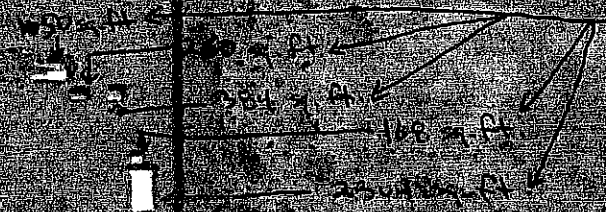
Dairy 2nd floor 398 sq ft

Workshop 210 sq ft

Workshop 374 sq ft

Workshop 210 sq ft

Animal/Barn Buildings



Pile Barn/Shop 560 sq ft

Greenhouse
Walking range
1740 sq ft

Workshop

Kelli Matzek

From: Todd Erickson [terickson@ffe-inc.com]
Sent: Saturday, September 03, 2011 6:46 AM
To: Kelli Matzek
Subject: Fwd: Country Sun Garden Center Drainage Permit - TH36 Lake Elmo

Kelly,

I had spoken with MnDOT drainage engineer Bryce Fossland last week and indicated that a site visit would be a good idea to the Country Sun site, because the site does not drain on to the property of the State. He did the site review and has sent the following email (below), stating that a drainage permit was not and will not be required for the work that was performed.

Please contact me with any questions.

Sincerely,

Todd A. Erickson

----- Forwarded message -----

From: Fossand, Bryce (DOT) <bryce.fossand@state.mn.us>
Date: Fri, Sep 2, 2011 at 5:49 PM
Subject: Country Sun Garden Center Drainage Permit - TH36 Lake Elmo
To: "terickson@ffe-inc.com" <terickson@ffe-inc.com>
Cc: "Craig, E.Buck (DOT)" <buck.craig@state.mn.us>, "Dierberger, Jeffery (DOT)" <jeffrey.dierberger@state.mn.us>, "Olson, Nicholas (DOT)" <nicholas.olson@state.mn.us>

Todd,

This is in regard to the Country Sun Garden Center off of TH36 located in Lake Elmo.

During our phone conversation last Wednesday, you had mentioned you would send an aerial view of what has changed on this site in 2009.

I haven't received that from you yet, but you won't have to send that information at this time. Attached is the plan overview from the Country Sun Garden Center 2009 plat review that went through our planning department. We also visited the site late last week.

After our initial review of the submitted information in 2009, we didn't have enough information on the proposed plan to not require a drainage permit. This is the reason that a drainage permit was required at that time.

During our site visit last week, we determined that the site does not drain to MnDOT right of way. It also did not appear that any recent construction on site would have involved drainage changes within Mn/DOT right of way. For this reason, a Mn/DOT drainage permit will not be required in this case.

As you well know, the impervious area outlined in the attached proposed 2009 construction would trigger a watershed permit. This would require treatment per watershed rules and attenuation of runoff from the site that results from the added impervious. According to their 2009 submittal, the proposed construction calculates to approximately 2.5+ acres of added impervious on site. That includes the greenhouse at 150' x 144' and the proposed parking area of 210'x420'. I'm not positive on what has been built since 2009 from this proposed information, but from a Mn/DOT perspective, a drainage permit would not be required for the attached.

For your use, I have attached the information we received from the 2009 planning review. Future construction that impacts Mn/DOT right of way would require Mn/DOT review and a possible permit.

If you have any questions, please let me know. Thanks.

Bryce

Bryce Fossand, P.E.

Mn/DOT Water Resources Engineering

1500 West County Road B2

Roseville, MN 55113

Office: 651-234-7529

Fax: 651-234-7608

bryce.fossand@state.mn.us

From: Fossand, Bryce (DOT)
Sent: Wednesday, August 24, 2011 3:43 PM



MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/2011
REGULAR
ITEM #: 8
MOTION

AGENDA ITEM: Conditional Use Permit Amendment: Rockpoint Church- Overflow Parking Lot Expansion

SUBMITTED BY: Kyle Klatt, Planning Director *BAM*

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: Planning Commission
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider taking action on a request from Rockpoint Church, 5825 Kelvin Avenue North, to amend its approved site plan by adding an overflow parking area to the eastern portion of their site.

This item has been tabled from a previous meeting, in part due to concerns expressed by Council members concerning potential impacts from vehicular traffic visiting the site. Staff has since met with the applicant and the City Engineer to review these concerns, and is recommending that the Council receive an update from Staff at the meeting and then take action as previously recommended by Staff and the Planning Commission. The recommended motion to act on this is as follows:

“Move adopt Resolution Number 2011-041 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 City Council has previously received a detailed Staff report and related information concerning this Agenda Item. As such, a new report has not been included for the next Council meeting, other than the new information included below. All materials from the last two Council meetings are available for review, upon request, for those Council members that no longer have the previous meeting packets. The applicant will also be in attendance at the City Council meeting on September 20th and will be able to answer questions from the Council at this time.

STAFF REPORT: City Staff has met with the applicant within the last week to review the Council's discussion regarding their application. The primary issue discussed at this meeting was the current configuration of the outlots surrounding the church and whether or not the church would be willing to work with the City to implement a frontage road system along Highway 36 in the future. Based on these conversations, the Church submitted the attached letter stating its willingness to grant any easements necessary to construct a frontage road, as long as any road/easements did not interfere with the usage of the rest of the property.

As a follow-up to this conversation, Staff has pulled together information for the Council related to an interim agreement that was executed between Rockpoint Church and the City concerning the status of the outlots within the overall development area, which specifically conveyed to the City temporary conservation easements over all outlots that were to be set aside as permanent open space within the entire project area (church and residential). Please note that this agreement describes the easement areas, which Staff has highlighted on the attached map. Most of the frontage along Highway 36 is not planned to be included in a conservation easement, which leaves a little more flexibility for the City than if all of the outlots had been placed under a temporary or permanent conservation easement. Depending on any future frontage road alignment, there could be a smaller easement area near the intersection of Keats and Highway 36 that might be impacted by a frontage road.

The preliminary plat for the residential subdivision (Hidden Meadows 2nd Addition) at one time included a road connection to the properties to the east of the church's development area. However, the City Council ordered this connection removed from the preliminary plat. There were no other discussions regarding alternative connections beyond the platted area at the time the final plat for Hidden Meadows 1st Addition or the preliminary plat for Hidden Meadows 2nd Addition (the residential areas) were approved by the City.

Staff has also tabulated the overall number of parking stalls constructed when the Church was built several years ago. There are a total of 295 stalls on the site, most of which are located in one main parking area immediately north of the church. Staff could find no discussions regarding the parking calculations that may have been done as part of the site plan review in the reports, minutes, and other documentation that are on file for the church. Using the City's development regulations for PF Zoning Districts, a church is required to provide: "One space for each permanent and temporary 4 seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings and uses shall be subject to additional requirements that are imposed by the city code". The overall seating capacity of the church is 588, which would require a minimum of 147 stalls to accommodate the main assembly hall.

Since the church includes an additional 8,000 (approximately) square feet of office, classroom, and recreation space, it would be logical to increase the parking requirements beyond the base amount to account for these additional activities. Using the amount of 1 stall per 250 square feet of office or administrative space found in other parts of the PF Public Facilities Zoning District, Staff estimates that an additional 70 stalls should be added on top of the requirements for the main assembly seating for a total of around 220 required parking stalls. Please keep in mind that

this number is a minimum established by the Code, and the Church has already built a parking lot that goes beyond this minimum. With the proposed overflow parking, the Church would have a total of 379 parking stalls on its site.

In terms of overall traffic that is visiting the site, the proposed parking lot expansion would not impact any of the previous studies that were done to determine necessary transportation improvements in and around the site. In addition, the engineering models used to determine traffic impacts, including daily and peak trips out of a site, do not utilize parking stalls in these calculations, which are dependant entirely upon the size of the facility and the type of activity taking place within a structure. Because the church is located well away from any major street intersections and does not directly access a major roadway, any parking space deficiency is much more of an internal problem than a public one.

Based upon the information that has been reviewed and Staff's subsequent meeting with representatives with the Church, it appears that the applicant is able to demonstrate compliance with the Conditional Use Permit review criteria. In addition, the Church has stated on the record that it will work with the City to develop a frontage road system north of its facility by granting any easements that would be necessary for such a road to be built in this area. Finally, Staff was unable to find documentation in the City's files that clearly established a set maximum limit for parking on the site, or that would otherwise indicate that an expanded overflow area would be detrimental to this area. Based upon the above information, Staff is recommending that the City Council follow the previous recommendation made by the Planning Commission and approve the applicant's request to amend the Conditional Use Permit for Rockpoint Church, with the conditions of approval as previously recommended.

PLANNING COMMISSION 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 2011-041 approving a Conditional Use Permit amendment for Rockpoint Church at 5825 Kelvin Avenue North to allow the expansion of an overflow parking lot”

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 2011-041
2. Letter from Rockpoint Church dated 9/12/11
3. Aerial Image of Site
4. Overflow parking lot site plan
5. Statement regarding need for overflow parking
6. Hidden Meadows Interim Agreement
7. Resolution 2005-029 approving CUP for Rockpoint Church
8. Interim Use Agreement map (conservation easement areas)

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 Facilitates
- Action on Motion..... Mayor & City Council

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

RESOLUTION NO. 2011-041

*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 and September 20, 2011 meetings.

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. The applicant has agreed to work with the City to develop a frontage road along Highway 36 by granting any easements necessary to implement such a frontage road system.***
- 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 20th day of September 2011 by the City Council of the City of Lake Elmo, Minnesota.

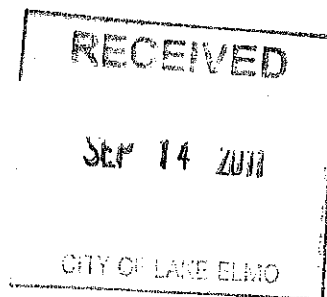
Dean A. Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

5825 Kelvin Avenue North
Lake Elmo, Minnesota 55042
651.770.3172 | Fax 651.770.3476

Rockpoint



September 12, 2011

Mr. Kyle Klatt, Planning Director
Lake Elmo City Hall
3800 Laverne Ave. N.
Lake Elmo, MN 55042

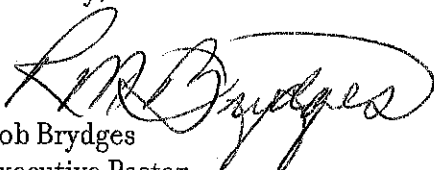
Dear Kyle,

Thank you for your time last Thursday. I felt our meeting was helpful as Lake Elmo and Rockpoint Church look to future needs. I felt it was worth stating the outcome of the meeting from my perspective in writing.

During the meeting I stated that Rockpoint is very open to discussion regarding the frontage road easement along the north end of our property as well as the water pipe easement across our property south of the tree line behind our church building. Providing there are no negative impacts related to the rest of our property, we intend to grant these easements when necessary.

Thanks again.

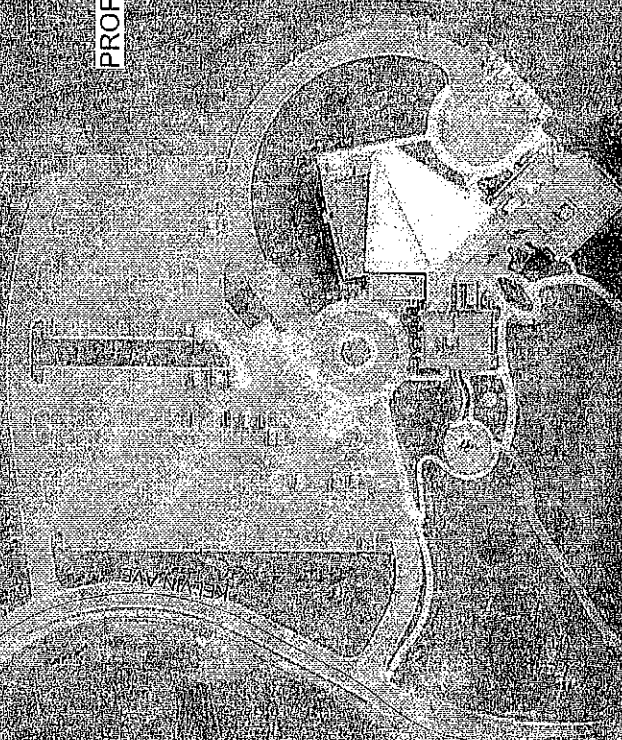
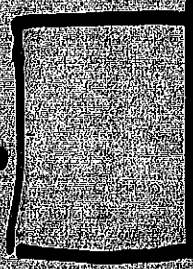
Sincerely,

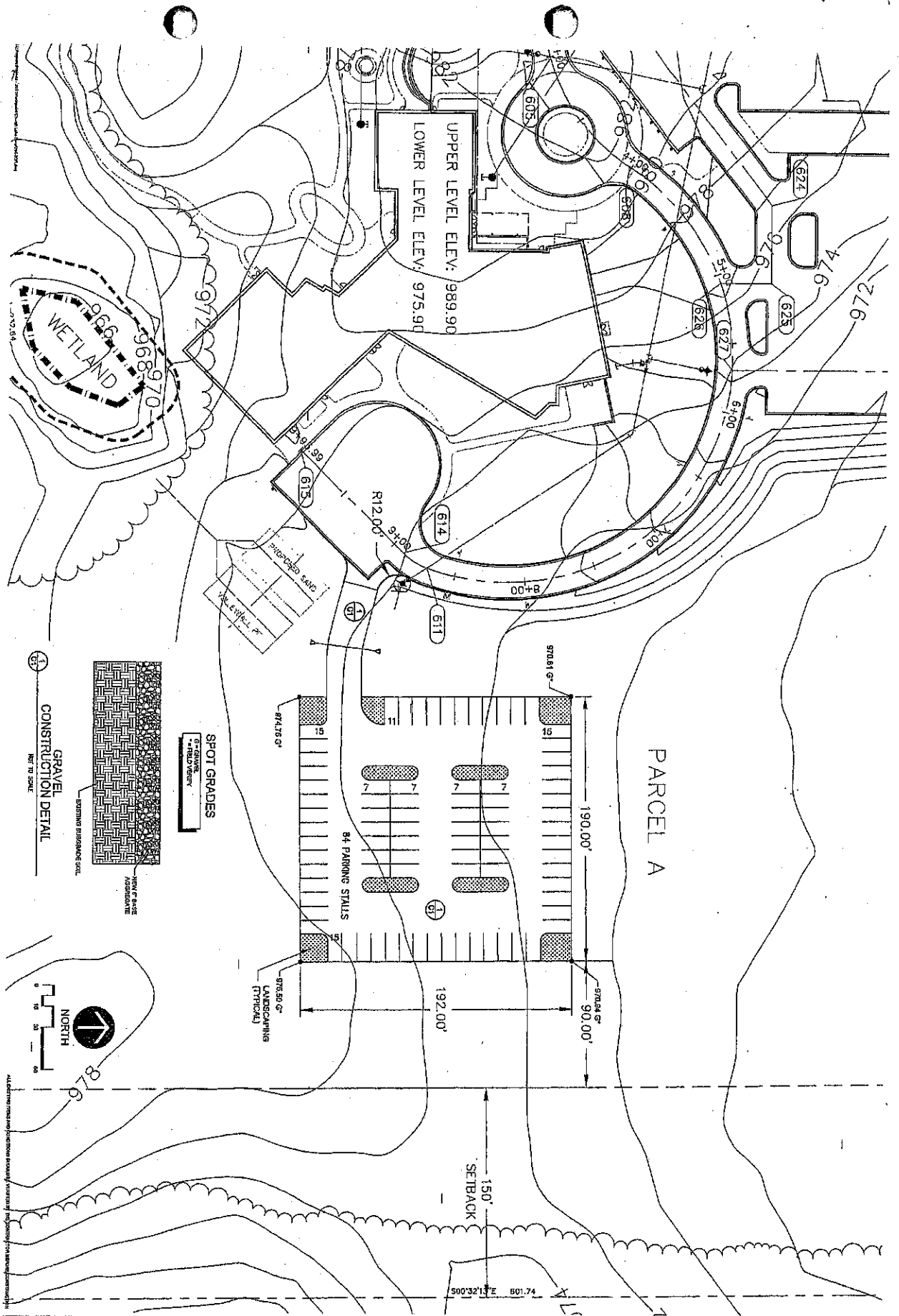

Bob Brydges
Executive Pastor

cc: Mayor Dean Johnston

Kelvin Ave.

PROPOSED OVERFLOW PARKING LOT





| | | | |
|--|--|---|--|
| Project Title 2011 PARKING LOT EXPANSION ROCKPOINT CHURCH | Prepared by: JMK Checked by: JMK Drawn by: JMK Date: 07/27/11 | Scale: 1" = 40' Date: 07/27/11 Project No.: 09102 | Project No.: 09102 Date: 07/27/11 Project No.: 09102 |
|--|--|---|--|

2011 PARKING LOT EXPANSION
 ROCKPOINT CHURCH
 5825 KELVIN AVENUE NORTH
 LAKE ELMO, MN 55042

Larson Engineering, Inc.
 3524 Labore Road
 White Bear Lake, MN 55110
 651.491.8128 (F) 651.481.9201
 www.larsoneng.com

©2011 Larson Engineering, Inc. All rights reserved.

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

**INTERIM AGREEMENT
HIDDEN MEADOWS OF LAKE ELMO**

1.0 Parties. This agreement is dated the 7 day of June, 2007, and is entered into by and between the City of Lake Elmo, a Minnesota municipal corporation (herein the "City"); and The Rockpoint Church, a Minnesota non-profit corporation (herein the "Developer").

2.0 Recitals.

- A. On May 16, 2006, the City approved the final plat for Hidden Meadows of Lake Elmo, a copy of which is attached and incorporated as Exhibit A.
- B. The Developer is the owner of Lot 1, Block 1 and outlots A and B, Hidden Meadows of Lake Elmo as shown on Exhibit A.
- C. When the final plat of Hidden Meadows of Lake Elmo was approved it was anticipated that a Church building would be constructed on Lot 1, Block 1, Hidden Meadows of Lake Elmo and that outlots A and B, Hidden Meadows of Lake Elmo would be replatted as Hidden Meadows of Lake Elmo 2nd Addition ("Residential Project"). A copy of the proposed plat for the Residential Project is attached and incorporated as Exhibit B.
- D. The Development Agreement for Hidden Meadows of Lake Elmo ("Development Agreement") includes a provision which requires the Developer to construct the waste water treatment system for the Church building and for the anticipated Residential Project before occupancy of the Church building.
- E. The Developer would like to occupy the Church building by June 10, 2007 without constructing a waste water treatment system for the Residential Project.
- F. The City wants some assurance with respect to the conservation easement areas of the Residential Project which are illustrated as outlots B, C, E and F (Conservation Easement Areas) on Exhibit B will be preserved.

3.0 Terms and Conditions. NOW THEREFORE, in consideration of the mutual undertakings herein expressed, the Parties agree as follows:

A. Development Agreement. Section 4.01E of the Development Agreement is amended to read as follows:

4.01E. Waste Water Treatment/Drain Field and Temporary Conservation Easement.

1. Waste Water Treatment System/Drain Field. The waste water treatment system/drain field shall be comprised of a series of pipes, septic tanks, treatment ponds, drain fields and appurtenances all located on outlot A, Hidden Meadows of Lake Elmo. Developer shall be responsible for installing the portion of the waste water treatment system/drain field, which will be necessary to accommodate the Church building on Lot 1, Block 1, Hidden Meadows of Lake Elmo before issuance of an occupancy permit for the Church building.
2. Temporary Conservation Easement. The Developer for itself, and its successors and assigns hereby conveys a temporary conservation easement to the City over, under and across the Conservation Easement Areas. This temporary conservation easement will expire upon the City's approval or denial of the final plat for the Residential Project. During the term of this temporary conservation easement, the Developer shall otherwise comply with the terms of the Development Agreement and shall maintain outlots A & B, Hidden Meadows of Lake Elmo, free and clear of noxious weeds.

IN WITNESS WHEREOF, the above-named parties have hereunto set their hands.

CITY OF LAKE ELMO
By: [Signature]
Dean Johnston
Mayor

By: [Signature]
Susan Hoyt
City Administrator

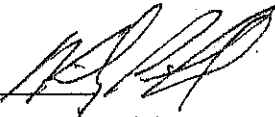
STATE OF MINNESOTA)
COUNTY OF Washington) ss.

On this 7th day of June, 2007, before me, a notary public within and for said county, personally appeared Dean Johnston and Susan Hoyt, to me known to be respectively the Mayor and City Administrator of the City of Lake Elmo, and they executed the foregoing instrument and acknowledged that they executed the same by authority of and on behalf of City of Lake Elmo.

[Signature]
Notary Public



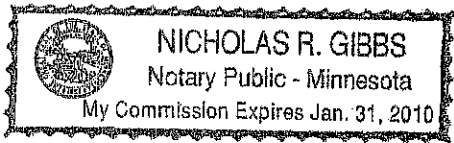
ROCKPOINT CHURCH

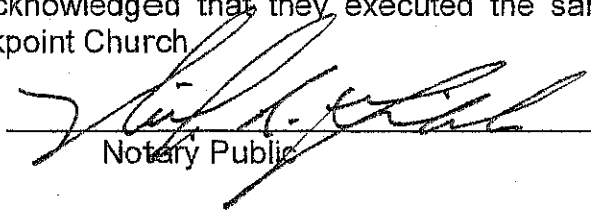
By: Kirby R. Spike 

Its: Leadership Board Chairman

STATE OF MINNESOTA)
COUNTY OF washington) ss.

On this 25th day of may, 2007, before me, a notary public within and for said county, personally appeared Kirby R. spike to me known to be respectively the chairman of the Rockpoint Church, and they executed the foregoing instrument and acknowledged that they executed the same by authority of and on behalf of Rockpoint Church





Notary Public

This instrument was Draft by:
Jerome P. Filla
Peterson, Fram & Bergman, P.A.
55 East Fifth Street, Suite 800
St. Paul, Minnesota 55101
(651) 291-8955 jpf

F:\users\Jessica\Jerry\LE\Interim Agreement v.3- Hidden Meadows.doc

CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA

RESOLUTION NO. 2005-029

A RESOLUTION APPROVING THE REQUEST FOR A CONDITIONAL USE
PERMIT BY LAKEWOOD EVANGELICAL FREE CHURCH FOR
PROPOSED LOT 1, BLOCK 1, DEER GLEN

WHEREAS, on the 7th day of February, 2005, the Lakewood Evangelical Free Church ("Applicant") submitted a completed application request that the City of Lake Elmo approve a Conditional Use Permit to construct a church on 20 acres, and

WHEREAS, on the 28th day of February 2005, at a public hearing, the Lake Elmo Planning Commission reviewed the Conditional Use Permit application, the City Planner's reports and comments, the comments of the Applicant and the Applicant's representatives; and recommended denial of the Conditional Use Permit; and

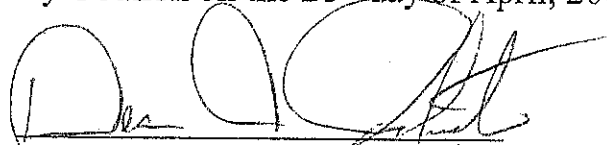
WHEREAS, on the 15th day of March, 2005 and on the 19th day of April, 2005, the Lake Elmo City Council reviewed the Conditional Use Permit application, the City Planner's reports and comments, the Planning Commission recommendation and the comments of the Applicant and its representatives.

WHEREAS, on the 28th day of April, 2005, the City Council completed its review of the request to approve a Conditional Use Permit.

NOW, THEREFORE, BE IT RESOLVED, that the Lake Elmo City Council hereby approves the Conditional Use Permit for a church on proposed Lot 1, Block 1, Deer Glen for the following reasons because the use is allowed within the PF zoning district; and subject to the following conditions:

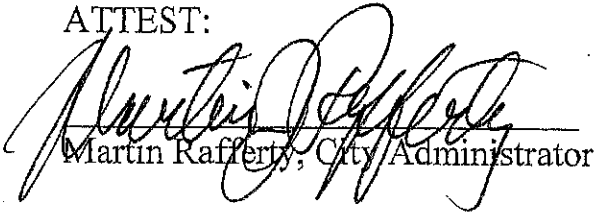
1. Construction, at the applicant's sole expense, of traffic improvements at the intersection of Keats Avenue and Highway 36, as defined in the traffic study dated the 15th day of December, 2004 prepared by Kimley-Horn and Associates, Inc.
2. Approval of a 520 Site Plan.
3. Approval of Plat creating a parcel not more than 20 acres.

ADOPTED by the Lake Elmo City Council on the 28th day of April, 2005.

A handwritten signature in black ink, appearing to read 'Dean Johnston', written over a horizontal line.

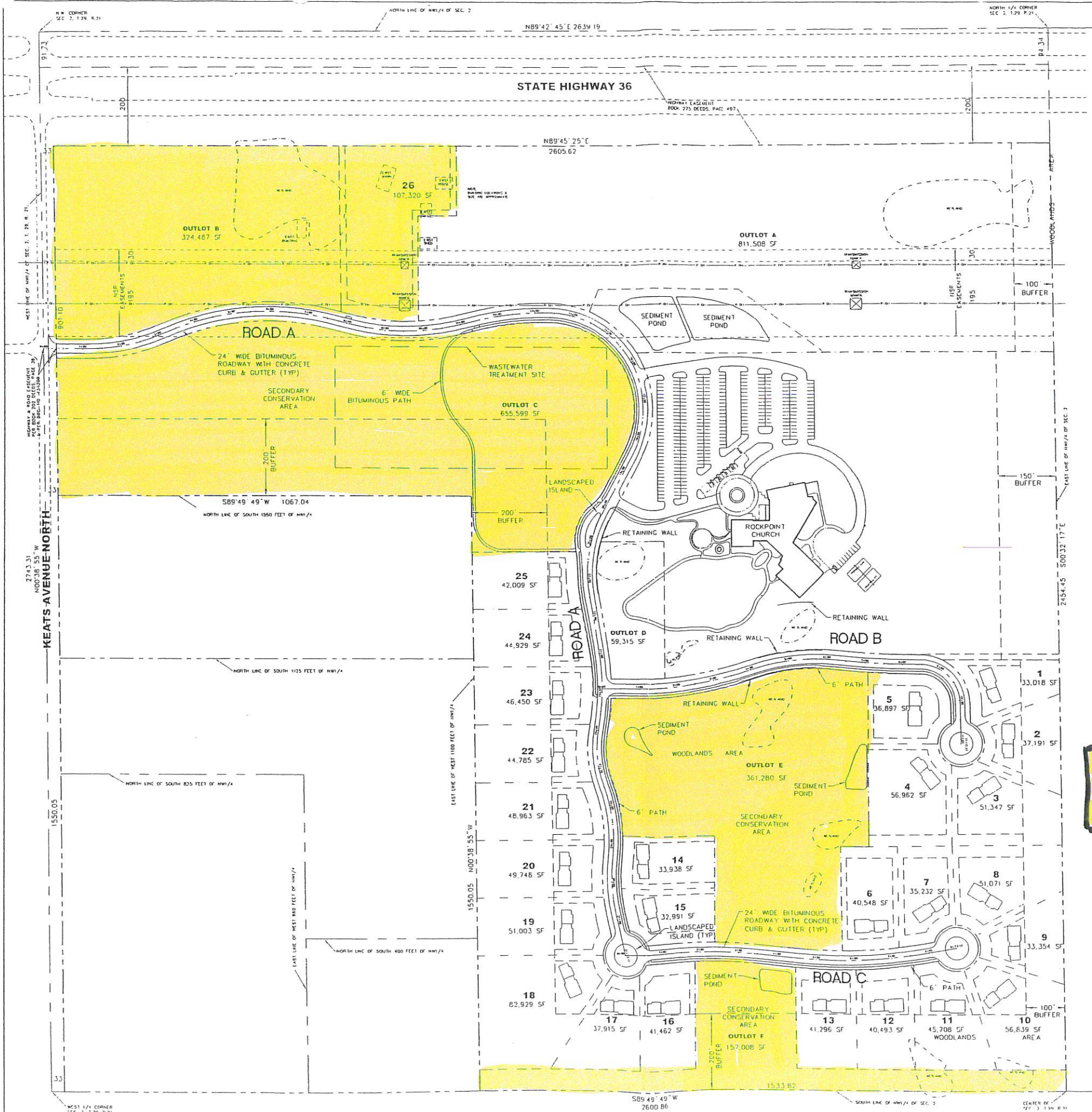
Dean Johnston, Mayor

ATTEST:

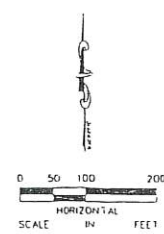
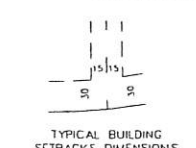
A large, stylized handwritten signature in black ink, appearing to read 'Martin Rafferty', written over a horizontal line.

Martin Rafferty, City Administrator

\\RockPoint\PLAN_SHEETS\Development\Plan\ROCK-DEVELOP-DEV01.DWG March 02, 2008 - 3:10pm



- LEGEND**
- RIGHT OF WAY LINE
 - BLOCK LINE
 - LOT LINE
 - SETBACK LINE
 - UTILITY EASEMENT LINE
 - WETLAND DELINEATION



Interim Easements

Kimley-Horn and Associates, Inc.
 1550 HUNTERS LANE, SUITE 301E, FAYETTEVILLE, AR 72701
 TEL: (501) 845-4187 FAX: (501) 845-3116

| | | | |
|-----|------|-----------|------|
| No. | Date | Revisions | App. |
| | | | |

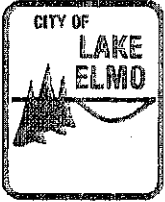
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR CONTRACT DOCUMENTS WERE PREPARED BY OR UNDER THE DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MISSISSIPPI.

Paul B. Danielson, P.E.
 PAUL B. DANIELSON, P.E.
 DATE: 3/2/08 AM LC NO. 23187

HIDDEN MEADOWS OF LAKE ELMO
 SITE DEVELOPMENT PLAN
 DEVELOPMENT PLAN

| | |
|--------------|-----------------|
| SCALE: | 1"=100' |
| DESIGNED BY: | RSP |
| DRAWN BY: | RSP |
| CHECKED BY: | FRD |
| DATE: | 3/2/08 |
| PROJECT NO.: | 160502006.2.001 |

SHEET 4 OF 10
 SHEET NO. 4



MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/2011
REGULAR
ITEM #: 9
MOTION

AGENDA ITEM: Downtown District Sidewalk Maintenance – Award Contract

SUBMITTED BY: Ryan Stempksi, Assistant City Engineer

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

REVIEWED BY: Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider the award of a contract to Sheehy Construction in the amount of \$48,923 for the Downtown District Sidewalk Maintenance Project; and to further consider the scope of proposed work to be completed south of the UP Railroad Tracks along the west side of Lake Elmo Avenue.

BACKGROUND INFORMATION AND STAFF REPORT: At the June 21, 2011, City Council meeting, TKDA was authorized to prepare Plans and Specifications and to obtain contractor quotes for the Downtown District Sidewalk Maintenance Project. The Plans and Specifications were completed and distributed to qualified contractors for submitting bid proposals. The Plans and Specifications are available for review at City Hall.

TKDA contacted 5 qualified contractors to provide bids for this project. Due to the complexity of the scope of work, attendance to the Pre-Bid meeting was made a requirement to submit a bid proposal. The Pre-Bid meeting took place on site to review the proposed improvements in the field and to answer contractor questions. The Pre-Bid meeting was attended by three Contractors. Bids were received on September 15, 2011. Only one bid was received by the specified date/time in the Contract documents; a bid by Sheehy Construction.

The project schedule is tight to have the work completed in 2011. Should the Council choose to award the project; staff will issue a Notice to Proceed to Sheehy Construction. Downtown Businesses will be notified of the start of work and a Pre-Construction Meeting will be held with the Contractor to coordinate the project schedule and logistics. The completion date for this Contract is October 21, 2011.

The Downtown District Sidewalk Maintenance work consists of various sidewalk safety and maintenance improvements along both sides of Lake Elmo Avenue from approximately the

Union Pacific (UP) Railroad tracks to Trunk Highway 5. The work will serve to mitigate several safety hazards, drainage corrections, and pavement distresses. Several sidewalk panels are uneven, which creates an unsafe tripping hazard for pedestrians. Some panels contain distresses that require complete replacement. The sidewalk in front of 3476 Lake Elmo Avenue has shifted and now directs water to the basement of the building. The proposed repairs will consist of crack sealing sidewalk panels, saw cutting trip hazards to a smooth edge, patch spawl areas, remove and replace complete panels, and panel overlays.

SOUTH OF THE UNION PACIFIC RAILROAD TRACKS: In addition to the above referenced project, staff is seeking Council direction to (1) complete sidewalk maintenance repairs for the adjacent sidewalk areas south of the UP Railroad tracks and west along Lake Elmo Avenue, OR (2) to allow Washington County to remove the sidewalk in this area.

Several sidewalk panels south of the UP Railroad tracks are in complete disrepair, yet portions of the sidewalk remains in adequate shape. At least ten panels will require complete replacement. However, sight distance is challenging for pedestrians and bicycles traveling northbound along the west side of Lake Elmo Avenue, so a sidewalk is helpful. This is due to the combination of both a vertical and horizontal curve.

Washington County has taken the position that this area of sidewalk requires extensive repairs (if not complete replacement) and is not willing to cost share on this segment of the Project. The County is willing to remove the sidewalk, construct a new bituminous curb and sod the area with their crews. If the City Council does not want this segment removed, the maintenance and repairs for this sidewalk will be the responsibility of the City.

Using the unit prices received as part of the bid proposal and estimating the extent of repairs needed along this area, it is estimated that an additional \$8,000 would be needed to salvage this additional 240 feet of sidewalk. In addition, the Council should consider that removal of the sidewalk at this time may interrupt the County's/City's prescriptive rights to constructing a new sidewalk at some future date.

FUNDING: If a contract is awarded, this project will be jointly funded by the City and Washington County. Washington County has agreed to reimburse the City for 50% of the total construction costs, not including the portion south of the UP Railroad. The City share of would be funded through the Infrastructure Reserve Fund.

RECOMMENDATION: Based upon the above staff report, the City Council is respectfully requested to consider awarding a Construction Contract to Sheehy Construction. The suggested motion to approve this action is as follows:

“Move to Approve the Award of a Contract to Sheehy Construction in the amount of \$48,923.00 for the Downtown District Sidewalk Maintenance Project;

AND

(1) Add the sidewalk south of the UP Railroad tracks to the project scope

OR

(2) Allow Washington County to remove the sidewalk south of the UP Railroad tracks.”

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 Award of a Contract to Sheehy Construction in the amount of \$48,923.00 for the Downtown District Sidewalk Maintenance Project;

AND

(1) Add the sidewalk south of the UP Railroad tracks to the project scope

OR

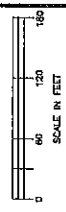
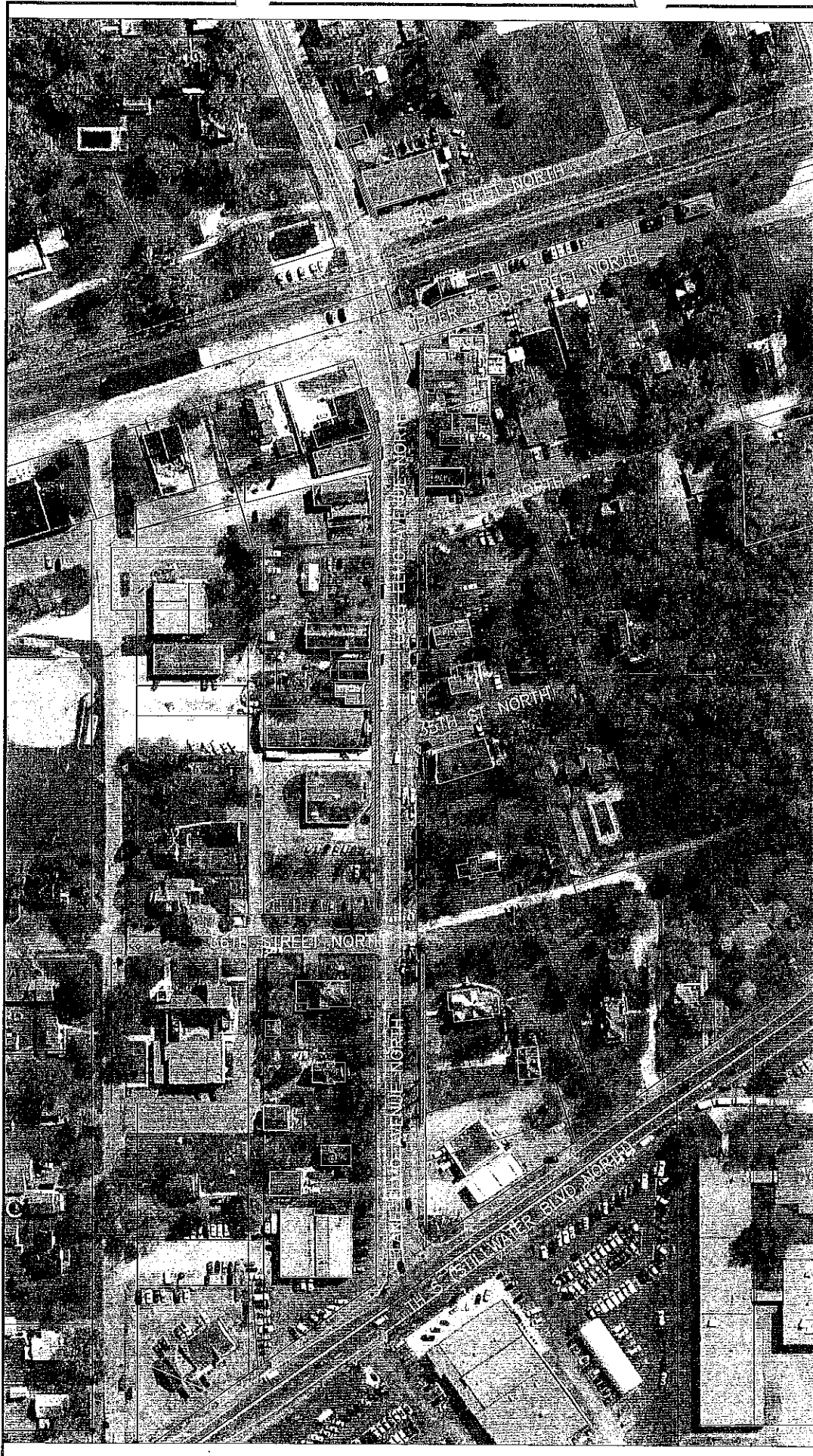
(2) Allow Washington County to remove the sidewalk south of the UP Railroad tracks.”
[as amended and/or modified at tonight’s meeting].”

ATTACHMENTS:

1. Sheehy Construction Bid
2. Location Map
3. Project Manual (available upon request at City Hall)

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



| | | | |
|--|--|-------------------------|--|
| PROJECT NO. 14816.005 MINNESOTA | | SHEET NO. 1 OF 7 SHEETS | |
| LAKE ELMO DOWNTOWN DISTRICT SIDEWALK MAINTENANCE LAKE ELMO <small>MINNESOTA</small> | | CONTRACT NO. | |
| | | | |
| PREPARED BY DATE | | CHECKED BY DATE | |
| DRAWN BY DATE | | APPROVED BY DATE | |
| PROJECT LOCATION SHEET NO. | | | |

THIS DRAWING IS THE PROPERTY OF TECHNICAL KANSAS DESIGN ASSOCIATES, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF TECHNICAL KANSAS DESIGN ASSOCIATES, INC.

**CONSTRUCTION CONTRACT FOR THE
DOWNTOWN DISTRICT SIDEWALK MAINTENANCE PROJECT**

This Contract, made this 15th day of September 2011, by the City of Lake Elmo, Minnesota (hereinafter called the "Owner") and Sheehy Construction (hereinafter called the "Contractor").

WITNESSETH that the parties hereto agree as follows:

- (A) The Contractor shall provide all labor, services, materials, equipment and machinery, transportation, tools, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals, including profit and overhead, necessary for the performance, testing, start-up, and completion of the work as described herein:

DESCRIPTION OF WORK:

The scope of work under this contract is for a complete project in accordance with the plans and specifications for the Downtown District Sidewalk Maintenance Project, dated September 6, 2011. The work includes crack sealing, sawing of trip hazards, spawling repair, panel replacement, and concrete overlay per the attached specifications and drawings. The work is to be done on the existing sidewalks in the Downtown Area located along Lake Elmo Avenue (refer to Location Maps). All disturbed areas are to be restored to preconstruction conditions and all construction debris is to be removed after completion of the project. Contractor must keep working areas clean and maintain access to property owners at all times.

Actual quantities will be measured and paid per the unit price provided in the quote form completed by the Contractor. No additional work in excess of the estimated quantities listed on the quote form will be paid unless approved by the City of Lake Elmo, prior to the work being completed.

All work shall be completed within the specified time frame and under the terms and conditions provided within this Construction Contract, and in accordance with the "General Conditions" shown in this contract. The contractor shall complete the proposed work by October 21, 2011.

The Owner will make payment for the whole contract upon acceptance by the Owner of all work required hereunder and in compliance with all the terms and conditions of this contract.

TOTAL PROJECT COST (INSERT FROM QUOTE FORM): \$48,923.00

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.


(Contractor) Daniel M. Krause, President

(City of Lake Elmo)

GENERAL CONDITIONS

- I. **CHANGES IN WORK.** - The Owner may at any time, make changes in the drawings and specifications, within the general scope thereof. If such changes cause an increase or decrease in the amount due under this contract or in the time required for its performance, an equitable adjustment will be made, and this contract will be modified accordingly by a "Contract Change Order". No charge for any extra work or material will be allowed unless the same has been ordered on such contract change order by the Owner and the price therefore stated in the order.
- II. **INSPECTION OF WORK.** - All materials and workmanship will be subject to inspection, examination, and test, by the Owner, who will have the right to reject defective material and workmanship or require its correction.
- III. **COMPLETION OF WORK.** - If the Contractor refuses or fails to complete the work within the time specified in paragraph B of this contract, or any extension thereof, the Owner may terminate the Contractor's rights to proceed. In such event the Owner may take over the work and prosecute the same to completion by contract or otherwise, and the Contractor will be liable for any excess cost occasioned the Owner thereby; and the Owner may take possession of and utilize in completing the work such materials and equipment as may be on the site of the work and necessary therefore. If the Owner does not terminate the right of the Contract to proceed, the Contractor will continue the work, in which event, actual damages for delay will be impossible to determine, and in lieu thereof, the Contractor may be required to pay to the Owner the sum of **\$100** as liquidated damages for each calendar day of delay, and the Contractor will be liable for the amount thereof. Provided, however, that the right of the Contractor to proceed will not be terminated because of delays in the completion of the completion of the work due to unforeseeable causes beyond the Contractor's control and without Contractor's fault or negligence.
- IV. **RELEASES.** - Prior to final payment, the Contractor will submit evidence that all payrolls, material bills, and other indebtedness connected with the work have been paid as required by the Owner.
- V. **OBLIGATION TO DISCHARGE LIENS.** - Acceptance by the Owner of the completed work performed by the Contractor and payment therefore by the Owner will not relieve the Contractor of obligation to the Owner (which obligation is hereby acknowledged) to discharge any and all liens for the benefit of subcontractors, laborers, material-person, or any other persons performing labor upon the work or furnishing material or machinery for the work covered by this contract, which have attached to or may subsequently attach to the property, or interest of the Owner.
- VI. **NOTICES AND APPROVAL IN WRITING.** - Any notice, consent, or other act to be given or done hereunder will be valid only if in writing.
- VII. **CLEANING UP.** - The Contractor shall keep the premises free from accumulation of waste material and rubbish and at the completion of the work shall remove from the premises all rubbish, implements and surplus materials.
- VIII. **WARRANTY.** - Contractor warrants and guarantees that title to all work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens. If within one year after completion of the work, any work is found to be defective, Contractor shall promptly, without cost to the Owner, correct such defective work as approved by the Owner.
- IX. **IDEMNIFICATION.** - Contractor shall defend and indemnify the city against claims brought or actions filed against the city or any of its officers, employees or agents for property damage, bodily injury or death to third persons, arising out of or relating to contractors work under the contract.
- X. **WORKERS' COMPENSATION INSURANCE.** - Contractor shall provide a certificate of insurance showing evidence of workers' compensation coverage or provide evidence of qualification as a self-insurer of workers' compensation.
- XI. **LIABILITY INSURANCE REQUIREMENTS.** - A certificate of insurance acceptable to the City shall be filed with the City prior to the commencement of the work. The certificate and the required insurance policies shall contain a provision that the coverage afforded under the contract will not be canceled or allowed to expire until at least 30 days prior written notice has been given to the city.

Contractor shall maintain commercial general liability (CGL), and if necessary commercial umbrella insurance, with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, the general aggregate limit shall be not less than \$2,000,000 and the aggregate limit shall apply on a per-project basis. The CGL insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations,

personal injury and advertising injury, and contractually-assumed liability. The city shall be named as an additional insured under the CGL.

Contractor shall maintain automobile liability insurance, and if necessary, umbrella liability insurance with a limit of not less than \$1,000,000 each accident. If such insurance contains a general aggregate limit, the general aggregate limit shall be not less than \$2,000,000. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.

CITY OF LAKE ELMO DOWNTOWN SIDEWALK MAINTENANCE
 QUOTE FORM FOR ESTIMATED QUANTITIES

September 12, 2011

| ADDRESS | CRACK SEAL (LF) | SAW CUT TRIP HAZARD (LF) | SPAWL PATCH (SF) | PANEL REPLACEMENT (SF) | PANEL OVERLAY (SF) |
|---------------------------------|-----------------|--------------------------|------------------|------------------------|--------------------|
| 3610 LAKE ELMO AVENUE | 10 | 30 | 81 | | |
| 3549 LAKE ELMO AVENUE | 31 | 18 | | 72 | |
| 3637 LAKE ELMO AVENUE | 36 | 28 | 5 | | |
| 3521 LAKE ELMO AVENUE | 8 | 13 | 2 | 63 | |
| 3516 LAKE ELMO AVENUE | 39 | 16 | 1 | 77 | |
| 3511 LAKE ELMO AVENUE | 7 | 25 | 24 | 438 | |
| 3479 LAKE ELMO AVENUE | 22 | | 5 | 96 | |
| 3476 LAKE ELMO AVENUE | | | | | 585 |
| 3469 LAKE ELMO AVENUE | 9 | 30 | | | |
| 3442 LAKE ELMO AVENUE | | | | 60 | |
| 3394 LAKE ELMO AVENUE | 26 | 2 | | 16 | |
| 3390 LAKE ELMO AVENUE | 7 | | | | |
| TOTAL ESTIMATED QUANTITY | 195 LF | 162 LF | 118 SF | 822 SF | 585 SF |

| UNIT PRICE (PROVIDED BY CONTRACTOR) | \$56.00/LF | \$36.00/LF | \$56.00/SF | \$19.00/SF | \$17.00/SF |
|--|------------|------------|------------|------------|------------|
|--|------------|------------|------------|------------|------------|

| TOTAL ESTIMATED COST (FOR EACH TYPE OF CORRECTION) | \$10,920.00 | \$5,832.00 | \$6,608.00 | \$15,618.00 | \$9,945.00 |
|---|-------------|------------|------------|-------------|------------|
|---|-------------|------------|------------|-------------|------------|

TOTAL ESTIMATED COST FOR PROJECT
 (INSERT TOTAL PROJECT COST ON
 PAGE 1 OF THE CONSTRUCTION
 CONTRACT) \$48,923.00



MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/2011
REGULAR
ITEM #: 10
DISCUSISON

AGENDA ITEM: Trunk Highway 36 Corridor – Discussion on Access Management Planning and the Mn/DOT Hilton Trail Interchange & J-Turn Projects

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Bruce A Messelt, City Administrator *BAW*

REVIEWED BY: Ryan Stempski, Assistant City Engineer

SUMMARY AND ACTION REQUESTED: The Mayor and City Council are respectfully requested to receive a presentation and to have discussions on the Trunk Highway 36 Corridor. The presentations and discussions will include a staff report on the City's long term corridor access management plan, a status report from Mn/DOT on the Hilton Trail Interchange Project, and a Mn/DOT presentation on a proposed J-Turn project. The J-Turn project is a proposed interim solution to provide better access for the Highlands Trail and Demontreville Trail intersections at Trunk Highway 36.

BACKGROUND INFORMATION AND STAFF REPORT: On May 18, 2011, City staff prepared and submitted formal comments on behalf of Lake Elmo in regards to the Environmental Assessment (EA) for the Trunk Highway 36 Hilton Trail Interchange. This project is proposed for construction in 2013. The EA states that The Minnesota Department of Transportation is proposing this project in the cities of Pine Springs, Grant, and Lake Elmo to replace the existing signalized, at-grade intersection on Trunk Highway 36 at Hilton Trail with a grade-separated interchange.

The project will also reconstruct a 1.2-mile segment of T.H. 36 to eliminate any full-access, at-grade intersections in this section of the corridor, as proposed in the MN 36 Corridor Management Plan (see attached Project Map). Included in this project is the closure of the T.H. 36 center median at Highlands Trail North, thereby requiring Lake Elmo residents to go eastbound only. A formal response to Lake Elmo's EA comments is pending.

To address the Trunk Highway 36 Corridor access management issues for the City, this presentation and discussion will attempt to provide direction for Lake Elmo in addressing both a long term plan as well as propose an interim solution for area residents.

RECOMMENDATION: After receiving the staff and Mn/DOT presentations, City staff is requesting direction from Council as may be deemed appropriate.

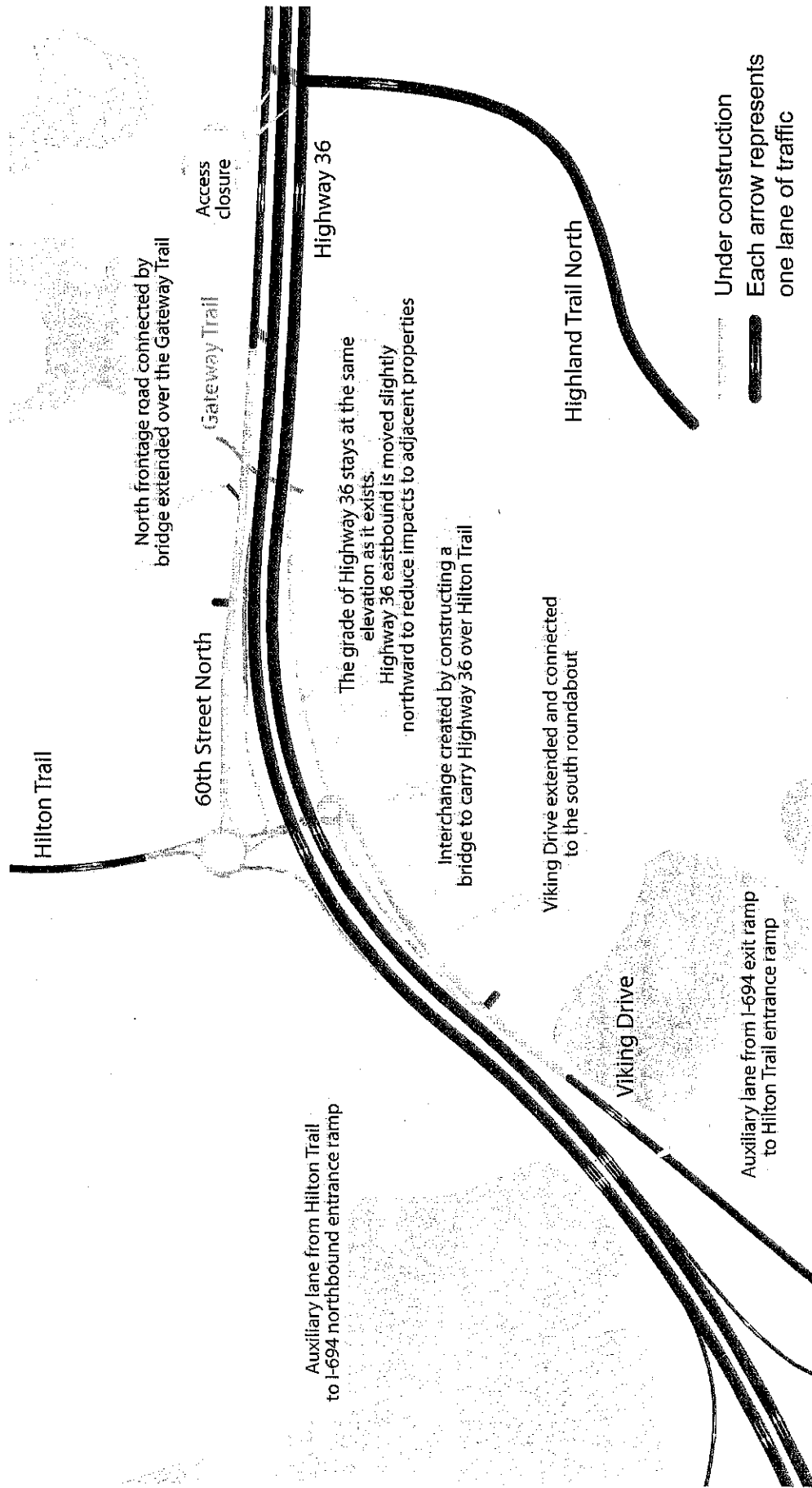
ATTACHMENTS:

- 1) Trunk Highway 36 Hilton Trail Interchange Project.

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation.....City Engineer and Mn/DOT
- Questions from Council Mayor & Facilitates
- Public Input (if appropriate)..... Mayor & City Council
- Discussion Mayor Facilitates
- Action/Direction (if appropriate) Mayor & City Council

Highway 36 at Hilton Trail



April, 2011





MAYOR & COUNCIL COMMUNICATION

DATE: 9/20/2011
REGULAR
ITEM #: 11
DISCUSSION/ACTION

AGENDA ITEM: Update Re: Library Service Considerations
SUBMITTED BY: City Council (Follow-up from September 6th Meeting)
THROUGH: Bruce A. Messelt, City Administrator *BAM*
REVIEWED BY: - NA -

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. 2011-024, 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.

On September 13th, 2011, the Lake Elmo City Council voted to include in its *Preliminary* 2012 Levy a Library Levy in the amount of \$260,078. Washington County passed its *Preliminary* 2012 Levy without inclusion of the same amount, which would have been collected from Lake Elmo property tax owners.

Immediately prior to and subsequent to this action, meetings have been held to further define the options available to the City and steps now required to establish and/or maintain library services in Lake Elmo.

Prior to these actions, several formal meetings and informal discussions among City and County officials have led to an understanding that long-term County provision of full 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 specific action.

ATTACHMENTS: None.

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
- Direction or Action.....Mayor Facilitates