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Services in a Fiscally Responsible Manner
While Preserving the City's Open Space
Character*

NOTICE OF MEETING

**City of Lake Elmo Parks Commission
3800 Laverne Avenue North
July 15, 2019 6:30 PM**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Approve Minutes
 - a) June 17, 2019
5. Sally Manzara Nature Center Patio Request
6. Review of the Subdivision Code – Park Dedication and Trail Connection
7. August 19th, 2019 Meeting Agenda
8. Communications
9. Adjourn

****Note: Every effort will be made to accommodate person or persons that need special considerations to attend this meeting due to a health condition or disability. Please contact the Lake Elmo City Clerk if you are in need of special accommodations.*

MINUTES

City of Lake Elmo Parks Commission

June 17, 2019

Members Present: Commissioners- Ames, Olinger, Schumacher, Weeks, and Zeno

Absent: Mayek and Nightingale

Staff Present: Public Works Director Powers, City Planner Prchal

The meeting was called to order by Weeks at 6:30 PM.

Announcements

Weeks acknowledgement of the passing of former Parks Commissioner David Steel. Former Public Works Director Mike Boothelt had some major surgery, but is doing well.

Approval of Agenda

Ames added a new item 9- Sunfish Lake Park Mowing.

Weeks asked to move Nature Center Patio request ahead of By-Laws on the agenda.

Ames motioned to approve the agenda with the changes, seconded by Olinger.

Motion passed unanimously.

Approval of Minutes

Weeks, asked for clarification on the measurements for the bike trail width from the last meeting. Prchal clarified the width and went into details about the RFP for specifications of the plan.

Ames and Olinger stated that the minutes captured distilled bare essence of comments made by the commissioners and the public, but they are adequate for the near future. Olinger stated that there was a misspelling of Ann Buchuck's name in the previous minutes.

Schumacher and Weeks asked for clarification about archives and retention for videos and minutes.

Ames motioned to approve the May minutes, seconded by Zeno.

Motion passed unanimously.

Ames raised an issue about public comments toward commissioners at breaks that were not very friendly and approaches on how to fix the issue.

Public Comments

Paul Gardner, 3216 Linden Lane North. Large circle development with a park in the middle of the neighborhood. Gardner is looking for installation of a Soccer net at the park in Easton Village. If funding is not an option, he would consider go-fund me to raise the money, but understands approval would be needed for that. Gardner states there is a playground there right now with a lot of wide open green space, councilman stated that the developer put plans in front of residents that may not align with parks commission plans. Local Facebook group of neighbors that are interested in this soccer net, Gardner

was in contact with Jaime Colemer regarding this issue, and she advised him to go to a parks meeting. Prchal will take contact info and will look into adding it to a future agenda. Plan a park visit to see what the space looks like. Gardner would not be requesting a full size net, just something for kids to practice soccer. General discussion on how to proceed with this request. Prchal will start looking into this park. Powers, talked about portable nets and he will look into costs of nets for the next meeting.

Nature Center Patio Request

Prchal presented on a request for the Nature Center is asking to put in a 525 Sq. ft. patio and may reduce size. Packets included for the public to look at with updated financial section. Additions came from lease agreements for the patio that states they can go ahead with the project with approval from the City. It also goes into detail about what it would cost to remove the patio, the plan has budget forecasts for what removal would cost. \$3 per Sq. ft. for a total of \$2,100 for removal of the patio. Patio will be south of the Nature Center. The City had recommended for the Nature Center to clean up the site, erosion control, and add in a rain garden. City staff recommendation stays the same, recommending for approval. On Page 2, it states that the project needs recommendation from the Commission and approval from the City Council.

Ames stated that there was a disconnect between what Kristina had found in the document and how the Nature Center interpreted the document for a requirement on how to seek approval for changes to this site. The Nature Center believes they have a lot of autonomy for what happens on this site, but that is not how the document reads. Prchal interprets that there is a need the approval for any changes made to the site.

Schumacher questioned if this project meets ADA requirements. The upstairs of the building is difficult to get a wheelchair up to. Commissioners asked for the City to look into ADA requirements. This should be the responsibility for the Nature Center and not the City, but it would help the process to raise this concern with the Nature Center.

Weeks has concerns if this is a multi-phase construction project. That this will lead to more and more additions. Asking for clarification that the commission is just approving the patio and not a long term project. Prchal states that this is just approval for the patio, nothing in this agreement to approve any other constructions plans.

Ames is understanding that this is approval for just a patio, but he wants to see more transparency from the Nature Center.

Ames motioned to approve option 2 to approve the patio with increase to escrow account contingent upon clarification if ADA accessibility requirements will be necessary. Seconded by Olinger.

Becky Tempest, 50th Street, Lake Elmo. Current Executive Director at the Nature Center. Wants to have the total amount adjusted based on the actual square footage of the patio because they are going to reduce the size just because they do not want that much concrete. Olinger raised the point about Nature Center utilizing green space and how concrete is not the best green practice and that they should entertain looking into alternatives over concrete. Other thoughts on how the patio could be used, it may not change the activities, but it will be easier to maintain. Tempest said the surface was chosen because the concrete was donated. Weeks asked about the sidewalk from the

second floor to the patio, which does not have any ADA accessibility. Tempest said that the only way to the patio is up the stairs or walk around the building on a gravel path. Weeks said he would not vote in favor for the motion as is because of lack of information for ADA accessibility, future plans, and learning opportunities. Zeno agrees with Weeks that there needs to be more information on this plan. He likes the idea of this patio, but wants more clarity. Tempest stated that the new size of the patio they want to put in will be 18ftX24ft which will reduce it by 100 sq. ft. Ames wants this project to really tie into teaching experiences. Schumacher asked if they have to make a decision on this tonight. He suggested bringing Tony to a meeting to clarify some of these questions. Ames withdrew his motion to approve option 2 to approve the patio with increase to escrow account contingent upon clarification if ADA accessibility requirements will be necessary. Ames motioned to table this discussion until they get clarification about the raised issues. Seconded by Zeno.

Motion passed unanimously.

By-Laws

Prchal talked about how the City went through the by-laws and updated Chapter 32. They updated the language regarding the Parks Commission ordinance. The by-laws are a guidelines that they would like to see and follow as a commission. Prchal gave an overview of the chapter going through the by-laws and explaining the processes. Weeks was wondering if they would notice a difference because they have already been following these by-laws. Prchal explained how staff have been telling the commission what to do and now there is a document that lays out how meetings should be run. Weeks said that this structure will help the public too, understand the structure of meetings. Schumacher referenced the Sandia by-laws which states that the Chair of the commission would be the main vocal person for the commission to the public. He would like to see that added into the proposed by-laws. Olinger stated that in the public comment section the topic of repetitiveness could be addressed better. Olinger motioned to pass the drafted by-laws as stated. Seconded by Weeks. Ames asked for clarification on if the ideas brought up in discussion were pertinent in the motion. Olinger stated it was not in her motion. Schumacher wanted the language stating that the Chair would represent the commission to the public on matters relating to the Park Commission activities. Olinger motioned to pass the drafted by-laws with the addition of language stating that the Chair would represent the commission to the public on matters relating to the Park Commission activities. Seconded by Weeks.

Motion passed unanimously.

Pebble Park Lighting

Powers explains that public works went out to explore quotes for security improvements for Pebble Park. Powers found 3 quotes to add, 2: 30 foot poles with LED lights, quotes have included an outlet on the poles. Electrical service coming from north of the pavilion. There are 3 existing light poles in the southern part of the park that are 15 feet off the ground and are incandescent lights. This proposal is to raise them up to 40 feet off the ground and convert them to LED lights. Goal is to reduce excessive dumping which occurs frequently in this park.

3 quotes: Killmer Electric-\$12,880 with 10 year warranty. TM Electric- Quite a bit more. Stabner Electric- \$14,650 with 5 year warranty.

Olinger asked if the Killmer quote stated that the poles are metal. Powers said yes it is stated in the RFP.

Ames raised a question on the light pollution from the fixtures. He also raised concerns about neighbors if there would be any light intrusions on the properties. Powers said that they are all downward cast and that it will not affect any of the light rays. The hours on the lights would be from dusk until dawn.

Weeks raised a point about Killmer electric. He noted that they installed lights in Lions Park and the old lights lit up that neighborhood. The LED lights helped reduce some of the brightness.

Olinger asked that the purpose of the light post by the parking lot was to focus the light on the parking lot. She mentioned it would be better to have it set to focus more on the west corner rather than the center. Powers explained if the post was moved to the west corner it would not light the east side, so the middle is the best option.

Zeno asked about the outlet and how much wattage that could support. Powers said they have 20 amp breakers on them.

Olinger asked about fixing a leaning panel in the park, Powers said it is not a part of the proposal, but a quote to fix the panel on a concrete slab would be about \$10,000.

Ames motioned to recommend that City staff move forward with the bid from Killmer Electric to install lights as proposed. Seconded by Zeno. Weeks raised a point that the proposal included a clause saying the project should not exceed \$15,000. Marty said he would like that buffer of \$2,120 in the event of unknowns. Ames added at the end of the motion that the project should not exceed \$15,000.

The motion passed unanimously.

Sunfish Park Mowing

Ames proposed to the commission to ask City staff to mow parts of the trails at Sunfish Park that have regular growth of grasses and weeds on a regular basis. To keep the weeds down and reduce the number of ticks and tick borne illnesses. In the past, parts of the park have been unusable because grasses and weeds are too overgrown.

Powers stated that City staff have been mowing it about twice a year. He would like to see it done monthly. Powers and Commissioners agreed that the City would mow monthly this year and assess the situation next year.

Review of the Subdivision Code-Park Dedication

Prchal explained that the City had recently approved two new zoning districts, being the Mixed Use Commercial and the Mixed Use Business Park. These two classifications are not covered in the park dedication section so staff are looking to insert these two sections into the code. Park dedication fees must be established by ordinance or a fee schedule that meets the requirement of state statute. Prchal references the League of Minnesota Cities for deciding how to set these fees. He showed a table with the existing parks dedication requirement that have categories for fees at 10%, 7%, 4% and fees that are set by a Council Resolution which are \$4,500/acre. The proposed changes would be to combine categories and average percentages for the rural districts creating a 10% and 5% fee. Keeping the \$4,500/acre for non-residential land.

Ames raised a concern that the \$4,500/acre for commercially developed land was low compared to residential development. Prchal said that it could be changes, but that is not in this proposal.

Weeks asked Prchal how much we could increase the commercial land fee. Prchal has not looked into specifics, and is not sure how much the City could raise the fee. Ames asked if they could approve this proposal and then look into raising the commercial fee, Prchal said if they would like to pursue that, they could do it at the same time.

Schumacher asked if the difference in the percentages would be noticeable and be skewed one way or another. Prchal said it probably will not be noticeable.

Ames asked how many acres that we have would be in the fee schedule. Prchal said he would be able to calculate some of it but not all of it. Ames read a section from page 30 of the park plan and wants to add credits for sections of trails that are built if they are designed as part of the Commissions park plan. Trails are just looping and Ames would like trails to fit into the park plan. Ames discussed how Woodbury has required developers to build trails so that they all connect and don't end up looping. Prchal explained that maybe the fees could be based off of Sq. ft. rather than acres.

Weeks asked if the 36 corridor could look like the 94 corridor in terms of development. Prchal explained that not with the current comprehensive plan.

Ames asked Prchal for how he would like the commission to proceed with this proposal. Prchal recommended that if the commission likes the current proposal for the subdivision code that they move it forward to the council. Then in the future they can look into wording for park dedication regarding trails. But if the commission wants to combine the trail language they would have to table this and bring it back at a future meeting.

Ames motioned to table this proposal for the park dedication fee to allow staff time to research information for trails. Zeno seconded the motion.

The motion passed unanimously.

July 2019 Meeting

Easton Village soccer nets

Subdivision code for park dedication

Nature Center Patio

Communication

Zeno stated that the volleyball courts in Lions Park are getting heavily used. The people are loving the courts and the new sand. He asked if there will be a fence put around the pickle ball courts and Prchal stated that those will be a hockey rink in the winter so boards will go up around the area. Zeno said that residents have been asking for improved lighting, create a hedge on the south side to prevent runaway balls, and a low rail to stop runaway balls. Prchal stated that the City is looking for names for the Village and Wildflower Park and there have been to recommendations yet.

Meeting adjourned at 9:00 p.m.

**Respectfully Submitted,
Alex Saxe**



PARKS COMMISSION COMMUNICATION

DATE: July 15, 2019

REGULAR MOTION

AGENDA ITEM: Sally Manzara Interpretive Nature Center Patio Addition
SUBMITTED BY: Ben Prchal, City Planner
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

The Friends of Lake Elmo approached the City with the request to install a patio addition to the back of the Sunfish Nature Center building. The MN Land Trust has had a chance to review their request and the Trust has provided approval. The Commission had discussed the patio at the May 20th and June 17th, 2019 meetings. Each meeting brought up new topics for discussion, and Staff has been bringing the information forward as requested. The information is intended to help aid towards a recommendation for the City Council.

ISSUE BEFORE COMMISSION:

Would the Commission like to recommend approval of the Construction of the proposed Patio?

PROPOSAL DETAILS/ANALYSIS:

Land Trust Review:

Being that the Land Trust has some jurisdiction over the park, the Nature Center needed to run the proposal past them and receive approval as well. With this being the case the Nature Center has submitted their proposal to the Land Trust and did receive approval. The approving letter has been included as an attachment. The Land Trust believes that the improvement to the property is in line with their values and does not conflict with the conservation easement over Area 2.

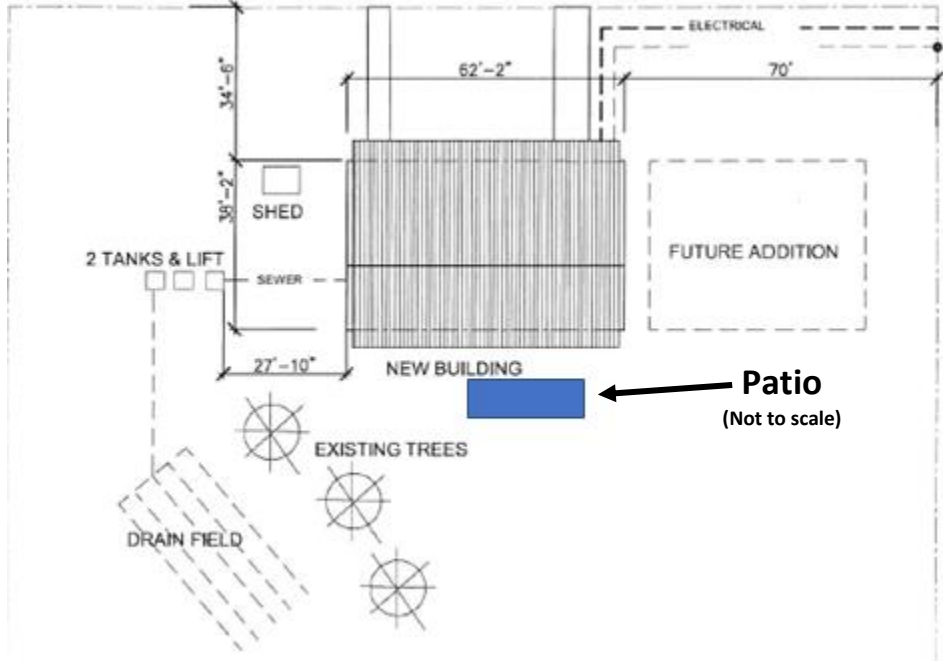
City Review:

From Staff's perspective, the City Code doesn't necessarily provide specific language to indicate one way or another as to if a patio should or should not be allowed. Because of this, Staff is reviewing it from the perspective that it would be allowed because a patio is allowed in any other district so long as the setbacks could be maintained and the impervious surface allowance is not exceeded. The portion of the park that the patio will go on is 151 acres and the percentage of impervious surface that is being applied to the property is a severely small number. The proposal consists of a 15 ft. by 35 ft. patio area which measures out to 525 sqft. At the June meeting it was stated that the patio might be smaller than initially requested.

Regarding the setbacks, the graphic that has been provided is not necessarily helpful in obtaining an accurate setback distance but Staff can reasonably deduce that there is a sufficient setback. The code for the Public Facility setback is listed as 50 ft. for accessory buildings. Staff was able to reasonably figure out that the patio would be +/-160 ft. from the property line.



The next item that Staff would review is the distance to the septic tanks and drain field. Washington County requires a 5 ft. setback from sewage tanks and a 10 ft. setback from drainfields. The patio is setback a sufficient amount from both features. The blue represents the proposed patio (not to scale).



LEASE AGREEMENT:

The City has a lease agreement established for the operation of the Nature Center and the agreement requires alterations or improvements to the site to receive written approval from the City before commencement. Staff believes this proposal to be an item that requires written approval of the City Council. The Lease agreement is attached for further review.

REQUESTED INFORMATION FROM JUNE MEETING

The Commission had asked Staff to reach out to Tony Manzara to gain information about three items; will the patio be ADA accessible, would the nature center be open to installing pervious pavers, and what are the future plans for the nature center as a whole. Beyond reaching out to Tony, Staff has not sought out answers to these questions.

FISCAL IMPACT:

Staff does not foresee a fiscal impact for the City. However, there is a possible impact if the Nature Center and Patio did need to be removed. Article 6 of the Lease agreement for the Nature Center outlines the escrow funds that are reserved for removal of the structure. Currently \$20,000 is being held to remove the building, if necessary. It is reasonable to conclude that additional improvements could raise the needed escrow amount. Staff estimates that the removal cost of a concrete patio would be around \$3.00 to \$4.00 per square foot. If the Commission believes it is needed, the estimated escrow amount would be calculated against the square footage of the patio.

OPTIONS:

- 1) Recommend approval of the Sally Manzara Nature Center patio.
- 2) Recommend approval of the Sally Manzara Nature Center Patio with an increase in escrow
- 3) Recommend denial of the Sally Manzara Nature Center patio.

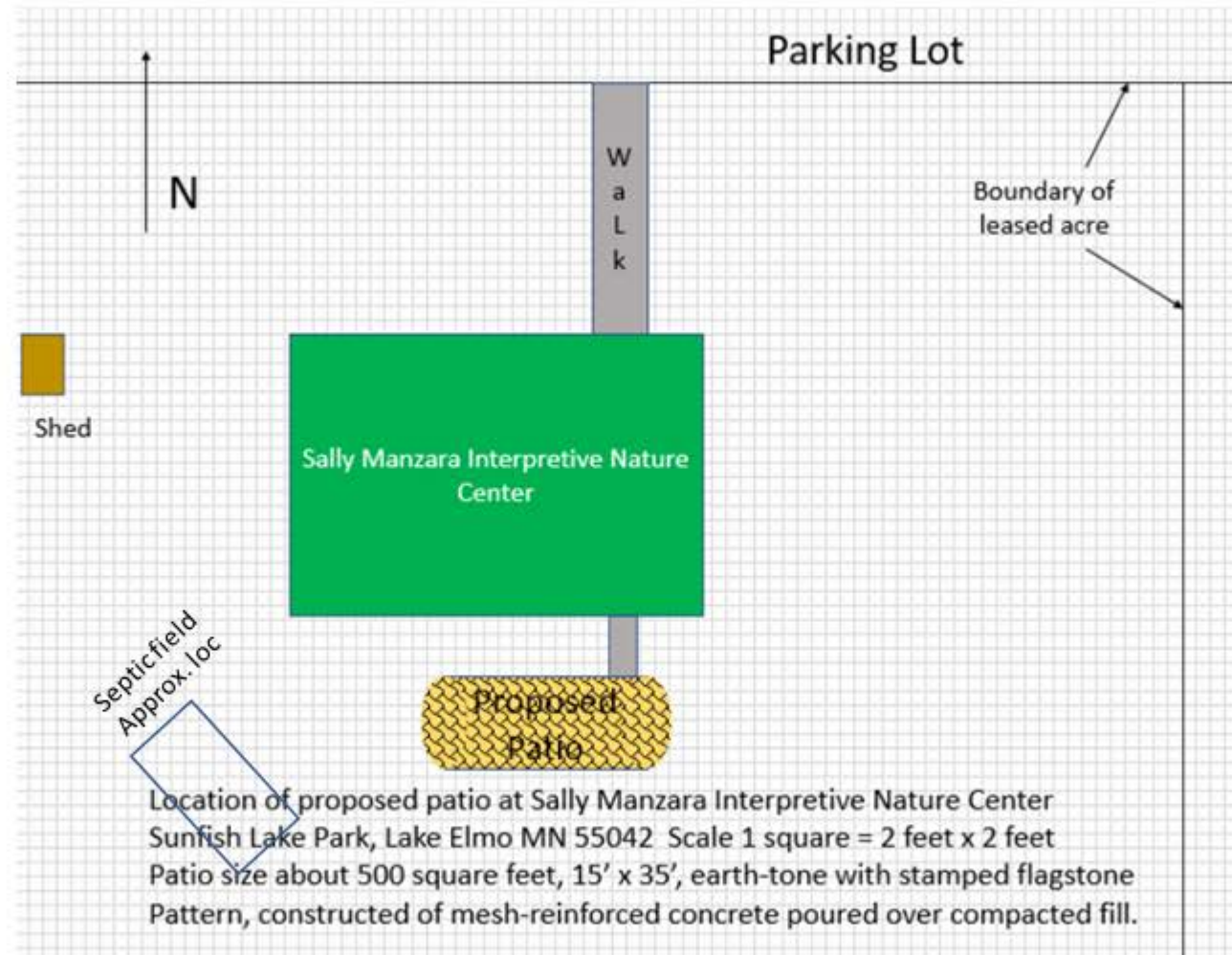
COMMENTS AND RECOMMENDATION

Staff views the patio as an improvement to the Nature Center building and an improvement to the park. Since the previous meeting the landscaping area around the building has been cleaned up. Staff no longer believes there would need to be a condition to clean up the site before construction.

"Motion to recommend approval of the patio at the Sally Manzara Nature Center as presented"

ATTACHMENTS:

- Patio Proposal
- Land Trust Letter
- Lease Agreement





MINNESOTA LAND TRUST

April 15, 2019

Kristina Handt, City Administrator
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

Re: Sunfish Lake Park (City of Lake Elmo)
Washington County
Our Project File ID #: 2009-387
Patio plan for Sally Manzara Interpretive Nature Center

Dear Ms. Handt:

The Minnesota Land Trust has reviewed the plan submitted by Tony Manzara to construct a new stamped concrete patio measuring 15 feet by 35 feet, to be located on the south side of the existing Sally Manzara Interpretive Nature Center building at Sunfish Lake Park. The plan for the patio is described in an exchange of emails between the City, the Land Trust, and Mr. Manzara.

Both the nature center and the proposed patio are in "Area 2," as described in Section 3.5 of the conservation easement protecting Sunfish Lake Park held by the Land Trust.

The proposed patio is consistent with the conservation easement and by this letter, the land trust hereby approves the plan to construct the patio.

Thanks very much.

Sincerely,


Kris Larson
Executive Director

cc: Ben Prchal, City Planner
Tony Manzara

**SALLY MANZARA INTERPRETIVE NATURE CENTER
DEVELOPMENT, LEASE, LICENSE AND OPERATING AGREEMENT**

This Development, Lease, License and Operating Agreement (this "Agreement") is entered into effective as of this 21st day of April, 2017 (the "Effective Date") by and between the City of Lake Elmo, a Minnesota municipal corporation (the "City") and the Friends of Lake Elmo's Sunfish Lake Park, a Minnesota non-profit corporation (the "Friends").

RECITALS

WITNESSETH:

WHEREAS, the City is the owner of Sunfish Lake Park, which is legally described on the attached Exhibit A (the "Property"); and

WHEREAS, the Property consist of approximately 284 acres of woodlands, wetlands and prairie wildlife habitats and trails for cross country skiing and hiking; and

WHEREAS, the Friends would like to construct and operate an interpretive nature center building on a portion of the Property for the use and benefit of the Lake Elmo community in accordance with the preliminary plans attached hereto as Exhibit B (the "Nature Center Building"); and

WHEREAS, the Property is subject to a conservation easement held by the Minnesota Land Trust (the "Land Trust") that limits the amount of development that may occur on the Property; and

WHEREAS, the City has received confirmation from the Land Trust that use of the Property for a nature center does not conflict with the terms of the Land Trust's conservation easement over the Property; and

WHEREAS, the City is willing to lease a portion of the Property to the Friends in order to allow it to construct, maintain and operate the Nature Center Building; and

WHEREAS, the Friends would also like to use the existing facilities of the Property in conjunction with its operation of the Nature Center Building; and

WHEREAS, the City is willing to grant a license to the Friends that will allow the Friends to use the existing facilities on the Property in conjunction with the Friends' operation of the Nature Center Building; and

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I
LEASE OF PROPERTY AND CONSTRUCTION OF THE NATURE CENTER
BUILDING

1. Lease of the Building Site and Approval of Nature Center Building Plans. The City hereby leases the portion of the Property that is depicted and described on the attached Exhibit C to the Friends (the "Building Site"). The Friends shall be responsible for constructing the Nature Center Building on the Building Site at its expense. The Friends shall also be responsible for bringing electric and water service to the Nature Center Building including any acquisition costs associated with easements for any utility easements that are needed. The Friends shall also be responsible for the cost of installing a septic or other approved waste treatment system to serve the Nature Center Building. Prior to commencing construction of the Nature Center Building or any other improvements on the Building Site, the Friends must receive any and all approvals, and building permits required by the City and any other governmental agency, including, but not limited to, approval by the Land Trust and by the City Council of the final plans and specifications for the Nature Center Building (the "Approved Plans"). The Friends shall pay for the building permit for the Nature Center Building and the costs of all other approvals and permits that are needed.

2. Construction of the Building. The Friends shall construct and install the Nature Center Building in accordance with the Approved Plans with a contractor acceptable to the Friends and the City. The Friends shall construct the Nature Center Building at its sole cost and expense, in a good and workmanlike manner, and in accordance with all applicable laws, codes, ordinances, and regulations. Any significant changes in the Approved Plans must be submitted to the Land Trust and the City for approval. Other than the Nature Center Building, the Friends shall make no other alterations or improvements to the Property without the prior written consent of the City. Prior to issuance of a certificate of occupancy for the Nature Center Building, the Friends shall clean up and remove all construction debris and trash from the Building Site and the Property. For purposes of this Agreement, Anthony P. Manzara (familiarily known as "Tony") shall be the Friends' representative with respect to the Nature Center Building construction or any other work to be performed on behalf of the Friends on the Property. The Nature Center Building must be completed no later than three years from the date of this Agreement.

3. Escrow. In order to ensure that the Nature Center Building is completed, the Friends must deposit funds equal to the total of the selected contractors' bids for the construction of the Nature Center Building according to the Approved Plans into an escrow account held by the City at the time of building permit issuance. After each contractor's invoice for a progress payment or final payment is received, the Friends will submit to the City a request for release of that amount, and the City will release the money to the Friends within 30 calendar days of the date of the Friends' request. Upon issuance of the certificate of occupancy for the Nature Center Building by the City's Building Department, any residual funds in said escrow account over \$20,000 will be released to the Friends. If the account balance does not exceed \$20,000 at this point, the Friends must replenish it to this level for the purposes described in Article VI, paragraph 1 of this Agreement.

In the event that the Nature Center Building is not complete within three years from the date of this Agreement, the City shall provide the Friends with written notice of the outstanding items to be completed. If the items are not completed within 60 days of the date of the notice, the City may either complete the items and reimburse itself for the costs associated with the completion from the escrow account or demolish the Nature Center Building and reimburse itself for the costs associated with the demolition from the escrow account.

ARTICLE II NATURE CENTER OPERATIONS

1. Friends' Responsibilities.

- a. The Friends shall manage and operate the Nature Center Building as an interpretive nature center in accordance with its mission statement which is attached to this Agreement as Exhibit D. The Friends shall prepare a five-year maintenance and management plan for the Nature Center that shall be provided to the City at the time the budget and financial disclosures set forth in Article III of this Agreement are provided. The Friends will maintain the Nature Center Building in a structurally sound, safe, clean, and attractive manner, and in accordance with applicable regulations, as a condition of the lease. If such maintenance is not done, the City may give the Friends 90 days' notice to correct the problem, unless seasonal conditions require a longer correction time.
- b. The Friends must make available to the public a variety of programs at the Nature Center Building for the education and enjoyment of people of all ages. The Friends may determine the type, frequency, and content of all of its programs.
- c. The Friends shall be responsible for hiring employees and contractors and recruiting volunteers to administer and support its programs at the Nature Center Building and to maintain the Nature Center Building. The Friends shall be responsible for compensating its employees and contractors and paying for any employee benefits.
- d. The Friends shall include one member that is appointed by the City Council as a voting member on its Board of Directors. The City Council is responsible for selecting the person who is to serve on the Friends' Board of Directors.
- e. In conducting its operations, the Friends shall abide by the terms of the Land Trust conservation easement that applies to the Property and all state and federal laws and regulations and City ordinances. The Friends may recommend to the City Council the adoption of rules and regulations, as shall be deemed appropriate, prescribing the use of the Nature Center Building, the Property and the conduct of persons upon the premises. Rules and regulations pertaining to the Nature Center Building and the Property which have been adopted by resolution of the City Council shall have the force of law. All duly adopted rules

and regulations governing the use of the Nature Center Building and the Property shall be conspicuously posted by the Friends on the premises.

2. City's Responsibilities.

- a. The Nature Center Building shall be officially named the "Sally Manzara Interpretive Nature Center" and the City shall refer to it as such, unless the name is changed in accordance with the provisions of Article VI, paragraph 1 of this Agreement.
- b. The City will promote the Friends' activities and events at the Nature Center Building and the Property through publishing articles in the City publications and placing these activities and events on the City event calendar and web site.
- c. The City will cooperate with the Friends with respect to any approvals by other government agencies or other entities needed by the Friends in order to operate a Nature Center on the Property. The City will also cooperate with the Friends with respect to the Friends' applications for grant funding for the Nature Center. With respect to both activities, the Friends shall be responsible for preparing any application that needs to be submitted and the City will assist by signing the application, if necessary and providing any supporting information that it may have available.

**ARTICLE III
FINANCIAL**

1. Budget. The Friends agree to operate the Nature Center Building within a balanced budget plan. The Friends shall take all actions necessary to assure that its annual operating expenditures do not exceed annual operating revenues. The Friends must provide the City with financial status reports as required by the City. By December 31st of each year and consistent with the City's budget cycle, the Friends must provide the City with any revised budget projections detailing any actions required to assure a balanced budget. The Friends shall submit an annual operating budget to the City by September 30th for the upcoming fiscal year.

2. Financial Disclosures. The Friends agree to provide the City with a detailed disclosure of its financial resources in conjunction with its financial status reports on an annual basis and a fully audited statement by an independent certified public accountant every third year, unless the Friends' annual revenues exceed \$100,000 in which case, a fully audited statement shall be provided to the City each year the revenues exceed \$100,000. The City also has the right to request that the Friends provide additional audits of the Friends' investments, receivables and payables so as to allow the City to verify the accuracy of the Friends' financial status reports. Such additional audits will be at the sole cost of the City. The City shall have the right to examine the Friends' books and financial records at any time upon making a written request.

3. Tax Exempt Status. The Friends covenant and agree that the Nature Center Building is, and shall remain for the duration of this Agreement, exempt from all ad valorem and other real

estate taxes. The Friends shall indemnify and defend the City from and against any and all liability, including, without limitation, attorneys' fees and expenses, in the event of any loss by the Nature Center Building of its tax exempt status in the year of termination of this Agreement and year after termination.

ARTICLE IV

LEASE OF NATURE CENTER BUILDING SITE AND LICENSE TO USE PROPERTY

1. Lease of Nature Center Building Site. The City hereby exclusively leases the Nature Center Building Site to the Friends. Monthly rent shall be \$1.00 and shall be payable on the first day of each month or in advance.

2. License to Use Property. The City hereby grants the Friends a non-exclusive license to use the remainder of the Property for nature center activities, including, but not limited to, self-guided or naturalist-guided nature walks, cross-country skiing, hiking and sledding. With the City's permission, the Friends may place features or equipment on the Property that are related to the use of the Property as a nature center. Any cameras placed in the park for programming purposes by the Friends must be approved by City staff and consistent with any camera protocol procedure or policy adopted by the City.

3. Use of the Nature Center Building Site and the Property. The Friends shall use the Nature Center Building Site and the Property for nature center uses and for no other uses whatsoever. The Friends agree that throughout the term of this Agreement, it shall not use the Nature Center Building Site or the Property for the storage, handling, transportation or disposal of any Hazardous Substances. "Hazardous Substances" for purposes of this Agreement shall be interpreted broadly to include, but not be limited to, any material or substance that is defined, regulated or classified under any Environmental Law or other applicable federal, state or local laws and the regulations promulgated thereunder as: (i) a "hazardous substance" pursuant to section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601(14), the Federal Water Pollution Control Act, 33 U.S.C. §1321(14), as now or hereafter amended; (ii) a "hazardous waste" pursuant to Section 1004 or Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6903(5), 6921, as now or hereafter amended; (iii) toxic pollutant under section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1) as now or hereafter amended; (iv) a "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. §7412(a)(6), as now or hereafter amended; (v) a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. §5102(2), as now or hereafter amended; (vi) toxic or hazardous pursuant to regulations promulgated now or hereafter under the aforementioned laws or any state or local counterpart to any of the aforementioned laws; or (vii) presenting a risk to human health or the environment under other applicable federal, state or local laws, ordinances or regulations, as now or as may be passed or promulgated in the future. "Hazardous Substances" shall also mean any substance that after release into the environment or upon exposure, ingestion, inhalation or assimilation, either directly from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer or genetic abnormalities and specifically includes, but is not limited to, asbestos, polychlorinated biphenyls ("PCBs"), radioactive materials, including radon and naturally occurring radio nuclides, natural

gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-based derivatives and urea formaldehyde. However, this paragraph will not be interpreted as forbidding the proper storage by the Friends of reasonable amounts of hazardous substances commonly used in the operation of a nature center, such as fuels (e.g. gasoline, diesel fuel or propane), equipment and vehicle maintenance fluids (e.g. anti-freezes, lubricants, engine cleaners), materials used for coating structures or furniture (e.g. paints, varnishes), and materials used for craft work or specimen preservation (e.g. epoxies, urethanes, acrylic monomers, or formalin). The storage and disposal of these substances must be in compliance with all local, state and federal regulations and requirements and any licenses or permits must be obtained, if required.

4. City Use of Nature Center Building. The Friends shall provide the City with free use of the Nature Center Building Site for public purposes, provided that the City's use does not conflict with a previously scheduled Friends' program. At City expense, the City agrees to repair any damage to the Nature Center Building, its furnishings, exhibits, or utilities, and clean up any detritus left behind by any such City-organized use of the Nature Center Building.

5. City's Repair and Maintenance Responsibilities. The City agrees to maintain in good condition and repair and replace, if necessary, at its expense and without reimbursement or contribution by the Friends, the following facilities on the Property: (a) the access road; (b) the parking lot; and (c) all cross country skiing and hiking trails. The City will also plow the access road and the parking lot on the Property on a regular basis. All repairs and maintenance by the City will occur with reasonable promptness and without unreasonable interference with, or disturbance of, the use and enjoyment of the Nature Center Building Site by the Friends and its invitees.

6. The Friends' Repair and Maintenance Responsibilities. The Friends agree to maintain in good condition and repair and replace, if necessary, at its expense and without reimbursement or contribution by the City, the Nature Center Building and the Nature Center Building Site and all other improvements installed by the Friends on the Property, including, but not limited to, any landscaping, personal property, furnishings, fixtures and equipment including, but not limited to the following: (a) restrooms; (b) signs; (c) kiosks; (d) decks/porches/patios; and (e) water fountains.

7. Covenant of Title and Quiet Enjoyment. The City represents and warrants that: (a) it has the full right, power, and authority to lease the Nature Center Building Site to the Friends; (b) that with the exception of the easement held by the Land Trust, no restrictive covenant, easement, lease, sublease, or other written agreement restricts, prohibits, or otherwise affects the City's rights set forth in this Agreement, including, without limitation, construction, permitted use or ingress and egress to and from the Nature Center Building Site; and (c) the Friends upon performance of the covenants hereunder, shall and may peaceably and quietly have, hold and enjoy the Nature Center Building Site during the term of this Agreement. Additionally, the City will take no action that will interfere with the Friends' intended use of the Nature Center Building Site or ingress or egress to the Nature Center Building Site.

8. Alterations. With the exception of the construction of the Nature Center Building, the Friends shall not make any major alterations, improvements, or additions to the Nature Center Building Site or the Property without the prior written approval of the City. A “major alteration, improvement or addition” is any alteration, improvement, or addition to the Nature Center Building: (a) which is structural in nature; (b) which would materially change the Nature Center Building exterior appearance; (c) which would materially change or affect the electrical, mechanical, heating, ventilating and air conditioning or utilities systems or routing servicing of the Nature Center Building; or (d) which is estimated in good faith to cost in excess of \$10,000. All alterations, improvements or additions shall be performed by the Friends, at no cost or expense to the City.

9. Sub-Letting. The Friends shall not sublet any portion of the Nature Center Building Site.

10. Utilities and Services. The Friends shall be responsible for paying all charges for all utilities for the Nature Center Building Site, including, but not limited to, water, septic system, electricity, natural gas or propane, telephone, Internet, cable/satellite television and garbage and refuse removal. The Property is currently not served by the City’s sanitary sewer system. In the event that sanitary sewer service becomes available, the Friends understand that the Nature Center Building will be required to connect. The City and the Friends will determine at that time how the assessment and the connection charges should be allocated between them.

11. Surrender. Upon termination of this Agreement, the Friends shall remove all debris and personal property of, or created by the Friends.

ARTICLE V INSURANCE AND LIABILITY

1. Indemnification. The Friends shall hold the City and the Land Trust harmless from and indemnify and defend the City and the Land Trust against any claim or liability arising in any manner from the Friends’ use, improvement, and occupancy of the Nature Center Building Site and the Property, or relating to the death or bodily injury to any person or damage to any personal property present on or located in the Nature Center Building or on the Nature Center Building Site and Property at the Friends’ invitation or sufferance.

2. Personal Property. The Friends shall be responsible for any personal property that it keeps at the Nature Center Building Site and the Property. The Friends agree to hold the City harmless from any and all loss or damage to its personal property, except in the case of loss or damage incurred during the City’s use of the Nature Center Building or the Property.

3. Insurance.

- a. Insurance to be Maintained by the Friends. The Friends shall be responsible for obtaining and maintaining public liability insurance providing coverage against claims for bodily injury, death and personal property damage occurring at the Nature Center Building Site and the Property as a result of its operation of the Nature Center Building. Coverage shall be maintained at a minimum of

\$1,500,000 each occurrence. The Friends shall also maintain property damage insurance for the Nature Center Building. The Friends shall name the City as an additional insured. A certificate of insurance shall be provided to the City on an annual basis. Such policy or policies shall provide that 30 days written notice must be given to the City prior to cancellation thereof. The Friends shall furnish evidence satisfactory to the City at the time this Agreement is executed that such coverage is in full force and effect. The Friends shall also maintain workers' compensation insurance for its employees.

- b. Insurance to be Maintained by the City. The City shall be responsible for obtaining and maintaining property and general liability insurance for the Property, with the exception of the Nature Center Building.
- c. Subrogation. The Friends and the City release each other from any and all liability which they might have against the other or any one claiming through or under them by way of subrogation or otherwise, resulting from the occurrence of any accidents or casualty or loss covered by insurance being carried by the damaged party at the time of such occurrence.

4. Waiver. Nothing in this Agreement shall be deemed to be a waiver by the City or its elected officials of any limitations on or immunities from liability set forth in Minnesota Statutes, Chapter 466 or to which the City or its officials, employees, agents and representatives are otherwise entitled.

5. Independent Contractor Status. All services provided by the Friends and its officers, employees, volunteers and agents pursuant to this Agreement shall be provided by such persons as an employee of the Friends, volunteer of the Friends or as an independent contractor and not as an employee or volunteer of the City for any purpose. The Friends shall be responsible for the following with respect to its employees, including, but not limited to: (a) income tax withholding; (b) workers' compensation; (c) unemployment compensation; (d) FICA taxes; and (e) benefits.

ARTICLE VI GENERAL PROVISIONS

1. Termination. In the event that the Friends are in breach of any of the terms of this Agreement, the City shall provide the Friends with written notice of the breach and provide the Friends with at least 60 days of the date of the notice to cure the breach. In the event that the Friends do not cure the breach, the City may cure the breach and reimburse itself for its costs to cure the breach from the escrow account. In the event that the City opts to cure the breach and reimburses itself for its costs from the escrow account, the Friends shall replenish the escrow account so that the balance is at least \$20,000.

If the breach is a material breach, the City may terminate this Agreement and at its option either use the escrow fund to demolish the Nature Center Building, or choose to keep and use the Nature Center Building. In the latter case, the Friends shall surrender the Nature Center Building

and Nature Center Building Site to the City upon payment of the Appraised Value of the Nature Center Building. The “Appraised Value” shall be determined as follows:

The City shall select and pay for a licensed appraiser to provide an appraisal of the Nature Center Building and the value of the Nature Center Building as determined by the appraiser shall be the “Appraised Value.” If the Friends are not in agreement with the amount of the Appraised Value as determined by the City’s appraiser, the Friends may obtain an appraisal at the Friends’ expense. In that event, the Appraised Value of the Nature Center Building shall be determined by averaging the appraised value amounts set forth in the City appraisal and the Friends’ appraisal.

Upon payment of the “Appraised Value” by the City, the Nature Center Building shall become the property of the City.

In the event that the Friends are unable to continue the operation and maintenance of the Nature Center Building, the Friends may terminate this Agreement. The Friends shall provide the City with written notice of the termination at least 60 days prior to the effective date of termination. The Friends may choose to donate the Nature Center Building to the City, provided that the City is willing to accept it or remove it. If the City will not accept the Nature Center Building, the Friends must remove it. In the event that the Friends remove the Nature Center Building, the Friends must remove all debris and restore the Property to its original condition.

2. Building Name. If the Friends donate the Nature Center Building to the City, the City may change the name of the building if the City converts the building to another use. If the Nature Center Building continues to be used as a nature center by the City, it shall continue to be known and referred to as the “Sally Manzara Interpretive Nature Center.”

3. Entire Agreement and Amendment. This Agreement constitutes the entire agreement between the City and the Friends and there are no other agreements, either oral or written, between the parties. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the City or the Friends unless reduced to writing and executed in the same form and manner in which this Agreement is executed.

4. Data Practices Compliance. Data provided to the Friends under this Agreement shall be administered in accordance with Minnesota Statutes Chapter 13 and all data on individuals shall be maintained in accordance with statutory guidelines.

5. Severability. The provisions of this Agreement are expressly severable, and the unenforceability of any provision or provisions hereof shall not affect or impair the enforceability of any other provision or provisions.

6. Notices. Except as otherwise expressly provided in this Agreement, any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by United States Mail or delivered personally to:

- (a) The Friends of Lake Elmo's Sunfish Lake Park
5050 Kirkwood Avenue North
Lake Elmo, MN 55042
Attn: Anthony P. Manzara
- (b) City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042
Attn: City Administrator

or to such other address as either party may notify the other of pursuant to this paragraph.


7. Recitals. The Recitals set forth in the preamble to this Agreement are incorporated into the Agreement by reference.

8. Assignment. The Friends may not assign its interests and responsibilities under this Agreement to any other party without obtaining the prior written consent of the City.

9. Choice of Law. This Agreement shall be interpreted in accordance with the laws of the State of Minnesota. Any dispute arising out of this Agreement will be venued in Washington County, Minnesota.

IN WITNESS WHEREOF, the City and the Friends have executed this Agreement the day and year first above written.

CITY OF LAKE ELMO

By: 
Mike Pearson
Its: Mayor

By: 
Julie Johnson
Its: City Clerk

FRIENDS OF LAKE ELMO'S SUNFISH LAKE PARK

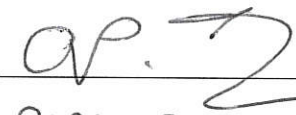
By: 
Its: PRESIDENT

EXHIBIT A
Legal Description of the Property

Exhibit A

Legal Description of the Protected Property

The Northwest Quarter of the Northwest Quarter (NW 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), and the West Thirty-three (33) feet of the Southwest Quarter of the Northwest Quarter (SW 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), Washington County, Minnesota.

AND

That part of the Northeast quarter of the Northwest quarter of Section 15, Township 29, Range 21, Washington County, Minnesota, described as commencing at the Northeast corner of said Northeast quarter of Northwest quarter; thence South 0° 51' 45" East, assumed bearing, along the East line thereof, 501.27 feet to the South line of the North 30 acres of said Northwest quarter and to the actual point of beginning of the land to be hereinafter described; thence South 89° 01' 54" West along said South line of North 30 acres 800 feet; thence South 0° 51' 45" East 734.30 feet; thence North 89° 01' 54" East 800 feet to the East line of said Northeast quarter of the Northwest quarter; thence North 0° 51' 45" West along said East line 734.30 feet to the actual point of beginning.

AND

The Northwest quarter of the Northeast quarter, the Northeast quarter of the Northeast quarter, the Southwest quarter of the Northeast quarter, the North three-quarters of the Southeast quarter of the Northeast quarter and that part of the East 87 feet lying South of the North three-quarters of the Southeast quarter of the Northeast quarter all in Section 15, Township 29, Range 21.

AND

The east 87 feet of that part of the Southeast quarter of Section 15, Township 29, Range 21, lying Northerly of the Northerly right of way line of State Highway #212, subject to the right of way Stillwater Lane (formerly State Highway #212).

AND

The Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW 1/4 of NE 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29) North, Range Twenty-one (21) West, Washington County, Minnesota.

AND

The North Three (3) rods of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW 1/4 of SE 1/4 of NW 1/4) of Section Fourteen (14), Township Twenty-nine (29), Range Twenty-one (21), Washington County, Minnesota.

AND

The South Forty (40) acres of Government Lot Five (5), Section Ten (10) and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Ten (10). AND the North Thirty (30) acres of the North one-half of the Northwest Quarter (N $\frac{1}{2}$ of NW $\frac{1}{4}$) of Section Fifteen (15), all in Township Twenty-nine (29) North of Range Twenty-one (21) West, containing 110 acres more or less.

EXCEPT:

All that part of the South 40 acres of Government Lot 5, Section 10, and the Southeast Quarter of the Southwest Quarter of Section 10, and the North 30 acres of the North One-Half of the Northwest Quarter of Section 15, all in Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

Beginning at the northwest corner of said Section 15, thence South 00 degrees, 18 minutes, 30 seconds West, bearings are based on the Washington County Coordinate System NAD83, along the west line of said Section 15, a distance of 501.27 feet to the south line of said North 30 acres of the North One-Half of the Northwest Quarter of Section 15, thence North 89 degrees, 51 minutes, 00 seconds East, along said south line, a distance of 1808.59 feet, thence North 00 degrees, 02 minutes, 32 seconds West and parallel with the east line of said Northwest Quarter of Section 15, a distance of 501.26 feet to the north line of said Section 15, thence South 89 degrees, 51 minutes, 00 seconds West, along said north line a distance of 105.52 feet, thence North 00 degrees, 53 minutes, 21 seconds West and parallel with the west line of said Section 10, a distance of 650.00 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the south line of said Section 10, a distance of 200.00 feet, thence North 00 degrees, 53 minutes, 21 seconds West and parallel with the west line of said Section 10, a distance of 656.24 feet, to a point on the north line of said Southeast Quarter of the Southwest Quarter of Section 10, thence South 89 degrees, 45 minutes, 24 seconds West, along said north line, a distance of 193.17 feet to the northwest corner of said Southeast Quarter of the Southwest Quarter, thence North 00 degrees, 42 minutes, 39 seconds West, along the east line of said Government Lot 5, a distance of 29.52 feet to the northeast corner of said South 40 acres of Government Lot 5, thence South 89 degrees, 51 minutes, 00 seconds West, along the north line of said South 40 of Government Lot 5, a distance of 706.92 feet, thence South 00 degrees, 53 minutes, 21 seconds East and parallel with the west line of said Section 10, a distance of 200.00 feet, thence South 50 degrees, 54 minutes, 08 seconds West, a distance of 127.25 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the north line of said South 40 acres of Government Lot 5, a distance of 500.00 feet to the west line of said Section 10, thence South 00 degrees, 53 minutes, 21 seconds East along the west line of said Section 10, a distance of 1055.45 feet to the point of beginning, containing 65.9 acres, more or less.

AND ALSO EXCEPT:

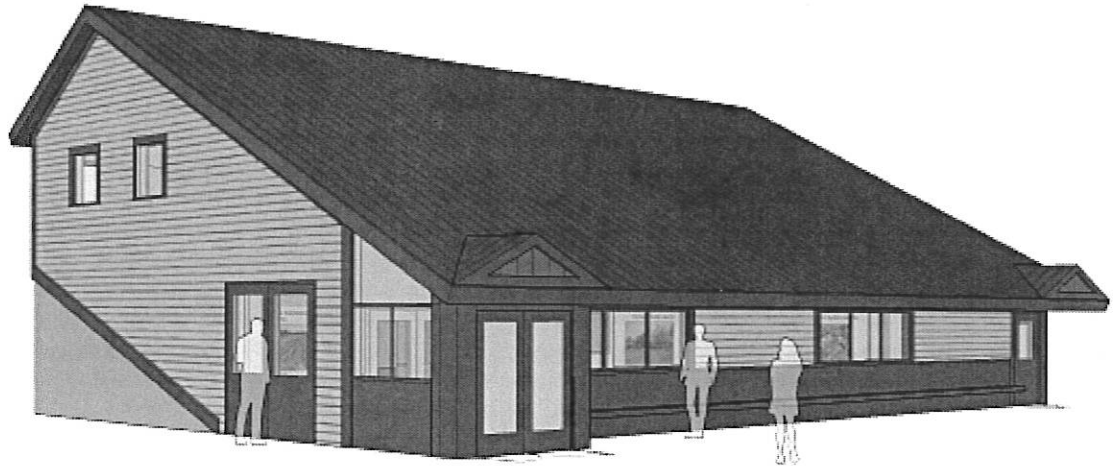
All that part of the South 40 acres of Government Lot 5, Section 10, Township 29 North, Range 21 West, Washington County, Minnesota, described as follows:

Commencing at the southwest corner of said Section 10, thence North 00 degrees, 53 minutes, 21 seconds West along the west line of said Section 10, a distance of 1055.45 feet to the point of beginning, thence continuing North 00 degrees, 53 minutes, 21 seconds West along the west line of said Section 10, a distance of 280.00 feet to the northwest corner of said South 40 acres of Government Lot 5, thence North 89 degrees, 51 minutes, 00 seconds East along the north line of said South 40 acres of Government Lot 5, a distance of 600.00 feet, thence South 00 degrees, 53 minutes, 21 seconds East and parallel with the west line of said Section 10, a distance of 200.00 feet, thence South 50 degrees, 54 minutes, 08 seconds West, a distance of 127.25 feet, thence South 89 degrees, 51 minutes, 00 seconds West and parallel with the north line of said South 40 acres of Government Lot 5, a distance of 500.00 feet to the point of beginning, containing 3.8 acres, more or less.

EXHIBIT B

Preliminary Plans for the Nature Center

The image reproduced here represents a more complete preliminary plan contained in the accompanying document "Roger Tomten SUNFISH NATURE CENTER 040117 update"



1 NORTH EAST PERSPECTIVE
8 NO SCALE

TOMTEN
ENVIRONMENTAL
DESIGN
ROGER TOMTEN
ARCHITECT
10000 RIVERVIEW BLVD
MINNETONKA, MN 55369

PRELIMINARY DESIGN FOR THE :
SALLY MANZARA INTERPRETIVE NATURE CENTER
SUNFISH LAKE PARK, LAKE ELMO, MINNESOTA

DATE:
3 APRIL 2011
TOMTEN ARCH

SHEET
8
OF 8

EXHIBIT C

Description of Nature Center Building Site

The Nature Center Building Site is defined as one acre (a square plot approximately 207 feet on a side) oriented with the edges north-south and east-west, with its eastern side centered on the existing fire hydrant which is located just west of the Sunfish Lake Park south entrance drive just before it turns into the parking lot, and its northern side centered on the southernmost of the boulders which form the southern boundary of the existing parking lot.

EXHIBIT D

Mission Statement

The Sally Manzara Interpretive Nature Center –

- Stands as a symbol of the Stewardship of our community for its natural surroundings and heritage
- Serves as a focus of community activities related to outdoor life
- Provides a place where people of all ages can learn about the unique natural history and ongoing ecology of Sunfish Lake Park
- Teaches general environmental awareness via specific local examples
- Honors the agricultural heritage of Lake Elmo



STAFF REPORT

DATE: July 15, 2019

REGULAR

ITEM #:

MOTION

TO: Parks Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Park Dedication for Mixed Use Districts
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

An update to the City's Subdivision Regulations Ordinance was an item on the Planning Commission's 2018 Work Plan. The Planning Commission reviewed and recommended approval of various amendments to the ordinance at its February 26 and March 26, 2018 meetings and City Council adoption on 4.3.2018. Since then Staff has begun to plan for further amendments that address changes that will come forward with the 2040 Comprehensive plan. The focus of this amendment will be on Mixed Use Districts, specifically brought up by the Mixed Use Business Park and Commercial land use. The Parks Commission also looked at the ordinance and had tabled the discussion at its June 17, 2019 meeting to focus on commercial collection and trail connection language.

ISSUE BEFORE THE COMMISSION:

Does the Commission agree with the proposed amendments for park land dedication and trail connection requirements?

REVIEW AND ANALYSIS:

The City has language in the subdivision code for park dedication requirements for subdivision. The City will either accept a cash contribution or land contribution for park space. There are variations that the City can ask for when acquiring land or funds. The City can ask for funds and land, just land, or a cash contribution. Determining the most appropriate option is determined on a case by case basis, which the Comprehensive Plan helps guide.

The table below does not provide a clear guide for Staff to follow regarding the new mixed use zoning districts. Except of the VMX (Village Mixed-Use) district, it is unclear if Staff should apply the residential dedication requirements or if the commercial dedication requirements should apply.

Residential Requirements:

The table below provides a breakout for Staff to apply towards new developments based on the zoning district (with the exception of VMX). With this table Staff would either be recommending 10% of the value of the total land area as a cash contribution or 10% of the area dedicated for park space. Staff would like the Commission to recognize that Section 153.15 (C.) of the City code outlines the land that is deemed worthy for being accepted by the City.

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
RS, V-LDR, GCC, LDR, MDR, HDR	10%
RE and OP Development	7%
RR and AG	4%
C, CC, LC, GP, BP, VMX	Fees as set by Council resolution

EXAMPLES FROM OTHER CITIES:

Mounds View:

Based off the code that Staff was able to find, it was unclear how a percentage was chosen beyond the criteria listed. It states that up to 10% may be collected but it seems like the percentage is less standard and chosen more on a case by

case basis and is further confirmed by their fee schedule. This percentage seems to apply to any type of subdivision, commercial or residential.

Oakdale:

The City of Oakdale seems to have chosen to simplify their code in that they only have two categories, residential or commercial. Either a cash contribution would be made or land contribution would be made. Staff is speculating that the land contribution for commercial lots is based on square footage of the building being built and not the lot size.

Park Dedication Fees:	2018	2019
Land Dedication - Residential	.0167 acres/unit	.0167 acres/unit
Land Dedication - Commercial	.0058 acres/1,000 SF	.0058 acres/1,000 SF
Cash Dedication - Residential	\$2,886	\$2,886
	\$2,607	\$2,607
Cash Dedication - Commercial	\$467.00	\$467.00
	\$534.00	\$534.00
	\$267.00	\$267.00

Zoning Districts	Minimum Required Land Dedication
RS, V-LDR, GCC, LDR, MDR, HDR	10%
RE and OP Development	7%
RR and AG	4%
C, CC, LC, GP, BP, VMX	\$4,500/acre

As an example, if the City were to review a proposal with a 5,000 sqft building the collection for land would be .029 acres or \$2,335 (For commercial lots the City would only be taking cash contributions).

As a scenario, if the City were to receive a proposal of 240 units on 40 acres (rounded to simplify). Following the Oakdale method this would equate to 4 acres of park land dedication (per unit) or \$11,544. .0167*240 = 4 and the value is 4*\$2,886 = \$11,544 or \$2,607 * 240 = \$625,680 (Staff called but did not hear back to understand how they calculate per unit).

Lake Elmo will be collecting 10% of the land value. Staff has done a highly estimated (consider this an example and not hard numbers) calculation using the 240 unit 40 acre scenario, the Lake Elmo collection method comes in rounded \$297,023 or \$1,237 per unit, following the Oakdale method.



FIGURES USED FOR ALL OTHER CALCULATIONS

Value of total land \$5,309,300
Total Acres (pre subdivision) 71.5
 $\$5,309,300 / 71.5 = \text{cost per acre } \$74,255.9$
 Example of 40 ac * \$74,255.9 = \$2,970,237
 Percentage Collected 10% * \$2,970,237 = **\$297,023.77**

Orono:

The City of Orono has a standard 8% land dedication rate across the board for either residential or commercial subdivisions. If cash is chosen over land dedication there is a range per dwelling unit for residential zones \$3,250-\$5,550 per dwelling unit. Staff is speculating that 8% would also apply to the cash contribution. Meaning it would be 8% of the value within the established minimum and maximum. Commercial is similar but with a different minimum and maximum, \$8,125-\$13,875.

Using the established scenario:

Value of total land \$2,970,237
Total Acres (pre subdivision) 40
 $40 \text{ ac} * 8\% = 3.2 \text{ acres dedicated}$
 or
 $\$3,250 * 240 \text{ units} = \$780,000$

Stillwater:

Stillwater seems to have a highbred version for dedication collection. They have determined that it would be appropriate to collect land as a percentage as shown in their table and then collect fees based on a per unit basis. This seems to have some merit since they are collecting on “number of users.”

Commercial Requirements:

For the Lake Elmo table, the commercial, business, and mixed use zones only allow for a cash contribution as determined by the City Council. As of today that contribution would be \$4,500 per acre for commercial lots. Staff has done their best to pull together specific examples from other Cities for commercial collection.

Victoria: Requires a 5% collection for every acre of land over 1 acre. (Using the example this would be \$3,712.79/ac)

Ham Lake: No Commercial dedication.

Maplewood: Requires a 9% dedication rate per acre. (Using the example this would be \$6,683.03/ac)

Orono: Requires a 8% collection with a minimum of \$8,125 and maximum \$13,875.

Mahtomedi: Requires a 7% collection or a \$6,000 fee, whichever is less. (Using the example this would be \$5,197.9/ac)

Stillwater: Requires a 7.5% dedication rate per acre. (Using the example this would be \$5,569.2/ac)

Average Collection: \$4,881.2/ac (this includes Ham Lake as a \$0 collection)

Trail Dedication:

As requested by the Commission, Staff is proposing additional amendments to the sub-division ordinance regarding trail acceptance for park dedication.

(D) *Trails.* Trails constructed by a subdivider within dedicated public open space having at least 30 feet of width are eligible for park credit. The maximum amount of trail dedication credit shall not exceed 25% of the total required park dedication. To receive the 25% credit for a trail, there must be a public trail connection to the larger Lake Elmo or Washington County trail network. If the proposed trails are not able to connect to existing trails, they must be installed in a way that would allow them to connect to future trails as additional infrastructure is established.

FISCAL IMPACT:

Staff does not foresee a negative fiscal impact.

COMMENTS AND RECOMMENDATION:

Determining the best value that is fair for both parties involved for a development in the mixed use district has been an interesting task. The Staff recommendation is provided below but direction from the Commission for changes or comments are still desired from Staff. Staff recommends the amendments.

Existing Fee Structure

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
RS, V-LDR, GCC, LDR, MDR, HDR	10%
RE and OP Development	7%
RR and AG	4%
C, CC, LC, GP, BP, VMX	Fees as set by Council resolution

\$4,500/acre

Proposed Fee Structure

Zoning Districts	Minimum Required Land Dedication
V-LDR, GCC, LDR, MDR, HDR, C, CC, LC, BP, VMX, MU-BP, MU-C	10%
RS, AG, RE, RR (Rural Districts)	5%
VMX, MU-BP, MU-C	Fees as set by Council Resolution ^a

- a. The 10% charge is only applied if a residential component is incorporated into the development/subdivision.

Staff is recommending the combination of OP Development, RR and AG, as well as including the RS section to create a rural charge. The new percentage was determined by taking the average of 7% and 4% = 5% for the new rural charge. Then Staff determined that there should be a urban charge of 10% the mixed use districts being incorporated. As you can see in the table the mixed use districts are in two sections. Staff thinks there could be a 10% charge if the development/subdivision included a residential component and then the Council set charge (\$4,500) would apply if there

was not a residential component. Staff believes the City could increase this figure, but this would be conducted through the fee schedule update process.

Focusing on the commercial park dedication collection, Staff believes there could be grounds to increase the Council set Fee to \$5,000 per acre which is up from \$4,500 per acre.

Options:

Recommend approval of the amendments as proposed.

Recommend approval with amendments to the proposed language.

Recommend denial of the amended language.

“Motion to recommend approval of the sub-division code as proposed”

ATTACHMENTS

- Lake Elmo Code with redlines.

(I) *General improvements.* The following shall be installed in accordance with the City of Lake Elmo Engineering Design Standards Manual and all other applicable City standards:

- (1) Trees and boulevard sodding.
- (2) Streets signs shall be installed at each intersection.
- (3) Driveway approaches, sidewalks, or pedestrian pathways.
- (4) Street lighting fixtures.

(5) Sidewalks are required on one side of all streets. The Council may require sidewalks along both sides of all streets in areas where the residential density equals or exceeds 3 dwelling units per ~~net~~ acre of land or in any commercial, industrial, or other business areas if the Council determines that sidewalks are required for public safety.

(1997 Code, § 400.14) (Am. Ord. 08-024, passed 4-20-2010) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.15 PARK LAND DEDICATION REQUIREMENTS.

(A) *Dedication of land for park and open space use.* In all new residential 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. For non-residential developments, the City requires a payment in lieu of land dedication as established by resolution of the City Council. Such percentage or fee 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 describes the required dedication by zoning district. 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>Minimum Required Land Dedication</i>
V-LDR, GCC, LDR, MDR, HDR, C, CC, LC, BP, VMX, MU-BP, MU-C	10%
RS, AG, RE, RR (Rural Districts)	5%
VMX, MU-BP, MU-C	Fees as set by Council resolution ^a

- a. The 10% charge is applied if a residential component is incorporated into the development/subdivision.

(B) *Land title.* 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) *Trails*. Trails constructed by a subdivider within dedicated public open space having at least 30 feet of width are eligible for park credit. The maximum amount of trail dedication credit shall not exceed 25% of the total **required park** dedication. **To receive the 25% credit for a trail, there must be a public trail connection to the larger Lake Elmo or Washington County trail network. If the proposed trails are not able to connect to existing trails, they must be installed in a way that would allow them to connect to future trails as additional infrastructure is established.**

(E) *Cash contribution in lieu of land dedication - residential subdivisions larger than three lots*. In lieu of the land dedication for major subdivisions, 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 major subdivisions, the 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.

(F) *Cash contribution in lieu of land dedication - minor residential subdivisions and commercial development*. Required cash equivalent payments for minor subdivisions or for commercial development projects shall be as determined from time to time by Council resolution.

(G) *Payment of cash contribution*. Cash contribution payments shall be made to the City prior to final plat approval for commercial developments or major subdivisions, or prior to the City's approval of the deeds of conveyance in those cases where a residential subdivision will result in 3 or fewer lots.

(H) 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) (1) 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.

(2) No funds shall be used for ongoing operation or maintenance of existing parks recreational facilities or sites or City vehicles.

(1997 Code, § 400.15) (Am. Ord. 08-072, passed 3-5-2013) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.16 REQUIRED IMPROVEMENTS; FINANCIAL ARRANGEMENTS.

(A) *Improvements.* All sanitary sewer, water main and storm sewer facilities, streets, concrete curb, gutters, sidewalks, sodding, drainage swales, and other public utilities ("improvements") shall be made and constructed on or within the subdivided lands or where otherwise required and dedicated to the City and shall be designed in compliance with City standards by a registered professional engineer.

(B) *Plans and specifications approval.* Plans and specifications shall be submitted to the City Engineer for approval prior to construction. All of the improvements shall be completed by the developer and acceptable to the City Engineer and shall be free and clear of any lien, claim, charge, or encumbrance, including any for work, labor, or services rendered in connection therewith or material or equipment supplied therefor.

(C) *Improvement warranties and guarantees.* Developer shall warrant and guarantee the improvements against any defect in materials or workmanship for a period of 2 years following completion and acceptance. In the event of the discovery of any defect in materials or workmanship within the 2-year period, the defect shall be promptly repaired or corrected, and the warranty and guarantee for the entire project shall be extended for 1 additional year beyond the original 2-year period, for a period of 3 years following the completion and acceptance. Defects in material or workmanship shall be determined by the City Engineer.

(D) *Required inspections of improvements.* Improvements that are to be installed shall be inspected during the course of construction by the City Engineer, at the developer's expense. Notice shall be given to the City Engineer a minimum of 24 hours prior to the required inspection. Failure to provide City Engineer with required notice shall result in a stop-order issued to the project. If developer proceeds with work within the development without required

(I) *General improvements.* The following shall be installed in accordance with the City of Lake Elmo Engineering Design Standards Manual and all other applicable City standards:

- (1) Trees and boulevard sodding.
- (2) Streets signs shall be installed at each intersection.
- (3) Driveway approaches, sidewalks, or pedestrian pathways.
- (4) Street lighting fixtures.

(5) Sidewalks are required on one side of all streets. The Council may require sidewalks along both sides of all streets in areas where the residential density equals or exceeds 3 dwelling units per net acre of land or in any commercial, industrial, or other business areas if the Council determines that sidewalks are required for public safety.

(1997 Code, § 400.14) (Am. Ord. 08-024, passed 4-20-2010) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

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<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
RS, V-LDR, GCC, LDR, MDR, HDR	10%
RE and OP Development	7%
RR and AG	4%
C, CC, LC, GP, BP, VMX	Fees as set by Council resolution

(B) *Land title.* 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:

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- (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) *Trails*. Trails constructed by a subdivider within dedicated public open space having at least 30 feet of width are eligible for park credit. The maximum amount of trail dedication credit shall not exceed 25% of the total dedication.

(E) *Cash contribution in lieu of land dedication - residential subdivisions larger than three lots*. In lieu of the land dedication for major subdivisions, 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 major subdivisions, the 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.

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