



City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

City of Lake Elmo
3800 Laverne Avenue
Lake Elmo, Minnesota 55042
City Hall

NOTICE OF CITY COUNCIL MEETING REGARDING 2009 BUDGET

Tuesday, August 5, 2008 5:30 PM



printed on recycled paper

City of Lake Elmo
3800 Laverne Avenue North

August 5, 2008

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: _____ Johnston _____ DeLapp _____ Johnson _____ Park _____ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
 - 1. July 15, 2008
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by city staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
 - 2. Approve Resolution no. 2008-034 payment of claims.
 - 3. Approve appointment of election judges for primary and general elections, Resolution no. 2008-035
 - 4. Approve MnDot agreement for the Hwy 5 planting project, Resolution no. 2008-036
 - 5. Schedule an appeal hearing for August 19 on a zoning code violation for 5761 Keats Avenue
- J. PUBLIC HEARING:
 - 6. Vacation of right-of-way; Resolution no. 2008-037

K. REGULAR AGENDA:

7. South Washington Watershed District update

L. REPORTS AND ANNOUNCEMENTS:

City Council and Administrator

M. Adjourn to National Night Out festivities

City of Lake Elmo
City Council Meeting Minutes

July 15, 2008

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

Present: Mayor Johnston and Council Members DeLapp, Johnson, Park and Smith

Also present: City Administrator Hoyt, City Engineer Griffin, City Attorney Filla, Project Assistant Kriegler, Finance Director Bouthilet and City Clerk Lumby

APPROVAL OF AGENDA:

MOTION: Council Member Park moved to approve the July 15th agenda as presented. Council Member Smith seconded the motion. Mayor Johnston and Council Members Johnson, Park and Smith voted for the motion and Council Member DeLapp voted against the motion.

MOTION: Council Member Johnson moved to amend the motion to add meeting adjournment at 8:30 p.m. Council Member Park seconded the motion. Mayor Johnston and Council Members Johnson, Park and Smith voted for the motion and Council Member DeLapp voted against the motion.

ORDER OF BUSINESS:

APPROVE MINUTES:

The minutes of June 17, 2008 were approved by consensus.

The minutes of July 1, 2008 were approved by consensus.

PUBLIC COMMENTS/INQUIRIES:

Kathy Lohmer, 8199 Hill Trail N., Lake Elmo, introduced herself as the endorsed republican candidate for State Representative 56A.

Ann Suckow, (1945 Polaris Place, North St.Paul), Lake Elmo Jaycees Community Development VP 2008, asked Mayor Johnston to proclaim the second week of August 2008 to be Huff'n Puff Days in Lake Elmo.

Ann Bucheck, 2301 Legion Avenue, asked where the money is going to come from to pay back the \$1 million loan to fund the Old Village project.

CONSENT AGENDA:

MOTION: Council Member Johnson moved to approve the consent agenda as presented. Council Member Smith seconded the motion. The motion passed unanimously.

- Approved Resolution no. 2008-032 approving the disbursements in the amount of \$182,285.08
- Approved Lake Elmo Jaycees liquor license for Huff'n Puff Days
- Schedule a closed meeting on July 22 at 6 PM and a closed meeting on August 12 at 6:30 PM (in place of the city council workshop) for the purpose of the city administrator's performance review
- Accept the developer-installed public infrastructure improvements for the H.O.A. 2nd Addition improvements (Eagle Point Circle) Development; Resolution no. 2008-033 as corrected per Jack Griffin's letter dated July 16, 2009 changing the warranty period to July 21, 2007 and end on July 20, 2009.
- Approve agreement between Washington County Conservation District and members of the 2009-2012 East Metro Water Resources Education Program at a cost of \$2,000 in 2009 with an annual increase of 3.5% to be paid for through the surface water utility fee for surface water quality education services that is part of the city's authorized/approved NPDS surface water management plan

PUBLIC HEARINGS:

Hold a public hearing, receive comments and consider approval of the Wellhead Protection plan

City Engineer Jack Griffin presented the Well Head Protection (WHP) Plan, Part 2. The plan is required to protect the public health and safety of the city's water supply. Bob Schumacher, Lake Elmo resident, assisted with gathering data information for this plan.

Mayor Johnston opened up the public hearing at 7:37 p.m. in the council chambers.

Judy Blackford, 9765 45th Street, is interested in a water plan for existing citizens who have contaminated water which will provide them with city water.

Mayor Johnston closed the public hearing at 7:41 p.m.

MOTION: Council Member Johnson moved to approve the Wellhead Protection Plan, Part 2. Council Member Park seconded the motion. The motion passed unanimously.

REGULAR AGENDA:

Receive a project report detailing the proposed rights and restrictions for the Sunfish Lake Park Land Trust Easement

Carol Kriegler, Project Assistant, presented a project report related to placing Sunfish Lake Park, a 315 acre park that is used for hiking and skiing, in a conservation easement with the Minnesota Land Trust and to endorse the concept presented in the report. The intent of this project report was to identify the proposed land use restriction that will be included in the conservation easement.

Judith Blackford, Parks Commission member and Lake Elmo resident, summarized the report and recommendation by the parks commission for the City Council to consider that identified future uses for the park.

City Council members Smith and Johnson noted that an ice skating rink with a warming house was recommended as a future use of Area Two, but this item was not included in the list of proposed rights and restrictions for a conservation easement to the Minnesota Land Trust.

MOTION: Council Member DeLapp moved approval of the project report prepared by the Parks Commission outlining the proposed rights and restrictions in Sunfish Lake Park and authorize the City to coordinate with the Minnesota Land Trust to prepare the conservation easement document for approval by the City Council and the Board of Directors of the Minnesota Land Trust by October 31, 2008. Council Member Park seconded the motion. The motion passed unanimously.

Receive and accept the 2007 Annual Financial Report

Steve McDonald, city auditor, reviewed the highlights of the 2007 Annual Financial Report for the City Council and answered questions. Joe Rigdon, Finance Manager, KDV and city hired financial expert, organized, reconciled and reworked its 2007 accounts at the recommendation of the city auditor as a result of the findings for the 2006 audit.

Anne Bucheck, 2301 Legion Avenue, Lake Elmo, asked about how the \$1,000,000 loan for the Village project would be repaid so that taxpayers, who did not benefit from the project, were not covering these costs. Administrator Hoyt explained that a repayment plan for the loan will be developed as part of the budgeting process and that the City Council has always planned to recoup costs for the infrastructure and environmental studies from developers and users.

MOTION: Council member Smith moved to accept the 2007 Annual Financial Report as presented. Council Member Johnson seconded the motion. The motion passed unanimously.

MOTION: Council Member Smith moved to extend the City Council meeting 15 minutes. Council Member Johnson seconded the motion. The motion passed unanimously,

Consider approving contracting for routine account processing services

Susan Hoyt, City Administrator, asked the City Council to enter into an agreement with the city of Roseville for routine account processing services for: accounts payable, payroll, utility billing, reconciliation of accounts, routine monthly and quarterly financial reports and data input into the budget to be charged on an hourly basis.

MOTION: Council Member Johnson moved to authorize into an agreement with the city of Roseville for accounting processing services for an estimated \$10,000 to be funded through the general fund and utility funds through the end of 2008 with the intent to evaluate the efficiencies and value of contracting for this service as part of the city's 2009 budgeting process. Council Member Smith seconded the motion. The motion passed unanimously.

Review the timeline for the 2009 Budget Process

Susan Hoyt, City Administrator, provided a timeline for the 2009 budget process. Finance manager, Joe Rigdon, of KDV will lead the city staff and City Council on the budget initiative.

REPORT AND ANNOUNCEMENTS:

Mayor Johnston attended the Regional Council of Mayors. The Mayor will provide information from Best Practices of the Council of Mayors, which hopes to encourage people to help the City with projects or a couple hours a month.

The Mayor adjourned the meeting at 8:50 p.m.

City Council
Date: 08/05/2008
CONSENT
Item: 2
Resolution 2008-034

ITEM: Approve resolution No. 2008-034 approving disbursements in the amount of \$172,292.99.

SUBMITTED BY: Tom Bouthilet, Finance Director

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve disbursements in the amount of \$ 172,292.99.

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

**RESOLUTION NO. 2008-034
RESOLUTION APPROVING CLAIMS**

BE IT RESOLVED THAT Claim Number 472 was used for building surcharge - 2nd qtr, 473, 474, DD1737 through DD1758, 32868 through 32892 were used for Staff Payroll dated July 17, 2008; 32893 was special check run for Fall Festival food permit; 475,476. DD1759 through DD1772, 32894 through 32900 were used for staff payroll dated July 31, 2008; 32901 through 32953 were used for Accounts Payable, in the total amount of \$172,292.99 are hereby approved.

ADOPTED, by the Lake Elmo City Council on the 5th day of August, 2008.

Dean Johnston
Mayor

ATTEST:

Susan Hoyt
City Administrator

Accounts Payable Computer Check Proof List

User: Administrator
Printed: 07/31/2008 - 1:25 PM



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: ACS 193	Animal Control Services Animal Control Services 6/22 - 7/6 Check Total:	629.40 629.40	08/05/2008	Check Sequence: 1 101-420-2700-43150	ACH Enabled: No
Vendor: AMERTEST 2082023	American Test Center Required Ladder Testing - Fire Check Total:	955.00 955.00	08/05/2008	Check Sequence: 2 101-420-2220-44040	ACH Enabled: No
Vendor: ARAM 629-6533997 629-6533998 629-6536844 629-6536845 629-6536846 629-6536847	Aramark Uniforms Mats & Soap Public Works Linen - City Hall Monthly Rug Service-Fire Station 1 Mats - City Hall Annex Monthly Rug Service-Fire Station 2 Check Total:	32.18 47.10 32.51 22.03 32.51 22.95 189.28	08/05/2008 08/05/2008 08/05/2008 08/05/2008 08/05/2008 08/05/2008	Check Sequence: 3 101-430-3100-44170 101-430-3100-44010 101-410-1940-44010 101-420-2220-44010 101-410-1940-44010 101-420-2220-44010	ACH Enabled: No
Vendor: ASPENMI 82804 82942	Aspen Mills, Inc. Boot Zippers-Fire Medic Coveralls Check Total:	14.00 147.00 161.00	08/05/2008 08/05/2008	Check Sequence: 4 101-420-2220-44170 101-420-2220-45800	ACH Enabled: No
Vendor: BATTYPL 32-155456	Batteries Plus Woodbury Battery - Parks Vehicle Check Total:	68.69 68.69	08/05/2008	Check Sequence: 5 101-450-5200-42210	ACH Enabled: No
Vendor: CAMPBELL 2879-000G	Campbell Knutson P.A. Legal Services-Human Resource	300.00	08/05/2008	Check Sequence: 6 101-410-1610-43040	ACH Enabled: No

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	300.00			
Vendor:CENTPOW 420170	Century Power Equipment Chain Saw Cover-Parks Check Total:	9.81 9.81	08/05/2008	Check Sequence: 7 101-450-5200-42400	ACH Enabled: No
Vendor:COPYIMAG 98256	Copy Images, Inc. Copy Machine Maint. Check Total:	320.51 320.51	08/05/2008	Check Sequence: 8 101-420-2400-44330	ACH Enabled: No
Vendor:EMERGAPP 36407	Emergency Apparatus Maint. Repairs Truck 3183 Check Total:	2,630.24 2,630.24	08/05/2008	Check Sequence: 9 101-420-2220-44040	ACH Enabled: No
Vendor:FXL	FXL, Inc. Monthly Assessing Service - August 08 Check Total:	2,000.00 2,000.00	08/05/2008	Check Sequence: 10 101-410-1550-43100	ACH Enabled: No
Vendor:GENSAF 11380	General Safety Equipment Repair Damaged Valve - Fire Check Total:	788.64 788.64	08/05/2008	Check Sequence: 11 101-420-2220-44040	ACH Enabled: No
Vendor:HAWKINS 1207629 RI	Hawkins, Inc. Flouride Check Total:	716.66 716.66	08/05/2008	Check Sequence: 12 601-494-9400-42160	ACH Enabled: No
Vendor:HEIMAN 0746560-IN	HEIMAN FIRE EQUIPMENT Replacement Batteries-Thermal Camera Check Total:	219.05 219.05	08/05/2008	Check Sequence: 13 101-420-2220-42210	ACH Enabled: No
Vendor:INTERSTA 023753	Interstate All Battery Ctr Repalcement Batteries AED - Fire Check Total:	175.90 175.90	08/05/2008	Check Sequence: 14 101-420-2220-42210	ACH Enabled: No
Vendor:ITERIS 303478	ITERIS Inc. Safe Rotes to School Program-Reimb.	1,668.24	08/05/2008	Check Sequence: 15 101-410-1320-44300	ACH Enabled: No

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	1,668.24			
Vendor:Johns	Lana Johnson			Check Sequence: 16	ACH Enabled: No
	Refund Street Assessment-Previous Paid	1,047.20	08/05/2008	409-000-0000-36100	
	Check Total:	1,047.20			
Vendor:Lake CHK REQ	City of Lake St. Croix Beach			Check Sequence: 17	ACH Enabled: No
	Transfer Cases-Elections	46.40	08/05/2008	101-410-1410-42000	
	Check Total:	46.40			
Vendor:LAKEESOD	LAKE ELMO SOD FARMS LLC			Check Sequence: 18	ACH Enabled: No
8188	Sod City Hall Annex	432.34	08/05/2008	411-480-8000-45200	
8191	Sod City Hall Annex	114.49	08/05/2008	411-480-8000-45200	
	Check Total:	546.83			
Vendor:LAKESMEC	Lakes Mechanical Services, Inc			Check Sequence: 19	ACH Enabled: No
9054	Thermal Expansion Tank	776.00	08/05/2008	202-494-9400-44300	
	Check Total:	776.00			
Vendor:MARONEYS	Maroney's Sanitation, Inc			Check Sequence: 20	ACH Enabled: No
252192	Waste Removal - City Hall	103.09	08/05/2008	101-410-1940-43840	
252192	Waste Removal - Fire	45.37	08/05/2008	101-420-2220-43840	
252192	Waste Removal - Public Works	197.77	08/05/2008	101-430-3100-43840	
252192	Waste Removal - Parks	103.09	08/05/2008	101-450-5200-43840	
	Check Total:	449.32			
Vendor:MATCO	Matco Tools			Check Sequence: 21	ACH Enabled: No
203072	Belt Gear Tool	115.11	08/05/2008	101-450-5200-42400	
203894	Man Hole Tool	94.95	08/05/2008	602-495-9450-42400	
	Check Total:	210.06			
Vendor:MENARDSO	Menards - Oakdale			Check Sequence: 22	ACH Enabled: No
59844	Ramp & Deck - City Hall Annex	42.82	08/05/2008	411-480-8000-45200	
60051	Ramp & Deck - City Hall Annex	99.51	08/05/2008	411-480-8000-45200	
60195	Ramp & Deck Materials - City Hall Annex	26.50	08/05/2008	411-480-8000-45200	
60684	Deck & Ramp Materials - City Hall Annex	83.80	08/05/2008	411-480-8000-45200	
60999	Sign Paint	28.51	08/05/2008	101-430-3100-42260	
62391	Boards & Screws - City Hall Annex	222.31	08/05/2008	411-480-8000-45200	
62413	Landscape Materials - City Hall Annex	261.38	08/05/2008	411-480-8000-45200	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
62704	Deck & Ramp Materials - City Hall Annex Check Total:	82.75 847.58	08/05/2008	411-480-8000-45200	
Vendor: MENARDST	Menards - Stillwater			Check Sequence: 23	ACH Enabled: No
37526	Deck & Ramp Materials - City Hall Annex	392.91	08/05/2008	411-480-8000-45200	
37630	Deck & Ramp Materials - City Hall Annex	107.24	08/05/2008	411-480-8000-45200	
	Check Total:	500.15			
Vendor: MFRA	MFRA			Check Sequence: 24	ACH Enabled: No
62495	Planning Services	3,815.54	08/05/2008	101-410-1910-43150	
62495	Surface Water Management	180.00	08/05/2008	603-496-9500-44010	
	Check Total:	3,995.54			
Vendor: MILLEREX	Miller Excavating, Inc.			Check Sequence: 25	ACH Enabled: No
13374	Grade Roads	990.00	08/05/2008	101-430-3100-43150	
	Check Total:	990.00			
Vendor: MNUNEMPL	MN Dept Economic Security			Check Sequence: 26	ACH Enabled: No
07973555	Unemployment Insurance	2,287.90	08/05/2008	101-410-1520-41210	
	Check Total:	2,287.90			
Vendor: MOGRSOD	Mogren Turf			Check Sequence: 27	ACH Enabled: No
136384	Landscape Mulch	260.20	08/05/2008	411-480-8000-45200	
	Check Total:	260.20			
Vendor: NEXTEL	Nextel Communications			Check Sequence: 28	ACH Enabled: No
761950227-064	Cell Phone Service - Admin	121.11	08/05/2008	101-410-1940-43210	
761950227-064	Cell Phone Service - Fire	150.38	08/05/2008	101-420-2220-43210	
761950227-064	Cell Phone Service - Bldg	31.49	08/05/2008	101-420-2400-43210	
761950227-064	Cell Phone Service - Public Works	60.90	08/05/2008	101-430-3100-43210	
761950227-064	Cell Phone Service - Parks	16.28	08/05/2008	101-430-3100-43210	
	Check Total:	380.16			
Vendor: NORCHEM	Northland Chemical Corp.			Check Sequence: 29	ACH Enabled: No
5014983	Wash & Wax	68.80	08/05/2008	101-450-5200-42160	
	Check Total:	68.80			
Vendor: NORTHWWS	Northern Water Works Supply			Check Sequence: 30	ACH Enabled: No
SO1151511.001	Water Meters	3,965.36	08/05/2008	601-494-9400-42300	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
SO1151511.001	Hydrant Oil & Repair Kit	401.52	08/05/2008	601-494-9400-42270	
SO1151511.001	Wrenches	140.94	08/05/2008	601-494-9400-42400	
SO1154180.001	Annual Software Support Meter Read Equip	1,743.00	08/05/2008	601-494-9400-43180	
	Check Total:	6,250.82			
Vendor:OAKDALE 10000460-01	City of Oakdale	13,085.72	08/05/2008	Check Sequence: 31 601-494-9400-43820	ACH Enabled: No
	Check Total:	13,085.72			
Vendor:PETERSO 11135M	Peterson Fram & Bergman	1,904.93	08/05/2008	Check Sequence: 32 101-410-1610-43040	ACH Enabled: No
11140M	Legal Services - Civil	4,968.96	08/05/2008	101-410-1610-43045	
11145M	Legal Services - Criminal	33.00	08/05/2008	413-480-8000-43030	
11155M	Legal Services - Village	143.00	08/05/2008	101-410-1610-43040	
11161M	Legal Services -Admin	27.50	08/05/2008	101-410-1610-43045	
	Check Total:	7,077.39			
Vendor:PETTYCI	Petty Cash	21.29	08/05/2008	Check Sequence: 33 101-410-1940-44300	ACH Enabled: No
	Council Chamber Clock	25.28	08/05/2008	101-410-1910-44300	
	Refreshments Provided at Open House Plan	58.00	08/05/2008	101-410-1520-44300	
	Board of Review - Dinner	14.63	08/05/2008	101-410-1320-44300	
	Shipping-Census Data	42.55	08/05/2008	101-430-3100-44010	
	Filter-Public Works	161.75			
	Check Total:				
Vendor:PLANTH 919-08	PLANT HEALTH ASSOCIATES, INC	940.00	08/05/2008	Check Sequence: 34 101-430-3100-43150	ACH Enabled: No
919-08	Forester Services June 08	634.50	08/05/2008	203-490-9070-43150	
919-08	Forester Services -Development	0.84	08/05/2008	101-410-1320-43220	
	Postage	1,575.34			
	Check Total:				
Vendor:PRESS	StevenPress	117.76	08/05/2008	Check Sequence: 35 101-410-1320-43620	ACH Enabled: No
	Cable Operator	117.76			
	Check Total:				
Vendor:RIVRCCOOP 141352	River Country Cooperative	177.50	08/05/2008	Check Sequence: 36 101-420-2220-42120	ACH Enabled: No
141352	Fuel -Fire	40.44	08/05/2008	101-420-2220-44040	
	Vehicle Washes				

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	217.94			
Vendor:ROGERS 15754 15785	Rogers Printing Services Stationary Envelopes Receipt Books Printing Check Total:	249.80 1,148.63 1,398.43	08/05/2008 08/05/2008	Check Sequence: 37 101-410-1320-42030 101-410-1520-42030	ACH Enabled: No
Vendor:RUD	DianePrince-Rud Cleaning Services-City Hall Cleaning Services-Fire Hall Cleaning Supplies Check Total:	360.00 360.00 21.86 741.86	08/05/2008 08/05/2008 08/05/2008	Check Sequence: 38 101-410-1940-44010 101-420-2220-44010 101-410-1940-42110	ACH Enabled: No
Vendor:S&T O1MR2042 O1MR2042 O1MR2042 O1MS2980 O1MS2980	S&T Office Products, Inc. Toner Cartridge - Finance Office Supplies Office Supplies Office Supplies Office Supplies-Elections Check Total:	114.27 51.47 22.85 231.08 10.10 429.77	08/05/2008 08/05/2008 08/05/2008 08/05/2008 08/05/2008	Check Sequence: 39 101-410-1520-42000 101-410-1320-42000 101-410-1410-42000 101-410-1320-42000 101-410-1410-42000	ACH Enabled: No
Vendor:SAMSCLUB 5508	Sam's Club Annual Membership Card Fee Check Total:	37.72 37.72	08/05/2008	Check Sequence: 40 101-410-1320-44300	ACH Enabled: No
Vendor:SPRINT 837908817-008	Sprint Phone Cards for Laptops Check Total:	174.55 174.55	08/05/2008	Check Sequence: 41 101-420-2220-43210	ACH Enabled: No
Vendor:STILL 20495977 20498379	STILLWATER COURIER Legal Notice Legal Notice Check Total:	38.35 23.60 61.95	08/05/2008 08/05/2008	Check Sequence: 42 101-410-1910-43150 101-410-1910-43150	ACH Enabled: No
Vendor:STILLMED 12469	Stillwater Medical Group Physical Firefighters-11 Check Total:	2,172.00 2,172.00	08/05/2008	Check Sequence: 43 101-420-2220-43050	ACH Enabled: No

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: TASCH				Check Sequence: 44	ACH Enabled: No
44844	T. A. Schifsky & Sons	284.78	08/05/2008	101-430-3100-42240	
44908	Asphalt Street Repairs	83.49	08/05/2008	101-430-3100-42240	
44968	Asphalt Street Repairs	84.31	08/05/2008	101-430-3100-42240	
	Check Total:	452.58			
Vendor: TDS				Check Sequence: 45	ACH Enabled: No
6517798882	TDS METROCOM - MN	161.47	08/05/2008	101-420-2220-43210	
6517798882	Analog Lines - Fire	69.60	08/05/2008	101-430-3100-43210	
6517798882	Analog Lines - Public Works	102.75	08/05/2008	602-495-9450-43210	
	Check Total:	333.82			
Vendor: TESSMAN				Check Sequence: 46	ACH Enabled: No
SO99576-IN	Tessman Company	194.88	08/05/2008	603-496-9500-43150	
	Erosion Blanket & Seed	194.88			
	Check Total:				
Vendor: TKDA				Check Sequence: 47	ACH Enabled: No
000200802174	TKDA, Inc.	444.37	08/05/2008	413-480-8000-43030	
000200802561	Village Planning June	133.98	08/05/2008	601-494-9400-43030	
000200802562	Well Head Protection Plan	89.32	08/05/2008	601-494-9400-43030	
000200802563	Water System Interconnect	3,301.18	08/05/2008	202-494-9400-43030	
000200802564	Tablyn/Heights Watermain Project	1,836.99	08/05/2008	203-490-9070-43030	
000200802565	Whistling Valley III	498.86	08/05/2008	203-490-9070-43030	
000200802566	Tapestry at Charlotte Grove	1,656.11	08/05/2008	203-490-9070-43030	
000200802567	Lake Elmo Farms	287.00	08/05/2008	203-490-9070-43030	
000200802568	Discovery	293.99	08/05/2008	203-490-9070-43030	
000200802569	Sanctuary	92.57	08/05/2008	203-490-9070-43030	
000200802570	Park Meadows	11,083.37	08/05/2008	413-480-8000-43030	
000200802571	I-94 to 30th Village Sanitary	287.05	08/05/2008	413-480-8000-43030	
000200802572	Village Planning	4,142.89	08/05/2008	101-410-1930-43030	
000200802573	General Engineering	1,582.29	08/05/2008	603-496-9500-43030	
000200802573	General Engineering- Surface Water	1,160.81	08/05/2008	601-494-9400-43030	
000200802573	General Engineering- Water	594.60	08/05/2008	602-495-9450-43030	
000200802573	General Engineering- Sewer	912.72	08/05/2008	409-480-8000-43030	
000200802573	General Engineering- Streets	1,942.53	08/05/2008	101-410-1930-43030	
000200802573	General Engineering	980.54	08/05/2008	601-494-9400-43030	
000200802574	SW Area Water System Extension	31,321.17			
	Check Total:				
Vendor: TRISTATE				Check Sequence: 48	ACH Enabled: No
A58294	Tri State Bobcat, Inc.	12.62	08/05/2008	101-450-5200-42400	
E09701	Safety Glasses - Parks	583.75	08/05/2008	603-496-9500-43150	
	Excavator Rental for Erosion Control				

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	596.37			
Vendor: TWINCIT 4686	Twin City Water Clinic, Inc. Water Bacteria Analysis Check Total:	65.00 65.00	08/05/2008	Check Sequence: 49 601-494-9400-42270	ACH Enabled: No
Vendor: USAMOB R0318076G	USA Mobility Wireless, Inc. Monthly Alpha Pagers-Chief Officers Check Total:	21.39 21.39	08/05/2008	Check Sequence: 50 101-420-2220-43210	ACH Enabled: No
Vendor: Velte Permit 6275	Toby Velte Escrow Return 2975 Klondike Check Total:	1,000.00 1,000.00	08/05/2008	Check Sequence: 51 803-000-0000-22900	ACH Enabled: No
Vendor: WOODFIRE CHK Req	Woodbury Fire Department Registration Check Total:	120.00 120.00	08/05/2008	Check Sequence: 52 101-420-2220-44330	ACH Enabled: No
Vendor: ZACK 24172 24172	Zack's, Inc. Cleaning Towels - City Hall Rake, Locate Paint & Hearing Protection Check Total:	47.10 117.34 164.44	08/05/2008 08/05/2008	Check Sequence: 53 101-410-1940-42110 601-494-9400-42400	ACH Enabled: No
	Total for Check Run:	91,011.21			
	Total Number of Checks:	53			

City Council
Date: 8-5-08
CONSENT
Item: 3
Motion

ITEM: Approve appointment of election judges for the primary and general
Election

SUBMITTED BY: Sharon Lumby, City Clerk

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve a list of
election judges for the primary and general elections.

Motion:

*Move to approve Resolution no. 2008-035 appointing the election judges for the primary and
general election.*

ATTACHMENT:

1. Resolution no. 2008-035
2. Notice of Filing (Informational)

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

RESOLUTION NO. 2008-035

**A RESOLUTION APPOINTING ELECTION JUDGES FOR THE
2008 PRIMARY AND GENERAL ELECTION**

WHEREAS, the City of Lake Elmo is dependent upon and appreciative of citizen assistance for its election process and,

WHEREAS, the Lake Elmo 2008 Primary and General Election Judge appointments consist of individuals recommended by the City Clerk with the approval of the majority of the City Council.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Council do hereby approve the following appointments for the 2008 Primary and General Election Judges and set the wages for their services at \$11.00/Hour to the Head Judges, \$10.00/Hour Assistant Judges and \$9.00/Hour to all other judges.

Precinct 1: Jim Allen, Diane Allen, Jim Beers, Florence Bergloff, Barbara Bjorkman, Carol Crimmins, Shirley Durand, Betty Herzfeld, Gloria Knoblauch, Jan Krueger, Joyce Mehsikomer, Don Meyer, Jerry Nielsen, Audrey Olsen, Jim Roth, Paul Ryberg, Bob Schumacher, Bud Schneider, Bill Wacker, Violet Wagoner, Tom Walker, Linda Wagner, Bruce Weeks

Precinct 2: Keith Bogut, Joseph Dardis, George Dege, Debbie Dean, Eloise Evenson, Nancy Hansen, Suzanne Haugen, Wil Hirsch, Barb Holm, Loren Johnson, Ginny Johnson, Dick Johnson, Jan Kiefner, Barb Kiesling, Wendy Loos, Karen Meister, Judy Moris, Pat O'Donnell, Ken Owens, Jackie Pierre, Phyllis Paulson, Ruth Pallmeyer

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO
THIS 5th DAY OF AUGUST, 2008.**

Dean A. Johnston, Mayor

ATTEST:

Sharon Lumby, City Clerk

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

NOTICE OF FILING

FILING FOR LAKE ELMO CITY OFFICES OPENS
TUESDAY, AUGUST 26, 2008 AND CLOSSES
TUESDAY, SEPTEMBER 9, 2008 AT 5:00P.M. FOR

MAYOR (4-YEAR TERM)
TWO (4-YEAR TERM) CITY COUNCIL MEMBERS

ANYONE WHO HAS BEEN A RESIDENT OF
LAKE ELMO FOR AT LEAST 30 DAYS BEFORE THE
GENERAL ELECTION, IS 21 YEARS OF AGE OR
MORE, AND PAYS A \$2.00 FILING FEE MAY FILE AT
THE LAKE ELMO CITY OFFICE, 3800 LAVERNE
AVENUE N., LAKE ELMO, DURING REGULAR
BUSINESS HOURS OF 8:00 A.M. TO 4:30 P.M.
MONDAY THROUGH FRIDAY.

ELECTION FOR THE ABOVE OFFICES WILL BE
HELD TUESDAY, NOVEMBER 4, 2008.

Sharon Lumby
City Clerk

City Council
Date: 8/05/08
Consent Agenda
Item: 4
Resolution 2008 - 036

ITEM: Approve resolution 2008-036 agreeing to MnDOT agreement in order to receive reimbursement for landscaping materials and authorize the Mayor and City Administrator to execute the agreement

SUBMITTED BY: Kelli Matzek, Planner

REVIEWED BY: Susan Hoyt, City Administrator
Kyle Klatt, Director of Planning

SUMMARY AND ACTION REQUESTED: The city council is being asked to consider Resolution 2008 - 036 authorizing the city to enter into an agreement with MnDOT for the planting that took place in May of 2008 along Highway 5 and to receive reimbursement for the landscaping materials. The resolution also authorizes the Mayor and City Administrator to execute the agreement. This resolution and agreement would normally have been executed before the planting took place, but due to clerical errors on the part of MnDOT, it was not completed. This resolution and agreement are a formality for filing the correct paperwork to ensure reimbursement for the landscaping materials used for the planting project.

ADDITIONAL INFORMATION

- The landscaping was completed along Highway 5 near Carriage Station Park on Saturday, May 3, 2008.

MOTION:

Approve Resolution 2008- 036 authorizing the city to enter into an agreement with Mn/DOT to receive reimbursement for the landscaping project and to authorize the Mayor and City Administrator to execute the agreement.

ATTACHMENTS (1):

1. Resolution 2008- 036
2. MnDOT Agreement

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

RESOLUTION NO. 2008-036

**A RESOLUTION AGREEING TO MN/DOT AGREEMENT NO. 92477 IN
ORDER TO RECEIVE REIMBURSEMENT FOR LANDSCAPING MATERIALS
AND TO AUTHORIZE THE MAYOR AND CITY ADMINISTRATOR TO
EXECUTE THE AGREEMENT**

WHEREAS, the City of Lake Elmo applied for and was approved to receive a grant through the Mn/DOT Roadside Landscape Partnership Program to landscape along a portion of State Highway 5.

NOW THEREFORE BE IT RESOLVED, that the City of Lake Elmo hereby agrees to Mn/DOT Agreement No. 92477 with the State of Minnesota, Department of Transportation for the following purpose:

1. To provide for payment by the State to the City of the State's share of the acquisition costs of the landscape material to be placed along and adjacent to Trunk Highway No. 5 from 200 ft north of 50th Street to 55th Street within the corporate City limits under State Project No. 8214-969D (T.H. 5 =045).

BE IT FURTHER RESOLVED, that the Mayor and the City Administrator are authorized to execute the Agreement and any amendments to the Agreement.

ADOPTED BY the Lake Elmo City Council on the 5th day of August, 2008.

ATTEST:

Dean A. Johnston, Mayor

Susan Hoyt, City Administrator

CERTIFICATION

I certify that the above resolution is an accurate copy of the Resolution adopted by the Council of the City of Lake Elmo at an authorized meeting held on the 5th day of August, 2008, as shown by the minutes of the meeting in my possession.

Signed:

(signature)

(title) (date)

Subscribed and sworn to before me
this ____ day of August, 2008.

Notary Public _____

My Commission Expires _____

PRE-LETTING
SERVICES
SECTION

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
LANDSCAPE PARTNERSHIP PROJECT

Mn/DOT
AGREEMENT NO.

92477

S.P. 8214-969D (T.H.5=045)
State Funds

The State of Minnesota
Department of Transportation, and
The City of Lake Elmo

Re: State cost landscape materials
acquisition by the City for use
along T.H. 5 from 200 ft. N. of
50th St. to 55th St.

ORIGINAL
AMOUNT ENCUMBERED

\$4,500.00

AMOUNT RECEIVABLE

(None)

THIS AGREEMENT is made and entered into by and between the State of Minnesota, Department of Transportation, hereinafter referred to as the "State", and the City of Lake Elmo, Minnesota, acting by and through its City Council, hereinafter referred to as the "City".

WHEREAS, the City is about to perform landscaping along Trunk Highway No. 5 from 200 ft. north of 50th Street to 55th Street within the corporate City limits in accordance with City-prepared plans, specifications and special provisions designated as the "Lake Elmo Landscaping Plan", which project has been designated by the State as State Project No. 8214-969D (T.H. 5=045); and

WHEREAS, the City has requested participation by the State in the costs of landscape materials acquisition in accordance with the terms of the State's "Community Roadside Landscaping Partnership Program"; and

WHEREAS, the State is willing to participate in the costs of the landscape materials acquisition as hereinafter set forth; and

WHEREAS, Minnesota Statute Section 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

IT IS, THEREFORE, MUTUALLY AGREED AS FOLLOWS:

ARTICLE I - PROJECT ADMINISTRATION BY THE CITY

Section A. Landscape Materials Acquisition

The City shall acquire landscape materials in accordance with State-approved City plans, specifications and special provisions designated as the "Lake Elmo Landscaping Plan". Landscaping shall be performed by City forces in accordance with State-approved City plans, specifications and special provisions that are on file in the City's office and in the State's Office of Technical Support in St. Paul, and are incorporated into this Agreement by reference.

Section B. Purchase Order to be Furnished to the State

The City shall, within 7 days after ordering the landscape materials, submit to the State's Landscape Partnership Program Coordinator in St. Paul a copy of the purchase order for the landscape materials.

Section C. Direction, Supervision and Inspection

Landscape materials acquisition performed in accordance with this Agreement shall be under the direction of the City; however, the State cost participation landscape materials to be acquired under this Agreement shall be open to inspection by the State's authorized representatives. The City shall give the State's Landscape Partnership Program Coordinator five days notice of its intention to receive delivery of the landscape materials.

Responsibility for the control of the State cost participation landscape materials acquisition covered under this Agreement shall be on the City and shall be carried out in accordance with State-approved City plans, specifications and special provisions designated as the "Lake Elmo Landscaping Plan".

The City must verify whether or not nursery vendors are under a Gypsy Moth Compliance Agreement between the Minnesota Department of Agriculture, hereinafter referred to as the "MDA", and the United States Department of Agriculture or under an MDA Japanese Beetle Quarantine. A current Certificate of Compliance must accompany all plant material shipped from nursery vendors subject to quarantines for Gypsy Moth and Japanese Beetle. To determine if vendors are subject to quarantines, call the MDA Supervisor of Plant Regulatory Services at (651) 296-8388.

Section D. Completion of Materials Acquisition and Installation

The City shall cause the acquisition and installation of landscape materials to be started and completed in accordance with the time

schedule in the Community Roadside Landscaping Partnership Program Project Application, which is on file in the State's Office of Technical Support and is incorporated into this Agreement by reference. An exchange of letters between the appropriate City official and the State's Landscape Partnership Program Coordinator, for unavoidable delays encountered in the performance thereof, may extend the completion date for the landscape materials acquisition and installation.

Section E. Compliance with Laws, Ordinances and Regulations

The City shall, in connection with the acquisition of the landscape materials, comply with all Federal, State and Local laws, and all applicable ordinances and regulations.

Section F. Right-of-Way, Easements and Permits

The City is hereby authorized to work on State right-of-way for the purposes of installing and maintaining the landscape materials, including any necessary replacement of landscape materials that fail to survive.

The City shall, without cost or expense to the State, obtain all rights-of-way, easements, construction permits and any other permits and sanctions that may be required in connection with the installation of landscape materials. Prior to advance payment by the State, the City shall furnish the State with certified copies of the documents for those rights-of-way and easements, and certified copies of those construction permits and other permits and sanctions required for State landscaping.

ARTICLE II - STATE COST

Section A. Basis

The State's full and complete share of the costs of the landscaping to be performed along Trunk Highway No. 5 from 200 ft. north of 50th

Street to 55th Street within the corporate City limits under State Project No. 8214-969D (T.H. 5=045) shall be equal to the delivered cost of the landscaping materials acquired in accordance with the "Lake Elmo Landscaping Plan."

Section B. Payment

It is estimated that the cost of the landscape materials acquisition is \$4,500.00. The maximum obligation of the State under this Agreement shall not exceed \$6,000.00, unless the maximum obligation is increased by execution of an amendment to this Agreement.

The State shall pay to the City an amount equal to the delivered cost of the landscape materials, not to exceed the maximum obligation, after the following conditions have been met:

1. Encumbrance by the State of the State's total cost share.
2. Execution and approval of this Agreement and the State's transmittal of it to the City.
3. Receipt by the State's Landscape Partnership Program Coordinator, from the City, of the following:
 - a. Copies of the purchase orders for the landscape materials, as provided for in Article I, Section B. of this Agreement.
 - b. Certified copies of the documents, as provided for in the second paragraph of Article I, Section F. of this Agreement.
 - c. Written request for payment, accompanied by copies of supplier invoices for the landscape materials acquisition and delivery.

ARTICLE III - GENERAL PROVISIONSSection A. Installation and Maintenance by the City

After acquisition of the landscape materials, the City shall install the landscape materials along Trunk Highway No. 5 and provide for the proper maintenance thereof, without cost or expense to the State. Maintenance includes, but is not limited to, removal and replacement of all materials that fail to survive. Criteria for maintenance and replacement are shown and described in EXHIBIT "A", Maintenance Responsibilities Plan and Schedule, which is attached and incorporated into this Agreement.

Section B. Responsibilities of the City

The City shall, in connection with the landscape materials acquisition, installation and maintenance, comply with the following conditions:

1. Use of State right-of-way shall in no way impair or interfere with the safety or convenience of the traveling public in its use of the highway.
2. Preserve and protect all utilities located on lands covered by this Agreement, without cost or expense to the State.
3. As required by Minnesota Statute 216D, notify Gopher State One Call System (1-800-252-1166) at least 48 hours before any excavation is done on this project.
4. No advertising signs or devices of any form or size shall be constructed or shall be permitted to be constructed or placed upon State right-of-way.

5. Upon completion of the installation of landscape materials and during performance of maintenance operations, restore all disturbed areas of State right-of-way so as to perpetuate satisfactory drainage, erosion control and aesthetics.

Any use of State right-of-way permitted by this Agreement shall remain subordinate to the right of the State to use the property for highway and transportation purposes. This Agreement does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge facility that would become subject to Section 4(f) of the Federal-Aid Highway Act of 1968.

Section C. Examination of Books, Records, Etc.

As provided by Minnesota Statute Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of each party relevant to this Agreement are subject to examination by each party, and either the legislative auditor or the state auditor as appropriate, for a minimum of six years from final payment.

Section D. Termination of Agreement

The State may terminate this Agreement if it's the State's desire to use any portion of State right-of-way subject to this Agreement for transportation purposes, by giving the City written notice at least 90 days prior to the date that such termination shall become effective. Upon termination of this Agreement, the City will be required to restore and return the area to a condition satisfactory to the State's District Engineer at Roseville.

Each party may terminate this Agreement, with or without cause, by providing the other party with written or fax notice of effective date of termination. The State is not obligated to pay for services

performed after notice and effective date of termination. Upon such termination, the City is entitled to payment for services satisfactorily performed under this Agreement prior to the effective date of termination.

The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered under this Agreement. Termination must be by written or fax notice to the City. The State is not obligated to pay for services performed after notice and effective date of termination. Upon such termination, the City is entitled to payment for services satisfactorily performed under this Agreement prior to the effective date of termination, to the extent the funds are available.

Section E. Claims

Each party is responsible for its own employees for any claims arising under the Workers Compensation Act. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes Section 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City.

Section F. Nondiscrimination

The provisions of Minnesota Statute Section 181.59 and of any applicable law relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein.

Section G. Agreement Approval

Before this Agreement becomes binding and effective, it shall be approved by a City Council resolution and executed by such State and City officers as the law may provide in addition to the Commissioner of Transportation or their authorized representative.

ARTICLE IV - AUTHORIZED AGENTS

The State's Authorized Agent for the purpose of the administration of this Agreement is Todd Carroll, Landscape Partnership Program Coordinator, or his successor. His current address and telephone number are 395 John Ireland Boulevard, Mailstop 686, St. Paul, MN 55155, (651) 366-4617.

The City's Authorized Agent for the purpose of the administration of this Agreement is Kelli Matzek, Assistant Planner, or her successor. Her current address and telephone number are 3800 Laverne Avenue North, Lake Elmo, MN 55042, (651) 233-5413.

IN TESTIMONY WHEREOF the parties have executed this Agreement by their authorized officers.

STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05.

By _____

Date _____

MAPS Encumbrance No. _____

CITY OF LAKE ELMO

By _____
Mayor

Date _____

By _____

Title _____

Date _____

DEPARTMENT OF TRANSPORTATION

Recommended for approval:

By _____
Landscape Partnership Program Coordinator

By _____
District Engineer

Approved:

By _____
State Design Engineer

Date _____

Approved as to form and execution:

By _____
Contract Management

Date _____

COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By _____

Date _____

MKS

EXHIBIT "A"

Maintenance Responsibilities Plan and Schedule

Table 1a. REQUIRED LANDSCAPE MAINTENANCE ACTIVITIES

MAINTENANCE CONSIDERATION				
PLANT GROUPS	PRUNING		WEED CONTROL	FERTILIZATION See Table 5, Fertilization Schedule
	When To	Type Of		
Evergreen Trees	Anytime - Dry	Corrective and Deadwood Removal	Maintain mulch at 3" minimum around trees in mowed areas, keep weed free.	Yes
Shade Trees	Anytime - Dry*	Training and Corrective		Yes
Ornamental Trees	Winter**	Corrective		Yes
Evergreen Shrubs	Anytime - Dry	Deadwood Removal		Yes
Deciduous Shrubs	Dormant	Corrective and Renewal	Maintain minimum 3" woodchip mulch in a weed free condition until shrub crown closure.	Yes
Vines	Dormant	Deadwood Removal		No
Groundcovers				

* Do not prune oaks during April, May and June. Do not prune Honeylocust while dormant or when humid or wet.

** Do not prune apples, crabapples or Mountain Ash during April, May and June.

TABLE 1b. REQUIRED LANDSCAPE MAINTENANCE ACTIVITIES

MAINTENANCE CONSIDERATION				
PLANT GROUPS	WATERING	INSECT AND DISEASE CONTROL	RODENT PROTECTION	REMOVALS AND REPLACEMENTS
Evergreen Trees	Yes until established (2 yrs.). Supplemental watering may be needed during drought periods (especially during July and August) even after plants are established.	As needed. Remove diseased plants that pose threats to adjacent plantings.	Yes - Pine Only	Remove all dead plants. Replace dead or dying plants unless the lost plants do not noticeably compromise the visual appearance or design intent.
Shade Trees			Yes	
Ornamental Trees			Yes	
Evergreen Shrubs			No*	
Deciduous Shrubs			No*	
Vines			No*	
Groundcovers			No*	

* Rodent protection is generally not practical for mass shrub plantings, maintaining clean mulched planting areas free of weed growth will reduce problems. Mowed turf in formal planting areas will help reduce rodent problems.

TABLE 2a. CALENDAR OF LANDSCAPE MAINTENANCE

ACTIVITY	January	February	March	April	May	June
Pruning	See Table 1a for Best Time for Specific Species.					
Weed Control:	Planting beds must be kept in a weed free condition.					
Remulch				OXX	XXXX	XO
Herbicide	Must be applied by a licensed Pesticide Applicator.					
Fertilization: Turf Shrubs, Trees				XXXX		
Insect & Disease	Time of control depends on the type of insect or disease and when it is detected.					
Sunscald Protection				Remove wrap*		
Watering	During first and second growing seasons approximately once a week or as needed to maintain adequate but not excessive soil moisture.					
Maintain Rodent Protection	O O O O	O O O O	O O O O	O O O O	O O O O	O O O O
Turf Maintenance Mowing					O O X	XXXX
Mower Damage Prevention				X	XXXX	XXXX
Replanting Evergreen Trees Deciduous Trees Container Plants Turf				OXX OXX XXX O	XXO XXXX XXXX XXXX	XXXO XXOO

X - Optimum Time O - Less than Optimum Time

* Undiluted white latex paint is recommended, repaint as necessary until trees reach 4" caliper.

TABLE 2b. CALENDAR OF LANDSCAPE MAINTENANCE

ACTIVITY	July	August	September	October	November	December
Pruning	See Table 1a for Best Time for Specific Species.					
Weed Control:	Planting beds must be kept in a weed free condition.					
Remulch	XXXX	XXXX	XXXX	XXXX	OO	XO
Herbicide	Must be applied by a licensed Pesticide Applicator.					
Fertilization: Turf Shrubs, Trees				XXXX XXXX		
Insect & Disease	Time of control depends on the type of insect or disease and when it is detected.					
Sunscauld Protection				Apply or maintain paint. Install wrap*.		
Watering	During first and second growing seasons approximately once a week or as needed.					
Maintain Rodent Protection	OOOO	OOOO	XXXX	XXXX	XOOO	OOOO
Turf Maintenance Mowing	XXXX	XXXX	XXXX	XXOO		
Mower Damage Prevention	XXXX	XXXX	XXXX	XXOO		
Replanting Evergreen Trees Deciduous Trees Container Plants Turf		OX	XXXO		OXXX	XO
	OOOO OOOO	OOOX OOXX	XXXO XXXX		OO	

X - Optimum Time O - Less than Optimum Time

* Undiluted white latex paint is recommended, repaint as necessary until trees reach 4" caliper.

TABLE 3. DESCRIPTIONS OF TYPES OF PRUNING

TYPES OF PRUNING	WHEN TO PRUNE	DESCRIPTION
Disease Removal	After Diagnosis	Removal of fungal bacterial growths. Sterilize pruners between cuts.
Deadwood Removal	See Table 1	Removal of dead branches, normally from the interior portion of the crown.
Training	See Table 1	Maintaining the central leaders and acceptable symmetry in evergreen, shade and ornamental trees. Removal of suckers and water sprouts.
Corrective	See Table 1	Removal of storm-damaged, vehicle-damaged or vandalized limbs.
Renewal	See Table 1	Removing all top growth at or near the ground line and remulch. Or removal of 1/3 of the oldest stems at the ground line.

TABLE 4. WEED CONTROL METHODS - INTEGRATED APPROACH

METHOD	CATEGORY		
	TREES	SHRUB BEDS	TURF
Replanting - Filling Voids		X	X
Fertilization	X	X	X
Remulch*	X	X	X
Herbicides	X	X	X
Weed Whip	No	X	

* Wood chip mulch should be replenished around shade trees and low growing shrubs every 3-5 years. Place mulch to a 4" depth. Mulching will help control weeds, reduce mower damage and conserve moisture.

TABLE 5. FERTILIZATION SCHEDULE

CATEGORY	FREQUENCY	TIME OF APPLICATION	ANALYSIS **	RATE
Mowed Turf	Every 3 Years	April or October	23-0-30	1 lb (N)/1000 sq. ft.
Shrub Beds*	Every 3 Years	October or April	23-0-30	1 lb (N)/1000 sq. ft.
Shade Trees*	Every 3 Years	October or April	23-0-30	.5 lbs/1 Cu. Yd. of soil

Note: Do not fertilize trees and turf during the same season. Offset tree fertilization by one season in order to prevent fertilizer burn on turf.

* Plants that fix nitrogen, like Silver Buffaloberry, Caragana, Honeylocust, Russian Olive or other legumes, should not be fertilized except under special conditions. Tall shrubs do not need to be fertilized if leaf color remains normal.

** Analysis will be allowed within the following ranges: N (16-24) - P (0) - K (20-30).

City Council
Date: 8.5.08
CONSENT
Item: 5

ITEM: Schedule an appeal hearing for August 19 on a zoning code violation for 5761 Keats Avenue

REQUESTED BY: Joan and Steve Ziertman, 5761 Keats Avenue

SUBMITTED BY: Jerry Filla, City Attorney

SUMMARY AND ACTION REQUESTED: The city council, acting as the board of appeals and adjustment, is being asked to schedule a hearing for a zoning code violation to allow property owners, Joan and Steve Ziertman, to appeal zoning code violation on their property. The Ziertmans filed a complaint with the city attorney asking for this appeal within the time frame required for this appeal to be heard before the board of appeals and adjustments. The proposed date for the hearing is August 19, 2008 at or after 7:30 PM on the agenda. The Ziertmans are available for this date. The hearing is not a public hearing. There is a notification process in the city code that will be followed as soon as the hearing is scheduled.

Motion

Acting as the board of appeals and adjustment move to schedule an appeal hearing on a zoning code violation on 5761 Keats Avenue for August 19, 2008 on or after 7:30 PM to allow the property owners, Steve and Joan Ziertman, to appeal the determination of the zoning code violation on their property.

ATTACHMENTS:

1 Section 31.10 of the city code

§ 31.10 COUNCIL TO ACT AS BOARD OF ADJUSTMENT AND APPEALS.

(A) *Establishment of Board of Adjustment and Appeals.* The Council is established as the Board of Adjustment and Appeals. The Board of Adjustment and Appeals shall have the following powers with respect to this section:

(1) The exclusive power to hear and decide appeals where it is alleged that there is an error in any decision, order, requirement, or determination made by an administrative officer in the enforcement of the zoning code; and

(2) The appeal shall be filed within 5 business days from the date that the decision, order, requirement, or determination is made and shall state:

(a) The particular decision, order, requirement, or determination from which the appeal is taken;

(b) The name and address of the appellant;

(c) The grounds for the appeal; and

(d) The relief requested by the appellant.

(B) *Effect of appeal.* An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment and Appeals, to whom the appeal is taken, certifies that by reason of the facts stated in the certificate a stay would cause imminent peril to life or property.

(C) *Authority of the Board of Adjustment and Appeals.* The Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that extent shall have all the powers of the officer from whom the appeal was taken, and may direct the issuance of a permit.

(D) *Hearing procedures.*

(1) The Zoning Administrator shall, upon the filing of a notice of appeal, refer the matter to the Board of Adjustment and Appeals and establish a time for the hearing of the matter by the Board.

(2) The Zoning Administrator shall notify the appellant or applicant, the Chairperson of the Planning Commission, the Building Official, the abutting property owners, and in the case of an appeal the officer from whom the appeal is taken, of the time and place of the hearing. The notice shall be in writing and shall be served on the person by mail, provided the notice shall be mailed at least 10 days preceding the date of the hearing.

(E) *Record of findings.*

(1) The Board of Adjustment and Appeals shall make written findings in any case of an appeal and shall state in the findings the reasons for its decision. The order issued by the Board of Adjustment and Appeals shall include the legal description of the land involved. Any order shall be filed with the Zoning Administrator who shall immediately mail a copy of the order, bearing the notation of the filing date, to the appellant or applicant.

(2) A certified copy of any order issued by the Board of Adjustment and Appeals acting upon any appeal from a decision, order, requirement, or determination of an administrative officer, may be filed with the County Recorder or Registrar of Titles for recording. The filing may be made by the Zoning Administrator as soon as is reasonably possible after the filing of the order with the Zoning Administrator.

(F) *Decision; appeals.* All decisions of the Board of Adjustment and Appeals acting upon an appeal from an order, requirement, decision, or determination by an administrative officer or upon an application for a variance shall be final, except that any aggrieved person may have any decision or order of the Board reviewed for an appropriate remedy in district court as provided by law.
(Ord. 97-94, passed 11-7-2001)

§ 31.11 TERMS OF OFFICE.

(A) *Council Members.* Two Council Members shall be elected for 4-year terms at each biannual election.

(B) *Mayor.* The Mayor shall be elected for a 4-year term commencing with the regular municipal elections to be held in 2008. The first 4-year mayoral term shall commence on January 1, 2009.
(Ord. 97-194, passed 6-19-2007)

CITY ADMINISTRATOR

§ 31.25 APPOINTMENT.

(A) The office and position of City Administrator is continued within the city.

(B) The City Administrator shall be appointed by the Council and shall serve for an indefinite term. The City Administrator shall be chosen on the basis of executive and administrative qualifications, and shall have experience and knowledge in the area of government or business administration.
(1997 Code, § 200.02)

City Council
Date: 8.5.08
REGULAR
Item: 8
INFORMATION

ITEM: Update from the South Washington Watershed District
REQUESTED BY: Matt Moore, Director, Southwest Washington Watershed District
SUBMITTED BY: Susan Hoyt, City Administrator

SUMMARY AND ACTION REQUESTED: The city council is being asked to receive an update from representatives of the Southwest Washington Watershed District. It will be a brief verbal presentation on the activities of the watershed.

ORDER OF BUSINESS:

Introduction	Susan Hoyt, City Administrator
Report	Matt Moore, Director, SW Washington Watershed District
Questions from the council to the Presenter	Mayor and Council members
Questions/comments from the public to the council, if any	Mayor facilitates
Thank you to the presenters	Mayor and Council members

ATTACHMENTS:

- 1 Map of watershed districts that cover Lake Elmo
- 2 What is a watershed district?

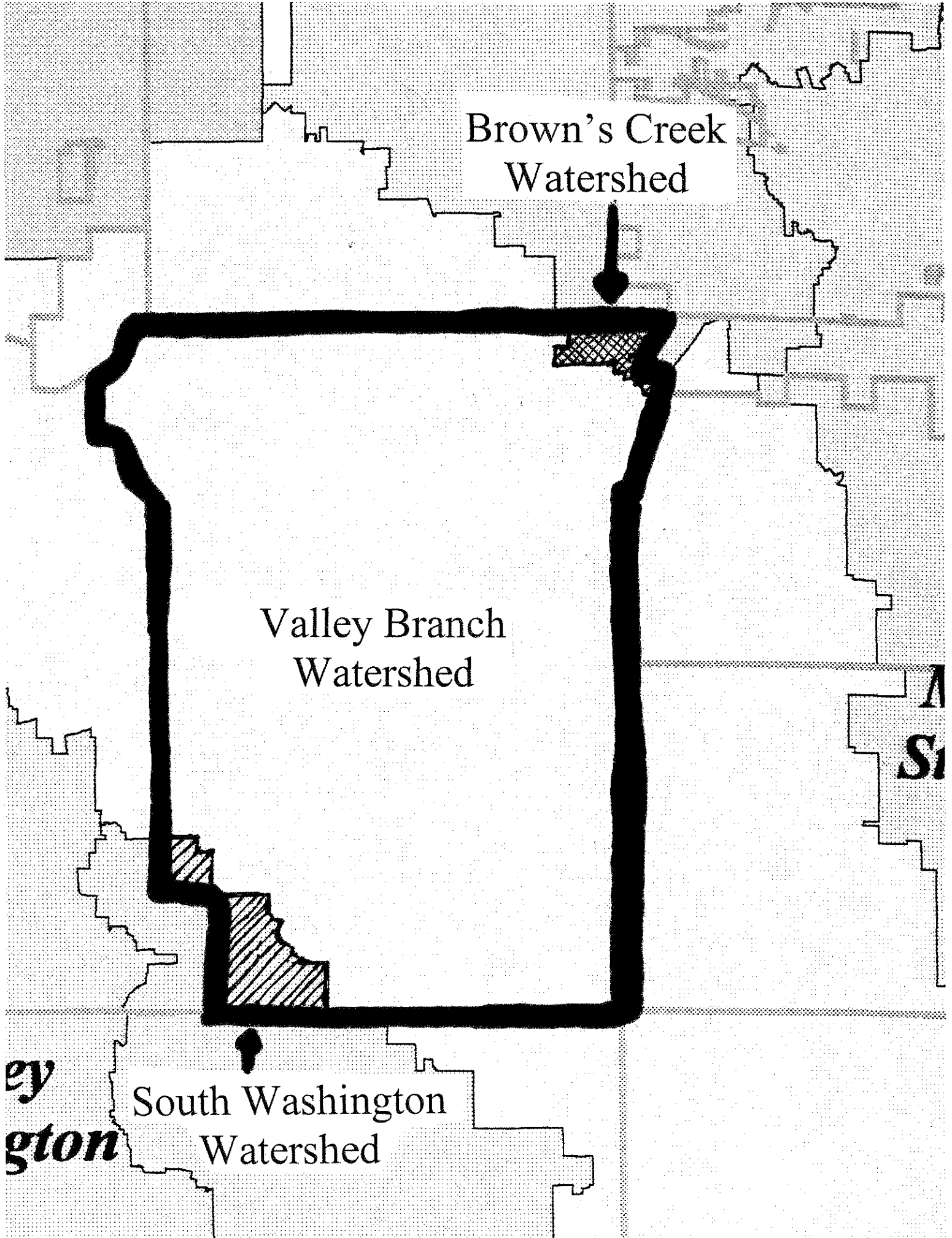
Brown's Creek
Watershed

Valley Branch
Watershed

South Washington
Watershed

ey
gton

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S



What is a Watershed District?

A Watershed District is a special purpose local unit of government. It is established for the purpose of managing water resources. It is different from all other local government units in that its boundary is determined by the natural divide that defines the drainage basin of a river, stream, or a lake, rather than the political boundaries of townships or counties. There is no maximum or minimum size set for watershed districts. By law, districts have been established for relatively small watersheds, as well as very large ones, such as the Red Lake Watershed District, which encompasses more than 6000 square miles. The Watershed Act allows districts to act on a broad range of water problems. Some of these include drainage and flood control, lake management, soil erosion and sedimentation, water quality, groundwater management, water supply, and floodplain management.

What are the responsibilities of Watershed District Authorities?

The Watershed Act provides districts with authorities needed to manage water resources.

Some of their responsibilities are as follows:

- To develop the Watershed Management Plan
- To investigate and undertake water management improvement projects
- To act as grant-eligible body for the application for and administration of state and federal grants
- To adopt rules to regulate activities that can cause water-related problems
- To acquire property needed for improvement projects
- To assess properties benefitted by improvement projects
- To exercise limited authority to levy taxes to finance district operation

Who governs a Watershed District?

Watershed Districts are governed by a local board of managers. When a district is first established, the initial board of managers is appointed by the Board of Water and Soil Resources from a list of manager nominees submitted along with the establishment petition. District managers cannot be county, state, or federal officials and they must reside within the district. The first board of managers serves for only one year, thereafter it becomes the responsibility of the county boards of commissioners that have territory in the district to appoint the managers.

The establishment petition can request from three to nine managers for a district, and the number of managers that each county is authorized to appoint is determined by the Board of Water and Soil Resources when it establishes the district. There is no set formula for distributing the appointments among counties, but the primary consideration is generally the area of land within each county.

Where are Watershed Districts established?

Districts can be established anywhere in the state. There are currently 42 watershed districts in the state of Minnesota; the largest concentration is in the Red River Basin, in northwestern Minnesota. The Board of Water and Soil Resources has no power to establish a district unless it receives a petition from the local level. In addition, B.W.S.R. has never gone around promoting districts.

An establishment petition can be validated in four different ways. It can be signed by at least half of the counties having land within the proposed district. It can be validated by a county or counties having at least half of the area of the proposed district, the majority of cities within the proposed district, or by at least 50 landowners within the proposed district. Most

establishment petitions have been submitted by counties, rather than cities or landowners.

When a petition is filed, B.W.S.R. is required to conduct a public hearing within the area of the proposed district to receive comments on the proposed district. In order to establish a district, B.W.S.R. must find that the proposed district would serve the purposes of the Watershed Act.

Watershed Districts and the Watershed Management Plan

The first responsibility of a new district is to prepare a watershed management plan. A watershed management plan must be written before the district can carry out any projects. This plan must describe existing and potential water problems in the district, describe possible solutions, and define the general objectives of the board of managers. The board of managers is required to appoint a local advisory committee to assist it in putting together the watershed management plan. The Board of Water and Soil Resources is required to conduct a public hearing on the watershed management plan before it can be put into effect.

How do State and Federal laws and regulations apply to Watershed Districts?

Watershed Districts are not exempt from other state and federal laws and regulations. It is important to realize that although the Watershed Act provides the district with a number of authorities to deal with local water management, the districts' actions must be consistent with other applicable laws and rules. For example, if a district is going to carry out a lake level control project, the district would need to obtain a permit from the Minnesota Department of Natural Resources to install a lake level control structure, the same as any other local unit of government or individual. There are common misconceptions about this.

What are the advantages of having a Watershed District?

- A Watershed District provides a stable mechanism for dealing with water management problems that cross the boundaries of several local governmental jurisdictions. In many instances, the attitudes and approaches taken by local officials vary considerably depending upon their geographic position in the watershed. In many cases, upstream areas are reluctant to admit that their activities are contributing to problems downstream, or else they are reluctant to voluntarily join in efforts to downstream parties to solve water problems. The watershed district approach has been used in many instances to provide a mechanism for overcoming such upstream-downstream controversies.

- Secondly, it provides a local organization that can concentrate its efforts solely on water management. Officials of general purpose local units of government have many other responsibilities to deal with, and therefore, water management often takes a back seat to other local concerns. Water management is also a controversial subject because it necessitates dealing with people's property and how that property is used. It is often difficult for local officials to find support in their own areas for water management activities, when the primary benefits are going to occur in a different area. It is easier for a watershed district board of managers to have a watershed-wide perspective of the problems and solutions, and to devote more of their time to water management efforts.

- Finally, the Watershed Act itself is designed specifically as a tool for managing water, and contains procedures and authorities that can facilitate

solutions to water problems. For example, once a district's Watershed Management Plan is in place, landowners can petition the board of managers for any type of project that conforms to the plan. This flexibility makes it possible for a district to become involved in just about any type of project that may be needed to alleviate a local water problem. It is important to remember that watershed districts are not the sole managers of water resources. Counties also have many authorities relating to water management and certainly are capable of doing what a watershed district can if they are motivated and have the necessary support with adjoining counties.

s:\watershe.wpd
B.W.S.R.

City Council
Date: 8-5-08
Regular
Resolution No. 2008-037
Item: J-7

ITEM: Consider a petition from David and Mary Brown to vacate a portion of an unimproved right-of-way (Lake Shore Drive)

REQUESTED BY: David and Mary Brown, Applicant

SUBMITTED BY: Kyle Klatt, Director of Planning

REVIEWED BY: Susan Hoyt, City Administrator
Ryan Stempski, City Engineer

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider a request to vacate a portion of the unimproved Lake Shore Drive right-of-way that is completely surrounded by land owned by David and Mary Brown whose home is located at 7990 50th Street North. The applicants have requested the vacation in order to allow them to combine their existing parcels in this area into one lot. Staff is recommending approval of the request, with the following comments:

- The vacation would not create any additional buildable lots beyond the Browns' existing home site.
- The applicants are willing to grant the City an easement of comparable width along Hill Trail North to provide improved access along this existing road.
- There are existing private utilities in the public right-of-way that would be very difficult to move. The applicants have agreed to provide utility easements over the vacated land that would allow the utility companies to maintain their current rights.
- The right-of-way vacation would not have any affect on the surrounding property owners, and in particular, there will be no change to existing access along improved public roads.

The right-of-way to be vacated is located near the intersection of 50th Street North and Hill Trail North and immediately north of Lake Olson. At some point in the past, the primary access into the Lane's DeMontreville Country Club subdivision was moved to its present location along Hill Trail North (on property not previously dedicated for public use), and connected up with the former Lake Shore Drive alignment further north of the applicant's property. The proposed vacation would leave a small portion of Lake Shore Drive in tact between 7931 and 7920 Hill Trail North.

Staff has made the following findings with regards to this request and is recommending approval for these reasons:

1. The current right-of-way does not serve any public purpose for providing access to the surrounding neighborhood. The wetland on the property is not included on the Minnesota Department of Natural Resources Public Waters Inventory. Should the public ever need access this wetland, a much closer access point would still be available to the north along Hill Trail North.

2. There is a public benefit associated with the vacation with the creation of an off-setting easement over and adjacent to Hill Trail North. This easement will provide additional right-of-way on the eastern half of the existing road that will provide some additional flexibility for the City in the future when working on and around this road. This right-of-way easement would not be obtained without additional cost to the City under other circumstances.

ADDITIONAL INFORMATION

The City Engineer and Public Works Department have reviewed the applicants' request and found that the vacation of this right-of-way would be in the public's interest provided the easement for additional right-of-way is granted to the City along Hill Trail North.

Please note that based on the wording of the conditions below, the City will not execute the vacation approval (by sending the appropriate paper work to the County) until these conditions granting additional easements are met.

RECOMMENDATION:

Approval is recommended as follows because the request to vacate a portion of the Lake Shore Drive right-of-way adjacent to property owned by David and Mary Brown would be in the public's interest.

1. It is recommended that the City Council approve the right-of-way vacation request based on the Staff findings documented above and with the following conditions:
 - a) Prior to the City presenting a notice of completion to the Washington County Auditor's office related to the vacation request, the petitioners shall provide the City with a 40-foot wide easement granting public use of this property that runs parallel to the eastern property line of their property identified as Property Identification Number 05-029-21-44-0043.
 - b) Prior to the City presenting a notice of completion to the Washington County Auditor's office related to the vacation request, an easement will be retained for any private utility company with utilities located within the right-of-way to be vacated.

SUGGESTED MOTION FOR CONSIDERATION:

Motion:

Motion to approve Resolution No. 2008-037 vacating a portion of Lake Shore Drive upon the petition of a majority of abutting landowners.

ORDER OF BUSINESS:

- IntroductionSusan Hoyt, City Administrator
- Report by staff.....Kyle Klatt, Planning Director
- Questions from the Council Mayor & Council Members
- Questions/Comments from the applicant..... Mayor facilitates
- Open the public hearing Mayor facilitates
- Close the public hearing

- Call for a Motion
(required for further discussion; does not
imply approval of the motion Mayor facilitates
- Discussion Mayor facilitates
- Action on motion Council

ATTACHMENTS:

1. Resolution No. 2008-037
2. Detailed Staff Report
3. Land Use Application Form
4. Detailed Description of Request
5. Map of Right-of-way to be Vacated
6. Aerial Image Depicting Right-of-way to be Vacated
7. Aerial Image of Proposed Easement Area
8. Public Hearing Notice

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

RESOLUTION NO. 2008-37

A RESOLUTION VACATING A PORTION OF LAKE SHORE DRIVE UPON PETITION OF A MAJORITY OF THE ABUTTING LAND OWNERS

THE CITY COUNCIL OF THE CITY OF LAKE ELMO, MINNESOTA DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, a petition signed by the majority of property owners abutting a certain portion of Lake Shore Drive in the City of Lake Elmo was received by the City Clerk on the 10th day of March, 2008; and

WHEREAS, the petition requested that the City Council pursuant to Minnesota Statute §412.851 vacate a portion of an unimproved portion of Lake Shore Drive between 50th Street North and the previously vacated Bennett Avenue, described as follows: the unimproved portion of Lake Shore Drive located between 50th Street North extending 220 feet to the north.

WHEREAS, the City Clerk reviewed and examined the signatures on said petition and determined that such signatures constituted a majority of the landowners abutting upon the portion of Lake Shore Drive to be vacated; and

WHEREAS, a public hearing to consider the vacation of such street was held on the 5th day of August 2008 before the City Council in the Lake Elmo City Hall located at 3800 Laverne Avenue North at 7:00 p.m. or shortly thereafter after due published and posted notice had been given, as well as personal mailed notice to all affected property owners by the City Clerk on the 24th day of July, 2008 and all interested and affected persons were given an opportunity to voice their concerns and be heard; and

WHEREAS, any person, corporation or public body owning or controlling easements contained upon the property vacated, reserves the right to continue maintaining the same or to enter upon such way or portion thereof vacated to maintain, repair, replace or otherwise attend thereto; and

WHEREAS, the Council in its discretion has determined that the vacation will benefit the public interest because:

- 1) The current right-of-way does not serve any public purpose for providing access to the surrounding neighborhood. The wetland on the property is not included on the

Minnesota Department of Natural Resources Public Waters Inventory. Should the public ever need access this wetland, a much closer access point would still be available to the north along Hill Trail North.

- 2) There is a public benefit associated with the vacation with the creation of an off-setting easement over and adjacent to Hill Trail North. This easement will provide additional right-of-way on the eastern half of the existing road that will provide some additional flexibility for the City in the future when working on and around this road. This right-of-way easement would not be obtained without additional cost to the City under other circumstances.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO, COUNTY OF WASHINGTON MINNESOTA, that such petition for vacation is hereby granted and the portion of Lake Shore Drive described as follows is hereby vacated: the unimproved portion of Lake Shore Drive located between 50th Street North extending 220 feet to the north.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are hereby authorized to sign all documents necessary to effectuate the intent of this resolution subject to the following:

- 1) Prior to the City presenting a notice of completion to the Washington County Auditor's office related to the vacation request, the petitioners shall provide the City with a 40-foot wide easement granting public use of this property that runs parallel to the eastern property line of their property identified as Property Identification Number 05-029-21-44-0043.
- 2) Prior to the City presenting a notice of completion to the Washington County Auditor's office related to the vacation request, an easement will be retained for any private utility company with utilities located within the right-of-way to be vacated.

Adopted by the Council this 5th day of August 2008.

Effective Date: _____

AYES

NAYS

Dean A. Johnston, Mayor

Elizabeth Johnson, Council

Nicole Park, Council

Steve DeLapp, Council

Anne Smith, Council

Approved:

Dean A. Johnston, Mayor

Attested by:

Susan Hoyt, City Administrator

City of Lake Elmo Planning Department
Street Right-of-Way Vacation Review

To: **City Council**

From: Kyle Klatt, Planning Director

Meeting Date: **8/5/08**

Applicant: **David and Mary Brown**

Owner: David and Mary Brown

Location: **7990 50th Street North**

Zoning: R1 – Single Family Residential

Introductory Information

Request David and Mary Brown, 7990 50th Street North, are requesting that the City vacate a portion of the unimproved Lake Shore Drive right-of-way that presently divides property they own near the intersection of Hill Trail North and 50th Street North. The applicants own four separate parcels, including the lot on which their house is located, and the vacation request would allow them to combine all of their parcels into one contiguous lot. The vacation request is for a 220-foot segment of Lake Shore Drive that runs between 50th Street North and the northern limits of the applicants surrounding property. No other property owner in the vicinity has participated in the petition that was submitted.

The request has been made to facilitate the combination of all of the applicants' property into one parcel of land, which cannot be accomplished with the right-of-way separating the individual lots.

<i>Site Data:</i>	<i>Property Identification No.</i>	<i>Area</i>	<i>Use</i>
	05-029-21-44-0014	0.46 Acres	Accessory Building
	05-029-21-44-0015	0.61 Acres	Residential Dwelling
	05-029-21-44-0017	0.55 Acres	Vacant/Wetland
	05-029-21-44-0043	0.38 Acres	Vacant/Road

All of the applicants' property is zoned R-1 Single Family Residential, which specifies a minimum lot size of 1.5 acres for lots without sanitary sewer service. The total area owned by the applicants is very close to 2 acres. There is a single family home located on the eastern-most of the Browns' parcels, in addition to a small accessory building on the adjacent lot.

Right-of-way Vacation Review

Background Information:

The right-of-way that would be vacated is identified as Lake Shore Drive on the Lane's DeMontreville Country Club Plat. This road was never improved by the City, and access into this area is now provided through Hill Trail North, the access for which is located approximately 100 feet to the east. Since this portion of Hill Trail North was never platted, the City's rights to this road are through a prescriptive easement until it connects back up with the old Lake Shore Drive right-of-way north of the applicants' property (which has been renamed).

The applicants own three parcels that surround the right-of-way under consideration, and should the Council elect to approve the vacation request, each of these parcels would be expanded with the addition of half of this right-of-way. The total area owned by the Browns would be increased from 2 acres up to 2.2 acres with the addition of the 40 by 220 foot right-of-way.

As noted above, the one of the parcels is occupied by the Brown's home and another serves as the location of an accessory building. There is a wetland on the property, which likely was the main reason for the road being moved to a location other than the platted right-of-way in the first place. There are some private utilities presently located on the land to be vacated (Xcel Energy and Qwest Communications). At a minimum, the applicants will need to grant an easement to the utility companies as condition of the vacation.

There are no other properties that lie adjacent to the part of Lake Shore Drive that would be vacated; therefore, the request would not have a direct impact on any of the other properties in this neighborhood. A small segment of Lake Shore Drive immediately north of the Browns' land would remain as a platted right-of-way and would not be impacted under the present request.

Please note that a road parallel to 50th Street North (called Bennett Avenue) that would have extended to DeMontreville Trail North has previously been vacated in this area.

The applicants have agreed to provide the City with an easement over the western edge of their property along Hill Trail North at the same width as the current right-of-way that would be vacated. Such an easement would give the City additional access along the prescriptive easement over Hill Trail North and would help provide some additional room for any future reconstructive or public utility work in this area.

Review Comments:

Planning Issues:

The requirements under State Statutes for street vacations state that a majority of the abutting property owners must sign a petition in order to initiate vacation proceedings. In this case, the City is being asked to consider a partial vacation of property completely surrounded by land owned by one party. Another requirement for considering a vacation request includes a public hearing notice to affected property owners and in the legal paper for the City, which has been completed for the current

request.

State Statutes also provide guidance for when a City may vacate a street. The League of Minnesota Cities offer guidance in this area and specifically notes the following:

Minnesota statutes establish that the city council may vacate a street only upon a finding that the vacation is "in the interest of the public." This means the public must benefit, in some manner, from the vacation. The public includes persons other than those in the immediate vicinity of the vacation. A private benefit derived from the vacation does not bar the vacation, so long as a concurrent benefit to the public can be substantiated.

Mere long-term, non-use of a street ground does not necessarily equate with a finding that the vacation is in the interest of the public. In reviewing vacations, Minnesota courts have emphasized that the future benefit to maintaining the dedicated property should be given consideration. For example, the Minnesota Supreme Court once overturned a vacation because the potential future use of the public grounds as public lake access was not properly taken into account. In another example, the Court upheld a denial of a petition for a vacation, because preservation of the underutilized property would help lessen the effects of future population growth in the area.

Should the City agree to grant the vacation request, the additional area gained by the applicants will not be enough to create another buildable lot in this area. The minimum lot size is 1.5 acres in the R-1 district, and no additional subdivision of land would be allowed based on the net area of 2.0 acres (2.2 with the vacated right-of-way) owned by the Browns. The parcels that would be combined are not considered buildable under the City's Zoning and Subdivision regulations.

Staff is recommending that the City Council approve the request for vacation for two primary reasons:

- 1) The current right-of-way does not serve any public purpose for providing access to the surrounding neighborhood. The wetland on the property is not included on the DNR's Public Waters Inventory. Should the public ever need access this wetland, a much closer access point would still be available to the north along Hill Trail North.
- 2) There is a public benefit associated with the vacation with the creation of an off-setting easement over and adjacent to Hill Trail North. This easement will provide additional right-of-way on the eastern half of the existing road that will provide some additional flexibility for the City in the future when working on and around this road. This right-of-way easement would not be obtained without additional cost to the City under other circumstances.

**Engineer
Comments:**

The City Engineer and Public Works Department have not expressed any significant concerns with the proposed vacation, and support the Staff findings that note the additional easement area along Hill Trail North would be of greater benefit to the City than the retention of the old Lake Shore Drive right-of-way. Access to the wetland as a drainage basin was one issue that was raised by the City Engineer; however, should

<p>DNR/VBWD Comments:</p>	<p>the City ever need to gain access to this water feature the new easement area and remaining right-of-way will keep such access available.</p> <p>Staff has not received any specific comments from the DNR prior to the public hearing. It has previously been determined that special notice to the DNR is not required in this instance since the right-of-way to be vacated does not connect directly to or abut a public water body. Valley Branch Watershed District has asked that all land on the property under the 100-year flood elevation be placed into a drainage easement. The district engineer has been on vacation for the past week, so Staff has not had the ability to respond to this specific request. At this time, it does not appear that there is a direct link between the right-of-way vacation and a request for drainage easements on the property. These easements would occupy the majority of the Brown's property based on the updated FMEA Flood Maps for the City. Staff will be seeking clarification from the Watershed District before the Council meeting on this issue.</p>
<p>Conclusion:</p>	<p>Staff is recommending that the City Council approve the right-of-way vacation request based on the findings cited above and with conditions to address the need for a private utility easement to remain across the vacated property and the applicants' willingness to grant a new easement to the City adjacent to Hill Trail North:</p>
<p>Conclusion:</p>	
	<p>The applicant is seeking approval of a Minor Subdivision to allow the creation of four lots from an existing 10-acre parcel located at 2038 Inwood Avenue (Lot 15, Block 1 of Torre Pines Addition).</p>
<p>Council Options:</p>	<p>The City Council may consider the following options or taking action on this request:</p> <ul style="list-style-type: none">A) Approve the vacation based on the findings drafted by Staff or other additional information that is presented at the public hearing;B) Deny the request based on findings that the vacation would not be in the public interest. <p>Because the petition was submitted by a majority of the abutting land owners (only one in this case) a simple majority of a quorum of Council members present is sufficient to pass a favorable resolution.</p>
<p>Staff Rec:</p>	<p>Staff recommends approval of the right-of-way vacation request based on the following:</p> <ul style="list-style-type: none">1) The current right-of-way does not serve any public purpose for providing access to the surrounding neighborhood. The wetland on the property is not included on the DNR's Public Waters Inventory. Should the public ever need access this wetland, a much closer access point would still be available to the

north along Hill Trail North.

- 2) There is a public benefit associated with the vacation with the creation of an off-setting easement over and adjacent to Hill Trail North. This easement will provide additional right-of-way on the eastern half of the existing road that will provide some additional flexibility for the City in the future when working on and around this road. This right-of-way easement would not be obtained without additional cost to the City under other circumstances.

Provided the following conditions are met

- 1) Prior to the City presenting a notice of completion to the Washington County Auditor's office related to the vacation request, the petitioners shall provide the City with a 40-foot wide easement granting public use of this property that runs parallel to the eastern property line of their property identified as Property Identification Number 05-029-21-44-0043.
- 2) Prior to the City presenting a notice of completion to the Washington County Auditor's office related to the vacation request, an easement will be retained for any private utility company with utilities located within the right-of-way to be vacated.

**Approval
Motion
Template:**

To approve the request, the City Council is asked to use the following motion as a guide:

I move to recommend approval of the petition from David and Mary Brown to vacate a portion of the unimproved Lake Shore Drive right-of-way...*(use staff's findings provided above or cite your own)*

...with the following conditions:

- 1) Prior to the City presenting a notice of completion to the Washington County Auditor's office related to the vacation request, the petitioners shall provide the City with a 40-foot wide easement granting public use of this property that runs parallel to the eastern property line of their property identified as Property Identification Number 05-029-21-44-0043.
- 2) Prior to the City presenting a notice of completion to the Washington County Auditor's office related to the vacation request, an easement will be retained for any private utility company with utilities located within the right-of-way to be vacated.

cc: David and Mary Brown, 7990 50th Street North

Fee \$ _____

City of Lake Elmo DEVELOPMENT APPLICATION FORM

RECEIVED
MAR 16 2008

- 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
- Vacation
- PUD

APPLICANT: DAVID L. AND MARY G. BROWN 7990 50TH ST. N
(Name) (Mailing Address) LAKE ELMO MN. (Zip) 55042

TELEPHONES: 651-770-0648
(Home) (Work) (Mobile) (Fax)

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

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

PROPERTY LOCATION (Address and Complete (Long) Legal Description): SEE ATTACHED

DETAILED REASON FOR REQUEST: SEE ATTACHED

***VARIANCE REQUESTS:** As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

N.A.

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.

David L. Brown 8-2-07
Signature of Applicant Date

Mary G. Brown
Signature of Applicant Date

ATTACHMENT FOR ROAD VACATION REQUEST

RECEIVED
MAR 10 2008

PROPERTY LOCATION:

The property is located to the east of 7990 50th St. N. The property is located in part of the SE¼, Sec. 5, T29N, R21W located in the City of Lake Elmo, Washington county, Minnesota. It is shown on our plat map as a portion of Lake Shore Drive. The following description is all located in Lanes Demontreville Country Club. The property is bordered on the east by lots 22, 77 and 20 feet of vacated Bennett Avenue on the North end a total of 220 feet. The north side is bordered by 40 feet of vacated Bennett Avenue. The west side is bordered by lots 21, 78 and 20 feet of vacated Bennett Ave a total of 220 feet. The south side is bordered by 40 feet of 50th St. N. See attached certificate of survey dated 6-17-03

The survey was produced when we bought the property adjacent to the east side of Hill Trail North starting at 50th St. N. and extending to the north for 220 feet. We are the owners of the properties on both sides of platted as Lake Shore Drive that starts at 50th St. N. and that extends north 220 feet.

DETAILED REASON FOR REQUEST:

We own four pieces of property that totally surround the portion of platted Lake Shore Drive that we wish vacated. One of which is 150 feet located on the south side of 50th St. N. We wish to combine the three pieces on the north side of 50th St. N. According to Washington county personnel, this can not be done as long as Lake Shore Drive remains on the plat map and is not actually owned by us.

The vacating of this right-of-way will in no way infringe on public interest. Hill Trail North serves the purpose of the platted Lake Shore Drive.

The vacation request will in no way affect other people in the surrounding area. Other area residence are serviced by the existing Hill Trail. Hill Trail is an existing road that has been in place for many years although it is technically not owned by the City of Lake Elmo according to the plat map. This may be an issue that could be possibly addressed with this vacating request. We would certainly work with the City in a positive manner to assist in this issue if asked to do so.

We have talked to the two neighbors and neither seem to have any concerns with our request. We have no foreseeable intentions of changing anything as they now exist on the property.

One other area of concern is the fact that there is electrical and telephone service that exists along the platted Lake Shore Drive. We would certainly grant an easement to continue servicing these utilities. Over the last few years we have cleared this area of fallen trees and underbrush (Buckthorn) which made service to these utilities available. In fact about two years ago Quest was in and repaired the damage to the power line caused by many years of falling trees.

SINCERELY

Dan L. Brown

3-7-08

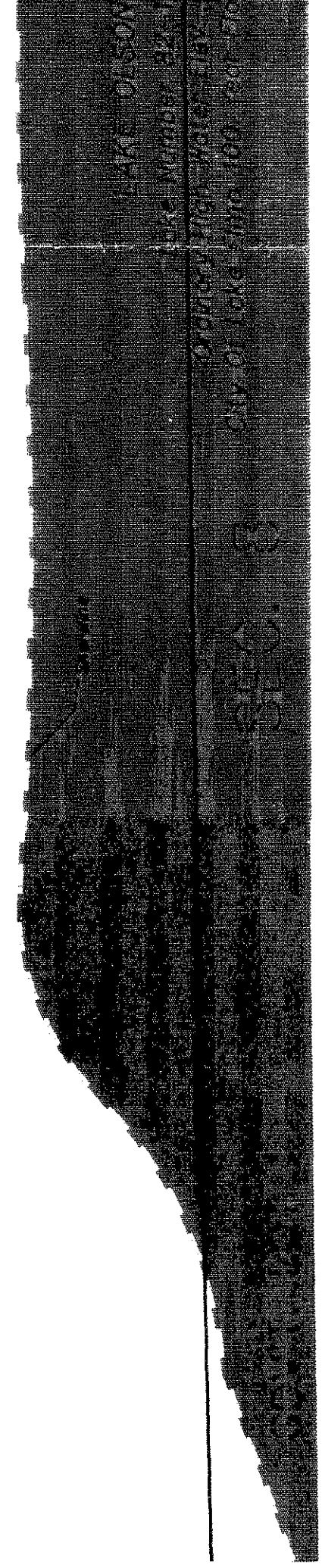
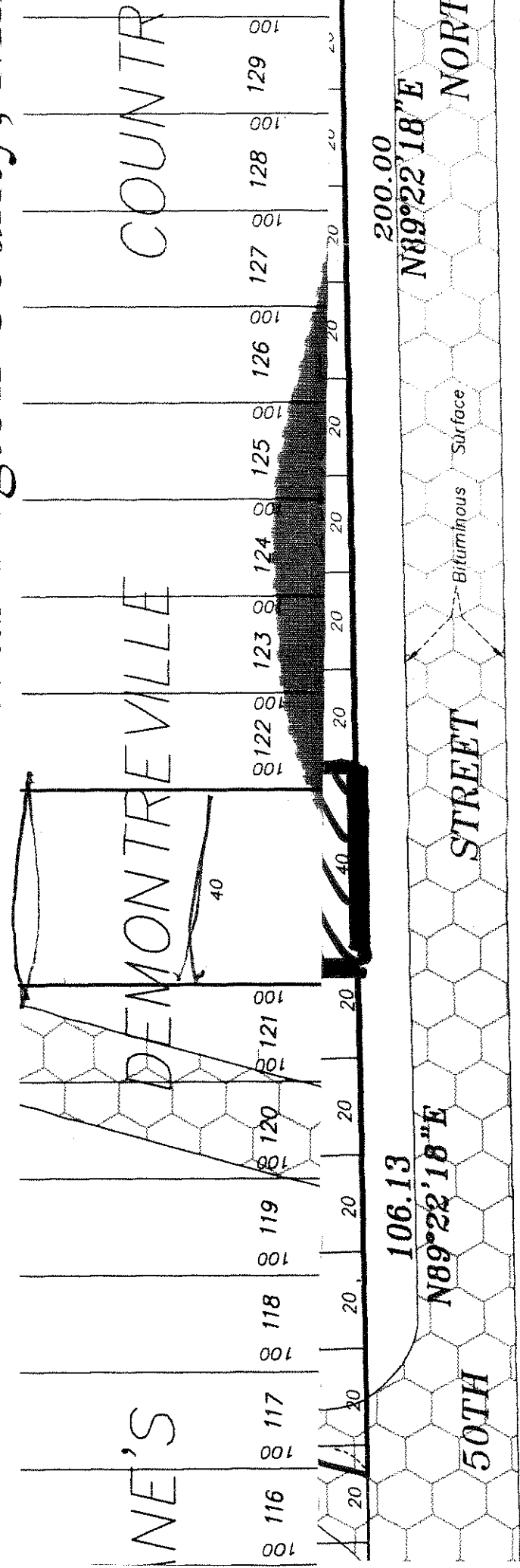
Mary H. Brown

PLANNING AND

Part Of The SE1/4, Sec. 5, T City Of Lake Elm Washington County, Mi

HIGHLIGHTED AREA
EXTENDS INTO THE
POND AND IS HARD
TO SEE! One

G. Brown
North
ota 55042



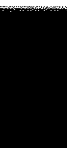


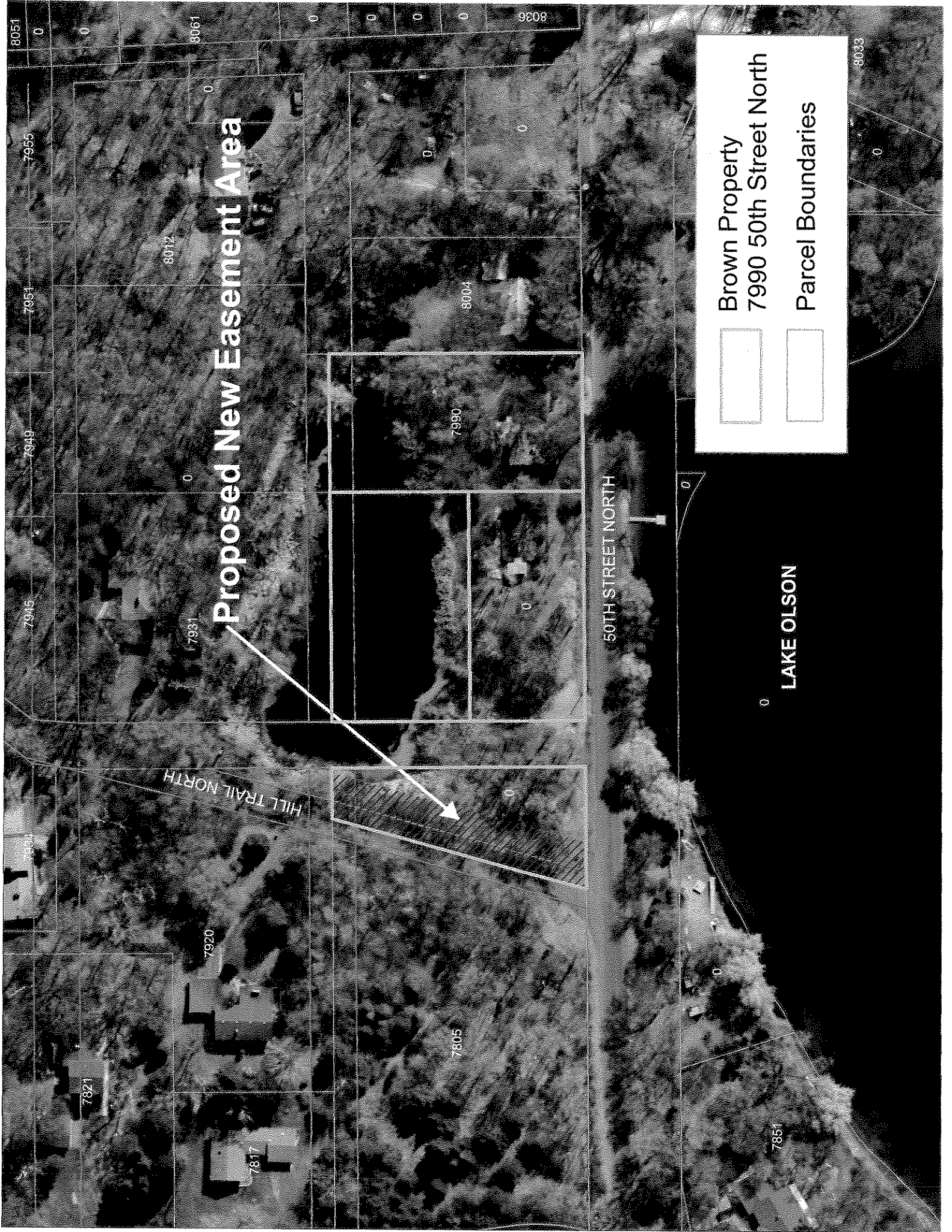


Proposed Right-of-way Vacation

50TH STREET NORTH

LAKE OLSON

	Brown Property
	7990 50th Street North
	Parcel Boundaries



Proposed New Easement Area

Brown Property

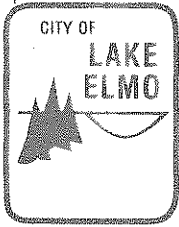
7990 50th Street North

Parcel Boundaries

LAKE OLSON

50TH STREET NORTH

HILL TRAIL NORTH



City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

PUBLIC HEARING NOTICE

DATE: August 5, 2008

TIME: 7:00 p.m. or after

PLACE: Lake Elmo City Hall
3800 Laverne Avenue North
Lake Elmo, MN 55042
Phone: 651-777-5510
Fax: 651-777-9615

PURPOSE: The Lake Elmo City Council will be conducting a public hearing to consider a petition from David and Mary Brown, 7990 50th Street North, to vacate a portion of the Lake Shore Drive right-of-way that is completely surrounded by land owned by the petitioners. The vacation has been sought to allow the consolidation of three existing lots into one tax parcel. This right-of-way has not been improved by the City, and access to all surrounding property is provided through either Hill Trail North or 50th Street North.

The proposed vacation would not affect ownership or easements that presently exist on any surrounding property. The proposed vacation would also not interfere with the current access to properties further east on Hill Trail North since no portion of Lake Shore Drive has been improved by the City of Lake Elmo. The land to be combined is not presently considered a buildable lot under the Lake Elmo Zoning Ordinance and the status of this lot would not change with the proposed vacation.

The specific right-of-way that is included with this petition is located 105 feet south of the intersection of Hill Trail North and 50th Street North and extends 220 feet east of 50th Street North. A map of the proposed right-of-way to be vacated is attached to this notice and is also available for viewing at City Hall or by calling the telephone number listed above.

As part of this request, the petitioners have agreed to provide an easement to the City of Lake Elmo over the southern portion of Hill Trail North at the same width as the right-of-way to be vacated. This easement would run 228.59 feet to the western boundary of the petitioners' property and would be located entirely on their parcel.

Written comments regarding the proposed right-of-way vacation may be submitted to the City no later than noon on the day of the meeting. Materials regarding the above items are available for review at City Hall (Monday – Friday; 8:00 a.m. – 4:30 p.m.).

Kyle Klatt
Planning Director