

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

November 16, 2010 - REVISED

**6:30 p.m. -The City Council will convene early to hear report from
Kathy Schmidlkofer, Itasca Group on Regional Economic Development Activities**

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: ___Johnston___ DeLapp___ Emmons, ___ Park ___ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. ACCEPTANCE OF MINUTES:
 - 1. Accept the November 3, 2010 City Council minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. PRESENTATION: Ms. Kathy Schmidlkofer, Itasca Group
- J. 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. 2010 Crack Seal Project; *Resolution No. 2010-062* Accepting Work, Compensating Change Order No.1 and Payment No. 1 (Final)
 - 4. *Resolution No. 2010-063* Approving and Adopting the Special Assessment Policies and Procedures for Public Improvements
 - 5. Proposed Revision to the Buffer Setbacks in Meyers Pine Ridge Open Space Preservation (OP) Development, *Ordinance No. 08-034*
 - 6. Consider Establishing a Rear Yard Setback and Including Buffer Setbacks with the Setback Chart for OP Developments, Revised *Ordinance No. 08-035*

7. Modification of Memorandum of Understanding for Economic Conditions, Revised Resolution No. 2010-065
8. Interim Use Permit: Consideration of an Application from Midwest Recreational Clearinghouse, LLC to Allow an Open Sales Lot for the Outdoor Display of Merchandise at 9200 Hudson Blvd.

K. REGULAR AGENDA:

9. Consideration of Conditional Use Permit to allow an open sales lot for Cranky Ape at 9200 Hudson Blvd. [Note moved from Consent to Regular]
10. Lake Elmo Fire Department Personnel Actions [Revised] – Fire Chief Greg Malmquist
11. Review of Pending Enforcement Action Concerning Activities not Allowed Within an A or RR Zoning District
12. 2011 Street and Water Quality Improvements – Resolution No. 2010-064 Accepting the Report and Calling for a Public Improvement Hearing
13. 2011 Proposed General Fund Budget – Department Presentations

L. 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

M. Adjourn

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

City of Lake Elmo
City Council Minutes

November 3, 2010

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

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

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

APPROVAL OF AGENDA:

MOTION: Council Member Smith moved to approve the November 3, 2010 City Council agenda, as amended by adding Item #8, Early Childhood Family Center; Item #9. Consider title change of Acting Mayor. Council Member Park seconded the motion. The motion passed 5-0.

ACCEPTED MINUTES:

The October 19, 2010 City Council minutes are accepted by consensus.

PUBLIC COMMENTS/INQUIRIES: None

CONSENT AGENDA:

MOTION: Council Member Emmons moved to approve the Consent Agenda. Council Member Park seconded the motion. The motion passed 5-0.

- Approve payment of disbursements and payroll in the amount of \$367,681.32
- Authorize Change Order No. 1 in the amount of \$400.00 and Partial Payment No. 1 to All Weather Services in the amount of \$25,114.75 to be paid from the Storm Water Utility Fund for the 2009 and 2010 Rain Garden Project
- Authorize McKinzie Metro Appraisal, LLC to compete Appraisal Services in the amount of \$1,955, for the purposes of negotiating an acquiring the Lift Station Site No. 3 temporary and permanent utility easements for the I-94 to 30th Trunk Sewer Improvements –
- Approve Resolution No. 2010-060 Authorizing the City to apply for the MnDOT Roadside Landscape Grant and authorizing staff member Kelli Matzek as the primary contact

REGULAR AGENDA:

Preliminary Canvas 2010 Election Results

City Clerk Sharon Lumby provided results of the November 2, 2010 Municipal Election. The City Council will adopt a resolution certifying these results and declaring the winners at the November 16th Council Meeting.

Assessment Policy – Review and Report on Draft Policy

The City Council received a staff report of the draft assessment policy that had been prepared for and reviewed by the Finance Director and City Attorney. Jack Griffin, City Engineer, presented the findings of the assessment policy review.

The City Council asked that the assessment policy be added to the November 16th City Council Consent agenda for approval.

Early Childhood Family Center

The City Council directed the City Administrator to engage with school district 834 to discuss potential citing of an ECFC in the City of Lake Elmo.

Change Title of Acting Mayor

Mayor Johnston asked if staff could come back with language changing the code of Acting Mayor to Deputy Mayor to preside at the meeting when the Mayor is absent.

The Council adjourned the meeting at 8:14 p.m.

Respectfully submitted by Sharon Lumby, City Clerk



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
CONSENT
ITEM #: 2
MOTION *as part of Consent Agenda*

AGENDA ITEM: Approve Disbursements and Payroll in the Amount of \$ 1,135,101.60

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: City Staff

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements and payroll in the amount of \$1,135,101.60. 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 payroll to be paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 6,695.90	Payroll Taxes to IRS 11/03/2010
ACH	\$ 1,135.58	Payroll Taxes to MN Dept. of Revenue 11/03/2010
ACH	\$ 3,592.23	Payroll Retirement to PERA 11/03/2010
DD 3049 -DD 3064	\$ 20,405.58	Payroll Dated 11/03/2010 (Direct Deposit)
36298 -- 36300	\$ 13,493.58	Payroll Dated 11/03/2010 (Payroll)
36301 - 36396	\$ 1,089,778.73	Accounts Payable Dated 11/16/2010
TOTAL	\$ 1,135,101.60	

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

RECOMMENDATION: It is recommended that the City Council approve as part of the *Consent Agenda* proposed disbursements in the amount of \$ 1,135,101.60.

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 November 16th, 2010 Disbursement and Payroll, as Presented [*and modified*] herein.”

ATTACHMENTS:

1. Accounts Payable Dated 11/16/2010

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: 11/10/2010 - 3:22 PM
 Batch: 002-11-2010

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
10000	10,000 Lakes Chapter									
	11/3/2010	210.00	0.00	11/16/2010	Continuing Education		-	No		0000
	101-420-2400-44370				Conferences & Training					
	11/3/2010	210.00			Total:					
	10000	210.00			Total:					
	ACS Animal Control Services									
	305	885.00	0.00	11/16/2010	Animal Control Services	9/18/10-	-	No		0000
	101-420-2700-43150				Contract Services	10/23/10				
	305	885.00			Total:					
	ACS	885.00			Total:					
	ADVGR Advanced Graphix, Inc.									
	182479	365.00	0.00	11/16/2010	Graphics for CV-2		-	No		0000
	11/08/2010									
	410-480-8000-45500				Vehicles					
	182479	365.00			Total:					
	11/08/2010	32.06	0.00	11/16/2010	Graphics for CV-1		-	No		0000
	101-420-2220-44040				Repairs/Maint Eqpt					
	182480	32.06			Total:					
	ADVGR	397.06			Total:					
	AIRGAS Airgas North Central									
	105410808	24.75	0.00	11/16/2010	Acetelyn Tank Lease		-	No		0000
	10/31/2010									
	101-430-3100-43150				Contract Services					
	105410808	24.75			Total:					
	AIRGAS	24.75			Total:					
	ALEXAIR Alex Air Apparatus, Inc									
	18905	367.87	0.00	11/16/2010	SCBA mask, new size		-	No		0000
	11/05/2010									
	101-420-2220-42400				Small Tools & Equipment					
	18905	367.87			Total:					

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ALEXAIR Total:		367.87								
ALLWEATH All Weather Services										
10/28/2010	10/28/2010	25,114.75	0.00	11/16/2010	2009-2010 Rain Gardens Project		-	No		0000
603-496-9500-45300	Improvements Other Than Bldgs									
	10/28/2010 Total:	25,114.75								
ALLWEATH Total:		25,114.75								
AMERICAN American Eng and Testing, Inc.										
49440	10/31/2010	5,575.83	0.00	11/16/2010	Geotechnical Services - 2011 Street Impr		-	No		0000
418-480-8000-43150	Contract Services									
	49440 Total:	5,575.83								
AMERICAN Total:		5,575.83								
ANCOM ANCOM COMMUNICATIONS, INC.										
18814	11/02/2010	104.50	0.00	11/16/2010	Pager Repair		-	No		0000
101-420-2220-43230	Radio									
	18814 Total:	104.50								
ANCOM Total:		104.50								
ARAM Aramark, Inc.										
629-7088598	11/01/2010	63.11	0.00	11/16/2010	Monthly Rug Service, Station #1		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
629-7088598	11/01/2010	32.31	0.00	11/16/2010	Additional @ Station #1 for elections		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7088598 Total:	95.42								
629-7088600	11/01/2010	65.71	0.00	11/16/2010	Monthly Rug Service, Station #2		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7088600 Total:	65.71								
629-7106155	10/28/2010	22.97	0.00	11/16/2010	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
	629-7106155 Total:	22.97								
629-7108002	11/01/2010	98.92	0.00	11/16/2010	Linen City Hall		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7108002 Total:	98.92								
629-7110939	11/04/2010	22.97	0.00	11/16/2010	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
	629-7110939 Total:	22.97								
629-7112767	11/08/2010	46.68	0.00	11/16/2010	Linen City Hall Annex		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7112767 Total:	46.68								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
ARAM Total:		352.67								
BANYON Banyon Data Systems, Inc.										
00145860	11/01/2010	978.28	0.00	11/16/2010	Software Support		-	No		0000
601-494-9400-43180	Software Support									
00145860 Total:		978.28								
BANYON Total:		978.28								
C&J CONS C & J Consulting Services, LLP										
10-2010	11/01/2010	3,962.50	0.00	11/16/2010	Monthly Acctg Services - October 2010		-	No		0000
101-410-1520-43150	Contract Services									
10-2010	11/01/2010	35.66	0.00	11/16/2010	Office Supplies		-	No		0000
101-410-1520-42000	Office Supplies									
10-2010 Total:		3,998.16								
C&J CONS Total:		3,998.16								
CARQUEST Car Quest Auto Parts										
2055-204948	10/26/2010	17.10	0.00	11/16/2010	License Lamps		-	No		0000
101-430-3120-42210	Equipment Parts									
2055-204948 Total:		17.10								
2055-205099	10/28/2010	137.52	0.00	11/16/2010	Fuel Filters		-	No		0000
101-430-3120-42210	Equipment Parts									
2055-205099 Total:		137.52								
2055-205533	11/01/2010	20.25	0.00	11/16/2010	Lamps		-	No		0000
101-430-3120-42210	Equipment Parts									
2055-205533	11/01/2010	91.42	0.00	11/16/2010	Fuel Additives		-	No		0000
101-430-3120-42120	Fuel, Oil and Fluids									
2055-205533 Total:		111.67								
CARQUEST Total:		266.29								
CDW CDW Government Inc.										
VKC2457	10/27/2010	102.62	0.00	11/16/2010	New Printer		-	No		0000
101-420-2220-42000	Office Supplies									
VKC2457 Total:		102.62								
CDW Total:		102.62								
COMOLUBE Como Lube & Supplies										
497413	11/01/2010	25.00	0.00	11/16/2010	Used Oil absorbent drum		-	No		0000
101-430-3100-42120	Fuel, Oil and Fluids									
497413 Total:		25.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
COMOLUBE Total:		25.00								
COMPENSA Compensation Consultants, Ltd										
09/28/2010	09/28/2010	40.00	0.00	11/16/2010	Monthly Admin Fee - November 2010		-	No		0000
101-410-1320-44300	Miscellaneous	40.00								
09/28/2010 Total:		40.00								
COMPENSA Total:		40.00								
CTYBLOOM City of Bloomington										
October 2010	10/29/2010	90.00	0.00	11/16/2010	Lab Bacteria Tests		-	No		0000
601-494-9400-42270	Utility System Maintenance	90.00								
October 2010 Total:		90.00								
CTYBLOOM Total:		90.00								
CUSTOMON Custom One Homes										
CHK REQ	11/04/2010	3,000.00	0.00	11/16/2010	Escrow Return 10097 Tapestry Hill #7459		-	No		0000
803-000-0000-22900	Deposits Payable	3,000.00								
CHK REQ Total:		3,000.00								
CUSTOMON Total:		3,000.00								
ECKBERG Eckberg Lamers Briggs Wolff										
10-2010	10/31/2010	3,757.62	0.00	11/16/2010	Legal Services - Criminal		-	No		0000
101-420-2150-43045	Attorney Criminal	3,757.62								
10-2010 Total:		3,757.62								
107952	11/01/2010	3,394.00	0.00	11/16/2010	Legal Services - Civil		-	No		0000
101-410-1320-43040	Legal Services	3,394.00								
107952 Total:		3,394.00								
ECKBERG Total:		7,151.62								
EL-BBJOR Bjorkman Barb										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election judge		-	No		0000
101-410-1410-43150	Contract Services	162.00								
Election Judge Total:		162.00								
EL-BBJOR Total:		162.00								
EJ-BHERZ Herzfeld Betty										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services	90.00								
Election Judge Total:		90.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	EJ-BHERZ Total:	90.00								
EJ-BHOLM Holm Barb										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	90.00								
	EJ-BHOLM Total:	90.00								
EJ-BKJEL Kiesling Barb										
Election Judge	11/10/2010	301.50	0.00	11/16/2010	Payment to election judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	301.50								
	EJ-BKJEL Total:	301.50								
EJ-BSCHN Schneider Budd										
Election Judge	11/10/2010	103.50	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	103.50								
	EJ-BSCHN Total:	103.50								
EJ-BSCHU Schumacher Bob										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	90.00								
	EJ-BSCHU Total:	90.00								
EJ-BWACK Wacker Bill										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	90.00								
	EJ-BWACK Total:	90.00								
EJ-BWEEK Weeks Bruce										
Election Judge	11/10/2010	144.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	144.00								
	EJ-BWEEK Total:	144.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
EJ-CCRIM Crimmins Carol										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	90.00								
	EJ-CCRIM Total:	90.00								
<hr/>										
EJ-DALLE Allen Diane										
Election Judge	11/10/2010	180.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	180.00								
	EJ-DALLE Total:	180.00								
<hr/>										
EJ-DJOHN Johnson Dick										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	162.00								
	EJ-DJOHN Total:	162.00								
<hr/>										
EJ-DMEYE Meyer Don										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	162.00								
	EJ-DMEYE Total:	162.00								
<hr/>										
EJ-FBerg Berglof Florence										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	90.00								
	EJ-FBerg Total:	90.00								
<hr/>										
EJ-GDEGE Dege George										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	162.00								
	EJ-GDEGE Total:	162.00								
<hr/>										
EJ-GJOHN Johnson Ginny										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	162.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	EJ-GJOHN Total:	162.00								
EJ-GKNOB Knoblauch Gloria										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	90.00								
	EJ-GKNOB Total:	90.00								
EJ-JALLE Allen Jim										
Election Judge	11/10/2010	315.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	315.00								
	EJ-JALLE Total:	315.00								
EJ-JBROC Brockway Judy										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to election judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	90.00								
	EJ-JBROC Total:	90.00								
EJ-JKIEG Kiefner Jan										
Election Judge	11/10/2010	301.50	0.00	11/16/2010	Payment to election judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	301.50								
	EJ-JKIEG Total:	301.50								
EJ-JKRUE Krueger Jan										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	162.00								
	EJ-JKRUE Total:	162.00								
EJ-JMCGR McGrath Joe										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	162.00								
	EJ-JMCGR Total:	162.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
EJ-JMEHS Mehsikomer Joyce										
Election Judge	11/10/2010	517.00	0.00	11/16/2010	Payment to election judge		-	No		0000
101-410-1410-43150 Contract Services										
Election Judge Total:		517.00								
EJ-JMEHS Total:		517.00								
<hr/>										
EJ-JMORI Moris Judy										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to election Judge		-	No		0000
101-410-1410-43150 Contract Services										
Election Judge Total:		90.00								
EJ-JMORI Total:		90.00								
<hr/>										
EJ-JPIER Pierre Jackie										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150 Contract Services										
Election Judge Total:		162.00								
EJ-JPIER Total:		162.00								
<hr/>										
EJ-JROTH Roth Jim										
Election Judge	11/10/2010	180.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150 Contract Services										
Election Judge Total:		180.00								
EJ-JROTH Total:		180.00								
<hr/>										
EJ-KBOGU Bogut Keith										
Election Judge	11/10/2010	153.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150 Contract Services										
Election Judge Total:		153.00								
EJ-KBOGU Total:		153.00								
<hr/>										
EJ-KMEIS Meister Karen										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150 Contract Services										
Election Judge Total:		162.00								
EJ-KMEIS Total:		162.00								
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EJ-LWAGN Wagner Linda										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150 Contract Services										
Election Judge Total:		162.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	EJ-LWAGN Total:	162.00								
EJ-MBROC	Brockway Matthew Election Judge 11/10/2010 101-410-1410-43150 Contract Services Election Judge Total: EJ-MBROC Total:	90.00 90.00 90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
EJ-MDEZI	Deziel Michelle Election Judge 11/10/2010 101-410-1410-43150 Contract Services Election Judge Total: EJ-MDEZI Total:	90.00 90.00 90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
EJ-MGRUN	Grundeen Mary Election Judge 11/10/2010 101-410-1410-43150 Contract Services Election Judge Total: EJ-MGRUN Total:	153.00 153.00 153.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
EJ-NHANS	Hansen Nancy Election Judge 11/10/2010 101-410-1410-43150 Contract Services Election Judge Total: EJ-NHANS Total:	539.00 539.00 539.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
EJ-PMCGR	McGrath Paula Election Judge 11/10/2010 101-410-1410-43150 Contract Services Election Judge Total: EJ-PMCGR Total:	81.00 81.00 81.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
EJ-PODON	O'Donnell Pat Election Judge 11/10/2010 101-410-1410-43150 Contract Services Election Judge Total: EJ-PODON Total:	153.00 153.00 153.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
EJ-PPAUL Paulson Phyllis										
Election Judge	11/10/2010	153.00	0.00	11/16/2010	Payment to election judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	153.00								
	EJ-PPAUL Total:	153.00								
<hr/>										
EJ-PRYBE Ryberg Paul										
Election Judge	11/10/2010	375.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	375.00								
	EJ-PRYBE Total:	375.00								
<hr/>										
EJ-RPALL Palmeyer Ruth										
Election Judge	11/10/2010	144.00	0.00	11/16/2010	Payment to election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	144.00								
	EJ-RPALL Total:	144.00								
<hr/>										
EJ-SDURA Durand Shirley										
Election Judge	11/10/2010	162.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	162.00								
	EJ-SDURA Total:	162.00								
<hr/>										
EJ-SHAUG Haugen Suzanne										
Election Judge	11/10/2010	395.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	395.00								
	EJ-SHAUG Total:	395.00								
<hr/>										
EJ-TWALK Walker Tom										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	90.00								
	EJ-TWALK Total:	90.00								
<hr/>										
EJ-VWAGO Wagoner Violet										
Election Judge	11/10/2010	470.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
	Election Judge Total:	470.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
EJ-VWAGO Total:		470.00								
EJ-WHIRS Hirsch Wil										
Election Judge	11/10/2010	90.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
Election Judge Total:		90.00								
EJ-WHIRS Total:		90.00								
EJ-WLOOS Loos Wendy										
Election Judge	11/10/2010	153.00	0.00	11/16/2010	Payment to Election Judge		-	No		0000
101-410-1410-43150	Contract Services									
Election Judge Total:		153.00								
EJ-WLOOS Total:		153.00								
EMMONS A Emmons Alex										
EMMONS A	10/20/2010	55.00	0.00	11/16/2010	City Council Meeting 10/19/2010		-	No		0000
101-410-1450-43620	Cable Operations									
10/20/2010 Total:		55.00								
EMMONS A Total:		55.00								
ENVENTIS ENVENTIS										
737500	11/13/2010	452.41	0.00	11/16/2010	Telephone/Data Service - PW	11/2010	-	No		0000
101-430-3100-43210	Telephone									
737500 Total:		452.41								
738507	11/13/2010	558.95	0.00	11/16/2010	Telephone/Data Service - City Hall	11/10	-	No		0000
101-410-1940-43210	Telephone									
738507 Total:		558.95								
ENVENTIS Total:		1,011.36								
FRONTIER Frontier Precision, Inc										
88497	11/04/2010	181.78	0.00	11/16/2010	Snow Plow Route Markers		-	No		0000
101-430-3125-42250	Landscaping Materials									
88497 Total:		181.78								
FRONTIER Total:		181.78								
HAWKINS Hawkins, Inc.										
3160955 R1	10/26/2010	148.20	0.00	11/16/2010	Chlorine		-	No		0000
601-494-9400-42160	Chemicals									
3160955 R1 Total:		148.20								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
3171801 R1	11/02/2010	179.60	0.00	11/16/2010	Chlorine		-	No		0000
601-494-9400-42160	Chemicals									
	3171801 R1 Total:	179.60								
	HAWKINS Total:	327.80								
Hewlett Hewlett Packard										
48232007	09/08/2010	407.08	0.00	11/16/2010	Two LCD Monitors - Fire		-	No		0000
101-420-2220-44300	Miscellaneous									
	48232007 Total:	407.08								
	Hewlett Total:	407.08								
HILLMARK Hill Mark										
CHK REQ	11/04/2010	2,000.00	0.00	11/16/2010	Escrow Return 10926 57th #7035		-	No		0000
803-000-0000-22900	Deposits Payable									
	CHK REQ Total:	2,000.00								
	HILLMARK Total:	2,000.00								
KDV Kern DeWenter Viere Ltd										
117640	10/29/2010	4,725.00	0.00	11/16/2010	Financial Services - October 2010		-	No		0000
101-410-1520-43150	Contract Services									
	117640 Total:	4,725.00								
	KDV Total:	4,725.00								
LANDMARK Landmark Builders, Inc.										
CHK REQ	11/04/2010	3,000.00	0.00	11/16/2010	Escrow Return-10368 Tapestry Bend #7366		-	No		0000
803-000-0000-22900	Deposits Payable									
	CHK Req	3,000.00	0.00	11/16/2010	Escrow Return - 5840 Lily Ave #7322		-	No		0000
803-000-0000-22900	Deposits Payable									
	Chk Req Total:	6,000.00								
	LANDMARK Total:	6,000.00								
LEAGMN League of MN Cities										
145594	10/15/2010	15.00	0.00	11/16/2010	Books - Public Works		-	No		0000
101-430-3100-44330	Dues & Subscriptions									
	145594 Total:	15.00								
	LEAGMN Total:	15.00								
LEOIL Lake Elmo Oil, Inc.										
10/31/2010	10/31/2010	425.82	0.00	11/16/2010	Fuel		-	No		0000
101-420-2220-42120	Fuel, Oil and Fluids									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
11587	10/31/2010	425.82								
	10/31/2010	1,482.25	0.00	11/16/2010	Fuel		-	No		0000
101-430-3120-42120	Fuel, Oil and Fluids									
	11587 Total:	1,482.25								
	LEOIL Total:	1,908.07								
Lillie Newspapers Inc. Lillie Suburban										
10/29/2010	11/10/2010	28.64	0.00	11/16/2010	Elections & Planning		-	No		0000
101-410-1450-43510	Public Notices									
	10/29/2010 Total:	28.64								
	Lillie Total:	28.64								
LOFF Loffler Companies, Inc.										
1179979	11/01/2010	187.21	0.00	11/16/2010	Copy Machines Overage & Base		-	No		0000
101-410-1940-44040	Repairs/Maint Contractual Eqpt				11/2010					
	1179979 Total:	187.21								
	LOFF Total:	187.21								
MARONEYS Maroney's Sanitation, Inc										
362137	11/02/2010	103.66	0.00	11/16/2010	Waste Removal - City Hall		-	No		0000
101-410-1940-43840	Refuse									
362137	11/02/2010	45.62	0.00	11/16/2010	Waste Removal - Fire		-	No		0000
101-420-2220-43840	Refuse									
362137	11/02/2010	198.87	0.00	11/16/2010	Waste Removal - Public Works		-	No		0000
101-430-3100-43840	Refuse									
362137	11/02/2010	198.87	0.00	11/16/2010	Waste Removal - Parks		-	No		0000
101-450-5200-43840	Refuse									
	362137 Total:	547.02								
	MARONEYS Total:	547.02								
MARVS Marv's Professional Tools										
231005	11/04/2010	75.76	0.00	11/16/2010	Sockets - Wrenches		-	No		0000
101-430-3100-42400	Small Tools & Minor Equipment									
	231005 Total:	75.76								
	MARVS Total:	75.76								
MENARDSON Menards - Oakdale										
17886	11/02/2010	38.62	0.00	11/16/2010	Air Tanks Hardware		-	No		0000
101-430-3100-44010	Repairs/Maint Bldg									
	17886 Total:	38.62								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
18218	11/03/2010	89.13	0.00	11/16/2010	Hockey boards posts & Hardware		-	No		0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	18218 Total:	89.13								
20522	11/10/2010	17.57	0.00	11/16/2010	Lights for city Hall		-	No		0000
101-410-1940-42230	Building Repair Supplies									
	20522 Total:	17.57								
	MENARDSO Total:	145.32								
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MEICOU Metropolitan Council										
0000944945	12/01/2010	1,374.96	0.00	11/16/2010	Monthly Wastewater Service Dec 2010		-	No		0000
602-495-9450-43820	Sewer Utility - Met Council									
	0000944945 Total:	1,374.96								
	MEICOU Total:	1,374.96								
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METROFIR Metro Fire										
39325	10/20/2010	757.86	0.00	11/16/2010	Replacement Firefighting Helmets		-	No		0000
101-420-2220-42400	Small Tools & Equipment									
	39325 Total:	757.86								
	METROFIR Total:	757.86								
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MILLEREX Miller Excavating, Inc.										
15154	10/30/2010	370.80	0.00	11/16/2010	Grading Gravel Roads		-	No		0000
101-430-3120-43150	Contract Services									
	15154 Total:	370.80								
	MILLEREX Total:	370.80								
<hr/>										
NORTHL Northland Trust Services, Inc.										
	11/30/2010	1,000,000.00	0.00	11/16/2010	Crossover Refund Bond		-	No		0000
313-480-8000-46000	Bond Principal									
	Total:	1,000,000.00								
	NORTHL Total:	1,000,000.00								
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ONECALL Gopher State One Call										
0100639	10/31/2010	131.95	0.00	11/16/2010	Line Locates - October 2010		-	No		0000
101-430-3100-43150	Contract Services									
	0100639 Total:	131.95								
	ONECALL Total:	131.95								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
PETTYCI Petty Cash										
11/10/2010	11/10/2010	6.00	0.00	11/16/2010	Parking City Administrator		-	No		0000
101-410-1320-44300	Miscellaneous									
11/10/2010	11/10/2010	5.00	0.00	11/16/2010	Parking City Administrator		-	No		0000
101-410-1320-44300	Miscellaneous									
11/10/2010	11/10/2010	11.91	0.00	11/16/2010	Refreshments - Special Council Meeting		-	No		0000
101-410-1320-44300	Miscellaneous									
11/10/2010	11/10/2010	8.30	0.00	11/16/2010	Postage		-	No		0000
101-410-1320-43220	Postage									
11/10/2010	11/10/2010	18.78	0.00	11/16/2010	Refreshments - Election Judge Training		-	No		0000
101-410-1410-44300	Miscellaneous									
11/10/2010	11/10/2010	7.89	0.00	11/16/2010	Parts - Public Works		-	No		0000
101-430-3100-42210	Equipment Parts									
	11/10/2010 Total:	57.88								
	PETTYCI Total:	57.88								
PIONEER Pioneer Press										
1010525226	11/01/2010	542.64	0.00	11/16/2010	Fall Festival Acknowledge of Sponsors		-	No		0000
204-450-5200-44300	Miscellaneous									
	1010525226 Total:	542.64								
219071	11/01/2010	209.56	0.00	11/16/2010	Annual Newspaper Subscription		-	No		0000
101-410-1320-44330	Dues & Subscriptions									
	219071 Total:	209.56								
	PIONEER Total:	752.20								
PITNEYRE Reserve Account Pitney Bowes										
11/01/2010	11/01/2010	500.00	0.00	11/16/2010	Postage		-	No		0000
101-410-1320-43220	Postage									
11/01/2010	11/01/2010	1,320.00	0.00	11/16/2010	Postage		-	No		0000
603-496-9500-43180	Software Support									
11/01/2010	11/01/2010	440.00	0.00	11/16/2010	Postage		-	No		0000
601-494-9400-43220	Postage									
	11/01/2010 Total:	2,260.00								
	PITNEYRE Total:	2,260.00								
PRECWELD Precision Welding & Machine										
3880	11/05/2010	292.30	0.00	11/16/2010	Parts for ranger		-	No		0000
410-480-8000-45500	Vehicles									
	3880 Total:	292.30								
	PRECWELD Total:	292.30								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
PRESS Press Steven										
11/08/2010	11/08/2010	58.88	0.00	11/16/2010	Planning meeting	11/8/2010	-	No		0000
101-410-1450-43620	Cable Operations									
	11/08/2010 Total:	58.88								
	PRESS Total:	58.88								
PRESS Anastasia Press										
11/09/2010	11/09/2010	41.25	0.00	11/16/2010	City Council Workshop	11/9/10	-	No		0000
101-410-1450-43620	Cable Operations									
	11/09/2010 Total:	41.25								
	PRESSA Total:	41.25								
REIDMITC Reid Mitch										
11/03/2010	11/03/2010	55.00	0.00	11/16/2010	City Council Meeting -	11/3/2010	-	No		0000
101-410-1450-43620	Cable Operations									
	11/03/2010 Total:	55.00								
	REIDMITC Total:	55.00								
RIVRCCOOP River Country Cooperative										
10/31/2010	10/31/2010	207.51	0.00	11/16/2010	Fuel		-	No		0000
101-420-2220-42120	Fuel, Oil and Fluids									
10/31/2010	10/31/2010	27.84	0.00	11/16/2010	Car Washes		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
	10/31/2010 Total:	235.35								
	RIVRCCOOP Total:	235.35								
RUD Prince-Rud Diane										
11/16/2010	11/10/2010	320.00	0.00	11/16/2010	Cleaning City hall & Annex		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
11/16/2010	11/10/2010	240.00	0.00	11/16/2010	Cleaning Fire Hall		-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
11/16/2010	11/10/2010	30.67	0.00	11/16/2010	Supplies		-	No		0000
101-410-1940-42110	Cleaning Supplies									
	11/16/2010 Total:	590.67								
	RUD Total:	590.67								
SQUIRES Squires Jeremy										
CHK REQ	11/04/2010	1,500.00	0.00	11/16/2010	Escrow Return-10080 Tapestry #6758		-	No		0000
803-000-0000-22900	Deposits Payable									
	CHK REQ Total:	1,500.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
SQUIRES Total:		1,500.00								
TASCH T.A. Schrifsky & Sons Inc										
50282	10/28/2010	825.26	0.00	11/16/2010	Asphalt		-	No		0000
101-430-3120-42240	Street Maintenance Materials	825.26								
50282 Total:		825.26								
TASCH Total:		825.26								
VISA-SL VISA										
11/01/10 cc	11/10/2010	370.36	0.00	11/16/2010	Public Hearing Notice - Interim Use Perm		-	No		0000
101-410-1450-43510	Public Notices	370.36								
11/01/10 cc Total:		370.36								
VISA-SL Total:		370.36								
WAS-LAND Washington County Surveyor										
09/20/2010	09/20/2010	27.00	0.00	11/16/2010	Property Records Search		-	No		0000
101-410-1910-44300	Miscellaneous	27.00								
09/20/2010 Total:		27.00								
WAS-LAND Total:		27.00								
XCEL Xcel Energy										
51-4504807-7	11/10/2010	50.48	0.00	11/16/2010	Lights at Legion Park		-	No		0000
101-450-5200-43810	Electric Utility	73.98								
51-4504807-7	11/10/2010	27.87	0.00	11/16/2010	Lift Station		-	No		0000
602-495-9450-43810	Electric Utility	27.87								
51-4504807-7	11/10/2010	152.33	0.00	11/16/2010	Traffic Lights - Inwood		-	No		0000
101-430-3160-43810	Street Lighting	5.38								
51-4504807-7 Total:		5.38								
51-4572945-7	11/04/2010	280.27	0.00	11/16/2010	Street Lights		-	No		0000
101-430-3160-43810	Street Lighting	5.38								
51-4572945-7 Total:		280.27								
51-4576456-3.	11/04/2010	280.27	0.00	11/16/2010	Fire Station 2		-	No		0000
101-420-2220-43810	Electric Utility	26.47								
51-4576456-3. Total:		280.27								
51-4580376-5	11/04/2010	26.47	0.00	11/16/2010	Traffic Lights		-	No		0000
101-430-3160-43810	Street Lighting	26.47								
51-4580376-5 Total:		26.47								
51-45806376-5	11/04/2010	426.62	0.00	11/16/2010	City Hall		-	No		0000
101-410-1940-43810	Electric Utility	426.62								
51-45806376-5 Total:		426.62								
51-4733556-8	11/04/2010	15.64	0.00	11/16/2010	Tennis Courts		-	No		0000
101-450-5200-43810	Electric Utility	15.64								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
51-4733556-8	Total:	15.64								
51-5044219-0	11/04/2010	42.94	0.00	11/16/2010	Parks Building		-	No		0000
101-450-5200-43810	Electric Utility									
51-5044219-0	Total:	42.94								
51-5275289-3	11/04/2010	16.34	0.00	11/16/2010	Pebble Park		-	No		0000
101-450-5200-43810	Electric Utility									
51-5275289-3	Total:	16.34								
51-5356323-8	11/10/2010	1,605.93	0.00	11/16/2010	Wells 1 & 2		-	No		0000
601-494-9400-43810	Electric Utility									
51-5356323-8	Total:	1,605.93								
51-5522332-2	11/04/2010	35.14	0.00	11/16/2010	Traffic Lights		-	No		0000
101-430-3160-43810	Street Lighting									
51-5522332-2	Total:	35.14								
51-5747685-4	11/04/2010	84.52	0.00	11/16/2010	Arts Center		-	No		0000
101-450-5200-43810	Electric Utility									
51-5747685-4	Total:	84.52								
51-5916043-7	11/04/2010	16.16	0.00	11/16/2010	Lift Station		-	No		0000
602-495-9450-43810	Electric Utility									
51-5916043-7	Total:	16.16								
51-6429583-8	11/04/2010	30.97	0.00	11/16/2010	Lift Station		-	No		0000
602-495-9450-43810	Electric Utility									
51-6429583-8	Total:	30.97								
51-6433976-2	11/04/2010	196.76	0.00	11/16/2010	Fire Station 1		-	No		0000
101-420-2220-43810	Electric Utility									
51-6433976-2	Total:	196.76								
51-6625457-1	11/04/2010	17.76	0.00	11/16/2010	Legion Park		-	No		0000
101-450-5200-43810	Electric Utility									
51-6625457-1	Total:	17.76								
51-6736544-2	11/10/2010	1,798.27	0.00	11/16/2010	Street Lights		-	No		0000
101-430-3160-43810	Street Lighting									
51-6736544-2	Total:	1,798.27								
51-6928283-3	11/04/2010	25.20	0.00	11/16/2010	Traffic Lights - Manning/Stillwater		-	No		0000
101-430-3160-43810	Street Lighting									
51-6928283-3	Total:	25.20								
51-6956201-4	11/04/2010	144.51	0.00	11/16/2010	VFW Ballfield lights		-	No		0000
101-450-5200-43810	Electric Utility									
51-6956201-4	Total:	144.51								
51-7538112-1	11/04/2010	466.88	0.00	11/16/2010	Public Works		-	No		0000
101-430-3100-43810	Electric Utility									
51-7538112-1	Total:	466.88								
51-8126093-5	11/04/2010	20.74	0.00	11/16/2010	Water Tower 2		-	No		0000
601-494-9400-43810	Electric Utility									
51-8126093-5	Total:	20.74								
51-8711719-3	11/04/2010	10.19	0.00	11/16/2010	Speed Sign Hwy 5		-	No		0000
101-430-3160-43810	Street Lighting									

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

51-8711719-3 Total: 10.19
 XCEL Total: 5,419.02

ZACK Zack's, Inc.											
26340	10/28/2010	157.47	0.00	11/16/2010	Flat Towels, Toilet Paper City Hall		-	No		0000	
101-410-1940-42110	Cleaning Supplies										
26340	10/28/2010	122.46	0.00	11/16/2010	Restroom Supplies - Park Shelter		-	No		0000	
101-450-5200-42150	Shop Materials										
26340	10/28/2010	41.74	0.00	11/16/2010	Ice Rink shovel, safety Glasses, Rake		-	No		0000	
101-430-3100-42400	Small Tools & Minor Equipment										
26340	10/28/2010	233.90	0.00	11/16/2010	Misc. Shop Supplies		-	No		0000	
101-430-3100-42150	Shop Materials										
26340	10/28/2010	39.48	0.00	11/16/2010	Marking Paint		-	No		0000	
601-494-9400-42270	Utility System Maintenance										
	26340 Total:	595.05									
	ZACK Total:	595.05									

Report Total: 1,089,778.73



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010

CONSENT

ITEM #: 3

MOTION as part of the Consent Agenda

AGENDA ITEM: 2010 Crack Seal Project - Resolution Accepting Work, Compensating Change Order No. 1 and Payment No. 1(Final)

SUBMITTED BY: Ryan Stempski, Assistant City Engineer

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

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

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to accept the work completed by Gopher State Sealcoat, Inc. under the contract for the 2010 Crack Seal Project. The work has been reviewed by staff and is fully completed in accordance with the contract, plans and specifications. Please refer to attachment No. 1, which is the Engineer's letter of final acceptance for this project.

Additionally, the City Council is being asked to approve Compensating Change Order No. 1 and Pay Certificate No. 1 (final) to Gopher State Sealcoat, Inc. for the 2010 Crack Seal Project. Gopher State has submitted Compensating Change Order No. 1 and Payment Certificate No. 1 (Final) in the amount of \$13,910.40 with all required documentation. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION AND STAFF REPORT: These requests have been reviewed and payment is recommended in the amount requested. All work has been completed per contract documents. The one-year warranty will begin November 16, 2010, and extend to November 15, 2011.

The original contract amount was \$12,420.00. Due to additional cracking, the contractor placed an extra 1,080 pounds of crack sealing, resulting in an extra \$1,490.40 in costs. The amount of cracks actually sealed exceeded the estimated amount that was planned in the original contract. Staff directed the contractor to complete the added work to properly seal all cracks in the pavement to ultimately prolong its useful life.

RECOMMENDATION: Based upon the above information, it is recommended that the City Council accept as part of tonight’s *Consent Agenda* the work performed by Gopher State Sealcoat under the contract for the 2010 Crack Seal Project and approve Compensating Change Order No. 1 and Payment No. 1 (final) in the amount of \$13,910.40.

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

“Move to approve Resolution No. 2010-062 accepting the work for the 2010 Crack Seal Project and authorize Compensating Change Order No. 1 and Payment No. 1 (final) in the amount of \$13,910.40 to be paid from the Infrastructure Fund for the 2010 Crack Seal project.” [as amended and/or modified at tonight’s meeting].”

ATTACHMENTS: (4)

1. Engineer’s recommendation for final acceptance, dated November 10, 2010
2. Resolution No. 2010-062
3. Compensating Change Order No. 1
4. Payment Certificate No. 1 (Final)

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

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

TKDA

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444 Cedar Street, Suite 1500
Saint Paul, MN 55101

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

November 17, 2010

Honorable Mayor and City Council Members
City of Lake Elmo
3800 Laverne Avenue
Lake Elmo, Minnesota 55042

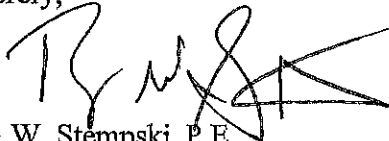
Re: Engineer's Recommendation for Final Acceptance
2010 Crack Seal Project
City of Lake Elmo, Minnesota
TKDA Project No. 14575.001

Dear Mayor and City Council Members:

We have reviewed the work under Contract for the 2010 Crack Seal Project, and find that the project has been fully completed in all respects according to the Contract, Plans and Specifications as prepared by TKDA. The Improvements are hereby declared to be complete and acceptance of the Contractor's work (Gopher State Sealcoat, Inc.) is recommended.

The one-year Warranty Period will begin on November 16th, 2010 and end on November 15th, 2011.

Sincerely,



Ryan W. Stempski, P.E.
Project Manager

DMK

cc: Craig Olson, Gopher State Sealcoat, Inc.
Bruce Messelt, City Administrator
Mike Bouthilet, Public Works
Jack Griffin, City Engineer

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

RESOLUTION NO. 2010-062

**A RESOLUTION ACCEPTING
THE WORK FOR THE 2010 CRACK SEAL PROJECT**

WHEREAS, pursuant to a written contract signed with the City on October 8, 2010, Gopher State Sealcoat, Inc. has satisfactorily completed the 2010 Crack Seal Project in accordance with such contract.

WHEREAS, the one-year Warranty for the improvements will begin on November 16th, 2010, and will end on November 15th, 2011 and an one-year warranty inspection will be completed in October, 2011, and the contractor will be required to repair or replace, as directed by the City, any work or materials that are found to be defective, at the Contractor's sole cost and expense.

NOW, THEREFORE, BE IT RESOLVED, the work completed under said contract is hereby accepted and approved, and,

BE IT FURTHER RESOLVED that the City Administrator and Mayor are hereby directed to issue a proper order for the final payment on such contract, taking the contractor's receipt in full.

Date: November 16, 2010 CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Bruce A. Messelt
City Administrator

CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of a resolution presented to and adopted by the Council of the City of Lake Elmo at a duly authorized meeting thereof held on 16th day of November 2010, as shown by the minutes of said meeting in my possession.

Sharon Lumby
City Clerk

(Seal)

CHANGE ORDER

TKDA
Engineers-Architects-Planners

Saint Paul, MN _____ November 10 _____ 20 10 _____ Proj. No. _____ 14575.001 _____ Compensating
Change Order No. _____ 1 _____

To _____ Gopher State Sealcoat, Inc. _____

for _____ 2010 Crack Seal Project _____

for _____ City of Lake Elmo, Minnesota _____

You are hereby directed to make the following change to your contract dated
October 8 _____, 20 10 _____. The change and the work affected thereby is subject to all contract stipulations and
covenants. This Change Order will (increase) (decrease) (no change) the contract sum by _____
One Thousand Four Hundred Ninety Dollars and 40/100 (\$ 1,490.40 _____).

COMPENSATING CHANGE ORDER

This change order shows the actual quantities installed at the unit price bid amounts (see attached itemization):

NET CHANGE = \$ 1,490.40

Amount of Original Contract	\$ 12,420.00
Additions approved to date (Nos.)	\$ -
Deductions approved to date (Nos.)	\$ -
Contract amount to date	\$ 12,420.00
Amount of this Change Order (Add) (Deduct) (No Change)	\$ 1,490.40
Revised Contract Amount	\$ 13,910.40

Approved _____ City of Lake Elmo _____
Owner

By _____

TKDA

By _____
Ryan W. Stampski, P.E.

Approved _____ Gopher State Sealcoat, Inc. _____
Contractor

By _____

White - Owner
Pink - Contractor
Blue - TKDA

COMPENSATING CHANGE ORDER NO. 1

PERIOD ENDING: November 10, 2010

2010 CRACK SEAL PROJECT
CITY OF LAKE ELMO, MINNESOTA
TKDA PROJECT NO. 14575.001

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	+/- DIFFERENCE	UNIT PRICE	AMOUNT TO DATE	NET CHANGE	CONTRACT AMOUNT
	<u>BITUMINOUS SEAL COAT</u>								
1	ROUTE AND SEAL CRACKS	LBS	9,000	10,080	1,080.0	\$ 1.38	\$ 13,910.40	\$ 1,490.40	\$ 12,420.00
	TOTAL - CRACK SEAL						\$ 13,910.40	\$ 1,490.40	\$ 12,420.00
	TOTAL COMPENSATING CHANGE ORDER NO. 1						\$ 13,910.40	\$ 1,490.40	\$ 12,420.00

Proj. No. 14575.001 Cert. No. 1 (F) St. Paul, MN, November 10, 20 10

To City of Lake Elmo, Minnesota Owner


This Certifies that Gopher State Sealcoat, Inc., Contractor

For 2010 Crack Seal Project

Is entitled to Thirteen Thousand Nine Hundred Ten Dollars and 40/100 ----- (\$ 13,910.40)
FINAL
 being 1st estimate for partial payment on contract with you dated October 8, 2010

Received payment in full of above Certificate. **TKDA**

Gopher State Sealcoat, Inc.
 _____, 20____

Ryan W. Stempski, P.E. 

RECAPITULATION OF ACCOUNT

	CONTRACT PLUS EXTRAS	PAYMENTS	CREDITS
Contract price plus extras	\$ 12,420.00		
All previous payments		\$ -	
All previous credits			
Extra No.			
Compensating Change Order No. 1	\$ 1,490.40		
" "			
" "			
" "			
Credit No.			\$ -
" "			
" "			
" "			
AMOUNT OF THIS CERTIFICATE		\$ 13,910.40	
Totals	\$ 13,910.40	\$ 13,910.40	\$ -
Credit Balance		\$ -	
There will remain unpaid on contract after payment of this Certificate		\$ -	
	\$ 13,910.40	\$ 13,910.40	\$ -

TKDA
Engineers-Architects-Planners Saint Paul, Minnesota 55101

PERIODICAL ESTIMATE FOR PARTIAL PAYMENTS

FINAL

Estimate No. 1 Period Ending November 10, 2010 Page 1 of 1 Proj. No. 14575.001
Contractor Gopher State Sealcoat, Inc. Original Contract Amount \$12,420.00
Project 2010 Crack Seal Project
Location City of Lake Elmo, Minnesota

Total Contract Work Completed		\$	<u>13,910.40</u>
Total Approved Credits		\$	<u>0.00</u>
Total Approved Extra Work Completed	\$	<u>0.00</u>	
Approved Extra Orders Amount Completed		\$	<u>0.00</u>
Total Amount Earned This Estimate		\$	<u>13,910.40</u>

Less Approved Credits	\$	<u>0.00</u>	
Less <u>0</u> % Retained	\$	<u>0.00</u>	
Less Previous Payments	\$	<u>0.00</u>	
Total Deductions		\$	<u>0.00</u>
Amount Due This Estimate		\$	<u>13,910.40</u>

Contractor _____

Gopher State Sealcoat, Inc.

Date _____

Engineer 

Ryan W. Stempinski, P.E.

Date 11-11-2010

ESTIMATE NO. 1 (FINAL)

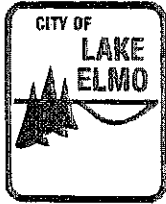
PERIOD ENDING: November 10, 2010

2010 CRACK SEAL PROJECT
CITY OF LAKE ELMO, MINNESOTA
TKDA PROJECT NO. 14575.001

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<u>BITUMINOUS SEALCOAT</u>						
1	ROUTE AND SEAL CRACKS	LBS	9,000	9,000	\$ 1.38	\$ 12,420.00
TOTAL - CRACK SEAL						\$ 12,420.00
TOTAL ESTIMATE NO. 1 (FINAL)						\$ 12,420.00

COMPENSATING CHANGE ORDER NO. 1

ITEM NO.	DESCRIPTION	UNIT	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	AMOUNT TO DATE
<u>BITUMINOUS SEALCOAT</u>						
1	ROUTE AND SEAL CRACKS	LBS	0	1,080	\$ 1.38	\$ 1,490.40
TOTAL - CRACK SEAL						\$ 1,490.40
TOTAL COMPENSATING CHANGE ORDER NO. 1						\$ 1,490.40



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
CONSENT
ITEM #: 4
MOTION *As part of Consent Agenda
Resolution # 2010-063*

AGENDA ITEM: Resolution Approving and Adopting the Special Assessment Policies and Procedures for Public Improvements - Dated November 16, 2010

SUBMITTED BY: Jack Griffin, City Engineer

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

REVIEWED BY: Tom Bouthilet, Finance Director
Dave Snyder, City Attorney
Ryan Stempki, Assistant City Engineer

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to approve as part of tonight's *Consent Agenda* the City of Lake Elmo Special Assessment Policies and Procedures for Public Improvements, dated November 16, 2010. The updated policy has been reviewed and developed by the Assessment Policy Review Subcommittee together with city staff. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND AND STAFF REPORT: At the November 10, 2009 City Council meeting, the City Council appointed an Assessment Policy Review Subcommittee and directed the Subcommittee to work with the City Administrator, City Engineer and City Attorney to review and develop an updated Assessment Policy for Public Improvements.

Over the course of the past year, the Subcommittee has met, reviewed and updated the policy. A draft policy was prepared by city staff and reviewed with the full City Council at the November 3, 2010 council meeting.

RECOMMENDATION: Based upon the above information, and previous actions of the Council, it is recommended that the City Council approve as part of tonight's *Consent Agenda* Resolution No. 2010-063, approving and adopting the Special Assessment Policies and Procedures for Public Improvements, dated November 16, 2010.

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

***“Move to Approve Resolution No. 2010-063 Approving and Adopting the City of Lake Elmo Special Assessment Policies and Procedures for Public Improvements.”
[as amended and/or modified at tonight’s meeting].”***
”

ATTACHMENTS: (2)

1. Resolution No. 2010-063
2. City of Lake Elmo Special Assessment Policies and Procedures for Public Improvements, dated November 16, 2010

SUGGESTED ORDER OF BUSINESS:

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

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

RESOLUTION NO. 2010-063

**A RESOLUTION APPROVING AND ADOPTING
THE CITY OF LAKE ELMO SPECIAL ASSESSMENT POLICIES AND
PROCEDURES FOR PUBLIC IMPROVEMENTS**

WHEREAS, the City Council appointed an Assessment Policy Review Subcommittee and directed the Subcommittee to work with the City Administrator, City Engineer and City Attorney to review and develop an updated Assessment Policy for public improvement projects.

WHEREAS, the Assessment Policy Review Subcommittee has met to discuss the proposed assessment policies and practices and established policy goals and objectives.

AND WHEREAS, staff has prepared a manual outlining the proposed Special Assessment Policies and Procedures for Public Improvements and has reviewed the policy with the full City Council.

NOW, THEREFORE, BE IT RESOLVED,

The Special Assessment Policies and Procedures for Public Improvements manual, dated November 16, 2010, a copy of which is attached hereto and made a part hereof, is hereby approved and adopted.

Date: November 16, 2010 CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Bruce A. Messelt
City Administrator

CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of a resolution presented to and adopted by the Council of the City of Lake Elmo at a duly authorized meeting thereof held on 16th day of November 2010, as shown by the minutes of said meeting in my possession.

Sharon Lumby
City Clerk

(Seal)

CITY OF LAKE ELMO
SPECIAL ASSESSMENT POLICIES
AND PROCEDURES
FOR
PUBLIC IMPROVEMENTS

Adopted by Resolution No. 2010-_____ on:

November 16, 2010

TABLE OF CONTENTS

SECTION I: GENERAL POLICY STATEMENT	3
SECTION II: DEFINITION OF IMPROVEMENTS ELIGIBLE FOR SPECIAL ASSESSMENT ..	5
SECTION III: INITIATION OF PUBLIC IMPROVEMENT PROJECTS	7
SECTION IV: PUBLIC IMPROVEMENT PROCEDURES	8
SECTION V: GENERAL ASSESSMENT POLICIES	10
SECTION VI: METHODS OF ASSESSMENT	14
SECTION VII: POLICIES OF REASSESSMENT	17
SECTION VIII: DETERMINATION OF ASSESSABLE COSTS	18

DRAFT

SECTION I. GENERAL POLICY STATEMENT

A special assessment is a levy on a property to defray the cost of public improvements. Chapter 429 of the Minnesota Statutes grants cities the authority to use special assessments as a mechanism to finance a broad range of public improvements. The primary purpose of special assessments is to have the properties that benefit from the public improvements pay as much of the cost of the improvements as reasonable, thereby reducing a city's reliance on general property taxes. However, Chapter 429 of the Minnesota Statutes limits the amount that may be assessed to the increase in the market value of the property being assessed as a result of the public improvement.

The purpose of this Special Assessment Policy is to establish a fair and equitable manner of recovering and distributing the cost of public improvements. The procedures used by the City of Lake Elmo ("City") for levying special assessments are those specified by Minnesota Statutes § Chapter 429, which provides that "all or a part of the cost of improvements may be assessed against benefiting properties." This assessment policy is intended to serve as a general guide for a systematic assessment process in the City of Lake Elmo.

Special Assessments must meet the following criteria:

- A. The land must have received special benefit from the improvement.
- B. The amount of the assessment must not exceed the special benefit.
- C. The assessment must be uniform in relation to the same class of property within the assessment area.

It is important to recognize that the actual cost of extending an improvement past a particular parcel is not the determining factor in determining the amount to be assessed. However, in most cases the method for determining the value of the benefit received by the improvement, and therefore the amount to be assessed, shall be the cost of providing the improvement, as long as the cost does not exceed the increase in the market value of the property being assessed. The entire project shall be considered as a whole for the purpose of calculating and computing an assessment rate. In the event City staff has doubt as to whether or not the costs of the project

may exceed the special benefits to the property, the City Council may obtain such appraisals as may be necessary to support the proposed assessment.

The City must recover the expense of installing public improvements undertaken, while ensuring that each parcel pays its fair share of the project cost in accordance with these assessment guidelines. While there is no perfect assessment policy, it is important that assessments be implemented in a reasonable, consistent and fair manner. There may be exceptions to the policy or unique circumstances or situations that may require special consideration and discretion by City staff and the City Council.

DRAFT

**SECTION II.
DEFINITION OF IMPROVEMENTS ELIGIBLE
FOR SPECIAL ASSESSMENT**

This policy shall be applicable to those types of public improvements that are allowable under Minnesota Statutes §429.021. Generally the improvements include:

- A. **Street and sidewalk improvements:** Acquisition, construction, reconstruction, extension and major maintenance of any street and sidewalk and improvement of streets and sidewalks including base and subbase, pavement, gutters, curbs, and vehicle parking strips, paver cross walks, pedestrian crossings, medians, beautification amenities, and street and sidewalk drainage systems.
- B. **Street lighting systems.** Installation, replacement, extension, and maintenance of street lights, street lighting systems, and special lighting systems.
- C. **Parks, trails, open space areas, playgrounds, and recreational facilities.** Acquisition and improvement of land, and purchase of equipment and facilities, and the construction, reconstruction, and extension of trails.
- D. **Street trees.** Planting, trimming, care, and removal.
- E. **Potable waterworks systems.** Construction, reconstruction, extension, and maintenance of water supply wells and pump houses, water treatment facilities, storage tanks, and all components of the watermain distribution system network and related appurtenances.
- F. **Sanitary sewer systems.** Acquisition, development, construction, reconstruction, extension, and maintenance of sanitary sewer conveyance and treatment systems. This may include sanitary sewers, interceptor mains, lift stations, treatment facilities and treatment systems, service connections, and other appurtenances of a sanitary sewer system.
- G. **Storm sewer and drainage systems.** Acquisition, development, construction, reconstruction, extension, and maintenance of storm water management facilities and storm sewer systems. This may include outlets, culverts, pipe systems, catch basins,

holding areas and ponds, infiltration basins, rain gardens, treatment plants, pumps, lift stations, service connections, and other appurtenances of a storm sewer system.

- H. **Nuisance abatement.** Includes, but is not limited to, draining and filling swamps, marshes, and ponds on public or private property.
- I. **Dikes and other flood control works.** Construction, reconstruction, extension, and maintenance.
- J. **Retaining and area walls, including highway noise barriers.** Acquisition, construction, reconstruction, improvement alteration, extension, and maintenance.
- K. **Malls, plazas, or courtyards.** Acquisition, construction, improvement, alteration, extension, operation, maintenance, and promotion of public malls, plazas, and courtyards.
- L. **Parking lots.** Acquisition or construction of parking facilities.

DRAFT

**SECTION III.
INITIATION OF PUBLIC IMPROVEMENT PROJECTS**

Public improvement projects may be initiated in the following ways:

- A. A public improvement project may be initiated by petition of at least 35% of the affected property owners.
- B. Public improvements may be initiated by the City Council when, in its judgment, such action is required. A resolution ordering any Council initiated improvements requires a 4/5th vote, rather than a simple majority.

DRAFT

**SECTION IV.
PUBLIC IMPROVEMENT PROCEDURES**

The following is the general procedure that will be followed by the City Council for all public improvement projects from initiation of such a project through certification of the assessment role to the County Auditor. The City Council reserves the right to alter the procedure on a case-by-case basis and within the context of Minnesota Statutes § Chapter 429.

Improvements of different kinds anywhere in the City may be included in a proceeding and conducted as one or more improvements. Thus a single proceeding may encompass sidewalk, curb and gutter, and water and sewer mains installed anywhere in the City.

- A. Staff reviews petition for local improvements from property owners and submits the petition to the City Council, or the City Council passes a resolution ordering a Feasibility Report on the improvement.
- B. Council accepts or rejects the petition. If accepted, the Council orders the preparation of a Feasibility Report on the improvement. The Council may condition further action on the recovery of costs associated with the project and/or Feasibility Report.
- C. Staff prepares a Feasibility Report on the proposed improvements, or reviews the report submitted by another agency/representatives.
- D. Council accepts or rejects the Feasibility Report. If accepted, the Council orders a public hearing on the improvements.
- E. Staff publishes a hearing notice and mails notices to the affected property owners.
- F. Council conducts improvement hearing and adopts or rejects a resolution ordering the improvement and the preparation of plans and specifications. Bonds to finance project costs may be issued at any time after the improvements are ordered.
- G. Staff prepares final plans for Council approval. Council approves the plans and authorizes the advertisement of the improvements and the opening of Bids.

- H. Staff receives bids, prepares a bid tabulation, and makes a recommendation to the City Council for Award. Council rejects the bids or awards a contract based on the bids received.
- I. Performance of the work under contract is completed. Staff supervises construction, prepares payments, and completes the improvement project.
- J. Staff prepares an assessment roll and presents it to the Council.
- K. Council reviews the assessment schedule and orders an assessment hearing.
- L. Staff publishes a hearing notice, mails the notice of hearing date and the proposed assessments to the affected property owners.
- M. Council conducts assessment hearing, adopts, revises, or rejects the resolution adopting the assessment roll. If adopted, Council authorizes certification of the assessment to the County Auditor.
- N. Staff certifies the assessments to the County Auditor.

* Note: At Council's discretion, Item G may be carried out in advance of the improvement hearing.

* Note: At Council's discretion, Items J-N may be carried out in advance to Council award and constructing the improvements.

**SECTION V.
GENERAL ASSESSMENT POLICIES**

The cost of any improvement shall be assessed upon property benefited by the improvements, based upon the benefits received. The following general principles shall be used as a basis of the City's assessment policy:

- A. It is the general policy of the City of Lake Elmo to require future development in accordance with the City Comprehensive Plan and for new areas of development in an orderly manner, typically contiguous to existing development areas. It is also the general policy of the City of Lake Elmo to require all new development areas to provide for adequate public infrastructure at the Developer's sole expense, and in accordance with the City Comprehensive Plans and Design Standards.
- B. The use of special assessments will typically be employed by the City to finance needed public improvements (e.g. parks and trails, sidewalks, water, sewer, and street improvements) in certain areas that have previously been developed without all needed infrastructure, or to repair and/or replace aging infrastructure.
- C. The "project cost" of an improvement includes the costs of all necessary construction work required to accomplish the improvement, plus engineering, legal, administrative, financing, and other contingent costs, including acquisition of right-of-way, easements and other property. The financing charges include all costs of financing the project. These costs include, but are not limited to, financial consultant's fees, bond attorney's fees, and capitalized interest. When the project is started and funds are expended prior to receiving the proceeds from a bond sale, the project may be charged interest on the funds expended from the date of expenditure to the date the bond proceeds are received. The interest rate charged will be the average interest rate earned by the City's investments during the six months preceding the receipt of the bond proceeds. The interest charged to the project shall be included as financing charges.
- D. The "assessable cost" of an improvement is equal to the "project cost" minus the "City cost".
- E. The City of Lake Elmo will charge interest on Special Assessments at a rate specified in the resolution. If bonds were sold to finance the improvement project, the interest rate

shall be two percent (2%) more than the average coupon interest rate of the bonds, rounded to the nearest quarter of a percent. If no bonds were sold, the interest rate shall be set at the rate allowed by State law.

- F. *Pre-payment.* The City will certify each year's collection (principal and interest) to the County Auditor by November 30th. The owner of any property that is assessed may pay their assessment in full, interest free for a period of 30 days after the adoption of the assessment. After such period interest shall be computed from the date specified in the assessment resolution. The owner of any property that is assessed may also, at any time prior to certification of the assessment or the first installment thereof to the county auditor, pay the whole of the assessment on such property to the City, with interest accrued to the date of payment. In any subsequent year, the owner may at any time prior to November 15, prepay to the City, the whole assessment remaining due with interest accrued to December 31 of the year in which said prepayment is being made.
- G. Where an improvement is designed for service of an area beyond that of direct benefit, increased project costs due to such provisions for future service extensions may be paid for by the City. The City will levy assessments to cover this cost when a new improvement is installed as an extension of the existing improvement. As an alternative, the City may assess these costs to the area of future benefit immediately.
- H. Where the project cost of an improvement is not entirely attributable to the need for service to the area served by said improvement, or where unusual conditions beyond the control of the owners of the property in the area served by the improvement would result in an inequitable distribution of special assessments, the City, through the use of other funds, may pay such "City cost" which, in the opinion of the City Council, represents the excess cost not directly attributable to the area served.
- I. If financial assistance is received by the City from the Federal Government, from the State of Minnesota, the County, or from any other source to defray a portion of the costs of a given improvement, such aid will be used first to reduce the "City cost" of the improvement. If the financial assistance received is greater than the normal "City cost", the remainder of the aid will be applied according to the terms of the assistance program or at the Council's discretion.

- J. City-owned properties, including municipal building sites, parks and playgrounds, but not including public streets and alleys, shall be regarded as being assessable on the same basis as if such property was privately-owned.
- K. Improvements specifically designed for or shown to be of direct benefit to one or more properties may be constructed by the City. The costs for these improvements will be assessed directly to such properties, and not included in the assessments for the remainder of the project. An example of this would be utility service lines running from the main lines to the property.
- L. Benefit Appraisals: In the event that City staff has doubt as to whether or not the proposed assessments exceed the special benefits to the property in question (increased property value as defined by State law), the City Council may order benefit appraisals as deemed necessary to support the proposed assessments.
- M. A property owner may elect to offset Special Assessments against condemnation awards by executing a Net Assessment Agreement with the City Council.
- N. Assessment Deferral Procedure for Green Acres Parcels: In cases where improvement projects are determined to benefit properties that have been certified to qualify for Green Acres exemption, the City will determine that portion of the project cost that benefits those properties, and finance that portion of the project cost as a system cost. During the period of deferral, interest shall be applied annually to the unpaid principal balance of the deferred amount at the rate established on the original special assessment, or as adopted by resolution of the City Council at the time the original assessment is adopted. Once the benefiting properties no longer qualify for Green Acres status, the City may recover the unpaid principal balance plus interest either through assessments or connection charges.
- O. Assessment Deferral for Hardships: The City Council will consider deferment for the payment of special assessments on any homestead property, owned by a person 65 years of age or older, or retired by virtue of permanent and total disability. A hardship may be deemed to exist when the annual principal installment of all assessments levied against the property exceeds two percent (2%) of the adjusted gross income of the applicant as evidenced by the applicant's most recent federal income tax return, and

total assets (excluding the homestead property) do not exceed six times the adjusted gross income.

The City Council may also determine, on a case by case basis, the existence of a hardship on the basis of exceptional and unusual circumstances not covered by these standards and guidelines, if done in a non-discriminatory manner and without giving the applicant an unreasonable preference or advantage over other property owners.

During the period of deferral, interest shall be applied annually to the unpaid principal balance at the rate established on the original special assessment, or as adopted by resolution of the City Council at the time the original assessment is adopted.

The deferment shall terminate and all principle and interest becomes due and payable upon the occurrence of any of the following events: 1. The death of the owner when there is no spouse whom is eligible for deferment, 2. The sale, transfer or subdivision of the property or any part thereof, 3. The property should lose its homestead status, 4. The City Council should determine that the hardship no longer exists. A review of the hardship will be conducted every three to five years.

SECTION VI. METHODS OF ASSESSMENT

A. GENERAL POLICY STATEMENT

The City of Lake Elmo has adopted the following three methods for assessment of public improvements: fixed cost unit, adjusted front footage, and by area method. For any particular project one of these methods will more adequately reflect the true benefits received in the assessment area than the other methods. The City Engineer, in his Feasibility Study to the Council, will recommend one or a combination of these methods for each project, based upon past practices and the method that would best reflect the benefit received for the area to be assessed. The City Council will select the preferred method of calculating the assessments at the time the project is ordered.

The general rule is to assess platted residential lots using the "unit" assessment basis, however, where platted residential lots do not reflect a general similar size and shape, consideration will be given to an adjusted front footage basis. Commercial, institutional and industrial lots will be assessed on an adjusted front footage basis; however, consideration will be given to a "unit" assessment if the special benefit to the property in the district is essentially the same. The methods of assessment outlined within this policy are not intended to be an exhaustive list of acceptable approaches. The Council may adopt alternative approaches as they deem necessary to fairly and equitably allocate assessments for unique situations.

B. ASSESSMENT METHODS

The following methods of assessment, as described and defined below, are hereby established as the official methods of assessment in the City of Lake Elmo:

1. *Fixed Cost "Unit" Method of Assessment*

When it has been determined to assess by the "unit" method, all lots within the benefited area shall be assessed equally for the improvements.

The "fixed cost per unit" shall be defined as a quotient of the "assessable cost" divided by the total assessable lots or parcels benefiting from the improvement.

For the purpose of determining the "units" or "parcels", all parcels, including governmental agencies, shall be included in such calculations.

When large lots can be subdivided into more than one lot, the number of assessable lots attributed to that parcel will be determined from the number of potential future lots that could be obtained using current subdivision regulations.

For multi-family, commercial, industrial and institutional properties, the number of fixed units assigned to the property may be determined by an equivalent "residential" factor representing the properties use compared to a single family residential home (e.g. SAC units, WAC units, or standard traffic generation units).

2. *"Adjusted Front Footage" Method of Assessment*

When it has been determined to assess by the "Adjusted Front Footage" method, the "cost per adjusted front foot", or assessment rate, shall be defined as the quotient of the "assessable cost" divided by the total assessable frontage benefiting from the improvement. The assessment for each parcel is then obtained by multiplying the assessment rate times the adjusted front footage for each property. For the purpose of determining the "assessable frontage", all properties, including governmental agencies, shall have their frontages included in such calculation.

The actual physical dimensions of a parcel abutting an improvement (i.e., street, sewer, water, etc.) shall NOT be construed as the frontage utilized to calculate the assessment for a particular parcel. Rather, an "adjusted front footage" will be determined. In the Adjustment Front Footage method, odd shaped lots are adjusted to an average footage that would be the equivalent to the frontage of a rectangular shaped lot of the same area and depth. The purpose of this method is to equalize assessment calculations for lots of similar size.

3. *"Area" Method of Assessment*

When it has been determined to assess by the "area" method, the area shall be defined as the number of square feet or acres within the boundaries of the appropriate property lines of the areas benefiting from the project. The assessment rate (i.e. cost per square foot) shall be calculated by dividing the

total assessable cost by the total assessable area. The assessment for each parcel is then obtained by multiplying the assessment rate times the benefitting area of the parcel. On large lots, the City Engineer may determine that only a portion of the lot receives the benefit and may select a lot depth for the calculations equal to the benefit received.

For the purposes of defining assessable areas, all properties included in the benefited area, including other governmental areas, churches, etc. shall be included in the assessable areas. The following items may not be included in area calculations: public right-of-ways, natural waterways, swamps and lakes or other wetlands designated by the Mn/DNR. The City Engineer will make the recommendation on the benefited area in the Feasibility Report.

DRAFT

**SECTION VII.
POLICIES OF REASSESSMENT**

The City of Lake Elmo, in constructing or reconstructing any public improvement, shall design such improvement to last for a defined period. The life expectancy or service life shall be as stated in the policy statement of this section, or if different, shall be as stated in the Resolution ordering the improvement and preparation of plans. When such project needs renewing or replacement prematurely, the amount to be assessed against the property owner shall be limited to an amount determined by dividing the actual life of the original improvement by the expected service life of the original improvement.

A. POLICY STATEMENT

The following are hereby established as the "life expectancies" or "service lives" of public improvements unless otherwise stated in the Resolution ordering improvement and preparation of plans, in which case, the life set forth in the Resolution shall govern.

1. *Sidewalks and Trails - 15 years*
2. *Street Improvements, including surfacing and curb and gutter - 20 years*
3. *Street Lighting - 20 years*
4. *Water Mains and Appurtenances - 40 years*
5. *Sanitary Sewers and Appurtenances - 40 years*
6. *Storm Sewers and Appurtenances - 40 years*
7. *Mechanical and Electrical Systems, Pumps and Controls - 15 years*

**SECTION VIII.
DETERMINATION OF ASSESSABLE COSTS**

A. STREET IMPROVEMENTS

Street Improvement assessments, including paving, curb & gutter, and related street drainage systems are normally levied over a 10-year period. Low Density residential properties will be assessed if the property has direct access to the improvement. High Density Residential, Commercial, and Industrial Properties will be assessed if the property abuts the improvement.

1. *New Street Improvement Construction and Paving*

All new street improvements will be assessed 100% to the benefited properties when the improvement includes a "New" street. For new storm drainage systems, adding curb and gutter, and paving gravel roadways, the "New" improvement will be assessed 100%, while the base, subbase and other in place elements will be assessed as defined under Street Reconstructions.

2. *Local Street Improvements*

Local street improvements and paving shall be assessed based on the minimum City design standard detail and pavement section and will normally be assessed by the unit method; however other methods may be considered. Oversizing costs which are incurred in excess of the above may be paid by: (1) State Aid Funds, (2) larger assessment rates to properties, (3) general obligation bonds, or (4) any other method or combination of methods authorized by the City Council

3. *Collector and Arterial Street Improvements*

In general, collector and arterial street improvements are considered a community wide benefit and will be paid for through various City funds such as municipal state aid funds. Residential properties with private access to collector and arterial streets will be assessed for access benefit, equivalent to the cost for a local City standard street determined by removing street oversize costs and additional costs associated with higher traffic volumes.

All street-oversizing costs associated with collector streets will not be assessed directly to residential properties. Oversizing costs may be assessed to a broader property benefitting area with the area to be determined by the City and approved by the City Council.

4. *Street Reconstruction Improvements*

All residential street reconstructions shall be 30% assessed to the benefitting properties and will normally be assessed by the unit method. Street reconstruction improvements in Commercial, Business District, Institutional and Industrial areas shall be assessed 100% of the total project costs or determined on a project-by-project basis.

5. *Street Maintenance Overlays and Seal Coating*

Bituminous overlay projects, bituminous seal coats, patching, crack sealing, fog sealing, and filling potholes will not be assessed when completed as part of the street system's "life cycle" maintenance activities.

B. SIDEWALKS, TRAILS, AND BIKEWAYS

Assessments for sidewalk, trails and bikeway improvements are levied over a 10-year period. The City may install sidewalks, trails or bikeway improvements in accordance with the City Comprehensive Plan for the community, or for council directed purposes, in which case the City may not assess the improvements. At council discretion, sidewalk, trail and bikeway improvements may be fully or partially funded as part of a street construction/reconstruction assessment, through park dedication fees, using Municipal State Aid funding, Capital Infrastructure funding, or general tax levy funds.

1. *New Construction*

New sidewalks, trails, and bikeway improvements will be 100% assessed to the benefitting properties based upon the adjusted front footage.

2. *Reconstruction*

Replacement sidewalks, trails and bikeway improvements will be assessed 30% to the abutting residential properties and assessed 100% to the abutting commercial, industrial, and institutional properties.

C. LANDSCAPING / STREET BOULEVARD TREES

Landscaping and street boulevard tree improvements may be assessed as determined by the Council for each specific project.

D. STREET LIGHT IMPROVEMENTS

Street Light improvements may be assessed as determined by the Council for each specific project.

E. TRANSPORTATION IMPROVEMENTS

All costs associated with traffic and transportation related improvements, such as widening of a roadway for turn lanes, additional driving lanes, on-street parking, traffic calming, and traffic signalization may be assessed 100% to the benefiting properties.

F. STORM SEWER AND DRAINAGE FACILITY IMPROVEMENTS

Storm sewer and drainage facility improvements shall be considered and incorporated as part of street improvement projects and assessed as part of the project and levied over a 10-year period. Storm sewer and drainage facility improvements completed as independent projects will normally be assessed by the area method taking into account each parcels land use and rate of runoff as determined by the City Engineer.

1. New Storm Sewer and Drainage Facility Improvements

New storm sewer and drainage facility improvements installed in conjunction with new street construction where no storm sewer previously existed will be assessed 100% and be included in the street assessment to benefiting properties. If the facilities are oversized to accommodate drainage from areas outside the street improvement assessment area, the additional costs may be assessed to the properties in the contributing area. Their assessment will be determined by the area method based on the contributing area of the parcel(s) taking into account the land use and rate of runoff.

2. Replacement and Major Maintenance of Storm Sewer Improvements

Any replacement costs or reconstruction of existing storm sewers and drainage facilities in conjunction with street reconstruction projects will be assessed 30%

and be included in the street assessment to benefiting properties. If the facilities are oversized to accommodate drainage from areas outside the street improvement assessment area, the additional costs may be assessed to the properties in the contributing area. Their assessment will be determined by the area method based on the contributing area of the parcel(s) taking into account the land use and rate of runoff.

G. SANITARY SEWER IMPROVEMENTS

Assessments for sanitary sewer improvements shall be based upon the cost of construction of 8-inch sewer mains. Oversizing costs due to larger mains and larger appurtenances and/or extra depths required to service future development, and major trunk sewers or interceptors will not be assessed and will be "City system costs" funded out of the Sanitary Sewer Reserve Fund. Normally, sanitary sewers will be assessed using an adjusted per lot method; with the adjustment made using the Metropolitan Council calculation to establish a residential equivalent unit (REC). Normally, sanitary sewer system assessments are levied over a 20-year period.

Street improvements and major street maintenance that are completed as part of utility replacement projects and has effectively accelerated the replacement of the street before its expected useful life, shall be funded through the Sanitary Sewer Reserve Fund in proportion to the remaining design life of the street.

1. Interceptor Sewer System

The Metropolitan Council Environmental Services (MCES) is responsible for the construction of the regional interceptor sewer system and for the wastewater treatment facility to treat the sewage generated in the City of Lake Elmo. The MCES has established a Sewer Availability Charge (SAC) that is collected from each unit connected to the sanitary sewer system. The current charge per residential equivalent unit (REC) is collected, in full, by the City at the time of connection or the issuance of the building permit as part of the City's Sewer Availability Charge. The City collects this charge and passes the required portion of this fee on to the MCES.

2. *Trunk Sanitary Sewer System*

The Trunk Sanitary Sewer System is constructed to serve the entire community or a larger service area and therefore is deemed to be of community-wide benefit. Trunk sanitary sewers, lift stations, and other trunk sewer system facilities shall be financed by a City Sewer Availability Charge (SAC) to be paid at the time of connection to the City system with a City trunk system component and a pass through component to the MCES.

The City portion of the Sewer Availability Charge (SAC) on units existing at the time of construction may be paid in normally not more than 15 annual installments of principal plus interest on the unpaid principal balance at an interest rate set by the City Council. The Sewer Availability Charge (SAC) on units built after the sewer construction should be paid in full at the time the building permit is issued.

3. *Lateral Sanitary Sewer System*

The costs for lateral sanitary sewers shall be fully assessed (100%) to the benefiting properties. Commercial, institutional, industrial and multiple land uses and undeveloped lands are converted into equivalent residential units for assessment purposes. Any building unit which is served directly by an interceptor or trunk sewer and therefore requires no lateral sewer, is levied a lateral benefit assessment which is equal to the Sewer Lateral Benefit Charge as set in the latest adopted City Fee Schedule.

The replacement of existing sanitary sewer mains and service lines within the right-of-way will not be assessed, but rather financed from the Sanitary Sewer Reserve Fund or other funding sources identified by the City Council. Each property shall pay for the replacement of the service line on their private property, from the right-of-way to the building/home.

H. WATERMAIN IMPROVEMENTS

Assessments for new water main improvements shall be based upon the cost of construction of 8-inch water mains. Oversizing costs due to larger mains and larger appurtenances will not be assessed and will be "City system costs" funded out of the Water Reserve Fund. Normally, water mains will be assessed using an adjusted per lot method; with the adjustment made using the Metropolitan Council sewer calculation to establish a residential equivalent unit (REC). Normally, water system assessments are levied over a 20-year period.

Street improvements and major street maintenance that is completed as part of utility replacement projects and has effectively accelerated the replacement of the street before it's expected useful life, shall be funded through the Water Reserve Fund in proportion to the remaining design life of the street.

1. *Trunk Water Mains, Supply, Storage, and Treatment Facilities*

The Trunk Water System Facilities are constructed to serve the entire community or a larger service area and therefore deemed to be of community-wide benefit. Trunk water mains, pump stations, wells, storage tanks, and treatment facilities shall be financed by a Water Availability Charge (WAC) to be paid at the time of connection to the City system.

Water Availability Charge (WAC) on units existing at the time of construction may be paid in normally not more than 15 annual installments of principal plus interest on the unpaid principal balance at an interest rate set by the City Council. Water Availability Charge (WAC) on units built after the water main construction should be paid in full at the time the building permit is issued.

2. *Lateral Water Mains*

The costs for lateral water mains shall be fully assessed (100%) to the benefiting properties. Commercial, institutional, industrial and multiple land uses, and undeveloped lands are converted into equivalent residential units for assessment purposes. Any building unit which is served directly by a trunk water main and therefore requires no lateral water main, is levied a lateral benefit assessment

which is equal to the Watermain Lateral Benefit Charge as set in the latest adopted City Fee Schedule.

The replacement of existing water mains and service lines within the right-of-way will not be assessed, but rather financed from the Water Reserve Fund or other funding sources identified by the City Council. Each property shall pay for the replacement of the service line on their private property, from the right-of-way to the building/home.

DRAFT



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
CONSENT
ITEM #: 5
MOTION *as part of Consent Agenda Ordinance 08-034*

AGENDA ITEM: Proposed Revision to the Buffer Setbacks in the Meyers Pineridge Open Space Preservation (OP) Development

SUBMITTED BY: Lake Elmo Planning Commission
Kelli Matzek, Planner

THROUGH: Bruce Messelt, City Administrator *BAM*

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED: As part of tonight's *Consent Agenda*, the City Council is respectfully requested to approve the proposed buffer setbacks for Meyers Pineridge development. Below is the chart showing the staff recommended setbacks.

	North Edge	South Edge	West Edge	East Edge	Exception Parcel
Meyers Pineridge	50	50	100	200	
5010 Keats Ave. (original homestead)	0	0	0	0	

BACKGROUND INFORMATION: In November and December of 2009, the Planning Commission and City Council reviewed and approved reductions in nineteen Open Space Preservation developments. At that time, staff provided an analysis of each of the developments and the impact of the buffer setbacks on the existing homes and properties. In staff's review of those OP developments, one development, Meyers Pineridge, was overlooked for inclusion in the analysis. Since then, staff has realized this oversight and is bringing this development forward for evaluation as the other OP developments were reviewed.

STAFF REPORT: In reviewing the file for the Meyers Pineridge development, it appears as though a 100 foot buffer setback (measured from the edge of the development) was anticipated, as that was included on a few plan sets submitted by the developer during the review process. However, the buffer setback was never formally recognized by the City Council in the subsequent approvals. Since the development was approved in 1999, all of the platted lots were

built upon with single family residential homes. One of the homes was permitted to be within the 100 foot buffer setback and is, therefore, non-conforming at this time.

PLANNING COMMISSION ACTION: The Planning Commission reviewed the proposed buffer setbacks at its November 8th meeting. After a public hearing was held, the Commission voted (7 to 1) to recommend approval of the buffer setbacks as recommended by staff.

RECOMMENDATION: Based upon the above background information, Planning Commission action, and staff report, it is recommended that the City Council approve as part of tonight's *Consent Agenda* the proposed Ordinance, establishing the buffer setbacks in the Meyers Pineridge development.

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 Ordinance 08-034 establishing the buffer setbacks for the Meyers Pineridge Development [as amended and/or modified at tonight’s meeting].”

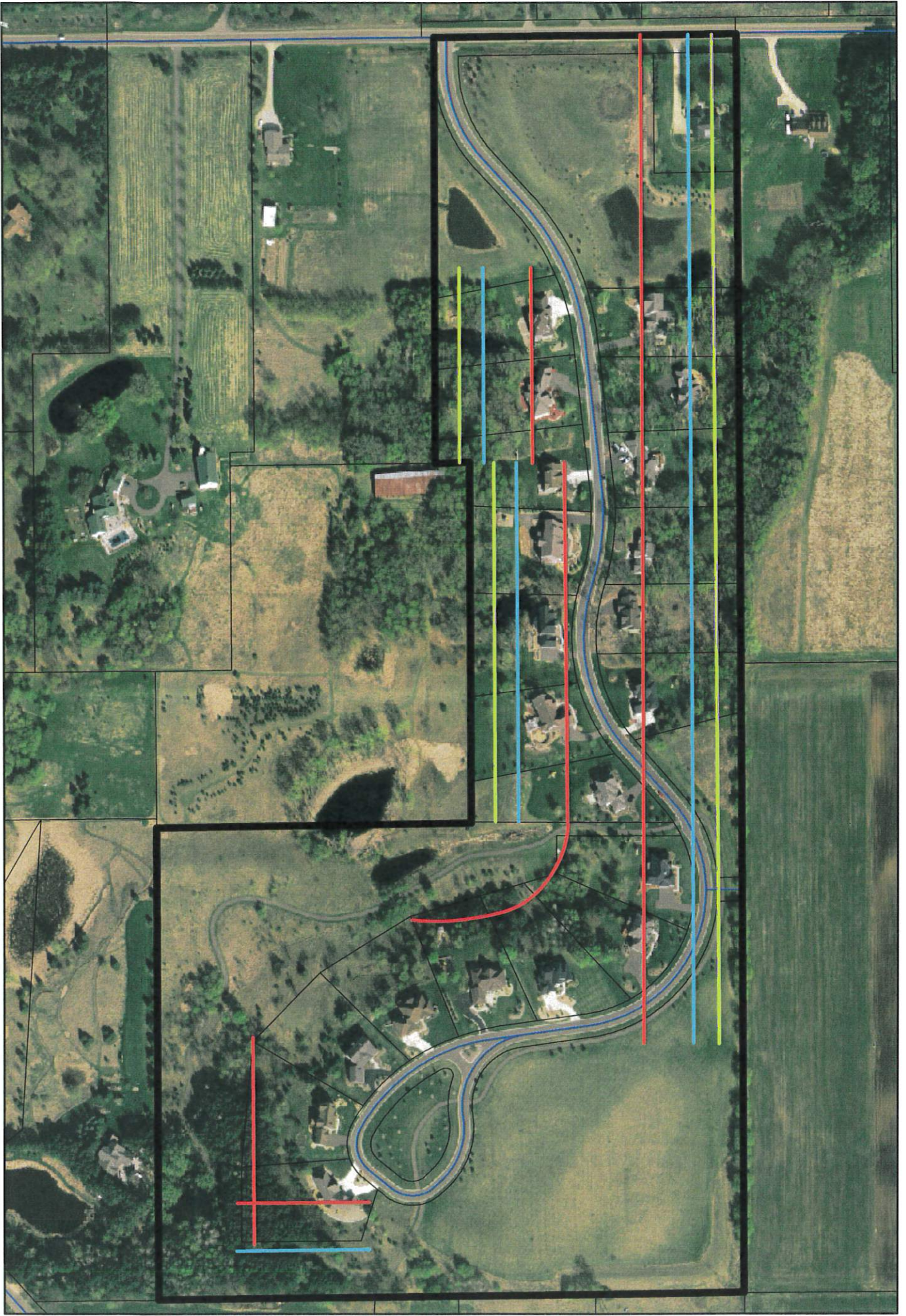
ATTACHMENTS:

1. Map of Meyer’s Pineridge development
2. Ordinance 08-034

SUGGESTED ORDER OF BUSINESS (if removed from the CONSENT AGENDA):

- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

Meyers Wineridge



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

ORDINANCE NO. 08-034

**AN ORDINANCE APPROVING THE BUFFER SETBACKS IN THE MEYERS
PINERIDGE DEVELOPMENT - AN OPEN SPACE PRESERVATION (OP)
DEVELOPMENTS**

WHEREAS, Section 150.180, Subd. (B,2,d) of the City Code prescribes specific buffer setbacks requirements within OP – Open Space Preservation developments; and

WHEREAS, prior to 2009, the buffer setbacks required by the City Code have not been observed in many of the City’s OP – Open Space developments due to either the lot arrangement approved by the City at the time of subdivision approval or the setbacks approved as part of the building permits review in OP Zoning Districts; and

WHEREAS, the City Council finds that it is in the best interests of the City and its residents within OP – Open Space Preservation Zoning Districts to clarify the required buffer setback within each OP – Open Space development, including the Meyers Pineridge development; and

WHEREAS, the Planning Commission reviewed the proposed buffer setbacks, held a public hearing at their regular meeting held November 8, 2010, and recommended approval of the OP – Open Space Preservation Buffer Setbacks as identified in the chart below; and

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Lake Elmo, Washington County, Minnesota, that buffer setbacks be applied from the edge of OP – Open Space Preservation Zoning Districts as follows:

Recommended Buffer Setbacks in OP Developments (in feet)					
	North Edge	South Edge	West Edge	East Edge	Exception Parcel(s)
Meyers Pineridge	50	50	100	200	
5010 Keats Ave (Meyers Pineridge)	0	0	0	0	

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

This Ordinance No. 08-034 was adopted on this 16th day of November, 2010, by a vote of ____ Ayes and ____ Nays.

Dean A Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

This Ordinance No. 08-034 was published on the ____ day of _____, 2010.



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
CONSENT
ITEM #: 6
MOTION *as part of Consent Agenda
Ordinance # 08-035*

AGENDA ITEM: Consider Establishing a Rear Yard Setback and Including Buffer Setbacks within the Setback Chart for Open Space Preservation (OP) Developments (Section 150.180) – Ordinance #08-035

SUBMITTED BY: Lake Elmo Planning Commission
Kelli Matzek, City Planner

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED: As part of its *Consent Agenda*, the City Council is respectfully requested to approve changes to the Open Space Preservation (OP) district code, to include a 20 foot rear yard setback and add a reference to the buffer setbacks in the development standards chart as identified in the attached ordinance. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The OP regulations have thus far not specifically required a rear yard setback on individually-platted properties. In some cases, a setback pertaining to the rear yard does exist through another requirement, but it only affects certain properties or affects all properties only in certain circumstances.

For example, the buffer setback, although measured from the edge of the development, oftentimes extends onto private lots and functions as a rear yard setback. Also, within the City Code regarding accessory buildings (therefore applying to all zoning districts), it is identified that the rear yard setback for certain structures is the same as that of the side yard.

STAFF REPORT: City staff is seeking Planning Commission and Council consideration of adding a clear rear yard setback in all OP developments. If an additional setback, such as a buffer setback, extends onto a lot further than the proposed 20 feet, the larger setback would be utilized. After a preliminary review, it is believed that adding a 20 foot rear yard setback would not create non-conforming structures.

The second part of the proposed amendment is to include a reference within the setback chart to the text regarding buffer setbacks. This would help clarify the additional setback for those building within an OP development. Currently, the code has a chart that outlines the basic lot information, such as lot size, in addition to setback information. The additional buffer setback is not identified in the chart, but is instead written in paragraph form earlier in the requirements under the subheading "Buffer zones" which could easily be missed by a resident or builder unfamiliar with that section of code.

PLANNING COMMISSIONER REVIEW: The Planning Commission reviewed this item at their November 8th meeting. After a public hearing was held, the Commission unanimously recommended a rear yard setback of 20 feet and the text as proposed by staff.

RECOMMENDATION: Based upon the above background information, Planning Commission action, and staff report, it is recommended that the City Council approve as part of tonight's *Consent Agenda* proposed Ordinance 08-035 establishing Rear Yard setbacks for OP Developments.

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 ordinance 08-035 adding a rear yard setback and reference to the buffer setbacks for Open Space Preservation Developments [as amended and/or modified at tonight's meeting]."

ATTACHMENTS:

1. Ordinance 08-035

SUGGESTED ORDER OF BUSINESS (if removed from the CONSENT AGENDA):

- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

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

ORDINANCE NO. 08-035

**AN ORDINANCE ADDING A REAR YARD SETBACK AND REFERENCE TO
BUFFER SETBACKS FOR OPEN SPACE PRESERVATION (OP) DEVELOPMENTS**

WHEREAS, Section 150.180, Subd. (B,2,d) of the City Code prescribes specific buffer setbacks requirements within OP – Open Space Preservation developments; and

WHEREAS, unlike every other zoning district in the city, a rear yard setback was not established at the time the OP Zoning District was incorporated into the city code; and

WHEREAS, the City Council finds that it is in the best interests of the City and its residents within OP – Open Space Preservation Zoning Districts to clarify the “Buffer Zone” is also a setback that applies, in some cases, to individual properties; and

WHEREAS, the Planning Commission reviewed the proposed rear yard setback and buffer setback reference for OP – Open Space Preservation developments, held a public hearing at their regular meeting held November 8, 2010, and recommended approval of the ordinance revisions; and

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Lake Elmo, Washington County, Minnesota, that the following additional setback information be added to the OP – Open Space Preservation Zoning Districts as follows:

<i>Open Space Preservation District (OP)</i>		
	<i>Single-Family</i>	Townhouse
Maximum Building Height:		
Primary Structure	2 and ½ stories or 35 feet	2 and ½ stories or 35 feet
Accessory Structure	25 feet	1 story or 20 feet, whichever is less
Minimum Lot Width:	NA	NA
½ acre lot; 1 acre lot		
Maximum Impervious Surface Coverage:	20%. This percentage may be increased to 25% provided a pervious paver or comparable system is installed consistent with the <i>City of Lake Elmo Engineering Standards</i>	NA
Gross Lot Area		

	<i>Manual</i> or storm water mitigation measures are installed to mitigate the runoff created by the additional coverage above the base district amount. All mitigation measures must be approved by the City Engineer.	
Minimum Setback Requirements:		
Front Yard	30 feet	20 feet

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

This Ordinance No. 08-035 was adopted on this 16th day of November, 2010, by a vote of ____ Ayes and ____ Nays.

Dean A Johnston, Mayor

ATTEST:

Bruce Messelt, City Administrator

This Ordinance No. 08-035 was published on the ____ day of _____, 2010.

#6
Revised

STATE OF MINNESOTA
COUNTY OF WASHINGTON
CITY OF LAKE ELMO

ORDINANCE NO. 08-035

**AN ORDINANCE ADDING A REAR YARD SETBACK AND REFERENCE TO
BUFFER SETBACKS FOR OPEN SPACE PRESERVATION (OP) DEVELOPMENTS**

WHEREAS, Section 150.180, Subd. (B,2,d) of the City Code prescribes specific buffer setbacks requirements within OP – Open Space Preservation developments; and

WHEREAS, unlike every other zoning district in the city, a rear yard setback was not established at the time the OP Zoning District was incorporated into the city code; and

WHEREAS, the City Council finds that it is in the best interests of the City and its residents within OP – Open Space Preservation Zoning Districts to clarify the “Buffer Zone” is also a setback that applies, in some cases, to individual properties; and

WHEREAS, the Planning Commission reviewed the proposed rear yard setback and buffer setback reference for OP – Open Space Preservation developments, held a public hearing at their regular meeting held November 8, 2010, and recommended approval of the ordinance revisions; and

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Lake Elmo, Washington County, Minnesota, that the following additional setback information be added to the OP – Open Space Preservation Zoning Districts as follows:

<i>Open Space Preservation District (OP)</i>		
	<i>Single-Family</i>	Townhouse
Maximum Building Height:		
Primary Structure	2 and ½ stories or 35 feet	2 and ½ stories or 35 feet
Accessory Structure	25 feet	1 story or 20 feet, whichever is less
Minimum Lot Width:	NA	NA
½ acre lot; 1 acre lot		
Maximum Impervious Surface Coverage:	20%. This percentage may be increased to 25% provided a pervious paver or comparable system is installed consistent with the <i>City of Lake Elmo Engineering Standards</i>	NA
Gross Lot Area		

	<i>Manual</i> or storm water mitigation measures are installed to mitigate the runoff created by the additional coverage above the base district amount. All mitigation measures must be approved by the City Engineer.	
Minimum Setback Requirements:		
Front Yard	30 feet	20 feet
Side Yard	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater
Corner Lot Front	30 feet	30 feet
Corner Lot Side Yard	30 feet	30 feet
Rear Yard	20 feet	20 feet
Buffer Setback	See "(d) Buffer zone" above See City Staff or website for individual requirements	See "(d) Buffer zone" above See City Staff or website for individual requirements
Well From Septic Tank	50 feet	50 feet
Minimum Lot Size:		
Individual Well and Septic System	1 acre	NA
Individual Well and Communal Drainfield	½ acre	8,000 square feet per unit

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

This Ordinance No. 08-035 was adopted on this 16th day of November, 2010, by a vote of ____ Ayes and ____ Nays.

Dean A Johnston, Mayor

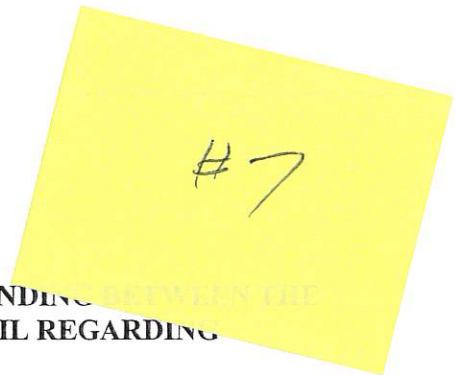
ATTEST:

Bruce Messelt, City Administrator

This Ordinance No. 08-035 was published on the ____ day of ____, 2010.

City of Lake Elmo
Washington County, Minnesota

Revised Resolution No. 2010-065



A RESOLUTION ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAKE ELMO AND THE METROPOLITAN COUNCIL REGARDING WASTEWATER INEFFICIENCY FEES

WHEREAS, in February 1997 the Metropolitan Council submitted to the City of Lake Elmo a system statement that advised the City of the Metropolitan Council's recently adopted policy planning documents and metropolitan system plans and identified population projections and other planning elements the City should incorporate into its plan as the City fulfilled its 2008 decennial review obligations under section 473.864 of the Metropolitan Land Planning Act; and

WHEREAS, in September 2002, the Metropolitan Council found that the proposed plan update submitted by the City may substantially depart from and may have a substantial impact on metropolitan system plans, and subsequently required the City to modify its proposed plan update to ensure the City's proposed plan update did not have a substantial impact on or contain a substantial departure from metropolitan system plans; and

WHEREAS, the City appealed the Metropolitan Council's "final decision" to the Minnesota Court of Appeals and ultimately the Minnesota Supreme Court; and

WHEREAS, in August 2004, the Minnesota Supreme Court concluded the Metropolitan Council has the statutory authority to require modifications to the City's proposed plan update and affirmed the Metropolitan Council's "final decision"; and

WHEREAS, in January 2005, the Mayor of Lake Elmo and the Chair of the Metropolitan Council signed a Memorandum of Understanding, subsequently ratified by their respective governing bodies, that outlined certain criteria for guiding the City and the Metropolitan Council as the City modified its proposed plan update to ensure conformity with metropolitan system plans; and

WHEREAS, in June 2005, the City requested the Metropolitan Council to allow the City additional time within which to submit its updated comprehensive plan to the Metropolitan Council; and

WHEREAS, on July 27, 2005 the Metropolitan Council granted the City's extension request when it adopted Council Resolution No. 2005-20, but the Council deemed it appropriate and necessary to attach certain conditions and requirements to the time extension to ensure the Memorandum of Understanding is successfully implemented over time and ensure costly regional infrastructure is used effectively and efficiently; and

WHEREAS, Paragraph 3(i) of Council Resolution No. 2005-20 establishes certain population, household and residential equivalent unit (REC) levels the City is required to meet beginning in 2010 and extending through 2030; and

WHEREAS, Paragraph 3(i)(iii) of Council Resolution No. 2005-20 requires the City to pay the Metropolitan Council by January 31, 2011 a "wastewater inefficiency fee" (WIF) if the City does not meet its REC commitments in the 2007 to 2010 timeframe; and

WHEREAS, the WIF is intended to help pay the operation, maintenance, and capital costs of underutilized regional wastewater infrastructure and the costs of providing regional sewer service for development elsewhere in the region that would have occurred within the City; and

WHEREAS, the City has requested temporary relief from the WIF payment due in January 2011 because the prolonged downturn of the economy has made it difficult for the City to meet its population, household and REC commitments for the 2007 to 2010 timeframe; and

WHEREAS, in light of the adverse economic conditions it is appropriate to provide the City with its requested relief and modify the WIF requirements in Council Resolution No. 2005-20.

WHEREAS; It is the City's expectation that annual discussions will continue with the Met Council regarding the status of economic activity in order to continue to consider potential future adjustments to the MOU in the following areas: 1) the potential for the City to propose alternative REC considerations (in lieu fees), 2) the potential to evaluate the long-term viability of the current scope and pace of mandated development (i.e., does the 2030 end timeline need to be adjusted) given current and anticipated economic conditions and the projected 2010 census report, as well as any 2014 framework evaluations conducted by the State Legislature and/or the Met Council, and 3) that the calculation method for extending the WIF assessment is a reasonable reflection of the economic conditions so as not to expose the City to undue risk or liability of paying the WIF fees.

NOW THEREFORE, BE IT RESOLVED:

Council Resolution No. 2005-20 is modified as follows:

1. The population, household and residential REC levels stated in Paragraph 3(i) of Council Resolution No. 2005-20 will be extended one year for each year the regional residential Service Availability Charge (SAC) units collected is less than fifty percent (50%) of the rolling ten-year average.
2. This change to the WIF requirement is effective on the date the Metropolitan Council receives from the City a resolution acknowledging the WIF modification and stating the City's continued agreement to comply with the terms and conditions stated in Council Resolution No. 2005-20.
3. Except for this WIF modification, the terms and conditions of Council Resolution No. 2005-20 shall remain in force and effect without change.

Adopted this 16TH day of November, 2010

Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
CONSENT
ITEM #: 7
MOTION *as part of Consent Agenda
Resolution # 2010-065*

AGENDA ITEM: Modification of Memorandum of Understanding for Economic Conditions

SUBMITTED BY: Lake Elmo City Council

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: As part of its *Consent Agenda*, the City Council is respectfully requested to approve changes to the Memorandum of Understanding, as presented in Resolution 2010-065, granting the City of Lake Elmo relief from any Wastewater Inefficiency Fees, due to the prolonged slowdown in economic activity. 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 entered into a Memorandum of Understanding (MOU) with the Met Council in January 2005 regarding implementation of mandated development of sewer residential and employment units for region-wide growth and development.

In 2009 and 2010, the City of Lake Elmo entered into discussions with the Metropolitan Council regarding the prolonged economic slowdown and the impact this may have on mandated development. In March, 2010, the City and Met Council approved a draft modifying MOU, recognizing this prolonged economic slowdown and granting certain relief to the City of Lake Elmo. This modifying MOU was approved by the Metropolitan Council in March 2010.

As mutually understood, the City of Lake Elmo deferred action on approving the modifying MOU until such time as the City's Comprehensive Plan was formally approved by the Metropolitan Council and all necessary revisions completed. This action was completed in July 2010.

STAFF REPORT: City staff has reviewed the proposed modifying MOU and find it satisfactory and consistent with Council direction. Previous presentations to the City Council

and Council participation in the discussions has ensured this modifying MOU is minimally satisfactory for the pace and scope of activity acceptable to the City. It is anticipated that annual discussions will continue with the Met Council regarding the status of economic activity, the potential for the City to propose potentially alternative REC considerations (in lieu fees), and the potential to evaluate the long-term viability of the current scope and pace of mandated development (currently 2030 timeline), given current and anticipated economic conditions and the projected 2010 census report, as well as any 2014 framework evaluations conducted by the State Legislature and/or the Met Council.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council approve as part of tonight's *Consent Agenda* proposed Resolution 2010-06 granting the City of Lake Elmo relief from any Wastewater Inefficiency Fees, due to the prolonged slowdown in economic activity.

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

“Move to approve Resolution 2010-065 granting the City of Lake Elmo relief from any Wastewater Inefficiency Fees, due to the prolonged slowdown in economic activity [as amended and/or modified at tonight’s meeting].”

ATTACHMENTS:

1. Resolution 2010-065
2. Amending Memorandum of Understanding with Met Council

SUGGESTED ORDER OF BUSINESS (if removed from the CONSENT AGENDA):

- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

**City of Lake Elmo
Washington County, Minnesota**

Resolution No. 2010-065

**A RESOLUTION ADOPTING THE MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF LAKE ELMO AND THE METROPOLITAN COUNCIL
REGARDING WASTEWATER INEFFICIENCY FEES**

WHEREAS, in February 1997 the Metropolitan Council submitted to the City of Lake Elmo a system statement that advised the City of the Metropolitan Council's recently adopted policy planning documents and metropolitan system plans and identified population projections and other planning elements the City should incorporate into its plan as the City fulfilled its 2008 decennial review obligations under section 473.864 of the Metropolitan Land Planning Act; and

WHEREAS, in September 2002, the Metropolitan Council found that the proposed plan update submitted by the City may substantially depart from and may have a substantial impact on metropolitan system plans, and subsequently required the City to modify its proposed plan update to ensure the City's proposed plan update did not have a substantial impact on or contain a substantial departure from metropolitan system plans; and

WHEREAS, the City appealed the Metropolitan Council's "final decision" to the Minnesota Court of Appeals and ultimately the Minnesota Supreme Court; and

WHEREAS, in August 2004, the Minnesota Supreme Court concluded the Metropolitan Council has the statutory authority to require modifications to the City's proposed plan update and affirmed the Metropolitan Council's "final decision"; and

WHEREAS, in January 2005, the Mayor of Lake Elmo and the Chair of the Metropolitan Council signed a Memorandum of Understanding, subsequently ratified by their respective governing bodies, that outlined certain criteria for guiding the City and the Metropolitan Council as the City modified its proposed plan update to ensure conformity with metropolitan system plans; and

WHEREAS, in June 2005, the City requested the Metropolitan Council to allow the City additional time within which to submit its updated comprehensive plan to the Metropolitan Council; and

WHEREAS, on July 27, 2005 the Metropolitan Council granted the City's extension request when it adopted Council Resolution No. 2005-20, but the Council deemed it appropriate and necessary to attach certain conditions and requirements to the time extension to ensure the Memorandum of Understanding is successfully implemented over time and ensure costly regional infrastructure is used effectively and efficiently; and

WHEREAS, Paragraph 3(i) of Council Resolution No. 2005-20 establishes certain population, household and residential equivalent unit (REC) levels the City is required to meet beginning in 2010 and extending through 2030; and

WHEREAS, Paragraph 3(i)(iii) of Council Resolution No. 2005-20 requires the City to pay the Metropolitan Council by January 31, 2011 a “wastewater inefficiency fee” (WIF) if the City does not meet its REC commitments in the 2007 to 2010 timeframe; and

WHEREAS, the WIF is intended to help pay the operation, maintenance, and capital costs of underutilized regional wastewater infrastructure and the costs of providing regional sewer service for development elsewhere in the region that would have occurred within the City; and

WHEREAS, the City has requested temporary relief from the WIF payment due in January 2011 because the prolonged downturn of the economy has made it difficult for the City to meet its population, household and REC commitments for the 2007 to 2010 timeframe; and

WHEREAS, in light of the adverse economic conditions it is appropriate to provide the City with its requested relief and modify the WIF requirements in Council Resolution No. 2005-20.

NOW THEREFORE, BE IT RESOLVED:

Council Resolution No. 2005-20 is modified as follows:

1. The population, household and residential REC levels stated in Paragraph 3(i) of Council Resolution No. 2005-20 will be extended one year for each year the regional residential Service Availability Charge (SAC) units collected is less than fifty percent (50%) of the rolling ten-year average.
2. This change to the WIF requirement is effective on the date the Metropolitan Council receives from the City a resolution acknowledging the WIF modification and stating the City’s continued agreement to comply with the terms and conditions stated in Council Resolution No. 2005-20.
3. Except for this WIF modification, the terms and conditions of Council Resolution No. 2005-20 shall remain in force and effect without change.

Adopted this 16TH day of November, 2010

Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator

MEMORANDUM OF UNDERSTANDING

Between the City of Lake Elmo and the Metropolitan Council
Regarding Wastewater Inefficiency Fees

1. In June 2005, the City of Lake Elmo asked the Metropolitan Council for additional time within which to submit the 1998 decennial update of the City's comprehensive plan. On July 27, 2005 the Metropolitan Council granted the City's request when it adopted Council Resolution No. 2005-20, a copy of which resolution is attached to this Memorandum of Understanding as Attachment A. Pursuant to Minnesota Statutes section 473.869 the Metropolitan Council attached reasonable requirements and conditions to the extension.

2. Paragraph 3(i) of Council Resolution No. 2005-20 reflected the City's commitments to the following population, household and Residential Equivalent Connection (REC) levels (excluding the existing Cimarron manufactured housing neighborhood and existing Old Village housing):

<u>Year</u>	<u>Households</u>	<u>Population</u>	<u>New Sewered Residential Equivalent Connections (REC)</u>
2010	3,619	9,952	515 (all residential)
2015	5,114	14,064	1,930 (1,650 residential, 280 employment)
2020	6,324	18,403	3,120 (2,500 residential, 620 employment)
2025	7,524	21,895	4,310 (3,350 residential, 960 employment)
2030	8,727	24,000	5,500 (4,200 residential, 1,300 employment)

3. Council Resolution No. 2005-20 contains certain remedy provisions to ensure the City meets its household and population growth and REC commitments. A "Wastewater Inefficiency Fee" (WIF) is one of the remedies. According to Paragraph 3(i)(iii) of Council Resolution No. 2005-20, the City is responsible for WIFs if the City does not meet its REC commitments. A WIF payment is due in January 2011 if the City does not meet its population, household and REC commitments for the 2007 to 2010 time period.

4. The City requested temporary relief from the WIF payment due in January 2011 because the prolonged downturn of the economy has made it difficult for the City to meet its 2010 population, household and REC commitments.

5. At its March 24, 2010 meeting the Metropolitan Council granted the City's request for temporary relief when it adopted Council Resolution No. 2010-08, a copy of which resolution is attached to this Memorandum of Understanding as Attachment B. The Metropolitan Council agreed to modify Council Resolution No. 2005-20 as follows:

a. The population, household and residential REC levels stated in Paragraph 3(i) of Council Resolution No. 2005-20 will be extended one year for each year the

regional residential Sewer Availability Charge (SAC) units collected is less than fifty percent (50%) of the rolling ten-year average.

b. This change in the WIF requirement is effective on the date the Metropolitan Council and the City enter into a binding Memorandum of Understanding under which the City acknowledges the WIF modification and states its continued agreement to comply with the requirements and conditions stated in Council Resolution No. 2005-20.

6. If the City does not meet its REC commitments, it shall pay to the Metropolitan Council WIF to help pay the operation, maintenance, and capital costs of underutilized regional wastewater infrastructure and the costs of providing regional sewer service for development elsewhere in the region that would have occurred within the City. A determination will be made on the number of deficient RECs by subtracting actual RECs from the committed RECs identified in the City's adopted comprehensive plan and plan amendments. A WIF shall be paid for every deficient REC and, except as provided in Paragraph 7 below, will be due on the dates specified below:

<u>Time Frame</u>	<u>WIF per each deficient REC</u>	<u>Payment Date</u>
2007-2010	\$2,600	January 31, 2011
2010-2015	\$4,200	January 31, 2016
2015-2020	\$5,200	January 31, 2021
2020-2025	\$5,500	January 31, 2026
2025-2030	\$5,700	January 31, 2031

7. The sewer development milestones of Paragraph 2 of this Memorandum of Understanding and the WIF schedule of Paragraph 6 of this Memorandum of Understanding will be extended one year for each year that the regional residential SAC units collected is less than fifty percent (50%) of the rolling ten-year average as determined by the Metropolitan Council.

8. In consideration of the Metropolitan Council's modification of the WIF provisions of Council Resolution No. 2005-20, the City acknowledges the WIF modification and agrees it will continue to comply with the requirements and conditions stated in Council Resolution No. 2005-20 which, except as modified by Council Resolution No. 2010-08 and this Memorandum of Understanding, shall remain in force and effect without change. The City further agrees to comply with the terms of Council Resolution No. 2010-08.

9. The City acknowledges, and the parties intend, that this Memorandum of Understanding shall be a binding agreement.

10. The parties have caused this Memorandum of Understanding to be executed by their duly authorized representatives.

11. This Memorandum of Understanding is effective upon execution by the Metropolitan Council.

On behalf of the City of Lake Elmo:

On behalf of the Metropolitan Council:

Dean Johnston, Mayor

Thomas H. Weaver, Regional
Administrator

Date: _____

Date: _____

Approved as to form:

Deputy General Counsel

A

METROPOLITAN COUNCIL

Mears Park Centre · 230 East Fifth Street · Saint Paul, Minnesota 55101

RESOLUTION NO. 2005-20

GRANTING THE CITY OF LAKE ELMO'S REQUEST TO EXTEND THE TIME WITHIN WHICH THE CITY MUST ADOPT A LOCAL COMPREHENSIVE PLAN WITH REQUIRED MODIFICATIONS AND ATTACHING REASONABLE REQUIREMENTS AND CONDITIONS TO THE EXTENSION

WHEREAS, in February 1997 the Metropolitan Council submitted to the City of Lake Elmo a system statement that advised the City of the Metropolitan Council's recently adopted policy planning documents and metropolitan system plans and identified population projections and other planning elements the City should incorporate into its plan as the City fulfilled its decennial review obligations under section 473.864 of the Metropolitan Land Planning Act; and

WHEREAS, Minnesota Statutes section 473.864, subdivision 2 required all metropolitan-area cities to review and, if necessary, amend their entire comprehensive plans, fiscal devices and official controls by December 31, 1998 to ensure local plans conformed with metropolitan system plans and ensure fiscal devices and official controls did not conflict with local comprehensive plans or permit activities that conflict with metropolitan system plans; and

WHEREAS, the City's comprehensive plan update was submitted to the Metropolitan Council on August 24, 2001 and its proposed plan update was deemed complete for Metropolitan Council review purposes in February 2002; and

WHEREAS, at its September 11, 2002 regular meeting the Metropolitan Council found that the City's proposed plan update may substantially depart from and may have a substantial impact on metropolitan system plans; and

WHEREAS, pursuant to Minnesota Statutes section 473.866, the City requested a contested case hearing on the Metropolitan Council's September 11, 2002 decision; and

WHEREAS, on March 13, 2003 the administrative law judge concluded the Metropolitan Council has the statutory authority to require modifications to local comprehensive plans that substantially depart from or have a substantial impact on metropolitan system plans and recommended the Metropolitan Council require the City of Lake Elmo to modify its comprehensive plan; and

WHEREAS, on April 9, 2003, the governing body of the Metropolitan Council adopted Resolution No. 2003-10 and made its "final decision" with respect to modifications the Metropolitan Council deemed necessary to ensure the City's proposed plan update did not have a substantial impact on or contain a substantial departure from metropolitan system plans; and

WHEREAS, the City appealed the Metropolitan Council's "final decision" to the Minnesota Court of Appeals and ultimately the Minnesota Supreme Court; and

WHEREAS, on August 5, 2004 the Minnesota Supreme Court concluded the Metropolitan Council has the statutory authority to require modifications to the City's proposed plan update and affirmed the Metropolitan Council's "final decision," and judgment was entered September 30, 2004; and

WHEREAS, Minnesota Statutes section 473.864, subdivision 1 requires local governmental units to adopt comprehensive plans with required modifications within nine months following a final decision, order, or judgment made pursuant to Minnesota Statutes section 473.866; and

WHEREAS, the Metropolitan Council preferred to engage the City in negotiating an amicable resolution of the issues, rather than strictly imposing the modifications in Resolution No. 2003-10 as authorized by the Supreme Court's order; and

WHEREAS, representatives of the City and the Metropolitan Council subsequently met to discuss how the City might modify its proposed plan update to accommodate local and regional issues that were the subject of Metropolitan Council Resolution No. 2003-10 and the Supreme Court's decision; and

WHEREAS, on January 27, 2005 the Mayor of Lake Elmo and the Chair of the Metropolitan Council signed a Memorandum of Understanding, subsequently ratified by their respective governing bodies, that outlined certain criteria for guiding the City and the Metropolitan Council as the City modified its proposed plan update to ensure conformity with metropolitan system plans; and

WHEREAS, Paragraph 8 of the Memorandum of Understanding required the City to complete its plan update modifications by April 15, 2005, submit its plan update to adjacent communities by April 15, 2005, and submit its plan update with required modifications to the Metropolitan Council on or before June 15, 2005 and prior to June 30 when the statutory nine-month plan modification period expired; and

WHEREAS, the City did not meet the April 15 and June 15 deadlines stated in the Memorandum of Understanding and did not adopt a plan update with required modifications by the statutory June 30, 2005 deadline; and

WHEREAS, Minnesota Statutes section 473.869 authorizes local governmental units to request that the Metropolitan Council extend the time for fulfilling the requirements of Minnesota Statutes sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871; and

WHEREAS, local governmental units requesting an extension under Minnesota Statutes section 473.869 must describe the activities previously undertaken by the local unit in fulfillment of the pertinent planning statutes and explain the reasons necessitating and justifying an extension request; and

WHEREAS, on June 27, 2005 the Lake Elmo City Council approved Resolution No. 2005-067 which describes activities the City has undertaken to prepare a modified plan update pursuant to the January 27, 2005 Memorandum of Understanding and states that it was not possible for the City to complete its amended comprehensive plan update with required modifications within the statutory nine-month period; and

WHEREAS, the City states in Resolution No. 2005-067 that it requests the Metropolitan Council to grant the City an extension from June 30, 2005 to August 31, 2005 for submittal of its proposed plan

update to adjacent governmental units and school districts, and an extension from June 30, 2005 to September 30, 2005 for submittal of its updated comprehensive plan to the Metropolitan Council; and

WHEREAS, pursuant to Minnesota Statutes section 473.869 the Metropolitan Council may "in its discretion" grant by resolution a request for extension upon a finding of "exceptional circumstances or undue hardship" and "may attach reasonable requirements or conditions to the extension"; and

WHEREAS, it is appropriate and necessary to attach certain conditions and requirements to this time extension to ensure the Memorandum of Understanding is successfully implemented over time and ensure costly regional infrastructure is used effectively and efficiently; and

WHEREAS, Minnesota Statutes section 473.175, subdivision 3 authorizes the Metropolitan Council to commence civil proceedings by appropriate legal action in district court to enforce the provisions of the Metropolitan Land Planning Act if a local government does not adopt a plan with modifications required pursuant to Minnesota Statutes section 473.866 within nine months following a final decision, order, or judgment made pursuant to section 473.866; and

WHEREAS, further delay in adopting a plan update with required modifications will cause additional inconveniences and costs, unnecessary expenditures of scarce public resources, and uncertainty for residents of the City and the Metropolitan Council's planning processes for its regional systems; and

WHEREAS, it will cost the Metropolitan Council additional time, resources and money if the City does not adopt a plan update with required modifications within a reasonable period of time and the Metropolitan Council must commence civil proceedings in the district court to enforce the provisions of the Metropolitan Land Planning Act and the September 30, 2005 judgment in the Minnesota Supreme Court's August 2005 decision.

NOW THEREFORE, BE IT RESOLVED:

1. Pursuant to Minnesota Statutes section 473.869, the Metropolitan Council finds there are exceptional circumstances and undue hardship in this case for the following reasons:
 - (a) Since the 1976 passage of the Metropolitan Land Planning Act, the Lake Elmo matter is the first time a local governmental unit and the Metropolitan Council were not able to resolve their differences over comprehensive planning matters through discussion and negotiation. Both the City and the Metropolitan Council have found it necessary to devote extra time, resources and effort to this unique planning process.
 - (b) The plan modifications required of the City represent, in some cases, significant changes from historical land use patterns and planning practices within the City.
 - (c) Making significant changes to historical land use patterns and long-standing planning practices sometimes can be politically difficult and time-consuming.
 - (d) Following the November 2004 city elections, three new members were elected to the Lake Elmo City Council and a new mayor was elected.
2. Pursuant to Minnesota Statutes section 473.869, the Metropolitan Council finds that it is appropriate to grant the City's request for an extension of the time within which the City must

adopt a plan update in accordance with the Metropolitan Land Planning Act and the Minnesota Supreme Court's decision, and consistent with the January 27, 2005 Memorandum of Understanding. Subject to the conditions set forth below, the City's request for an extension is granted as follows:

- (a) The City must complete its plan update as soon as possible and must submit the proposed plan update to adjacent governmental units and affected school districts no later than August 31, 2005; and
 - (b) The City must submit a plan update with required modifications to the Metropolitan Council for review no later than September 30, 2005.
 - (c) Within thirty (30) days after the Metropolitan Council takes action on the City's plan update the City must finally adopt its plan update with modifications (if any) required by the Metropolitan Council to ensure the plan update is consistent with the Memorandum of Understanding, the requirements and conditions of this time extension, and metropolitan system plans.
3. Pursuant to Minnesota Statutes section 473.869, the following reasonable requirements and conditions are attached to the extension:
- (a) The City's plan update will not be "complete" for Metropolitan Council review purposes until all adjacent governmental units and affected school districts have either provided comments to the City or failed to provide any responses or comments to the City within sixty (60) days after the City submitted the plan to the adjacent governmental unit or affected school district.
 - (b) The City's plan update must be consistent with the January 27, 2005 Memorandum of Understanding for those items addressed in the Memorandum of Understanding. For those matters that are not expressly addressed in the Memorandum of Understanding, the plan update must be consistent with the Metropolitan Land Planning Act and metropolitan system plans. The Metropolitan Council did not waive any regional land use policies in its regional policy documents or metropolitan system plans regarding land use planning, and the City must comply with and prepare a plan update consistent with the metropolitan system plans.
 - (c) Pursuant to Minnesota Statutes section 473.865, subdivision 3, within nine (9) months after the adoption of its modified plan update the City must amend all official controls that conflict with its comprehensive plan to ensure City zoning ordinances, subdivision controls, site plan regulations and other official controls and fiscal devices do not conflict with the City's comprehensive plan or permit any activity in conflict with metropolitan system plans. Pursuant to Minnesota Statutes section 473.865, subdivision 1, the City must submit copies of the official controls to the Metropolitan Council within thirty (30) days following adoption.
 - (d) The City will actively participate in the Metropolitan Council's plat monitoring program.
 - (e) If the City does not prepare and submit by September 30, 2005 a plan update consistent with the Memorandum of Understanding and the requirements and conditions attached to this time extension and if the Metropolitan Council commences an enforcement action pursuant to Minnesota Statutes section 473.175, subdivision 3 or other law, the City will pay the

Metropolitan Council's costs and expenses, including reasonable attorney fees, and will not contest a judicial action by the Metropolitan Council to compel compliance.

- (f) This time extension does not constitute a waiver of the Metropolitan Council's right to commence civil proceedings under Minnesota Statutes section 473.175. If the City does not prepare and adopt a plan update with required modifications according to the time schedule stated in this extension, the Metropolitan Council may consider the Memorandum of Understanding terminated and may seek to compel compliance with the original plan modifications that were the subject of the Minnesota Supreme Court's August 5, 2004 decision and September 30, 2004 judgment.
- (g) The City must stage its sewered development consistent with Metropolitan Council policy requiring local governmental units to hook up to the regional wastewater disposal system within two (2) years after regional wastewater service is made available.
- (h) The Metropolitan Council's commitments in the Memorandum of Understanding to make regional sewer service available to the City via the WONE Interceptor (December 2006) and the Cottage Grove Interceptor (Phase I; December 2007) were based on the assumption that the City would submit its proposed plan update by June 15, 2005. Accordingly, the schedules for providing regional sewer service stated in the Memorandum of Understanding will be adjusted as follows to reflect the time extension requested by the City: the Metropolitan Council will plan to have regional sewer service available through the WONE Interceptor within eighteen (18) months after the date the City finally adopts an updated plan consistent with the Memorandum of Understanding and the conditions and requirements of this extension; and will plan to have regional sewer service available through the Cottage Grove Interceptor (Phase I) within thirty (30) months after the date the City finally adopts an updated plan consistent with the Memorandum of Understanding and the conditions and requirements of this extension.
- (i) The City's updated plan will provide that when the Count of Population and Household data from the 2010 U.S. Census are available, and every five years thereafter through 2030, the Metropolitan Council will determine whether the population, household and residential equivalent unit (REC) levels in the City meet the City's commitments under the Memorandum of Understanding and reflected in the City's adopted comprehensive plan. Those population, household and REC levels are summarized in the following growth staging table and must be incorporated as part of the City's updated plan submitted to the Metropolitan Council for review by September 30, 2005, as well as the revised or updated plan the City will submit to the Metropolitan Council in connection with the upcoming decennial review under Minnesota Statutes section 473.864:

	Households	Population	RECs*
2010	3,619	9,952	515 (all residential)
2015	5,114	14,064	1,930 (1,650 residential, 280 employment)
2020	6,324	18,403	3,120 (2,500 residential, 620 employment)
2025	7,524	21,895	4,310 (3,350 residential, 960 employment)
2030	8,727	24,000	5,500 (4,200 residential, 1,300 employment)

* Not counting Cimarron, existing Village, existing Eagles Point

The City's updated plan shall state and expressly provide actions required to implement and complete the growth staging specified in the preceding growth staging table shall be implemented automatically without the need for comprehensive plan amendments.

For years ending in "0" the determination of households and population will be based on U.S. Census data; for years ending in "5" this determination will be based on official estimates by the Metropolitan Council. If the City's growth falls short of its population commitments, the Metropolitan Council will notify the City regarding the level of the shortfall and the additional housing units needed to make up the shortfall.

The City's updated plan will clearly specify the remedial actions, approved by the Metropolitan Council, that will be triggered if the City fails to meet its committed growth in population or RECs. The plan shall provide that these remedies, once triggered, shall be self-executing without the need for further City Council action other than appropriate and necessary revisions to official controls. Remedies shall include, but are not limited to, the following:

- (i) Automatic adjustment of the growth staging table to reflect the growth of households, population, and RECs needed to meet the population commitments the City agreed to under the Memorandum of Understanding. The adjusted growth staging table, upon approval of the Metropolitan Council, shall be deemed to be immediately incorporated in the City's comprehensive plan. This remedy includes appropriate and timely modification of official controls, e.g., zoning and subdivision ordinances which are consistent with the comprehensive plan, in accordance with state law, to implement the comprehensive plan.
- (ii) If the City does not meet its population commitment in 2010, its household commitments for 2015, 2020, 2025, and 2030 shall each be adjusted upward by an amount equal to the difference between the committed population and the actual population in 2010, multiplied by 0.5. This process shall be repeated in 2015, 2020, 2025, and 2030. Housing units added under this provision shall be added at an average density of at least 3 units per acre.
- (iii) If the City does not meet its REC commitments in 2010, it shall pay to the Metropolitan Council a "wastewater inefficiency fee" (WIF) to help pay the operation, maintenance, and capital costs of underutilized regional wastewater infrastructure and the costs of providing regional sewer service for development elsewhere in the region that would have occurred within the City. A determination will be made on the number of deficient RECs by subtracting actual RECs from the committed RECs identified in the adopted comprehensive plan. A WIF shall be paid for every deficient REC and will be due on the dates specified below:

Time Frame	WIF per Each Deficient REC	Payment Date
2007-2010	\$2,600	January 31, 2011
2010-2015	\$4,200	January 31, 2016
2015-2020	\$5,200	January 31, 2021
2020-2025	\$5,500	January 31, 2026
2025-2030	\$5,700	January 31, 2031

If the City achieves the committed number of RECs after a WIF is assessed to the City, a service availability charge (SAC) credit will be granted for each deficient REC for which a WIF was assessed. The SAC credit will be granted at the end of each five-year staging period.

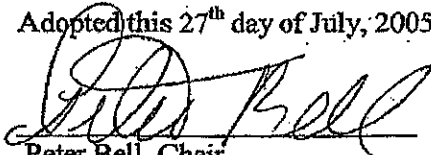
In addition, the City's updated plan shall provide that all residential land within its 2030 Metropolitan Urban Service Area (MUSA) is guided at two alternative density ranges. The first density range shall be of the City's choosing, provided that: the minimum density is at least three units per acre, consistent with density standards in the metropolitan system plans; and, the totality of residential areas intended for sewered development will accommodate at least 4,200 new residential RECs. The second density range shall be equal to the first range plus at least three additional units per acre. The first density range will be established until April 30, 2011. The Metropolitan Council will notify the City by February 15, 2011 regarding the status of the City's REC commitment as of December 31, 2010. If the City achieves its commitment for residential RECs as of December 31, 2010, the first density range automatically will be reestablished in the City's comprehensive plan until April 20, 2016. If the City does not achieve its commitment for residential RECs as of December 31, 2010, the City may designate one acre for each REC the City is short, to be guided at the second alternative density range. If the City does not act to designate acres to be reguided at the second density range by April 30, 2011, the second density range automatically will be established for all of the residential land in the 2010-2015 staging area of the 2030 MUSA. The same process will be repeated for 2015, 2020 and 2025, and remedial action as described will be taken by April 30 of 2016, 2021 and 2026.


- (j) The City must comply with the decennial review provisions of Minnesota Statutes section 473.864, subdivision 2 and, after receiving a system statement from the Metropolitan Council, must review and, as necessary, update its local comprehensive plan no later than December 31, 2008. The plan update that is the subject of this extension is not the decennial plan review and update the City must complete by December 31, 2008 pursuant to Minnesota Statutes section 473.864, subdivision 2.
- (k) The City must plan for a total citywide population of 24,000 as outlined in the Memorandum of Understanding and land use planning to accommodate that total population must be timely and consistent with density standards and other provisions of the metropolitan system plans. The City may exercise its judgment about where and how the 24,000 population will be accommodated within the City consistent with the Memorandum of Understanding but the City's plan update must reflect the City's obligation to produce and maintain an average residential density of at least three (3) dwelling units per acre in all sewered areas of the City.
- (l) The City must timely submit to the Metropolitan Council, as required by Minnesota Statutes section 473.513, copies of applications for permits to alter or improve the City's local sewer system as well as design data and location maps of the projects.
- (m) The City must cooperatively work with the Metropolitan Council and adjacent governmental units to plan for and implement regional sewer service to support sewered development within the City.
- (n) Conditions beyond the control of the City, such as a severe reduction in housing construction in the region's Developing Communities, due to a protracted downturn in the economy or a

long-term recession, may adversely affect the City's ability to meet its population, household and REC commitments. Accordingly, if the City has been unable to meet its population, household, and REC commitments because of adverse economic conditions, the City may petition the Metropolitan Council for a modification of the growth staging components of the plan and the conditions and requirements of this time extension if, after the end of a five-year staging period, the following circumstance is verified: the City's production of population, households and RECs, as a percentage of the population, household and REC commitments stated in the growth staging table, equals or exceeds the region's Developing Communities' production of population, households and RECs as a percentage of the region's Developing Communities' forecasted population, households and RECs. If the City's right to petition is triggered and the City petitions the Metropolitan Council for modifications, the Metropolitan Council will not unreasonably deny the petition.

4. This time extension is subject to the City's acceptance and compliance with all the requirements and conditions stated in Paragraph 3. It is the Metropolitan Council's expectation that the City's plan update submitted to the Metropolitan Council for review will reflect these conditions and requirements.
5. Metropolitan Council staff will provide to the City appropriate and reasonable technical and advisory assistance to help the City complete its plan update modifications and review processes by August 31, 2005 and submit a modified plan update to the Metropolitan Council on or before September 30, 2005.
6. The Metropolitan Council will work with the City in an effort to resolve these important planning and metropolitan system issues in a cooperative and collaborative manner.

Adopted this 27th day of July, 2005.


Peter Bell, Chair


Pat Curtiss, Recording Secretary

LAKEELMOEXTENSIONRESOLUTION

PROPOSED RESOLUTION

3

METROPOLITAN COUNCIL

390 Robert Street North, Saint Paul, Minnesota 55101

RESOLUTION NO. 2010-08

**GRANTING THE CITY OF LAKE ELMO'S REQUEST FOR TEMPORARY RELIEF
FROM THE "WASTEWATER INEFFICIENCY FEE" IMPOSED UNDER
METROPOLITAN COUNCIL RESOLUTION NO. 2005-20**

WHEREAS, in February 1997 the Metropolitan Council submitted to the City of Lake Elmo a system statement that advised the City of the Metropolitan Council's recently adopted policy planning documents and metropolitan system plans and identified population projections and other planning elements the City should incorporate into its plan as the City fulfilled its 2008 decennial review obligations under section 473.864 of the Metropolitan Land Planning Act; and

WHEREAS, in September 2002, the Metropolitan Council found that the proposed plan update submitted by the City may substantially depart from and may have a substantial impact on metropolitan system plans, and subsequently required the City to modify its proposed plan update to ensure the City's proposed plan update did not have a substantial impact on or contain a substantial departure from metropolitan system plans; and

WHEREAS, the City appealed the Metropolitan Council's "final decision" to the Minnesota Court of Appeals and ultimately the Minnesota Supreme Court; and

WHEREAS, in August 2004, the Minnesota Supreme Court concluded the Metropolitan Council has the statutory authority to require modifications to the City's proposed plan update and affirmed the Metropolitan Council's "final decision"; and

WHEREAS, in January 2005, the Mayor of Lake Elmo and the Chair of the Metropolitan Council signed a Memorandum of Understanding, subsequently ratified by their respective governing bodies, that outlined certain criteria for guiding the City and the Metropolitan Council as the City modified its proposed plan update to ensure conformity with metropolitan system plans; and

WHEREAS, in June 2005, the City requested the Metropolitan Council to allow the City additional time within which to submit its updated comprehensive plan to the Metropolitan Council; and

WHEREAS, on July 27, 2005 the Metropolitan Council granted the City's extension request when it adopted Council Resolution No. 2005-20, but the Council deemed it appropriate and necessary to attach certain conditions and requirements to the time extension to ensure the Memorandum of Understanding is successfully implemented over time and ensure costly regional infrastructure is used effectively and efficiently; and

WHEREAS, Paragraph 3(i) of Council Resolution No. 2005-20 establishes certain population, household and residential equivalent unit (REC) levels the City is required to meet beginning in 2010 and extending through 2030; and

PROPOSED RESOLUTION

WHEREAS, Paragraph 3(i)(iii) of Council Resolution No. 2005-20 requires the City to pay the Metropolitan Council by January 31, 2011 a “wastewater inefficiency fee” (WIF) if the City does not meet its REC commitments in the 2007 to 2010 timeframe; and

WHEREAS, the WIF is intended to help pay the operation, maintenance, and capital costs of underutilized regional wastewater infrastructure and the costs of providing regional sewer service for development elsewhere in the region that would have occurred within the City; and

WHEREAS, the City has requested temporary relief from the WIF payment due in January 2011 because the prolonged downturn of the economy has made it difficult for the City to meet its population, household and REC commitments for the 2007 to 2010 timeframe; and

WHEREAS, in light of the adverse economic conditions it is appropriate to provide the City with its requested relief and modify the WIF requirements in Council Resolution No. 2005-20.

NOW THEREFORE, BE IT RESOLVED:

Council Resolution No. 2005-20 is modified as follows:

1. The population, household and residential REC levels stated in Paragraph 3(i) of Council Resolution No. 2005-20 will be extended one year for each year the regional residential Service Availability Charge (SAC) units collected is less than fifty percent (50%) of the rolling ten-year average.
2. This change to the WIF requirement is effective on the date the Metropolitan Council receives from the City a resolution acknowledging the WIF modification and stating the City’s continued agreement to comply with the terms and conditions stated in Council Resolution No. 2005-20.
3. Except for this WIF modification, the terms and conditions of Council Resolution No. 2005-20 shall remain in force and effect without change.

Adopted this ___ day of March, 2010.

Peter Bell, Chair

Pat Curtiss, Recording Secretary



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
CONSENT
ITEM 8
MOTION *as part of Consent Agenda
Resolution # 2010-055*

AGENDA ITEM: Interim Use Permit: Consideration of an Application from Midwest Recreational Clearinghouse, LLC to Allow an Open Sales Lot for the Outdoor Display of Merchandise at 9200 Hudson Boulevard.

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Planning Commission
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider an interim use application from Midwest Recreation Clearinghouse, LLC (Cranky Ape Powersport Auctions) to allow the outdoor display of merchandise for public viewing at 9200 Hudson Boulevard North. The Planning Commission has previously reviewed and recommended approval of a Conditional Use Permit for the exact same use on this property, but has now reviewed and considered a different request (for the same use) for the following reasons:

- The City Council tabled the Conditional Use Permit application at its September 21, 2010 meeting.
- The Council has previously directed Staff to prepare amendments to the City's holding districts to change all conditional uses to interim uses and to amend the general standards for interim uses. The City Council adopted these revisions to the City's interim use requirements on October 19th.
- Upon further discussions with Staff regarding the status of the Conditional Use Permit, the applicant has agreed to submit an application for an interim use permit for the proposed open sales lot activity at 9200 Hudson Boulevard North. If the conditions and restrictions of the Interim Use Permit are found to be acceptable to the applicant, the Conditional Use Permit request will be withdrawn.

The new request is consistent with the proposed amendments to the City's holding districts, which is intended to provide the City with more control over the future uses that will be located in areas subject to new development or land use changes.

The City Council is also requested to consider and authorize execution of a consent agreement associated with the proposed interim use. This agreement specifies the terms and conditions, including the termination date/event, for the interim use, and has been revised based on feedback from the applicant and the City Attorney. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The applicants run an online auction for recreation vehicles and this site would be one in which potential buyers could view before they bid as well as pick it up when it is bought. The products are reclaimed items such as motor homes, boats, ATV's and RVs that are acquired from entities such as banks or insurance companies and then prepped for sale. The specific details concerning the use proposed at 9200 Hudson Boulevard North have not changed from the Conditional Use Permit reviewed by the Planning Commission last month (and submitted to the Council prior to the request being tabled), and therefore, Staff has not included all of the materials previously submitted for review.

Because the application has been submitted now as an interim use, the City's Interim Use standards need to be used to evaluate the request rather than the Conditional Use requirements. The primary difference between these two permits is the underlying rights that are granted by the permit. In the case of a Conditional Use Permit, the permit runs with the land and can only be terminated once the use is vacated for a period of at least one year or the operator violates one of the conditions of approval. An interim use must specify a certain event or date that will end the use, and there are no inherent rights that run with the land. Given these limitations, the proposed zoning amendments that were recently approved by the City provide a little more flexibility for extending an interim use permit over a longer period of time.

The 9.95 acre parcel under consideration is located along Hudson Boulevard and is guided for future sewered development in the Lake Elmo Comprehensive Plan. This property is unique in that it is one of just a few properties utilized for commercial purposes, but is in a holding district expected to be developed for sewered residential uses. The zoning district HD-GB-SRD (Holding District-General Business-Sewered Residential Development) specifically allows the continuation of uses allowed in the General Business zoning district, both permitted and conditional, including an open sales lot. With the proposed zoning changes to this district, the open sales lot would only be allowed as an interim use permit. The applicant is not proposing to make any external changes to the site.

Because the City Council has not already considered the Conditional Use Permit, the applicant will need to withdraw the CUP request in order to proceed with an Interim Use Permit. The deadline for action (if needed) on the CUP is November 19, 2010. The applicant has indicated that he will provide the City with a formal CUP withdrawal letter before the Council meeting.

STAFF REPORT: Although similar to the required findings for a Conditional Use Permit (which were considered as part of the analysis during the previous review of the applicant's site), an Interim Use Permit must meet the general standards listed below in order to be granted. Staff's comments regarding each of these standards are included as follows:

- 1) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations. *The proposed HD-GB-SRD holding district amendments would allow an open sales lot as an interim use.*
- 2) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community. *This finding has been previously made by the Planning Commission as part of its Conditional Use Permit review. The proposed use will operate in a manner very similar to the historic use of this site as a boat and marine dealership. The exterior storage of vehicles and equipment will have a very minimal affect on surrounding properties, and any unsightliness will be mitigated by appropriate landscaping, screening, and buffering.*
- 3) The use will not adversely impact implementation of the Comprehensive Plan. *There are no new buildings proposed as part of the interim use, and no other site changes other than the use of previous storage areas for outdoor display. The consignment sales business will not alter the site or surrounding area in any permanent manner beyond the current situation.*
- 4) The date or event that will terminate the use is identified with certainty. *Staff is suggesting that the termination date for the permit be set at five years from the date of approval or upon the sale or transfer of ownership in the property, whichever occurs first.*
- 5) The interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future. *As noted above, the Interim Use will not result in any permanent alterations (other than interior remodeling work) beyond the improvements that are currently located on the site. The goods being displayed for sale can be moved off the site once the interim use permit terminates. Interior building improvements can be performed without any special approval from the City through administrative approvals or standard building permits.*
- 6) The user agrees to all conditions that the City Council deems appropriate for permission of the use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the City to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit. *The proposed conditions of approval are included in the attached draft resolution of approval and are restated in the draft agreement. Staff is not recommending any financial guarantee because there are no permanent site alterations being proposed as part of the applicant's request.*
- 7) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel. *None have been found on this property.*

- 8) The term of the interim use shall be set by the City Council at the time of approval. *A consent agreement is attached for consideration by the City Council and could be executed by the Council at the time it decides on the Interim Use Permit. This agreement specifies a ten year term for the permit, which could be renewed prior to the expiration date.*

Based on the above findings, Staff recommended approval of the interim use permit.

Although it is unusual to be reviewing two applications for the same property at the same time, the City is currently in the midst of a transition concerning zoning in the various holding districts. The applicant certainly has the right to pursue their Conditional Use Permit and request a decision from the City Council on this application; however, the Council may not ultimately choose support approval of this permit given the land use and zoning district changes that have been proposed. The recently adopted zoning text amendments provide some additional flexibility for the City to consider interim uses over a longer period of time, while providing the current applicant, and future applicants, with some additional assurances regarding the amount of time and conditions under which they may operate.

PLANNING COMMISSION REPORT: The Planning Commission reviewed the proposed application and conducted a public hearing on the interim use application at its October 18, 2010 meeting. No one spoke at the public hearing, and the Commission generally found that the proposed open sales lot met the standards for an interim use. The Commission tabled taking action on the request; however, because the applicant asked to have additional time to review the proposed terms and conditions of the interim use. At its November 8, 2010 meeting, the Planning Commission completed its review of the interim use permit request, which included a revised interim use agreement deemed actable to the applicant. The Commission adopted a motion, which was unanimously approved, to recommend approval of the Interim Use Permit with the conditions as recommended by Staff.

RECOMMENDATION: Based upon the above background information, staff report, and Planning Commission recommendation, it is recommended that the City Council approve as part of tonight's *Consent Agenda* the Interim Use Permit request from Midwest Recreational Clearinghouse, LLC (Cranky Ape Powersport Auctions) to allow an open sales lot for the outdoor display of merchandise at 9200 Hudson Boulevard, with the conditions listed in draft Resolution No. 2010-055, and authorize the execution of a consent agreement for the interim use.

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

“Move to approve Resolution No. 2010-055 granting an Interim Use Permit for Midwest Recreational Clearinghouse, LLC (Cranky Ape Powersport Auctions) to establish an open

sales lot for the outdoor display of merchandise at 9200 Hudson Boulevard [as amended] and approving a consent agreement for the interim use [as amended]"

ATTACHMENTS:

1. Resolution No. 2010-055
2. Interim Use Consent Agreement
3. Applicant's Narrative on Business Operation
4. Proposed Site Plan

SUGGESTED ORDER OF BUSINESS (if removed from the CONSENT AGENDA):

- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

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

RESOLUTION NO. 2010-055

**A RESOLUTION GRANTING AN INTERIM USE PERMIT TO ALLOW AN OPEN
SALES LOT AT 9200 HUDSON BOULEVARD NORTH AND APPROVING A
CONSENT AGREEMENT FOR THE INTERIM USE**

WHEREAS, Midwest Recreational Clearinghouse, LLC, 6352 320th Street Way, Cannon Falls, MN, has requested an Interim Use Permit to establish an open sales lot use at 9200 Hudson Boulevard North, which will allow the sale of consignment recreation vehicle and motor sports equipment and display of such merchandise in a HD-GB-SRD zoning district.

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.019; and

WHEREAS, the Lake Elmo Planning Commission held a Public Hearing on October 18, 2010, and reviewed and recommended approval of the Interim Use Permit for an open sales lot; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated November 16, 2010; and

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 November 16, 2010 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 Interim Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.019.
- 2) That all the submission requirements of said Section 154.019 have been met by the Applicant.
- 3) That the proposed Interim Use Permit is to establish an open sales lot, which will allow the sale of consignment recreation vehicle and motor sports equipment and display of such merchandise in a HD-GB-SRD zoning district.
- 4) That the proposed use will be located on property legally described as: Part of the West Half of the East Half (W1/2 of E1/2) of the Southwest Quarter of the Southwest Quarter (SW1/4 of SW1/4) of Section Thirty-Four (34), Township Twenty-Nine (29) North, Range Twenty-One (21) West, Washington County,

Minnesota, containing 9.95 acres, more or less, subject to the right-of-way of U.S. Highway No. 12. More commonly known as 9200 Hudson Boulevard North.

- 5) That the use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations. *The HD-GB-SRD holding district allows an open sales lot as an interim use.*
- 6) That the use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community. *The proposed use will operate in a manner very similar to the historic use of this site as a boat and marine dealership. The exterior storage of vehicles and equipment will have a very minimal affect on surrounding properties, and any unsightliness will be mitigated by appropriate landscaping, screening and buffering.*
- 7) That the use will not adversely impact implementation of the Comprehensive Plan. *There are no new buildings proposed as part of the interim use, and no other site changes other than the use of previous storage areas for outdoor display. The consignment sales business will not alter the site or surrounding area in any permanent manner beyond the current situation.*
- 8) That the date or event that will terminate the use is identified with certainty. *The consent agreement establishes a termination date for the permit is set at ten years from the date of approval or upon the sale or transfer of ownership in the property, whichever occurs first.*
- 9) That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future. *The Interim Use will not result in any permanent alterations (other than interior remodeling work) beyond the improvements that are currently located on the site. The goods being displayed for sale can be moved off the site once the interim use permit terminates. Interior building improvements can be performed without any special approval from the City through administrative approvals or standard building permits.*
- 10) That there are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Lake Elmo City Council hereby approves an Interim Use Permit at 9200 Hudson Boulevard North to establish a open sales lot use 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) Additional landscaping must be added by the applicant to comply with the original landscaping plan approved for the property. A revised landscape plan shall be submitted for review and approval by the Planning Director. No parking or storage of vehicles shall be permitted within the rear portion of the property (north of any buildings on the site) until the landscaping has been installed per

the approved plan and be in compliance with the review provided by the City Forester.

- 3) All exposed soils and eroded areas on the site must be corrected and restored properly.
- 4) All silt fencing shall be removed from the site.
- 5) Applicant shall not engage in vehicle reduction or store vehicle parts on the exterior portions of the site.
- 6) Applicant shall follow the reasonable direction of the City relating to exterior vehicle storage and placement in order to minimize the visual impact on neighboring properties.
- 7) The applicant shall conduct its business and store vehicles in compliance with applicable local ordinances and state and federal law including regulations governing storage and disposal of hazardous wastes and vehicle fluids.
- 8) Lighting, signage, and general vehicle placement shall be as permitted by the approved site plan and shall comply with all applicable City Ordinances.
- 9) Any severely damaged or burned vehicles, vehicles with junk titles, or vehicles that would otherwise be defined as junk vehicles in accordance with the City Code (with the exception of unlicensed vehicles), shall only be stored or displayed in the area designated on the Site Plan for storage of such vehicles.

This resolution was adopted by the City Council of the City of Lake Elmo on the 16th day of November 2010, by a vote of ___ Ayes and ___ Nays.

Dean A. Johnston, Mayor

ATTEST:

Bruce Messlet, City Administrator

(SEAL)

INTERIM USE PERMIT AGREEMENT – DRAFT (V3)

1.0 Parties. This Interim Use Permit Agreement (“Agreement”) is entered into by and between the City of Lake Elmo, a Minnesota statutory (“City”); and Midwest Recreational Clearinghouse, LLC, a Minnesota limited liability corporation (“Applicant”).

2.0 Recitals.

A. Applicant is the record fee owner of the following described property situated in Lake Elmo, MN (“Property”):

Part of the West Half of the East Half (W1/2 of E1/2) of the Southwest Quarter of the Southwest Quarter (SW1/4 of SW1/4) of Section Thirty-Four (34), Township Twenty-Nine (29) North, Range Twenty-One (21) West, Washington County, Minnesota, containing 9.95 acres, more or less, subject to the right-of-way of U.S. Highway No. 12.

More commonly known as 9200 Hudson Boulevard North.

B. The Property is zoned HD-GB-SRD.

C. Interim uses are allowed in the HD-GB-SRD 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 as an open sales lot as illustrated on the Site Plan attached as Exhibit A (Site Plan):

- E. On the 14th day of October 2010, Applicant submitted a completed application for an Interim Use Permit.
- F. On the 18th day of October, 2010, 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 continued its discussion regarding this application until its November 8, 2010 meeting. The Planning Commission recommended approval of the interim open sales lot use subject to certain conditions.
- G. On the 16th day of November, 2010, the Lake Elmo City Council reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and the recommendations of the Lake Elmo Planning Commission, and agreed to authorize the interim use subject to the terms and conditions as specified in Section 154.019 of the Zoning Ordinance and Resolution 2010-055 approving the interim use permit.

3.0 Terms and Conditions. The Lake Elmo City Council and Applicant, for itself, and its successors and assigns, agree that the interim open sales lot use shall be subject to the following conditions:

- A. The Applicant, and its successors and assigns, shall have no entitlement to future re-approval of the Interim Use Permit.
- B. 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 in the absence of the Interim Use Permit.
- C. The interim use shall allow an open sales lot, which allows the display of goods for sale, rent, lease, or trade, where the goods are not enclosed within a building in accordance with the Site Plan.
- D. Additional landscaping must be added by the applicant to comply with the original landscaping plan approved for the property. A revised landscape plan shall be submitted for review and approval by the Planning Director. No parking or storage of vehicles shall be permitted within the rear portion of the property (north of any buildings on the site) until the landscaping has been installed per the approved plan and be in compliance with the review provided by the City Forester.
- E. All exposed soils and eroded areas on the site must be corrected and restored properly.
- F. All silt fencing shall be removed from the site.

- G. Applicant shall not engage in vehicle reduction or store vehicle parts on the exterior portions of the site.
- H. Applicant shall follow the reasonable direction of the City relating to exterior vehicle storage and placement in order to minimize the visual impact on neighboring properties.
- I. The applicant shall conduct its business and store vehicles in compliance with applicable local ordinances and state and federal law including regulations governing storage and disposal of hazardous wastes and vehicle fluids.
- J. Lighting, signage, and general vehicle placement shall be as permitted by the approved site plan and shall comply with all applicable City Ordinances.
- K. Any severely damaged or burned vehicles, vehicles with junk titles, or vehicles that would otherwise be defined as junk vehicles in accordance with the City Code (with the exception of unlicensed vehicles), shall only be stored or displayed in the area designated on the Site Plan for storage of such vehicles.
- L. The Interim Use Permit is valid until any one of the events listed below occurs:
 1. For ten (10) years from the date of the approval of the Interim Use Permit (November 16, 2010);
 2. Upon the sale of the property or a transfer of ownership (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 the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.

4.0 Renewal of Interim Use Permit. The interim use permit may be renewed by the Council upon the occurrence of either events listed in Section (I, 1) and (I, 2) above. With the exception of (I, 2), a renewal application shall be requested in accordance with Section 154.019 (J) of the City Code.

5.0 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.

6.0 Effective Date. This Consent Agreement/Interim Use Permit shall be effective upon execution by all parties.

Date: 11/3/10

CITY OF LAKE ELMO

By: _____
Dean Johnston
Mayor

**Midwest Recreational
Clearinghouse, LLC**

By: _____
Brian Livingston

Its: _____

Fee \$ _____

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
- I.U.P.
- PUD

APPLICANT: C. ANIKY APR (Name) 6352 320th ST WAY (Mailing Address) 50009 (Zip)

TELEPHONES: 651-735-3233 (Home) 507-263-6102 (Work) 651-208-1906 (Mobile) 507-263-1135 (Fax)

FEE OWNER: BRIAN LIVINGSTON (Name) 6740 CRACKLEBERRY TRAIL (Mailing Address) 55129 (Zip)

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

PROPERTY LOCATION (Address and Complete (Long) Legal Description):
9200 Hudson Blvd N. Part of the West Half of the East Half (W 1/2 of E 1/2) of the Southwest Quarter of the Southwest Quarter (SW 1/4 of SW 1/4) of Section 31, Township 29, North Range 2 West

DETAILED REASON FOR REQUEST: OUTDOOR DISPLAY OF BOATS & RV'S.

*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.

[Signature]
Signature of Applicant

10/13/2010
Date

[Signature]
Signature of Applicant

10/13/2010
Date

RECEIVED

NOV 15 2010

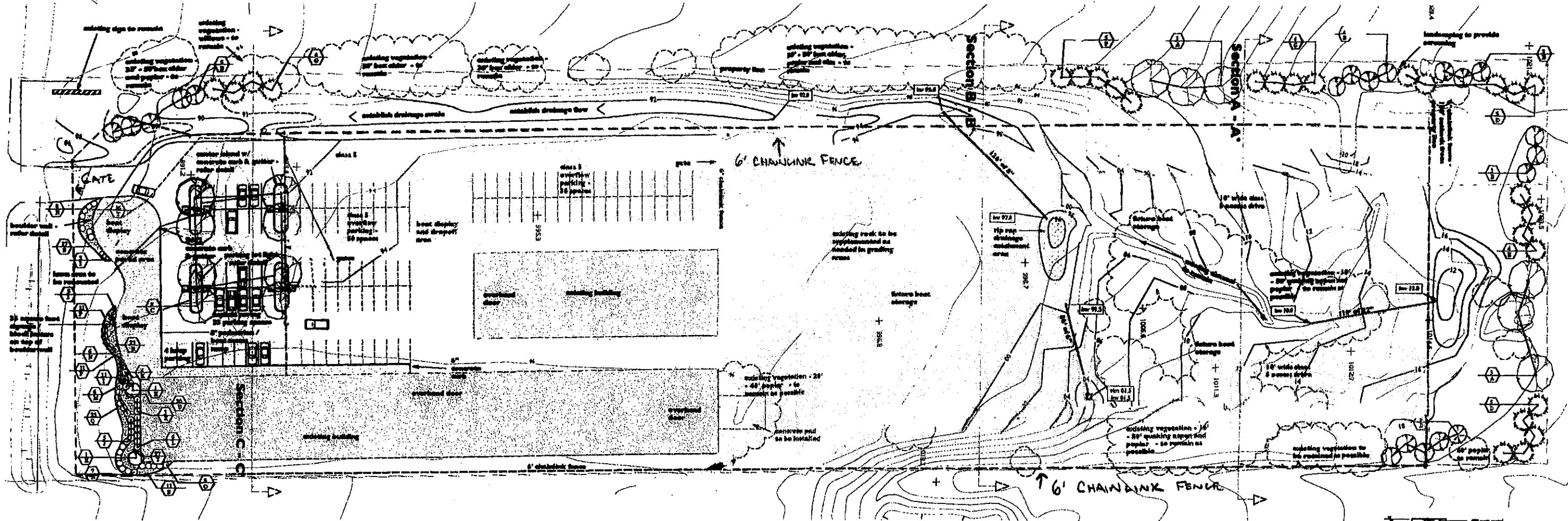
CITY OF LAKE ELMO

Midwest Recreational Clearinghouse (MRC) has been in business since 2001. The company has warehouses in Arizona, California, Indiana, Georgia, Florida, Minnesota, Nevada, Texas, and Wisconsin. MRC is a re-marketer of insurance repairable and bank-repossessed powersport/recreational equipment. The Crankyape.com website provides these items for purchase by the general public via an online electronic bidding system. Common inventory items found on the auction site include Motor Homes, automobiles, ATVs, snowmobiles, watercraft, and trailers.

The basic business process for MRC involves taking physical possession of an assigned unit and selling it on the CrankyApe.com auction site. The consigning company (typically a bank, insurance company, or registered dealer) will submit an assignment to MRC via telephone or over the internet on our vendor site. MRC will schedule to pick the unit up wherever it is located, and transport it back to our nearest warehouse. The unit is then prepped and displayed for auction/sale.

The auction unit will remain on the CrankyApe.com website for 5-10 days, with a specified date and time that the electronic auction closes. At the time of closing, the unit is deemed sold to the current high bidder. The high bidder then has 3 days to remit payment to MRC's Minnesota location and retrieve the auction unit from the MRC location it is being displayed at.

The available units are displayed at the physical locations and are available for viewing leading up to and during the actual auction.



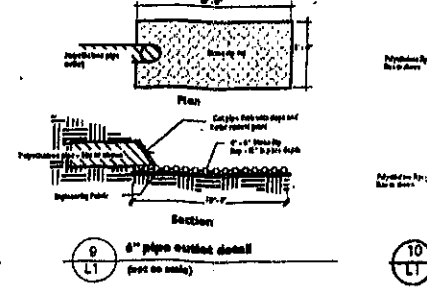
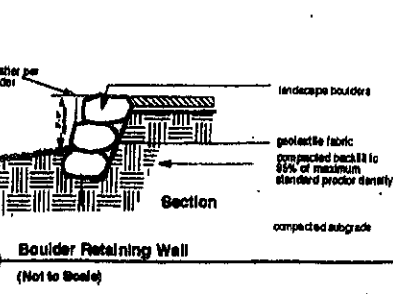
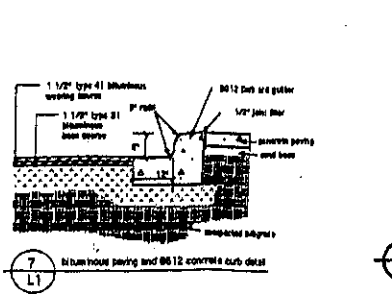
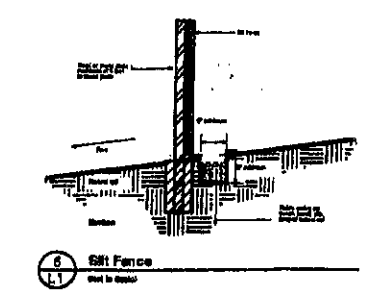
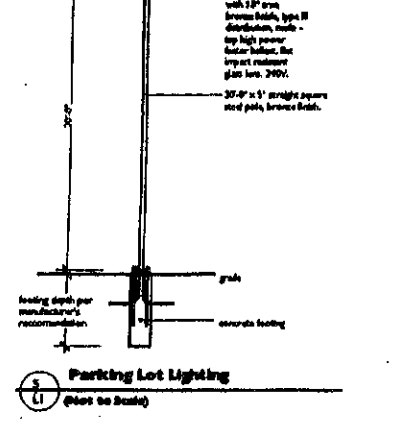
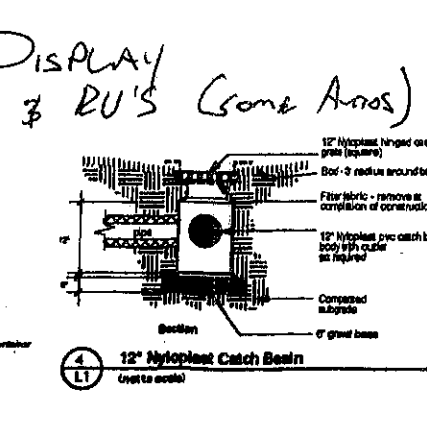
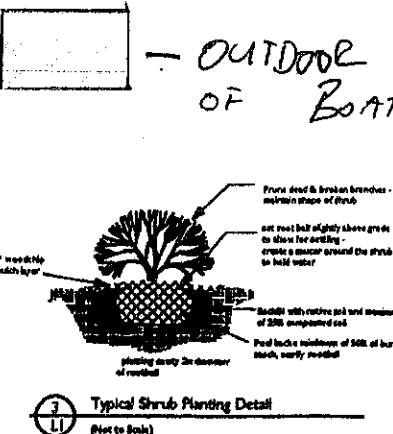
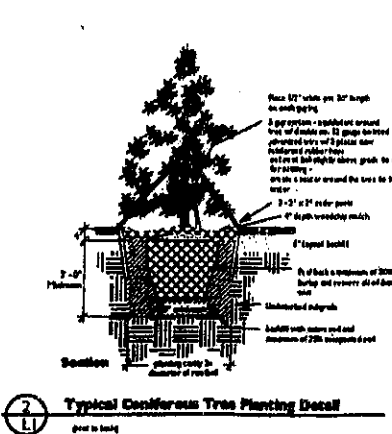
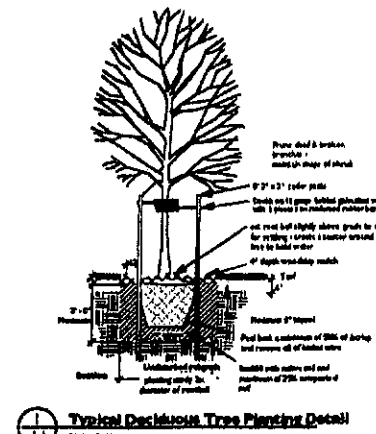
Plant Schedule

Key	Common Name	Latin Name	Size	Spacing	Plant	Qty
A	Red Maple	<i>Acer rubrum</i>	1.5'	varies	B & B	4
B	Quaking Aspen	<i>Populus tremuloides</i>	1.5'	varies	B & B	20
C	Marshall's Seedling As	<i>Fraxinus americana 'Marshall'</i>	2.5'	varies	B & B	6
D	Red Pine	<i>Pinus resinosa</i>	4'-6'	varies	B & B	10
E	White Pine	<i>Pinus strobus</i>	4'-6'	varies	B & B	4
F	Scotch Pine	<i>Pinus radiata</i>	4'-6'	varies	B & B	5
G	Black Hills Spruce	<i>Picea glauca densata</i>	4'-6'	varies	B & B	2
H	Regelia Dwarf Spruce	<i>Corpus albertiana</i>	3'	S.c.c.	cont.	2
I	Anthony Winter Spruce	<i>Spirea japonica</i>	3'	S.c.c.	cont.	19
J	Dwarf Bush-honeysuckle	<i>Diervilla lonicera</i>	3'	S.c.c.	cont.	5
K	Glossy Blush Cherokeeberry	<i>Aronia melanocarpa</i>	3'	S.c.c.	cont.	7
L	Compact American Cranberrybush	<i>Viburnum trilobum 'Baby'</i>	3'	S.c.c.	cont.	6
M	Summit Juniper	<i>Juniperus sibirica 'Arctic'</i>	3'	S.c.c.	cont.	4
N	Arctic Juniper	<i>Juniperus sibirica 'Arctic'</i>	3'	S.c.c.	cont.	21
O	Sea Juniper	<i>Juniperus sibirica 'Arctic'</i>	3'	S.c.c.	cont.	5
P	Creeching Emerald Pines	<i>Pinus subulata</i>	4"	I.s.c.	pot	11
Q	Bank Eyed Screen	<i>Hydrangea litoralis</i>	3'	S.c.c.	cont.	25
R	Lavender Ceanothus	<i>Ceanothus leucanthus</i>	3'	S.c.c.	cont.	23
S	Stella Du Oro Daylily	<i>Helianthus 'Stella du Oro'</i>	3'	S.c.c.	cont.	28
T	Augusta Jay Stone Crop Sedum	<i>Sedum 'Augusta Jay'</i>	3'	S.c.c.	cont.	43
U	Summer Pansies Yarrow	<i>Achillea 'Summer Pansies'</i>	3'	S.c.c.	cont.	20

General Notes:

- This is a preliminary site and landscape plan for review purposes.
- Erosion control measures will be established prior to construction.
- The contractor shall be responsible to review the site. The contractor shall establish the removals and vegetation clearing and grubbing that is required to construct the plan.
- Soil conditions on site may vary - the contractor is responsible to establish that proper subgrade compaction has been achieved prior to installation of class 5, bituminous paving, concrete curb and gutter and concrete paving.
- The chain link fence and gate materials and installation details shall be established by the owner.
- All non-paved areas will be seeded with an approved MnDot bluegrass / ryegrass / fescue mix.

NOT FOR CONSTRUCTION

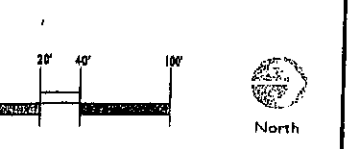


Preliminary Site & Landscape Plan

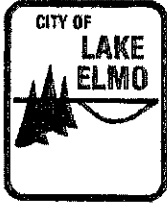
3474 LAKE ELMO AVENUE NORTH
P.O. BOX 187 LAKE ELMO MN. 55042
Phone 851-777-7054
Fax 851-777-5931
e-mail design@whehl.com

I hereby certify that these plans were prepared by me, or under my direct supervision, and that I am a duly registered Landscape Architect in the State of Minnesota.

Paul W. Miller, Landscape Architect
State of Minnesota Reg. No. 20920



SHEET
LI



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
REGULAR
ITEM #: 9
MOTION Resolution 2010-047

AGENDA ITEM: Consideration of a Conditional Use Permit application to allow an open sales lot for Cranky Ape at 9200 Hudson Boulevard

SUBMITTED BY: Lake Elmo Planning Commission

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to review a request from the Cranky Ape Company to allow the outdoor display of merchandise for public viewing at 9200 Hudson Boulevard. The applicants intend to make this site the headquarters for the online auction company. The site would allow potential buyers to view recreational vehicles before they place their online bids, as well as to pick up the merchandise after it is won. The products are reclaimed items such as motor homes, boats, ATV's and RVs that are received from entities such as banks or insurance companies and then prepped for sale.

Of Note: *Should the City Council approve previous Agenda Item #8 and the Applicant agrees to the Interim Use Permit and its associated terms and conditions, the Applicant may elect to withdraw this application. As such, the Applicant should be asked at the start of consideration of this item regarding their intent to proceed with or withdraw this CUP Application.*

Should the Applicant wish to proceed with the CUP Application; below are the options for consideration by the City Council:

1. Approve the CUP, as requested, with the conditions outlined in the attached staff report. (initially recommended by the Planning Commission and Planning Staff but tabled by the City Council for consideration of alternative Interim Use Permit);
2. Deny the CUP (staff has provided findings of facts for a denial in the resolution of denial, should the Council choose to do so);

BACKGROUND INFORMATION: The 9.95 acre parcel is located along Hudson Boulevard and is guided for future sewered development in the Lake Elmo Comprehensive Plan. This property is unique in that it is one of just a few properties utilized for commercial purposes, but is in a holding district expected to be developed for sewered residences. The zoning district HD-GB-SRD (Holding District-General Business-Sewered Residential Development) allows the

properties to continue the uses allowed in the General Business zoning district – both permitted and now permitted by interim use – including an open sales lot. The holding districts were created to be responsive to the Comprehensive Plan. At the time the holding districts were created, there was an interest in allowing property owners to continue to use their property. However, property ownership has changed (formerly Link Recreational) and any previous CUP, if ever even issued, has lapsed.

The ordinance establishing Interim Use Permits in the City was approved in December of 2007, six months after the holding districts were approved and specific application of Interim Use Permits within this holding district were approved by the City in October 2010.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission initially held a public hearing on this request on August 23rd and had recommended approval of the proposed CUP. The Planning Commission reconsidered an Interim Use Application at its October and early November meetings and now recommends approval of an Interim Use Permit and related Agreement.

STAFF REPORT: The following is from the city code regarding conditional use permits:

Conditional use permits may be granted or denied in any district by action of the governing body according to the standards for that district in granting a conditional use permit, the governing body shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals, convenience, and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions including parking facilities on adjacent streets and land, the effect on utility and school capacities, the effect on property values of property in the surrounding area, and the effect of the proposed use on the Comprehensive Plan. If it determines that the proposed use will not be detrimental to the health, safety, convenience, morals, or general welfare of the community nor will cause serious traffic congestion, nor hazards, nor will seriously depreciate surrounding property values, and that the use is in harmony with the general purpose and intent of this chapter and the Comprehensive Plan, the Council may grant the permits.

City Planning Department Staff recommended approval of the proposed CUP in September, 2010. The City Administrator disagreed with this recommendation, based upon past City Council conversation regarding planned activities and decisions to develop the I-94 Corridor, as well as a general desire to utilize Interim Use Permits on a larger basis where requested uses are ultimately inconsistent and/or incompatible with the Comprehensive Plan. As such, the City Administrator recommended consideration of denial of the CUP application and encouragement of a re-application for an Interim Use Permit (as well as a waiver of new application fee).

RECOMMENDATION: The following options are available for the City Council to consider:

“Move to approve Resolution 2010 – 047 A approving the Conditional Use Permit for 9200 Hudson Boulevard.”

“Move to approve Resolution 2010 – 047 B denying the Conditional Use Permit for 9200 Hudson Boulevard.”

ATTACHMENTS:

1. Staff Report
2. Resolution 2010 – 047 A (Approval)
3. Resolution 2010 – 047 B (Denial)
4. Location Map
5. Applicant’s Submittals

SUGGESTED ORDER OF BUSINESS:

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

City of Lake Elmo Planning Department
Conditional Use Permit Request

To: City Council

From: Kelli Matzek, City Planner

Meeting Date: 9/21/10

Applicant: Cranky Ape; Brian Livingston

Owner: Midwest Recreational Clearinghouse (MRC)

Location: 9200 Hudson Boulevard

Zoning: HD-GB-SRD

Introductory Information

***Application
Summary:***

The City of Lake Elmo has received a request from the company Cranky Ape to allow the outdoor display of boats and recreational vehicles at 9200 Hudson Boulevard. The company advertises primarily through an online auction website. The conditional use permit application is for an open sales lot.

***Property
/Historic
Information:***

The 9.95 acre site currently has two buildings which were constructed in the 1970's. A Special Use Permit from the 1970's allowed gravel mining in the rear portion of the site which is no longer in operation. In 2004, the City Council approved a Conditional Use Permit and Section 520 Site Plan to convert the site and structures to a Family Entertainment Center. That project was abandoned and the Link Recreational dealership then moved in to the buildings. Link Recreational has since ceased operation at the site.

The site contains the aforementioned structures (separated by 60 feet) in the southeast one-quarter (closest to Hudson Blvd.). The north one half of the site (the portion that was previously "mined") is currently vacant.

The 9.95 acre parcel is located along Hudson Boulevard and is guided for future sewer development in the Lake Elmo Comprehensive Plan. The zoning district HD-GB-SRD (Holding District-General Business-Sewered Residential Development) limits the ability of the property to subdivide at less than 20 acres (not applicable for this site due to land area), but also specifically allows the properties to continue the uses allowed in the General Business zoning district – both permitted and conditionally permitted.

The applicants are not proposing any physical improvements to the site other than landscaping. Some internal remodeling may occur to utilize the buildings, which is administratively permitted.

No plans have been presented for external improvements to either of the existing buildings on the site.

The applicant has stated their intent to use the smaller building as an area to prep (clean and fix up) the merchandise before sale. The products are items that are then bought from entities such as banks or insurance companies. The larger building is proposed for an internal display, which is outright allowed by code and would not require any special permits from the city. The company does not fix or service the recreational vehicles they sell.

The outdoor display of merchandise requires a CUP as an open sales lot in the GB zoning district.

The City currently holds a grading escrow in conjunction with a grading permit application that was submitted by the previous owners – Link Recreational. The City believes that the grading was never completed, but is not required for the site to be utilized. The applicant's are proposing to leave the area graded as-is. If additional outdoor display area is requested in the future, a CUP amendment will be required in addition to a grading permit.

**Applicable
Codes:**

Section 154.054 HD-GB-SRD (Holding District – General Business – Sewered Residential Development)

Identifies the property as being guided for a future sewered use in the Comprehensive Plan.

(C) *Permitted uses.* Permitted uses and the general requirements of such in the HD-GB-SRD Zoning District shall be the same as in the General Business (GB) Zoning District.

Section 154.051 GB (General Business)

(A. 5) *Uses allowed by conditional use permit*

Open Sales Lot

(6) *General requirements.*

(a) All storage, services, repair or processing shall be conducted wholly within an enclosed building or behind opaque fence or wall not less than 6 feet high, except the outdoor display of merchandise;

(c) Where a proposed GB development abuts on RR, R-1, R-2, R-3, R-4, or RE district other than at a public street line, buffer provision shall be established. There shall be provided a protective strip of not less than 35 feet in width. The protective strip shall not be used for parking, off- street loading or storage and shall be landscaped. The protective strip must be approved by the Council as being in

harmony with the residential neighborhood and providing sufficient screening of the commercial area;

Section 154.018 Conditional Use Permits.

(A) Granting/Denial. Outlines the general requirements for all conditionally permitted uses in Lake Elmo.

Section 154.095 Off-Street Parking.

Contains the City's requirements for the general provisions and design and maintenance of off-street parking areas. The section of code includes landscaping, lighting, setbacks, size, signage, and various other requirements.

Findings & General Site Overview

Site Data: Lot Size: 9.95 acres
Existing Use: Vacant Commercial Buildings (2)
Existing Zoning: HD-GB-SRD – Holding District – General Business – Sewered Residential Development

Application Review:

CUP Review: The applicant is requesting approval a conditional use permit to allow an open sales lot. The outdoor display of merchandise will include recreational vehicles such as motor homes, automobiles, ATVs, and snowmobiles. The area identified on the applicant's map is the proposed location of the outdoor display. Although a majority of the outside display is located behind a second fence, the applicants intend to allow the public to view the merchandise during normal business hours in that location. Because of this distinction, staff would interpret this to be an outdoor display rather than storage.

Landscaping/Buffer
The city code requires that a 35-foot buffer be established between certain uses on this property and any adjacent property zoned RR. The properties to the north and west of this site are zoned HD-RR-SRD and would therefore qualify for this additional requirement.

In 2005, Link Recreational submitted a landscaping plan which was reviewed and approved for a similar commercial use on this site. The city code requires a "sufficient screening" of the commercial use to adjacent residential properties. The landscaping plan provided in 2005 was either not finished or the landscape material

has died off on the north and northwest side of the property. Staff is recommending the landscaping be updated to conform with the previously approved landscape plan and in response to the City Forester's review (see attachment #7).

Lighting

No changes are being proposed.

Signage

The applicants will be required to meet the sign regulations set forth in city code.

Grading

Staff found that an escrow is still being retained by the city from the previous owner. The escrow was collected in 2005 when a grading permit application was submitted to the city for this site. The city engineer visited the site and provided additional conditions of approval (see attachment #7).

**Conditional
Use Permit
Criteria:**

Reviewing this request requires that all general CUP criteria be examined. For these types of applications, the burden is on the City to show why the use should not be permitted due to impacts that cannot be controlled by reasonable conditions.

1. Effects on the health, safety, morals, convenience, or general welfare of surrounding lands.

This property is currently zoned HD-GB-SRD and has been utilized for commercial purposes (including mining) over three decades. The property directly to the east is also utilized for commercial purposes and the Eagle Point Business Park is approximately 650 feet to the west of this site. The location of the property adjacent to the high volume traffic of I-94 (and Hudson Boulevard) make this a reasonable use of this property.

The properties to the north and west are used for agricultural purposes or a combination of rural and rural type businesses. The applicants are agreeable to providing screening and the required 35 foot buffer needed to physically separate their commercial use from any future residential uses to the North and West.

The property directly to the east is currently used for commercial and has been since at least 1963. This use is permitted and is allowed to continue in perpetuity until either the property owner sells/develops the property for residential (as it is guided) or if the city decides to use eminent domain to purchase the property from the property owner.

Allowing the use proposed by the Cranky Ape company (which is similar to the previous use as boat display and storage) would not negatively affect the health, safety, morals, convenience, or general welfare of the surrounding properties due to the similarity of uses and the proposed buffering/landscaping.

Staff finds that this criterion is met.

2. Traffic & Parking conditions.

The location of this property in proximity to Interstate 94 and the city's original intent of allowing commercial uses on this property allow for the reasonable accommodation of future traffic that could be expected with this type of commercial use.

The 9.95 acre site has ample room for additional parking if it is needed. As it currently stands, there are 86 parking spaces identified as "overflow parking." Because the company focuses on online sales, the amount of traffic expected to the site is less than that of a traditional sales lot.

Staff finds that this criterion is met.

3. Effects on utility and school capacities.

The proposed use for the site would not generate a demand on utilities beyond that expected by the city for a typical commercial property.

No additional school age children will be added to the city through this site to create any further demand on school capacities.

Staff finds this criterion is met.

4. Effect on property values of surrounding lands.

Staff is proposing a condition of approval requiring the applicants comply with the comments made by the City Forester in response to her review of the landscape plan.

Staff finds this criterion is satisfied.

5. Effect of the proposed use on the Comprehensive Plan.

This property is unique in that it is one of just a few properties in a zoning district designed specifically for properties expected to be developed for sewerred residences.

Although this property is guided for residential development in the future, the city made the determination in the creation of the holding district that the uses identified in the previous zoning district (in this case GB) should continue to be allowed – both permitted and conditionally permitted. The holding districts were created to be responsive to the Comprehensive Plan.

For this reason, staff finds this criterion is satisfied.

Conditional Use Permit Conclusions: Based on the above analysis of the review criteria in City Code, staff recommends approval of the CUP request by Cranky Ape to display merchandise outdoors at 9200 Hudson Boulevard.

Resident Concerns: City staff is not aware of any resident concerns regarding this application.

Additional Information: The following text was included in the staff report for the City Council on June 19, 2007 regarding the creation of the holding districts (including for this parcel).

- The goal of each district is to ensure that properties do not subdivide in a manner inconsistent with plans for future development. Met Council would not be supportive of any parcel creation less than twenty (20) acres in size. The main (and generally only) impact of the rezoning will be this limitation on development.
- Establishing the proposed holding districts will provide the city with time necessary (at a minimum one year) to craft the final zoning regulations governing development in the Village and I-94 corridor.
- A majority of the feedback received during the public informational meeting and at the public hearing centered on concerns about currently guided land uses (i.e. commercial instead of residential) and timing for development. No negative feedback was received regarding the proposed holding districts. Staff explained that neither issue is currently relevant to the proposed rezoning of property into holding districts, but that all feedback would be forwarded to the City Council for your consideration.

Conclusion:

The City of Lake Elmo has received a request from the company Cranky Ape to allow the outdoor display of boats and recreational vehicles at 9200 Hudson Boulevard. The company advertises primarily through an online auction website.

Commission Rec: The Planning Commission reviewed the application and held a public hearing at the September 13th, 2010 regular meeting. No one spoke during the public hearing portion of the meeting. The commission recommended approval of the request by majority with the conditions provided by staff. Those dissenting were concerned about the longevity of the commercial use as a conditional use permit runs with the land and this area is guided for future sewerred residences.

Council Options: The City Council has the following options:
A) Approve the conditional use permit request;

B) Deny the conditional use permit request.

C) Table the application and request additional information.

The 60-day review has expired as of September 20th. Staff sent a 60-day extension letter which extends the review date to November 19, 2010.

Staff Rec: Staff is recommending approval of the conditional use permit request for an open sales lot at 9200 Hudson Boulevard based on the reasons stated above with the following condition:

1. Additional landscaping must be added by the applicant to comply with the original landscaping plan approved for the property. A revised landscape plan shall be submitted for review and approval by the Planning Director. No parking or storage of vehicles shall be permitted within the rear portion of the property (north of any buildings on the site) until the landscaping has been installed per the approved plan and be in compliance with the review provided by the City Forester.

**Denial
Motion**

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

Template:

Move to deny the CUP request by the company Cranky Ape for an outdoor sales lot...(please site reasons for the recommendation)

**Approval
Motion**

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

Template:

Move to approve the CUP request by the Cranky Ape company based on the findings provided in the staff report...(or cite your own)
...with the condition outlined in the staff report.

cc: Brian Livingston, Cranky Ape

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

Resolution No. 2010-047

**A RESOLUTION APPROVING THE CONDITIONAL USE PERMIT AMENDMENT
TO ALLOW OUTDOOR SALES LOT AT 9200 HUDSON BOULEVARD**

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

WHEREAS, Brian Livingston on behalf of Cranky Ape (the “Applicant”), 9200 Hudson Boulevard, has submitted an application to the City of Lake Elmo (the “City”) for a Conditional Use Permit to allow the outdoor display of recreational vehicles;

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 23, 2010; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated September 21, 2010; and

WHEREAS, the City Council considered said matter at its September 21, 2010, meeting, tabled action at that time, and re-scheduled consideration for November 16th, 2010.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council, acting as the Board of Adjustment, makes the following findings:

FINDINGS

- 1) That the procedures for obtaining said Conditional Use Permit and are found in the Lake Elmo Zoning Ordinance, Section 154.018.
- 2) That all the submission requirements of said Section 154.018 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit is for an open sales lot to allow the outdoor display of recreational vehicles at 9200 Hudson Boulevard.
- 4) That the Conditional Use Permit meets the review criteria for Conditional Use Permits (Section 154.018).
 - a. *Effects on the health, safety, morals, convenience, or general welfare of surrounding lands* - The proposed use would not negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands. The

proposed outdoor display by Cranky Ape is generally consistent with the previous use of the site by the Link Recreational Company which did not create the undue negative effects listed previously. The property directly to the east is currently used for commercial purposes. The city code requires a physical buffer from the adjacent residentially zoned properties to assist in creating a more harmonious transition between commercial and residential uses.

- b. *Traffic and Parking Conditions* - The site is located along Hudson Boulevard, a frontage road for Interstate 94. The 9.95 acre site has ample room for additional off-street parking, if needed. Currently, 86 overflow parking spaces were identified by the applicants. Because the company focuses on online sales, the amount of traffic expected to the site is less than that of a traditional sales lot.
- c. *Effects on utility and school capacities* - The proposed use would not generate a demand on utilities beyond that expected by the city for a typical commercial property. No additional school aged children will be added to the city at this site to create any further demand on school capacities.
- d. *Effect on property values of surrounding lands* - Because of the 35 foot buffer required and additional landscaping requirements added as a condition of approval, the effect on adjacent property values would be minimal if not non-existent. The properties to the east are used for commercial businesses which would not be impacted by the granting of the CUP requested by Cranky Ape.
- e. *Effect of the proposed use on the Comprehensive Plan* - Until 2007, the property was zoned GB - General Business which allows commercial type uses both outright and by conditional use permit. In 2007, the property was rezoned to HD-GB-SRD, which was a holding district crafted in response to the Comprehensive Plan. At the time of Application, the holding district allows the uses both permitted and conditionally permitted in the GB district.

With the following conditions:

- 1) Additional landscaping must be added by the applicant to comply with the original landscaping plan approved for the property. A revised landscape plan shall be submitted for review and approval by the Planning Director. No parking or storage of vehicles shall be permitted within the rear portion of the property (north of any buildings on the site) until the landscaping has been installed per the approved plan and be in compliance with the review provided by the City Forester.

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Conditional Use Permit is granted.

Passed and duly adopted this 16th day of November 2010 by the City Council of the City of Lake Elmo, Minnesota.

ATTEST:

Dean A. Johnston, Mayor

Bruce A. Messelt, Administrator

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

Resolution No. 2010-047

**A RESOLUTION DENYING THE CONDITIONAL USE PERMIT AMENDMENT TO
ALLOW AN OUTDOOR SALES LOT AT 9200 HUDSON BOULEVARD**

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

WHEREAS, Brian Livingston on behalf of Cranky Ape (the “Applicant”), 9200 Hudson Boulevard, has submitted an application to the City of Lake Elmo (the “City”) for a Conditional Use Permit to allow the outdoor display of recreational vehicles;

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 23, 2010; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated September 21, 2010; and

WHEREAS, the City Council considered said matter at its September 21, 2010, meeting, tabled action at that time, and re-scheduled consideration for November 16th, 2010.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council, acting as the Board of Adjustment, makes the following findings:

FINDINGS

- 1) That the procedures for obtaining said Conditional Use Permit and are found in the Lake Elmo Zoning Ordinance, Section 154.018.
- 2) That all the submission requirements of said Section 154.018 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit is for an open sales lot to allow the outdoor display of recreational vehicles at 9200 Hudson Boulevard.
- 4) That the Conditional Use Permit **does not** meet the review criteria for Conditional Use Permits (Section 154.018).
 - a. *Effects on the health, safety, morals, convenience, or general welfare of surrounding lands* - The proposed use would negatively affect the health, safety, morals, convenience, or general welfare of surrounding lands. The activities

proposed by Cranky Ape represents a larger and expanded activity on the site than previously present or allowed, by further allowing an open sales lot and outdoor display of recreational vehicles. The property directly to the east is currently used for commercial purposes. The city code requires a physical buffer from the adjacent residentially zoned properties to assist in creating a more harmonious transition between commercial and residential uses.

- b. *Traffic and Parking Conditions* - The site is located along Hudson Boulevard, a frontage road for Interstate 94. The 9.95 acre site has ample room for additional off-street parking, if needed. Currently, 86 overflow parking spaces were identified by the applicants. Because the company focuses on online sales, the amount of traffic expected to the site is less than that of a traditional sales lot.
- c. *Effects on utility and school capacities* - The proposed use would not generate a demand on utilities beyond that expected by the city for a typical commercial property. No additional school aged children will be added to the city at this site to create any further demand on school capacities.
- d. *Effect on property values of surrounding lands* – Because of the 35 foot buffer required and additional landscaping requirements added as a condition of approval, the effect on adjacent property values would be minimal if not non-existent. The properties to the east are used for commercial businesses which would not be impacted by the granting of the CUP requested by Cranky Ape.
- e. *Effect of the proposed use on the Comprehensive Plan* – The Conditional Use Permit requested is for an outdoor sales lot, which would be ancillary to a commercial use of the property. This property is guided for future sewer residential uses in the 2030 Lake Elmo Comprehensive Plan. Permitting this conditional use allows a commercial use of the property in perpetuity, wherein residential development is identified as the future use.

CONCLUSIONS AND DECISION

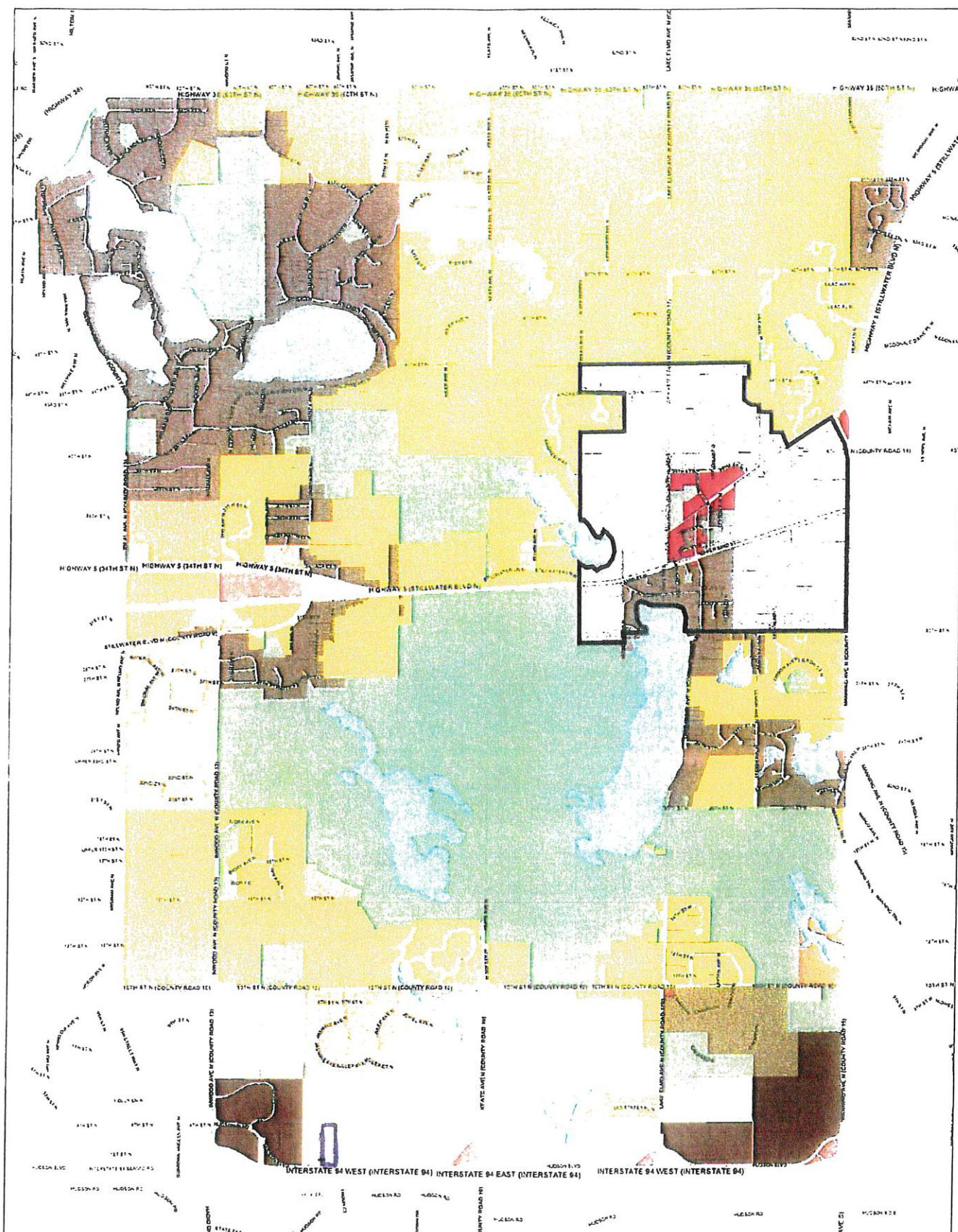
Based on the foregoing, the Applicants' application for a Conditional Use Permit is denied.

Passed and duly adopted this 16th day of November 2010 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Bruce A. Messelt, City Administrator



FUTURE LAND USE

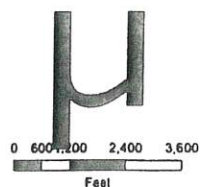
Lake Elmo Comprehensive Plan 2005 - 2030

Limitation of Liability

This document is not a legally recorded map or survey and is not intended to be used as one. This map is a compilation of records and information from various state, county, and city offices, and other sources.

Map Date: January 31, 2006

Created By: **TKDA**
ENGINEERS ARCHITECTS PLANNERS



Land Use

 C	 RED
 BP - 40 Employees/Acre	 NC
 PF	 ROW
 RAD - 0.45 DU/Acre	 WAT
 RAD - 2 DU/Acre	 VR
 URD - Cimarron	
 SRD - 3.5 DU/Acre	
 LB Future sewer - 40 Employees/Acre	
 LB Non-sewer	

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

APPLICANT: CRANKY ADE 6352 320TH ST WAY, CANNON FALL, MN 55009
 (Name) (Mailing Address) (Zip)

TELEPHONES: 651-735-3233 507-263-6102 651-208-1906 507-263-1135
 (Home) (Work) (Mobile) (Fax)

FEE OWNER: BRIAN LIVINGSTON 6740 CRACKLE BERRY TRAIL, WOODBURY 5529
 (Name) (Mailing Address) (Zip)

TELEPHONES: 651-735-3233 507-263-6102 651-208-1906 507-263-1135
 (Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description): 9200 HUDSON BLVD N.
LAKE ELMO, MN 55042. PART OF THE W1/2 - E1/2 - SW1/4 - SW1/4 OF
SECTION 34, TOWNSHIP 29 NORTH, RANGE 21 WEST, CITY OF LAKE ELMO,
WASHINGTON COUNTY, MINNESOTA

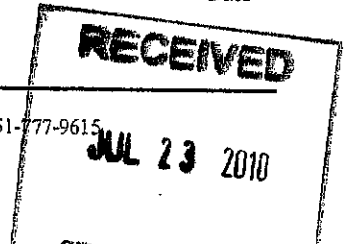
DETAILED REASON FOR REQUEST: OUTDOOR STORAGE & DISPLAY OF BOATS &
RECREATIONAL VEHICLES.

*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.

[Signature] 7/22/2010
 Signature of Applicant Date

[Signature] 7/22/10
 Signature of Applicant Date



blivingstn@crankype.com



Midwest Recreational Clearinghouse

Business Activity Narration



Midwest Recreational Clearinghouse (MRC) has been in business since 2001. The company has warehouses in Arizona, California, Indiana, Georgia, Florida, Minnesota, Nevada, Texas, and Wisconsin. MRC is a re-marketer of insurance repairable and bank-repossessed powersport/recreational equipment. The Crankyape.com website provides these items for purchase by the general public via an online electronic bidding system. Common inventory items found on the auction site include Motor Homes, automobiles, ATVs, snowmobiles, watercraft, and trailers.

The basic business process for MRC involves taking physical possession of an assigned unit and selling it on the CrankyApe.com auction site. The consigning company (typically a bank, insurance company, or registered dealer) will submit an assignment to MRC via telephone or over the internet on our vendor site. MRC will schedule to pick the unit up wherever it is located, and transport it back to our nearest warehouse. The unit is then prepped and displayed for auction/sale.

The auction unit will remain on the CrankyApe.com website for 5-10 days, with a specified date and time that the electronic auction closes. At the time of closing, the unit is deemed sold to the current high bidder. The high bidder then has 3 days to remit payment to MRC's Minnesota location and retrieve the auction unit from the MRC location it is being displayed at.

The available units are displayed at the physical locations and are available for viewing leading up to and during the actual auction.

Kelli Matzek

From: Brian Livingston [bliivingston@crankyape.com]
Sent: Tuesday, August 10, 2010 3:45 PM
To: Kelli Matzek
Subject: Visitors & drop off's
Attachments: image001.jpg

Hi Kelli-

It was great meeting you today. We are guessing we get approximately 20-25 visitors per day with 8-10 units arriving daily.

Hopefully that is what you were looking for. I'll take some pictures of our Cannon Falls, MN facility and send them your way.

Thanks

Brian Livingston

Midwest Recreational Clearinghouse, LLC

6352 320Th St Way

Cannon Falls, MN 55009

507-263-6102 office

507-263-9434 fax

651-208-1906 cell

[cid:image003.jpg@01CAA01B.06450C30](#)

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MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
REGULAR
ITEM #: 10 REVISED
MOTION

AGENDA ITEM: Lake Elmo Fire Department Personnel Actions

SUBMITTED BY: Fire Chief Greg Malmquist

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

REVIEWED BY: Tom Bouthilet, Business/Finance Manager

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to receive a brief update and presentation from Fire Chief Malmquist on recent personnel activities, including recent retirements, conditional job offers, and promotions. Following a few comments on each specific topic, Council action is respectfully requested, as denoted below.

BACKGROUND INFORMATION: The City Council has the ultimate authority to approve the recommended personnel changes. Recent changes in personnel at the Lake Elmo Fire Department have occurred, including recent retirements, successful recruitment of four new firefighters, and selection of persons to be recommended to fill vacant officer positions. Tonight's actions are intended to facilitate Council action on all three of these personnel actions.

City policies have been followed in processing recent retirements, including exit interviews, recruitment of new firefighters, and selection of recommended new officers. Of note: The City Administrator participated in the interview and selection process of recommended new officers and Chief Malmquist recused himself participation in the selection process for Captains, due to a potentially apparent or perceived conflict of interest.

STAFF REPORT: The following three personnel actions are forwarded for Council Consideration at tonight's meeting:

A. Firefighter Retirements - The City Council is respectfully requested to accept the following retirements from the Lake Elmo Fire Department:

- Captain Mike Tremain, effective 9-11-2010, over 11 years of service
- District Chief Doug Pepin, effective 9-17-2010, 19 years of service
- Firefighter Jim Sachs, effective 10-31-10, over 30 years of service

B. New Employment Offers - The City Council is respectfully requested to make conditional job offers as Probationary Firefighters to the following individuals, contingent on their passing physicals and psychological screening. All have met initial employment requirements (background check, attended three meetings, ability test and interview process). Upon successful completion of physicals and psychological screening, they shall be placed on probation status with the fire department.

- Mr. Jon Early - Probationary Firefighter
- Mr. Chris Pasiuk- Probationary Firefighter
- Mr. Pete Ziemer- Probationary Firefighter
- Mr. Larry Cornell- Probationary Firefighter

C. Officer Promotions - The City Council is respectfully requested to promote the following Firefighters. All applicants have met the requirements of the position and have been through the interview process. Interviews for District Chief were conducted by City Administrator Messelt, Chief Malmquist and District Chief Winkels. Interviews for the Captains positions were conducted by City Administrator Messelt, District Chief Winkels and Captain-designee Rutkowski. The following promotions are recommended:

- Captain Steve Rutkowski to Station #2 District Chief
- Firefighter Lee Olson to Station #2 Captain
- Firefighter Noah Malmquist to Station #2 Captain

RECOMMENDATION: Based upon the staff report and actions taken, it is respectfully recommended that the City Council undertake the recommended personnel actions by considering the following motions:

A - "Move to accept the retirements of Lake Elmo Fire Department Captain Mike Tremain, District Chief Doug Pepin, and Firefighter Jim Sachs and direct the City to appropriately thank and recognize these individuals for their service."

B - "Move to approve conditional job offers to Mr. Jon Early, Mr. Chris Pasiuk, Mr. Pete Ziemer and Mr. Larry Cornell as Probationary Firefighters, contingent on their passing of physicals and psychological screening."

C - "Move to approve the promotions of Captain Steve Rutkowski to Station #2 District Chief, Firefighter Lee Olson to Station #2 Captain, and Firefighter Noah Malmquist to Station #2 Captain."

Alternatively, the City Council may elect to not take action on the above personnel matters or may elect to modify or change the recommended actions, as appropriate and consistent with City policies and applicable state and federal laws.

ATTACHMENTS: None

SUGGESTED ORDER OF BUSINESS:

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



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
REGULAR
ITEM #: 10
MOTION

AGENDA ITEM: Lake Elmo Fire Department Personnel Actions

SUBMITTED BY: Fire Chief Greg Malmquist

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

REVIEWED BY: Tom Bouthilet, Business/Finance Manager

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- Captain Steve Rutkowski to Station #2 District Chief
- Firefighter Brian Johnson to Station #2 Captain
- Firefighter Lee Olson to Station #2 Captain

RECOMMENDATION: Based upon the staff report and actions taken, it is respectfully recommended that the City Council undertake the recommended personnel actions by considering the following motions:

A - "Move to accept the retirements of Lake Elmo Fire Department Captain Mike Tremain, District Chief Doug Pepin, and Firefighter Jim Sachs and direct the City to appropriately thank and recognize these individuals for their service."

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C - "Move to approve the promotions of Captain Steve Rutkowski to Station #2 District Chief, Firefighter Brian Johnson to Station #2 Captain, and Firefighter Lee Olson to Station #2 Captain."

Alternatively, the City Council may elect to not take action on the above personnel matters or may elect to modify or change the recommended actions, as appropriate and consistent with City policies and applicable state and federal laws.

ATTACHMENTS: None

SUGGESTED ORDER OF BUSINESS:

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



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
REGULAR
ITEM: 11
MOTION

AGENDA ITEM: Review of Pending Enforcement Action Concerning Activities not Allowed within an A or RR Zoning District

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Bruce Messelt, City Administrator *BAW*

REVIEWED BY: Dave Snyder, City Attorney
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to confirm application of the Agricultural Entertainment Ordinance, or provide alternative direction, with respect to activities being conducted on the Country Sun Farms Property at 11211 60th Street North.

Specifically in question is the establishment of a gem mining town, operation of a silly string zone, and use of inflatable bouncers as entertainment activities, which, in the opinion of the City Attorney and City staff, are not allowed within an A – Agriculture and RR – Rural Residential zoning district and cannot be considered part of an “Agriculture Entertainment Business” as defined by the City Code. Following Council review, the recommended motion to act on this is as follows:

“Move to authorize staff to continue enforcement action related to activities being conducted at 11211 60th Street North (Country Sun Farms) that are not allowed in an A – Agriculture or RR – Rural Residential zoning district”

BACKGROUND INFORMATION: The City of Lake Elmo has sent the property owner the attached letter dated September 24, 2010 which cited specific uses that were being conducted on the premises in violation of the Zoning Ordinance. The specific activities include:

- A gem mining activity area, complete with false building facades to simulate an old west town.
- Inflatable jumpers/bounce houses.

- The sale of silly string (from a ticket booth) and designated area for playing with the silly string.

This violation letter was sent because Staff determined that none of these activities fell under the list of permitted, conditional, or interim activities allowed in an A – Agricultural or RR – Rural Residential zoning district (City Code Sections 154.033 and 154.036), nor are they permitted under the Conditional Use Permit issued for the property.

The Country Sun Farm is operating under a Conditional Use Permit (CUP) for an Agricultural Entertainment Business (AEB) that was issued on December 1, 2009. Resolution No. 2009-047, approving the CUP, listed the specific activities that are allowed as part of the AEB on the site, which includes the following:

1. Corn maze
2. Hay ride
3. Petting zoo/farm
4. Haunted house
5. Seasonal sales of Christmas decorations (such as wreaths or other agriculture-type creations)
6. Children activities and games with an agricultural component

LEGISLATIVE HISTORY: As part of the City's review of the Country Sun Farm's application for a Conditional Use Permit last year, the specific activities that were approved as part Agricultural Entertainment Business were listed in the Resolution of Approval. Although a general category of uses associated with children's activities was listed, this category also specified that they must include an agricultural component. Staff's determination of which children's activities met these criteria is no different from the analysis described above for other AEB uses.

The City Council minutes from December 1, 2009 reflect that the Council intended, through the issuance of a CUP to Country Sun Farms, to "clearly delineate the specific uses existing on the site and to clarify which uses are legally permitted, either outright or under the current and/or proposed updated and expanded CUP". Because the activities listed in the violation were occurring on a seasonal basis at the time the CUP was issued, their lack of inclusion as a distinct activity in the CUP Resolution supports the Staff determination that these uses were not considered appropriate for inclusion as part of the approval.

At the December 1st meeting, Mr. Keith Bergmann, co-owner of Country Sun Farms & Greenhouses, spoke with regard to the Agricultural Entertainment Business ordinance, the CUP application and the then-current Country Sun Farm business. At that time, Mr. Bergmann acknowledged the following: he had previously discussed the agricultural entertainment business ordinance with staff, the definition of agricultural entertainment fit well with their property, and the next stage would be for them to apply for an Agricultural Entertainment CUP through the city. He also recognized that the Agricultural Entertainment Business CUP included

most of the uses currently taking place at their business, but some children's activities and games which "may or may not" have an agricultural component to them were also in operation.

STAFF REPORT: It is staff's interpretation that none of the activities cited in the violation letter falls under the definition of an Agricultural Entertainment Business, which is defined as follows:

An agricultural sales business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture.

The key elements from this definition include the phrases "*characteristics of agriculture and tourism*" and "*activities which are related to agriculture*". To help determine which activities fall under this type of use, the definition gives several examples to help illustrate types of activities that would qualify as Agricultural Entertainment. In each of the examples, there is a very distinct connection to agriculture, which means the use or activity could not exist outside of a farm or on land that was non-agricultural in nature (i.e. business zones or residential developments).

None of the activities cited above has a direct connection to agriculture, and could be conducted on a site whether or not agricultural activities were present. Please note that Country Sun Farms provided the attached response to the City's violation notice, which argues that all of the activities questioned are related to agriculture. This connection is only made, in the opinion of City staff, through a very tenuous rationale that tries to take an activity that is clearly not related to farming (bounce houses) and constructs a narrative around it that fits the desired interpretation (kids pretending to jump in a hay barn).

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council confirm the Staff interpretation and observations regarding activities being conducted on the Country Sun Farms Property at 11211 60th Street North, and specifically, that the establishment of a gem mining town, silly string zone, and inflatable bouncers as entertainment activities is not allowed within an A – Agriculture and RR – Rural Residential zoning district and cannot be considered part of an "Agriculture Entertainment Business" as defined by the City Code by undertaking the following action

"Move to authorize staff to continue enforcement action related to activities being conducted at 11211 60th Street North (Country Sun Farms) that are not allowed in an A – Agriculture or RR – Rural Residential zoning district"

Alternatively, the City Council may find that the activities under consideration do fall under the definition of an Agricultural Entertainment Business and are consistent with the uses listed in Resolution No. 2009-047 approving a Conditional Use Permit for Country Sun Farms.

ATTACHMENTS:

1. Violation Letter (9/24/10)
2. Country Sun Response Letter (10/1/10)
3. Resolution No. 2009-047

SUGGESTED ORDER OF BUSINESS:

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



City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

September 24, 2010

Richard Bergmann
11211 N. 60th St.
Lake Elmo, MN. 55042

RE: Violation of City Ordinance Relating to Agricultural Entertainment Business

Dear Mr. Bergmann,

In accordance with City of Lake Elmo Ordinance Chapter 11.01, the advertized operation of a gem mining town, use of inflatable bouncers, and operation of a silly string zone are determined to be in violation of allowable Agricultural Entertainment Business activities.

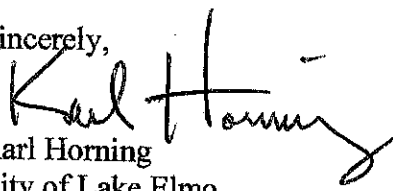
The definition of Agricultural Entertainment Business, enclosed for your information, requires such activities to be "related to agriculture." None of these activities are determined to be "related to agriculture."

This letter serves as an official notification to you to come into compliance with the applicable City Ordinance and cease the above denoted activities.

Please direct any questions or considerations to either Mr. Bruce A. Messelt, City Administrator, at (651) 777-5510 or Mr. David Snyder, City Attorney, at 651-439-2878.

Thank you for your immediate attention to this matter.

Sincerely,

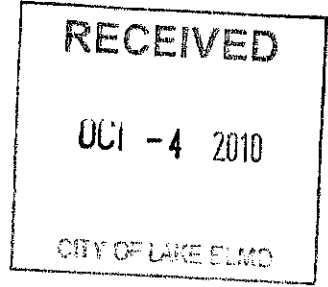

Karl Horning
City of Lake Elmo



copied to: Snyder 10/1/10
Klatt

COUNTRY SUN FARM AND GREENHOUSES INC.

5500 Lake Elmo Avenue North
Lake Elmo, Minnesota, 55042
Phone (651) 439-4156
Keithbergmann@msn.com



October 1, 2010

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, Mn. 55042

Dear Mr. Messelt, City Administrator, and Mr. Snyder, City Attorney,

This letter is written in response to the recent letter sent from the City of Lake Elmo, regarding the "Violation of City Ordinance Relating to Agricultural Entertainment Business." The Letter was dated September 24, 2010, but not received until September 29, 2010.

In the aforementioned letter, Karl Horning stated that a gem mining town, use of inflatable bouncers, and operation of a silly string zone are in violation of the applicable City Ordinance defining an "Agricultural Entertainment Business" as they have been determined to not be "related to agriculture."

These activities are "related to agriculture" and, furthermore, include an "agricultural component," which is all that Country Sun Farm's current conditional use permit, Resolution No. 2009-047, requires. For both of these reasons your letter is without merit. The City Code defines "Agricultural Entertainment Business" as "an agricultural sales business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building." The definition further provides "examples of agricultural entertainment." These "include[]: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture." Given this definition, all of the activities your letter mentions constitute "agricultural entertainment," and include an "agricultural component."

The gem mining town allows for participants to learn about and take part in a mining experience very similar to the mining taking place in the iron range of Minnesota where taconite is removed from the surrounding soils. This is a main stay of our Minnesota economy and in staying with the "elements and characteristics of agriculture and tourism." This activity promotes the tourism associated with an activity Minnesota is so

well known for. During the mining experience, participants learn about a variety of minerals and gemstones, many of which can be found in Minnesota and even within our own fields where this activity takes place. This experience also allows individuals to search for and learn about fossils, which can be found in this area, and Native American artifacts such as arrow points, which in turn we have found on our property. It is also very similar to the hobby of rock hunting, which over the years many participants have enjoyed on our agricultural land. Just as you would agree that a lecture on the natural or cultural history of the area would constitute "agricultural entertainment" under the Ordinance, learning about fossils and Native American artifacts through an interactive game would as well. This experience is both entertaining and educational, and is covered under the above definitions just as "on farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting . . . nature trails, haunted barns and similar activities" are covered.

The use of our inflatable bouncer is covered under the city ordinance for the following reasons. Many farms that engage in agritourism offer hay barns where children can climb and play in hay and hay bales. As a result of selling straw to our customers, we found that many of the children were climbing on top of the straw stacks and jumping off. While some of the children enjoyed this, we had to put an end to it due to the likelihood of severe injury, and the associated allergic reactions that many people have with hay and straw. As a remedy to keep people from taking part in this activity, but to provide some of that experience, we purchased a specially designed inflatable bouncer. These bouncers are designed to resemble a traditional red hay barn which can be found throughout the Midwest, and are decorated with a group of farm animals playing in the straw barn on a "Funny Farm." Given the hazards and potential health risks of children playing in and on a pile of straw which would also become musty and moldy over time, this is the best alternative available. It is related to agriculture and includes an agricultural component. A hay barn would be allowed under the definition of "agricultural entertainment." A safer alternative that is manufactured to resemble a hay barn does as well.

The operation of our silly string zone is also related to agriculture. In this activity, children are given a can of silly string and asked to pretend they are helping keep pests from damaging farm crops and livestock, not unlike activities which we as farmers engage in on a yearly basis. This educational opportunity helps to inform participants how difficult raising crops and livestock can be on a farm. Examples in the silly string zone include driving a fox or coyote away from a herd of sheep, goats and other livestock, which we personally have been forced to do on many occasions. It also includes showing how a skunk will raid a hen house, how crows will destroy a corn field, and how deer can cause damage to other crops such as pumpkins. In short, the use of a toy shooting silly string simulates what actually occurs on farms in a much safer manner. This activity is protected under the Agricultural Entertainment Business definition as it is directly related to the protection of agriculture. It is very similar to the examples of "fee-based fishing and hunting" and "demonstrations of farming practices, techniques, and methods." If charging a fee for people to hunt coyotes and skunks constitutes "agricultural entertainment," and demonstrating how to do so also constitutes "agricultural

entertainment," then helping children learn about the practices through mock hunting also qualifies.

I trust that this letter resolves your concerns as to whether Country Sun Farm's current operation of a gem mining town, use of inflatable bouncers, and operation of a silly string zone violates Lake Elmo's ordinances and our conditional use permit. All are "agricultural entertainment" and include an "agricultural component." If I hear nothing more from you I will assume that Country Sun Farm is in compliance.

Thank you for your consideration in this matter,

A handwritten signature in cursive script that reads "Keith Bergmann". The signature is fluid and extends to the right with a long, sweeping tail.

Keith Bergmann

Country Sun Farm and Greenhouses Inc.

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

Resolution No. 2009-047

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR AN
AGRICULTURAL ENTERTAINMENT BUSINESS ON 65 ACRES FOR COUNTRY
SUN FARM AND GREENHOUSE**

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

WHEREAS, Richard and Eileen Bergmann on behalf of Country Sun Farm and Greenhouse (the "Applicants"), 11211 60th Street North, have submitted an application to the City of Lake Elmo (the "City") for an Agricultural Entertainment Business Conditional Use Permit for the entire 67 acres, to clarify existing uses on the site, and to build an overflow parking lot; a copy of which is on file at city hall;

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 November 23, 2009; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated December 1, 2009; and

WHEREAS, the City Council considered said matter at its December 1, 2009, meeting.

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

FINDINGS

- 1) That the procedures for obtaining said Conditional Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.018.

- 2) That all the submission requirements of said Section 154.018 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit for an Agricultural Entertainment Business would include the construction of a 39,900 square foot parking lot.
- 4) That the proposed Conditional Use Permit for an Agricultural Entertainment Business would encompass 65 acres (this does not include the approximately two acres of the parcel that falls to the south and east of 11459 60th Street).
- 5) The proposed Conditional Use Permit for an Agricultural Entertainment Business would supplant all previous CUP permits for this property and permit the following uses:
 - a. Corn Maze
 - b. Hay Ride
 - c. Petting Zoo / Farm
 - d. Haunted house
 - e. Seasonal Sales of related Christmas decorations (such as wreaths or other agricultural-type creations)
 - f. Children Activities and Games with an Agricultural component
- 6) That the proposed Agricultural Entertainment Business Conditional Use Permit meets the review criteria for Conditional Use Permits (Section 154.018) and the review criteria for Agricultural Entertainment Businesses (Section 154.033).
 - a. In 2008, the City of Lake Elmo approved Ordinance 08-006 which defined Agricultural Entertainment Business and identified the use as conditionally permitted in the Agricultural and Rural Residential zoning districts.
 - c. The addition of the overflow parking area would take advantage of existing disrupted areas as a result of work done by Northern Natural Gas.
 - d. The CUP for an Agricultural Entertainment Business at this time does not permit the increase of intensity of the uses, but instead clarifies the permissible uses on the site for staff and the property owners.
 - e. The conditions outlined in both Section 154.018 for Conditional Use Permits and Section 154.033 for Agricultural Entertainment Businesses are met.
 - f. The proposed overflow parking areas (both improved and grass) would reduce or eliminate the parking that may take place on State Highway 36 by visitors to the site.
- 7) That the following uses on the site are identified as a permitted use in the Agricultural or Rural Residential Zoning Districts:
 - a. Growing of field crops
 - b. Housing and Care of Livestock
 - c. Growing of Flowers

- 8) That the following uses on the site are identified as an Agricultural Sales Business or a Wayside stand, both of which are allowed/permitted within the Agricultural or Rural Residential Zoning District:
 - a. Seasonal Sales of fresh flower and plant material [if the products are produced on the premises or can meet the definition of "wayside stand"]
 - b. Seasonal Sale of pumpkins [if the products are produced on the premises or can meet the definition of "wayside stand"]
 - c. Seasonal Sale of Christmas trees [if the products are produced on the premises or can meet the definition of "wayside stand"]
- 9) That the following use on the site is identified as incidental to the property and is permitted in all zoning districts.
 - a. Halloween / Holiday decorations
- 10) That the following uses on the site are not allowed/permitted, nor conditionally permitted on the site:
 - a. Children Activities and Games without an Agricultural component
 - b. Seasonal Sales of fresh flower and plant material [if the products are NOT produced on the premises and can NOT meet the definition of "wayside stand"]
 - c. Seasonal Sale of pumpkins [if the products are NOT produced on the premises and can NOT meet the definition of "wayside stand"]
 - d. Seasonal Sale of Christmas trees [if the products are NOT produced on the premises and can NOT meet the definition of "wayside stand"]

CONCLUSIONS AND DECISION

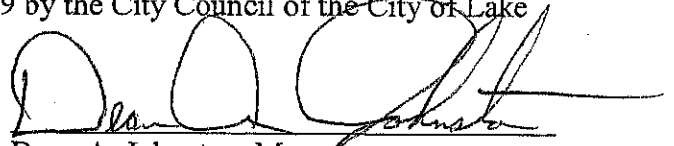
Based on the foregoing, the Applicants' application for a Conditional Use Permit is granted, provided the following conditions are met:

- 1) The Applicants must obtain any required permits from the Valley Branch Watershed District and the Minnesota Department of Transportation.
- 2) The designated parking area shall be 30 feet from all property lines.
- 3) Trash containers must be located inside or screened in an acceptable manner.
- 4) The property owners may allow the discharge of firearms during times and dates that the business is not open to the public. This would allow the property owners to continue utilizing their land for private hunting purposes. The discharge of weapons must be in conformance with Lake Elmo City Code requirements.
- 5) The property owner shall give the city permission to conduct inspections of the property in order to investigate complaints or to provide necessary updates to the city files or City Council.
- 6) No additional structures or facilities related to the operation of agricultural entertainment activities shall be installed or utilized without written approval of the City.
- 7) Prior to the commencement of any further agricultural entertainment activities on the land approved hereunder, the applicant shall furnish a detailed sketch depicting the placement

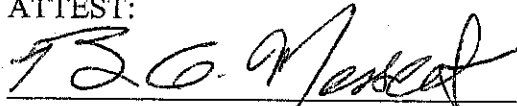
of structures and activities for review and approval by the City for conformity with the approval.

- 8) No activity that is not authorized or permissible on the existing lands shall be expanded or relocated onto the additional land approved for an agricultural entertainment use hereunder.
- 9) If dust complaints are received from the improved parking lot being proposed, the property owner shall implement an acceptable dust abatement technique.

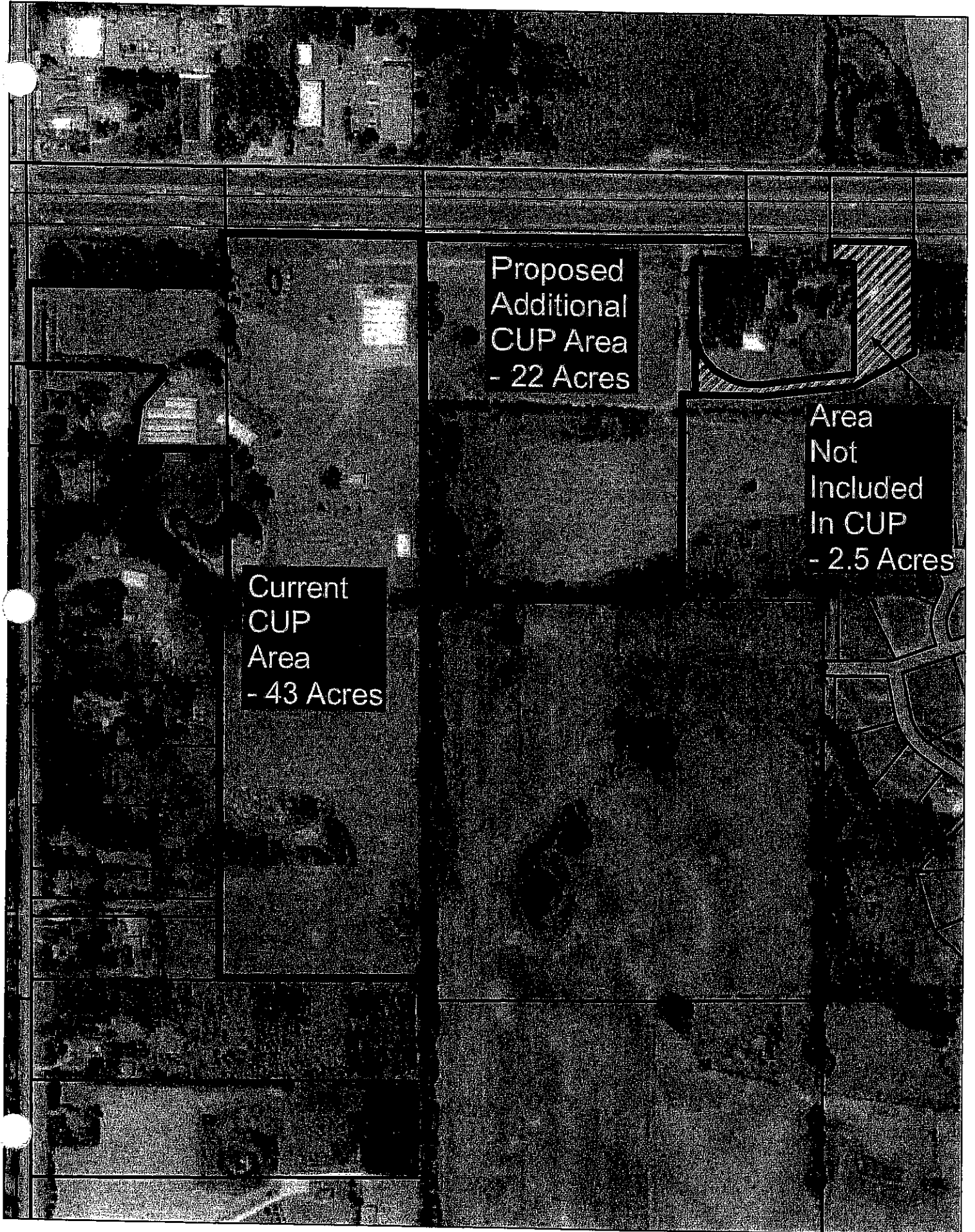
Passed and duly adopted this 1st day of December 2009 by the City Council of the City of Lake Elmo, Minnesota.


Dean A. Johnston, Mayor

ATTEST:


Bruce Messelt, City Administrator

Attachment A; Resolution 2009 - 047





MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/10
REGULAR
ITEM #: #12
MOTION

AGENDA ITEM: 2011 Street and Water Quality Improvements – Resolution Accepting the Report and Calling for a Public Improvement Hearing

SUBMITTED BY: Ryan Stempki, Assistant City Engineer

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

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

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to accept the Feasibility Report for the 2011 Street and Water Quality Improvements and pass a Resolution Accepting the Report and Calling for a Public Improvement Hearing to be held on December 7, 2010.

TKDA has completed the Feasibility Report for the 2011 Street and Water Quality Improvements including the residential streets in David Nelson Estates (10th Street Court North), and the Tartan Meadows Development (11th Street North, 12th Street North, Laverne Avenue North, Layton Avenue North, and Leeward Avenue North). The preparation of the Feasibility Report was authorized on September 21, 2010

The recommended motion to act on this is as follows:

“Move to adopt Resolution No. 2010-064 Accepting the Feasibility Report for the 2011 Street and Water Quality Improvements and Calling for a Public Improvement Hearing to be held on December 7, 2010.”

STAFF REPORT: As part of the feasibility study, a geotechnical investigation was completed. The investigation confirmed the in-place road base to be a candidate for street reclamation. The soil borings confirmed an average of 2 inches of bituminous and 8 inches of aggregate base in David Nelson Estates, and an average of 2 inches of bituminous and 6 inches of aggregate base in the Tartan Meadows Development.

Estimated project costs are included in the Feasibility Report and will be presented at the Council meeting. Replacement with new concrete curb is recommended, but costs are provided for both replacement with new bituminous curb and new concrete curb in the report.

The total cost for replacement with bituminous curb in the Feasibility Report is 1.8% higher than the estimated costs in the Street Capital Improvement Plan (CIP) presented at the September 21, 2010, City Council Meeting. These updated costs have been revised in the 2011 – 2015 Street CIP.

RECOMMENDATION: Based upon the above information, it is recommended that the City Council accept the report and call for the public improvement hearing to be held on December 7, 2010. The recommended motion is to:

“Move to adopt Resolution No. 2010-064 Accepting the Feasibility Report for the 2011 Street and Water Quality Improvements and Calling for a Public Improvement Hearing to be held on December 7, 2010.”

ATTACHMENTS: (3)

1. Resolution No. 2010-064
2. Notice of Public Hearing
3. 2011 Street and Water Quality Improvements Feasibility Report

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... City Engineer
- Questions from Council to Staff Mayor Facilitates
- Discussion/Comments..... Mayor & City Council
- Public Input, if Appropriate Mayor Facilitates

CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA

RESOLUTION NO. 2010-064

A RESOLUTION RECEIVING AND ACCEPTING THE FEASIBILITY
REPORT FOR 2010 STREET AND WATER QUALITY IMPROVEMENTS
AND CALLING HEARING ON IMPROVEMENTS

WHEREAS, pursuant to City Council authorization, a feasibility report has been prepared by TKDA for David Nelson Estates (10th Street Court North), and Tartan Meadows Development (11th Street North, 12th Street North, Laverne Avenue North, Layton Avenue North and Leeward Avenue North)

WHEREAS, the feasibility report states that the project is necessary, cost-effective, and feasible,

NOW, THEREFORE, BE IT RESOLVED,

- 1. The City Council will consider the improvements in accordance with the report and the assessments of the abutting properties for all such portion of the cost of the improvements pursuant to Minnesota Statutes, Chapter 429.*
- 2. A public hearing shall be held on such proposed improvements on the 7th day of December, 2010, in the council chambers of the City Hall at or approximately after 7:00 P.M. and the clerk shall give mailed and published notice of such hearing and improvement as required by law.*

Date: November 16, 2010 CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Bruce A. Messelt
City Administrator

CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of a resolution presented to and adopted by the Council of the City of Lake Elmo at a duly authorized meeting thereof held on 16th day of November 2010, as shown by the minutes of said meeting in my possession.

Sharon Lumby
City Clerk

(Seal)

CITY OF LAKE ELMO
NOTICE OF HEARING
2011 STREET AND WATER QUALITY IMPROVEMENTS

Notice is hereby given that the City Council of Lake Elmo will meet in the council chambers of the city hall at or approximately after 7:00 P.M. on Tuesday, December 7, 2010, to consider the making of the following improvements, pursuant to Minnesota Statutes, Sections 429.011 to 429.111;

The improvement of the city streets in the David Nelson Estates including 10th Street Court North (from 10th Street North to the North End), and Tartan Meadows Development including 11th Street North (from Laverne Avenue North to the West End), 12th Street North (from the West End to Leeward Avenue North), Laverne Avenue North (from 10th Street North to 12th Street North), Layton Avenue North (from 10th Street North to 12th Street North), and Leeward Avenue North (from 10th Street North to 12th Street North) will consist of reclaiming the existing road and providing a new bituminous surface in the current approximate location and grade.

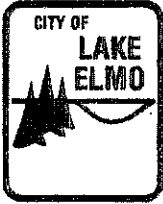
The area proposed to be assessed for these improvements include properties abutting the above referenced streets or properties that gain access to their property from the above referenced streets. The estimated total cost of the street improvements is \$483,000 if the streets are replaced with new bituminous curb. The estimated total cost of the street improvements is \$607,000 if the streets are replaced with new concrete curb and gutter. A reasonable estimate of the impact of the assessment to each property will be available at the hearing. Such persons as desire to be heard with reference to the proposed improvements will be heard at this meeting.

DATED: November 16, 2010

BY ORDER OF THE LAKE ELMO CITY COUNCIL

Dean Johnston, Mayor

(Published in the Oakdale-Lake Elmo Review on November 24, 2010 and December 1, 2010)



MAYOR & COUNCIL COMMUNICATION

DATE: 11/16/2010
REGULAR
ITEM #: 13
DISCUSSION

AGENDA ITEM: 2011 Proposed General Fund Budget – Department Presentations

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator *BAUM*

REVIEWED BY: Joe Rigdon, Financial Consultant

SUMMARY AND ACTION REQUESTED: In anticipation of the December adoption of the final 2011 Annual Budget and Levy, the City Council is respectfully requested to review with City Department heads the proposed 2011 Annual Budget, including department goals and objectives. No specific City Council action is requested at tonight's meeting.

BACKGROUND INFORMATION: The City of Lake Elmo has both the legal and fiduciary responsibility under Minnesota State Statute to adopt a *final* 2011 General Levy and Annual Budget by December 2010. As part of the budget preparation, it is important for the City Council to meet with its Department Directors and review the proposed 2011 budget, including department goals and objectives for budgetary implementation of key programs and activities.

SUBCOMMITTEE/STAFF REPORT: Attached for Council consideration is the proposed 2011 General Fund Budget, broken down by major department and activity. The Budget & Finance Sub-committee has reviewed this detail budget, but this will be the first time the whole City Council has done so. City Staff will present and review the proposed General Fund Budget with the City Council, in anticipation of preparing a final draft for Council adoption in early December.

RECOMMENDATION: It is recommended that the City Council review and discuss the proposed 2011 General Fund Budget at tonight's meeting, as well as provide an specific direction regarding major changes or modifications prior to action in December on the final Levy and Annual Budget. However, no specific Council action is recommended at this time.

ATTACHMENTS: Proposed 2011 General Fund Summary & Detail Budget

SUGGESTED ORDER OF BUSINESS:

- Introduction..... Bruce Messelt, City Administrator
- Staff Report/Presentations Department Directors
- Questions from Council to Staff..... Mayor Facilitates
- Call for Discussion..... Mayor & City Council
- Discussion Mayor & City Council
- Direction, if Appropriate..... Mayor Facilitates

City of Lake Elmo
Budget 2011

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
GENERAL FUND SUMMARY						
<u>Revenues by Classification</u>						
Property Taxes/Franchise Fees	\$2,372,630	\$2,307,867	\$2,427,971	\$1,237,758	\$2,493,485	2.7%
Licenses and Permits	\$212,555	\$225,164	\$157,760	\$132,078	\$167,960	6.5%
Intergovernmental	\$145,025	\$165,708	\$126,250	\$94,310	\$126,249	0.0%
Charges for Services	\$11,850	\$13,389	\$7,900	\$9,806	\$10,400	31.6%
Fines	\$52,000	\$54,052	\$52,000	\$35,538	\$52,000	0.0%
Other	\$98,000	\$123,038	\$77,130	\$9,031	\$69,129	-10.4%
Total Revenues	\$2,892,060	\$2,889,218	\$2,849,011	\$1,518,519	\$2,919,223	2.5%
<u>Other Financing Sources</u>						
Transfers In	\$0	\$0	\$0	\$0	\$0	N/A
Total Other Financing Sources	\$0	\$0	\$0	\$0	\$0	N/A
Total Revenues and Other Financing Sources	\$2,892,060	\$2,889,218	\$2,849,011	\$1,518,519	\$2,919,223	2.5%
<u>Expenditures by Program</u>						
General Government	\$980,269	\$929,955	\$970,020	\$524,113	\$972,119	0.2%
Public Safety	\$1,171,339	\$984,761	\$1,067,504	\$256,152	\$1,067,122	0.0%
Public Works	\$514,338	\$426,904	\$496,333	\$254,227	\$498,439	0.4%
Culture & Recreation	\$217,143	\$165,643	\$191,104	\$132,397	\$193,243	1.1%
Total Expenditures	\$2,883,089	\$2,507,263	\$2,724,961	\$1,166,889	\$2,730,923	0.2%
<u>Other Financing Uses</u>						
Transfers Out	\$349,735	\$349,735	\$118,850	\$126,850	\$182,000	53.1%
Total Other Financing Uses	\$349,735	\$349,735	\$118,850	\$126,850	\$182,000	53.1%
Total Expenditures and Other Financing Uses	\$3,232,824	\$2,856,998	\$2,843,811	\$1,293,739	\$2,912,923	2.4%
Net Change in Fund Balance	(\$340,764)	\$32,219	\$5,200	\$224,781	\$6,300	21.2%
<u>General Fund Balance</u>						
Fund Balance, Beginning of Year	\$2,410,840	\$2,410,840	\$2,443,059	\$2,443,059	\$2,448,259	0.2%
Net Change in Fund Balance	(\$340,764)	\$32,219	\$5,200	\$224,781	\$6,300	21.2%
Fund Balance, Ending of Year	\$2,070,076	\$2,443,059	\$2,448,259	\$2,667,840	\$2,454,559	0.3%

City of Lake Elmo
Budget 2011

Account Number	Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
GENERAL FUND							
<u>Revenues</u>							
Property Taxes/Franchise Fees							
101-000-0000-31010	Current Ad Valorem Taxes	\$2,332,130	\$2,048,100	\$2,360,790	\$1,072,260	\$2,409,867	2.1%
101-000-0000-31010	2008 MVHC Unallotment Recovery	\$0	\$0	\$19,365	\$0	\$0	-100.0%
101-000-0000-31010	2009 MVHC Unallotment Recovery	\$0	\$0	\$35,475	\$0	\$0	-100.0%
101-000-0000-31010	2010 MVHC Cut Recovery	\$0	\$0	\$0	\$0	\$37,518	N/A
101-000-0000-31010	2011 MVHC Cut Recovery	\$0	\$0	\$0	\$0	\$37,518	N/A
101-000-0000-31010	MVHC State Unallotment/Cut	\$0	\$0	(\$33,759)	\$0	(\$37,518)	N/A
101-000-0000-31020	Delinquent Ad Valorem Taxes	\$0	\$48,142	\$0	\$35,192	\$0	N/A
101-000-0000-31030	Mobile Home Tax	\$8,000	\$7,820	\$8,000	\$1,590	\$8,000	0.0%
101-000-0000-31040	Fiscal Disparities	\$0	\$163,791	\$0	\$90,493	\$0	N/A
101-000-0000-31910	Penalty & Interest on Taxes	\$0	\$2,110	\$0	\$2,856	\$0	N/A
101-000-0000-33620	Gravel Tax	\$2,500	\$2,986	\$3,100	\$0	\$3,100	0.0%
101-000-0000-33622	Cable Franchise Revenue	\$30,000	\$34,916	\$35,000	\$36,367	\$35,000	0.0%
Total Property Taxes/Franchise Fees		\$2,372,630	\$2,307,867	\$2,427,971	\$1,237,758	\$2,493,485	2.7%
Licenses and Permits							
101-000-0000-32110	Liquor License	\$7,200	\$7,200	\$7,200	\$750	\$7,200	0.0%
101-000-0000-32180	Wastehauler License	\$500	\$1,365	\$1,000	\$230	\$1,000	0.0%
101-000-0000-32181	General Contractor License	\$1,500	\$3,060	\$1,800	\$3,250	\$2,000	11.1%
101-000-0000-32183	Heating Contractor License	\$795	\$60	\$200	\$0	\$100	-50.0%
101-000-0000-32184	Blacktopping Contractor License	\$60	\$0	\$60	\$0	\$60	0.0%
101-000-0000-32210	Building Permits	\$140,000	\$139,825	\$100,000	\$80,187	\$110,000	10.0%
101-000-0000-32220	Heating Permits	\$4,500	\$10,209	\$3,000	\$4,971	\$3,000	0.0%
101-000-0000-32230	Plumbing Permits	\$4,500	\$5,664	\$3,000	\$3,781	\$3,000	0.0%
101-000-0000-32231	Sewer Permits	\$1,500	\$371	\$500	\$561	\$500	0.0%
101-000-0000-32240	Animal License	\$2,000	\$2,121	\$2,000	\$2,737	\$2,100	6.0%
101-000-0000-32250	Utility Permits	\$4,000	\$17,573	\$6,000	\$4,520	\$6,000	0.0%
101-000-0000-32260	Burning Permit	\$1,000	\$1,065	\$1,000	\$1,060	\$1,000	0.0%
101-000-0000-34104	Plan Check Fees	\$45,000	\$36,653	\$32,000	\$30,032	\$32,000	0.0%
Total Licenses and Permits		\$212,555	\$225,164	\$157,760	\$132,078	\$167,960	6.5%
Intergovernmental							
101-000-0000-33401	Local Government Aid	\$0	\$0	\$0	\$0	\$0	N/A
101-000-0000-33402	Homestead Credit Aid	\$0	\$6,015	\$0	\$0	\$0	N/A
101-000-0000-33418	MSA - Maintenance	\$67,275	\$88,797	\$68,500	\$77,347	\$68,500	0.0%
101-000-0000-33420	State Fire Aid	\$60,000	\$36,217	\$40,000	\$0	\$40,000	0.0%
101-000-0000-33422	PERA Aid	\$2,750	\$2,749	\$2,750	\$1,375	\$2,749	0.0%
101-000-0000-33426	Miscellaneous State Grants	\$0	\$16,454	\$0	\$0	\$0	N/A
101-000-0000-33621	Recycling Grant	\$15,000	\$15,476	\$15,000	\$15,588	\$15,000	0.0%
Total Intergovernmental		\$145,025	\$165,708	\$126,250	\$94,310	\$126,249	0.0%
Charges for Services							
101-000-0000-34103	Zoning & Subdivision Fees	\$4,000	\$6,471	\$1,000	\$4,370	\$4,000	300.0%
101-000-0000-34105	Sale of Copies, Books, Maps	\$300	\$204	\$300	\$72	\$200	-33.3%
101-000-0000-34107	Assessment Searches	\$150	\$391	\$200	\$255	\$200	0.0%
101-000-0000-34109	Clean Up Days	\$5,000	\$4,367	\$4,000	\$3,425	\$4,000	0.0%
101-000-0000-34111	Cable Operation Reimbursement	\$2,400	\$1,956	\$2,400	\$1,683	\$2,000	-16.7%
Total Charges for Services		\$11,850	\$13,389	\$7,900	\$9,805	\$10,400	31.6%
Fines							
101-000-0000-35100	Fines	\$52,000	\$54,052	\$52,000	\$35,538	\$52,000	0.0%
Total Fines		\$52,000	\$54,052	\$52,000	\$35,538	\$52,000	0.0%
Other							
101-000-0000-36200	Miscellaneous Revenue	\$18,000	\$41,827	\$17,130	\$1,008	\$11,129	-35.0%
101-000-0000-36210	Interest Earnings	\$80,000	\$72,711	\$60,000	\$0	\$50,000	-16.7%
101-000-0000-36230	Donations	\$0	\$8,500	\$0	\$8,022	\$8,000	N/A
Total Other		\$98,000	\$123,038	\$77,130	\$9,031	\$69,129	-10.4%
Total Revenues		\$2,892,060	\$2,889,218	\$2,849,011	\$1,518,519	\$2,919,223	2.5%
<u>Other Financing Sources</u>							
101-000-0000-39200	Transfer In	\$0	\$0	\$0	\$0	\$0	N/A
Total Other Financing Sources		\$0	\$0	\$0	\$0	\$0	N/A
Total Revenues and Other Financing Sources		\$2,892,060	\$2,889,218	\$2,849,011	\$1,518,519	\$2,919,223	2.5%

City of Lake Elmo
Budget 2011

Department Number	Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
GENERAL FUND							
<u>Expenditures by Program & Department</u>							
General Government							
1110	Mayor & Council	\$33,992	\$32,924	\$33,992	\$14,927	\$33,992	0.0%
1320	Administration	\$466,192	\$427,620	\$469,515	\$250,287	\$474,298	1.0%
1410	Elections	\$1,000	\$1,101	\$11,950	\$996	\$1,350	-88.7%
1450	Communications	\$56,364	\$47,023	\$55,317	\$27,483	\$58,263	5.3%
1520	Finance	\$107,121	\$111,037	\$105,876	\$92,971	\$108,081	2.1%
1910	Planning & Zoning	\$202,657	\$211,277	\$182,620	\$92,406	\$186,680	2.2%
1930	Engineering Services	\$72,000	\$55,402	\$70,000	\$26,065	\$70,000	0.0%
1940	City Hall	\$40,943	\$43,573	\$40,750	\$18,978	\$39,475	-3.1%
Total General Government		\$980,269	\$829,955	\$970,020	\$524,113	\$972,119	0.2%
Public Safety							
2100	Police	\$466,950	\$470,605	\$474,935	\$0	\$483,765	1.9%
2150	Prosecution	\$55,000	\$44,868	\$51,000	\$22,936	\$51,000	0.0%
2220	Fire	\$387,959	\$336,335	\$375,655	\$176,456	\$372,404	-0.9%
2250	Fire Relief	\$60,000	\$36,217	\$57,864	\$1,000	\$47,175	-18.5%
2400	Building Inspection	\$188,580	\$86,392	\$95,200	\$45,957	\$97,428	2.3%
2500	Emergency Communications	\$0	\$0	\$0	\$5,250	\$2,500	N/A
2700	Animal Control	\$12,850	\$10,345	\$12,850	\$4,554	\$12,850	0.0%
Total Public Safety		\$1,171,339	\$984,761	\$1,067,504	\$256,152	\$1,067,122	0.0%
Public Works							
3100	Public Works	\$324,978	\$266,573	\$306,333	\$156,202	\$297,939	-2.7%
3120	Streets	\$72,860	\$46,378	\$77,500	\$19,476	\$75,000	-3.2%
3125	Ice & Snow Removal	\$63,500	\$64,416	\$63,500	\$59,407	\$76,000	19.7%
3160	Street Lighting	\$24,000	\$22,459	\$24,000	\$11,209	\$24,000	0.0%
3200	Recycling	\$15,000	\$10,196	\$15,000	\$944	\$15,000	0.0%
3250	Tree Program	\$14,000	\$17,882	\$10,000	\$6,988	\$10,500	5.0%
Total Public Works		\$514,338	\$426,904	\$496,333	\$254,227	\$498,439	0.4%
Culture & Recreation							
5200	Parks & Recreation	\$217,143	\$165,643	\$191,104	\$132,397	\$193,243	1.1%
Total Culture & Recreation		\$217,143	\$165,643	\$191,104	\$132,397	\$193,243	1.1%
Total Expenditures		\$2,683,089	\$2,507,263	\$2,724,961	\$1,166,889	\$2,730,923	0.2%
<u>Other Financing Uses</u>							
Transfers Out		\$349,735	\$349,735	\$118,850	\$126,850	\$182,000	53.1%
Total Other Financing Uses		\$349,735	\$349,735	\$118,850	\$126,850	\$182,000	53.1%
Total Expenditures and Other Financing Uses		\$3,232,824	\$2,856,998	\$2,843,811	\$1,293,739	\$2,912,923	2.4%
<u>Expenditures by Classification</u>							
Personnel Services		\$1,306,897	\$1,034,210	\$1,171,776	\$594,832	\$1,175,324	0.3%
Supplies		\$177,830	\$129,119	\$178,400	\$90,524	\$185,300	3.9%
Other Services and Charges		\$1,398,362	\$1,343,933	\$1,374,785	\$481,533	\$1,370,299	-0.3%
Capital Outlay		\$0	\$0	\$0	\$0	\$0	N/A
Total Expenditures		\$2,883,089	\$2,507,263	\$2,724,961	\$1,166,889	\$2,730,923	0.2%
Transfers Out		\$349,735	\$349,735	\$118,850	\$126,850	\$182,000	53.1%
Total Expenditures and Other Financing Uses		\$3,232,824	\$2,856,998	\$2,843,811	\$1,293,739	\$2,912,923	2.4%

City of Lake Elmo
Budget 2011

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Mayor & Council						
Personnel Services						
Part-time Salaries	\$16,435	\$16,435	\$16,435	\$8,218	\$16,435	0.0%
FICA Contributions	\$1,019	\$922	\$1,019	\$509	\$1,019	0.0%
Medicare Contributions	\$238	\$216	\$238	\$119	\$238	0.0%
Total Personnel Services	\$17,692	\$17,573	\$17,692	\$8,846	\$17,692	0.0%
Other Services and Charges						
Mileage	\$1,000	\$586	\$1,000	\$0	\$1,000	0.0%
Miscellaneous	\$2,000	\$3,350	\$2,000	\$518	\$2,000	0.0%
Dues & Subscriptions	\$9,800	\$9,939	\$9,800	\$3,987	\$9,800	0.0%
Conferences & Training	\$3,500	\$1,477	\$3,500	\$1,576	\$3,500	0.0%
Total Other Services and Charges	\$16,300	\$15,351	\$16,300	\$6,081	\$16,300	0.0%
Total Mayor & Council	\$33,992	\$32,924	\$33,992	\$14,927	\$33,992	0.0%
Administration						
Personnel Services						
Full-time Salaries	\$225,913	\$206,949	\$220,753	\$118,391	\$221,094	0.2%
PERA Contributions	\$15,249	\$12,143	\$15,453	\$4,341	\$8,634	-44.1%
ICMA Employer Contributions	\$0	\$1,791	\$0	\$3,799	\$7,395	N/A
FICA Contributions	\$14,007	\$12,603	\$13,687	\$7,240	\$13,708	0.2%
Medicare Contributions	\$3,276	\$2,948	\$3,201	\$1,693	\$3,206	0.2%
Health/Dental Insurance	\$31,685	\$23,738	\$36,680	\$22,369	\$38,682	5.5%
Workers Compensation	\$2,212	\$1,843	\$1,741	\$1,921	\$2,579	48.1%
Total Personnel Services	\$292,342	\$262,015	\$291,515	\$159,754	\$295,298	1.3%
Supplies						
Office Supplies	\$8,000	\$5,852	\$8,000	\$2,034	\$7,500	-6.3%
Printed Forms	\$0	\$819	\$0	\$458	\$1,000	N/A
Total Supplies	\$8,000	\$6,671	\$8,000	\$2,491	\$8,500	6.3%
Other Services and Charges						
Legal Services	\$60,000	\$45,882	\$60,000	\$26,966	\$60,000	0.0%
Assessing Services	\$44,000	\$44,280	\$45,500	\$14,000	\$45,500	0.0%
Postage	\$8,000	\$3,500	\$7,000	\$2,000	\$7,500	7.1%
Mileage	\$4,000	\$316	\$3,500	\$1,141	\$3,500	0.0%
Legal Publishing	\$0	\$229	\$0	\$0	\$0	N/A
Insurance	\$35,350	\$39,301	\$39,500	\$38,563	\$39,500	0.0%
Miscellaneous	\$5,000	\$22,258	\$6,000	\$729	\$6,000	0.0%
Dues & Subscriptions	\$4,000	\$2,233	\$4,000	\$2,020	\$4,000	0.0%
Books	\$0	\$35	\$0	\$0	\$0	N/A
Conferences & Training	\$3,500	\$902	\$3,500	\$2,499	\$3,500	0.0%
Staff Development	\$2,000	\$0	\$1,000	\$125	\$1,000	0.0%
Total Other Services and Charges	\$165,850	\$158,934	\$170,000	\$88,042	\$170,500	0.3%
Total Administration	\$466,192	\$427,620	\$469,515	\$250,287	\$474,298	1.0%

City of Lake Elmo
Budget 2011

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Elections						
Part-time Salaries	\$0	\$0	\$10,000	\$0	\$0	-100.0%
FICA Contributions	\$0	\$0	\$0	\$0	\$0	N/A
Medicare Contributions	\$0	\$0	\$0	\$0	\$0	N/A
Total Personnel Services	\$0	\$0	\$10,000	\$0	\$0	-100.0%
Supplies						
Office Supplies	\$0	\$161	\$250	\$56	\$0	-100.0%
Printed Forms	\$0	\$0	\$350	\$0	\$0	-100.0%
Total Supplies	\$0	\$161	\$600	\$56	\$0	-100.0%
Other Services and Charges						
Miscellaneous	\$1,000	\$940	\$1,350	\$940	\$1,350	0.0%
Conferences & Training	\$0	\$0	\$0	\$0	\$0	N/A
Total Other Services and Charges	\$1,000	\$940	\$1,350	\$940	\$1,350	0.0%
Capital Outlay						
Other Equipment	\$0	\$0	\$0	\$0	\$0	N/A
Total Capital Outlay	\$0	\$0	\$0	\$0	\$0	N/A
Total Elections	\$1,000	\$1,101	\$11,950	\$996	\$1,350	-88.7%
Communications						
Personnel Services						
Full-time Salaries	\$14,060	\$7,888	\$10,920	\$3,696	\$11,139	2.0%
PERA Contributions	\$949	\$532	\$764	\$258	\$808	5.8%
FICA Contributions	\$872	\$489	\$677	\$229	\$691	2.1%
Medicare Contributions	\$204	\$114	\$158	\$54	\$162	2.5%
Health/Dental Insurance	\$0	\$0	\$0	\$0	\$0	N/A
Workers Compensation	\$779	\$649	\$398	\$430	\$563	41.5%
Total Personnel Services	\$16,864	\$9,672	\$12,917	\$4,668	\$13,363	3.5%
Other Services and Charges						
Newsletter	\$3,500	\$8,038	\$5,400	\$2,395	\$5,400	0.0%
Information Technology/Web	\$27,000	\$25,345	\$29,000	\$17,796	\$31,500	8.6%
Public Notices	\$5,000	\$820	\$4,000	\$676	\$4,000	0.0%
Cable Operations	\$4,000	\$3,149	\$4,000	\$1,948	\$4,000	0.0%
Total Other Services and Charges	\$39,500	\$37,351	\$42,400	\$22,815	\$44,900	5.9%
Total Communications	\$56,364	\$47,023	\$55,317	\$27,483	\$58,263	5.3%

City of Lake Elmo
Budget 2011

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Finance						
Personnel Services						
Full-time Salaries	\$36,134	\$34,191	\$34,060	\$19,126	\$34,741	2.0%
PERA Contributions	\$2,439	\$2,308	\$2,384	\$1,337	\$2,519	5.7%
FICA Contributions	\$2,240	\$2,107	\$2,112	\$1,178	\$2,154	2.0%
Medicare Contributions	\$524	\$493	\$494	\$276	\$504	2.0%
Health/Dental Insurance	\$4,052	\$1,477	\$3,915	\$2,474	\$4,114	5.1%
Unemployment Benefits	\$0	\$0	\$0	\$0	\$0	N/A
Workers Compensation	\$182	\$152	\$161	\$176	\$279	73.3%
Total Personnel Services	\$45,571	\$40,727	\$43,126	\$24,567	\$44,311	2.7%
Supplies						
Office Supplies	\$500	\$0	\$500	\$0	\$500	0.0%
Printed Forms	\$0	\$0	\$0	\$0	\$0	N/A
Total Supplies	\$500	\$0	\$500	\$0	\$500	0.0%
Other Services and Charges						
Audit Services	\$28,000	\$27,920	\$29,500	\$21,000	\$29,500	0.0%
Contract Services	\$30,000	\$39,417	\$30,000	\$44,758	\$30,000	0.0%
Mileage	\$400	\$0	\$250	\$0	\$250	0.0%
Miscellaneous	\$2,000	\$2,972	\$2,000	\$2,646	\$3,000	50.0%
Dues & Subscriptions	\$100	\$0	\$100	\$0	\$100	0.0%
Books	\$200	\$0	\$100	\$0	\$100	0.0%
Conferences & Training	\$350	\$0	\$300	\$0	\$300	0.0%
Total Other Services and Charges	\$61,050	\$70,310	\$62,250	\$68,404	\$63,250	1.6%
Total Finance	\$107,121	\$111,037	\$105,876	\$92,971	\$108,061	2.1%
Planning & Zoning						
Personnel Services						
Full-time Salaries	\$115,512	\$103,261	\$102,265	\$54,334	\$104,312	2.0%
PERA Contributions	\$7,797	\$6,953	\$7,159	\$3,614	\$7,563	5.6%
FICA Contributions	\$7,162	\$6,139	\$6,340	\$3,233	\$6,467	2.0%
Medicare Contributions	\$1,675	\$1,436	\$1,483	\$756	\$1,513	2.0%
Health/Dental Insurance	\$25,979	\$19,608	\$25,138	\$12,292	\$26,487	5.4%
Workers Compensation	\$582	\$485	\$485	\$526	\$838	72.8%
Total Personnel Services	\$158,707	\$137,882	\$142,870	\$74,755	\$147,180	3.0%
Supplies						
Office Supplies	\$2,750	\$119	\$2,000	\$88	\$1,000	-50.0%
Printed Forms	\$0	\$22	\$0	\$0	\$0	N/A
Total Supplies	\$2,750	\$141	\$2,000	\$88	\$1,000	-50.0%
Other Services and Charges						
Comprehensive Planning	\$20,000	\$2,186	\$15,000	\$0	\$20,000	33.3%
Engineering Services	\$8,000	\$33,632	\$10,000	\$13,909	\$10,000	0.0%
Legal Services	\$0	\$1,177	\$0	\$0	\$0	N/A
Contract Services	\$10,000	\$34,334	\$10,000	\$2,415	\$5,000	-50.0%
Mileage	\$1,000	\$0	\$500	\$0	\$500	0.0%
Miscellaneous	\$500	\$123	\$500	\$19	\$500	0.0%
Dues & Subscriptions	\$500	\$305	\$500	\$495	\$750	50.0%
Books	\$0	\$212	\$250	\$0	\$250	0.0%
Conferences & Training	\$1,200	\$1,285	\$1,000	\$725	\$1,500	50.0%
Total Other Services and Charges	\$41,200	\$73,253	\$37,750	\$17,563	\$38,500	2.0%
Total Planning & Zoning	\$202,657	\$211,277	\$182,620	\$92,406	\$186,680	2.2%

City of Lake Elmo
Budget 2011

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Engineering Services						
Other Services and Charges						
Engineering Services	\$72,000	\$55,402	\$70,000	\$26,065	\$70,000	0.0%
Total Other Services and Charges	\$72,000	\$55,402	\$70,000	\$26,065	\$70,000	0.0%
Total Engineering Services	\$72,000	\$55,402	\$70,000	\$26,065	\$70,000	0.0%
City Hall						
Supplies						
Cleaning Supplies	\$550	\$765	\$550	\$280	\$550	0.0%
Building Repair Supplies	\$1,000	\$6	\$1,000	\$160	\$1,000	0.0%
Total Supplies	\$1,550	\$771	\$1,550	\$440	\$1,550	0.0%
Other Services and Charges						
Telephone	\$8,390	\$7,941	\$8,400	\$4,264	\$7,125	-15.2%
Electric Utility	\$12,221	\$11,127	\$12,500	\$4,354	\$12,500	0.0%
Refuse	\$1,782	\$1,244	\$1,300	\$518	\$1,300	0.0%
Repairs/Maint Contractual Bldg	\$10,000	\$14,551	\$11,000	\$7,758	\$11,000	0.0%
Repairs/Maint Contractual Eqpt	\$6,000	\$7,784	\$5,000	\$974	\$5,000	0.0%
Miscellaneous	\$1,000	\$154	\$1,000	\$670	\$1,000	0.0%
Total Other Services and Charges	\$39,393	\$42,801	\$39,200	\$18,538	\$37,925	-3.3%
Total City Hall	\$40,943	\$43,573	\$40,750	\$18,978	\$39,475	-3.1%

City of Lake Elmo
Budget 2011

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Police						
Other Services and Charges						
Law Enforcement Contract	\$466,950	\$470,605	\$474,935	\$0	\$483,765	1.9%
Total Other Services and Charges	\$466,950	\$470,605	\$474,935	\$0	\$483,765	1.9%
Total Police	\$466,950	\$470,605	\$474,935	\$0	\$483,765	1.9%
Prosecution						
Other Services and Charges						
Attorney Criminal	\$55,000	\$44,868	\$51,000	\$22,936	\$51,000	0.0%
Total Other Services and Charges	\$55,000	\$44,868	\$51,000	\$22,936	\$51,000	0.0%
Total Prosecution	\$55,000	\$44,868	\$51,000	\$22,936	\$51,000	0.0%
Fire						
Personnel Services						
Full-time Salaries	\$65,758	\$63,534	\$63,803	\$35,532	\$64,701	1.4%
Part-time Salaries	\$110,000	\$76,349	\$110,000	\$28,597	\$100,000	-9.1%
PERA Contributions	\$9,272	\$8,932	\$8,669	\$4,859	\$9,008	3.9%
FICA Contributions	\$7,114	\$4,969	\$7,106	\$1,906	\$6,468	-9.0%
Medicare Contributions	\$2,548	\$1,994	\$2,520	\$910	\$2,388	-5.2%
Health/Dental Insurance	\$16,388	\$13,443	\$15,855	\$9,508	\$16,722	5.5%
Unemployment Benefits	\$0	\$552	\$0	\$0	\$0	N/A
Workers Compensation	\$12,369	\$10,407	\$10,675	\$12,472	\$15,892	50.3%
Total Personnel Services	\$223,449	\$180,180	\$218,528	\$93,783	\$215,179	-1.5%
Supplies						
Office Supplies	\$1,500	\$420	\$1,500	\$320	\$1,000	-33.3%
Printed Forms	\$0	\$0	\$0	\$0	\$0	N/A
EMS Supplies	\$1,200	\$2,490	\$1,200	\$0	\$1,200	0.0%
Fire Prevention	\$3,000	\$97	\$3,000	\$27	\$3,000	0.0%
Fuel, Oil and Fluids	\$11,500	\$10,299	\$11,500	\$4,641	\$10,000	-13.0%
Equipment Parts	\$0	\$390	\$0	\$0	\$0	N/A
Building Repair Supplies	\$0	\$0	\$0	\$0	\$0	N/A
Small Tools & Equipment	\$12,020	\$9,343	\$10,000	\$5,115	\$10,000	0.0%
Total Supplies	\$29,220	\$23,038	\$27,200	\$10,103	\$25,200	-7.4%
Other Services and Charges						
Physicals	\$7,829	\$6,247	\$7,550	\$594	\$9,250	22.5%
Telephone	\$5,500	\$4,458	\$5,100	\$2,153	\$5,000	-2.0%
Radio	\$16,980	\$15,092	\$19,920	\$7,915	\$18,500	-7.1%
Mileage	\$800	\$579	\$800	\$870	\$800	0.0%
Vehicle Insurance	\$17,648	\$14,472	\$15,475	\$13,980	\$15,475	0.0%
Electric Utility	\$13,900	\$10,380	\$13,900	\$5,763	\$12,500	-10.1%
Refuse	\$1,198	\$547	\$1,000	\$228	\$1,000	0.0%
Repairs/Maint Bldg	\$11,000	\$10,195	\$10,000	\$13,993	\$11,000	10.0%
Repairs/Maint Eqpt	\$25,555	\$34,293	\$26,907	\$12,913	\$25,000	-7.1%
Uniforms	\$7,700	\$3,408	\$5,800	\$1,213	\$9,200	64.3%
Miscellaneous	\$2,000	\$10,539	\$2,800	\$893	\$1,500	-46.4%
Books	\$400	\$1,347	\$850	\$759	\$1,000	17.6%
Conferences & Training	\$25,000	\$20,958	\$20,225	\$11,496	\$22,000	8.8%
Total Other Services and Charges	\$135,290	\$133,117	\$129,927	\$72,570	\$132,025	1.6%
Capital Outlay						
Equipment	\$0	\$0	\$0	\$0	\$0	N/A
Total Capital Outlay	\$0	\$0	\$0	\$0	\$0	N/A
Total Fire	\$387,959	\$336,335	\$375,655	\$176,456	\$372,404	-0.9%

City of Lake Elmo
Budget 2011

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Fire Relief						
Other Services and Charges						
Fire State Aid	\$80,000	\$36,217	\$40,000	\$0	\$40,000	0.0%
City Contribution	\$0	\$0	\$17,864	\$1,000	\$7,175	-59.8%
Total Other Services and Charges	\$80,000	\$36,217	\$57,864	\$1,000	\$47,175	-18.5%
Total Fire Relief	\$80,000	\$36,217	\$57,864	\$1,000	\$47,175	-18.5%
Building Inspection						
Personnel Services						
Full-time Salaries	\$129,719	\$58,602	\$69,740	\$32,463	\$60,935	2.0%
PERA Contributions	\$8,756	\$3,952	\$4,182	\$2,269	\$4,418	5.6%
FICA Contributions	\$8,043	\$3,576	\$3,704	\$1,979	\$3,778	2.0%
Medicare Contributions	\$1,881	\$836	\$866	\$463	\$884	2.1%
Health/Dental Insurance	\$9,320	\$7,537	\$9,015	\$5,183	\$9,487	5.2%
Workers Compensation	\$6,161	\$5,134	\$2,143	\$2,319	\$2,451	14.4%
Total Personnel Services	\$163,880	\$79,637	\$79,650	\$44,676	\$81,953	2.9%
Supplies						
Office Supplies	\$500	\$83	\$300	\$0	\$300	0.0%
Printed Forms	\$500	\$0	\$300	\$0	\$300	0.0%
Fuel, Oil and Fluids	\$3,750	\$0	\$3,750	\$0	\$3,750	0.0%
Total Supplies	\$4,750	\$83	\$4,350	\$0	\$4,350	0.0%
Other Services and Charges						
Engineering	\$10,000	\$1,504	\$5,000	\$2,264	\$5,000	0.0%
Plan Review Charges	\$3,000	\$0	\$1,000	\$0	\$1,000	0.0%
Surcharge Payments	\$0	\$0	\$0	-\$5,680	\$0	N/A
Inspector Contract Services	\$1,000	\$2,060	\$1,000	\$175	\$1,000	0.0%
Telephone	\$1,100	\$412	\$500	\$176	\$425	-15.0%
Mileage	\$750	\$11	\$250	\$0	\$250	0.0%
Insurance	\$1,250	\$1,025	\$1,000	\$903	\$1,000	0.0%
Repairs/Maint Eqpt	\$1,000	\$912	\$750	\$365	\$750	0.0%
Rentals - Building	\$0	\$0	\$0	\$0	\$0	N/A
Uniforms	\$350	\$0	\$300	\$0	\$300	0.0%
Miscellaneous	\$750	\$239	\$500	\$2,822	\$500	0.0%
Dues & Subscriptions	\$250	\$175	\$200	\$100	\$200	0.0%
Books	\$0	\$0	\$200	\$0	\$200	0.0%
Conferences & Training	\$500	\$335	\$500	\$155	\$500	0.0%
Total Other Services and Charges	\$19,950	\$6,672	\$11,200	\$1,281	\$11,125	-0.7%
Equipment	\$0	\$0	\$0	\$0	\$0	N/A
Total Capital Outlay	\$0	\$0	\$0	\$0	\$0	N/A
Total Building Inspection	\$188,580	\$86,392	\$95,200	\$46,957	\$97,428	2.3%
Emergency Communications						
Other Services and Charges						
Contract Services	\$0	\$0	\$0	\$5,250	\$2,500	N/A
Total Other Services and Charges	\$0	\$0	\$0	\$5,250	\$2,500	N/A
Total Emergency Communications	\$0	\$0	\$0	\$5,250	\$2,500	N/A
Animal Control						
Supplies						
Printed Forms	\$150	\$0	\$150	\$0	\$150	0.0%
Total Supplies	\$150	\$0	\$150	\$0	\$150	0.0%
Other Services and Charges						
Contract Services	\$12,600	\$10,345	\$12,600	\$4,554	\$12,600	0.0%
Miscellaneous	\$100	\$0	\$100	\$0	\$100	0.0%
Total Other Services and Charges	\$12,700	\$10,345	\$12,700	\$4,554	\$12,700	0.0%
Total Animal Control	\$12,850	\$10,345	\$12,850	\$4,554	\$12,850	0.0%

**City of Lake Elmo
Budget 2011**

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Public Works						
Personnel Services						
Full-time Salaries	\$132,035	\$121,982	\$128,387	\$66,896	\$126,033	-1.8%
Part-time Salaries	\$12,950	\$0	\$12,573	\$0	\$12,824	2.0%
PERA Contributions	\$9,786	\$8,210	\$9,867	\$4,676	\$10,067	2.0%
FICA Contributions	\$8,989	\$7,229	\$8,740	\$3,957	\$8,609	-1.5%
Medicare Contributions	\$2,103	\$1,691	\$2,044	\$925	\$2,013	-1.5%
Health/Dental Insurance	\$37,550	\$28,126	\$36,027	\$21,572	\$38,177	6.0%
Workers Compensation	\$12,600	\$10,527	\$11,500	\$13,541	\$13,946	21.3%
Total Personnel Services	\$216,013	\$177,764	\$209,138	\$111,567	\$211,669	1.2%
Supplies						
Office Supplies	\$500	\$224	\$500	\$108	\$500	0.0%
Fuel, Oil and Fluids	\$0	\$0	\$0	\$0	\$0	N/A
Shop Materials	\$4,500	\$1,405	\$4,000	\$542	\$4,000	0.0%
Equipment Parts	\$0	\$2,220	\$0	\$82	\$0	N/A
Building Repair Supplies	\$1,500	\$0	\$1,000	\$0	\$1,000	0.0%
Small Tools & Minor Equipment	\$3,000	\$1,872	\$3,000	\$915	\$3,000	0.0%
Total Supplies	\$9,500	\$5,720	\$8,500	\$1,647	\$8,500	0.0%
Other Services and Charges						
Engineering Services	\$0	\$3,286	\$0	\$579	\$1,000	N/A
Contract Services	\$18,000	\$5,824	\$13,400	\$971	\$7,500	-44.0%
Telephone	\$7,500	\$7,903	\$7,500	\$4,521	\$6,375	-15.0%
Radio	\$500	\$0	\$500	\$0	\$500	0.0%
Mileage	\$100	\$0	\$100	\$0	\$100	0.0%
Insurance	\$16,760	\$14,243	\$15,670	\$14,156	\$15,670	0.0%
Electric Utility	\$34,500	\$18,943	\$29,500	\$10,539	\$25,000	-15.3%
Refuse	\$1,800	\$1,709	\$1,800	\$1,054	\$1,800	0.0%
Repairs/Maint Bldg	\$2,000	\$4,184	\$2,000	\$2,372	\$1,500	-25.0%
Repairs/Maint Imp Not Bldgs	\$0	\$14,317	\$0	\$0	\$0	N/A
Repairs/Maint Eqpt	\$5,500	\$1,441	\$6,000	\$520	\$6,000	0.0%
Uniforms	\$1,675	\$1,741	\$1,675	\$1,041	\$1,675	0.0%
Miscellaneous	\$2,000	\$1,142	\$2,000	\$268	\$2,000	0.0%
Dues & Subscriptions	\$150	\$0	\$150	\$0	\$150	0.0%
Conferences & Training	\$900	\$1,190	\$900	\$875	\$1,000	11.1%
Clean-up Days	\$8,080	\$7,164	\$7,500	\$6,091	\$7,500	0.0%
Total Other Services and Charges	\$99,465	\$83,089	\$88,695	\$42,988	\$77,770	-12.3%
Capital Outlay						

**City of Lake Elmo
Budget 2011**

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Other Equipment	\$0	\$0	\$0	\$0	\$0	N/A
Total Capital Outlay	\$0	\$0	\$0	\$0	\$0	N/A
Total Public Works	\$324,978	\$266,573	\$306,333	\$156,202	\$297,939	-2.7%
Streets						
Supplies						
Fuel, Oil and Fluids	\$31,860	\$16,811	\$32,000	\$11,486	\$30,000	-6.3%
Equipment Parts	\$8,000	\$1,497	\$8,500	\$1,240	\$8,500	0.0%
Street Maintenance Materials 101-430-3120-42260	\$15,000	\$8,423	\$18,000	\$3,388	\$15,000	-16.7%
Total Supplies	\$54,860	\$26,731	\$58,500	\$16,115	\$53,500	-8.5%
Other Services and Charges						
Contract Services	\$14,000	\$17,145	\$14,000	\$3,290	\$16,500	17.9%
Repairs/Maint Eqpt	\$4,000	\$1,501	\$5,000	\$72	\$5,000	0.0%
Total Other Services and Charges	\$18,000	\$18,646	\$19,000	\$3,361	\$21,500	13.2%
Total Streets	\$72,860	\$45,378	\$77,500	\$19,476	\$75,000	-3.2%
Ice and Snow Removal						
Supplies						
Landscaping Materials	\$1,000	\$142	\$1,000	\$302	\$1,000	0.0%
Sand/Salt	\$50,000	\$60,254	\$50,000	\$57,411	\$65,000	30.0%
Total Supplies	\$51,000	\$60,396	\$51,000	\$57,713	\$66,000	29.4%
Other Services and Charges						
Contract Services	\$10,000	\$1,662	\$10,000	\$0	\$7,500	-25.0%
Repairs/Maint Eqpt	\$2,500	\$2,358	\$2,500	\$1,695	\$2,500	0.0%
Total Other Services and Charges	\$12,500	\$4,020	\$12,500	\$1,695	\$10,000	-20.0%
Total Ice and Snow Removal	\$63,500	\$64,416	\$63,500	\$59,407	\$76,000	19.7%

**City of Lake Elmo
Budget 2011**

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Street Lighting						
Other Services and Charges						
Street Lighting	\$24,000	\$22,459	\$24,000	\$11,209	\$24,000	0.0%
Total Other Services and Charges	\$24,000	\$22,459	\$24,000	\$11,209	\$24,000	0.0%
Total Street Lighting	\$24,000	\$22,459	\$24,000	\$11,209	\$24,000	0.0%
Recycling						
Supplies						
Recycling Supplies	\$3,500	\$1,500	\$3,500	\$0	\$3,500	0.0%
Total Supplies	\$3,500	\$1,500	\$3,500	\$0	\$3,500	0.0%
Other Services and Charges						
Newsletter	\$4,000	\$0	\$4,000	\$932	\$4,000	0.0%
Miscellaneous	\$7,500	\$8,696	\$7,500	\$12	\$7,500	0.0%
Total Other Services and Charges	\$11,500	\$8,696	\$11,500	\$944	\$11,500	0.0%
Total Recycling	\$15,000	\$10,196	\$15,000	\$944	\$15,000	0.0%
Tree Program						
Other Services and Charges						
Contract Services	\$14,000	\$17,882	\$10,000	\$6,988	\$10,500	5.0%
Total Other Services and Charges	\$14,000	\$17,882	\$10,000	\$6,988	\$10,500	5.0%
Total Tree Program	\$14,000	\$17,882	\$10,000	\$6,988	\$10,500	5.0%

City of Lake Elmo
Budget 2011

Description	2009 Amended Budget	2009 Actual	2010 Budget	2010 Year-to-Date (07/31/10)	2011 Preliminary Budget	2010 to 2011 Change
Parks & Recreation						
Full-time Salaries	\$85,810	\$70,044	\$77,561	\$37,405	\$77,977	0.5%
Part-time Salaries	\$44,417	\$24,531	\$30,551	\$12,483	\$31,162	2.0%
PERA Contributions	\$8,790	\$5,657	\$7,568	\$3,117	\$7,912	4.5%
FICA Contributions	\$8,074	\$5,734	\$6,703	\$3,018	\$6,767	1.0%
Medicare Contributions	\$1,888	\$1,341	\$1,568	\$706	\$1,583	1.0%
Health/Dental Insurance	\$14,829	\$10,947	\$14,044	\$8,234	\$14,852	5.8%
Unemployment Benefits	\$0	\$3,364	\$1,642	\$0	\$0	-100.0%
Workers Compensation	\$8,571	\$7,142	\$6,703	\$7,253	\$8,426	25.7%
	<u>\$172,379</u>	<u>\$128,759</u>	<u>\$146,340</u>	<u>\$72,216</u>	<u>\$148,679</u>	<u>1.6%</u>
Office Supplies	\$300	\$23	\$300	\$0	\$300	0.0%
Fuel, Oil and Fluids	\$3,000	\$0	\$3,000	\$0	\$3,000	0.0%
Shop Materials	\$750	\$602	\$750	\$0	\$750	0.0%
Chemicals	\$1,000	\$125	\$1,000	\$0	\$1,000	0.0%
Equipment Parts	\$1,500	\$852	\$2,500	\$1,134	\$2,500	0.0%
Building Repair Supplies	\$500	\$0	\$500	\$220	\$500	0.0%
Landscaping Materials	\$3,500	\$1,768	\$3,500	\$51	\$3,500	0.0%
Small Tools & Minor Equipment	\$1,500	\$539	\$1,000	\$466	\$1,000	0.0%
	<u>\$12,050</u>	<u>\$3,907</u>	<u>\$12,550</u>	<u>\$1,871</u>	<u>\$12,550</u>	<u>0.0%</u>
Telephone	\$650	\$360	\$650	\$98	\$550	-15.4%
Mileage	\$200	\$0	\$200	\$0	\$100	-50.0%
Insurance	\$6,200	\$5,084	\$5,500	\$4,969	\$5,500	0.0%
Electric Utility	\$10,164	\$10,192	\$10,164	\$5,825	\$10,164	0.0%
Refuse	\$2,500	\$2,571	\$2,500	\$994	\$2,500	0.0%
Repairs/Maint Bldg	\$700	\$148	\$700	\$0	\$700	0.0%
Repairs/Maint Imp Not Bldgs	\$4,000	\$3,559	\$4,000	\$43,854	\$4,000	0.0%
Repairs/Maint Eqpt	\$1,500	\$1,311	\$2,000	\$0	\$2,000	0.0%
Rentals - Buildings	\$5,000	\$4,812	\$5,000	\$2,426	\$5,000	0.0%
Uniforms	\$0	\$0	\$0	\$0	\$0	N/A
Miscellaneous	\$1,500	\$4,940	\$1,500	\$144	\$1,500	0.0%
Dues & Subscriptions	\$100	\$0	\$0	\$0	\$0	N/A
Conferences & Training	\$200	\$0	\$0	\$0	\$0	N/A
	<u>\$32,714</u>	<u>\$32,977</u>	<u>\$32,214</u>	<u>\$68,310</u>	<u>\$32,014</u>	<u>-0.6%</u>
Total Parks & Recreation	<u>\$217,143</u>	<u>\$165,643</u>	<u>\$191,104</u>	<u>\$132,397</u>	<u>\$193,243</u>	<u>1.1%</u>



2011 Annual Budget Department Summaries

Prepared for the
Lake Elmo City Council
November 16th, 2010

General Fund Summary

2010 Highlights:

- Revenues estimated to meet or exceed Budget
- Anticipated Expenditures under Budget
- Expectation to meet Budgetary Projections

2010 Challenges:

- Loss of Market Value Homestead Credit
- Property Values on Decline
- Levy Limits

General Fund Summary

2011 Goals:

- Maintain City's Level of Services
- Continue to Fund Capital Programs

2011 Challenges:

- Continuation of MVHC cuts, Decreased Property Values & Levy Limits
- Management of Levy while maintaining Street Improvement Program
- Uncertain Economic conditions/Inflation

PLANNING DEPARTMENT

2010 Highlights:

- Completion of Comprehensive Plan Update
- Numerous Zoning and City Code Amendments
- Increase in building activity
- Density review and analysis

2010 Challenges:

- Making Permanent Staffing Reductions
- Outdated and inconsistent codes
- Implementation of Comprehensive Plan
- Legal issues and related time commitments

PLANNING DEPARTMENT

2011 Goals:

- Comprehensive Plan amendments (Village and I-94 Corridor)
- Major Zoning district text revisions
- Functional realignment of building inspections and planning activities

2011 Challenges:

- Potential workload (building permits and land use applications)
- Limited budget for comprehensive planning
- Implementing new Code enforcement program
- Unfunded Goals/Mandates

PUBLIC WORKS/PARKS DEPT.

2010 Highlights:

- Started sign assessment and replacement to meet Federal Reflectivity Standards. 20% of street and stop signs replaced.
- All streets repaired at least once over the summer.
- 2009-2010 Winter snow and ice control completed with minimal negative feedback.
- Sunfish Lake Park prairie restoration started.
- Eagle Scout Projects in Sunfish and Demontreville Wildlife Area.

PUBLIC WORKS/PARKS DEPT.

2010 Challenges:

- Roadside trimming was not done proactively. Work was done on an as-needed (emergency) basis
- MS-4 surface water work was done on an emergency only level.
- Although all roads were patched or repaired at least once, there are still temporary repairs to do over the winter.
- No street shoulder work completed.

PUBLIC WORKS/PARKS DEPT.

2011 Goals:

- Continue sign replacement program to meet federal standards.
- Be proactive with roadside trimming.
- Start programming and complete maintenance on MS-4 sites, from the annual inspections.
- Identify need and shoulder at least 10% of roads.
- No major personnel/line-item budget changes

PUBLIC WORKS/PARKS DEPT.

2011 Challenges:

- Roadside trimming is extremely time consuming, but significant trimming and hazard tree removal is required every three-four years and we are at this juncture.

Work on the MS-4 sites is limited by equipment available and easement access.

- Patching and road repairs will continue to increase until the sealcoat, mill overlay, and re-constructs are up to date.

FIRE DEPARTMENT

2010 Highlights:

- Improved/Increased Training
- OSHA Compliance, Both Stations.
- Software upgrades (Firehouse to Image Trend, IAMRESPONDING)

2010 Challenges:

- Staffing/Coverage
- Vehicle Maintenance
- Officer Retirements and New Selection

FIRE DEPARTMENT

2011 Goals:

- Recruit for Full Roster of Firefighters
- Continue to Improve Training
- Improve Regional Co-operation/Grants

2011 Challenges:

- Improve Staffing/Coverage
- Develop Long-Term Plan for CIP Funding
- "Smart" Improvements to Existing Facilities

ADMINISTRATION DEPT.

2010 Highlights:

- Increased Communication with Residents
- Implementation of CodeRed ECN
- Improved City Council Communications

2010 Challenges:

- Time-Consuming Code Enforcement
- Ongoing Budgetary Constraints
- Implementing New Election Procedures

ADMINISTRATION DEPT.

2011 Goals:

- Implement New Building Permit, Financial and Citizen Issues Tracking Software
- Update/Streamline Position Descriptions
- Review/Update City Policies and Procedures

2011 Challenges:

- Possible Staffing Changes (retirements)
- Limited/Decreasing Revenue Projections
- Health-Care Cost Increases
- New Partnerships/Service Requirements

ENGINEERING (Streets)

2010 Highlights:

- 2010 Capital Projects & Maintenance
- 2010 Street & Water Quality Improvements
- 2010 Seal Coat & Mill & Overlay of 42nd St. TH 5 Roundabout
- New Street Assessment Policy

2010 Challenges:

- Long Range Capital Planning / Better Costs
- Unforeseen Subsurface Water on 57th St.
- Contractor's Schedule Delays

ENGINEERING (Streets)

2011 Goals:

- 2011 Capital Projects & Maintenance
- 2011 Street & Water Quality Improvements
- 50th/Kimbro MSA Street Improvements
- 2011 Seal Coat
- Demontreville Trail Reconstruction & Turnback
- Keats Ave. MSA Reconstruction (2012 Construction)

2011 Challenges:

- Get started earlier in the year
- R/W Acquisition for Keats Avenue
- Long Range MSA Street Program (Funding)

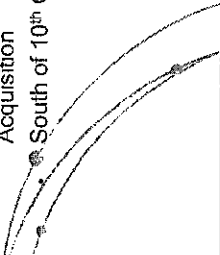
ENGINEERING (SW/WW)

2010 Highlights:

- 7 Rain Gardens Designed and Constructed
- Water Quality Projects (Sunfish Park, 3570 Laverne)
- ORWW Study Completed
- Approval of LSWMP
- Subsurface Treatment Systems Management and Enforcement turned over to County Control
- State Bonding Grant Received for WW Infrastructure
- Completed Final Design for I-94 to 30th Street Infrastructure Project (Trunk Sanitary Sewer)

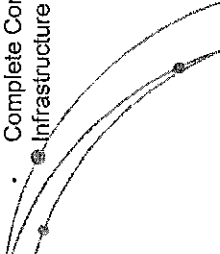
ENGINEERING (SW/WW)

2010 Challenges:

- Maintenance Agreements for Rain Gardens
 - Old Village Flooding Issues
 - VBWD Approval of LSWMP
 - Lift Station Site Determination and Easement Acquisition
 - South of 10th Gravity Sanitary Sewer Design
- 

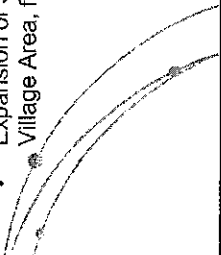
ENGINEERING (SW/WW)

2011 Goals:

- Continue to Build & Promote Rain Garden Program
 - Develop Water Quality CIP
 - 2011 NPDES Updated Permit Requirements
 - Maintenance Projects for NPDES Program
 - Complete Construction of I-94 to 30th Street Infrastructure Project, if authorized
- 

ENGINEERING (SW/WW)

2011 Challenges:

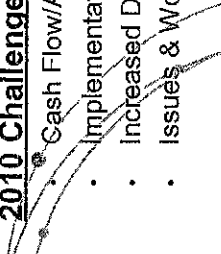
- Budget/Labor Constraints for Storm Sewer System Maintenance
 - Sanitary Sewer Comprehensive Planning South of 10th Street
 - Expansion of Sanitary Sewer to the Heart of the Village Area, from Lift Station Site No. 3.
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Water Utility

2010 Highlights:

- Replacement of outdated Water Meters
- Implementation of Water Conservation Rates
- State Bonding Grant

2010 Challenges:

- Cash Flow/Ability to fund Debt Service
 - Implementation of Water Conservation Rates
 - Increased Delinquency
 - Issues & Work Efforts RE: PFC Contamination
- 

Water Utility

2011 Goals:

- Replace Radio Read Batteries
- Capital Projects-New Well & Water Mains
- Debt Service Funding Plan
- Chlorination Plan for City Wells

2011 Challenges:

- Ability to Fund existing & new debt service
- Maintain Revenue stream
- Increase Payment Rate & Timeliness
- Dated Infrastructure in Downtown

Water Utility

2011 Challenges (cont.):

- Watering Restriction Compliance
- Implementation of Water Comp. Plan
- Site & ROW Acquisition for CIP Projects
- Continued Efforts RE: PFC Contamination

Contracted Services

2010 Highlights:

- Change in Legal Services
- Increased Use of Financial Support Services

2010 Challenges:

- Public Safety Staffing Considerations
- Increasing Contract Expenses
- Coverage of Key Service Needs

Contracted Services

2011 Goals:

- Enhanced Public Partnerships for Service
- Consolidate Contracted Services
- Annual Review of Services/RFP Timeline

2011 Challenges:

- Health Care/Employee Benefits
- Sheriff's Contract