

**City of Lake Elmo
City Council Meeting
Minutes of December 20, 2005**

Mayor Johnston called to order the meeting of the Lake Elmo City Council at 7:00 p.m.
COUNCILMEMBERS PRESENT: Conlin, Johnson, and DeLapp. STAFF PRESENT:
Administrator Rafferty, Planner Dillerud, Finance Director Bouthilet, City Attorney Filla, City
Engineer Prew, and Recording Secretary Schaffel.

Pledge of Allegiance

1. Agenda

11A Hiring of Fire Chief will be moved to the first meeting in January. 9B, 9C, and 9E require four votes so they will be postponed until the next Council Meeting. Add Planning 9H - Proposed System Statement.

M/S/P, Johnson/Johnston, To accept the Agenda as amended.

Councilmember DeLapp said he would like to talk about 9B-Comprehensive Plan Amendment but not have a vote on it, and to talk about the park in the neighborhood with all the kids, and the CIP. Major Johnston said that a four vote super majority is required for a Comprehensive Plan Amendment, and he would like all councilmembers present for that discussion and vote. Councilmember Johnson added that it was important to have Councilmember Smith present because she attended a key Met Council meeting, and she would like to hear the input or comments. Councilmember DeLapp left the table at 7:09 p.m. Councilmember Conlin asked if there were specific items Councilmember DeLapp had questions about. Councilmember DeLapp came back to the table at 7:10 p.m. The Planner said there is no critical time issue if those items are postponed to January.

VOTE: 3:1, Nay - DeLapp.

2. Minutes

There were no draft minutes to approve. Councilmember DeLapp said he would like to have minutes sooner than one month after a meeting.

3. Public Inquiries Informational

There were nor inquiries or information from the public.

4. Consent Agenda

M/S/P, Johnson/DeLapp, to approve Resolution No. 2005-141 approving claims, approving the Ski Grooming Agreement with Washington County, and approving Partial Payment No. 1-Water System Interconnect Phase III; Resolution No. 2005-147. VOTE: 4:0.

5. Finance

A. Finance for New Pumper/Tanker

The Finance Director provided several quotes from leasing companies and Northern Securities, and different options were presented. Staff recommends the Equipment Certificate option. Councilmember Conlin asked what an 'issuance cost' is. The Finance Director said it is similar to bonding. They perform credit checks and there is legal preparation in order to provide a binding certificate. Lease companies traditionally do

that although one would not charge us for it. Administrator Rafferty said it is a good deal and an appropriate approach so current taxpayers do not bear the burden; no up front dollars are used. This is the better plan for the city financially.

M/S/P, DeLapp/Johnson, To award financing the new pumper/tanker through the issuance of G.O. Equipment by Northland Securities, Inc. VOTE: 4:0.

B. Grant Funds Depository Account

The Finance Director explained the separation of accounting for Grant Funds for the Tablyn Park/Lake Elmo Heights Water Project. M/S/P, Conlin/Johnson, to approve Resolution 2005-146 authorizing a Grant Fund Depository Account.

The Administrator said 3M will make deposits to the account.

VOTE: 4:0.

C. Monthly Operating Report

The Finance Director said this is not the final report for the year because there are a few days left in December. Councilmember Johnson commended staff for keeping council updated to areas of concern the last six months.

6. New Business

A. Planning and Parks Commission Appointments

The Administrator explained that several commissioner terms expire and four commissioners will have to be looked at as new applicants after having served two terms.

M, DeLapp, To reappoint Planning Commissioners who have not yet served two terms. MOTION WITHDRAWN.

M/S/P, Johnson/DeLapp, To accept applications for Planning Commission and Parks Commission until January 10, and to set appointments with applicants for interviews at the January 10, 2006 Council Workshop. To appoint Bob Helwig, Kathy Sedro, and David Steele to retain their current positions and offices until a decision is reached by Council and appointments have been made at the Council Meeting on January 17, 2006.

Planning Chairman Helwig stated there is a Planning Commission meeting and their election of officers prior to that second Council Meeting.

City Attorney Filla said the Code says Election of Officers takes place for the Planning Commission at their first meeting in January, and if the Council feels it is for the good of the City, they can postpone that election process until all Planning Commission positions have been filled.

VOTE: 4:0. Councilmember Johnson asked staff to provide this information sooner to allow more time for advertising and consideration.

B. Mayor-Four Year Term

Administrator Rafferty explained the process for changing the term of mayor. If the

public wishes to comment, they should do so prior to the January 17, 2006 Council Meeting where the decision will be made. He provided summary data from the League of MN Cities for 40 cities and said that 20 of those 40 statutory cities have gone to four year terms. Data gathered from clerks in other cities revealed that about half those mayors had four year terms.

The mayor said a mayor should have the same term as his or her peers on the City Council when in a Statutory City and a Plan A City, and also because of consistency in leadership. Councilmember Conlin said she is against it because every two years the voters have the ability to dramatically change the dynamics of the City Council. Councilmember Johnson said she asked other Councils and those with four year terms said it was easier on city staff and those queried mentioned no negatives. Councilmember DeLapp said not very many cities have done it. If we do so, we should be a much bigger city than we are. The last election was won by only 28 votes.

The mayor encouraged the public to let staff know what they think about four year terms for mayor. It will be discussed at the second meeting in January.

C. Change Council Committees to Council Workshop

Administrator Rafferty said Council Committee Meetings are work sessions. He suggested that instead of several committees meeting, the council could conduct a workshop during that time period with a rolling agenda of subject matter for information, education, issues, etc. He recommends the restructuring and would like to have the authority to restructure at the Organizational Meeting in January. The Councilmembers agreed they would like those meetings to begin at 6 p.m. instead of 5:30 p.m. for better councilmember attendance and improved public participation.

M/S/P, Johnson/Conlin, to change the Council Committee structure to a Council Workshop to be held the second Tuesday each month beginning at 6 p.m.

MOTION TO AMEND: DeLapp/Conlin, To televise the monthly Council Workshops.
VOTE: 2:2, MOTION TO AMEND FAILED.

VOTE: 4:0.

D. Animal Control Contract

Staff reviewed the Animal Control Contractor and her performance. The mayor said many residents stopped reporting animal problems because the timing of response for our current animal control contractor resulted in virtually a non-response. Councilmember Johnson said timing of response should be part of the contract. Some sort of performance standard should be set and candidates should have to meet a reasonable response time.

M/S/P, Johnson/Conlin, To direct staff to include response time and performance standards as part of the animal control contract and to put the contract out for request for proposals. Staff should evaluate other cities to get their response times. Results should be provided the Council by the end of January.

Councilmember Conlin said that people who are endangered by animals should receive a quicker response time.

VOTE: 4:0.

E. Ramsey Center for Arts-Request for Use of Lions Park for Art Fair

Robert Meyer, President of RCFA, said they would like to hold a Fine Arts and Fine Crafts Festival over the weekend of July 29 and 30, 2006. There would be around 50 tents. Artists will be responsible for their own art and equipment. The timing fits in a sequence of the 4th of July Children's Parade, Art Fair, County Fair, and Huff 'n' Puff. There will be light music, not rock band music, off the deck or in the quadrangle behind the Ramsey Center. A diagram was provided showing the portion of the park outside the fenced ballfield where the Arts Fair would be staged.

The City Attorney advised that if the Council wishes to use the park for those purposes, the Council has to make a motion allowing that use of City land.

M/S/P, Johnston/DeLapp, To support authorizing the use of Lions Park within the confines of the drawing provided by the applicant for a Fine Arts and Fine Crafts Festival on Saturday and Sunday July 29 and 30, 2006 subject to review and approval by the City Attorney.

Councilmember Conlin asked that the clean up, parking, sanitation, etc. be reviewed and that she is otherwise very supportive.

Councilmember DeLapp left the table.

Bill Wacker, 3603 Laverne Avenue North
Mr. Wacker lives next door to the park. He said other small communities have an Art Fair and he is not opposed to it.

VOTE: 4:0.

8. City Engineer's Report

A. Escrow Reductions

Councilmember DeLapp left the table at 8:14 p.m.

1. Farms of Lake Elmo

The Planner said the City Forester is very involved in Landscape Plans in new developments. Farms of Lake Elmo should not reduce that portion of their escrow for landscaping because those improvements are incomplete. The City Engineer and Planner recommend reduction from \$1.175 million to \$675,000.

M/S/P, Conlin/Johnson, To approve reduction of the required development security for the Farms of Lake Elmo Development Agreement to \$657,000 as recommended by the City Engineer and City Planner. VOTE: 3:0.

2. Sanctuary of Lake Elmo

The City Engineer and City Planner recommend reduction of escrow from \$2.6 million to approximately \$1.8 million. Landscaping is not yet initiated and no inspection has been performed by the City Forester. M/S/P, Johnson/Conlin, To approve reduction of the required development security for the Sanctuary of Lake

Elmo Development Agreement to \$1,797,500 as recommended by the City Engineer and City Planner. VOTE: 3:0.

3. Tapestry at Charlotte's Grove

The Planner said Tapestry is nearing completion. The City Engineer and City Planner recommend reduction of escrow from \$2.53 million to \$372,500. The Planner said the City Forester has looked at the project and she is impressed. The developers have done far more than they planned. One portion of the site is not yet landscaped but the developers have already met their numerical goals. The Planner said the Council could reduce landscaping to zero but recommended leaving in \$20,000 for plantings not yet done on one portion of the site. M/S/P, Conlin/Johnson, To approve reduction of the required development security for the Tapestry at Charlotte's Grove development agreement to \$372,500 as recommended by the City Engineer and City Planner. VOTE: 3:0.

9. Planning, Land Use and Zoning

A. Site Plan Amendment-Country Air Golf, Resolution No. 2006-142

The Planner said the applicant wants to add a covered sidewalk to their tee box structure and to change to asphalt shingles on the roof. On December 12, the Planning Commission recommended approval.

M/S/P, Conlin/Johnson, To adopt Resolution 2005-142 approving an amendment to the Site Plan of Country Air Golf to add an 8 foot covered walkway to the west side of the previously approved tee box enclosures, and to substitute asphalt shingles for the roofing material previously approved. VOTE: 3:0.

D. Xcel Energy Easement

The Planner said that Xcel has requested an easement to place a gas service measuring and regulating facility and pipes with shrubbery screening at the southeast corner of the water tower site on Langly Court in the Old Village. Normally Xcel puts those facilities in the right-of-way but Langly Court only has one-half the usual street right-of-way width.

Colette Jurek, Xcel Energy and Bob Stieck, Xcel Engineer

The applicants brought a map for the Council showing the site plan. They presented a photo of the depicting facility at Keats and Hudson and a landscaping plan. The representatives said this facility could help the City of Lake Elmo because Xcel can reinforce their gas system in the city. The odorizer currently located on 30th Street, west of Lake Elmo Avenue would be replaced by this one, and it will be less visible. This equipment will not need upgrading for ten years. Should something go wrong, Xcel offers a guaranteed response time within one hour. There are six other stations within the neighborhood.

Councilmembers asked if the neighbors were notified. Mr. Stieck said the Hardwood owner owns the apartment building and has been notified but the neighbor to the west has not been notified. This is not an odorizer station. No odors should be noticed. The mayor asked about notices being mailed and about Xcel's timetable. Mr. Stieck said they were not planning to mail notices and they wanted to schedule this winter in January.

Administrator Rafferty clarified that Xcel has the right to use of the right-of-way, and the

city has the right to review plans, and consequently we have required specific screening. The applicant has met the city's requirements.

M/S/P, Johnson/Johnston, To approve the installation of a gas service measuring and regulating facility and pipes with shrubbery screening per staff recommendations.
VOTE: 3:0.

F. Zoning Variances, 10941 32nd Street North, Resolution No. 2005-144

The Planner said that the Planning Commission asked the applicant to reconsider plans to reduce scale and degree of variance on a small lake lot. On December 9, 2005, the applicant requested the application be placed on hold but the sixty day rule does not allow that. Therefore the Planning Commission recommended denying the variances as applied for. Councilmember Conlin asked about the fees should the applicant wish to change their plans in the near future. The Planner said they could apply for it and staff will consider fees at that time but the review process absorbs those fees and a complete review has taken place.

M/S/P, Conlin/Johnston, To adopt Resolution 2005-144 to denying variances for 10941 32nd Street North. VOTE: 3:0.

G. Eurasian Milfoil

The Planner explained that in the past year, Eurasian Milfoil has been found in Lake Elmo. An Action Plan has been developed for eradication but such plans have been rather unsuccessful on other lakes. Harvesting is most successful but expensive. They could increase the level of monitoring at the boat launch within the park reserve. One item from the report from DNR is that our lake is a deep lake and milfoil does not do well in depths over 18 feet.

The mayor asked how one apportions costs of control measures. The Planner said that Lake Associations can take over the task of harvesting and assess it to homeowners. Some cities rent or buy a harvest machine. The mayor asked if the cost could be born by those providing public access. The Planner said it could.

Discussion surrounded putting off this agenda item for a couple of meetings because this is a long-term major expense. Commissioner Johnson said she would like to know the cost of monitoring, eradication and/or harvesting. Councilmember DeLapp said we could ask Washington County Parks to help with the monitoring of the boats on and off the lake, and also to identify long-term or other resolutions that would be applicable for our other lakes in the community. The County is going through park planning process, and this is the time for them to be looking at this too. At the Workshop with the Technical Park Committee this should be an Agenda item. Perhaps some costs can be compiled and an initial reaction to the county bearing their fair share of costs. The Planner said he could find out what other communities have spent.

M/S/P, Johnston/Conlin, To direct staff to gather information on monitoring boat traffic in and out of Lake Elmo through the public boat launch from Washington County, to research the costs of harvesting milfoil, to investigate participation by Washington County for costs of monitoring and harvesting, and to return to the Council for review at the second meeting in January. VOTE: 3:0.

10. City Attorney's Report**A. Snowmobile Ordinance**

Jeff Ylinen, 9401 Lake Jane Trail

Mr. Ylinen asked to remove the part about personal property from the ordinance. Strike "..., and such operation is for the purpose of accessing the right-of-way on private property." He said the reason is, if you are going from storage to the road that will be within 50 feet of a neighbor. These are ATVs and people clean their yards with them. Don't be so restrictive on private property. He asked if lake surfaces are public right of way. The City Attorney said no but they are public surfaces. Travel across the lake could be a violation of the ordinance as drafted.

Councilmember DeLapp returned to the table at 8:46 p.m.

The City Attorney said the formula could be expanded in the draft. Part of the problem was where people were not being reasonable in neighborhoods where houses are close together. Mayor would ask for more detail if we offered more freedom on personal property. Conlin would like to put a period after "or all terrain vehicles." That would not curtail a guy doing laps around his house.

M/S/P, Johnson/Conlin, To adopt Ordinance 97-164 to incorporate the Snowmobile Ordinance with change to paragraph number D adding a period after all terrain vehicles and delete the remainder of that sentence (last line and one-half).

The City Attorney said this ordinance adopts new regulations, repeals existing regulations, and incorporates state statutes.

Councilmember DeLapp asked if studded tires are an issue. The City Attorney said they are not. He asked if it helps anyone understand the location for snowmobiling in Lake Elmo. The Attorney said it does not. The Council discussed pedestrian safety and other aspects. The Administrator said there is a provision for harassment within the ordinance but it would have to be witnessed by law enforcement.

VOTE: 4:0.

The meeting recessed for five minutes at 9:05 p.m. and reconvened at 9:10 p.m.

9. H. Proposed System Statement

The Planner said the Regional System Statement as distributed by the Met Council has been received by the City and he explained its impact to the City Council. There are a couple of items that needed resolution and the Planner asked the Council to have a meeting with the Met Council to work toward getting those resolved. Councilmembers DeLapp and Conlin did not see the last System Statement. The Planner did not see it in 1998, and did not realize the city did not protest that one at that time. Councilmember DeLapp said they heard about things like sewerage the regional park and the City Council was told it would be brought to them when it became an issue and not to worry until that time. When nobody came forward, those items were forgotten.

The Planner said there are three items that must be objected to with regard to the

proposed System Statement. One is a growth area map that shows the City what is expected for regional sewer. The second thing to object to was the area not to be sewerred and the designation as diversified rural (essentially urban reserve as defined by the Regional Development Framework). That designation means much of the City would be shut down for cluster developments. The third item was the park and ride at I-94 and Keats.

The Planner said in 2003, there was serious debate over the Park and Ride issue and the Council was opposed to it. Almost sixty days ago the City objected to it.

The Planner said that last week we received a letter from Metropolitan Council that a hearing would be established for review of those protested items. This year five cities objected to the System Statement and nobody has ever requested a hearing in the past. The hearing is scheduled for Friday, December 30, 2005. The clock runs out on the 60 days on December 31, 2005. December 23 we have to have specified proposed amendments to the System Statement submitted to the Metropolitan Council. December 27, next Tuesday, we have to have the complete description, pre-hearing memorandum submitted. We have to have it all in on Thursday of this week because of the holiday. The Planner asked if Metropolitan Council could hold off and wait until the Comprehensive Plan was done. They cannot. Therefore the protest is necessary and timely. The Planner explained the nuances of the three items in contention.

The City Attorney has not yet reviewed all of the material. The letter from Metropolitan Council appears rather formal and the Planner thinks the hearing will be formal. The City Attorney said he would attend the hearing with the Planner.

The Mayor said he is supportive of the spirit and specifics as drafted by the Planner. The Planner asked for direction. The Mayor said it is in good hands, and it looks like the direction the Council wishes to go. Councilmember Johnson said she thinks the Planner and Attorney can manage it. Councilmember DeLapp said what was drafted is more than could be expected given all the time constraints. He said it should be noted that the City Council is submitting this and they have had zero time to review it, and this is not fair. Councilmember DeLapp said our Planning Commission did not even get to see it.

The City Attorney recommended a motion or a resolution of concerns.

M/S/P, Johnston/DeLapp, To draft and adopt a resolution of concerns, particularly noting the timing of the hearing, the time of year, inadequate time to review, and supportive of the position reflected in the letter written by the City Planner. VOTE: 4:0.

The Planner reminded the Council that they postponed the Comprehensive Plan Amendment scheduled for tonight. Packets are available tonight for extensive review prior to their next meeting.

12. City Council Reports

Mayor Johnston thanked the council and staff for their dedication throughout the year.

Councilmember Johnson wished everyone a happy holiday season and happy new year.

Adjourned at 9:39 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kimberly Schaffel".

Kimberly Schaffel
Recording Secretary