

NOTICE OF MEETING

**City of Lake Elmo
3800 Laverne Avenue North
City Council Meeting
Tuesday, January 15, 2013 7:00 P.M.**

***City Council Vacancy Appointment Interviews:**

**5:15 – Michael Reeves
5:40 – Julie Fliflet
6:05 – Todd Ptacek
6:30 – Wally Nelson**

AGENDA

- A. CALL TO ORDER *By Council Member Smith***
- B. PLEDGE OF ALLEGIANCE**
- C. ROLL CALL**
- D. ORDER OF BUSINESS/GROUND RULES**
- E. SWEARING IN OF NEW ELECTED OFFICIALS**
 - a) Resolution 2013-01: Accept Resignation of Council Member Pearson and Declaring a Vacancy
- F. APPROVAL OF AGENDA**
- G. ACCEPT MINUTES**
 - 1. Accept December 4, 2012 City Council Workshop Minutes
 - 2. Accept December 11, 2012 City Council Workshop Minutes
 - 3. Accept January 2, 2012 City Meeting Minutes
- H. PUBLIC COMMENTS/INQUIRIES**
- I. PRESENTATIONS**
 - a) Lennar Corporation Sketch Plan Presentation
- K. CONSENT AGENDA**

Note: Items listed under the Consent Agenda will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the Consent Agenda for separate consideration.

4. Approve Payment of Disbursements and Payroll
5. Approve 2012 Year-End Building Report
6. Designate Official Publication Newspaper of Record
7. Designate Official Depository of Funds for 2013
8. Resolution 2013-02: Designating Data Practice Officials and Approving City's Data Practices Policy
9. Resolution 2013-03: Keats MSA Street and Trunk Watermain Improvements – Resolution for No Parking Restrictions
10. Approve Ski Trail Grooming Agreement
11. Designation of the City of Lake Elmo as the Responsible Government Unit (RGU) for the Lennar Residential Subdivision EAW
12. Subdivision Ordinance Amendments related to Public Land Dedication; Ordinance 08-65

L. REGULAR AGENDA

13. Appointment of 2013 Acting Mayor
14. Appointment to Fill Council Member Vacancy
15. Approve New Year-End Audit Firm
16. Appointment of Required Officials to Fire Relief Association Board of Trustees
17. Construction Securities Code Amendment; Ordinance 08-66
18. Landscaping Requirements Code Amendment; Ordinance 08-67
19. Contractor Licensing Code Amendment; Ordinance 08-68
20. Rock Point Church Plat Extension
21. Approve Purchase of Permit Works Software Application

M. NEW BUSINESS

22. Establishment of Finance & Human Resources Committee
23. Notice of Public Hearing for the proposal to establish an Economic Development Authority for the City of Lake Elmo
24. Discussion Only - *No memo included*: Council Old Village Work Group workshop (Council request: Bloyer/Park)

N. SUMMARY REPORTS AND ANNOUNCEMENTS

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

O. ADJOURN

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

RESOLUTION NO. 2013-01

**A RESOLUTION ACCEPTING RESIGNATION AND
DECLARING A VACANCY**

WHEREAS, City Staff received written notice of Council Member Mike Pearson's resignation,

WHEREAS, Council Member Mike Pearson's letter indicates that his resignation will be effective on January 7, 2013, when his term as Mayor of the City of Lake Elmo begins.

NOW, THEREFORE, BE IT RESOLVED that the Lake Elmo City Council hereby accepts the resignation of Council Member Mike Pearson and declares a vacancy in the council seat held by Council Member Mike Pearson, effective on January 7, 2013 when his term as Mayor of the City of Lake Elmo begins.

**ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIFTEENTH DAY OF
JANUARY 2013.**

(Seal)

By: _____

Mike Pearson

Mayor

ATTEST:

Adam Bell
City Clerk



Honorable Mike Pearson
2805 Lisbon Avenue North
Lake Elmo, Minnesota 55042

January 7, 2013

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

Dear Clerk:

I hereby resign as Lake Elmo City Council Member in order to serve as Mayor of the City of Lake Elmo effective January 7, 2013.

Sincerely,

Mike Pearson
Council Member/Mayor-Elect

**LAKE ELMO CITY COUNCIL MINUTES
DECEMBER 4, 2012**

**CITY OF LAKE ELMO
2012 TRUTH IN TAXATION PUBLIC HEARING MINUTES
December 4, 2012**

Mayor Johnston called the 2012 Truth in Taxation meeting to order at 7:02pm.

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

Also Present: City Administrator Zuleger, City Attorney Snyder, City Engineer Griffin, Finance Director Bendel, Planning Director Klatt, and City Clerk Bell.

City Administrator Zuleger explained the purpose of the hearing. He and Finance Director Bendel presented an overview of the 2013 budget. Mr. Zuleger explained that the proposal was the culmination of several budget workshops. A preliminary levy was adopted on September 18, 2012. Per state statute the adopted levy can go down, but not up.

2013 property values were assessed by City Assessor Frank Langer. Total City taxable market values decreased 1.2 percent from 2012 to 2013. Median taxable market values decreased 8.3 percent from 2012 to 2013. Finance Director Bendel explained the tax capacity calculations and the resulting differences in the 2013 general levy from the 2012 general levy.

Mayor Johnston asked for clarification on the new library portion of the levy; specifically, whether it included the bonding and when the bonding would change. Mr. Zuleger confirmed that the figure was after the bonding had been taken out. He also reported that the City has inquired several times about the bonding changing and have not received an answer as of yet.

Ms. Bendel explained that the debt service levies are included in the total levy. There is an increase in the difference between the general levy and the total levy due to debt service increase and the addition of the library levy. Mr. Zuleger provided an explanation of how the property tax rate was calculated. 2013 rate of 28.037% resulted in a 25% total rate increase from 2012.

Mayor Johnston asked about how the 25% rate increase was possible. Mr. Zuleger and Ms. Bendel explained that there is a worksheet that can be provided that explains the calculation.

Mr. Zuleger and Ms. Bendel reported the average home value of Lake Elmo is higher than the surrounding area, and Lake Elmo properties have retained their value better than the rest of the county.

Mr. Zuleger gave a summary of 2013 budget inclusions. The 2013 budget is a balanced budget. Revenues are expected to increase. Budget expenditures were explained. The City is low in public works and safety, but little high in general government expenditure. A reason for that is legal and engineering contract services are high.

**LAKE ELMO CITY COUNCIL MINUTES
DECEMBER 4, 2012**

Mayor Johnston asked if we were low in police protection staffing. Mr. Zuleger stated Lake Elmo's police protection is about 1:2000 per capita, where most police chiefs recommend 2:1000 per capita.

The budget proposes a contingency fund instead of having to bond for anticipated expenses.

Staff recommendation: In September, the Council wanted to budget levy increase of \$120,342 including \$70,000 for enhanced traffic enforcement. The trial enhanced enforcement has resulted in a behavior change; therefore, staff recommends that no additional funding is needed at this time. Additional funds can be reallocated if council later deems it necessary. The final proposal is \$3,163,359.

Council Member Emmons noted he has seen a difference in traffic. He then asked about what impact the Hwy 36/Hilton Trail would have. City Engineer Griffin clarified that east west traffic should still be open, so it should have little impact. Hilton Trail North will experience more of an impact from the project.

City Administrator Zuleger reminded everyone that on December 16th at 6:00 the MnDOT/Highway 5 Traffic Safety Audit will take place. There will be an opportunity for the public to voice concerns regarding the safety on that roadway.

Mayor Johnston expressed his belief that there was a consensus for support of the staff recommendation on the proposed 2013 Budget and General Levy.

Mayor Johnston opened the public hearing at 7:30 PM. As there was no public comment, Mayor Johnston closed the public hearing at 7:31pm.

ATTEST:

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

Adam R. Bell, City Clerk

**LAKE ELMO CITY COUNCIL MINUTES
DECEMBER 11, 2012**

**CITY OF LAKE ELMO
CITY COUNCIL WORKSHOP MINUTES
December 11, 2012**

Mayor Johnston called the workshop to order at 6:30 P.M.

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

Also Present: City Administrator Zuleger, City Engineer Griffin, and Finance Director Bendel.

APPROVAL OF AGENDA

Mayor Johnston forwent with formal Agenda Approval due to the short Agenda.

REGULAR AGENDA

B: WATER RATES

City Administrator Zuleger explained background of item. Due to the City's water conservation policy and tiered rate structure, there were a large number of high water bills. As a result there were also a large number of registered complaints regarding the rates. The rates were employed in 2010. Mr. Zuleger and Finance Director Bendel conducted a rate case study and analysis.

The historical investigation went back to 2003 and included the response to the 3M contamination. Additional factors that were considered included: Fixed costs (infrastructure/debt service), operating and maintenance expenses (including treatment), billing cycle and meter conversion, user/tier analysis, commercial block rate, conservation rate effect, homeowner compliance with conservation rate, and conflicts with the municipal code.

[Council Member Emmons arrived at 6:33 PM]

Mr. Zuleger provided a summary and rate structure prior to 2010. It was noted that there was a sharp increase in water usage in 2007 due to a drought; however, 3M was still paying a portion of the water expenses. After the conservation rate was implemented in 2010, the water usage has gone down. Commercial use has not seen much of a change either way.

Mr. Zuleger provided a summary of the conservation rate adoption history. City Engineer Griffin provided further explanation of the conservation rate and the impact on system design. He also explained the importance of achieving target conservation on future water system expansion in order to keep the system less robust.

Mr. Zuleger provided a summary of the tiered rate structure. In general, the rates are in line with surrounding communities up to the conservation tier of 80,000 plus. At that point, the rate becomes punitive in comparison.

LAKE ELMO CITY COUNCIL MINUTES DECEMBER 11, 2012

It was explained that the only reason that the water system is operating "in the black" is due to depreciation. Finance Director Bendel provided a detailed overview of the balance sheet. The depreciation expense was explained and how that impacted the bottom line. It is barely at the cash flow level. This is just above what the bond companies require, but does need to be addressed for the future.

Mr. Zuleger provided an overview of residential water user profiles. 26.21% of the users went over 70,000 gallons in the third quarter.

Council Member Smith inquired about the average bill and if private wells factored into the calculations. A discussion was had explaining that the average figure incorporated everyone under 70,000 gallons and the average use was about 30,000 gallons. There were many users with very little usage that offset the higher bills. There was also a discussion regarding how it was evident that the users over 170,000 were not practicing any conservation methods. It was noted that lot size can play a huge role in increasing usage.

Council Member Emmons noted that there may be a difference in the different preference towards irrigation based on location. Council Member Pearson asked what the average usage is for a family of four situated on a one-acre lot. A discussion was had regarding average usage standards.

A discussion was had regarding the chlorination options and amount. It was explained that it was not a simple on/off implementation.

Conclusions were that in the past, "fixed costs" were ignored due to the 3M contamination. After 3M ceased paying for a portion of costs, along with economic and conservation issues the tiered rate system was implemented. Increased usage resulting in higher treatment costs, along with drought conditions, led directly to high water rates for the heaviest users.

Based on those conclusions, staff recommends: moving the billing cycle to break up the summer water costs (April-June & July-September); provide for bulk rate watering credit for new lawns at \$3.77/1,000 gallons; pursue grants/funds to offset the fixed costs of providing potable water to 3M contamination areas, create bulk conservation rate of \$6.03/1,000 gal. for verified use of saturation sensors/programmed conservation; consider the allowance of metered irrigation wells for watering at a lower rate (non-3M contaminated areas only); and NO RATE CHANGE AT THIS TIME. The City cannot afford a decrease at this time.

Mr. Zuleger noted that additional users via growth, as well as grants and the reduction of depreciation rate, will drop the rates.

Discussion was had regarding continued private well use for irrigation in non-3M contaminated areas. It was explained that it was allowed and would be up to the preference of the land owner.

LAKE ELMO CITY COUNCIL MINUTES

DECEMBER 11, 2012

Discussion was had to clarify the process of implementing these recommendations. It was suggested that there be a formal adoption at a future meeting, perhaps in January or February of 2013.

There was a discussion regarding where the city was in comparison to other cities. It was stated that the base rate was perhaps low, but after sewer is factored in, it is comparable. Council Member Pearson noted that he was not in favor of the higher tier users subsidizing the artificially lower rates.

Further minor discussion was had regarding system chlorination. Council Member Smith also inquired about the actual amount that was negotiated with 3M and what happened to that money. It was discussed that there is not very good documentation regarding the 3M agreements. It was pointed out that 3M's intent was to deal with the specifically contaminated area and not aid in the development of the City system. 3M did provide land.

C: KEATS AVENUE WATER ASSESSMENT

City Administrator Zuleger provided overview of item. The primary question for the Council is "how should the residents of Keats Avenue be assessed for the trunk water main running in front of their property when the primary purpose is to improve the hydraulics of the water system as a whole?"

City's assessment policy prescribes \$5,800 lateral benefit charge levied on all properties directly served by trunk water main. To date 21 out of 22 homes have indicated any interest in connecting to system. Additional benefits are: potential insurance reductions due to access to fire hydrants, however, this varies based on carrier; property value increase based on city-provided water (especially in salability). It was noted that the potential range of 5-8% value increase would practically pay for itself if accurate.

The three main benefits to the system are 1) Relief of Head Pressure, 2) Improve Water Quality, and 3) Improve Hydraulic Circulation. City Engineer Griffin provided an overview of the water distribution system. Mr. Griffin also described the future issues that will arise if this loop is not built.

Mr. Zuleger noted that there are additional neighborhoods along route that can eventually share the burden. Grants and settlements are also being looked at.

Due to the fact that connection interest is so low, staff recommends that the City assess a Water Lateral Benefit Charge of 50% of the current approved fee= \$2,900. Charge the remainder of the charge if the property owner connects.

Mayor Johnston suggested that the second \$2,900 was assessed if either the property connected or was sold. There was a question of whether there would still be the \$3,900 connection charge in addition to the assessment. The answer was yes.

Council Member Smith expressed her concern for tying the second \$2,900 to a sale because it would be demanded of the seller at the time of sale. Ms. Smith also expressed her position that she did not

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DECEMBER 11, 2012**

believe assessing the Keats Avenue properties was fair. In her opinion, it was not equitable with the rest of the community.

There was a discussion regarding a resident who was waiting to decide on connecting until the cost was determined. Mr. Griffin reminded everyone how the assessment policy operated and the purpose of the Lateral Benefit charge. It was noted that the Keats Avenue properties would not be assessed the 100% like the adjacent streets and cul-de-sacs would. This in itself is a benefit.

The benefit of access to city water in the event the groundwater develops issues at a later date was discussed. Mayor Johnston noted that this point needs to be addressed when the final decision is made.

Discussion was had about the fact that the lower the initial fee, the more likely additional property owners would elect to pay up front.

D: CITY UPDATES

City Administrator Zuleger reported that Lennar Homes presented a concept plan at the last Planning Commission meeting. It received mixed results. Planners were generally pleased with presentation. The main issue was the builder's architectural styles. There is another national builder looking at development in the Village.

Met Council 2013 projections will be coming out soon. There may be room for extension and adjustment on the comp plan based on growth in the area.

There may be a need for another meeting in December to pay bills.

Possible workshop topic not granting permits to contractors who owe City money. Also, staff is trying to keep all developer meeting open and public. There was a discussion that the City should have a better and clear policy regarding developer meetings.

Planning Department has a new wide-format printer. It was only half the budgeted amount.

Adjourned open meeting at 8:10 P.M.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

Dean Zuleger, City Administrator

LAKE ELMO CITY COUNCIL MINUTES
January 2, 2013

CITY OF LAKE ELMO
CITY COUNCIL MINUTES
January 2, 2013

Mayor Johnston called the meeting to order at 7:00 P.M.

PRESENT: Mayor Johnston, Council Members Emmons, Pearson, Park[7:01] and Smith[7:02].

Also Present: City Administrator Zuleger, City Associate Attorney Brekken, City Engineer Griffin, Finance Director Bendel, and City Clerk Bell.

[Council Member Park arrived at 7:01]

APPROVAL OF AGENDA

*MOTION: Council Member Pearson moved to approve the January 2, 2012 City Council Agenda as presented. Council Member Emmons seconded the motion. **Motion passed 4-0.***

ACCEPT MINUTES

ITEM 1:

THE DECEMBER 4, 2012 CITY COUNCIL MINUTES WERE APPROVED AS PRESENTED BY CONSENSUS OF THE CITY COUNCIL.

[Council Member Smith arrived at 7:02]

PUBLIC COMMENTS/INQUIRIES:

None

PRESENTATIONS:

None

CONSENT AGENDA

3. Approve Payment of Disbursements and Payroll

*MOTION: Council Member Smith moved to **APPROVE THE CONSENT AGENDA AS PRESENTED.** Council Member Pearson seconded the motion. **MOTION PASSED 5-0.***

SUMMARY REPORTS AND ANNOUNCEMENTS

LAKE ELMO CITY COUNCIL MINUTES

January 2, 2013

Council Member Emmons reported attended last planning commission meeting. There was good discussion.

Council Member Smith reported that there will be an Old Village planning meeting on 1/9 @ 5PM.

Council Member Pearson reported attending the village committee meeting. Attended tentative regional council meeting. Mayor Johnston drove him and introduced him to people. Thanked the Mayor for his graciousness and help.

Council Member Park – no report

City Administrator Zuleger reported meeting with the met council rep; planned meeting with Tom Schutte Friday regarding development at 10th /Inwood Ave.

City Attorney - no update

City Engineer Griffin reported meeting regarding Olson lake trail. Meeting on sanitary sewer on 1/17 at Oakdale city hall. Staff can meet with residents. Opportunity to gauge support for sewer.

Finance Director Bendel working on year end items. RFPs 25% reduction is cost. Certification to Washington County were in on time. 3,200 storm water bills out on 12/31. Library staff helped out.

City clerk bell explained the statutory requirements for the timing and expiration of the council seat terms. The transition schedule was explained in brief.

City Administrator Zuleger presented a framed certificate to Council Member Brett Emmons and thanked him for his service. Council Member Emmons declined to speak.

Mr. Zuleger then presented a gavel to Mayor Dean Johnston to commemorate his years of service to Lake Elmo. Mayor Johnston presented the Council gavel to Mayor Elect Pearson and gave him words of encouragement and wished him well. Mayor Elect Pearson thanked the Mayor for help in the transition. He also thanked Council Member Emmons.

Adjourned meeting at 7:15P.M.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

Adam R. Bell, City Clerk



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/13

PRESENTATION

ITEM #: I (a)

AGENDA ITEM: Lennar Corporation Subdivision Sketch Plan Review

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Planning Commission
Nick M. Johnson, City Planner

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to receive a presentation from Lennar Corporation, 16305 36th Avenue North, Plymouth, Minnesota related to a proposed residential subdivision of property located along the I-94 Corridor in a manner that is consistent with the City's future land use map (as drafted). The sketch plan consists of 186 single family homes and 131 multi-family units on 109 acres of land immediately to the west of Keats Avenue and north of Hudson Boulevard North. Lennar has agreed to purchase a portion of the property owned by Dale Properties in this area, in addition to the 40-acre former Mulligan Masters site currently owned by the Frandsen Bank and Trust.

In accordance with the City's Subdivision Ordinance, a developer must submit a sketch plan for review by the Planning Commission which explains or illustrated the proposed subdivision and its purpose. The Planning Commission conducted its review of the sketch plan on December 10, 2012. In addition to the sketch plan and associated documents, the Staff report to the Commission is also attached for review by the City Council.

Based on the City's process, no action is required on this item. A representative from Lennar Corporation will be in attendance at the Council meeting and present the sketch plan to the Council.

BACKGROUND INFORMATION:

The attached Planning Commission report includes a broad overview of the request in addition to Staff's general comments regarding the proposal. The City Engineer has also submitted a list of comments that are attached to this memorandum.

PLANNING COMMISSION RECOMMENDATION:

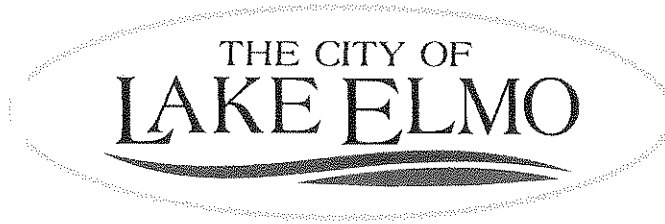
No recommendation is required for a sketch plan review.

ATTACHMENTS:

1. Planning Commission Staff Report
2. Existing Conditions Plan
3. Concept Sketch Plan
4. Multi-Family Detail
5. Lake Elmo Comprehensive Plan (for sketch plan area)
6. Buffer Sections – Stonegate Neighbors
7. Collector Parkway Detail
8. City Engineer/Public Works Review Comments
9. Fire Chief Review Comments

SUGGESTED ORDER OF BUSINESS:

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



Planning Commission
Date: 12/10/12
Business Item
Item: 5a

ITEM: Sketch Plan Review – Dale/Frandsen Properties
Lennar Homes Subdivision Proposal

SUBMITTED BY: Kyle Klatt, Planning Director

REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer
Ryan Stempski, Assistant City Engineer
Mike Bouthilet, Public Works Director
Greg Malmquist, Fire Chief

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review a sketch plan related to a proposed residential subdivision of property located along the I-94 Corridor in a manner that is consistent with the City's future land use map (as drafted). The sketch plan is being submitted by Lennar Homes, 16305 36th Avenue North, Plymouth, Minnesota and consists of 186 single family homes and 131 multi-family units on 109 acres of land immediately to the west of Keats Avenue and north of Hudson Boulevard North. Lennar has agreed to purchase a portion of the property owned by Dale Properties in this area, in addition to the 40-acre former Mulligan Masters site currently owned by the Frandsen Bank and Trust.

The Lake Elmo Subdivision Ordinance specifies that as part of the pre-application process for a new subdivision, the applicant must first submit a sketch plan for review by the Planning Commission. The Ordinance notes that the purpose of the sketch plan review is as follows:

Sketch plan. In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances or plans, prior to the development of a preliminary plat, the subdivider shall meet with the Planning Commission and prepare a sketch plan which explains or illustrates the proposed subdivision and its purpose. The Planning Commission shall accept the information received, but take no formal or informal action which could be construed as approval or denial of the proposed plat.

Based on this wording the Planning Commission is not being asked to take any formal action as part of its review other than to accept the information received. Staff has completed an internal review of the sketch plan, and general comments from Staff are either included as part of this memorandum or in the letters attached by the City Engineer and Fire Chief.

BACKGROUND INFORMATION:

The proposed subdivision sketch plan from Lennar represents the first residential development that would be constructed within one of Lake Elmo's urban service areas and would be the first to be provided with municipal sanitary sewer services. The overall concept plan for the area has been developed to conform to the City's recent Comprehensive Plan update for the I-94 Corridor, which has not yet been formally adopted by the City since it is currently under review by the Metropolitan Council. Lennar will not be able to submit a preliminary plat for any portion of the proposed development area until the Met Council review is complete and the City is able to implement the I-94 corridor amendments.

The submission to the City includes the following components:

- *Existing Conditions Plan.* The existing conditions map that was submitted by the applicant depicts the property that is included in the sketch plan (outlined with the blue dashed line) and includes the owners all properties adjacent to the proposed development area. The portion of the site currently owned by Dale Properties does not contain any existing improvements and is currently used for agricultural purposes; the Frandsen site was formerly the home of the Mulligan Masters golf practice facility which has been shut down for the past several years.
- *Comprehensive Plan Map.* Lennar has provided the Planning Commission with a copy of the City's proposed future land use map overlaid onto the sketch plan area. The Lennar property includes land that is guided for low and medium density residential and also includes a small portion of land guided as a buffer area from land to the north.
- *Concept Sketch.* The sketch plan includes a proposed configuration of roads, lots, and other public spaces on the applicant's site in addition to the general land use classification for properties to the south of the proposed residential subdivision. Lennar has noted on the plan that of the 186 single family lots shown, roughly half will be somewhat narrower than the others. All of the proposed townhouses/multi-family units would be located on the Mulligan Masters (Frandsen) property and immediately north of a planned commercial area. One of the key features of the concept plan would be the construction of the first piece of the planned 5th Street collector road that would serve as a backage road system to 10th Street and Hudson Boulevard.
- *Multi-Family Detail.* This detail provides a zoomed view of the multi-family portion of the sketch plan with additional information concerning the setbacks and density proposed for this area. The 131 townhouses would include buildings with up to eight units, all of which would be accessed from private driveways off of a loop road through the site.
- *Buffer Sections – Stonegate Neighbors.* The proposed Lennar subdivision will need to accommodate the buffer areas depicted on the Comprehensive Plan update for this area. A plan showing how a 100' buffer could be provided is included with the sketch plan submission. Because Dale Properties has agreed to sell an approximately 2-acre parcel to one of the adjacent land owners within the Stonegate Subdivision, the proposed buffer areas, and the concept plan in general, works around this parcel in the extreme northwest portion of the site.
- *Collector Parkway Detail.* Lennar has submitted a proposed concept for the design of the 5th Street collector roadway, which includes a cross section of this roadway with the proposed plantings, sidewalks, and berming could be placed within the right-of-way. This collector road is planned to extend along the entire I-94 Corridor in Lake Elmo; therefore, the initial design of this road segment is likely to have implications well into the future for the City. The City Engineer's comments include several recommendations for this roadway segment, including a recommendation that the width of the right-of-way be set at 120 feet in order to accommodate all necessary infrastructure.

The Staff review comments that follow are all based on conducting a very high level review of the concept plan since there is not a lot of detailed information that is required at this stage in the development process. Staff has instead focused on the bigger picture items and those things that would otherwise not allow the development to move forward if they contrasted with elements from the Comprehensive Plan or the City Code.

STAFF REVIEW COMMENTS

The City Engineer, with input from the Public Works Department and Fire Chief have reviewed the proposed sketch plan and provided comments in the attached letters to the Planning Department. In addition, Planning Staff have reviewed the plans and offer comments in the following areas:

- **Land Use:** The proposed sketch plan appears to conform to the City's future land use plan for this portion of the I-94 corridor. The bulk of the site is guided for low density residential at 2.5 to 4 units per acre with the remainder guided medium density residential at a density of 4.5 to 7 units per acre. The overall sketch concept depicts the collector road as the boundary between the low

density and medium density areas, which is consistent with the language used in the Comprehensive Plan update.

- **Density:** The proposed sketch plan includes calculations for both the gross (all of the land) and net (once parks, open space, roads, and wetlands, etc. are removed) densities over the planning area. In terms of net densities, the Lennar plan includes 2.92 units per acre in the low density portions of the site and 8.40 units per acre in the multi-family areas. The 2.92 units per acre fall with the low density range in the Comprehensive Plan, but the multi-family areas would be slightly over the 7.5 units per acre at the maximum end of this category. This increase in a small portion of the planning area would be allowed under a provision of the Comprehensive Plan that reads as follows: "A variation in development densities is expected at the level of specific development projects, but overall densities within a land use planning area must achieve the minimum levels specified in the Lake Elmo Comprehensive Plan. In this case, the net density of 4.0 units per acre falls within the range for the low density residential planning areas.
- **Zoning.** The City recently adopted new urban development districts, including urban low density and urban medium density residential zoning districts. In general, the sketch plan has been designed to comply with these recently adopted districts in regards to lot area, setbacks, and other dimensional standards. Lennar has noted that the proposed 65-foot lot width shown for some of the lots would not be allowed under the present code, and has asked that City consider minor revisions to the residential zoning districts in order to allow for reduced minimum lots sizes in certain zones. Staff is recommending that the City consider this particular change in the near future since the clustering of smaller lots on a site can help preserve more land as open space and is generally consistent with walkable neighborhood design standards.
- Other general zoning comments from Staff include the following:
 - **Single Family Areas**
 - The average lot sizes of 9,100 and 10,500 square feet are well over the 8,000 square foot minimum.
 - **Multi-Family Areas**
 - The average of 5,187 square feet per unit meets the minimum requirement of 4,000 square feet.
 - Maximum impervious coverage allowed is 50% of lot area
 - Single-family attached dwellings that do not have a minimum of 15' of frontage along a public street may be allowed as a conditional use according to §154.454.G.2.
 - Townhouses shall be located on lots in such a way that each individual unit has a minimum of fifteen (15) feet of street frontage. No parking shall be located in the front yard or between the front façade and the street
 - Townhouses that do not meet the minimum requirements for frontage along a street or that have frontage along a private street may be allowed as a Conditional Use.
 - According to §154.454.G.6, common open space for use by all residents or private open space adjacent to each unit shall be provided. Such open space shall comprise a minimum of five hundred (500) square feet per unit. Given the proposed 131 units, the common open space shall encompass a minimum of 65,500 square feet.
 - **Design Standards** – Although the proposed design standard manual is still under review, certain portions of the manual deal with the design of multi-family buildings, including:
 - A1b: The setbacks of adjacent residential buildings should be varied to contribute to an interesting streetscape, avoiding monotonous façade or wall depth.

- A4a: Parking areas should be located to the rear, side or within primary building whenever possible. Staff would encourage the applicant to consider accessing the townhomes from the rear of the units if possible.
 - B1e: Garages should be recessed from the façade of the principal whenever possible to draw visual attention away from parking areas.
 - B1f: If there are multiple garages within a structure, they should be varied in their location to minimize the visual impact of a row of garage doors.
- **Parks and Trails.** The City's Parks Plan identifies service areas for future neighborhood parks, and one of these service areas is situated within the sketch plan area. The sketch plan identifies an area for a neighborhood park in addition to a series of trails that extend throughout the development. The City's Subdivision would allow either land to be dedicated for park purposes or a fee to be paid in lieu of dedication. Staff is recommending that the details concerning the land or trails to be dedicated for park purposes be addressed at the time a preliminary plat is submitted. The Park Commission will also be reviewing the proposed parks in and around this development at its January 2013 meeting.
 - **Sidewalks and Trails.** The sketch plan does not provide a lot of detail concerning sidewalks, and shows only general locations for trails that will serve the development. Staff is recommending, as a general rule, that the City require the provision of sidewalks on at least one side of the street in all single family areas, and sidewalks on both sides of the street in multi-family areas. Trails will need to be considered within the broader context of the park areas within the development and as part of the multi-modal transportation network serving homes and businesses around the site. Staff is also recommending that a 10-foot multi-use trail be provided on the north side of the 5th Street collector road in addition to a sidewalk on the southern side of this road.
 - **Buffer Areas.** The applicant has shown a 100-foot buffer area on portion of the property that abuts the Stonegate Subdivision. Staff would like to see this buffer zone extended across the boundary of the "exception" parcel that will be sold to a property owner within Stonegate. The current configuration of the buffer yard would also provide a less than optimal corridor for a public trail since it would need to cross a residential street and would lead directly into a wetland on the adjoining property. If a trail is provided in the buffer area, the City may consider this land part of the required park dedication. Staff would like to see the trail depicted on the cross section for the buffer areas.
 - **Subdivision Review Process.** In order to proceed with the subdivision of the land included in the sketch plan area the applicant will need to next prepare a preliminary plat application. At this stage there is much more information required as part of the submission process, which also requires a public hearing. Lennar has indicated that they would like to proceed with this review in early 2013 with the objective of receiving final plat approval within the first half of next year.
 - **Phasing/Public Improvements.** The comments from the City Engineer in the attached letter include a discussion of public improvements. Although the proposed development area is located within Phase I of the staging plan included as part of the Comprehensive Plan, services have not yet been extended to any portion of the site. Sewer is located fairly close to the property, and could be extended from the regional interceptor located within Eagle Point Business Park. Water service will ultimately need to be provided via an extension of the Tablyn Park system over a much greater distance along Inwood Avenue. Water service could be provided on a temporary basis from an extension of the water supply within Eagle Point (which is connected to the City of Oakdale system).
 - **Environmental Review.** The development under sketch plan would exceed the levels established under State Law for a mandatory environmental review. In this case, the developer will need to complete an Environmental Assessment Worksheet (EAW) prior to receiving any final approvals for the subdivision. Staff has met with the developer in order to review the requirements to complete an EAW, and the City will be acting as the agency responsible for completing this review (also known as the Responsible Government Agency or RGU).

- **City Engineer Review.** The review comments from the City Engineer are attached, and focus on the following areas:
 - *Water.* The initial connection to provide water could come from an extension of the system presently within the Eagle Point Business Park. The City's water system plans ultimately call for a looped system with a new line along Inwood Avenue.
 - *Sewer.* Sanitary sewer service is available along Hudson Boulevard, although the developer would need to construct a new lift station would be needed to serve portions of the project area.
 - *Stormwater Management.* The City Engineer notes that the proposed development would be split between two watershed districts. It is not possible to fully review the concept plans for conformance with the City's storm water requirements given the level of detail required at this stage.
 - *Streets.* The review comments from the Engineer include some specific recommendations for the design of roads throughout the project area. These recommendations area are fairly specific since they are intended to help establish the overall plan for streets and rights-of-way in the City's urban residential districts.
- **Fire Chief Review.** Comments from the fire Chief are also attached, and include recommendation that the roads within the development be designed in accordance with Minnesota Fire Code standards.

While there are several comments from Staff that will need to be addressed by the applicant during the next stages of the platting process, there appear to be no significant issues with the plans as proposed that would prevent the developer from moving forward with a preliminary plat on the Dale/Frandsen property. There are several additional steps that will need to happen in order for this development to proceed, including formal adoption of the City's Comprehensive Plan and the completion of an EAW for the site.

RECOMMENDATION:

Staff is recommending that the Planning Commission accept the sketch plan provided by Lennar Corporation for a 317 unit housing development that would be located on property owned by Dale Properties and Frandsen Bank and Trust within the I-94 Corridor planning area.

ATTACHMENTS:

1. Existing Conditions Plan
2. Concept Sketch Plan
3. Multi-Family Detail
4. Lake Elmo Comprehensive Plan (for sketch plan area)
5. Buffer Sections – Stonegate Neighbors
6. Collector Parkway Detail
7. City Engineer/Public Works Review Comments
8. Fire Chief Review Comments

ORDER OF BUSINESS:

- IntroductionKyle Klatt, Planning Director
- ReportKyle Klatt, Planning Director
- Questions from the Commission.....Chair & Commission Members
- Public Comments (if appropriate) Chair

- Action by the Planning CommissionChair & Commission Members

MEMORANDUM

FOCUS ENGINEERING, inc.

Cara Geheren, P.E. 651.300.4261

Jack Griffin, P.E. 651.300.4264

Ryan Stempski, P.E. 651.300.4267

Date: December 5, 2012

To: Kyle Klatt, Planning Director
Cc: Nick Johnson, City Planner
Ryan Stempski, P.E., Assistant City Engineer
From: Jack Griffin, P.E., City Engineer

Re: Lennar-I94 Corridor West
Dale-Frandsen Properties
City of Lake Elmo

We have received a Sketch Plan submittal on November 21, 2012 for the above referenced development proposal consisting of the following exhibits/documentation prepared by Westwood Professional Services, Inc.:

- Concept Sketch dated November 21, 2012.
- Collector Parkway Detail dated November, 2012.
- Existing Conditions Plan dated November 21, 2012.
- Multi-Family Detail dated November 19, 2012.
- Buffer Sections–Stonegate Neighbors dated November 21, 2012.

We have the following review comments:

MUNICIPAL WATER SUPPLY

- Municipal water supply is available along Hudson Blvd. in the Eagle Point Business Park.
- The applicant is responsible to extend the municipal water supply to the development site at developers cost. The city's practice has been to reimburse the developer for oversize costs for pipe sizes over 8-inch diameter.
- Watermain distribution lines will need to be looped wherever reasonably possible. Maximum length of for a watermain dead end is 600 feet.
- Hydrant and valve placement will be made per city standards and as laid out by city staff.
- Curb stops to be placed to edge of right-of-way.
- Location of main in street [North or West].

MUNICIPAL SANITARY SEWER

- Municipal sanitary sewer is available along Hudson Blvd. in the Eagle Point Business Park.
- The applicant is responsible to extend the municipal sanitary sewer to the development site at developers cost. The city's practice has been to reimburse the developer for oversize costs for pipe sizes over 8-inch diameter.
- A lift station and connecting forcemain will be required at developers cost to serve portions of the proposed development. Placement to be determined via preliminary study.
- Manhole and appurtenances will be made per city standards.
- Location of main in street [Centerline].

STORMWATER MANAGEMENT

- The proposed development area resides within both the Valley Branch Watershed District (VBWD) and the South Washington Watershed District (SWWD). City staff recommends early planning/coordination meetings with these watershed districts.
- The design of the storm water management systems must be compliant with the requirements of the applicable watershed district and the City of Lake Elmo. It is the applicant's responsibility to creatively plan for adequate storm water ponding and infiltration facilities.
- The storm water facilities should be platted as Outlots and deeded to the city for maintenance purposes.
- Maintenance access roads must be provided for the storm water facilities including easements.
- The city would be interested in a regional storm water management approach in this area to better plan for higher intensity development. Consider this as potential mitigation measure during EAW review.
- Location of main in street [South or East].

STREETS AND TRANSPORTATION

COLLECTOR STREET – 5TH STREET NORTH

- The proposed collector street (5th Street) must intersect CSAH 19 (Keats Ave N) in accordance with Washington County's access spacing guidelines. The 5th Street and CSAH 19 intersection must therefore be 1,320 feet north [$\frac{1}{4}$ mile] of the Hudson Blvd and CSAH 19 intersection.
- A secondary access point will need to be part of the development proposal since the completion of 5th Street will be unlikely for some time. Secondary access seems feasible to Hudson Blvd.
- The design of 5th Street, and its adjacent sidewalks and trails, must meet Municipal State Aid design standards for urban streets (8820.9936) for ADT > 10,000 and over 40 mph.
- Access spacing to 5th Street is allowed at $\frac{1}{8}$ mile intervals for non-continuous local streets, at $\frac{1}{4}$ mile intervals for continuous local streets and collector streets, and at $\frac{1}{2}$ mile intervals for streets with higher classification.
- The 5th Street horizontal and vertical curvatures must be designed for 45 mph speeds.
- The center landscape median must be a minimum width to accommodate state aid compliant turn lanes at intersections.
- The north side of the road should have an off road separated shared use trail, minimum 10 feet wide.
- Collector street utility easement corridors should be located within the right-of-way.
- The minimum right-of-way width for 5th Street is 120 feet after meeting all state aid requirements for lane widths, clear zones, and curb reaction distances and providing private utility easements.
- Sufficient additional right-of-way must be provided at 5th Street and the secondary access road intersection to Hudson Blvd. to accommodate a future roundabout intersection.

RESIDENTIAL STREETS

- All residential streets shall be constructed to a 28 foot width from back of curb to back of curb using D412 concrete curb and gutter in single family residential areas and B618 curb in commercial and multi-family areas. Right-of-ways must be a minimum 60 feet.
- Ten (10) utility easements are required on either side of the right-of-way.
- Five (5) foot sidewalks must be provided along all continuous residential streets and along other streets as may be required for connectivity. Sidewalks should be placed 7 feet from back of curb.
- All street intersections must be at 90 degrees and maintain 100 feet of tangent with maximum slopes of 2% for first 100 feet.
- Residential maximum longitudinal grade is 8% with no sidewalks, 6% where there are sidewalks.

- Minimum diameter cul-de-sac is 90 feet with 120 foot right-of-way.
- Landscape median geometrics must accommodate maintenance and emergency vehicle access. Applicants must demonstrate acceptable turning radii for all unique shaped center landscape medians at cul-de-sacs.
- Dead end streets will require temporary cul-de-sacs. Dead end streets must be placed where future connectivity is likely. The applicant must demonstrate future connectivity scenario(s).
- Design elements (ribbon curb, etc.) must be incorporated to clearly delineate public vs. private roads in multi-family areas.
- Placement of public utilities within private streets should be avoided. The applicant must first consider the construction of a public street meeting city standards if public utilities are needed.
- Fire hydrants should be placed 5 feet back of curb.

Station #1
3510 Laverne Ave. No.
Lake Elmo, MN 55042
651-770-5006



Station #2
4259 Jamaca Ave. No.
Lake Elmo, MN. 55042
651-779-8882

LAKE ELMO FIRE DEPARTMENT

December 5, 2012

After review of the LENNAR Concept Plan, the following are items that will need further attention and more detailed information:

- **ROADWAYS – Per MN Fire Code Standards**
 - Widths
 - Dead Ends – Lengths, widths, turnarounds
 - Designated Fire Lanes/No Parking

 - Street naming and numbering per city ordinance, including private roads
 - Addresses clearly visible from road, both directions of travel, day/night per ordinance.
 - Main access Road at Keats, access from both directions of travel
- **Emergency access to walking trails**
- **FIRE HYDRANTS**
 - Spacing/Location
 - Flow rates
- **MULTI FAMILY STRUCTURES**
 - Footprint size
 - Fire Suppression Sprinklers

Reviewed by

Greg Malmquist, Fire Chief

“Proudly Serving Neighbors & Friends”



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013

CONSENT

ITEM #: 4

MOTION Consent Agenda

AGENDA ITEM: Approve Disbursements in the Amount of \$157,832.48

SUBMITTED BY: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$157,832.48. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

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

Claim #	Amount	Description
ACH	\$ 12,798.00	Payroll Taxes to IRS & MN Revenue 1/15/2013
ACH	\$ 5,067.62	Payroll Retirement to PERA 12/27/12
DD4345 – DD4380	\$ 40,673.65	Payroll Dated 12/27/12 (Direct Deposit)
1635-1701	\$ 4,200.00	Library Card Reimbursement 1/15/13
39416-39472	\$ 95,093.21	Accounts Payable 1/15/13
TOTAL	\$157,832.48	

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

RECOMMENDATION: It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$157,832.48.

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

**“Move to approve the January 15, 2013, Disbursements as
Presented *[and modified]* herein.”**

ATTACHMENTS:

1. Accounts Payable Dated 1/15/2013

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

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

Accounts Payable To Be Paid Proof List

User: joan z

Printed: 01/10/2013 - 3:23 PM

Batch: 010-12-2012

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ADV SIGN ADVANTAGE SIGNS & GRAPHICS INC										
19505	12/14/2012	384.48	0.00	01/15/2013	Sign Post		-	No		0000
101-430-3120-42260	Sign Repair Materials									
19505	Total:	384.48								
19511	12/14/2012	138.40	0.00	01/15/2013	Brackets		-	No		0000
101-430-3120-42260	Sign Repair Materials									
19511	Total:	138.40								
	ADV SIGN Total:	522.88								
ARAMAU ARAMARK										
629-7647134	12/20/2012	24.78	0.00	01/15/2013	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
629-7647134	Total:	24.78								
629-7651875	12/27/2012	24.78	0.00	01/15/2013	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
629-7651875	Total:	24.78								
	ARAMAU Total:	49.56								
C A C COMPANION ANIMAL CONTROL, LLC										
1	01/01/2013	626.64	0.00	01/15/2013	ANIMAL CONTROL SERVICES		-	No		0000
101-420-2700-43150	Contract Services									
1	Total:	626.64								
	C A C Total:	626.64								
COMCAST COMCAST										
1212	12/27/2012	7.90	0.00	01/15/2013	monthly service		-	No		0000
101-420-2220-44300	Miscellaneous									
1212	Total:	7.90								
	COMCAST Total:	7.90								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
CTYBLOOM City of Bloomington										
1212	12/27/2012	40.00	0.00	01/15/2013	lab testing		-		No	0000
601-494-9400-42270	Utility System Maintenance	40.00								
	1212 Total:	40.00								
	CTYBLOOM Total:	40.00								
CTYOAKDA City of Oakdale										
201212183505	12/28/2012	109.96	0.00	01/15/2013	REPAIR GENERATOR ON L1		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	109.96								
	201212183505 Total:	109.96								
	CTYOAKDA Total:	109.96								
DAMON Damon Farbar Associates										
23304	01/02/2013	5,650.11	0.00	01/15/2013	Lake Elmo Themeing Project, Nov-		-		No	0000
101-410-1910-43150	Contract Services	5,650.11			Dec12					
	23304 Total:	5,650.11								
	DAMON Total:	5,650.11								
DPCINDUS DPC Industries, Inc.										
827002344-12	12/14/2012	387.35	0.00	01/15/2013	Flouride		-		No	0000
601-494-9400-42160	Chemicals	387.35								
	827002344-12 Total:	387.35								
	DPCINDUS Total:	387.35								
EMERGAPP Emergency Apparatus Maint. INC										
62087	12/19/2012	466.90	0.00	01/15/2013	INSPECITON, SERVICES		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	466.90								
	62087 Total:	466.90								
62090	12/19/2012	244.37	0.00	01/15/2013	RANGER 1 SERVICE		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	244.37								
	62090 Total:	244.37								
65475	12/19/2012	72.59	0.00	01/15/2013	L1 REPAIRS		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	72.59								
	65475 Total:	72.59								
65476	12/19/2012	321.90	0.00	01/15/2013	REPAIR VALVES		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	321.90								
	65476 Total:	321.90								
65478	12/19/2012	1,319.92	0.00	01/15/2013	REPAIR PUMP PRIMER		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	1,319.92								
	65478 Total:	1,319.92								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
EMERGAPP Total:		2,425.68								
GONYEA GONYEA HOMES										
12/12	01/08/2013	5,000.00	0.00	01/15/2013	Refund Escrow 10914 57th street #8423		-	No		0000
803-000-0000-22900	Deposits Payable	5,000.00								
12/12 Total:		5,000.00								
GONYEA Total:		5,000.00								
HENDEL HENDEL HOMES										
12/12	01/08/2013	3,000.00	0.00	01/15/2013	Refund Escrow 11165 50th st N #8269		-	No		0000
803-000-0000-22900	Deposits Payable	3,000.00								
12/12 Total:		3,000.00								
HENDEL Total:		3,000.00								
JOHNSON& Johnson & Turner Attorneys										
26855	01/10/2013	4,250.00	0.00	01/15/2013	Legal Service- prosecution		-	No		0000
101-420-2150-43045	Attorney Criminal	4,250.00								
26855 Total:		4,250.00								
26861	01/10/2013	15.00	0.00	01/15/2013	Legal Service-3M		-	No		0000
601-494-9400-43040	Legal Services	15.00								
26861 Total:		200.00								
26862	01/10/2013	200.00	0.00	01/15/2013	Legal Service- Detachment Petition		-	No		0000
101-410-1320-43040	Legal Services	200.00								
26862 Total:		1,690.00								
27150	01/10/2013	1,690.00	0.00	01/15/2013	Legal Service- civil		-	No		0000
101-410-1320-43040	Legal Services	1,690.00								
27150 Total:		6,155.00								
JOHNSON& Total:										
LARSON LARSON DIESEL SERVICE, Corp										
121226003	12/26/2012	257.11	0.00	01/15/2013	BRAKE CHAMBER 86-1		-	No		0000
101-430-3125-44040	Repairs/Maint Eqpt	257.11								
121226003 Total:		257.11								
LARSON Total:		257.11								
LEOIL Lake Elmo Oil, Inc.										
1212	12/31/2012	401.71	0.00	01/15/2013	Fuel		-	No		0000
101-420-2220-42120	Fuel, Oil and Fluids	401.71								
1212 Total:		401.71								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close	POLine #
	LEOIL Total:	401.71									
Lillie Newspapers Inc. Lillie Suburban 12/12 12/31/2012		294.79	0.00	01/15/2013	Legal Publication - Ordinances		-	No		0000	
101-410-1910-42000 Office Supplies 12/12 Total:		294.79									
Lillie Total:		294.79									
LOFF Loffler Companies, Inc. 1505644 01/02/2013		310.14	0.00	01/15/2013	Copy Machines Overage & Base 12/10-1/09		-	No		0000	
101-410-1940-44040 Repairs/Maint Contractual Eqpt 1505644 Total:		310.14									
LOFF Total:		310.14									
MARVS Marv's Professional Tools 256197 12/27/2012		64.00	0.00	01/15/2013	LED SHOP LIGHT		-	No		0000	
101-430-3100-42400 Small Tools & Minor Equipment 256197 Total:		64.00									
MARVS Total:		64.00									
MENARDST Menards - Stillwater 10170 01/08/2013		39.32	0.00	01/15/2013	Cord for CV2		-	No		0000	
101-420-2220-42400 Small Tools & Equipment 10170 Total:		39.32									
MENARDST Total:		39.32									
METCOU Metropolitan Council 1006703 01/03/2013		1,484.55	0.00	01/15/2013	MONTHLY WASTEWATER SERVICE-DECEMBER 2012		-	No		0000	
602-495-9450-43820 Sewer Utility - Met Council 1006703 Total:		1,484.55									
METCOU Total:		1,484.55									
NAMERICA North American Salt Company 70909245 12/18/2012		10,039.98	0.00	01/15/2013	ROAD SALT		-	No		0000	
101-430-3125-42290 Sand/Salt 70909245 Total:		10,039.98									
NAMERICA Total:		10,039.98									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close	POLine #
OAK OAK MEADOWS											
20101668	12/18/2012	978.85	0.00	01/15/2013	Trees - Tana Park Eagle Scout Project		-	No			0000
404-480-8000-45300	Improvements Other Than Bldgs										
	20101668 Total:	978.85									
	OAK Total:	978.85									
ONECALL Gopher State One Call											
56284	12/31/2012	40.60	0.00	01/15/2013	FTP TICKETS		-	No			0000
101-430-3100-43150	Contract Services										
	56284 Total:	40.60									
	ONECALL Total:	40.60									
PINKY Pinky's Sewer Service, Inc.											
41276	01/02/2013	100.00	0.00	01/15/2013	Pumped Septic Tank		-	No			0000
206-450-5300-44010	Repairs/Maint Bldg										
	41276 Total:	100.00									
	PINKY Total:	100.00									
PITNEY Pitney Bowes											
397998	01/03/2013	221.33	0.00	01/15/2013	Postage Meter Rental (Q4-12)		-	No			0000
101-410-1940-44010	Repairs/Maint Contractual Bldg										
	397998 Total:	221.33									
	PITNEY Total:	221.33									
PURCHASE Purchase Power											
12/12	01/01/2013	501.00	0.00	01/15/2013	Postage-Water		-	No			0000
601-494-9400-43220	Postage										
	12/12 Total:	501.00									
	PURCHASE Total:	501.00									
RIVRCOOP River Country Cooperative											
141352	12/31/2012	1,071.05	0.00	01/15/2013	Fuel		-	No			0000
101-420-2220-42120	Fuel, Oil and Fluids										
	141352 Total:	1,071.05									
	RIVRCOOP Total:	1,071.05									
VISALE40 VISA											
12/12	01/01/2013	135.00	0.00	01/15/2013	Kyle Klatt Membership		-	No			0000
101-410-1910-44330	Dues & Subscriptions										

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
12/12	01/01/2013	8.51	0.00	01/15/2013	Plaque for Wildwood		-	No		0000
101-410-1940-44300	Miscellaneous									
12/12	01/01/2013	7.00	0.00	01/15/2013	Parking/Met Council		-	No		0000
101-410-1320-44300	Miscellaneous									
12/12 Total:		150.51								
VISALE40 Total:		150.51								
WASRADIO WASHINGTON COUNTY										
73974	12/20/2012	309.06	0.00	01/15/2013	800 RADIO FEES		-	No		0000
101-430-3100-43230	Radio									
73974 Total:		309.06								
73975	12/20/2012	3,800.76	0.00	01/15/2013	1/4 RLY USER FEE FOR 800 MHZ RADIO		-	No		0000
101-420-2220-43230	Radio									
73975	12/20/2012	114.00	0.00	01/15/2013	RADIO REPAIR/MAINTENANCE FUND		-	No		0000
101-420-2220-43230	Radio									
73975 Total:		3,914.76								
WASRADIO Total:		4,223.82								
XCEL Xcel Energy										
51-0117417-0	12/24/2012	32.81	0.00	01/15/2013	Welcome Sign		-	No		0000
101-430-3160-43810	Street Lighting									
51-0117417-0 Total:		32.81								
51-0630620-5	12/24/2012	696.33	0.00	01/15/2013	Library		-	No		0000
206-450-5300-43810	Electric Utility									
51-0630620-5 Total:		696.33								
51-4504807-7	12/24/2012	62.65	0.00	01/15/2013	Lights at Legion Park		-	No		0000
101-450-5200-43810	Electric Utility									
51-4504807-7	12/24/2012	86.59	0.00	01/15/2013	Lift Station		-	No		0000
602-495-9450-43810	Electric Utility									
51-4504807-7	12/24/2012	31.46	0.00	01/15/2013	Traffic Lights		-	No		0000
101-430-3160-43810	Street Lighting									
51-4504807-7 Total:		180.70								
51-4576456-3	12/24/2012	791.42	0.00	01/15/2013	Fire Station 2		-	No		0000
101-420-2220-43810	Electric Utility									
51-4576456-3 Total:		791.42								
51-4580376-5	12/24/2012	407.00	0.00	01/15/2013	City Hall		-	No		0000
101-410-1940-43810	Electric Utility									
51-4580376-5	12/24/2012	28.36	0.00	01/15/2013	Traffic Lights		-	No		0000
101-430-3160-43810	Street Lighting									
51-4580376-5	12/24/2012	819.13	0.00	01/15/2013	City Hall		-	No		0000
101-410-1940-43810	Electric Utility									
51-4580376-5 Total:		1,254.49								
51-4733556-8	12/24/2012	9.92	0.00	01/15/2013	Tennis Courts		-	No		0000
101-450-5200-43810	Electric Utility									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
51-5044219-0	12/24/2012	9.92								
101-450-5200-43810	Electric Utility	313.79	0.00	01/15/2013	Parks Bldg		-	No		0000
51-5044219-0	Total:	313.79								
51-5275289-3	12/24/2012	22.40	0.00	01/15/2013	Pebble Park		-	No		0000
101-450-5200-43810	Electric Utility	22.40								
51-5522332-2	12/24/2012	42.44	0.00	01/15/2013	Traffic Lights		-	No		0000
101-430-3160-43810	Street Lighting	42.44								
51-5747685-4	12/24/2012	139.48	0.00	01/15/2013	Arts Center		-	No		0000
101-450-5200-43810	Electric Utility	139.48								
51-5916043-7	12/24/2012	19.41	0.00	01/15/2013	Lift Station		-	No		0000
602-495-9450-43810	Electric Utility	19.41								
51-6429583-8	12/24/2012	17.17	0.00	01/15/2013	Lift Station		-	No		0000
602-495-9450-43810	Electric Utility	17.17								
51-6433976-2	12/24/2012	579.61	0.00	01/15/2013	Fire Station 1		-	No		0000
101-420-2220-43810	Electric Utility	579.61								
51-6625457-1	12/24/2012	270.73	0.00	01/15/2013	Legion Park		-	No		0000
101-450-5200-43810	Electric Utility	270.73								
51-6736544-2	12/24/2012	1,932.49	0.00	01/15/2013	Street Lights		-	No		0000
101-430-3160-43810	Street Lighting	1,932.49								
51-6928283-3	12/24/2012	26.98	0.00	01/15/2013	Manning & Stillwater		-	No		0000
101-430-3160-43810	Street Lighting	26.98								
51-7538112-1	12/24/2012	2,112.53	0.00	01/15/2013	Public Works		-	No		0000
101-430-3100-43810	Electric Utility	2,112.53								
51-8126093-5	12/24/2012	148.17	0.00	01/15/2013	Water Tower 2		-	No		0000
601-494-9400-43810	Electric Utility	148.17								
51-8711719-3	12/24/2012	10.99	0.00	01/15/2013	Speed Sign Hwy 5		-	No		0000
101-430-3160-43810	Street Lighting	10.99								
51-8711719-3	Total:	8,601.86								
	XCEL Total:									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
YALEMECH Yale Mechanical										
135309	12/31/2012	1,439.52	0.00	01/15/2013	fall maintenance service - public works	-	-	No		0000
101-430-3100-44010	Repairs/Maint Bldg									
	135309 Total:	1,439.52								
135310	12/31/2012	417.82	0.00	01/15/2013	fall maintenance service - fire	-	-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	135310 Total:	417.82								
135311	12/31/2012	488.78	0.00	01/15/2013	fall maintenance service - fire	-	-	No		0000
101-420-2220-44010	Repairs/Maint Bldg									
	135311 Total:	488.78								
135312	12/31/2012	276.07	0.00	01/15/2013	fall maintenance service - city hall	-	-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	135312 Total:	276.07								
135313	12/31/2012	250.57	0.00	01/15/2013	fall maintenance service - parks bldg.	-	-	No		0000
101-450-5200-44010	Repairs/Maint Bldg									
	135313 Total:	250.57								
135314	12/31/2012	203.56	0.00	01/15/2013	fall maintenance service - city hall	-	-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	135314 Total:	203.56								
135630	12/31/2012	591.29	0.00	01/15/2013	fall maintenance service - public works	-	-	No		0000
101-430-3100-44010	Repairs/Maint Bldg									
	135630 Total:	591.29								
	YALEMECH Total:	3,667.61								
YOCUM Yocum Oil Company, Inc.										
21472	12/20/2012	160.69	0.00	01/15/2013	Bulk Oil Tanks	-	-	No		0000
101-430-3100-44010	Repairs/Maint Bldg									
	21472 Total:	160.69								
	YOCUM Total:	160.69								
ZIERTMAN Joan Ziertman										
12/12	01/03/2013	527.50	0.00	01/15/2013	DECEMBER CLERICAL SERVICES	-	-	No		0000
601-494-9400-43150	Contract Services									
12/12	01/03/2013	131.88	0.00	01/15/2013	DECEMBER CLERICAL SERVICES	-	-	No		0000
602-495-9450-43150	Contract Services									
12/12	01/03/2013	1,318.75	0.00	01/15/2013	DECEMBER CLERICAL SERVICES	-	-	No		0000
603-496-9500-43150	Contract Services									
12/12	01/03/2013	659.37	0.00	01/15/2013	DECEMBER CLERICAL SERVICES	-	-	No		0000
101-410-1520-43150	Contract Services									
	12/12 Total:	2,637.50								
	ZIERTMAN Total:	2,637.50								
	Report Total:	59,221.50								

Accounts Payable To Be Paid Proof List

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Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
AMLEGAL American Legal Publishing Corp 90765 12/30/2012		270.00	0.00	01/15/2013	December 2012 s-7 editing		-	No		0000
101-410-1320-43510 Legal Publishing 90765 Total:		270.00								
90799 12/31/2012		29.25	0.00	01/15/2013	December 2012 folio/internet editing		-	No		0000
101-410-1320-43510 Legal Publishing 90799 Total:		29.25								
AMLEGAL Total:		299.25								
ARAM Aramark, Inc. 629-7658475 01/07/2013		36.25	0.00	01/15/2013	Monthly Rug Service - Annex		-	No		0000
101-410-1940-44010 Repairs/Maint Contractual Bldg 629-7658475 Total:		36.25								
ARAM Total:		36.25								
BATTYPL Batteries Plus Woodbury, Corp 32-767213 01/07/2013		23.77	0.00	01/15/2013	9 Volt Batteries		-	No		0000
101-430-3100-42150 Shop Materials 32-767213 Total:		23.77								
BATTYPL Total:		23.77								
BEVERAL Bever Al 41282 01/08/2013		128.53	0.00	01/15/2013	Reimbursement for supplies		-	No		0000
101-430-3100-44010 Repairs/Maint Bldg 41282 Total:		128.53								
BEVERAL Total:		128.53								
CHASERIC Chase Rick 1/2/13 01/02/2013		31.05	0.00	01/15/2013	Planner Refill - Office Max		-	No		0000
101-420-2400-44170 Uniforms 1/2/13 Total:		31.05								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
1/9/13 101-420-2400-44170	01/10/2013 Uniforms	55.33	0.00	01/15/2013	Plan Review Scales\$ supplies-Office Max		-		No	0000
	1/9/13 Total: CHASERIC Total:	55.33 86.38								
CONLEYMO Conley Morgan Cab 101-410-1450-43620	01/02/2013 Cable Operations	55.00	0.00	01/15/2013	Cable Operations - 1/2/13 meeting (4hrs)		-		No	0000
	Cab Total: CONLEYMO Total:	55.00 55.00								
CTYROSEV City of Roseville 217062 101-410-1450-43180	01/02/2013 Information Technology/Web	1,652.08	0.00	01/15/2013	Monthly IT - Jan 2013		-		No	0000
	217062 Total: CTYROSEV Total:	1,652.08 1,652.08								
DONALDSA Donald Salverda & Associates p-1202-18 101-410-1320-44370	12/27/2012 Conferences & Training	100.00	0.00	01/15/2013	Leadership Growth Group		-		No	0000
	p-1202-18 Total: DONALDSA Total:	100.00 100.00								
ENVENTIS ENVENTIS 73850 101-410-1940-43210	01/01/2013 Telephone	53.99	0.00	01/15/2013	Telephone/Data Service - City Hall - Jan		-		No	0000
	73850 Total: ENVENTIS Total:	53.99 53.99								
FIRE I&T Fire Instructions and Training 109 101-420-2220-44370	01/07/2013 Conferences & Training	145.00	0.00	01/15/2013	Conference Registration		-		No	0000
	109 Total: FIRE I&T Total:	145.00 145.00								
LEAGMN League of MN Cities 10/15/2369 101-410-1110-44370	12/14/2012 Conferences & Training	299.00	0.00	01/15/2013	2013 leadership meeting-Justin Bloyer		-		No	0000
	10/15/2369 Total:	299.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
LEAGMN Total:		299.00								
LMCIT Cities Insurance Trust League of M										
VL00012304	01/10/2013	253.00	0.00	01/15/2013	Accident Coverage for Volunteers		-	No		0000
101-410-1320-43610	Insurance									
VL00012304	01/10/2013	253.00	0.00	01/15/2013	Accident Coverage for Volunteers		-	No		0000
204-450-5200-43610	Insurance									
VL00012304	01/10/2013	254.00	0.00	01/15/2013	Accident Coverage for Volunteers		-	No		0000
206-450-5300-43630	Insurance									
VL00012304 Total:		760.00								
LMCIT Total:		760.00								
METRO FI Metro Fire Chiefs Assoc										
26-4170924	01/07/2013	100.00	0.00	01/15/2013	2013 membership dues		-	No		0000
101-420-2220-44330	Dues & Subscriptions									
26-4170924 Total:		100.00								
METRO FI Total:		100.00								
MNFIRECH MN State Fire Chiefs Assn										
1/1/13	01/07/2013	270.00	0.00	01/15/2013	2013 membership dues		-	No		0000
101-420-2220-44330	Dues & Subscriptions									
1/1/13 Total:		270.00								
MNFIRECH Total:		270.00								
OAKDALEF Oakdale Fire Department										
1/1/13	12/14/2012	50.00	0.00	01/15/2013	2013 membership dues		-	No		0000
101-420-2220-44330	Dues & Subscriptions									
1/1/13 Total:		50.00								
OAKDALEF Total:		50.00								
PITNEY Pitney Bowes										
430993	01/01/2013	36.00	0.00	01/15/2013	Postage Postage		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
430993 Total:		36.00								
PITNEY Total:		36.00								
PITNEYRE Reserve Account Pitney Bowes										
3	01/01/2013	500.00	0.00	01/15/2013	Postage		-	No		0000
101-410-1320-43220	Postage									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
3	01/01/2013	500.00	0.00	01/15/2013	Postage-Water		-			0000
601-494-9400-43220	Postage	1,000.00								
	3 Total:	1,000.00								
	PITNEYRE Total:	1,000.00								
PLUNKETT Plunkett's Pest Control										
3454342	01/01/2013	104.98	0.00	01/15/2013	Pest control service - City Hall		-			0000
101-410-1940-44010	Repairs/Maint Contractual Bldg	104.98								
	3454342 Total:	104.98								
	PLUNKETT Total:	104.98								
ROTARYLE Lake Elmo Rotary Club										
1q	01/01/2013	125.00	0.00	01/15/2013	Membership Dues-City Administrator		-			0000
101-410-1320-44330	Dues & Subscriptions	125.00								
	1q Total:	125.00								
	ROTARYLE Total:	125.00								
TOWNCTRY Town & Country Cleaning Co										
113128	01/01/2013	245.81	0.00	01/15/2013	January Janitorial Services		-			0000
101-410-1940-44010	Repairs/Maint Contractual Bldg	245.81								
	113128 Total:	245.81								
113169	01/01/2013	187.47	0.00	01/15/2013	January Janitorial Services-Public Lib		-			0000
101-410-1940-44010	Repairs/Maint Contractual Bldg	187.47								
	113169 Total:	187.47								
	TOWNCTRY Total:	433.28								
TRKUTI Truck Utilities Inc.										
248391	01/04/2013	49.52	0.00	01/15/2013	Hydraulic Couplers		-			0000
101-430-3120-42210	Equipment Parts	49.52								
	248391 Total:	49.52								
	TRKUTI Total:	49.52								
YALEMECH Yale Mechanical										
12-1484-1R	01/07/2013	7,675.00	0.00	01/15/2013	Marvair Unit		-			0000
411-480-8000-45200	Buildings and Structures	7,675.00								
	12-1484-1R Total:	7,675.00								
	YALEMECH Total:	7,675.00								
	Report Total:	13,483.03								

Accounts Payable To Be Paid Proof List

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Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
POSTOFF POSTMASTER										
1/7/2013	01/07/2013	499.84	0.00	01/07/2013	Newsletter		-			0000
101-410-1450-43510	Public Notices	499.84								
	1/7/2013 Total:	499.84								
	POSTOFF Total:	499.84								
	Report Total:	499.84								

Accounts Payable To Be Paid Proof List

User: joan z

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Batch: 003-01-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
SW/WC SW/WC Service Cooperatives 02/01/2013 101-000-0000-21706 Medical Insurance 02/01/2013 Total: SW/WC Total:	01/02/2013	14,970.00	0.00	01/02/2013	February 2013 Premiums		-	No		0000
TKDA TKDA, Inc. 2012003610 12/07/2012 409-480-8000-43030 Engineering Services 2012003610 12/07/2012 601-494-9400-43030 Engineering Services 2012003610 Total: TKDA Total:	12/07/2012	3,943.74	0.00	01/02/2013	Keats MSA street imp.		-	No		0000
		2,975.10	0.00	01/02/2013	Keats Trunk Water Main improvements		-	No		0000
		6,918.84								
		6,918.84								
Report Total:		21,888.84								



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013

CONSENT

ITEM #: 5

MOTION Consent Agenda

AGENDA ITEM: Year End Permit Report

SUBMITTED BY: Rick Chase, Building Official

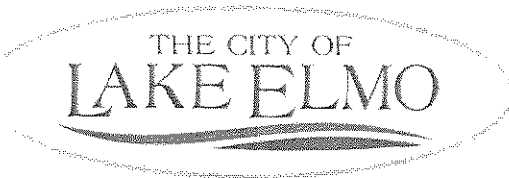
THROUGH: Rick Chase, Building Official

REVIEWED BY: Cathy Bendel, Finance Director

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to accept the monthly permit report. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

STAFF REPORT: Below are the key statistics for Jan 1- December 31, 2012:

	<u>2012</u>	<u>2011</u>
Total Building permits:	314	393
Less ice & water repair	—	(121)
Non ice & water repair permits	314	272
Total Building permit fees:	\$22,871.178	\$18,723,663
New homes	33	24
Total valuation	\$14,746,112	\$10,800,800
Avg home value	\$446,852	\$450,033



MAYOR & COUNCIL COMMUNICATION

DATE: 1/15/2013

CONSENT

ITEM #: 6

MOTION: AS PART OF CONSENT

AGENDA ITEM: Designation of Official Newspaper
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean Zuleger, City Administrator
REVIEWED BY: Cathy Bendel, Finance Director

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to designate *The Oakdale-Lake Elmo Review* as the City's official newspaper of record for 2013 and to designate the *St. Paul Pioneer Press* as the alternate official newspaper to be used on an as needed basis.

BACKGROUND & STAFF REPORT:

Pursuant to Minn. State Statute § 412.831, the City Council is to select an official newspaper of record for legal publications. The City received proposals from two potential candidates for the role of the City's official newspaper: *The Oakdale-Lake Elmo Review* and *The Lowdown – St. Croix Valley Area*. Those proposals are attached.

From a financial and timeliness perspective, City Staff has had an effective working relationship with *The Oakdale-Lake Elmo Review* as its official newspaper for the past few years. *The Oakdale-Lake Elmo Review* meets all statutory requirements for legal publications, has a reasonable publication schedule/deadline for submission, and its rates for publication are very competitive.

The *St. Paul Pioneer Press* has been the back-up legal publication due to its shorter turn-around for unexpected and time sensitive publication needs. Due to its much quicker publication and vastly greater circulation, the *Pioneer Press* remains a viable back-up option. The City did not receive a proposal from the *Pioneer Press*.

RECOMMENDATION:

Based on the foregoing considerations, it is respectfully recommended that the City Council approve as part of the *Consent Agenda* designation of *The Oakdale-Lake Elmo Review* as the official newspaper of record and the *St. Paul Pioneer Press* as the alternate official newspaper to be used on an as needed basis.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate prior to taking action. The City Council may elect to consider an alternate official newspaper if it so chooses. While tabling this item is not recommended, if Council does choose to amend the motion, the new motion should read:

“Move to designate the _____ as the official newspaper of record for 2013 and designate the _____ as the back-up official newspaper on an as needed basis.”

ATTACHMENTS:

- 1) Proposal from Lillie Suburban Newspapers, Inc. (*The Oakdale-Lake Elmo Review*)
- 2) Proposal from Press Publications (*The Lowdown – St. Croix Valley Area*)

SUGGESTED ORDER OF BUSINESS:

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

AUTHORITY:

2012 Minnesota Statutes: § 412.831 OFFICIAL NEWSPAPER.

The council shall, annually at its first meeting of the year, designate a legal newspaper of general circulation in the city as its official newspaper, in which shall be published such ordinances and other matters as are required by law to be so published and such other matters as the council may deem it advisable and in the public interest to have published in this manner.

Lillie Suburban Newspapers, Inc.

2515 E. Seventh Avenue
North St. Paul, MN 55109
(651) 777-8800

December 4, 2012

Adam Bell, City Clerk
City of Lake Elmo
3800 Laverne Ave. N.
Lake Elmo, MN 55042

Dear Mr. Bell:

Thank you for the opportunity to bid on public notice publication services for the City of Lake Elmo. The *Oakdale-Lake Elmo Review* has been serving the needs of the Lake Elmo area for 41 years, and is pleased to provide ongoing coverage of city government and school issues and community events. Each week we mail over 1600 copies to residents and businesses in the city of Lake Elmo.

Lillie Suburban Newspapers is the oldest weekly newspaper company in the St. Paul area. It was founded in 1938 by the late T. R. Lillie. His grandsons, Jeffery Enright and Ted H. Lillie, are continuing the family tradition of publishing award-winning community newspapers in the St. Paul suburbs.

It is our sincere desire to provide the best possible local news coverage in the Lake Elmo area. Our experienced news staff provides readers with a well-balanced, lively and informative product each week. We realize that Lake Elmo area residents look to us as one of their primary sources of information about city activities and meetings, and we will continue to publish the city's press releases and photos.

Lillie Suburban Newspapers has the official designation of the neighboring communities of North St. Paul, Maplewood and Oakdale, to name a few, as well as the North St. Paul-Maplewood-Oakdale School District.

3 P.M. Friday is the deadline each week for submitting public notices to our office. Public notices should be directed to Anne Thillen, Lillie Suburban Newspapers, 2515 E. Seventh Ave., North St. Paul, MN 55109. Our fax number is 651/777-8288. Notices may also be sent via e-mail to:

legals@lillienews.com

Legal publication rates for minutes, advertisements for bids and other notices are as follows:

\$4.40 per column inch for a one-time publication
\$4.20 per column inch for each additional publication

Thank you for considering the *Oakdale-Lake Elmo Review* as the official legal newspaper for the City of Lake Elmo for 2013. If you have any further questions, don't hesitate to call us.

Sincerely,



Jeffery Enright
Publisher



Ramsey County Review • Maplewood Review • Oakdale-Lake Elmo Review • Review Perspectives
New Brighton Bulletin • Shoreview Bulletin • St. Anthony Bulletin • South-West Review
Roseville-Little Canada Review • Woodbury-South Maplewood Review • East Side Review



4779 Bloom Ave., White Bear Lake, MN 55110 • Phone: 651-407-1200 • Fax: 651-429-1242

December 14, 2012

Ms. Sharon Lumby
City of Lake Elmo
3800 Laverne Avenue
Lake Elmo, MN 55042

Dear Ms. Lumby:

The Lowdown - St. Croix Valley Area, a continuation of the *St. Croix Valley Press*, wishes to be considered as your designated newspaper for 2013.

We meet all the legal publication requirements under state statutes. Our circulation is audited by Verified Audit Circulation, an independent firm.

We offer submittal of legal notices by mail, fax at (651) 429-1242, or e-mail to legals@presspubs.com. Please clearly identify them as "Legal Notices."

The rate will be \$6.75 per column inch, in 7-point type at 9-lines per inch.

Our deadline for legal notices is Monday by 12:00 noon for that Friday's publication.

We look forward to the opportunity to serve you. We welcome any questions or concerns you may have.

Sincerely,

A handwritten signature in cursive script that reads 'Lisa Graber'.

Lisa Graber
Legal Notice Coordinator

Misc: LakeElmo2013.doc

Your Best Source For Community Information

White Bear Press • Vadnais Heights Press • St. Croix Valley Press • Quad Community Press • Shoreview Press • Forest Lake Press • The Citizen
news@presspubs.com nocorn@presspubs.com pressadvertising@presspubs.com nncirc@presspubs.com

MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013

CONSENT

ITEM #: 7

MOTION Consent Agenda

AGENDA ITEM: Designation of Official Depository of Funds for 2013

SUBMITTED BY: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: Pursuant to State Statute 412.121, the City Council is respectfully being asked to designate official depositories for 2013.

BACKGROUND INFORMATION: Based upon past practice as well as current and likely future needs, it is recommended that the following be designated as the official depositories for the City of Lake Elmo for 2013:

- Lake Elmo Bank
- Well Fargo Bank
- Northland Securities
- Morgan Stanley Smith Barney LLC

RECOMMENDATION: It is recommended that the City Council designate official depositories for 2013 by the following action:

“Move to designate Lake Elmo Bank, Wells Fargo Bank, Northland Securities and Morgan Stanley Smith Barney LLC as the official depositories for the City of Lake Elmo for 2013”



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013

CONSENT

ITEM #: 8

MOTION Consent Agenda

AGENDA ITEM: Resolution 2013-01 Designating City's Data Practice Officials and Approving City Data Practices Policy
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Alyssa MacLeod, Taxpayer Relations & Communications Coordinator

SUMMARY AND ACTION REQUESTED:

As part of the Consent Agenda, the City Council is requested to consider approval of Resolution 2013-01 Designating City's Data Practices Officials and Approving City's Data Practices Policy. There are no changes from the 2012 Data Practices Policy other than the change of designated officials.

STAFF REPORT:

Minnesota State Statute Chapter 13 regulates the collection, creation, storage, maintenance, dissemination and access to government data in government entities. MN Statute 13.05 requires the government entity's Responsible Authority to annually update the City's Data Practices Policy and make any changes necessary to maintain the accuracy of the document.

The policy identifies the types of data the City maintains and how each type of data is classified. In addition, the policy provides for written procedures to ensure data requests are received and complied with in an appropriate, permitted and prompt manner.

The City is required to have two officers to administer responsibilities set forth in the act. The required officers are the Responsible Authority and the Compliance Officer, who by state statute can be, and often are, the same person within a government entity. The Responsible Authority is responsible for collection, use and dissemination of any set of data. The Compliance Officer handles questions or issues with regard to data access. Both of these officials are required to be named specifically, not just as a position responsibility. It is recommended the city council designate City Clerk Adam Bell as both the Responsible Authority and the Compliance Officer.

RECOMMENDATION:

Staff recommends the City Council approve Resolution 2013-01 Designating City Data Practices Officials and Approving City's Data Practices Policy; specifically, designating Adam Bell as the City's Data Practices Responsible Authority and Compliance Officer and Approving City's 2013 Data Practices Policy. This action requires a simple majority vote.

ATTACHMENTS:

1. Resolution 2013-01
2. City of Lake Elmo 2013 Data Practices Classification of Government Data

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

RESOLUTION 2013-02

**A RESOLUTION DESIGNATING CITY'S DATA PRACTICES OFFICIALS AND
APPROVING CITY'S DATA PRACTICES POLICY**

WHEREAS, Minnesota Statutes, Chapter 13, requires the adoption of certain policies and procedures pertaining to government data practices; and

WHEREAS, the statute also requires the appointment of a data practices compliance official, a data practices responsible authority and optional designee(s) to enforce the data practices policies of government agencies.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Lake Elmo, that the attached City of Lake Elmo Data Practices Policy, together with the exhibits attached thereto, are hereby adopted and approved as if fully set forth herein; and

BE IT FURTHER RESOLVED, that City Clerk Adam Bell will be appointed to serve as the city's data practices compliance official and data practices responsible authority.

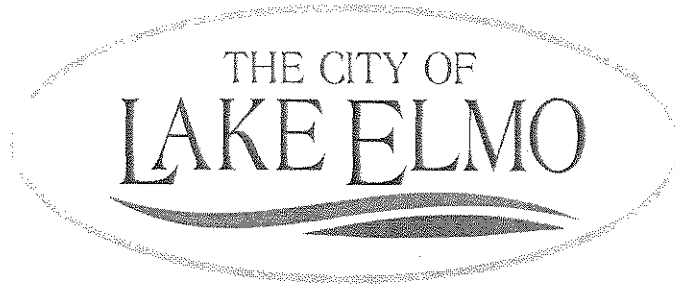
**ADOPTED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO THIS
FIFTEENTH DAY OF JANUARY 2013.**

**CITY COUNCIL
CITY OF LAKE ELMO**

By: _____
Mike Pearson
Mayor

ATTEST:

Adam Bell
City Clerk



2013

**DATA PRACTICES
CLASSIFICATION OF
GOVERNMENT DATA**

ACCESS TO DATA BY THE PUBLIC

Access To Data By The Public

While some data maintained by the city is data about individuals, which is presumed to be private, the broader assumption about government data in general is that it is public, and should be readily available to anyone who asks for it. Failure to disclose information that is public is a violation of data practices laws.

Any person (individual or non-individual) can have access to public data simply by making a request to the responsible authority that has jurisdiction over the data. The person has the right to inspect and copy the data at reasonable times and places, and, if the person so requests, will be informed of the data's meaning.

Inspection of Data

There is no fee for inspecting the data (Minn. Stat. Sec. 13.03, subd. 3.) Inspection includes visual inspection of the information in paper or some other medium, such as on the website. Inspection does not include printing copies, unless printing a copy is the only way to inspect the data.

For data stored in electronic form and available to the public through electronic remote access, inspection includes allowing the public to have access to the data so that they can print or download the data from their own computer equipment. The responsible authority may charge a reasonable fee for remote access to data if there is a specific statutory grant of authority.

Data with Commercial Value

When data requested by the public include data that have commercial value (such as a formula, pattern, compilation, program, device, method, technique, etc) and a substantial and discrete portion of the data was developed with a significant expenditure of public funds, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying and compiling the copies (Minn. Stat. Sec. 13.03, subd. 3(d)). Any fee charged must be clearly demonstrated by the agency to relate to the actual development costs of the information.

Computer Storage Medium

If the requested data is maintained in a computer storage medium, the responsible authority must provide a copy of the data contained in that medium in electronic form if the city can reasonably do so (Minn. Stat. Sec. 13.03, subd. 3(e)).

Time Limits For Response

Copies of public information should be disclosed as soon as reasonably possible. Work on compiling copies should begin immediately upon request. If the request cannot be honored immediately the city should, as a matter of courtesy, send a letter to the requester acknowledging receipt of the request and giving the requester an estimate of the time it will take to compile and send the information.

CLASSIFICATIONS OF GOVERNMENT DATA

Classifications of Government Data

The Minnesota Government Data Practices Act defines Government Data as all data collected, created, received, maintained or disseminated by any state agency, political subdivision, or statewide system regardless of its physical form, storage media or conditions of use (Minn. Stat. Sec. 13.02, subd. 7).

Government Data are separated into classifications and the classification of data determines their accessibility by the public. Information about individual people is classified by law as public, private, or confidential. A list of the private and confidential information maintained by the City is attached as Exhibit A.

Data On Individuals

Data on individuals are defined as government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data is not accessed by the name or other identifying data of any individual.

There are three classifications of data on individuals :

- **Public** -- This is data about individuals which can be disclosed to anyone for any purpose, e.g. names and salaries of city employees.
- **Private** -- This is data about individuals which can be disclosed only to the subject of the data or to government entities and employees whose work assignments reasonably require access to the data.

- **Confidential** -- This is data about individuals that even the individuals themselves cannot be told, e.g., information from an investigation about welfare fraud or in adoption records. Note, however, that even if the confidential data itself cannot be disclosed to individuals, individuals do retain the right to know whether an agency is maintaining confidential data about them. Confidential information may be given to people who are authorized access by federal, state or local law or court order or people within the city staff, the city council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.

Data Not On Individuals

Data not on individuals are government data about non-individuals, such as organizations including partnerships, corporations, associations, etc.

- **Public** -- This is data about non-individuals, such as businesses, which can be disclosed to anyone for any purpose, e.g., names of vendors who have contracts with the city.

- **Private** -- This is data about non-individuals which can be disclosed only to the subject of the data or to government entities and employees whose work assignments reasonably require access to the data, e.g., certain financial information about businesses.

- **Protected Non-public** -- This is data about non-individuals, which is available only to government entities with a legal right to know it. A corporation being investigated for fraud, for example, would not have a right to the information being collected during the investigation.

Information Technology Policy

Information Policy Compliance and Consequences

All City of Lake Elmo users, including employees, volunteers and contractors, who have rights to access or modify city information in any media, or who use city computers, business applications or electronic communication resources, must comply with Lake Elmo Information Policy, the federal Health Insurance Portability and Accountability Act (HIPAA), the Minnesota Government Data Practices Act and all other laws or rules governing the protection of data. Failure to comply is grounds for sanction and/or disciplinary action up to and including termination of employment, cancellation of contract and/or loss of resource privileges. Failure to comply may also result in notification to law enforcement officials and regulatory, accreditation and licensure organizations.

Use of any City of Lake Elmo information technology devices will be limited to employees. All files of any kind, including electronic mail disseminated or received utilizing city devices or software or which resides on computers within the City of Lake Elmo should not be considered as private and employees shall have no expectation of privacy. The contents of electronic mail will not normally be monitored, censured, or otherwise examined unless there is reason to believe the usage is being abused. City investigations, law enforcement investigations, or court order or data practices request may require the examination and release of any file or document, including electronic files such as electronic mail.

Electronic Mail (Email):

Purpose of Email: the email system is a tool to be used for matters directly related to the business activities of city employees and as a means to further the mission by providing services that are efficient, accurate, timely and complete.

Public Nature of Email: email is a public record like any other public document. Email may be searched for evidence in any legal proceeding. By using the email system, the employee consents that in the event of suspicious activity their email system may be searched for evidence gathering purposes.

E-mail messages are subject to regulation under the Minnesota Data Practices Act. As such, all e-mails unless private (content determines public or private) should be considered public information.

Policy: employees are responsible for adhering to business standards when email is created, sent, forwarded or saved. Failure to adhere puts the organization and the individual at risk for legal or financial liabilities, potential embarrassment and other consequences. Employees should not keep e-mail for an extended period of time. If it is a critical e-mail correspondence, it should be saved as a hard copy or as a text file and moved to the server. Delete all inbox, sent, and deleted messages that are no longer needed.

Members of the Public

Right to Access Public Data

The Data Practices Act (Minnesota Statutes, Chapter 13) presumes that all government data are public unless a state or federal law says the data are not public. Government data is a term that means all recorded information a government entity has, including paper, email, CD-ROMs, photographs, etc.

The Data Practices Act also provides that the City of Lake Elmo must keep all government data in a way that makes it easy for you, as a member of the public, to access public data.

You have the right to look at (inspect), free of charge, all public data that we keep.

You also have the right to get copies of public data. The Data Practices Act allows us to charge for copies. You have the right to look at data, free of charge, before deciding to request copies.

How to Make a Data Request

To look at data or request copies of data that the City of Lake Elmo keeps, make a written request. Make your written request for data to the appropriate individual listed in the Data Practices Contacts document on page eight. You may make your written request for data by mail, using the data request form on page ten.

If you choose not to use the data request form, your written request should include:

1. that you, as a member of the public, are making a request for data under the Data Practices Act, Minnesota Statutes, Chapter 13;
2. whether you would like to look at the data, get copies of the data, or both; and
3. a clear description of the data you would like to inspect or have copied.

The City of Lake Elmo cannot require you, as a member of the public, to identify yourself or explain the reason for your data request. However, depending on how you want us to process your request (if, for example, you want us to mail you copies of data), we may need some information about you. If you choose not to give us any identifying information, we will provide you with contact information so you may check on the status of your request. In addition, please keep in mind that if we do not understand your request and have no way to contact you, we will not be able to begin processing your request.

How We Respond to a Data Request

Upon receiving your written request, we will work to process it. If we do not have the data, we will notify you in writing as soon as reasonably possible. If we have the data, but the data are not public, we will notify you in writing as soon as reasonably possible and state which specific law says the data are not public.

If we have the data, and the data are public, we will respond to your request appropriately and promptly, within a reasonable amount of time by doing one of the following:

- 1) Arrange a date, time, and place to inspect data, for free, if your request is to view the data, or
- 2) Provide you with copies of the data as soon as reasonably possible.

You may choose to pick up your copies, or we will mail or fax them to you. If you want us to send you the copies, you will need to provide us with an address or fax number. We will provide electronic copies (such as email or CD-ROM) upon request if we keep the data in electronic format. Information about copy charges is on page nine.

If you do not understand some of the data (technical terminology, abbreviations, or acronyms), please let us know. We will provide you with an explanation.

The Data Practices Act does not require us to create or collect new data in response to a data request if we do not already have the data, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement. (For example, if the data you request are on paper only, we are not required to create electronic documents to respond to your request.) If we agree to create data in response to your request, we will work with you on the details of your request, including cost and response time.

The Data Practices Act does not require us to answer questions that are not requests for data.

Requests for Summary Data

Summary data are statistical records or reports that are prepared by removing all identifiers from private or confidential data on individuals. The preparation of summary data is not a means to gain access to private or confidential data. The City of Lake Elmo will prepare summary data if you make your request in writing and pre-pay for the cost of creating the data. Upon receiving your written request – you may use the data request form on page ten – we will respond within ten business days with the data or details of when the data will be ready and what the cost will be.

Data Subjects

Data about You

The Data Practices Act (Minnesota Statutes, Chapter 13) says that data subjects have certain rights related to a government entity collecting, creating, and keeping government data about them. You are the subject of data when you can be identified from the data. Government data is a term that means all recorded information a government entity has, including paper, email, CD-ROMs, photographs, etc.

Classification of Data about You

The Data Practices Act presumes that all government data are public unless a state or federal law says that the data are not public. Data about you are classified by state law as public, private, or confidential. See below for some examples.

Public data: We must give public data to anyone who asks; it does not matter who is asking for the data or why. The following is an example of public data about you: *if you are an employee of a government entity, the fact that you work for the entity, and your job title and bargaining unit is public.*

Private data: We cannot give private data to the general public, but you have access when the data are about you. The following is an example of private data about you: *your Social Security number.*

We can share your private data with you, with someone who has your permission, with City of Lake Elmo staff who need the data to do their work, and as permitted by law or court order.

Confidential data: Confidential data have the most protection. Neither the public nor you can get access even when the confidential data are about you. The following is an example of confidential data about you: *if you register a complaint with a government entity concerning violations of state laws or local ordinances concerning the use of real property, your identity is confidential.*

We can share confidential data about you with City of Lake Elmo staff who need the data to do their work and to others as permitted by law or court order. We cannot give you access to confidential data.

Your Rights under the Data Practices Act

The City of Lake Elmo must keep all government data in a way that makes it easy for you to access data about you. Also, we can collect and keep only those data about you that we need for administering and managing programs that are permitted by law. As a data subject, you have the following rights.

Your Access to Your Data: You have the right to view (inspect), free of charge, public and private data that we keep about you. You also have the right to get copies of public and private data about you. The Data Practices Act allows us to charge for copies. You have the right to look at data, free of charge, before deciding to request copies. Also, if you ask, we will tell you whether we keep data about you and whether the data are public, private, or confidential.

As a parent, you may have the right to look at and get copies of public and private data about your minor children (under the age of 18). As a legally appointed guardian, you have the right to look at and get copies of public and private data about an individual for whom you are appointed guardian.

Minors have the right to ask the City of Lake Elmo not to give data about them to their parent or guardian. If you are a minor, we will tell you that you have this right. We may ask you to put your request in writing and to include the reasons that we should deny your parents access to the data. We will make the final decision about your request based on your best interests. Note: Minors do not have this right if the data in question are educational data maintained by an educational agency or institution.

When we Collect Data from You: When we ask you to provide data about yourself that are not public, we must give you a notice. The notice is sometimes called a Tennessee warning. The notice controls what we do with the data that we collect from you. Usually, we can use and release the data only in the ways described in the notice.

We will ask for your written permission if we need to use or release private data about you in a different way, or if you ask us to release the data to another person. This permission is called informed consent. If you want us to release data to another person, you must use the consent form we provide.

Protecting your Data: The Data Practices Act requires us to protect your data. We have established appropriate safeguards to ensure that your data are safe.

When your Data are Inaccurate and/or Incomplete: You have the right to challenge the accuracy and/or completeness of public and private data about you. You also have the right to appeal our decision. If you are a minor, your parent or guardian has the right to challenge data about you.

How to Make a Request for Your Data

To look at data, or request copies of data that the City of Lake Elmo keeps about you, your minor children, or an individual for whom you have been appointed legal guardian, make a written request. Make your request for data to the appropriate individual listed in the Data Practices Contacts document on page ten. You may make your written request by mail using the data request form on page twelve.

If you choose not use to use the data request form, your written request should include:

1. That you are making a request, under the Data Practices Act (Minnesota Statutes, Chapter 13), as a data subject, for data about you;
2. Whether you would like to inspect the data, have copies of the data, or both;
3. A clear description of the data you would like to inspect or have copied; and
4. Identifying information that proves you are the data subject, or data subject's parent/guardian.

The City of Lake Elmo requires proof of your identity before we can respond to your request for data. If you are requesting data about your minor child, you must show proof that you are the minor's parent. If you are a guardian, you must show legal documentation of your guardianship. Please see the Standards for Verifying Identity document located on page thirteen.

How We Respond to a Data Request

Once you make your written request, we will work to process your request. If it is not clear what data you are requesting, we will ask you for clarification.

- If we do not have the data, we will notify you in writing within 10 business days.
- If we have the data, but the data are confidential or private data that are not about you, we will notify you in writing within 10 business days and state which specific law says you cannot access the data.
- If we have the data, and the data are public or private data about you, we will respond to your request within 10 business days, by doing one of the following:
 1. Arrange a date, time, and place to inspect data, for free, if your request is to look at the data, or
 2. Provide you with copies of the data within 10 business days. You may choose to pick up your copies, or we will mail or fax them to you. We will provide electronic copies (such as email or CD-ROM) upon request if we keep the data in electronic format. Information about copy charges is on page nine.

After we have provided you with access to data about you, we do not have to show you the data again for six months unless there is a dispute or we collect or create new data about you. If you do not understand some of the data (technical terminology, abbreviations, or acronyms), please let us know. We will provide additional explanation.

The Data Practices Act does not require us to create or collect new data in response to a data request if we do not already have the data, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement. (For example, if the data you request are on paper only, we are not required to create electronic documents to respond to your request.) If we agree to create data in response to your request, we will work with you on the details of your request, including cost and response time. In addition, we are not required under the Data Practices Act to respond to questions that are not requests for data.

CITY OF LAKE ELMO
Data Practices Contacts

Responsible Authority

Adam Bell, City Clerk
3800 Laverne Avenue North, Lake Elmo, MN 55042
Phone: 651.747.3900
Fax: 651.747.3901
abell@lakeelmo.org

Data Practices Compliance Official

Adam Bell, City Clerk
3800 Laverne Avenue North, Lake Elmo, MN 55042
Phone: 651.747.3900
Fax: 651.747.3901
abell@lakeelmo.org

Copy Costs – Members of the Public

The City of Lake Elmo charges members of the public for copies of government data. These charges are authorized under Minnesota Statutes, section 13.03, subdivision 3(c). Copies must be paid for prior to receiving.

For 100 or Fewer Paper Copies – 25 Cents per Page

100 or fewer pages of black and white, letter or legal size paper copies cost 25¢ for a one-sided copy, or 50¢ for a two-sided copy.

Most Other Types of Copies – Actual Cost

The charge for most other types of copies, when a charge is not set by statute or rule, is the actual cost of searching for and retrieving the data, and making the copies or electronically transmitting the data (e.g. sending the data by email).

In determining the actual cost of making copies, we factor in employee time, the cost of the materials onto which we are copying the data (paper, CD, DVD, etc.), and mailing costs (if any). If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies.

The cost of employee time to search for data, retrieve data, and make copies will be calculated at the actual hourly rate of the employee.

Copy Costs - Data Subjects

The City of Lake Elmo charges data subjects for copies of government data. These charges are authorized under section 13.04, subdivision 3. Copies must be paid for prior to receiving.

Actual Cost of Making the Copies

In determining the actual cost of making copies, we factor in employee time, the cost of the materials onto which we are copying the data (paper, CD, DVD, etc.), and mailing costs (if any). If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies.

The cost of employee time to make copies will be calculated at the actual hourly rate for the employee.

City of Lake Elmo

Data Request Form – Members of the Public

Date of request: _____

I am requesting access to data in the following way:

Note: inspection is free, for copies the City of Lake Elmo charges \$0.25 per page for 100 or fewer one-sided pages of black and white, letter or legal size paper copies cost or 50¢ for a two-sided copy.

☐ Inspection ☐ Copies ☐ Inspection and copies

These are the data I am requesting:

Note: Describe the data you are requesting as specifically as possible. If you need more space, please use the back of this form.

Contact Information

Name: _____

Address: _____

Phone number: _____ Email address: _____

You do not have to provide any of the above contact information. However, if you want us to mail you copies of data, we will need some type of contact information. In addition, if we do not understand your request and need to get clarification from you, without contact information we will not be able to begin processing your request until you contact us.

City of Lake Elmo

Data Request Form – Data Subjects

Date of request: _____

To request data as a data subject, you must show a valid state ID, such as a driver's license, military ID, or passport as proof of identity.

I am requesting access to data in the following way:

☐ Inspection ☐ Copies ☐ Inspection and copies

Note: inspection is free, for copies we charge \$0.25 per page for up to 100 pages (\$0.50 two sided up to 50 pages) or employee time, the cost of the materials onto which we are copying the data (paper, CD, DVD, etc.), and mailing costs (if any). If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies. The cost of employee time to make copies is calculated at the actual hourly rate of the employee.

Description of data requested:

Note: Describe the data you are requesting as specifically as possible. If you need more space, please use the back of this form.

Contact Information

Data subject name _____

Parent/Guardian name (if applicable) _____

Address _____

Phone number _____

Email address _____

Signature of Data Subject or Parent/Guardian _____

Staff Verification

Identification provided _____

Standards for Verifying Identity

The following constitute proof of identity.

An **adult individual** must provide a valid photo ID, such as

- state driver's license
- military ID
- passport
- Minnesota ID
- Minnesota tribal ID

A **minor individual** must provide a valid photo ID, such as

- state driver's license
- military ID
- passport
- Minnesota ID
- Minnesota Tribal ID
- Minnesota school ID

The **parent or guardian of a minor** must provide a valid photo ID *and either* a certified copy of the minor's birth certificate *or* a certified copy of documents that establish the parent or guardian's relationship to the child, such as

- court order relating to divorce, separation, custody, foster care
- foster care contract
- affidavit of parentage

The **legal guardian for an individual** must provide a valid photo ID *and* a certified copy of appropriate documentation of formal or informal appointment as guardian, such as

- court order(s)
- valid power of attorney

Note: Individuals who do not exercise their data practices rights in person must provide *either* notarized or certified copies of the documents that are required *or* an affidavit of ID.

CITY OF LAKE ELMO

**NOTICE TO ALL APPLICANTS FOR MUNICIPAL PERMITS, LICENSES,
OR OTHER MUNICIPAL ACTION**

1. If you are requesting municipal action on any request for any of the above, you will be required to furnish certain information about yourself, the project you are involved in, or other matters pertaining to the application. Some of the information you are asked to provide is classified by state law as either private or confidential. Private data is information which generally cannot be given to the public but can be given to the subject of the data. Confidential data is information which generally cannot be given to either the public or the subject of the data.
2. The purpose of this information is to enable the City of Lake Elmo or other government agencies to evaluate relevant factors in considering your request. You are not legally required to provide this information. If you do not provide the requested information, the City may not act upon your request.
3. The information you supply will be public and available to any entity requesting to inspect the information.

**DATA PRACTICES ADVISORY
TENNESSEN WARNING
REQUIRED BY MINNESOTA STATUTES CHAPTER 13.04**

BY _____

COMPANY/TITLE: _____

NON-PUBLIC DATA MAINTAINED BY CITY (EXHIBIT A)

1. Personnel Data (Private)

Minn. Stat. §13.43

All data on all individuals who are or were an employee, an applicant for employment, volunteer, independent contractor, or member or applicant for advisory board or commission is private, except the following which is public:

- Name
- Employee identification number (not the employee's Social Security number)
- Actual gross salary
- Contract fees
- Actual gross pension
- Value and nature of employer paid fringe benefits
- Basis for and amount of added remuneration, including expense reimbursement
- Job description, job title and bargaining unit
- Education and training background
- Relevant test scores and rank on eligible list
- Previous work experience
- Date of first and last employment
- Veteran status
- The existence and status (but not nature) of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in discipline
- Final disposition of any disciplinary action, together with specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the city
- Terms of any agreement settling any dispute arising from the employment relationship, including a "buyout" agreement
- Work availability
- Work location
- Work telephone number
- Honors and awards received
- Payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other non-public data

- Names and addresses of applicants for and members of an advisory board or commission
- Name, after being certified as eligible for appointment to a vacancy or when considered a finalist for a position of public employment (which occurs when the person has been selected to be interviewed by the appointing authority)

If it is necessary to protect an employee from harm to self or to protect another person who may be harmed by the employee, information that is relevant to the safety concerns may be released to (1) the person who may be harmed or to the person's attorney when relevant to obtaining a restraining order, (2) a pre-petition screening team in the commitment process, or (3) a court, law enforcement agency or prosecuting agency.

All other data is private but may be released pursuant to a court order. Data pertaining to an employee's dependents are private data on individuals.

2. Property Complaint Data (confidential)

Minn. Stat. §13.44

The identities of individuals who register complaints concerning violations of state laws or local ordinances concerning the use of real property.

3. Security Information (Private)

Minn. Stat. §13.37

Data which if disclosed would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. This includes crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home addresses and telephone numbers, but these may be disseminated to other volunteers participating in crime prevention programs. This also includes interior sketches, photos, or plans of buildings where detailed information about alarm systems or similar issues could jeopardize security.

4. Sealed bids (Non-public)

Minn. Stat. §13.37

Sealed bids, including the number of bids received, prior to opening.

5. Trade Secret Information (Non-public)

Minn. Stat. §13.37

Government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the City, (2) that is the subject of efforts by the City that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known

to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

6. Examination Data **Minn. Stat. §13.34**

Completed versions of personnel and licensing examinations are private, unless the Responsible Authority determines that they should be confidential because access would compromise the objectivity, fairness, or integrity of the examination process.

7. Elected Officials Correspondence (Private) **Minn. Stat. §13.601**

Correspondence between individuals and elected officials, but either may make it public.

8. Federal Contracts Data (Non-public) **Minn. Stat. §13.35**

To the extent that a federal agency requires it as a condition for contracting with the city, all government data collected and maintained by the city is classified as private or nonpublic depending on whether the data are data on individuals or data not on individuals.

9. Civil Investigative Data **Minn. Stat. §13.39**

Data collected as part of an active investigation undertaken to commence or defend pending civil litigation, or which are retained in anticipation of pending civil litigation is confidential, except that a complainant's statement is private.

10. Appraisal Data (Confidential or Non-public) **Minn. Stat. §13.44**

- a. Estimated or appraised values of individual parcels of real property that are made by personnel of the city or by independent appraisers acting for the city for the purpose of selling or acquiring land through purchase or condemnation are classified as confidential data on individuals or protected nonpublic data.
- b. Appraised values of individual parcels of real property that are made by appraisers working for fee owners or contract purchasers who have received an offer to purchase their property from the city are classified as private data on individuals or nonpublic data.

The data become public upon the occurrence of any of the following:

- The data are submitted to a court-appointed condemnation commissioner;
- The data are presented in court in condemnation proceedings; or

The negotiating parties enter into an agreement for the purchase and sale of the property.

11. Personal and intangible property; appraisal data (Non-public)
Minn. Stat. §13.44

Preliminary and final market value appraisals, which are made by personnel of the city or by an independent appraiser acting on behalf of the city, of personal and intangible property owned by the city are classified as nonpublic data not on individuals until either (1) a purchase agreement is entered into; or (2) the parties negotiating the transaction exchange appraisals.

12. Social Security numbers (Private) **Minn. Stat. §13.355**

The Social Security numbers of individuals, whether provided in whole or in part, collected or maintained by a government entity are private data on individuals, except to the extent that access to the Social Security number is specifically authorized by law.

13. Recreation/Social Programs Data (Private) **Minn. Stat. §13.57**

People enrolling in recreational or other social programs: name, address, telephone number, any other data that identifies the individual, and any data which describes the health or medical condition of the individual, family relationships, living arrangements, and opinions as to the emotional makeup or behavior of an individual.

14. Planning Survey Data (Private/Non-public) **Minn. Stat. §13.43**

The following data collected in surveys of individuals conducted by the city for the purpose of planning, development and redevelopment are classified as private or nonpublic: names and addresses of individuals and the legal descriptions of property owned by the individuals, and the commercial use of the property to the extent disclosure of the use would identify a particular business.

15. City Attorney Records **Minn. Stat. §13.30**

The use, collection, storage, and dissemination of data by the city attorney are governed by statutes, rules, and professional standards concerning discovery, production of documents, introduction of evidence, and professional responsibility. Data which is the subject of attorney-client privilege is confidential. Data which is the subject of the "work product" privilege is confidential.

16. Electronic Access Data

Minn. Stat. §13.15

Data created, collected, or maintained about a person's access to a city computer for the purpose of gaining access to data or information, transferring data or information are private data on individuals or nonpublic data.

17. Service Cooperatives Claims Data

Minn. Stat. §13.43

Claims experience and all related information received from carriers and claims administrators participating in a group health or dental plan, including any long-term disability plan, offered through the Minnesota service cooperatives to the city, and survey information collected from employees and employers participating in these plans and programs, except when the executive director of a Minnesota service cooperative determines that release of the data will not be detrimental to the plan or program, are classified as nonpublic data not on individuals.

Consent to Release - Request from a Government Entity

Explanation of Your Rights

You have the right to choose what data we release. This means you can let us release all of the data, some of the data, or none of the data listed on this form. Before you give us permission to release the data, we encourage you to review the data listed on this form. You have the right to let us release the data to all, some, or none of the persons or entities listed on this form. This means you can choose which entities or persons may receive the data and what data they may receive.

You have the right to ask us to explain the consequences for giving your permission to release the data. You may withdraw your permission at any time. Withdrawing your permission will not affect the data that we have already released because we had your permission to release the data.

If you have a question about anything on this form, or would like additional information or explanation, please contact Adam Bell, City Clerk, 3800 Laverne Avenue North, Lake Elmo, Minnesota 55042; 651.747.3900 or abell@lakeelmo.org, before signing.

I, _____, give my permission for the City of Lake Elmo to release data about me to _____ as described on this form. I understand that my decision to allow release of the data to _____ is voluntary.

1) The specific data that the City of Lake Elmo may release:

_____.

2) I understand the City of Lake Elmo wants to release the data for this reason:

3) I understand that although the data are classified as private at the City of Lake Elmo, the classification/treatment of the data at _____ depends on laws or policies that apply to _____. This authorization to release the data expires on _____.

Individual data subject's signature _____

Date _____

Parent/guardian's signature [if necessary] _____

Date _____



MAYOR AND COUNCIL COMMUNICATION

DATE: January 15, 2013
CONSENT
ITEM #: 9
MOTION As part of Consent

AGENDA ITEM: Keats MSA Street & Trunk Watermain Improvements – Resolution restricting parking along Keats Avenue North

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Mike Bouthilet, Public Works
Chad Isakson, Project Manager

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider approving Resolution No. 2013-03, Restricting parking along Keats Avenue North from Trunk Highway 36 to 47th Street North.

STAFF REPORT: In 2013, the City intends to reconstruct Keats Avenue North from Trunk Highway 36 to 47th Street North using Municipal State Aid Funds. State Aid rules require a council resolution restricting parking along the improved corridor in order to use State Aid funds for the project. A signed resolution must be submitted to receive State Aid plan approval.

The proposed project includes reconstruction of the existing street section to a width of 32 feet, as recommended in the Feasibility Report. The proposed section does not meet State Aid width requirements to allow parking on either side of the road. Parking is currently not accommodated along Keats Avenue North so no change in road use is being proposed.

RECOMMENDATION: Staff is recommending that the City Council consider approving Resolution 2013-03 Restricting Parking along Keats Avenue North from Trunk Highway 36 to 47th Street North as a part of the *Consent Agenda*.

ATTACHMENTS:

1. Resolution 2013-03: Restricting Parking Along Keats Avenue North From Trunk Highway 36 to 47th Street North for S.A.P. 206-105-002.

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

RESOLUTION NO. 2013-03

**A RESOLUTION RESTRICTING PARKING ALONG
KEATS AVENUE NORTH FROM TRUNK HIGHWAY 36 TO
47TH STREET NORTH FOR S.A.P. 206-105-002**

WHEREAS, the City of Lake Elmo, Minnesota has planned the improvement of Keats Avenue, State Aid Route No. 206-105-002 from Trunk Highway 36 to 47th Street North and,

WHEREAS, the City will be expending Municipal Street Aid Funds on the improvements of this Street; and,

WHEREAS, this improvement does not provide adequate width for parking on both sides of the street; and approval of the proposed construction as a Municipal State Aid Street project must therefore be conditioned upon certain parking restrictions.

NOW, THEREFORE, IT IS HEREBY RESOLVED,

That the City Council of the City of Lake Elmo shall ban the parking of motor vehicles on Keats Avenue from Trunk Highway 36 to 47th Street North at all times.

**ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIFTEENTH DAY OF
JANUARY 2013.**

CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

(Seal)

ATTEST:

Adam Bell
City Clerk



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013

CONSENT

ITEM #: 10

MOTION Consent Agenda

AGENDA ITEM: Approve Ski Trail Grooming Agreement

SUBMITTED BY: Adam Bell, City Clerk

REVIEWED BY: Dean Zuleger, City Administrator
Dave Snyder, City Legal Counsel

SUMMARY AND ACTION REQUESTED:

Each year the City enters into a contractual agreement with Washington County to provide ski trail grooming services. The contract specifies that there is no base fee and the City only pays for services as they are provided. The contract has been reviewed and approved by the City Attorney with only one minor change.

BUDGET IMPACT:

The 2013 budget includes funds to cover the services of this contract at the seasonal average number of hours.

RECOMMENDATION:

It is recommended that the City Council approve the renewal of the contract with Washington County to provide services for Ski Trail Grooming as outlined in the attached contract. The recommended motion is:

"Move to approve the agreement with Washington County for Ski Trail Grooming services."

ATTACHMENTS:

1. 2013 Ski grooming contract with Washington County
2. Map of ski trails to be maintained under the contract

**CONTRACT BETWEEN WASHINGTON COUNTY AND
CITY OF LAKE ELMO
FOR SKI TRAIL GROOMING**

WASHINGTON COUNTY	
CONTRACT NO.	7005
DEPT.	PUBLIC WORKS
DIVISION	Parks
TERM	Signature to 12/31/13

This Agreement is made and entered into by and between Washington County, hereinafter referred to as "County", and the **City of Lake Elmo, 3800 Laverne Avenue North, Lake Elmo, MN 55043**, herein referred to as "Municipality."

WITNESSETH:

WHEREAS, the Municipality has requested to contract with the County to perform ski trail grooming located on properties under the jurisdiction of said Municipality; and

WHEREAS, the County is agreeable to rendering such maintenance services on the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties agree as follows:

SECTION I

The County agrees to provide, through Parks Operations, ski trail grooming (defined as tilling, blading, and leveling of snow) within the Municipality subject to the following conditions:

1. The County will groom the ski trail system as shown on the map labeled Exhibit A.
2. The standards of performance shall be determined by the Parks Manager.
3. The County shall keep record of labor, materials, and equipment furnished, and prepare an itemized statement of the amount due and submit it monthly to the Municipality.

SECTION II

The Municipality agrees to pay the County the cost and expense for performing the ski trail grooming services provided for by this agreement.

1. The Municipality agrees to reimburse the County for County employee wages as outlined on attached Exhibit B. The determination of hours paid and overtime rate shall be in accordance with the current memorandum of agreement with Local 49 of the International Union of Operating Engineers.
2. The Municipality agrees that the rates as outlined in Exhibit B for County employees may be adjusted at any time within the contract period by an amount equal to that given by the County Board of Commissioners in negotiated contracts with employees' authorized representatives.
3. The Municipality agrees to reimburse the County for County equipment used at the rates outlined on attached Exhibit B. Invoices shall include the time of equipment in going from the place where stationed to the site of work and the

return to its station.

4. The Municipality agrees to reimburse the County for any materials provided.
5. Upon receipt of a monthly itemized statement of employee, equipment and material costs, the Municipality agrees to reimburse the County monthly.
6. Except as otherwise specified herein, the Municipality shall not be obligated to, or responsible for, or liable for compensation or indemnity to any County employee performing maintenance services under this agreement to the Municipality for injury or sickness arising out of this employment, and the County agrees to hold harmless the Municipality against any such claim.
7. The Municipality agrees to determine the extent, nature and level of service to be provided on said ski trails.

SECTION III

The parties hereto, the County and Municipality, agree as follows:

1. The County, its officers, agents and employees shall not assume or be liable for any intentional or negligent act of the Municipality or any officer, agent, or employee of the Municipality, and the Municipality agrees to hold the County, its officers, agents and employees harmless from any intentional or negligent act of the Municipality or any officer agent or employee of the Municipality, and the Municipality agrees to defend the County, its officers, agents or employees from any claim for damages resulting from the negligent or intentional act of the Municipality, or any officer, agent or employee of the Municipality.
2. The Municipality, its officers, agents and employees shall not assume or be liable for any intentional or negligent act of the County or any officer, agent, or employee of the County, and the County agrees to hold the Municipality, its officers, agents and employees harmless from any intentional or negligent act of the County or any officer, agent, or employee of the County, and the County agrees to defend the Municipality, its officers, agents or employees from any claim for damages resulting from the negligent or intentional act of the County, or any officer, agent or employee of the County.
3. This agreement shall be for the period indicated below except that the Municipality or the County may terminate this agreement upon ninety (30) days written notice. The effective date of this agreement is from the date of this agreement to December 31, 2013.
4. Notwithstanding any termination of this agreement, the provisions of Section II, Paragraph 6 and Section III, Paragraphs 1 and 2, shall survive the termination of the full extent necessary for the protection of the County and the municipality.

WITNESS WHEREOF, the Municipality has caused this agreement to be signed by its Mayor and attested to by its City Administrator, and the County has caused this agreement to be signed by the Director of the Department of Public Works and the Parks Director.

WASHINGTON COUNTY

CITY OF LAKE ELMO

Donald J. Theisen, P.E. Date
Director, Department of Public Works

Mayor Date

John Elholm Date
Parks Director

City Administrator Date

EXHIBIT B

Washington County – Parks Division Accounts Receivable Rates

SCHEDULE A – LABOR (HOURLY RATES)

Classification	Step	2012 A/R Rates	2012 Overtime Rates
Maintenance Worker	Minimum	\$37.58	\$56.37
	Maximum	\$47.58	\$71.37
Parks Foreman	Minimum	\$48.32	\$72.18
	Maximum	\$65.84	\$98.76

SCHEDULE B – EQUIPMENT

Description	Unit	Make	Model	Year	Hourly Rental Rate
1 ½ Ton Dump Truck	302	Ford	F700	1991	\$41.00
Tucker Snow Cat & Trailer	326-363	Tucker	1342	1985	\$60.00
Snowmobile	334			1999	\$20.00

Sunfish Lake Park Ski Trails

To Jamaica Ave.

KEY

- Lake or Pond
- Meadow
- Woodland
- Powerline
- Fence
- Sledding Hill
- Parking
- Easiest
- More Difficult
- Most Difficult

- Camel Back 2.7 K
- Ernie's Trail 3.7 K
- Linda's Loop .6 K
- Morgan Lane .3 K
- Oak Run 1.5 K
- Pond 1.8 K
- Rabbit 1.9 K
- Sunfish Point .6 K

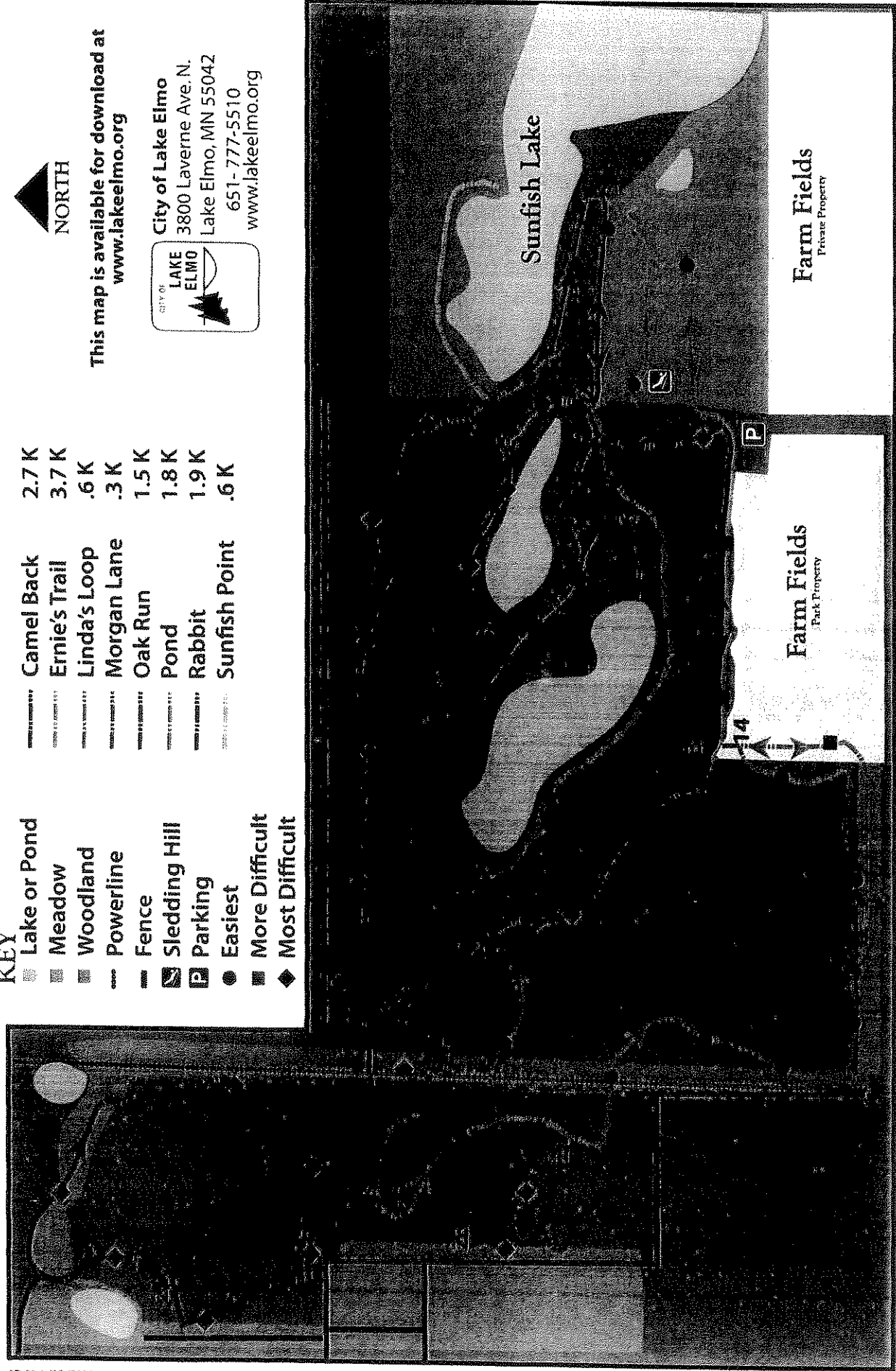


NORTH

This map is available for download at
www.lakeelmo.org



City of Lake Elmo
3800 Laverne Ave. N.
Lake Elmo, MN 55042
651-777-5510
www.lakeelmo.org



Highway 5

Park Entrance



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/13

CONSENT

ITEM #: 11

MOTION As part of Consent

AGENDA ITEM: Designation of the City of Lake Elmo as the Responsible Government Unit (RGU) for the Lennar Residential Subdivision EAW

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Nick M. Johnson, City Planner

SUMMARY AND ACTION REQUESTED:

As part of the early planning for a proposed development of the Dale/Frandsen property by Lennar Corporation (please see agenda item I-a for more information concerning this development), Staff has determined that an Environmental Assessment Worksheet (EAW) will need to be prepared prior to the approval of any plans for the development of this site. The Planning Commission has previously reviewed a sketch plan related to the proposed 317-unit housing development, and this development would exceed the minimum threshold for a mandatory EAW as noted in the attached section from a guide to Minnesota's environmental review rules (and required by Section 4410.4300, subpart 19 of the State Statutes). Given the proposed time frame for the development, the EAW should be prepared soon to provide ample review time prior to the submission of a formal application. One of the benefits of performing an EAW for this project is that it will allow the City to consider any environmental impacts associated with the project as part of the preliminary and final plat review process.

STAFF RECOMMENDATION:

Staff recommends that the City Council find that an EAW is required for the proposed Lennar residential subdivision and that this document be prepared under the direction of the City of Lake Elmo acting as the RGU (Responsible Governing Unit).

The recommended motion to act on this item is as follows:

“Move to find that an EAW is required for the proposed Lennar residential subdivision on the Dale/Frandsen property and that this document be prepared under the direction of the City of Lake Elmo acting as the RGU (Responsible Governing Unit)”

ATTACHMENTS:

1. Relevant Excerpts from the “May 2010 Guide to Minnesota Environmental Review Rules”

SUGGESTED ORDER OF BUSINESS:

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

Chapter 1. Program Overview

The function of the Minnesota Environmental Review Program is to avoid and minimize damage to Minnesota's environmental resources caused by public and private actions. The program accomplishes this by requiring certain proposed projects to undergo special review procedures prior to obtaining approvals and permits otherwise needed.

The program assigns a unit of government—the Responsible Governmental Unit—to conduct the review using a standardized public process designed to disclose information about environmental effects and ways to minimize and avoid them. Some people are disappointed to learn that the RGU is most often the governmental unit with greatest responsibility to approve or carry out the project, not an impartial unit as might be desired. The program does not give any unit authority over decisions of others, nor does it impart approval or disapproval of a proposed action. The Environmental Review program is not an approval process. It is an information gathering process to help governmental units with permitting authority over a project make better-informed decisions.

Local, state and federal regulatory agencies carry out the protection measures identified in environmental review. The program has no authority to enforce measures, regardless of how significant the environmental impact. In short, the review is a source of information that must be integrated with other permitting and approval processes to protect the environment.

Two basic review documents are used in this program: the Environmental Impact Statement (EIS) and the Environmental Assessment Worksheet (EAW). The EIS is a thorough study of the project's environmental impacts and a comparative analysis of its economic and sociological effects. It considers reasonable alternatives, including the "no-build" alternative. When completed, the review gives governmental units information to determine whether the project is environmentally acceptable and what mitigation measures are needed. The EIS is reserved for projects with "the potential for significant environmental effects."

The other, and much more common, level of review is the EAW. This review procedure uses a worksheet with a standardized list of questions to screen projects that may have the potential for significant environmental effects. The EAW is subject to a 30-day public review period before the RGU makes a decision about whether the project also needs an EIS.

Requirements for preparing a mandatory EIS or EAW for specific project types and sizes are described in the rules and in the last chapter of this guide. Usually, an EAW can also be initiated at the discretion of a governmental unit with permitting authority over the project or upon request by citizen petition, as discussed in Chapter 4, unless

the project is specifically exempted by the rules (Exemptions are also described in the final chapter of this guide).

Chapter 6 describes several other special types of review documents also used in this program, especially the Alternative Urban Areawide Review (AUAR).

Environmental review can apply to any action or project that meets three conditions:

- The action or project must involve the physical manipulation of the environment, directly or indirectly (see definition of project at part 4410.0200, subpart 65).
- The action or project must involve at least one governmental approval or one form of governmental financial assistance or be conducted by a government unit (defined at part 4410.0200, subpart 34). For types of approvals and financial assistance that qualify, including those by federal agencies, see definition of permit at part 4410.0200, subpart 58.
- Action or project approval and construction must take place in the future; that is, projects constructed or those with all required governmental approvals are not subject to further review, unless an expansion is proposed.

A moratorium is automatically placed on action or project approval and construction whenever environmental review is required or requested by citizen petition (Minnesota Statutes, section 116D.04, subdivision 2b and 4410.3100, subpart 1). Minnesota law requires that when environmental review is being conducted, a project may not proceed and permits authorizing the project may not be issued. Once all review is complete, governmental units with permitting authority or other authority over the project may proceed to make final decisions on the project. This moratorium concept is covered in detail in Chapter 2.

General responsibilities of those involved in environmental review are described at part 4410.0400 and can be summarized as follows:

- Project proposers provide for an EAW any information needed to which they have “reasonable access.” They also pay reasonable costs to prepare an EIS (required by part 4410.6000).
- Responsible Governmental Unit prepares an EAW or EIS (or other environmental review document) when required by the rules, verifies its accuracy and complies with rule procedures and time frames.
- Environmental Quality Board adopts program rules, monitors their effectiveness and revises, as appropriate. EQB also provides technical assistance to interpret and apply rules.

An appeal of an EAW or EIS need decision or an EIS or AUAR adequacy decision must be initiated within 30 days of the RGU decision being challenged (Minnesota

Statutes, section 116D.04, subdivision 10). Judicial review of environmental review decisions occurs in the state district court. The Environmental Quality Board is NOT an appeal body and cannot review an RGU decision; however, it may initiate judicial review or intervene in any proceeding brought under Minnesota Statutes, section 116D.04, subdivision 10.

Determining the Responsible Governmental Unit

Determining the Responsible Governmental Unit is the first step in the environmental review process. The RGU officially decides whether the project fits any mandatory EAW or EIS categories. Selection rules can be summarized as follows:

Mandatory review. The Responsible Governmental Unit is specified by each mandatory category, except for those projects proposed by state agencies, where the agency proposer serves as the RGU.

Discretionary review. If a governmental unit orders environmental review, it serves as the RGU. If a petition is filed, the Environmental Quality Board chair or staff assigns the RGU. The EQB cannot designate as the RGU a governmental unit that has already granted all permits for the project, regardless of whether the unit qualifies under other selection criteria (part 4410.0500, subpart 3).

RGU assignment. The rules provide a hierarchy of selection criteria if the RGU assignment is unclear or in dispute (part 4410.0500, subpart 5). These criteria are:

- If the project will be carried out by a single governmental unit, that unit is the RGU.
- If only a single unit has approval authority over the project, it is the RGU.
- The government unit with the greatest overall authority over the project is the RGU.
- If it is unclear who has the greatest authority, the government units involved may mutually agree on which is to be the RGU. In controversial cases units are advised to prepare a written document describing how the decision was reached.
- If the units cannot reach agreement, the Environmental Quality Board chair must determine the RGU.

The EQB can exercise extraordinary authority to change the RGU. The EQB has limited authority to change an RGU that is properly designated under the rules. The EQB can change the RGU only if making the change results in the appointment of an RGU with greater expertise in analyzing potential environmental impacts (part 4410.0500, subpart 6). The EQB's authority to change the RGU in this way is limited; it expires five business days after receipt of the completed data portion of an EAW. Since

the timeframe for using this authority is restricted and because the Board, which meets only periodically, must make the decision, the EQB staff should be contacted well in advance if a change in the RGU will be requested.

A governmental unit is not disqualified from acting as the RGU simply because it is the project proposer. The rules offer no mechanism for disqualifying an RGU because of an alleged bias. The EQB does not act as the RGU unless designated under the rules.

In some situations the designated RGU can agree to allow another willing governmental unit to act as the RGU. The EQB has itself acquiesced in these decisions when all interested parties have agreed.

RESIDENTIAL DEVELOPMENT

Mandatory EAW

4410.4300, subpart 19

The **Local governmental unit** is the RGU for construction of a permanent or potentially permanent residential development of:

- A. 50 or more unattached or 75 or more attached units in an unsewered unincorporated area or 100 unattached units or 150 attached units in a sewerer unincorporated area;
- B. 100 unattached units or 150 attached units in a city that does not meet the conditions of item D;
- C. 100 unattached units or 150 attached units in a city meeting the conditions of item D if the project is not consistent with the adopted comprehensive plan; or
- D. 250 unattached units or 375 attached units in a city within the seven-county Twin Cities metropolitan area or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the elements listed in the Notes.

Mandatory EIS

4410.4400, subpart 14

The **Local governmental unit** is the RGU for construction of a permanent or potentially permanent residential development of:

- A. 100 or more unattached or 150 or more attached units in an unsewered unincorporated area or 400 unattached units or 600 attached units in a sewerer unincorporated area;
- B. 400 unattached units or 600 attached units in a city that does not meet the conditions of item D;
- C. 400 unattached units or 600 attached units in a city meeting the conditions of item D if the project is not consistent with the adopted comprehensive plan; or
- D. 1,000 unattached units or 1,500 attached units in a city within the seven-county Twin Cities metropolitan area or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the elements listed in the Notes below.

Exemptions

4410.4600, subpart 12

A. Construction of a sewer residential development, no part of which is within a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, of:

- (1) less than ten units in an unincorporated area,
- (2) less than 20 units in a third or fourth class city,
- (3) less than 40 units in a second class city, or
- (4) less than 80 units in a first class city.

B. Construction of less than 10 residential units located in shoreland, provided all land in the development that lies within 300 feet of the ordinary high water level of the lake or river, or edge of any wetland adjacent to the lake or river, is preserved as common open space. [For definitions of terms used in this exemption refer to the Notes for the following section on residential development in shoreland.]

C. Construction of a single residence or multiple residence with four dwelling units or less and accessory appurtenant structures and utilities.

Notes

All contiguous land must be included if the developer owns it or has a purchase option on it, unless it has been identified for a future use *other than residential* by a comprehensive plan, ordinance or other official governmental action .

To calculate number of units: a. if known, use the number of units planned by the proposer, or b. use the maximum number of units per acre allowed by the zoning ordinance, or c. if option b is not available, use the average number of units per acre in the proposer's plan.

Attached units are dwelling units that are grouped together with four or more units per structure. **Unattached units** are single-family, duplex and triplex structures.

Sewered area is one served by a sanitary sewer system connected to a wastewater treatment or a centralized septic system servicing the entire development, or one that lies within the Metropolitan Council's designated Metropolitan Urban Service Area.

Water-related land use management district is any of the following designated zones: shorelands, flood plains, wild or scenic rivers districts, Mississippi Headwaters and Minnesota Project Riverbend districts.

Mixtures of attached and unattached units. An arithmetic computation must be performed to determine if mixed unit developments require an EAW or EIS. The formula is:

$S = A/B + C/D$, where:

A = # of unattached units

B = applicable unattached unit threshold

C = # of attached units, and

D = applicable attached unit threshold.

If S equals or exceeds 1.00, review is required.

Example: Determine if an EAW is required for a development of 300 apartments and 50 single-family units; and the development is consistent with a certified comprehensive plan.

Step 1: divide the number of unattached units, 50, by the applicable unattached EAW threshold, 250: $50/250 = 0.20$

Step 2: divide the number of attached units, 300, by the applicable attached unit threshold, 375: $300/375 = 0.80$

Step 3: add the quotients from steps 1 & 2: $0.20 + 0.80 = 1.00$

Step 4: compare the sum to 1.00. Since 1.00 equals 1.00, an EAW is mandatory for this project.

Requirements for a qualifying comprehensive plan. The overall plan must include the following elements: (1) a land use plan designating the existing and proposed location, intensity and extent of use of land and water for residential, industrial, agricultural and other public and private purposes; (2) a transportation plan describing, designating and scheduling the location, extent, function and capacity of existing and proposed local public and private transportation facilities and services; (3) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted; (4) a capital improvements plan for public facilities; and (5) an implementation plan describing public programs, fiscal devices and other actions to be undertaken to implement the comprehensive plan, and a description of official controls for zoning, subdivision and private sewage systems, and a schedule for their implementation.



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/13

CONSENT

ITEM #: 12

ORDINANCE

AGENDA ITEM: Subdivision Ordinance Amendments related to Public Land Dedication and Planned Unit Developments

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Planning Commission
Nick M. Johnson, City Planner

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider text amendments to the Lake Elmo Subdivision Ordinance to amend two sections of this code as follows:

- **153.12 Planned Unit Developments.** The proposed amendments bring this section into conformance with proposed updates to the PUD Ordinance.
- **153.14 Public Land Dedication Requirements.** The proposed amendments add the new zoning districts to the dedication table and make other modifications to clarify the intent of the ordinance.

The proposed amendments represent the first step at updating the City's Subdivision Regulations in order to bring these regulations up to date with the rest of the City Code. Staff will be reviewing other portions of this ordinance as work continues on the Zoning Ordinance with the objective of preparing for development within the City's new urban districts.

The recommended motion to act on this request is as follows:

"Move to approve Ordinance 08-065 concerning amendments to the Subdivision Ordinance."

BACKGROUND INFORMATION:

In preparation for the amendments that are being proposed, Staff reviewed several other subdivision ordinances from developing communities and found that most were requiring that 10% of land be set aside for park purposes in residential districts. Lake Elmo has also used this standard for its R-1 and higher density zoning districts. The other proposed revisions are intended to clarify how cash contributed in lieu of park land dedication may be used.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the proposed Subdivision Ordinance Amendments at its December 10, 2012 meeting and conducted a public hearing on the draft revisions at this time. No public comments were received concerning the changes, although Staff did relay comments received from a property owner who suggested that the fee in lieu of land dedication for commercial areas should be set at a fixed amount.

The Commission made several minor modifications to the text and recommended approval of the ordinance amendments with a 4-3 vote. The members that voted against the revisions noted their desire to see private park space counted towards the overall land dedication requirement.

PLANNING COMMISSION RECOMMENDATION:

Based upon the above background information, Staff report and Planning Commission recommendation, it is recommended that the City Council approve amendments to the Subdivision Ordinance related to Planned Unit Developments and public land dedication requirements by undertaking the following action:

“Move to approve Ordinance 08-065 concerning amendments to the Subdivision Ordinance.”

ATTACHMENTS:

1. Ordinance 08-065 Subdivision Ordinance Text Amendments

SUGGESTED ORDER OF BUSINESS:

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

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-065

AN ORDINANCE TO AMEND THE SUBDIVISION ORDINANCE RELATED TO
PLANNED UNIT DEVELOPMENTS AND PUBLIC LAND
DEDICATION REQUIREMENTS

Section 1. The City Council of the City of Lake Elmo hereby ordains that Chapter 153: Subdivision Regulations, of the City Code is hereby amended in the following manner:

§ 153.12 PLANNED UNIT DEVELOPMENTS (P.U.D.).

(A) Upon receiving a report from the Planning Commission, the Council may grant a ~~variance~~exceptions from the provisions of these regulations in the case of a Planned Unit Development, ~~as defined in the zoning code~~, provided that the Council finds that the proposed development is fully consistent with the purpose and intent of these regulations and in compliance with the Planned Unit Development objectives of Section 154.801.

§ 153.14 ~~PARK PUBLIC LAND DEDICATION REQUIREMENTS.~~

~~(A) *Land dedication.* Except as hereinafter provided, the owners of land being subdivided shall dedicate a reasonable portion of the land to the city for public use as parks, playgrounds, trails, or open space. The land dedication requirements shall not exceed the following percentages of the total area being subdivided within various zoning districts.~~

(A) *Dedication of Land for Park and Open Space Use.* In all new subdivisions, a percentage of the gross area of all property subdivided shall be dedicated for parks, playgrounds, trails, public open space, or other public recreational use. Such percentage shall be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public use pursuant to this chapter. The following schedule shall be applicable to all subdivisions. This schedule is based upon density of the development allowed in each district and is intended to equalize the amount and value of land dedicated for parks per dwelling unit in the various districts.

<i>Zoning Districts</i>	<i>Maximum PercentageMinimum Required Land Dedication</i>
R1, R2, R3, and R4	10%
<u>RS, LDR, MDR, HDR</u>	10%

<i>Zoning Districts</i>	<i>Maximum Percentage Minimum Required Land Dedication</i>
RE	7%
RR and AG	4%
GB, LB, HB, BP, CB, and I	3 7%
<u>C, CC, LC, VMX</u>	<u>7%</u>
RR and AG with OP Conditional Use Permit	7%
<u>RR and AG with OP-A Conditional Use Permit</u>	<u>10%</u>

(B) *Land title.* ~~Park~~ Public land dedications, which are not dedicated to the city on a plat, shall be conveyed to the city by warranty deed free and clear of all liens or encumbrances. The subdivider shall provide proof of title, in a form acceptable to the city, prior to the conveyance of the property.

(C) *Land acceptability.* The city must approve the location and configuration of any park land which is proposed for dedication and shall take into consideration the suitability of the land and for its intended purpose; the future needs of the city for parks, playgrounds, trails, or open space; and the recommendations of the city's Parks Commission. The following properties shall not be accepted for park land dedications:

(1) Land dedicated or obtained as easements for streets, sewer, electrical, gas, storm water drainage and retention areas, or other similar utilities and improvements;

(2) Land which is unusable or of limited use; and/or

(3) Land within a protected wetland or within a flood plain area unless the Council determines that all of the following criteria are satisfied:

(a) Would be in the best interests of the general public;

(b) Would be valuable resource for environmental preservation, educational, or habitat preservation purposes;

(c) Has an exceptional aesthetic value; and

(d) Would not become financially burdensome to the city as a result of maintenance or preservation requirements.

(D) *Cash Contribution in Lieu of Land Dedication.* In lieu of the land dedication, the city may elect to require the subdivider to contribute a cash equivalent payment to the city's Park and Open Space Fund, or may require the developer to satisfy the park land dedication requirement by a combination of land and cash contribution. For all subdivisions, except residential

subdivisions resulting in 3 or fewer parcels, the ~~maximum required~~ cash equivalent payment shall be an amount equal to the fair market value of the percentage land dedication for the zoning district in which the subdivided property is located. The city shall determine the fair market value of the land by reference to current market data, if available, or by obtaining an appraisal from a licensed real estate appraiser; the subdivider shall pay for the cost of the appraisal. The fair market value determination of the appraiser shall be conclusive. ~~Maximum Required~~ cash equivalent payments for residential subdivisions resulting in 3 or fewer parcels shall be as determined from time to time by Council resolution.

(E) *Payment of cash contribution.* Cash contribution payments shall be made to the city prior to final plat approval in those cases where the subdivision results in more than 3 lots, and prior to the City's approval of the deeds of conveyance in those cases where the subdivision will result in 3 or fewer lots. ~~Where there is a subdivision of property which has an existing residential dwelling, no park dedication fee shall be required for the existing dwelling unit.~~

(F) Previously subdivided property from which a park dedication or cash in lieu contribution has been received, upon resubdivision with the same number of lots, is exempt from park dedication requirements. If, as a result of the resubdivision of the property, the number of lots is increased, the park dedication or cash in lieu contribution shall be applied only to the net increase in the number of lots.

~~(F) *Park and Open Space Fund.* Cash contributions received pursuant to this regulation shall be placed in a separate fund by the city and used only for parks, playgrounds, trails, or open space purposes.~~

(G) Any cash contribution so paid to the City shall be placed in a special fund. The money shall be used only for: a) the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands or open space based on the approved park systems plan; b) redevelopment or rehabilitation of existing park facilities or sites; or c) debt service in connection with land previously acquired or improvements thereto previously constructed. No funds shall be used for ongoing operation or maintenance of existing parks or recreational facilities or sites.

(HG) *Lands designated for public use on Comprehensive Plan or official maps.* Where all or a portion of the area included in a proposed subdivision has been designated as a park, playground, recreational area, proposed school site, or other public ground in the city's Comprehensive Plan or in an official map adopted pursuant to the Comprehensive Plan, the subdivider shall notify the appropriate governmental unit of the proposed subdivision of the property. The notice shall be given prior to submittal of the development application to the city. Prior to the city's review of the preliminary plat, the subdivider shall advise the city in writing of the status of the negotiations regarding the designated area.

Section 2. Adoption Date

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

| This Ordinance No. 08-065 was adopted on this 15th day of January 2013, by a vote of ___ Ayes and ___ Nays.

Mayor Mike Pearson

ATTEST:

Dean A. Zuleger
City Administrator

| This Ordinance No. 08-065 was published on the ___ day of _____, 2013.



MAYOR & COUNCIL COMMUNICATION

DATE: 1/15/2013
REGULAR
ITEM #: 13
MOTION

AGENDA ITEM: Appointment of Acting Mayor
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean Zuleger, City Administrator
REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED:

Pursuant to Minn. State Statute § 412.121, the City Council is asked to select an Acting Mayor on the City's behalf, should Mayor Pearson be unavailable or unable to attend a meeting, sign an agreement, or attend functions on behalf of the City. Any member of the council is eligible for this position. The recommended motion to act on this organizational function is as follows:

"Move to appoint Council Member _____ as Acting Mayor for 2013, to comply with and fulfill all duties enumerated in Minn. Statute § 412.121 relating to selection of an Acting Mayor."

STAFF REPORT:

Minnesota State Statute § 412.121 reads: "At its first meeting each year the council shall choose an acting mayor from the council members. The acting mayor shall perform the duties of mayor during the disability or absence of the mayor from the city or, in case of vacancy in the office of mayor, until a successor has been appointed and qualifies." This requirement is also prescribed in Lake Elmo City Code § 31.01(E)(3).

RECOMMENDATION:

It is recommended that the City Council appoint an Acting Mayor for 2013, pursuant to state statute, by making the following recommended motion:

"Move to appoint Council Member _____ as Acting Mayor for 2013, to comply with and fulfill all duties enumerated in Minn. Statute § 412.121 relating to selection of an Acting Mayor."

ATTACHMENTS: None

SUGGESTED ORDER OF BUSINESS:

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

AUTHORITIES:

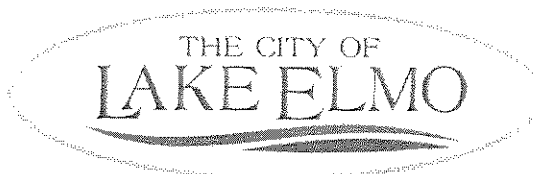
2012 Minnesota Statutes: § 412.121 ACTING MAYOR

“At its first meeting each year the council shall choose an acting mayor from the council members. The acting mayor shall perform the duties of mayor during the disability or absence of the mayor from the city or, in case of vacancy in the office of mayor, until a successor has been appointed and qualifies.”

Lake Elmo, MN Code of Ordinances (2008): § 31.01 MEETINGS

(E) *Initial meeting.* At the first regular Council meeting in January of each year, the Council shall:...

(3) Choose 1 of the Council Members as Acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the city or, in case of a vacancy in the Office of Mayor, until a successor has been appointed and qualifies;



MAYOR & COUNCIL COMMUNICATION

DATE: 1/15/2013

REGULAR

ITEM #: 14

MOTION

AGENDA ITEM: Appointment to Fill Council Vacancy

SUBMITTED BY: Adam Bell, City Clerk

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED:

Due the vacancy created on the Council as a result of Council Member Mike Pearson's resignation in order to serve as Mayor, a vacancy exists on the Council, and Minnesota State Law requires the position be filled in a timely manner. The Council is respectfully asked to appoint an individual who is eligible for election to this position for the remainder of the unexpired term.

BACKGROUND & STAFF REPORT:

Mike Pearson was elected to the office of Council Member for the period of January 3, 2011 to January 5, 2015. On November 6, 2012, Council Member Mike Pearson was elected to the office of Mayor, for the period of January 7, 2013 to January 2, 2017. This elevation required Council Member Pearson to resign from the Council, which resulted in a vacancy on the Council.

Pursuant to Minn. State Statute § 412.02, Subd. 2a, vacancies shall be filled by council appointment. Because the vacancy occurred with less than two years of the unexpired term, a Special Election is not required. Applications for the vacancy were collected by the City Clerk. Four applicants applied to fill the vacancy. Interviews of those applicants were held on January 15th 2013, immediately preceding this meeting.

As mentioned, state law provides that statutory city councils make the appointment to fill a vacancy, except in the case of a tie vote when the mayor makes the appointment. That means all members of the council, including the mayor, can vote on the appointment. And as long as at least a quorum of the council is present, a majority vote of those present is sufficient to make the appointment.

State law does not place any limitation on a mayor's ability to make an appointment in the case of a tie vote. As a result, the mayor can appoint any qualified person willing to fill the vacancy even if that person was not the subject of the original appointment vote.

State law generally provides that the terms of elected city officials begin on the first Monday in January following the election. However, the attorney general has advised that a person elected to fill a vacancy is eligible to qualify and assume office upon receipt of an election certificate.

RECOMMENDATION:

It is recommended that the City Council appoint an individual who is eligible for election to this position for the remainder of the unexpired term, pursuant to state statute, by making the following recommended motion:

“Move to appoint _____ to the Council for the remainder of the term previously held by Council Member Mike Pearson, and her/his appointment shall expire on January 5, 2015.”

ATTACHMENTS:

- 1) Resolution 2013-04: A Resolution Appointing Council Member to Fill Vacancy

SUGGESTED ORDER OF BUSINESS:

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

AUTHORITY:

2012 Minnesota Statutes: § 412.02 CITY ELECTIONS; OFFICERS, TERMS, VACANCIES, CITY EMPLOYEES.

Subd. 2a.Vacancy.

Except as otherwise provided in subdivision 2b, a vacancy in an office shall be filled by council appointment until an election is held as provided in this subdivision. In case of a tie vote in the council, the mayor shall make the appointment. If the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term, a special election shall be held at or before the next regular city election and the appointed person shall serve until the qualification of a successor elected at a special election to fill the unexpired portion of the term. If the vacancy occurs on or after the first day to file affidavits of candidacy for the regular city election or when less than two years remain in the unexpired term, there need not be a special election to fill the vacancy and the appointed person shall serve until the qualification of a successor. The council must specify by ordinance under what circumstances it will hold a special election to fill a vacancy other than a special election held at the same time as the regular city election

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

RESOLUTION NO. 2013-04

**A RESOLUTION APPOINTING COUNCIL MEMBER TO
FILL VACANCY**

WHEREAS, Mike Pearson was duly elected to the office of Council Member, for the period of January 3, 2011 to January 5, 2015, and

WHEREAS, Mike Pearson was duly elected to the office of Mayor, for the period of January 7, 2013 to January 2, 2017; and

WHEREAS, Council Member Mike Pearson's resigned from the Council on January 7, 2013, to serve as Mayor of the City of Lake Elmo; and

WHEREAS, a vacancy exists on the Council, and Minnesota State Law requires the position be filled in a timely manner.

NOW, THEREFORE, BE IT RESOLVED by the Lake Elmo City Council of Lake Elmo, Minnesota, hereby appoints _____ to the Council for the remainder of the term previously held by Council Member Mike Pearson, and her/his appointment shall expire on January 5, 2015.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIFTEENTH DAY OF JANUARY 2013.

(Seal)

By: _____
Mike Pearson
Mayor

ATTEST:

Adam Bell
City Clerk



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013

CONSENT

ITEM #: 15

MOTION Regular Agenda

AGENDA ITEM: Approval of New Audit Firm

SUBMITTED BY: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: The City Council is respectfully asked to approve the acceptance of the attached proposal for Professional Audit Services from Smith Schafer & Associates and enter into a three year contract for services covering 2012, 2013 and 2014.

BACKGROUND INFORMATION: As directed by the City Council on November 20, 2012, an RFP was issued to obtain competitive quotes for the year-end audit services. Eight firms expressed interest and of those, two proposals were reviewed in depth by the City Administrator and the Finance Director; Abdo Eick & Meyers, LLP and Smith Schafer & Associates LTD. As anticipated, both firms proposed an annual average rate significantly lower than the actual 2011 costs; a 12% proposed reduction by Abdo Eick & Meyers, LLP and a 26% proposed reduction by Smith Schafer & Associates.

RECOMMENDATION: Although both firms are extremely professional and competent, it is recommended that the City Council approve moving the annual contract for audit services to Smith Schafer & Associates for the audit periods of 2012-2014. This will allow for a cost savings of \$21,000 over the three year contract period as well as providing for a fresh review by a new firm.

“Move to approve the three year annual audit contract to Smith Schafer and Associates beginning with year-end 2012”

ATTACHMENTS:

1. Proposal for Audit Services – Abdo, Eick & Meyers LLP
2. Proposal for Audit Services – Smith Schafer & Associates, LTD



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013

CONSENT

ITEM #: 16

MOTION Regular Agenda

AGENDA ITEM: Appointment of required officials to Fire Relief Association Board of Trustees

SUBMITTED BY: Dean Zuleger, City Administrator

REVIEWED BY: Adam Bell, City Clerk

SUMMARY AND ACTION REQUESTED: The by-laws of the Lake Elmo Firefighters Relief Association provide that there be two officials of the City that serve on its Board of Trustees. One must be an elected official and the other may be an elected or appointed official. The Council should select one of its members (as required) and one other official (either a councilmember by name or a staff position by title) to the Firefighters Relief Association Board of Trustees.

BACKGROUND INFORMATION: The practice in the past regarding City membership on the Board of Trustees has been that the Fire Chief, the Finance Director and one Council Member have filled these positions. These positions were held in 2012 by Fire Chief Malmquist, Finance Director Bendel and Council Member Pearson.

RECOMMENDATION: It is recommended that the City Council continue with the historical practice of having the Fire Chief and the Finance Director and one Council Designate hold these positions for 2013. Should the City Council agree, they need to make those appointments.

**“Move to appoint Fire Chief Malmquist, Finance Direct Bendel and Council Member
_____ to the Fire Relief Association Board of Trustees for 2013”.**

ATTACHMENTS:

Excerpt from LEFRA By-laws regarding Composition and Duties of Board of Trustees

AMENDED BYLAWS
OF
LAKE ELMO FIREFIGHTERS
RELIEF ASSOCIATION

The Bylaws of the Relief Association are hereby amended effective as of
AUG 17 2010, 20 .

APPENDIX B

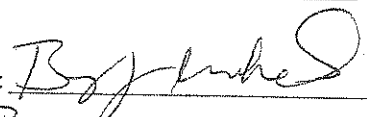
LAKE ELMO FIREFIGHTERS RELIEF ASSOCIATION
DEFINED BENEFIT LUMP SUM RETIREMENT PLAN

2.1 General Definitions

(aa) "Year of Active Service" shall mean each 12-month period of Active Service commencing with a Participant's Entry Date or anniversary thereof. This definition shall be used for the purposes of calculating the minimum funding requirements and computing benefits or service pensions payable. Service pensions will be prorated monthly for fractional Years of Active Service pursuant to Minn. Stat. 424A.02, Subd. 1.

I certify that the preceding language is an accurate copy of the amendment to the Bylaws, Appendix B (Plan) of the Association and is duly adopted on the latter of the Board (if authorized under Section 12.3) or Member meeting held on 8/03/2010.
date

RA Name: LAKE ELMO FIREFIGHTERS

Officer Signature: 

Officer Name: BRADLEY J WICKELS

Officer Position: PRESIDENT

These model documents are drafted to conform to Minnesota state laws relating to relief association pension plans for volunteer firefighters. The model documents are not drafted to meet the requirements of tax-qualified retirement plans under the Internal Revenue Code. Minnesota Firefighter Pension Consultants, LLC (MNFPC, LLC) makes no representation regarding the status of the plans under federal or state tax laws.

MNFPC, LLC is not a law firm. We recommend review by your legal counsel of model documents before adoption.

AMENDED BYLAWS
OF
LAKE ELMO FIREFIGHTERS
RELIEF ASSOCIATION

11/19 The Bylaws of the Relief Association are hereby amended effective as of _____, 2008.

APPENDIX B

LAKE ELMO FIREFIGHTERS RELIEF ASSOCIATION
DEFINED BENEFIT LUMP SUM RETIREMENT PLAN

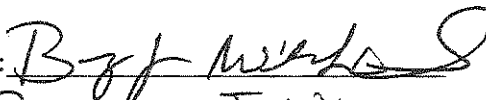
2.1 General Definitions

“Alternate Payee” shall mean a spouse or former spouse of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, a Participant’s Beneficial Interest under the Plan, pursuant to Minn. Stat. 518.58, Subd. 4.

“Surviving Spouse” the spouse of a deceased Participant who was legally married to the Participant at the time of death.

I certify that the preceding language is an accurate copy of the amendment to the Bylaws, Appendix B (Plan) of the Association and is duly adopted on the latter of the Board (if authorized under 12.3) or Member meeting held on 11/19/2008.
date

RA Name: LAKE ELMO FIREFIGHTERS RELIEF ASSOC.

Officer Signature: 

Officer Name: BRADLEY J WINKELS

Officer Position: PRESIDENT

These model documents are drafted to conform to Minnesota state laws relating to relief association pension plans for volunteer firefighters. The model documents are not drafted to meet the requirements of tax-qualified retirement plans under the Internal Revenue Code. Minnesota Firefighter Pension Consultants, LLC (MNFPC, LLC) makes no representation regarding the status of the plans under federal or state tax laws.

MNFPC, LLC is not a law firm. We recommend review by your legal counsel of model documents before adoption.

RESTATED BYLAWS
OF
LAKE ELMO FIREFIGHTERS
RELIEF ASSOCIATION

The Bylaws of the Relief Association are hereby amended and restated effective as of August 1, 2007.

ARTICLE I
NAMES

As provided in the Articles of Incorporation, the name of this organization shall be the Lake Elmo Firefighters Relief Association (the "Association").

ARTICLE II
DEFINITIONS

General Definitions

The following words and phrases when used herein shall have the following meanings except as otherwise required by the context:

"Active Member" is a member of the Association who is eligible for benefits and is currently meeting the minimum firefighter and service standards with the Fire Department. As of July 1, 2006, Active Members must be Volunteer Firefighters as defined in Section 2.1 of the Plan attached hereto.

"Board of Trustees" or "Board" shall mean the Board of Trustees of the Relief Association, and shall perform the functions and assume the same duties as a Board of Directors under Minnesota Statutes Chapter 317A.

"Deferred Member" is a member of the Association who is no longer meeting the minimum firefighter and service standards with the Fire Department but has not yet taken a full distribution of accrued benefits.

"Fire Department" is the Fire Department serving the Municipality.

"General Fund" shall mean the fund established pursuant to Minn. Stat. 424A.06 and that holds the funds received from dues, fines, initiation fees, entertainment revenues and any money or property donated, given, granted or devised by any person, for unspecified uses.

"Municipality" is the City of Lake Elmo.

"Municipality Trustees," formerly known as 'ex-officios,' are part of the Board of Trustees and shall include the two appointed or elected officials, as further defined in Section 5.1 herein.

"Special Fund" shall mean the fund as defined in Section 2.1 of the Plan attached hereto.

ARTICLE III PURPOSE

As provided in the Articles of Incorporation, the purpose of the Association is to provide retirement relief and other benefits to members and their dependents. For purposes of Chapter 424A of Minnesota Statutes, the Association is a governmental entity that receives and manages public funds to provide retirement and ancillary benefits for individuals providing the governmental services of firefighting and, if applicable, emergency response. The Association may also raise funds from private sources to furnish fire and emergency equipment for the Fire Department, and for other purposes deemed necessary and appropriate by the Association to the extent permitted by law. Benefits paid to members and their dependents shall be funded exclusively through governmental sources and, to the extent provided by State law, through restricted donations.

ARTICLE IV MEMBERSHIP

4.1 Admission. An application for membership shall be completed on the Membership Application and Beneficiary Designation form to become eligible for benefits in the Association. All firefighters of the Fire Department are members of the Association and shall be eligible for benefits, except as otherwise stated in these bylaws. Upon approval of the member's application, such member shall accrue service credit for all active service while in probationary status.

4.2 Membership Duties. The Association does not require membership duties.

4.3 Membership Dues. The Association does not require membership dues.

4.4 Member Voting Rights. Each Active Member shall be entitled to one (1) vote on any matter voted upon by the membership. Deferred Members are not entitled to vote. Voting by proxy/absentee ballot is permitted pursuant to procedures set forth in Section 4.5.

4.5 Member Voting by Proxy/Absentee Ballot. Voting members may cast votes by submitting an absentee ballot provided by the Association that is signed by the member and deposited in the ballot box set out by the Association. Submission of an absentee ballot shall constitute a proxy to the officer of the Association designated and authorized on the ballot. The member may withdraw his/her proxy/absentee ballot by attending a meeting and voting in person. Use of proxies/absentee ballots may not be used when officers are elected from the floor during the meeting.

4.6 Separation. Any member who becomes a Deferred Member with the Association prior to requesting retirement benefits shall complete and submit a Membership Separation Form.

4.7 Termination. Any member who is terminated by the Fire Department or Municipality shall cease accruing benefits under the Association as of the date of termination.

ARTICLE V BOARD OF TRUSTEES

5.1 Composition. The Board of Trustees shall consist of nine (9) members. Six (6) trustees shall be elected from the membership of the relief association. There shall be three (3) officials drawn from the Municipality. The three (3) Municipal Trustees must be one (1) elected municipal official and one (1) elected or appointed municipal official who are designated as municipal representatives by the municipal governing board annually and the chief of the municipal fire department.

5.2 Duties. The Board of Trustees shall perform the functions and assume the same duties as a Board of Directors under Section 317A of the Minnesota Statutes. In addition, the Board of Trustees shall:

- (a) Have exclusive control and management of all funds received by the Treasurer pursuant to the statutes of the State of Minnesota and all moneys or property donated, given, granted or devised for the benefit of the Association.
- (b) Examine the books, papers, funds, securities and property in the custody of the Treasurer, and generally accounts, funds and securities, and property of the Association.
- (c) Examine and approve the validity of all claims prior to payment by the Treasurer.
- (d) Provide the forms on which members may submit claims to the Board of Trustees for their approval.
- (e) On an annual basis or more frequently as may be required to determine eligibility for benefits, confirm minimum firefighter and service standards pursuant to the Volunteer Firefighter definition in Section 2.1 of the Plan attached hereto.
- (f) Assume such additional duties as may be described in Article IX herein and in Association policies and procedures or required by state law including the establishment of any committee deemed necessary or appropriate.

ARTICLE VI OFFICERS

6.1 Number. The number of officers of the Association and their duties shall be as set forth below.

6.2 President. It shall be the duty of the President of the Association to:

- (a) Countersign all checks, along with the Treasurer, issued by the Association;
- (b) Have general active management of the business of the corporation;
- (c) When present, preside at meetings of the Board and of the members;
- (d) See that orders and resolutions of the Board are carried into effect;
- (e) Sign and deliver in the name of the corporation bonds, contracts, or other instruments pertaining to the business of the corporation, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the articles or bylaws or by the Board to another officer or agent of the corporation;
- (f) Maintain records of and, when necessary, certify proceedings of the Board and the members; and
- (g) Perform other duties prescribed by the Board.

6.3 Pro Tem Officers. In the absence of the President and Vice President, the Board of Trustees shall appoint an interim President from the existing Officers and/or Trustees other than the Municipal Trustees who shall perform the duties incident to the office.

6.4 Vice President. It shall be the duty of the Vice President to perform the duties of the President in the President's absence.

6.5 Secretary. It shall be the duty of the Secretary of the Association to:

- (a) Keep a record showing the correct addresses of all members and request the names of their beneficiaries.
- (b) Keep or cause to be kept an accurate record of all meetings of the Association and of all meetings of the Board of Trustees.
- (c) Conduct and direct the investigation of all claims.
- (d) Keep a record of all monies received and paid out by the Treasurer.

- (e) Provide access to the Association's Articles, Bylaws, minutes, and financial statement on the last annual accounting period to all members or all Board of Trustees (including the Municipal Trustees), for any proper purposes they may have, in accord with Minnesota Statutes Section 317A.461.

6.6 Treasurer. It shall be the duty of the Treasurer of the Association to:

- (a) Countersign all checks, along with the President, issued by the Association;
- (b) Receive and receipt all monies due the Association from members and other sources and to keep accurate accounts and records of all the money so received.
- (c) Have custody of all monies and securities belonging to the Association.
- (d) Furnish a surety bond in favor of the association for the faithful performance of all duties involving the Association and for the safekeeping of, or accounting for, all monies and securities that may come into its possession. The bond shall be in an amount equal to at least 10% of the assets up to a maximum of \$500,000.
- (e) Pay all properly approved claims for benefits, and to pay all bills incurred in the way of necessary expenses in the conduct of the business of the Association.

6.8 General Duties.

- (a) The officers shall annually prepare an annual financial report of the Association's receipts, disbursements, and balances in the Special and General Funds for the preceding calendar year on a form prescribed by the Office of the State Auditor. They shall transmit the report to the city clerk of the Municipality for inspection, signature and transmission to the State Auditor pursuant to law.
- (b) Pursuant to the Volunteer Firefighter's Association Guidelines Act of 1971, the officers of the Association shall, annually, determine the financial requirements of the Special Fund for the following year. The financial requirements of the relief association and the minimum municipal obligation must be included in the financial report or financial statement.

6.9 Compensation. As compensation for services to the Association by the President, Secretary and Treasurer, the membership may at the Annual Association meeting authorize payment of an aggregate salary expense payable from the Special Fund to one (1) or more of these officers. The amount shall be recommended by the Board to the membership and approved by the membership at their annual Association meeting.

ARTICLE VII ELECTIONS

7.1 Trustee Terms. The Trustees shall be elected to staggered two-year terms. There will be three (3) Trustees elected by the membership each year at the annual meeting of the Association. The term of each appointed Municipal Trustee is one (1) year or until the person's successor is qualified, whichever is later.

An individual Trustee may serve an unlimited number of terms.

7.2 Voting on Trustees. Each position on the Board of Trustees shall be voted on separately by the Active Members in attendance at the annual meeting. No nominations of slates of candidates or cumulative voting shall be allowed. All votes unless specified prior to the vote, shall be conducted by a voice vote. A simple majority of those present at the meeting is needed to elect. If a majority cannot be determined by voice vote, the officer in charge of the vote shall ask for a show of hands or for a secret ballot. Pursuant to Section 4.5, voting by proxy/absentee ballot will be allowed. A trustee may be removed with or without cause by a simple majority vote of the Active Members in any subsequent annual, regular or special meeting.

7.3 Officer Terms. The offices of President, Vice President, Secretary, and Treasurer shall be elected to two-year terms.

The offices of President and Secretary shall be nominated and elected separately to a two-year staggered term at the annual meeting in odd numbered years.

The offices of Vice President and Treasurer shall be nominated and elected separately to a two-year staggered term at the annual meeting even numbered years.

7.4 Voting on Officers. Officers are elected by the Active Members each year at the annual meeting of the Association. Each position will be nominated and elected separately at this meeting. All votes unless specified prior to the vote, shall be conducted by a voice vote. A simple majority is needed for an officer to be elected. If a majority cannot be determined by voice vote, the officer in charge of the vote shall ask for a show of hands or for a secret ballot. Pursuant to Section 4.5, voting by proxy/absentee ballot will be allowed. An officer may be removed with or without cause by a simple majority vote of the Active Members in any subsequent annual, regular or special meeting.

No individual may hold more than one (1) officer position at one (1) time.

7.5 Vacancies. In the case of death, resignation or removal from office for any officer or Trustee of the Association, the vacancy shall be filled by the Board of Trustees from the membership at a Board meeting to be duly called for the purpose of filling out this term.

ARTICLE VIII MEETINGS

8.1 Annual Meeting of the Members. The annual meeting of the members shall be held on the first Sunday in March of each year except that if that day is a holiday, said meeting shall be held on the next succeeding Sunday. The place of the meeting shall be designated and may be changed from time to time by the Board of Trustees.

8.2 Regular Meetings of the Members. The members shall have no regular meetings.

8.3 Special Meetings of the Members. Special meetings of the members may be called at any time upon the written order of the President and one (1) other member of the Board of Trustees or six (6) voting members of the Association. The place of the meeting shall be designated and may be changed from time to time by the Board of Trustees.

8.4 Notice of Meetings of the Members.
A notice of every annual and any special meetings of the members shall include the date, time, place and purpose of the meeting and be *posted* on the bulletin board of the Association, or if no bulletin board, on the door of its usual meeting room; *and* in accord with Minn. Stat. §317A.231, each voting member shall be *provided* at least five (5), but not more than sixty (60) days, before the meeting, (excluding the date of the meeting) with notice setting forth the date, time, place, and purpose of the meeting.

8.5 Member Quorum. Forty (40) percent of the Active Members of the Association shall constitute a quorum for the transaction of business at their meetings.

8.6 Member Voting. Each Active Member present at the meeting shall be entitled to one (1) vote. All votes, unless specified prior to the vote, shall be conducted by a voice vote. If a majority cannot be determined by voice vote, the officer in charge of the vote shall ask for a show of hands or for a secret ballot. Pursuant to Section 4.5, voting by proxy/absentee ballot will be allowed. A voting "majority" is majority of the quorum, not majority of the entire association membership.

8.7 Regular Meetings of the Board of Trustees. Meetings of the Board of Trustees shall be held on the second Monday of February, May, August and November except that if that day is a holiday, said meeting shall be held on the next succeeding Monday. Meetings of the Board of Trustees shall be held at the Fire Station unless noticed for another place within the City as designated by the Board.

8.8 Special Meetings of the Board of Trustees. Special meetings of the Board of Trustees may be called at any time upon the written order of the President and one (1) other member of the Board of Trustees. The place of the meeting shall be held at the Fire Station unless noticed for another place within the City as designated by the Board.

8.9 Notice of Meetings of the Board of Trustees. The association is governed by Minn. Stat. §13D.01 which requires that all meetings of the Association's Board of Trustees be

open to the public with rare exceptions. All notices provided for in this Article shall comply with Minn. Stat. §13D.04 which requires at a minimum that:

- (a) a schedule of any regular meetings of the Board of Trustees be kept on file at the Association offices, and
- (b) for special meetings, a notice stating the date, time, place and purpose of the meeting be *posted* on the bulletin board of the Association, or if no bulletin board, on the door of its usual meeting room; *and* in accord with Minn. Stat. §317A.231, each Trustee shall be *provided* at least three (3), but not more than sixty (60) days, before the meeting, (excluding the date of the meeting) with notice setting forth the date, time, place, and purpose of the meeting.

8.10 Board Quorum. A majority of the Board of Trustees then in office shall constitute a quorum for the transaction of business at its meetings.

8.11 Board Voting. Unless the Articles or Bylaws specify otherwise, an action of the Board shall be effected by a majority vote of the Trustees present and eligible to vote once a quorum has been achieved. The officer in charge of a vote shall ask for a show of hands *but shall not allow* for a secret ballot *nor proxy*, and each vote shall be recorded in a public journal. No action shall be considered once a quorum has been lost.

8.12 Electronic Meeting Prohibited. Any meeting of the Board of Trustees or the membership by solely electronic means (e.g., e-mail, simulchat or phone conference) that is not accessible to the public at a set meeting location is prohibited.

8.13 Order of Business. At any annual, regular and all special meetings, the order of business shall be as follows:

- (a) Calling to order by the President
- (b) Roll call (verify quorum)
- (c) Secretary's Report (reading of previous minutes)
- (d) Treasurer's Report
- (c) Report of the Board (member meeting)
- (d) Report of other committees (Board or member meeting)
- (e) Old Business
- (f) New Business
- (g) Adjournment

ARTICLE IX FIDUCIARY RESPONSIBILITY

9.1 Board of Trustees. Each member of the Board of Directors, also acts as a trustee of the Special Fund. The Board of Directors therefore also acts as the Board of Trustees. The Board of Trustees is charged with administering retirement and ancillary benefits under the

Special Fund and are fiduciaries subject to the standard of care set forth in Minnesota Statutes Section 356A.04. This includes specifically assuming such additional duties as may be described in Association policies and procedures or required by state law, including:

- (a) adopting an investment policy;
- (b) providing written investment restrictions to brokers;
- (c) securing certificates of insurance; and
- (d) establishing a continuing education plan in order to keep abreast of their fiduciary responsibilities.

9.2 Prohibited Transactions. No fiduciary of the Association shall cause the Association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one (1) of the following direct or indirect transactions:

- (a) sale or exchange or leasing of any real property between the Association and a Board member;
- (b) lending of money or other extension of credit between the Association and a Board member or member of the Association;
- (c) furnishing of goods, services, or facilities between the Association and a Board member;
- (d) transfer to a Board member, or use by or for the benefit of a Board member, of any assets of the Association. Transfer of assets does not mean the payment of Association benefits or administrative expenses permitted by law; or
- (e) sale, exchange, loan, or lease of any item of value between a plan and a fiduciary of the plan other than for a fair market value and as a result of an arm's-length transaction.

9.3 Fiduciary Responsibilities Apart from the Special Fund. Although the title "Trustee" is applied to members of the Board of Directors of the Association, the fiduciary standard that Directors are subject to is two-tiered as a matter of State law. With respect to the Association's Special Fund, Trustees are required to meet a standard of care that applies to fiduciaries under Minnesota Statutes Section 356A.04, as described above. With respect to business and management decisions not including decisions related to the Special Fund, all Trustees are required to meet a standard of care that applies to nonprofit corporation Directors under Minnesota Statutes Section 317A.251. These decisions include, but are not limited to, business decisions regarding fund-raising activities, and disposition of and management of the General Fund. Accordingly, in their decision-making and management, Trustees must discharge the duties of their position in good faith, in a manner the Director reasonably believes to be in the best interests of the Association, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. Directors are not, in accord with that same statutory section, considered "Trustees" with respect to the Association or with respect to property held or administered by the Association.

ARTICLE X FUNDS

10.1 Funds. All money received by the Association shall be kept in two (2) separate funds, the General Fund and the Special Fund. Disbursements from the funds shall be in accordance with Minnesota Statutes and Rules and the Bylaws of the Association.

10.2 General Fund. The funds received by this Association from: dues, donations, fines, initiation fees, entertainment revenues and any moneys donated for unspecified uses shall be kept in the General Fund and may be disbursed upon a majority vote of the membership or of the Board of Trustees for any purpose reasonably suited to promote the welfare of the Association and its members. All expenses shall be paid out of the General Fund, except as specifically authorized to be disbursed from the Special Fund. These records shall be open for inspection by any member of the relief association at reasonable times and places.

10.3 Special Fund. All funds received by this Association from any tax sources and other money which may be directly donated or transferred to said funds, shall be kept in a separate account on the books of the Treasurer known as the Special Fund and shall be disbursed only for the following purposes:

- (a) Payment of members' service pension benefits in accordance with these Bylaws.
- (b) Payment of ancillary benefits in accordance with these Bylaws.
- (c) All administrative expenses authorized under Minn. Stat. Sect. 69.80.

These records shall be public and open for inspection by any member of the relief association, any officer or employee of the state or municipality, or any member of the public, at reasonable times and places.

10.4 Deposits. All money belonging to this Association shall be deposited to the credit of the Association in such banks, trust companies, or other depositories as the Board of Trustee may designate. Board of Trustees shall make deposits in conformance with Minnesota Statutes, the Bylaws and the investment policy.

ARTICLE XI APPENDICES INCORPORATED IN BYLAWS

The following appendices attached hereto are expressly incorporated herein as a component of these Bylaws, with the same legal force and effect of Bylaws.

Appendix A: Bylaw Amendment History.

Appendix B: Lake Elmo Firefighters Relief Association Defined Benefit Lump Sum Retirement Plan.

Appendix C: Benefit Levels.

ARTICLE XII AMENDMENTS

12.1 Amendment of Articles of Incorporation by Members. Amendments to the Articles of Incorporation must be approved by a majority of the Board of Trustees and by a majority of the Active Members. If an amendment is initiated by the Directors, proper notice of the proposed amendment must precede a meeting of the members at which the amendment will be considered and must include the substance of the proposed amendment. If an amendment is proposed, the members may demand a meeting of the Board of Trustees within 60 days for consideration of the proposed amendment if a regular meeting of the Board would not occur within 60 days.

12.2 Amendment of Articles of Incorporation by Board when Authorized by Members. When authorized by Active Members, the Articles of Incorporation may be amended by the Board of Trustees by the affirmative vote of a majority of the Trustees then in office, at a meeting for which notice of the meeting and the proposed amendment have been given. The members may prospectively revoke the authority of the Board to exercise the power of the members to amend the Articles. Nothing in this Section shall be construed to permit the Board to adopt, amend, or repeal provisions in the Articles that would alter the rights of the membership.

12.3 Amendment of Bylaws by Board. The Bylaws of the Association may be amended by the Board at any regular or special meeting of the Board by a vote of the majority present and voting, provided that a quorum is present; and provided further that a notice of date, time, place, purpose of the meeting and proposed amendment be *posted* on the bulletin board of the Association, or if no bulletin board, on the door of its usual meeting room, *and* in accord with Minn. Stat. §317A.231, each Trustee has been *provided* at least thirty (30), but not more than sixty (60) days, before the meeting, (excluding the date of the meeting) with notice setting forth the date, time, place, purpose of the meeting and proposed amendment.

Board Limitations of Bylaw Amendments. Nothing in this section shall be construed to permit the Board to adopt, amend or repeal provisions regarding:

- (a) Decreasing any benefit level set forth in the Plan attached hereto
- (b) Membership (Article IV)
- (c) Compensation (Section 6.9)
- (d) Elections (Article VII)
- (e) Member Quorum (Section 8.5)
- (f) or limit the right of at least ten percent of the membership to propose a resolution for action by the members to adopt, amend, or repeal Bylaws that the Board has taken action to adopt, amend or repeal pursuant to this section.

12.4 Amendment of Bylaws by Members. The Bylaws of the Association may be amended at any regular or special meeting by a vote of two-thirds of the Active Members present and voting, provided that a quorum is present; and provided further that notice of any proposed amendment(s) shall be given by posting or reading the same at any regular or special meeting not more than thirty-one (31) days preceding that upon which such amendment(s) are to be acted upon, and that a notice is mailed to each member at last known address not less than ten (10) days prior to such meeting.

12.5 Ratification of Amendments by Municipality. If the Association amends its bylaws to affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses, it may be necessary to obtain ratification of the amendment by the Municipality as described in Section 8.1 of Appendix B.

The undersigned Officer certifies that the preceding pages and the appendices attached hereto are an accurate and complete copy of the Bylaws of the Association duly adopted on 7/31/2007 and now in effect.

RA Name: LAKE ELMO FIREFIGHTERS

Officer Signature: By J. Winkels

Date: 1/07/2008

Officer Name: BRADLEY J. WINKELS

Officer Position: PRESIDENT

MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013

REGULAR

ITEM #: 17

MOTION

AGENDA ITEM: City Code Amendment – Construction Security Escrows

SUBMITTED BY: Nick M. Johnson, City Planner

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Kyle Klatt, Planning Director
Rick Chase, Building Official

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider an amendment to the City Code pertaining to security escrows for construction projects. These escrows are intended to remediate construction related damage or debris on or around the construction site and other violations of the City Code. The proposed ordinance is intended to improve upon the existing ordinance (§153.022) that requires bond or cash deposit for new construction to protect streets and curbs. However, the existing ordinance falls short in that other forms of necessary remediation on construction sites, such as landscaping or grading, are not covered by the existing ordinance.

BACKGROUND INFORMATION:

The issue of remediating construction related problems or concerns occurred recently with a home addition in Lake Elmo. The experience led Staff to evaluate how the ordinance requiring escrows for construction activity could be improved to better position the City to remediate a broader range of problems that may occur due to construction. More specifically, the existing ordinance only pertains to the remediation of damage related to streets and erosion control. However, if other remediation is necessary but is not related to streets or erosion control, the City would not be allowed to use the security escrow for those remediation efforts. In other words, the proposed ordinance (Ord. 08-66) is intended to remedy this shortfall.

STAFF REPORT:

The proposed City Code amendment requiring a security escrow for construction activities is intended to provide the City with greater authority to remediate construction related damage or debris on a site. Such debris often can go above or outside the bounds of simply streets or erosion control. It is important for the City to have the ability to remediate damage to the

property that is under construction, the neighboring properties or City property if the builder does not take responsibility. However, in another light, the proposed ordinance also does provide the City some flexibility to reduce the amount of escrow needed if the set amount for new structures (\$5,000) is not appropriate given the scope of the project. Overall, this ordinance will allow the Staff to act in a more responsible and prudent fashion in regards to regulating building activities in Lake Elmo.

STAFF RECOMMENDATION:

The Staff recommends approval of the City Code Amendment by taking the following action:

“Move to approve Ordinance 08-66, approving the City Code Amendment requiring a security escrow for the construction of new structures and other construction-related projects at the discretion of the City.”

ATTACHMENTS:

1. Ordinance 08-65

SUGGESTED ORDER OF BUSINESS:

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

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-66

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
REQUIRING A SECURITY ESCROW FOR CONSTRUCTION IN LAKE ELMO, MINNESOTA.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV:
Land Usage; Chapter 153: Building Regulations, by removing the following
language:

§153.022 BOND OR CASH DEPOSIT TO PROTECT PERMANENT STREETS OR CURBS

On any new construction for property abutting a permanent street, a bond or cash
deposit shall be required to protect against damage to the permanent street, curb, or
other public property or improvement occurring by reason of construction. Fees for
the bond/deposit are set forth from time to time by resolution of the Council.

(1997 Code, § 505.08) Penalty, see § 10.99

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV:
Land Usage; Chapter 153: Building Regulation, by adding the following language:

§153.022 SECURITY ESCROW FOR CONSTRUCTION

- A. *Security Escrow.* A security escrow in an amount established by the city's Fee
Schedule or Building Official shall be paid before a building permit is issued for
the construction of all new structures and other construction related projects
at the discretion of the city. The security shall be returned to the applicant
upon the successful completion of the following:
1. Compliance with the State Building Code;
 2. Compliance with the City of Lake Elmo City Code; and
 3. Compliance with specified requirements as determined by the Building
Official.
- B. *Purpose.* The security may be used at any time for the remediation of
construction related damage or debris on and around the site and other
violations of the City Code, including, but not limited to, erosion control,

street maintenance, and landscaping. If the security items are not completed within six months of start of construction, excluding the time between November 1 and April 1, or upon the builder filing bankruptcy, or if the job is abandoned for 30 days or more, the city may enter the lot, perform the work, and apply the security toward the cost, plus administrative fees.

- C. *Action against the financial security.* The city shall use the security to finance remedial work undertaken by the city, or a private contractor under contract to the city including a fee to the city for processing equal to 10% of the any contractor(s) invoice for materials and services, to reimburse the city for all costs incurred in the process of remedial work including, but not limited to, staff time, engineering fees and attorney's fees.
- D. *Maintenance of financial security.* If at any time the financial security is drawn upon, the applicant may be required to submit additional security to restore the security to the full amount as originally established. Restoring the full security is a requirement prior to resuming work on the site

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 4. Adoption Date. This Ordinance 08-66 was adopted on this fifteenth day of January 2013, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-66 was published on the ____ day of _____, 2013.



MAYOR AND COUNCIL COMMUNICATION

DATE: 01/15/2013

REGULAR

ITEM #: 18

MOTION

AGENDA ITEM: City Code Amendment – Landscaping Requirements

SUBMITTED BY: Rick Chase, Building Official

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED:

The proposed amendments to the City Code are part of a continued process to improve property maintenance procedures in Lake Elmo. Staff recommends the addition of the following amendments to continue the preservation of property values in the city. The three proposed additions include requirements for establishing turf on all properties that have occupancy, property maintenance requirements for commercial and industrial properties, and the conservation of vegetation.

STAFF REPORT:

The existing City Code does not address the timeframe in which turf must be established after a Certificate of Occupancy is issued. However, establishing turf remains a requirement of escrow release and other ordinances within the City Code. The proposed additions to the City Code are intended to set a timeframe for the establishment of landscape. Having these requirements directly in the ordinance is important to set a clear standard.

RECOMMENDATION:

Staff recommends that the City Council move to approve the proposed addition to the City Code with the following motion:

“Move to approve Ordinance 08-67, thereby improving the City Code the City’s ability to maintain a minimum standard of property maintenance in Lake Elmo.”

ATTACHMENTS:

1. Ordinance 08-67

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-67

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
ESTABLISHING LANDSCAPING STANDARDS TO MAINTAIN MINIMUM REQUIREMENTS
FOR PROPERTY MAINTENANCE IN LAKE ELMO, MINNESOTA.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV:
Land Usage; Chapter 150: General Provisions, by adding the following language:

§150.76 TURF ESTABLISHED. Turf must be established by the use of grass seed or sod
on all lots, with-in sixty (60) days of the issuance of a Certificate of Occupancy,
excluding the time between October 1st and May 1st. Turf must be established on all
existing developed lots by July 1st, 2013. Alternate landscape plans, other than turf,
shall be approved by city staff prior to installation.

§150.77 COMMERCIAL AND INDUSTRIAL PROPERTY MAINTENANCE. All
commercial/industrial properties shall maintain trees shrubs, landscaping, parking
lots, and exterior signage. Dead trees and shrubs are to be replaced with-in (4)
months of notice.

§150.78 CONSERVATION OF VEGETATION. No person shall make any unauthorized use
of any public site or open space which is detrimental to the turf and or soil
conditions.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon
adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-67 was adopted on this fifteenth day
of January 2013, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-67 was published on the ____ day of _____, 2013.



MAYOR AND COUNCIL COMMUNICATION

DATE: 01/15/2013

REGULAR

ITEM #: 19

MOTION

AGENDA ITEM: Contractor Licensing Program

SUBMITTED BY: Rick Chase, Building Official

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Kyle Klatt, Planning Director

SUMMARY AND ACTION REQUESTED:

In order to more effectively regulate that building activities in Lake Elmo are undertaken by professional and competent contractors, Staff recommends improving the existing contractor licensing program. These improvements include licensing additional trades or types of contractors to cover a wider array of project types.

STAFF REPORT:

The licensing of contractors working in Lake Elmo is in the public's interest and provides the residents with an additional level of protection and competence not currently available. The program is intended to protect the residents of Lake Elmo by promoting quality and ethical practices in construction.

In addition to adding different contractor or trade types, Staff is proposing various Code amendments to support the proposed licensing program. These amendments support the City's licensing program, as well as outline the procedures related to its institution.

RECOMMENDATION:

Staff recommends that the Council approve the proposed additions to the City's contractor licensing program with the following motion:

"Move to approve Ordinance 08-68, thereby establishing an improved contractor licensing program to set minimum standards related to competency and professionalism in construction activities in Lake Elmo, MN."

Staff further recommends that the City Council adopt Resolution No. 2013-05 authorizing authorization of summary publication of Ordinance 08-68. This requires a 4/5 vote for passage.

ATTACHMENTS:

1. Ordinance 08-68
2. Resolution 2013-05

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

ORDINANCE NO. 08-68

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
ESTABLISHING LICENSING REQUIREMENTS FOR CONTRACTORS TO ENSURE
COMPETENCY AND PROFESSIONALISM IN CONSTRUCTION ACTIVITIES IN LAKE ELMO,
MINNESOTA.**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XI: Business Regulations; Chapter 115: Building Contractors, by adding the following language:

§115.01 POLICY. It is deemed in the interest of the public and the residents of the city that the work involved in building, alteration, construction, and the installation of various appliances and service facilities in and for such buildings be done only by individuals that have demonstrated or submitted evidence of their competency to perform such work in accordance with applicable codes and ordinances of the city regulating the same.

§115.02 LICENSE AND PERMIT REQUIRED

A. License Required

1. No person, firm or corporation shall operate, maintain, conduct or engage in the following businesses or work, except in accordance with state statutes, this code and other applicable ordinances of the city.

- a. Asphalt /concrete
- b. Demolition
- c. Driveway
- d. Excavator
- e. HVAC
- f. Landscape
- g. Irrigation
- h. Sewer line installer

i. Water line installer

j. Sign Installer

2. This subsection shall not be construed as preventing any such qualified licensee from performing the work by an employee under his/her supervision and control, or by contract with another person qualified to perform the same; provided that the contractor is subject to the control of the licensee, and the licensee is at all times responsible for the work performed. A contractor not subject to the control of a licensee shall be required to obtain a license.

B. *Permit Required.* For each of the businesses or occupations listed in subsection A1 of this section for which the State of Minnesota provides for the registration thereof, permits shall be granted only to holders of a state or city license; except that the owner of any property may perform work when work is performed in accordance with the codes and ordinances of the City, and for such purpose, a permit may be granted to such owner without a license obtained. A non-licensed person may install plumbing only in a building which is already his or her own residence, and only in that part of the building which he or she is actually occupying. A person may not install a plumbing system in a building which he/she intends to occupy as a residence in the future and may not install the plumbing in any part of the building which is or will be occupied by someone else, i.e., a tenant or friend.

§115.03 APPLICATION FOR LICENSE; INSURANCE REQUIREMENTS; ISSUANCE OR DENIAL

A. Contents of Application; Insurance:

1. Applications for a license shall be made on forms provided by the city clerk. On such form, the applicant shall state the following information:
 - a. His/her name, and business and home address; and if the application is made on behalf of a partnership, association or corporation, the name and address of such partnership, association or corporation, and the phone number of the contact person.
 - b. If the proposed licensee is a partnership, the name and home addresses of all partners; or if the proposed licensee is an association or corporation, the names and home addresses of its principal officers and managers and of the owners (not to exceed 10) or the largest shareholders of the business or enterprise.
 - c. Such information as is required to be furnished by ordinance or is reasonably required by the city clerk or other applicable city departments.

2. The application shall include documentation indicating insurance coverage, which shall remain in effect during the license term, and non-cancellation provisions, which provide a minimum of thirty (30) days' notice to the City prior to cancellation, as follows:

- a. Comprehensive general liability insurance not less than one hundred thousand dollars (\$100,000.00) for injuries including accidental death to any one person, and subject to the same limit for each person in an amount of not less than three hundred thousand dollars (\$300,000.00) on account of any one accident;
- b. Property damage insurance not less than fifty thousand dollars (\$50,000.00) for each accident and not less than one hundred thousand dollars (\$100,000.00) aggregated; and
- c. Workers compensation insurance coverage of employees as required by State law.

B. *Signatures Required.* The proposed licensee shall sign the application; or if the proposed licensee is a partnership, an association or corporation, at least one person having power under its bylaws to execute contracts of the association or corporation shall sign.

C. *Renewal Applications.* Applications for renewals of licensee may, in the interest of brevity, substitute for any required information a reference to statements contained in previous applications, which are on file with the city.

D. *Issuance of License.* The license shall be granted by the city clerk, after investigation and positive recommendations from applicable city staff, upon proof of the applicant's qualifications, and compliance with section 115.04 of this chapter.

E. *Denial of License; Appeal.* In the event the city clerk determines that the application does not comply with the ordinance criteria, the report and recommendation of the city clerk and applicable staff shall be referred to the city council, together with the reason or reasons for the proposed denial. A copy of the recommendation shall be supplied to the applicant. The applicant may appear before the city council to respond to the recommendation of denial. The city council shall make the appropriate findings and either issue or deny the license application.

§115.04 STANDARDS FOR LICENSE ISSUANCE; TERM

- A. *Standards for Issuance Generally; Term.* Licenses and renewals thereof shall be issued after an investigation and verification of the applicant's qualification and record in the performance and operation of the types of work for which the applicant seeks a license. Licenses shall be issued for one calendar year from January 1 through December 31. New licenses will run from date of issuance through December 31.
- B. *Investigation.* All applications for license may be referred to the director of public safety for verification and investigation of the facts set forth in the application. Investigations may include, but not limited to, a driver's license and want/warrants check and/or a criminal history records check on the applicant. The director of public safety may cause to be made such investigation of the information requested in section 115.03 of this chapter.
- C. *Standards for Denial.* Licenses and renewals therefore may be denied by the city council for any of the following reasons:
1. Failure to complete the application or file the required license fee or insurance policy.
 2. Misstatement in the application.
 3. Failure to comply with special conditions required by statute or ordinance for issuance of a license.
 4. Violations of licensing ordinances by applicant, or suspension or revocation licenses held by the applicant in the city or elsewhere.
 5. Violation of any state statute or city code provision which creates a threat to the public peace, health, safety and welfare.
 6. Disregard and violation of the building, housing, sanitary, health, and fire laws of the state, county, or city.
 7. Any conduct which is contrary to the public interest, including, but not limited to, fraud, misrepresentation, or other dishonest or deceitful conduct.

§115.05 LICENSE FEE; EXEMPTION. The annual fee for license shall be established by ordinance of the city council from time to time. No license fee shall be required of any person, firm or corporation, pursuant to this section, who, by state law, is required to attain standards of competency or experience as a prerequisite to engaging in such craft or profession; provided that the person shall provide evidence to the city that the individual, firm or corporation has a license in good standing from

the state, and further provides proof of insurance in effect through the term of license issued by the state.

§115.06 SUSPENSION OR REVOCATION OF LICENSE

A. *Grounds for suspension or revocation.* If any licensee violates or is in default of complying with any condition, requirement, duty or rule of conduct imposed on him/her by any statute or ordinance, or if any one or more of the following conditions exist, the city clerk may initiate proceedings before the city council to suspend or revoke the licensee's license:

1. If the applicant for a license or renewal thereof knowingly made any false statements in the application for a license.
2. When the applicant has violated any state statute or city code provision which creates a threat to the public peace, health, safety and welfare.
3. When there is disregard and violation of the building, housing, sanitary, health and fire laws of the state, county or city.
4. For failure to notify the city of any change in control of ownership, management or business name or location within thirty (30) days of such change.
5. Conducting a building contracting business in any name other than the one for which the contractor is licensed.
6. Any conduct which is contrary to the public interest, including, but not limited to, fraud, misrepresentation or other dishonest or deceitful act.

B. *Procedures for Suspension or Revocation.* Procedures for suspension or revocation shall be as follows:

1. The licensee shall be provided with notice of the reasons for any proposed suspension or revocation. The notice shall provide the licensee with an opportunity to explain the rationale for the proposed suspension or revocation.
2. The licensee shall be notified in advance of the date, time, place and purpose of the council meeting where the action on the license will be considered. The licensee shall have an opportunity to be heard at the meeting. After making appropriate findings, the council may continue the license in effect, impose conditions on the license or revoke the license.

§115.07 EXEMPTIONS FROM PROVISIONS. No license will be required under this chapter in the following circumstances:

A. For public service corporations performing work upon or in connection with their own property, except as may be provided by other provisions of this code.

B. For manufacturers for work incorporated with equipment as a part of the manufacturing, except as provided in other provisions of this code.

§115.08 EFFECT ON LIABILITY. This chapter shall not be construed to affect the responsibility or liability for any party owning, operating, or installing the work described in this chapter for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the licensing of persons engaged in such work.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-68 was adopted on this fifteenth day of January 2013, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-68 was published on the ____ day of _____, 2013.

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

RESOLUTION NO. 2013-05

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-68 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-68, an ordinance to add Chapter 115 – Building Contractors; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-068 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-68, which represents a revision to the City Code, specifically establishing additional licensing requirements for contractors to ensure competency and professionalism in construction activities in Lake Elmo. The adopted additions include:

- Specification of what types of work require contractor licensure
- Specification of what types of work require city licensing
- Process and requirements for obtaining a contractor license
- Suspension and revocation of license procedures
- Fees and exemptions from the provisions.

The full text of Ordinance No. 08-68 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: _____, 2013.

Mayor Mike Pearson

ATTEST:

Adam Bell, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/13

REGULAR

ITEM #: 20

MOTION

AGENDA ITEM: Request from Rockpoint Church to Extend Final Plat Submission
Deadline for Hidden Meadows 2nd Addition

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Nick M. Johnson, City Planner

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider a request to extend the final plat deadline for Hidden Meadows 2nd Addition which will ultimately establish the residential portion of the OP development south of Rockpoint Church. The preliminary plat for Hidden Meadows 2nd Addition was approved by the City in 2006 and the City Code requires that a final plat be submitted within 180 days of the preliminary plat approval. In this case, the Council did approve two separate extensions to this deadline of one year and five years respectfully, and the current deadline expired on January 2, 2013. Because the Council's first official meeting of the year was set for January 15th, any additional extensions may still be approved retroactive to the January 2, 2013 date.

The Church is requesting another five year extension due primarily due to the weak housing market over the last five years. In general Staff supports the extension, but would like to see the official dedication of easements that will be necessary to complete a planned water main extension across the Church property (which is a part of the Hidden Meadows 2nd Addition plans; therefore these easements have not yet been dedicated to the City). As a compromise, Staff is recommending that the City Council grant an extension of six months in order to give the Church time to dedicate easements related to this water main. At the end of the six months, the City would then be in a position to grant further extensions consistent with the Church's desire to have five more years. This would also give the City time to review options regarding the actual installation (and timing) of this line with the Church as well.

The recommended motion to act on this request is as follows:

"Move to approve the request from Rockpoint Church to extend the deadline to submit a final plat related to Hidden Meadows 2nd Addition for a period of six months until August 2, 2013, with any further extensions to be considered only after the dedication of a utility easement across the Church's property consistent with the location of a planned 16" water line."

BACKGROUND INFORMATION:

The Staff report from the previous extension request included the following information, which is still valid at this point in time:

- The City Attorney and the developer's attorney created a temporary easement agreement that provides the City with the desired protection of the open space areas until such time that a final plat is approved.
- The City Attorney confirmed that there is no cap on the length of time for a final plat extension. Council has the ability to extend a final plat for as many years as deemed necessary.
- Extension of the final plat is in the City's best interest as easements are in place to protect the future dedicated open space areas until the final plat is approved. Additionally, granting the requested extension provides a financial incentive to the developer to follow through with the residential development in the future once market conditions are right.
- Outlots A & B, which make up the land to be developed into the OP subdivision, are not tax exempt.
- By city code, outlots are not useable as building sites. Therefore, utilization of either outlot A or B for any purpose other than open space could not occur without City approval.
- Not granting an extension will result in the developer losing preliminary plat approval, which in turn makes pursuing other development opportunities an option .

If the requested extension is not approved the developer will need to submit a new preliminary plat in order to pursue any development on the effected property. Note that the City will still have easements over the open space areas if this occurs in the interim period, but the incentive to follow through with the desired residential development will have diminished.

PLANNING COMMISSION RECOMMENDATION:

Based upon the above background information and Staff report, it is recommended that the City Council approve the request from Rockpoint Church to extend the final plat deadline for Hidden Meadows 2nd Addition, but that this extension be limited to six months in order to give the Church additional time to provide a utility easement over their property in the planned location of a 16" water line. With the proper easement in place, the City could then consider an additional extension request for a longer period of time.

The recommended motion for this action is as follows:

"Move to approve the request from Rockpoint Church to extend the deadline to submit a final plat related to Hidden Meadows 2nd Addition for a period of six months until August 2, 2013, with any further extensions to be considered only after the dedication of a utility easement across the Church's property consistent with the location of a planned 16" water line."

ATTACHMENTS:

1. Request for Plat Extension

2. Hidden Meadows 2nd Addition Preliminary Plat
3. Resolution 2007-97 Granting Second Extension

SUGGESTED ORDER OF BUSINESS:

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

5825 Kelvin Avenue North
Lake Elmo, Minnesota 55042
651.770.3172 | Fax 651.770.3476
www.rockpoint-church.com

Rockpoint
CHURCH

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

December 17th 2012

Dear Kyle,

On behalf of Hidden Meadows, LLC, the developer, and pursuant to Lake Elmo City Ordinance Section 400.8 Subdivision 12 I am requesting an extension for the deadline to present the final plat of Hidden Meadows second addition to the City. Since our initial application, the housing market has been in decline. The housing market has shown signs of improvement in the near future. This includes fewer foreclosures, stabilizing housing prices, and fewer properties for sale. We believe that the market conditions should create an attractive situation for a developer within the next five years. We would like to request a five year extension to the final plat application. It appears that an extension would be in the best interest of Rockpoint Church and in the best interest of the city of Lake Elmo. This would extend the deadline from January 2nd, 2013 to January 2nd, 2018. I will plan to attend the City Council's meeting on January 2nd, 2013 to answer any questions you may have regarding our request.

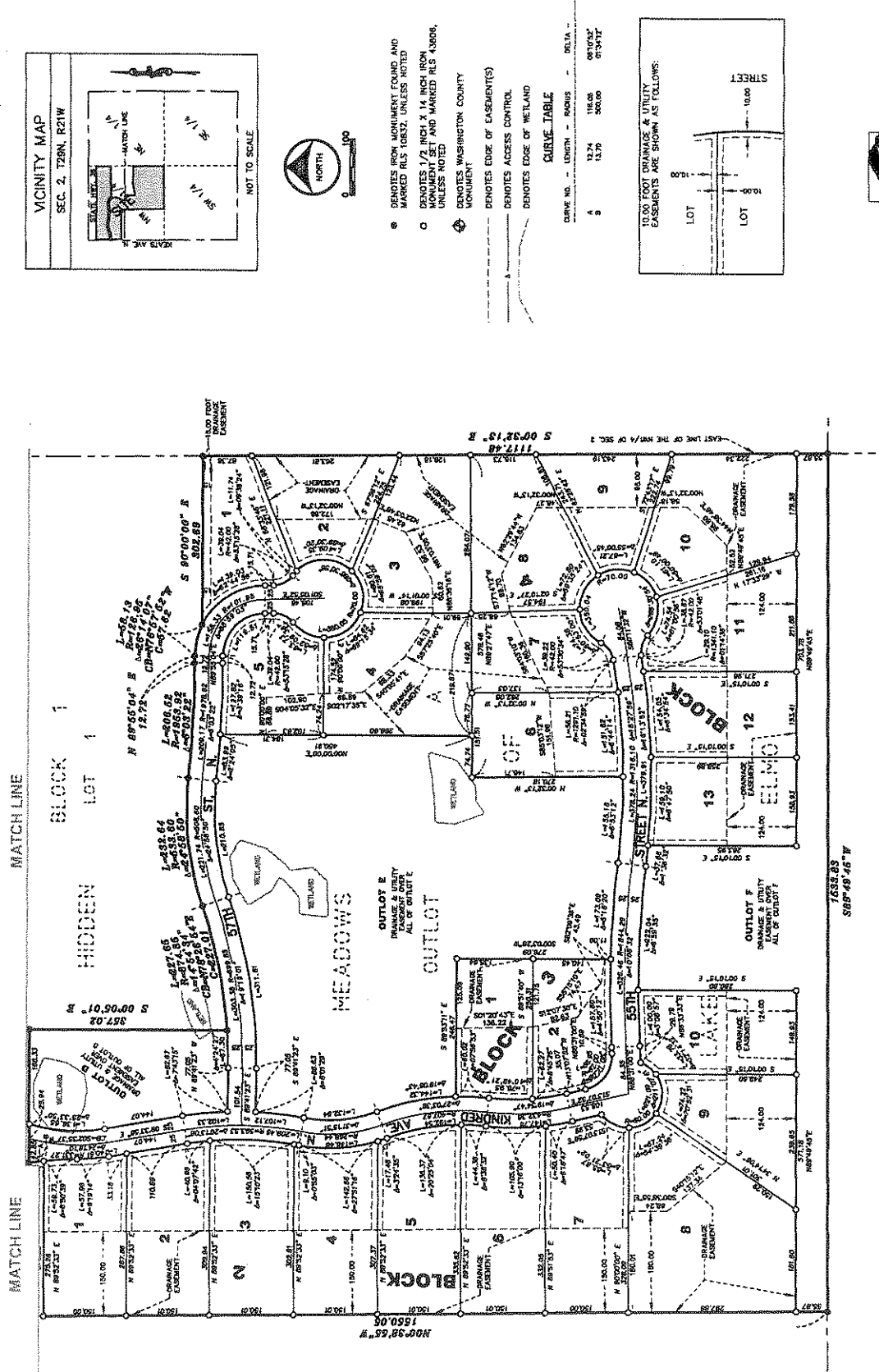
Thank you for your consideration.

Sincerely,



Bob Brydges
Executive Pastor, Rockpoint Church

HIDDEN MEADOWS OF LAKE ELMO 2ND ADDITION



Howard R. Green Company

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

RESOLUTION NO. 2007- 97

**A RESOLUTION APPROVING AN EXTENSION TO THE FINAL PLAT APPLICATION
DEADLINE FOR HIDDEN MEADOWS 2ND ADDITION**

WHEREAS, on July 25th, 2005, the Lake Elmo Planning Commission reviewed and recommended approval of an amended OP Concept Plan for Deer Glen subject to certain conditions; and

WHEREAS, on August 16, 2005, and September 6, 2005, the Lake Elmo City Council reviewed the recommendations of the Lake Elmo Planning Commission, along with revised concept plans for Deer Glen; and

WHEREAS, on September 20, 2005, the Lake Elmo City Council approved resolution 2005-102 which approved the amended OP Concept Plan of Deer Glen; and

WHEREAS, on September 20, 2005, the Lake Elmo City Council approved an amendment to the conditional use permit previously approved by Council resolution 2005-029 to reflect the amended OP Concept Plan dated September 6, 2005; and

WHEREAS, on September 20, 2005, the Lake Elmo City Council approved an amendment to the preliminary plat formerly approved by Council resolution 2005-030 to reflect the amended OP Concept Plan dated September 6, 2005; and

WHEREAS, on May 16, 2006, Council approved the final plat for Hidden Meadows 1st addition, previously referred to as Deer Glen; and

WHEREAS, the developers agreement for Hidden Meadows 1st Addition required future final platting of the residential portion of the approved plan; and

WHEREAS, on January 2, 2007, the Lake Elmo City Council authorized a one year extension to the deadline for the final plat submittal for the residential portion of the approved plan, thereby extending the final plat deadline to January 2, 2008; and

WHEREAS, the developers of Hidden Meadows have requested a second extension to the final plat submittal deadline for the residential portion of the approved plan due to the current conditions of the housing market.

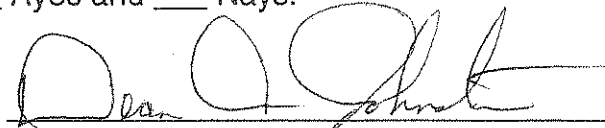
NOW, THEREFORE, BE IT RESOLVED, that the Lake Elmo City Council does hereby approve a five (5) year extension to the final plat deadline for the residential portion of the approved plan, thereby extending the final application deadline to January 2, 2013.

RES. NO. _____

Hidden Meadows Final Plat Application Deadline Extension

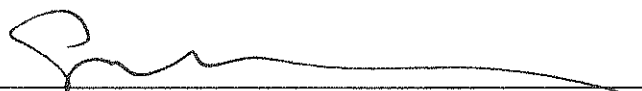
PAGE 2

This resolution was adopted by the City Council of the City of Lake Elmo on the 11th day of December 2007, by a vote of 5 Ayes and 0 Nays.



Mayor Dean Johnson

ATTEST:



Susan Hoyt
City Administrator
(SEAL)

This resolution was adopted by the City Council of the City of Lake Elmo on the 11th day of December 2007, by a vote of 5 Ayes and 0 Nays.

Mayor Johnston - Aye
Council Member DeLapp - Aye
Council Member Johnson - Aye
Council Member Park - Aye
Council Member Smith - Aye



MAYOR AND COUNCIL COMMUNICATION

DATE: 1/15/2013
REGULAR
ITEM #: 21
MOTION Regular Agenda

AGENDA ITEM: Approve Purchase of Permit Works Software

SUBMITTED BY: Rick Chase, Building Official

REVIEWED BY: Dean Zuleger, City Administrator
Kyle Klatt, Planning Director
Cathy Bendel, Finance Director

SUMMARY AND ACTION REQUESTED: In an effort to better track, monitor, record and issue permits, licenses and code enforcement, the Building department is in need of new and improved software. Numerous vendors were invited to come in and make presentations of their product and the top three products in the market are summarized on the attached recap. As a result of that analysis and the cost, it is respectfully asked that the City Council approve purchasing the Permit Works Software for a total cost in 2013 of \$24,584.59.

BACKGROUND INFORMATION: In 2000 a contractor was hired to design an access database to accommodate our needs for the building department to track and report on activity. However, this software contains no module for tracking code enforcement (property maintenance), zoning permits (i.e. fence or accessory buildings), or contractor licensing. As the City aims to improve performance in these areas, it is important to have software that will increase efficiency and accuracy in tracking these items. In addition, Permit Works is more effective in reporting building and other activities.

In selecting a software to improve performance in these areas, Staff surveyed other communities to find out what programs were being utilized for processing permits and ordinance violations. These efforts led to Staff's recommendation that Permit Works was the most viable option. Permit Works is currently being utilized in over 40 communities in Minnesota. It has a proven track record of good service and technical support.

BUDGET IMPACT: The 2013 budget includes \$6,000 to upgrade the existing Building Department software. After spending time working with the current software, the new Building Inspector feels strongly that the money would be far better invested in a new software package that would include the code enforcement and contractor licensing modules which do not exist in the current software.

RECOMMENDATION: It is recommended that the City Council approve purchasing the Permit Works software with the following motion:

“Move to approve the purchase of Permit Works Software at a total implementation cost not to exceed \$21,000 and annual on-going support beginning in 2013 not to exceed \$4,200.”

SUGGESTED ORDER OF BUSINESS:

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

City of Lake Elmo
Permit and Code Enforcement Software Analysis
December 2012

PERMIT WORKS

Software	One-time	On-going Annual	2013 Total
Permits & Inspections	5,338.41	1,495.00	6,833.41
Code Enforcement	4,269.66	1,325.00	5,594.66
Contractor Licensing	1,811.53	595.00	2,406.53
Software Totals	11,419.59	3,415.00	14,834.59
Implementation/Maint	9,000.00	750.00	9,750.00
			Estimate
Total Permit works cost	<u>20,419.59</u>	<u>4,165.00</u>	<u>24,584.59</u>

SMART GOV

Software	46,500.00	9,765.00	56,265.00
Implementation/Maint	30,000.00	750.00	30,750.00
			(10 users; smallest pkg avail)
Total Smart Gov	<u>76,500.00</u>	<u>10,515.00</u>	<u>87,015.00</u>

ENER GOV

Software	29,990.00	45,500.00 *	75,490.00
Implementation/Maint	12,500.00	750.00	13,250.00
			\$2,999 per user; minimum of 10 users Estimate
	<u>42,490.00</u>	<u>46,250.00</u>	<u>88,740.00</u>

* On-going annual fee is 20% of annual permit revenue; on-going annual based on actual 2012 revenue

Note all pricing includes appropriate sales tax



MAYOR & COUNCIL COMMUNICATION

DATE: 1/15/2013
REGULAR
ITEM #: 22
MOTION

AGENDA ITEM: Creation of Administrative Committees / Finance, Human Resources

SUBMITTED BY: Dean Zuleger, City Administrator

THROUGH: Mayor Mike Pearson

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: To further improve the operations of the City of Lake Elmo government, the City Council will create two administrative committees under the general provisions of the Lake Elmo Code of Ordinances. The Finance Committee will serve as a regular audit committee of the City Council. The Human Resources Committee will serve as the personnel policy and staffing committee of the City of Council. The creation of both Committees is also part of the previously adopted 2013 Plan of Work.

BACKGROUND INFORMATION: Most statutory cities in Minnesota are organized with a committee structure that encompasses six main areas: Finance, Public Works, Public Safety, Human Resources, Parks and Land Use (aka Planning Commission). For the most part, the Lake Elmo City Council has taken in upon itself to act as a Committee of the Whole in the area of Finance, Public Works, Public Safety and Parks – often using regular Council Meetings to accomplish the work of traditional municipal committees. This type of oversight has led to longer meetings, and perhaps, cursory reviews of critical issues in each of these four disciplines.

As a result, key areas such as the adoption of Government Accounting Standard Board principles, including the construction of a Comprehensive Audit and Financial Report (CAFR), which are industry standards, have not been completed. In addition, until recently a thorough examination of human resource policies have not taken place. This has led Council to rely on a limited staff resource and expertise to make decisions in this area.

STAFF REPORT: With the City of Lake Elmo poised to embark on a period of mandated growth, it is paramount that its financial procedures and staffing be aligned properly. It is the staff's opinion that two administrative committees be established to oversee these two important functions. The Finance Committee, with membership of (2) Council Members, and (3) members of the community with financial experience (preferably accountants), will function as a monthly audit committee and help develop financial policies as the City entertains the cost of growth. The Finance Committee will be staffed by the Finance Director. The Human Resources Committee, with membership of (2) Council Members, and (3) members of the community with personnel

experience, will function as the staffing resources and personnel policy overseers of the City. The Human Resources Committee will be staffed by the Administrator. Community members of each committee will be appointed by the Mayor with Council approval.

Both committees will function in an ad hoc role FY 2013 and if successful will be added as a standing committee in the City Code of Ordinances in FY 2014.

RECOMMENDATION: Based on the aforementioned information, the City Staff recommends the following action:

- M/S/P:** To approve, per the 2013 Plan of Work, the creation of the City of Lake Elmo Finance Committee and the City of Lake Elmo Human Resources Committee as ad hoc administrative bodies of the City Council through 2013.
- M/S/P** To instruct staff to draft Committee operating guidelines / standard operating procedures for both the Finance Committee and the Human Resources Committee for Council approval at the February 5, 2013 regular meeting.
- M/S/P** To approve the Mayor's selection of (2) City Council Members each to serve on the Finance Committee and the Human Resources Committee for FY 2013 and to begin the solicitation process of (3) community members each to serve on the respective committees, with the first meeting occurring no later than the third week in February.

SUGGESTED ORDER OF BUSINESS:

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



MAYOR & COUNCIL COMMUNICATION

DATE: 1/15/2013
REGULAR
ITEM #: 23
MOTION

AGENDA ITEM: Notice to Public Hearing on the Proposal to Establish an Economic Development Authority (EDA) for the City of Lake Elmo

SUBMITTED BY: Dean Zuleger, City Administrator

THROUGH: Mayor Mike Pearson

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: Pursuant to Minnesota State Statutes, Section 469.090 through 469.1082, the City of Lake Elmo must hold a public hearing on the creation of an Economic Development Authority (EDA). It is recommended that the City Council hold a public hearing on this matter on February 5, 2013 to comply with notification guidelines found in MN Stats 469.093.

BACKGROUND INFORMATION: An EDA is a legal entity created by a City or a County to facilitate a well-rounded development program by taking advantage of some of the port authority powers and all of the HRA powers. By combining and utilizing state grant powers, community leaders are able to create flexible business assistance and development programs to aid growth. EDAs for example, are allowed, to buy and sell property, make loans and grants to business, provides guarantees or other credit enhancements; and to sell bonds.

For the past eight months the City Council of Lake Elmo has considered the establishment of an Economic Development Authority for the purpose of managing growth mandated by the Memorandum of Understanding with the Metropolitan Council and finance projects in the City of Lake Elmo three principal growth districts: I-94 Corridor, Old Village, and the remaining open space areas. The City Council began its exploration into an EDA in 1987 and recently has engaged in one full and one partial workshop on the merits of using an EDA as an economic development tool. The establishment of an EDA was included in the 2013 Plan of Work and staff has been instructed to develop enabling resolutions and by-laws to be considered at hearing in Q1 of 2013.

STAFF REPORT: At the request of the City Council, offered at the end of a workshop held in the Fall of 2012, the City staff has developed an a enabling resolution and set of by-laws for the establishment of an Economic Development Authority. Specifically, the Council designated the creation of a seven member panel that consists of (2) members of the City Council, and five members of the community (those with real property ownership interest) with a strong

background in business or economics. In addition, The Council members at the EDA workshop affirmed the limiting of powers of the EDA when it relates to the sale of bonds or obligations, EDA budgeting, adherence to the comprehensive plan, and EDA structure.

RECOMMENDATION: Based on the information above, the staff recommends the Lake Elmo City Council adopt the following:

The City Council of Lake Elmo will hold a public hearing at 7 PM on February 5, 2013 during the regularly scheduled Council Meeting relating to the question of the establishment of an economic development authority (EDA) pursuant to Minnesota Statutes, Section 469.090 through 469.1082. Per Statutes the public hearing must be noticed for two consecutive weeks prior to the hearing date.

ATTACHMENTS:

- 1) EDA Enabling Resolution

SUGGESTED ORDER OF BUSINESS:

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

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

RESOLUTION NO. 2013-06

**ENABLING RESOLUTION ESTABLISHING THE ECONOMIC DEVELOPMENT
AUTHORITY OF THE CITY OF LAKE ELMO, MINNESOTA UNDER
MINNESOTA STATUTES, SECTION 469.090 THROUGH 469.1082**

BE IT RESOLVED BY, The City Council of the City of Lake Elmo, Minnesota, as follows:

1. Recitals. The City of Lake of Lake Elmo is authorized pursuant to Minnesota Statutes, 469.090 through 469.1082 (the Economic Development Act), to establish an economic development authority for the City and the Council desires to do so in order to promote certain, economic, commercial, housing, and / or industrial development and redevelopment goals and objectives. The City has caused notice of a public hearing on the establishment by the City of an economic development authority to be published in a newspaper of general circulation in the City once each week for two consecutive weeks, and pursuant to such notice, a public hearing on the proposal has been held by the Council on the date hereof, at which hearing all persons desiring to present their oral or written comments on the proposal were given an opportunity to do so.

2. Establishment of Economic Development Authority. Pursuant to the Economic Development Authority Act, the Council hereby establishes an economic development authority for the City to be known as the Economic Development Authority of the City of Lake Elmo, Minnesota (the "EDA"). The EDA shall be governed by a board of commissioners thereof consisting of seven members, two who shall be members of the City Council. Each Commissioner who is a member of the City Council shall cease to be a Commissioner effective at such a time as he or she is no longer a member of the Council. Five members shall be real property owners, in good standing, from within the jurisdictional boundary of the City of Lake Elmo that be appointed by the Mayor with Council approval. Terms shall be staggered as follows: (1) member serves a one-year term; (2) members serve a two-year term, (2) members serve a two-year term.

3. Staffing. The City Administrator shall act as the Executive Director of the City of Lake Elmo Economic Development Authority.

4. Powers. The EDA shall have all limited powers granted to an economic development authority pursuant to the Economic Development Authority Act, as the same may be amended or supplemented. The City of Lake Elmo City Council pursuant to Minnesota Statutes 469.092 places the following operational control on the EDA:

- 1 The sale of all bonds or obligation issued by the EDA must be approved by the City Council before issuance;

2. The EDA follows the budget process for City departments as provided by the City as implemented by the City Council and Mayor;
3. All official actions of the EDA must be consistent with the adopted comprehensive plan of the City, and any official controls or oversight by the City implementing the comprehensive plan;
4. The City Council may by resolution require the EDA to transfer any portion of reserves generated by activities of the EDA that the City Council determines is not necessary for the successful operation of the authority to the debt service fund of the City, to be used solely to reduce tax levies for bonded indebtedness of the City.

SECTION 2. Effective Date

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

SECTION 3. Adoption Date

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FIFTEENTH DAY OF JANUARY 2013.

(Seal)

By: _____
Mike Pearson
Mayor

ATTEST:

Adam Bell
City Clerk