

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

July 6, 2010

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: \_\_\_ Johnston \_\_\_ DeLapp \_\_\_ Emmons, \_\_\_ Park \_\_\_ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
  - 1. Approval of the June 15, 2010 City Council minutes
  - Approval of the June 29, 2010 City Council minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by City staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
  - 2. Approve payment of disbursements and payroll
  - 3. a. Approve liquor license for Lake Elmo Jaycees Huff'n Puff
    - b. Approve liquor license for Lake Elmo Wine Company
    - c. Easement Encroachment Agreement-12211 Marquess Lane Cove
  - 4. MPCA request for shallow well testing on public lands
- J. REGULAR AGENDA:
  - 5. Ordinance No. 08-026: Consideration of an ordinance amending the definition of "wayside stand"

6. Home Occupations Ordinance No. 08-027: Consideration of an ordinance to allow home occupations as a use for residences for limited business purposes while regulating such business uses in a manner that precludes business use from becoming a nuisance neighboring residential property owners; Resolution No. 2010-032
7. Public Hearing: Vacating and accepting easements: Heath property; Resolution No. 2010-033
8. Comprehensive Plan – Rural Area Density Analysis
9. Whistling Valley Development, Phases 1, 2, and 3 – Request to extend the development completion deadline of June 30, 2010

K. REPORTS AND ANNOUNCEMENTS:

(These are verbal updates and do not have to be formally added to the agenda.)

- Mayor and City Council
- Administrator
- City Engineer – Preliminary Financial Analysis of Infrastructure Costs Relating to Village Area Master Plan
- Planning Director

L. Adjourn

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

City of Lake Elmo  
City Council Meeting Minutes

June 15, 2010

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

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

Also Present: Administrator Messelt, City Engineer Griffin, Attorney Snyder, Finance Director Bouthilet, Joe Rigdon, KDV, and City Clerk Lumby

## APPROVAL OF AGENDA

*MOTION: Council Member DeLapp moved to approve the June 15, 2010 City Council agenda, as amended. Council Member Park seconded the motion. The motion passed 4-0.*

## GROUND RULES:

## APPROVED MINUTES:

The June 1, 2010 City Council minutes were approved by consensus.

PUBLIC COMMENTS/INQUIRIES: None

2010 Legislative Session Recap: Hon. Julie Brown, MN State Representative (56A)  
Hon. Kathy Saltzman, MN State Senator (56)

## CONSENT AGENDA:

*MOTION: Council Member Smith moved to approve the Consent Agenda. Council Member Park seconded the motion. The motion passed 4-0.*

- Approve payment of disbursements and payroll in the amount of \$156,267.61
- Establish a City Council Sub-Committee for Personnel/Human Resources comprised of Council Member Smith and Mayor Johnston and an Ad Hoc Sub-Committee for Review of Current Assessment Policies comprised of Council Members Park and DeLapp
- Approve the proposed contract and purchase of 911 ALI Data from Quest in the amount of \$1,235.00 contingent upon final County denial of the requested access to said data. The fee is \$650 per year for updated data.
- Approve the proposed service agreement with the City of Oakdale for vehicle repairs/maintenance

## REGULAR AGENDA:

### Huff'n Puff Proclamation:

Mayor Johnston proclaimed August 12<sup>th</sup> to 15<sup>th</sup>, 2010 as the official City celebration for 2010 and urged all citizens of our community to give full regard to the past continuing services for the Lake Elmo Jaycees.

### Presentation and Acceptance of the 2009 Audit and Financial Report

Steve McDonald, Abdo, Eick & Meyer, provided the 2009 Year End Financial Report and answered City Council questions.

*MOTION: Council Member DeLapp moved to accept the 2009 Year End Financial Report. Council Member Smith seconded the motion. The motion passed 4-0.*

### Rosalie Wahl Library - Resolution

Mayor Johnston asked that this item be added to the Council agenda in order to allow the City Council to act upon concern regarding Washington County Library operation of the Rosalie E. Wahl Branch Library in Lake Elmo.

The City staff has met with Washington County and Washington County Library officials in February and April, 2010 to review the decision of rejecting consideration of shifting library hours at the library from Monday to Saturday. The Washington County Library Board has given strong indication through its Administration that the library is likely to suffer additional service cutbacks and/or closure due to current budgetary and service consideration.

Council Member Smith noted that the City of Lake Elmo's preference is to not sever its relationship with the Washington County Library System, nor to box them in a corner. However, the City of Lake Elmo wants to reasonably address ways to retain library services as it pursues its vision for both the current and future downtown.

*MOTION: Mayor Johnston moved to adopt Resolution No. 2010-030, A resolution calling for preservation and enhancement of library services within the city and community of Lake Elmo. Council Member DeLapp seconded the motion. The motion passed 4-0.*

### Municipal State Aid Revision – Resolution Nos. 2010-028, 2010-029

Jack Griffin, City Engineer requested the Council consider system revisions to the City's Municipal State Aid System (MSAS). The proposed changes, shown on page 3 of the City Engineer's report, have been reviewed with the staff of the Mn/DOT State Aid office.

*MOTION: Council Member Smith moved to approve Resolution 2010-028, thereby revoking the Municipal State Aid designation from the listed street segments and approve Resolution No. 2010-029, thereby establishing the listed street segments as Municipal State Aid Streets. Council Member Park seconded the motion. The Motion passed 4-1 (Council Member DeLapp voting against. The City should be looking at revoking the agreement with Rockpoint Church)*

The Council adjourned the meeting at 8:37 p.m.  
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Respectfully submitted by Sharon Lumby, City Clerk

**DRAFT**

City of Lake Elmo  
City Council Special Meeting Minutes

June 29, 2010

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

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

Also Present: Administrator Messelt, Finance Director Bouthilet, Acting City Attorney Kevin Sandstrom.

APPROVAL OF AGENDA

*MOTION: Council Member DeLapp moved to approve the June 29, 2010 City Council agenda. Council Member Park seconded the motion. The motion passed 3-0.*

Agenda Item 1: Lake Elmo Library – Establishing a Public Library System, Authorizing a Library Levy, and Establishing a Public Library Board for the City of Lake Elmo, pursuant to Minnesota Statute 134.07, et seq.

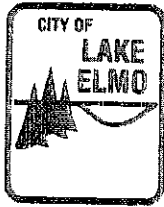
The City Administrator and Acting City Attorney provided the City council with a brief presentation regarding the proposed Resolution and issues related to establishment of a municipal public library system.

Mr. Dave Moore, 8680 Stillwater Blvd, asked for clarification regarding the transfer of levy authority between Washington County and the City of Lake Elmo.

*MOTION: Council Member Park moved to approve Resolution No. 2010-031, A Resolution establishing a public library system, authorizing a library levy, and establishing a public library board for the City of Lake Elmo. Council Member DeLapp seconded the motion. The motion passed 3-0.*

The Council adjourned the meeting at 7:25 p.m.

Respectfully submitted by Bruce Messelt, City Administrator



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010  
CONSENT  
ITEM #: 2  
MOTION *as part of Consent Agenda*

**AGENDA ITEM:** Approve Disbursements and Payroll in the Amount of \$ 234,270.30

**SUBMITTED BY:** Tom Bouthilet, Finance Director

**THROUGH:** Bruce Messelt, City Administrator *BAW*

**REVIEWED BY:** City Staff

**SUMMARY AND ACTION REQUESTED:** As part of its Consent Agenda, the City Council is asked to approve disbursements and payroll in the amount of \$ 234,270.30. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

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

<b>Claim #</b>	<b>Amount</b>	<b>Description</b>
ACH	\$ 7,385.57	Payroll Taxes to IRS 06/17/2010
ACH	\$ 6,960.96	Payroll Taxes to IRS 07/01/2010
ACH	\$ 1,141.23	Payroll Taxes to MN Dept. of Revenue 06/17/2010
ACH	\$ 1,168.20	Payroll Taxes to MN Dept. of Revenue 07/01/2010
ACH	\$ 3,651.87	Payroll Retirement to PERA 06/17/2010
ACH	\$ 3,717.46	Payroll Retirement to PERA 07/01/2010
DD 2811 - DD 2842	\$ 24,012.12	Payroll Dated 06/17/2010 (Direct Deposit)
35760 - 357700	\$ 4,822.23	Payroll Dated 06/17/2010
DD2843 - DD2858	\$ 21,231.57	Payroll Dated 07/01/2010 (Direct Deposit)
35771 - 35775	\$ 14,392.65	Payroll Dated 07/01/2010
35776 - 35828	\$ 145,786.44	Accounts Payable Dated 07/06/2010
<b>TOTAL</b>	<b>\$ 234,270.30</b>	

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

**RECOMMENDATION:** It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$ 234,270.30.

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

**“Move to approve the July 6th, 2010 Disbursement and Payroll, as  
Presented *[and modified]* herein.”**

**ATTACHMENTS:**

1. Accounts Payable Dated 07/06/2010

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

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



# Accounts Payable To Be Paid Proof List

User: joan z

Printed: 06/30/2010 - 1:19 PM

Batch: 007-06-2010

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ACEHARD Ace Hardware , Inc										
93546	06/08/2010	85.33	0.00	07/06/2010	Fire Hydrant Padlocks		-		No	0000
601-494-9400-42270 Utility System Maintenance										
		93546 Total:								
93630	06/10/2010	85.33								
601-494-9400-42270 Utility System Maintenance										
		93630 Total:								
93834	06/15/2010	64.06								
101-450-5200-42400 Small Tools & Minor Equipment										
		93834 Total:								
		ACEHARD Total:								
ACS Animal Control Services										
663	06/20/2010	683.00	0.00	07/06/2010	Animal Control Services 5/24-6/20		-		No	0000
101-420-2700-43150 Contract Services										
		663 Total:								
		ACS Total:								
AMFLAG American Flagpole & Flag Corp										
88977	06/13/2010	330.74	0.00	07/06/2010	Repairs to flagpole at station #2		-		No	0000
101-420-2220-44010 Repairs/Maint Bldg										
		88977 Total:								
		AMFLAG Total:								
ARAM Aramark, Inc.										
629-7011422	06/10/2010	22.97	0.00	07/06/2010	Uniforms		-		No	0000
101-430-3100-44170 Uniforms										
		629-7011422 Total:								
629-7013227	06/14/2010	22.97								
101-420-2220-44010 Repairs/Maint Bldg										
		629-7013227 Total:								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
629-7013228	06/14/2010	119.49	0.00	07/06/2010	Linen City Hall		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7013228 Total:	119.49								
629-7013229	06/14/2010	57.37	0.00	07/06/2010	Monthly rug Service, Station #1		-			No 0000
101-420-2220-44010	Repairs/Maint Bldg									
	629-7013229 Total:	57.37								
629-7016218	06/17/2010	22.97	0.00	07/06/2010	Uniforms		-			No 0000
101-430-3100-44170	Uniforms									
	629-7016218 Total:	22.97								
629-7018042	06/21/2010	42.43	0.00	07/06/2010	Linen City Hall-Annex		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7018042 Total:	42.43								
629-7020913	06/24/2010	22.97	0.00	07/06/2010	Uniforms		-			No 0000
101-430-3100-44170	Uniforms									
	629-7020913 Total:	22.97								
629-7022696	06/28/2010	107.36	0.00	07/06/2010	Linen City Hall		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
	629-7022696 Total:	107.36								
	ARAM Total:	455.29								
BATTYPL Batteries Plus Woodbury, Corp										
32-708564	06/17/2010	122.37	0.00	07/06/2010	Back up generator battery		-			No 0000
101-430-3100-44010	Repairs/Maint Bldg									
	32-708564 Total:	122.37								
32-708889	06/23/2010	69.24	0.00	07/06/2010	Battery for 00-2		-			No 0000
101-430-3100-42210	Equipment Parts									
	32-708889 Total:	69.24								
	BATTYPL Total:	191.61								
BURBBLAC Burberl Black Dirt, Inc.										
12736	06/21/2010	51.30	0.00	07/06/2010	Black Dirt		-			No 0000
101-450-5200-42250	Landscaping Materials									
	12736 Total:	51.30								
	BURBBLAC Total:	51.30								
CAPRA CAPRA'S UTILITIES INC.										
2147	06/21/2010	12,935.00	0.00	07/06/2010	Water & Sewer service ext to Annex		-			No 0000
411-480-8000-45200	Buildings and Structures									
	2147 Total:	12,935.00								
	CAPRA Total:	12,935.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
CARQUEST Car Quest Auto Parts 205-191432 06/08/2010 101-450-5200-42210 Equipment Parts 205-191432 Total:		57.40	0.00	07/06/2010	Air Filters toro Z-turn		-	No		0000
2055-168563 06/08/2010 101-430-3120-42210 Equipment Parts 2055-168563 Total:		57.40 39.45	0.00	07/06/2010	Drive belt/loader		-	No		0000
2055-191387 06/08/2010 101-430-3120-42210 Equipment Parts 2055-191387 Total:		39.45 25.54	0.00	07/06/2010	Drive belt, grease		-	No		0000
CARQUEST Total:		122.39								
COMPENSA Compensation Consultants, Ltd 06/21/2010 06/21/2010 101-410-1320-44300 Miscellaneous 06/21/2010 Total:		40.00	0.00	07/06/2010	Monthly Admin Fee - July 2010		-	No		0000
COMPENSA Total:		40.00								
CTYBAY City of Bayport WM2010-6 06/04/2010 101-420-2400-43150 Inspector Contract Services WM2010-6 Total:		56.75	0.00	07/06/2010	Bldg Inspector Services 10911 57th St		-	No		0000
CTYBAY Total:		56.75								
CTYOAKDA City of Oakdale 10000460-01 05/31/2010 601-494-9400-43820 Water Utility 10000460-01 Total:		11,982.56	0.00	07/06/2010	Water Service I-94		-	No		0000
CTYOAKDA Total:		11,982.56								
CUSH Cushman Motor Co., Inc. 150254 06/14/2010 101-450-5200-42210 Equipment Parts 150254 Total:		94.01	0.00	07/06/2010	Pulley Cushman		-	No		0000
CUSH Total:		94.01								
EARLANDE Earl F. Andersen, Inc. 0091698-IN 06/15/2010 101-430-3120-42260 Sign Repair Materials 0091698-IN Total:		212.57	0.00	07/06/2010	Sign Brackets and hardware		-	No		0000
		212.57								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
EARLANDE Total:		212.57								
EASTSUBU East Suburban Resources										
227528	06/25/2010	119.34	0.00	07/06/2010	917 Water Bill Mailing 3 inserts		-		No	0000
601-494-9400-44300	Miscellaneous	119.34								
227528 Total:		119.34								
EASTSUBU Total:		119.34								
EMERGAPP Emergency Apparatus Maint. INC										
49467	06/22/2010	1,012.59	0.00	07/06/2010	Repairs L1		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	1,012.59								
49467 Total:		1,012.59								
49468	06/22/2010	148.36	0.00	07/06/2010	Repairs T1		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	148.36								
49468 Total:		148.36								
49469	06/22/2010	267.62	0.00	07/06/2010	Repairs E1		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	267.62								
49469 Total:		267.62								
49470	06/22/2010	161.85	0.00	07/06/2010	Repairs B2		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	161.85								
49470 Total:		161.85								
49471	06/22/2010	222.69	0.00	07/06/2010	Repairs E2		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	222.69								
49471 Total:		222.69								
49994	06/22/2010	-331.13	0.00	07/06/2010	Credit		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt	-331.13								
49994 Total:		-331.13								
EMERGAPP Total:		1,481.98								
ENVENTIS ENVENTIS										
737500	06/13/2010	444.67	0.00	07/06/2010	Telephone Data Service PW June 2010		-		No	0000
101-430-3100-43210	Telephone	444.67								
737500 Total:		444.67								
738507	06/13/2010	528.34	0.00	07/06/2010	Telephone Data Service City Hall		-		No	0000
101-410-1940-43210	Telephone	528.34			06/10					
738507 Total:		528.34								
ENVENTIS Total:		973.01								
FERGUSON Ferguson Waterworks										
S01252757.001	06/07/2010	1,237.64	0.00	07/06/2010	Hydrant Lock outs		-		No	0000
601-494-9400-42270	Utility System Maintenance	1,237.64								
S01252757.001 Total:		1,237.64								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
FXL FXL, Inc.		1,237.64								
07/01/2010	07/01/2010	2,000.00	0.00	07/06/2010	Assessing Services July 2010		-		No	0000
101-410-1320-43100	Assessing Services	2,000.00								
07/01/2010 Total:		2,000.00								
FXL Total:		2,000.00								
GRACZYK Graczyk Kevin		41.25	0.00	07/06/2010	Cabled Council Workshop 6/24/10		-		No	0000
06/24/2010	06/24/2041	41.25								
101-410-1450-43620	Cable Operations	55.00								
06/24/2010 Total:		55.00								
06/28/10	06/28/2010	55.00	0.00	07/06/2010	Cabled Planning Commission 6/28/10		-		No	0000
101-410-1450-43620	Cable Operations	96.25								
06/28/10 Total:		96.25								
GRACZYK Total:										
HAUSER Brian Hauser		408.72	0.00	07/06/2010	Reimbursement for meals/lodging @ MSFDA		-		No	0000
06/23/2010	06/23/2010	408.72								
101-420-2220-44300	Miscellaneous	408.72								
06/23/2010 Total:		408.72								
HAUSER Total:										
HENNCOL Hennepin Technical College		550.23	0.00	07/06/2010	First Responder Training for Nick Witter		-		No	0000
203252	06/14/2010	550.23								
101-420-2220-44370	Conferences & Training	550.23								
203252 Total:		550.23								
HENNCOL Total:										
KJOHNSON Johnson Kristine		44.98	0.00	07/06/2010	Reimbursement for landscape rocks, st		-		No	0000
06/20/2010	06/20/2010	44.98								
101-420-2220-44010	Repairs/Maint Bldg	44.98								
06/20/2010 Total:		44.98								
KJOHNSON Total:										
KRIEGLER Carol Kriegler		22.43	0.00	07/06/2010	Orange Marker for Trails		-		No	0000
Chk Req	06/21/2010	22.43								
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
Chk Req Total:		22.43								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
KRIEGLER Total:		22.43								
LEAGMN League of MN Cities										
143120	06/18/2010	590.00	0.00	07/06/2010	Registration Annual League of MN Cities		-		No	0000
101-410-1110-44370	Conferences & Training									
143120	06/18/2010	295.00	0.00	07/06/2010	Registration Annual League of MN Cities		-		No	0000
101-410-1320-44370	Conferences & Training									
143120 Total:		885.00								
LEAGMN Total:		885.00								
LEE SPOR Lee Sports Surfacing, LLC										
1627	06/06/2010	12,000.00	0.00	07/06/2010	Pebble Park Tennis & B-ball Cts Surfacin		-		No	0000
404-480-8000-45300	Improvements Other Than Bldgs									
1627 Total:		12,000.00								
LEE SPOR Total:		12,000.00								
LEREPAIR Lake Elmo Repair, Inc										
151210	06/18/2010	25.37	0.00	07/06/2010	Oil Change Chief #1		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
151210 Total:		25.37								
LEREPAIR Total:		25.37								
LEVASSEU LeVasseur Daniel										
06/23/2010	06/23/2010	84.00	0.00	07/06/2010	Reimbursement for meals @MSFDA		-		No	0000
101-420-2220-42120	Fuel, Oil and Fluids									
06/23/2010 Total:		84.00								
LEVASSEU Total:		84.00								
MALMQ Malmquist Greg										
06/15/2010	06/15/2010	119.98	0.00	07/06/2010	Plants for Station #1		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
06/15/2010 Total:		119.98								
06/20/2010	06/20/2010	46.25	0.00	07/06/2010	Reimbursement for fuel in Chief #1		-		No	0000
101-420-2220-42120	Fuel, Oil and Fluids									
06/20/2010	06/20/2010	6.94	0.00	07/06/2010	Reimbursement for one meal, Wadena		-		No	0000
101-420-2220-44300	Miscellaneous									
06/20/2010 Total:		53.19								
MALMQ Total:		173.17								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MARONEYS Maroney's Sanitation, Inc										
339217	06/11/2010	103.66	0.00	07/06/2010	Waste Removal - City Hall		-			0000
101-410-1940-43840	Refuse								No	0000
339217	06/11/2010	45.62	0.00	07/06/2010	Waste Removal - Fire		-			0000
101-420-2220-43840	Refuse								No	0000
339217	06/11/2010	198.87	0.00	07/06/2010	Waste Removal - Public Works		-			0000
101-430-3100-43840	Refuse								No	0000
339217	06/11/2010	198.87	0.00	07/06/2010	Waste Removal - Parks		-			0000
101-450-5200-43840	Refuse								No	0000
339217 Total:		547.02								
MARONEYS Total:		547.02								
MENARDSO Menards - Oakdale										
73372	06/14/2010	189.57	0.00	07/06/2010	Bldg Maint supplies, station #2		-			0000
101-420-2220-44010	Repairs/Maint Bldg								No	0000
73372	06/14/2010	89.07	0.00	07/06/2010	Vehicle maint, station #2		-			0000
101-420-2220-44040	Repairs/Maint Eqpt								No	0000
73372	06/14/2010	13.96	0.00	07/06/2010	Oil Dri		-			0000
101-420-2220-42400	Small Tools & Equipment								No	0000
73372 Total:		292.60								
74314	06/18/2010	30.74	0.00	07/06/2010	Hardware bidge in Demontreville		-			0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs								No	0000
74457	06/18/2010	30.74								
74314 Total:		132.49								
411-480-8000-45700	Office Equipment & Furnishings								No	0000
74457 Total:		132.49								
MENARDSO Total:		455.83								
MENARDST Menards - Stillwater										
3124	06/16/2010	10.68	0.00	07/06/2010	Landscape fabric Station #1		-			0000
101-420-2220-44010	Repairs/Maint Bldg								No	0000
3124 Total:		10.68								
MENARDST Total:		10.68								
METROFIR Metro Fire										
38206	06/07/2010	400.58	0.00	07/06/2010	Replacement Nozzle		-			0000
101-420-2220-44040	Repairs/Maint Eqpt								No	0000
38206 Total:		400.58								
METROFIR Total:		400.58								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MN NATIV Minnesota Native Landscapes										
5710	06/16/2010	33,840.10	0.00	07/06/2010	Prairie Restoration - Sunfish Lake Park		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	5710 Total:	33,840.10								
5722	06/21/2010	2,388.75	0.00	07/06/2010	Prairie Restoration - Sunfish Lake Park		-		No	0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									
	5722 Total:	2,388.75								
	MN NATIV Total:	36,228.85								
MNDOH MN Department of Health										
06/11/2010	06/11/2010	23.00	0.00	07/06/2010	Water Certification Fee (Jamie Colermer)		-		No	0000
601-494-9400-44370	Conferences & Training									
	06/11/2010 Total:	23.00								
	MNDOH Total:	23.00								
NEXTEL Nextel Communications										
761950227-087	06/18/2010	102.00	0.00	07/06/2010	Cell Phone Service - Administration		-		No	0000
101-410-1940-43210	Telephone									
761950227-087	06/18/2010	223.16	0.00	07/06/2010	Cell Phone Service - Fire Dept		-		No	0000
101-420-2220-43210	Telephone									
761950227-087	06/18/2010	35.91	0.00	07/06/2010	Cell Phone Service - Building Dept		-		No	0000
101-420-2400-43210	Telephone									
761950227-087	06/18/2010	59.86	0.00	07/06/2010	Cell Phone Service - Public Works Dept		-		No	0000
101-430-3100-43210	Telephone									
761950227-087	06/18/2010	19.39	0.00	07/06/2010	Cell Phone Service - Parks Dept		-		No	0000
101-450-5200-43210	Telephone									
	761950227-087 Total:	440.32								
	NEXTEL Total:	440.32								
NORTHDOO Northern Door										
42007	06/16/2010	49.22	0.00	07/06/2010	Replace garage door window Station 1		-		No	0000
101-420-2220-44010	Repairs/Maint Bldg									
	42007 Total:	49.22								
	NORTHDOO Total:	49.22								
NOSTAR ASTLEFORD International										
T200692	06/04/2010	3.44	0.00	07/06/2010	Connector		-		No	0000
101-420-2220-44040	Repairs/Maint Eqpt									
	T200692 Total:	3.44								
	NOSTAR Total:	3.44								



Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
NUFORM NUFORM Graphics										
06/08/2010	06/08/2010	250.00	0.00	07/06/2010	Prairie Restoration Project		-			No 0000
404-480-8000-44030	Repairs/Maint Imp Not Bldgs	250.00								
	06/08/2010 Total:	250.00								
	NUFORM Total:	250.00								
PITNEY Pitney Bowes										
662622	07/03/2010	268.83	0.00	07/06/2010	Postage Machine Rental		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg	268.83								
	662622 Total:	268.83								
	PITNEY Total:	268.83								
PITNEYRE Reserve Account Pitney Bowes										
06/02/2010	06/02/2010	1,000.00	0.00	07/06/2010	Postage		-			No 0000
601-494-9400-43220	Postage	1,000.00								
	06/02/2010 Total:	1,000.00								
	PITNEYRE Total:	1,000.00								
PRESS Press Steven										
06/14/2010	06/14/2010	58.88	0.00	07/06/2010	Planning Commission Meeting		-			No 0000
101-410-1910-43620	Cable Operation Expense	58.88			6/14/2010					
	06/14/2010 Total:	58.88								
06/15/2010	06/15/2010	58.88	0.00	07/06/2010	City Council Meeting 6/15/2010		-			No 0000
101-410-1450-43620	Cable Operations	58.88								
	06/15/2010 Total:	58.88								
	PRESS Total:	117.76								
QUALITY Quality Locksmith Service, Inc										
65141	06/11/2010	65.00	0.00	07/06/2010	Change Door Locks - Hardy House		-			No 0000
101-410-1320-44300	Miscellaneous	65.00								
	65141 Total:	65.00								
	QUALITY Total:	65.00								
RUD Prince-Rud Diane										
05/12/2010	05/12/2010	480.00	0.00	07/06/2010	Cleaning city Hall & Annex		-			No 0000
101-410-1940-44010	Repairs/Maint Contractual Bldg	360.00								
05/12/2010	05/12/2010	125.00	0.00	07/06/2010	Cleaning Fire Hall		-			No 0000
101-420-2220-44010	Repairs/Maint Bldg	125.00								
05/12/2010	05/12/2010	965.00	0.00	07/06/2010	Windows & Blinds - Fire Station		-			No 0000
101-420-2220-44010	Repairs/Maint Bldg	965.00								
	05/12/2010 Total:	965.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
	RUD Total:	965.00								
SAMSCULUB Sam's Club										
06/24/2010	06/24/2010	31.07	0.00	07/06/2010	Supplies Station #1		-	No		0000
101-420-2220-44300	Miscellaneous									
	06/24/2010 Total:	31.07								
	SAMSCULUB Total:	31.07								
SMITHANN Anne Smith										
Exp Reimb	06/30/2010	188.85	0.00	07/06/2010	League of MN Cities Conference		-	No		0000
101-410-1110-44370	Conferences & Training									
Exp Reimb	06/30/2010	51.00	0.00	07/06/2010	Green Class		-	No		0000
101-410-1110-44370	Conferences & Training									
	Exp Reimb Total:	239.85								
	SMITHANN Total:	239.85								
STILLMED Stillwater Medical Group										
06/23/2010	06/23/2010	198.00	0.00	07/06/2010	Preplacement/Annual Physicals, Hep B		-	No		0000
101-420-2220-43050	Physicals				vac					
	06/23/2010 Total:	198.00								
	STILLMED Total:	198.00								
TASCH T.A. Schifsky & Sons Inc										
49390	06/07/2010	268.01	0.00	07/06/2010	Asphalt		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	49390 Total:	268.01								
49441	06/14/2010	267.34	0.00	07/06/2010	Asphalt		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	49441 Total:	267.34								
	TASCH Total:	535.35								
TDS TDS METROCOM - LLC										
651-779-8882	06/13/2010	164.17	0.00	07/06/2010	Analog Lines - Fire		-	No		0000
101-420-2220-43210	Telephone									
651-779-8882	06/13/2010	155.44	0.00	07/06/2010	Analog Lines - Public Works		-	No		0000
101-430-3100-43210	Telephone									
651-779-8882	06/13/2010	104.76	0.00	07/06/2010	Analog Lines - Lift Station Alarms		-	No		0000
602-495-9450-43210	Telephone									
651-779-8882	06/13/2010	42.24	0.00	07/06/2010	Alarm - Well House #2		-	No		0000
601-494-9400-43210	Telephone									
	651-779-8882 Total:	466.61								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
TDS Total:		466.61								
TKDA TKDA, Inc.										
0002201001386	06/09/2010	1,000.99	0.00	07/06/2010	Development Whistling Valley III		-		No	0000
203-490-9070-43030	Engineering Services									
0002201001387	06/09/2010	1,000.99								
203-490-9070-43030	Engineering Services	115.71	0.00	07/06/2010	Lake Elmo Farms		-		No	0000
0002201001388	06/09/2010	115.71								
203-490-9070-43030	Engineering Services	323.99	0.00	07/06/2010	Sanctuary		-		No	0000
0002201001389	06/09/2010	323.99								
413-480-8000-43030	Engineering Services	2,425.66	0.00	07/06/2010	I-94 to 30th Street - Village Sanitary		-		No	0000
0002201001390	06/09/2010	2,425.66								
413-480-8000-43030	Engineering Services	3,806.97	0.00	07/06/2010	Lake Elmo Area Village Eng. Support		-		No	0000
0002201001391	06/09/2010	3,806.97								
415-480-8000-43030	Engineering Services	46.28	0.00	07/06/2010	2009 Street improvement Final Design		-		No	0000
0002201001392	06/09/2010	46.28								
417-480-8000-43030	Engineering Services	1,857.74	0.00	07/06/2010	Lake Elmo 2010 Street and Water Quality		-		No	0000
0002201001393	06/09/2010	1,857.74								
101-430-3100-43030	Engineering Services	69.43	0.00	07/06/2010	General Engineering		-		No	0000
0002201001393	06/09/2010	4,407.42	0.00	07/06/2010	General Engineering		-		No	0000
101-410-1930-43030	Engineering Services	545.89	0.00	07/06/2010	General Engineering		-		No	0000
0002201001393	06/09/2010	5,022.74								
101-410-1910-43030	Engineering Services	5,051.58	0.00	07/06/2010	General Engineering - VRA		-		No	0000
0002201001394	06/09/2010	6,904.69	0.00	07/06/2010	General Engineering - VRA		-		No	0000
409-480-8000-43030	Engineering Services	3,192.00	0.00	07/06/2010	General Engineering - VRA		-		No	0000
603-496-9500-43030	Engineering Services	1,020.20	0.00	07/06/2010	General Engineering - VRA		-		No	0000
0002201001394	06/09/2010	1,761.64	0.00	07/06/2010	General Engineering - VRA		-		No	0000
601-494-9400-43030	Engineering Services	17,930.11								
0002201001394	06/09/2010	1,597.99	0.00	07/06/2010	TH 5 & Jamaca Ave Roundabout		-		No	0000
602-495-9450-43030	Engineering Services									
0002201001395	06/09/2010									
417-480-8000-43030	Engineering Services									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
0002201001395 Total:										
0002201001396	06/09/2010	1,597.99								
411-480-8000-45200	Buildings and Structures	2,106.43	0.00	07/06/2010	Lake Elmo City Hall Improvements		-		No	0000
0002201001396 Total:										
0002201001397	06/09/2010	2,106.43								
409-480-8000-43030	Engineering Services	2,379.68	0.00	07/06/2010	Lake Elmo 2010 Sealcoat		-		No	0000
0002201001397 Total:										
0002201001398	06/09/2010	2,379.68								
601-494-9400-43030	Engineering Services	5,615.68	0.00	07/06/2010	Lake Elmo Water System Strategies/Fin		-		No	0000
0002201001398 Total:										
0002201001399	06/09/2010	5,615.68								
409-480-8000-43030	Engineering Services	4,070.54	0.00	07/06/2010	Lake Elmo 2010 Street Ratings		-		No	0000
0002201001399 Total:										
0002201001400	06/09/2010	4,070.54								
203-490-9070-43030	Engineering Services	2,702.31	0.00	07/06/2010	Lake Elmo Living Farm Development		-		No	0000
0002201001400 Total:										
TKDA Total:		51,002.82								
WASH-REC Washington County										
66670	06/24/2010	638.51	0.00	07/06/2010	2010 Truth in Taxation Notice		-		No	0000
101-410-1520-44300	Miscellaneous	638.51								
66670 Total:		638.51								
WASH-REC Total:		638.51								
WASRADIO WASHINGTON COUNTY										
66456	06/22/2010	3,800.76	0.00	07/06/2010	1/4rly user fee for 800 MHz radios		-		No	0000
101-420-2220-43230	Radio	3,800.76								
66456 Total:		3,800.76								
WASRADIO Total:		3,800.76								
WITTER Witter Nick										
06/13/2010	06/13/2010	261.59	0.00	07/06/2010	Mileage Reimb, FFI & First Responder		-		No	0000
101-420-2220-43310	Mileage	122.75	0.00	07/06/2010	Reimb for First Responder books		-		No	0000
06/13/2010	06/13/2010	384.34								
101-420-2220-44350	Books	384.34								
06/13/2010 Total:		384.34								
WITTER Total:		384.34								
YOCUM Yocum Oil Company, Inc.										
189444	06/21/2010	160.69	0.00	07/06/2010	Bulk Oil Tanks		-		No	0000
101-430-3100-44010	Repairs/Maint Bldg	160.69								
189444 Total:		160.69								

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

YOCUM Total:      160.69

Report Total:      145,786.44



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010  
CONSENT  
ITEM #: 3a.  
MOTION *as part of Consent Agenda*

**AGENDA ITEM:** Consider approval of a Temporary On-Sale Liquor License for Lake Elmo Jaycees Huff'n Puff Days and waive the fees for the Liquor License and Lions Park Ball field lights

**SUBMITTED BY:** Sharon Lumby, City Clerk

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

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**SUMMARY AND ACTION REQUESTED:** The Lake Elmo City Council is asked to approve its annual 1 to 4 day temporary On-Sale liquor license for the Lake Elmo Jaycees Huff'n Puff Days. The Council is also asked to waive the liquor license fee and the fee for the Lions Park ball field lights. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND & STAFF REPORT:** The Lake Elmo Jaycees have submitted their annual request for a temporary on-sale Liquor License for Huff'n Puff Days. They are also requesting a fee waiver for the application and charge for use of the ball field lights at Lions Park.

The City has received approval from the Washington County Sheriff's office and verbal approval from the State Public Safety alcohol inspector.

**RECOMMENDATION:** It is recommended that the City Council approve, as part of the Consent Agenda, a 1 to 4 day temporary On-Sale liquor license for the Lake Elmo Jaycees Huff'n Puff Days and waive the liquor license fee and the fee for the Lions Park ball field lights.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate prior to taking action regarding tabling, approval or denial. If affirmative action is then taken, the appropriate action of the Council following such discussion would be:

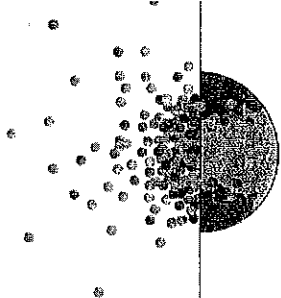
***“Move to approve the temporary On-Sale liquor license for the Lake Elmo Jaycees Huff’n Puff Days and waive the fees for the liquor license and Lions Park ball field lights. [as amended at tonight’s meeting].***

**ATTACHMENTS:**

1. Liquor License Application for Lake Elmo Jaycees

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

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



Lake Elmo  
**Jaycees**  
Affiliated with JCI

Serving communities  
in the St. Croix River  
Valley for 40 years!

## Proclamation

WHEREAS, the Lake Elmo Jaycees have been a vital part of the development of young leaders of our community the past 40 years and

WHEREAS, this organization of young people will again be sponsors of Huff and Puff Aug 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> 2010

NOW, THEREFORE, I, Dean Johnston, Mayor of Lake Elmo, do hereby proclaim the weekend of Aug 12<sup>th</sup> to the 15<sup>th</sup>

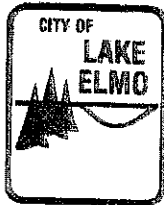
### Huff and Puff Days

In Lake Elmo, and urge all citizens of our community to give full regard to past and continuing services of the Lake Elmo Jaycees.

Signed this 15<sup>th</sup> day of June, 2010

Dean Johnston, Mayor of Lake Elmo





## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010  
CONSENT  
ITEM #: 3b.  
MOTION *as part of Consent Agenda*

**AGENDA ITEM:** Consider approval of a new Off-Sale Intoxicating liquor license for Lake Elmo Wine Company located at 3511 Lake Elmo Avenue N.

**SUBMITTED BY:** Sharon Lumby, City Clerk

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

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**SUMMARY AND ACTION REQUESTED:** The Lake Elmo City Council is asked to approve a new off-Sale Intoxicating liquor license for Lake Elmo Wine Company, located at 3511 Lake Elmo Avenue N, the Hagstrom building. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND & STAFF REPORT:** Kimberly Ommerborn, applicant, wishes to open an upscale wine shop which will be a family owned business. Proof of liquor liability insurance has been provided and fees are paid.

The City has received approval from the Washington County Sheriff's office and verbal approval from the State Public Safety alcohol inspector. The Planning Director has approved the zoning for the proposed liquor store and advised Ms. Ommerborn about parking regulations.

**RECOMMENDATION:** It is recommended that the City Council approve as part of the Consent Agenda a new off-Sale Intoxicating liquor license for Lake Elmo Wine Company.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate prior to taking action regarding tabling, approval or denial. If affirmative action is then taken, the appropriate action of the Council following such discussion would be:

***"Move to approve a new Off-Sale Intoxicating liquor license for the Lake Elmo Wine Company, located at 3511 Lake Elmo Avenue N., to Kimberly Ommerborn and submit application for approval by the Minnesota Public Safety Inspector [as amended at tonight's meeting]."***

**ATTACHMENTS:**

1. Liquor License Application for Lake Elmo Wine Company

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

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



Minnesota Department of Public Safety  
ALCOHOL AND GAMBLING ENFORCEMENT DIVISION  
444 Cedar St., Suite 222, St. Paul, MN 55101-5133  
(651) 201-7507 FAX (651) 297-5259 TTY (651) 282-6555  
WWW.DPS.STATE.MN.US



APPLICATION FOR OFF SALE INTOXICATING LIQUOR LICENSE

No license will be approved or released until the \$20 Retailer ID Card fee is received

Workers compensation insurance company, Name Secura Insurance Policy # 20-BP-009253290-0/00  
Licensee's MN Sales and Use Tax ID # 1639508 To apply for a MN sales and use tax ID #, call (651) 296-6181  
Licensee's Federal Tax ID # 27-2814514

If a corporation, an officer shall execute this application. If a partnership, a partner shall execute this application.

Licensee Name (Individual, Corporation, Partnership, LLC) <u>Lake Elmo Wine Company</u>	Social Security #	Trade Name or DBA <u>Lake Elmo Wine Company</u>
License Location (Street Address & Block No.) <u>3511 Lake Elmo Ave North</u>	License Period From <u>7/10</u> To <u>7/11</u>	Applicant's Home Phone # <u>651-334-9117</u>
City <u>Lake Elmo</u>	County <u>Washington</u>	State <u>MN</u>
Name of Store Manager <u>Kimberly Ommerborn</u>	Business Phone Number <u>not available yet</u>	Zip Code <u>55042</u>
DOB (Individual Applicant)		

If a corporation or LLC state name, date of birth, Social Security # address, title, and shares held by each officer. If a partnership, state names, address and date of birth of each partner.

Partner Officer (First, middle, last)	DOB	SS#	Title	Shares	Address, City, State, Zip Code
<u>Kimberly Ann Ommerborn</u>	<u>4/12/73</u>	<u>139-76-1327</u>	<u>owner</u>	<u>100%</u>	<u>11180 Sandcastle Dr # B Woodbury, MN 55129</u>
Partner Officer (First, middle, last)	DOB	SS#	Title	Shares	Address, City, State, Zip Code
Partner Officer (First, middle, last)	DOB	SS#	Title	Shares	Address, City, State, Zip Code
Partner Officer (First, middle, last)	DOB	SS#	Title	Shares	Address, City, State, Zip Code

- (LLC)
1. If a corporation, date of incorporation 5/27/10, state incorporated in MN, amount paid in capital no. If a subsidiary of any other corporation, so state no and give purpose of corporation no. If incorporated under the laws of another state, is corporation authorized to do business in the state of Minnesota? ☐ Yes ☒ No
  2. Describe premises to which license applies; such as (first floor, second floor, basement, etc.) or if entire building, so state.  
first floor, front store
  3. Is establishment located near any state university, state hospital, training school, reformatory or prison? Yes ☒ No ☐ If yes state approximate distance.
  4. Name and address of building owner: Hagstrom Properties LLC, 3511 Lake Elmo Ave North Lake Elmo, MN 55042
  5. Has owner of building any connection, directly or indirectly, with applicant? ☐ Yes ☒ No  
Is applicant or any of the associates in this application, a member of the governing body of the municipality in which this license is to be issued? ☐ Yes ☒ No If yes, in what capacity?
  6. State whether any person other than applicants has any right, title or interest in the furniture, fixtures or equipment for which license is applied and if so, give name and details. no
  7. Have applicants any interest whatsoever, directly or indirectly, in any other liquor establishment in the state of Minnesota? Yes ☒ No ☐ If yes, give name and address of establishment.

8. Are the premises now occupied or to be occupied by the applicant entirely separate and exclusive from any other business establishment? ☒ Yes ☐ No
9. State whether applicant has or will be granted, an On sale Liquor License in conjunction with this Off Sale Liquor License and for the same premises. ☐ Yes ☒ No ☐ Will be granted
10. State whether applicant has or will be granted a Sunday On Sale Liquor License in conjunction with the regular On Sale Liquor License. ☐ Yes ☒ No ☐ Will be granted
11. If this application is for a County Board Off Sale License, state the distance in miles to the nearest municipality. \_\_\_\_\_
12. State Number of Employees 2 (starting in the fall hopefully)
13. If this license is being issued by a County Board, has a public hearing been held as per MN Statute 340A.405 sub2(d)? \_\_\_\_\_
14. If this license is being issued by a County Board, is it located in an organized township? If so, attach township approval. \_\_\_\_\_

1. State whether applicant or any of the associates in this application, have ever had an application for a liquor license rejected by any municipality or state authority; if so, give dates and details. no
2. Has the applicant or any of the associates in this application, during the five years immediately preceding this application ever had a license under the Minnesota Liquor Control Act revoked for any violation of such laws or local ordinances; if so, give dates and details. no
3. Has applicant, partners, officers, or employees ever had any liquor law violations or felony convictions in Minnesota or elsewhere, including State Liquor Control penalties? ☐ Yes ☒ No If yes, give dates, charges and final outcome. \_\_\_\_\_
4. During the past license year, has a summons been issued under the Liquor Civil Liability Law (Dram Shop) M.S. 340A.802. ☐ Yes ☒ No If yes, attach a copy of the summons. \_\_\_\_\_

This licensee must have one of the following:

(ATTACH CERTIFICATE OF INSURANCE TO THIS FORM.)

Check one

- ☒ A. Liquor Liability Insurance (Dram Shop) - \$50,000 per person, \$100,000 more than one person; \$10,000 property destruction; \$50,000 and \$100,000 for loss of means of support.
- or
- ☐ B. A surety bond from a surety company with minimum coverage as specified in A.
- or
- ☐ C. A certificate from the State Treasurer that the licensee has deposited with the state, trust funds having market value of \$100,000 or \$100,000 in cash or securities.

I certify that I have read the above questions and that the answers are true and correct of my own knowledge.

Print name of applicant & title

Signature of Applicant

Date

Kimberly Ommerborn, owner

Kimberly Ommerborn

5/27/10

REPORT BY POLICE/SHERIFF'S DEPARTMENT

This is to certify that the applicant and the associates named herein have not been convicted within the past five years for any violation of laws of the State of Minnesota or municipal ordinances relating to intoxicating liquor except as follows:

Washington County Sheriff's Office

Sheriff

William McArthur

Police/Sheriff's Department

Title

Signature

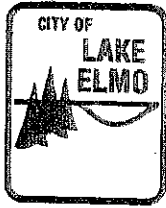
County Attorney's Signature

PS 9136-(2009)

#### IMPORTANT NOTICE

All retail liquor licensees must register with the Alcohol, Tobacco Tax and Trade Bureau.  
For information call (513) 684-2979 or 1-800-937-8864

✓ filed.



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010  
CONSENT  
ITEM # 3c  
MOTION *As part of Consent Agenda*

**AGENDA ITEM:** Easement Encroachment Agreement – 12211 Marquess Ln Cv

**SUBMITTED BY:** Kelli Matzek, Planner

**REVIEWED BY:** Bruce Messelt, City Administrator *BAW*

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to authorize the execution of an easement encroachment agreement allowing residents to construct improvements (in this case a fence) within drainage and utility easements on private property. The City has received a fence permit application in which the property owners are seeking to put a fence in the backyard at 12211 Marquess Lane Cove. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND INFORMATION:** The City Council has reviewed and approved easement encroachment agreements at the April 20, 2010 regular meeting. At that time, the City Council agreed to place future applications on the consent agenda, unless unique circumstances occur, in which case the agreement will be placed on the regular agenda.

The City holds easements of different sizes and for different purposes on many residential and commercial properties throughout the city. When a resident is interested in putting a structure within an easement, the city has requested the property owner provide a site plan showing where the improvement is proposed to be located, a detail of what the improvement will look like and how it will function.

After that information is received, the City Engineer reviews the proposed improvement and the use of the easement to determine if the proposed improvement will impede the functionality of the easement. If the engineer determines that the improvement will not negatively impact the functionality of the easement, an approved building or fence permit (if applicable) and an Easement Encroachment Agreement is needed before the work may commence.

**STAFF REPORT:** The Easement Encroachment Agreement that has been submitted for Council consideration is for a fence and has been reviewed by planning and engineering staff.

The proposed fence meets all city code requirements and Staff would have otherwise issued the fence permit if they did not encroach into a drainage and utility easement.

The Easement Encroachment Agreement is a legal document which has been signed by all property owners seeking to install an improvement within an easement. The document, among other things, indemnifies the city from responsibility if damage occurs to the improvement or if it needs to be removed at some point in the future.

The City Attorney has drafted this legal document and suggested the City Council should authorize the Mayor to sign the agreements prior to issuing a building or fence permit for the proposed improvements.

**RECOMMENDATION:** Based upon the above background information and staff report, it is recommended that the City Council approve the Easement Encroachment Agreement as part of tonight's *Consent Agenda*.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate prior to taking action regarding tabling, approval or denial. If affirmative action is then taken, the appropriate action of the Council following such discussion would be:

***"Move to authorize the execution of the Easement Encroachment Agreement for 12211 Lane Cove [as amended or directed at tonight's meeting]."***

**ATTACHMENTS:** Easement Encroachment Agreement

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

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

Return to: \_\_\_\_\_  
Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P.  
1809 Northwestern Ave.  
Stillwater, MN 55082

### ENCROACHMENT AGREEMENT

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the CITY OF LAKE ELMO, a Minnesota municipality (hereinafter "City"), and Scott Johnson and Annmarie Johnson (hereinafter "Owner"), husband and wife, and their successors in title.

WHEREAS, the City has an easement for drainage and utility purposes over that part of the property legally described on the attached Exhibit A, located in Washington County, Minnesota;

WHEREAS, Owner is desirous of constructing a fence ("The Improvements") within the Easement; and,

WHEREAS, the permission granted herein is limited to The Improvement proposed within the easement.

NOW, THEREFORE, in consideration of the premises and for good and valuable consideration, the receipt of which is acknowledged, the City will permit the encroachment on its easement area as set forth herein and subject to the conditions set forth below:

1. Owner and successors in title may install and maintain The Improvements in the

configuration directed by the City and in accordance herewith.

2. Owner must notify the City at least forty-eight (48) hours before construction, repair and/or maintenance work commences within the easement. No such work shall take place without the City staff being given the opportunity to be present at the site. Further, if the City determines in its reasonable estimation that any proposed work may potentially cause an unsafe condition or damage or impair the City's easement area, the City shall have the authority to prevent such work from being done by giving notice to Owner; notwithstanding the foregoing, in the event of an emergency situation and/or the existence of an unsafe condition of Owner's land, the prescribed forty-eight (48) hour notice requirement shall be waived by the City. However, in the event of such situation, said waiver shall not relieve Owner from their obligation to notify the City in a timely and practical manner. The City shall have no obligation to notify Owner of their intent to do work.

3. To the fullest extent permitted by law, Owner, their successors and assigns agree to release, defend, protect, indemnify, save and hold harmless the City, its agents, directors, employees and contractors against any and all claims, costs and liabilities, including the costs of defense for damages, injury or death arising from or in any way connected to the installation, maintenance, repair, removal and/or presence of The Improvements permitted hereunder, regardless of whether such harm is to Owner, the City, the employees or officers of either or any other person or entity, except shall not be liable under this paragraph for loss or damage to the extent resulting from the negligence or intentional acts of the indemnified parties.

4. The permission granted herein is limited exclusively to the proposed improvement within the City's easement. Owner shall not alter the grade, perform any other site disturbing activities, or permit such alteration anywhere upon the land upon which the City has reserved its



easement without proper express written consent of the City. Owner shall construct and maintain The Improvements in compliance with all applicable laws and in good repair.

Owner shall, at all times, use best efforts to conduct all of activities on said easement area in such a manner as to not interfere with or impede the operation of the City's easement and related activities in any manner whatsoever and shall remove The Improvements at no cost to the City when directed by the City. The work shall be done and The Improvements maintained in conformance with the direction of the City.

[SIGNATURES ON FOLLOWING PAGES]

CITY OF LAKE ELMO

By \_\_\_\_\_  
Dean Johnston, Mayor

By \_\_\_\_\_  
Bruce Messelt, City Administrator

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF WASHINGTON )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, a Notary Public, personally appeared Dean Johnston, Mayor of the City of Lake Elmo, a Minnesota municipality within the State of Minnesota, and that said instrument was signed on behalf of the City of Lake Elmo by the authority of the City Council of the City of Lake Elmo, and acknowledged said instrument to be the free act and deed of said City of Lake Elmo.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF WASHINGTON )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, a Notary Public, personally appeared Bruce Messelt, City Administrator of the City of Lake Elmo, a Minnesota municipality within the State of Minnesota, and that said instrument was signed on behalf of the City of Lake Elmo by the authority of the City Council of the City of Lake Elmo, and acknowledged said instrument to be the free act and deed of said City of Lake Elmo.

\_\_\_\_\_  
Notary Public

By \_\_\_\_\_  
[Scott Johnson]

By \_\_\_\_\_  
[Annmarie Johnson]

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF WASHINGTON )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, a Notary Public, personally appeared Scott Johnson and Annmarie Johnson, husband and wife, who signed the foregoing instrument and acknowledged said instrument to be their free act and deed.

\_\_\_\_\_  
Notary Public

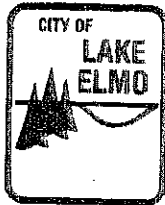
THIS INSTRUMENT DRAFTED BY:

David K. Snyder

Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P.

1809 Northwestern Avenue

Stillwater, MN 55082



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010  
CONSENT  
ITEM #: 4  
MOTION *as part of Consent Agenda*

**AGENDA ITEM:** Consider Request by MPCA for Temporary Location of small Shallow Aquifer Monitoring Wells on Public Land/Municipal Property

**SUBMITTED BY:** Jack Griffin, City Engineer

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

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**SUMMARY AND ACTION REQUESTED:** The Lake Elmo City Council is asked to authorize the City Engineer and City Administrator to further investigate and, if appropriate, effect a mutually advantageous partnership with the Minnesota Pollution Control Agency for temporary location of small shallow aquifer monitoring wells on appropriately-identified public lands/municipal property. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

**BACKGROUND & STAFF REPORT:** The City of Lake Elmo has been approached by MPCA regarding the placement of temporary small well sites within Lake Elmo for monitoring the presence and movement of various elements and contaminants within the shallow aquifer.

City staff are in support of such partnerships, as the data made available by such monitoring will prove exceptionally valuable, not only to MPCA, but to the City with respect to current and future provision of potable water services, current and future efforts to seek external financial support from polluters, granting agencies and state and federal governmental sources for costs associated with such water service.

However, prior to moving forward, the City Engineer and City Administrator believe additional information is necessary with respect to location of such monitoring wells, impact and screening, if identified and required, on selected sites, liability, maintenance and operating arrangements, and cooperation with the Minnesota Department of Health and other involved partners with respect to sharing monitoring data.

If approved tonight, the City Engineer and City Administrator will report back to the City Council regarding implementation of this partnership program. If necessary, City staff will also

coordinate with the Parks Commission and Parks staff regarding the potential location and operation of these small, temporary monitoring wells.

**RECOMMENDATION:** It is recommended that as part of tonight's *Consent Agenda* the City Council authorize the City Engineer and City Administrator to further investigate and, if appropriate, effect a mutually advantageous partnership with the Minnesota Pollution Control Agency for temporary location of shallow aquifer monitoring wells on appropriately-identified public lands/municipal property.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate prior to taking action regarding tabling, approval or denial. If affirmative action is then taken, the appropriate action of the Council following such discussion would be:

***"Move to authorize the City Engineer and City Administrator to further investigate and, if appropriate, effect a mutually advantageous partnership with the Minnesota Pollution Control Agency for temporary location of shallow aquifer monitoring wells on appropriately-identified public lands/municipal property."***

**ATTACHMENTS:** MPCA Program Description

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

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



**Minnesota  
Pollution  
Control  
Agency**

# **Enhancing Ambient Groundwater Quality Monitoring in Minnesota**

## **For the Clean Water, Land and Legacy Amendment**

Water Quality/Ambient Monitoring #1.05 • December 2009

### **For More Information**

For additional information about the MPCA's ambient groundwater quality monitoring network, contact the MPCA's Ambient Groundwater Monitoring Coordinator in the Environmental Analysis and Outcomes Division at 651-296-6300 or 800-657-3864.

**G**round water provides drinking water to approximately 75 percent of Minnesotans and contributes water to streams, rivers, lakes, and wetlands. The Minnesota Pollution Control Agency (MPCA) monitors the quality of our groundwater and protects it from contamination in cooperation with other state and local agencies.

### **What Is Ambient Monitoring?**

Ambient monitoring is one important component of the MPCA's groundwater protection efforts. Data collected from ambient monitoring activities provide information about the general quality of Minnesota's groundwater and helps identify whether it is getting better, worse, or not changing. Ambient monitoring involves the sampling of groundwater across large geographic settings and provides a large-scale or "big picture" view of groundwater quality conditions across the state.

### **How Is This Information Used?**

Data collected from MPCA ground water investigations is valuable to drinking water protection efforts and other water management activities. These data inform the state's drinking water supply protection efforts, identifies threats to groundwater quality, and guides the development of best management practices to avoid future groundwater impacts. Collected data are available on-line through the MPCA's Environmental Data Access system.

### **MPCA's Ambient Groundwater Monitoring Network**

The MPCA's ambient monitoring network focuses on determining the amount of non-agricultural chemicals in the aquifers that are most susceptible to pollution from human activities. The network focuses on the surficial sand and gravel and Prairie du Chien-Jordan aquifers. Assessments of agricultural chemicals in groundwater are performed by the Minnesota Department of Agriculture.

A network of shallow wells is monitored by the MPCA as an early warning network in the surficial sand and gravel aquifers. Shallow groundwater typically is not used as a source of drinking water, but any changes in groundwater quality will first be detected in these wells. The early warning network detects whether human activities may be affecting groundwater quality and provides an opportunity to identify and address problems before it reaches the deeper drinking water supplies.

### **Enhancing the Monitoring Network**

The MPCA is enhancing its monitoring network to improve the assessment of groundwater quality conditions and trends across the state. The agency will be installing additional monitoring wells, focusing on typical urban land use settings. The MPCA is contacting landowners about placing monitoring wells on their property. All costs associated with installing and sampling the wells are borne by the MPCA. Each sampling location initially will be visited about 2-3 times to install the well and prepare it for sampling. The newly-constructed wells will be sampled by the MPCA once each year for non-agricultural chemicals.

### **Clean Water Land and Legacy Amendment**

Enhancements to the MPCA's ambient groundwater quality monitoring network are funded through the Clean Water, Wildlife, Cultural Heritage and Natural Areas Amendment. On November 4, 2008, Minnesota voters approved this amendment which increased the sales and use tax rate by three-eighths of one percent on taxable sales through 2034. Parts of these funds are used to protect, enhance, and restore groundwater, with at least five percent of the funds targeted to protect drinking water sources.



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010  
REGULAR  
ITEM #: 5  
MOTION *Ordinance 08-026*

**AGENDA ITEM:** Consideration of Ordinance 08-026 Amending the Definition of "Wayside Stand"

**SUBMITTED BY:** Lake Elmo Planning Commission  
Kyle Klatt, Planning Director

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

**REVIEWED BY:** Dave Snyder, City Attorney  
John Baker, Greene Espel, PLLP

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**SUMMARY AND ACTION REQUESTED:** The City Council asked to consider a unanimous Planning Commission recommendation to modify by Ordinance 08-028 the definition of "Wayside Stand" in the City Code. That definition, in Section 11.01 of the City Code, presently defines a Wayside Stand as a "temporary structure or vehicle used for seasonal retail sale of agricultural goods produced by the operator of the wayside stand on-site or on other property in Lake Elmo."

The proposed revision to be considered would delete from the definition the words "or on other property in Lake Elmo." The recommended action to accomplish this is as follows:

***SUGGESTED MOTION:*** *Move to adopt Ordinance 08-026 Amending the Definition of Wayside Stand in Section 11.01 of the City Code, pursuant to the unanimous recommendation of the Planning Commission and the denoted findings of fact."*

**BACKGROUND INFORMATION:** The current definition of Wayside Stand has been in place for over ten years, during which it has been changed only by adding the word "temporary" and the phrase "or vehicle" to this sentence. In the interim, the City has modified its Zoning Code to increase the types of zoning districts in which a Wayside Stand is a permitted use or structure. Most recently (in 2008) the City added "Wayside Stands" to the list of permitted uses and structures in the Rural Residential (RR) category of zoning districts.

At its staff report to the City Council in advance of its December 1, 2009 City Council meeting, City staff recommended that the Planning Commission and City Council add to the 2010

Planning Commission Work Plan the evaluation of certain types of commercial/agricultural uses or practices. As that staff report explained, this would allow the Commission and Council to accomplish several things, including studying options for regulating these uses as a commercial activity and reviewing the differences between wayside stands and seasonal sales; specifically whether or not the sale of produce grown off-site should be allowed.

At the December 1 Council meeting, the Council unanimously directed the inclusion of Staff's recommendations in the Planning Department's 2010 Workplan. As a result, in the intervening period, City staff has been researching these issues, reviewing other community ordinances, seeking input from potentially affected stakeholders and other interested parties, and considering alternatives, with the expectation that concrete recommendations would be made by mid-2010.

**STAFF REPORT:** Research has shown that a "produced on the premises" limitation on retail sales in an agricultural district is quite common. Such a limitation reflects that commercial districts (such as the Lake Elmo's General Business district) are a more compatible place for grocery stores and other retail-oriented businesses, but that the sale of a particular piece of produce is often an incidental part of its production. A "produced on the premises" limitation serves to differentiate between agricultural and commercial uses in a way that helps to ensure that, if this type of retail sales occurs outside of a commercial district, it remains just an incidental part of the core agricultural purpose of the district.

However, a provision like the City's current definition of "Wayside Stand," which, while not only potentially ambiguous in terms of application and interpretation, is also more generous because it is not limited to the sale of produce grown on-site but currently includes sales of produce grown in the City, is not as common. "Wayside stand" definitions are more often limited to produce grown on the premises. The City understands that there are often better locations for wayside stands than on the very property where the produce was grown, and has, for that reason, been more permissive in its definition.

The City's willingness to be more permissive has been misunderstood, by one set of local growers and several actual or potential suppliers, as reflecting an intention to protect local economic interests and to discriminate against out-of-state economic interests. The "on other property in Lake Elmo" language has become a lightning rod for an effort to nullify all current limitations on the retail sale of produce in the agricultural and rural residential zoning districts. Thus, as part of City staff's performance of the responsibilities that the Council directed it to perform at the December 1 meeting, City staff recommends that the Planning Commission and City Council consider an amendment of this type.

**PLANNING COMMISSION REPORT:** At its June 28th, 2010 Meeting, the City of Lake Elmo Planning Commission held a Public Hearing on the proposed modification, deliberated the efficacy of the proposed change, and recommended to the City Council affirmative consideration of such. A brief summary of their deliberation and actions is attached. Of particular note:



- Two Lake Elmo residents spoke during the Public Hearing, one supporting the proposed change and one expressing opposition. One written comment from the individual who spoke in opposition was also submitted to the Planning Commission;
- The Planning Commission requested additional information on whether the Code's use of the term "operator" covered both property owner and property renter or leaseholder. Subsequent research by the City Attorney has determined that "operator" would apply to either the property owner or effective party under a valid lease or rental agreement. This has been added to the Findings of Fact for Council consideration;
- The Planning Commission separated but equally endorsed the proposed recommendation for the City to effect a farmers market or equivalent for the City and community of Lake Elmo, cognizant of cost and resource considerations. This proposed action is included in tonight's suggested motion;
- The Planning Commission requested future consideration of how the City might address the following two potential situations with respect to Wayside Stands:
  - Community Gardens or communal farming arrangements; and
  - Common ownership of multiple but non-contiguous parcels and the potential for allowing consolidation of produce from such to a single wayside stand. Subsequent research by the City Attorney and City Staff has determined that the predominant application of such ordinances is based upon specific land parcel and its allowable land use (zoning) and not upon ownership. However, additional investigation may afford for subsequent consideration of an alternative (or additional) approach;
- The Planning Commission actions were unanimous, with 7 Commissioners voting in the affirmative, no Commissioner voting in the negative, 3 Commissioners absent, and 1 Commissioner recusing him/herself due to potential apparent or perceived conflict of interest.

**ADDITIONAL INFORMATION:** Cognizant of the desire of the community to continue to allow reasonable local access to fresh produce through such wayside stands, and recognizing past efforts by the City Council, its Community Improvement Commission, and other community entities to facilitate a farmers' market or similar temporary seasonal sales area, the Planning Commission endorsed staff's recommendation to establish a Lake Elmo Farmers' Market (or equivalent), to allow interested individuals or parties to set up wayside stands and offer fresh produce and related goods to the local community. Such market would operate similar to other farmers' markets and would be located in appropriate available public or private locations.

In the near future, staff will also be investigating further revisions to the City's agricultural sales business and agricultural entertainment business regulations in response to the previous direction from the Council; and in particular, will be evaluating how the commercial (and off-site) sale of agricultural products might be incorporated into the City's Zoning Ordinance. As part of this analysis, Staff will be making recommendations to the Planning Commission regarding the

zoning districts and areas that would be most suitable for this type of activity, as well as the appropriate review and permitted prices for such uses. In advance of this review, tonight's amendment to the Wayside Stand definition will help clarify the overall structure of the City's agricultural sales regulations.

*For Information purposes only:* While not scheduled for discussion tonight, by means of background information, the City's definition of Agricultural Sales Business (which applies only in a Rural Residential or Agricultural zoning district), which is also incorporated in the definition of Agricultural Entertainment Business (which applies only in an Agricultural zoning district), presently permits the holder of a ASB or AEB conditional use permit to engage in the retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products "produced on the premises."

**RECOMMENDATION:** Staff recommends that the City Council affirmatively Consider the Planning Commission's recommendation of the proposed amendment to the definition of "Wayside Stand," as documented in the attached draft Ordinance. In addition, staff recommends though passage of such affirmation of the Planning Commission's recommendation to pursue establishment of a Lake Elmo Farmers' Market (or equivalent), to not only preserve but enhance the current and future offering of fresh produce and related goods to the local community. The suggested motion to undertake this action is as follows:

***Move to adopt Ordinance 08-026 Amending the Definition of Wayside Stand in Section 11.01 of the City Code, pursuant to the unanimous recommendation of the Planning Commission and the denoted findings of fact."***

Alternatively, the City Council does have the authority to table this item at its discretion for future consideration, take no action (in essence denying the recommendation), remand this item with or without direction for further staff and Planning Commission evaluation, or amend the recommended action. If the later is done so, the appropriate action of the Council following such discussion would be:

***Move to adopt Ordinance 08-026 Amending the Definition of Wayside Stand in Section 11.01 of the City Code, pursuant to the unanimous recommendation of the Planning Commission and the denoted findings of fact [as amended at tonight's meeting]."***

**ATTACHMENTS:**

1. Ordinance 08-026 Amending the Definition of "Wayside Stand"
2. Planning Commission Report -- July 1st, 2010
3. June 28th, 2010 Letter from Mr. Keith Bergmann, Country Sun Farm

**SUGGESTED ORDER OF BUSINESS:**

- Introduction..... Bruce A. Messelt, City Administrator
- Report by Staff..... Kyle Klatt, Planning Director
- Questions from the City Council ..... Mayor & City Council
- Public Input, if Appropriate ..... Mayor Facilitates
- Call for a motion ..... Mayor Facilitates
- Discussion of Motion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

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

**ORDINANCE NO. 08-026**

**AN ORDINANCE AMENDING THE DEFINITION OF "WAYSIDE STAND"**

**FINDINGS**

1. At its Staff report to the City Council in advance of its December 1, 2009 City Council meeting, City staff recommended that the Planning Commission and City Council add to the 2010 Planning Commission Work Plan the evaluation of certain types of commercial/agricultural uses or practices. As that staff report explained, this would allow the Commission and Council to accomplish several things, including studying options for regulating these uses as a commercial activity and reviewing the differences between wayside stands and seasonal sales; specifically whether or not the sale of produce grown off-site should be allowed.

2. At the December 1 Council meeting, the Council unanimously directed the inclusion of Staff's recommendations in the Planning Department's 2010 Workplan.

3. As a result, in the intervening period, City staff has been researching these issues, reviewing other community ordinances, seeking input from potentially affected stakeholders and other interested parties, and considering alternatives, with the expectation that concrete recommendations would be made by mid-2010.

4. As the next step of City staff's performance of the responsibilities that the Council directed it to perform at the December 1 meeting, City staff and the Planning Commission have recommended that City Council begin by amending the definition of "Wayside Stand."

5. Most of the words in the current definition of Wayside Stand (as a "temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the Wayside Stand on site or on other property in Lake Elmo") have been in place for over ten years, during which the definition has been changed only by adding the word "temporary" and the phrase "or vehicle" to this sentence.

6. In the interim, the City has modified its Zoning Code to increase the types of zoning districts in which a Wayside Stand is a permitted use or structure. Most recently (in 2008) the City added "Wayside Stands" to the list of permitted uses and structures in the Rural Residential (RR) category of zoning districts.

7. Research has shown that a "produced on the premises" limitation on retail sales in an agricultural or rural district is quite common. Such a limitation reflects that commercial districts (such as the Lake Elmo's General Business district) are a more compatible place for

grocery stores and other retail-oriented businesses, but that the sale of a particular piece of produce is often an incidental part of its production.

8. Courts and communities have used "produced on the premises" distinctions to differentiate between agricultural and commercial uses in a way that helps to ensure that, if this type of retail sales occurs outside of a commercial district, it remains just an incidental part of the core agricultural purpose of the district.

9. The City's current definition of "Wayside Stand" differentiates between agricultural goods, floriculture, and horticulture produced "on site *or on other property in Lake Elmo.*" That language is more generous to the operator of a wayside stand than a "produced on the premises" distinction. However, it is a less-common way of distinguishing between agricultural and commercial uses. Wayside or roadside stand definitions are more often limited to produce grown on the premises.

10. The presence of the "or on other property in Lake Elmo" distinction in the definition reflects the City's understanding that there are often better locations for wayside stands than on the very property where the produce is grown. Although it was not intended to allow a Wayside Stand to sell produce that the operator has purchased from someone else, the language is sufficiently ambiguous to lead someone to read it that way.

11. A removal of the "on other property in Lake Elmo" will help clarify the overall structure of the City's agricultural sales regulations.

12. The City's willingness to be more permissive in allowing sales from Wayside Stands of produce grown elsewhere in Lake Elmo has been misunderstood by one set of local growers and several actual or potential suppliers, as reflecting an intention to protect local economic interests and to discriminate against out-of-state economic interests. That was not, and is not, the City's intent. Paradoxically, Country Sun Farms, the Lake Elmo business that has used that phrase to claim that the City has created of an unconstitutional "Lake Elmo Only Sales Policy," has opposed the deletion of "or on other property in Lake Elmo" from the "Wayside Stand" definition, because (in the words of one of its owners) "this does not help our city's farmers."

13. In response to an inquiry from a member of the Planning Commission, the Assistant City Attorney has opined that, with or without this change, the "Wayside Stand" definition does not depend on whether the operator of the stand is owning, renting, or leasing the stand or the property where the produce for sale is grown.

14. The Council is cognizant of the desire of the community to continue to allow reasonable local access to fresh produce through such wayside stands. It also recognizes past efforts by the City Council, its Community Improvement Commission, and other community entities to facilitate a farmers' market or similar temporary seasonal sales area.

15. For that reason, in conjunction with this change in the City's zoning regulations, the City Council is endorsing the establishment of at least one farmers market in one of Lake

Elmo's commercial or institutional zoning districts. Such a farmers market would to allow interested individuals or parties to set up wayside stands and offer fresh produce and related goods to the local community, without regard to where they are grown.

16. This amendment does not conclude the process for considering revisions to the City's agricultural sales business and agricultural entertainment business regulations. City staff, and then the Planning Commission, will be evaluating how the commercial (and off-site) sale of agricultural products might be incorporated into the City's Zoning Ordinance. Information that has been received at the June 28 Planning Commission regarding agricultural sales in settings other than Wayside Stands will be considered as part of that stage of the process.

**BASED ON THESE FINDINGS, THE CITY COUNCIL HEREBY ADOPTS THE FOLLOWING ORDINANCE:**

**SECTION 1.** The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to read as follows:

**WAYSIDE STAND.** A temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the **WAYSIDE STAND** on site.

**SECTION 2.** Effective Date

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

**SECTION 3.** Adoption Date

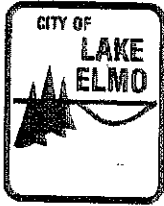
This Ordinance No. 08-025 was adopted on this 6<sup>th</sup> day of July 2010, by a vote of \_\_\_ Ayes and \_\_\_ Nays.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

This Ordinance No 08-\_\_\_\_ was published on the \_\_\_\_ day of \_\_\_\_\_, 2010.



## MAYOR & COUNCIL MEMORANDUM

**DATE:** July 1st, 2010

**SUBJECT:** Planning Commission Report on Wayside Stand Discussion

**SUBMITTED BY:** Kyle Klatt, Planning Director

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

**REVIEWED BY:** Kelly Matzek, City Planner

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The Planning Commission considered the proposed amendment at its June 28, 2010 meeting and conducted a public hearing on this matter at that time.

Keith Bergmann of Country Sun Farms submitted a written statement and also spoke at the hearing, offering the following comments:

- He noted that Country Sun Farms started out as a wayside stand and expanded to the present agricultural sales business.
- He expressed concern about not being able to move products from another property.
- He stated that a farmer's market is not the answer for everyone in the community, and that it would not work for him to bring his business to a farmer's market.
- He stated that the ordinance makes things worse, not better for the public and only better for the City as we are in a lawsuit.

Neil Krueger also spoke at the public hearing on this matter and spoke in favor of the ordinance change as proposed.

The Commission questioned how the revised definition would apply to someone who is renting a piece of property or smaller plot land, and who would be considered an operator of the stand.

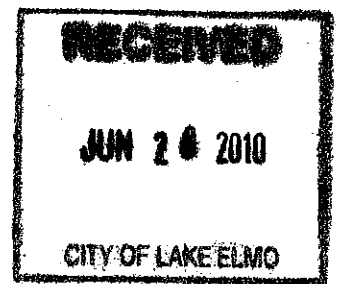
The Commission adopted a motion to recommend approval of the proposed amendment with a request that the language concerning the operator of the stand and how to handle rental situations be further clarified by the City Attorney. This motion passed with a 7:0 vote (with one abstention).

The Commission adopted a motion directing Staff to conduct additional research concerning non-contiguous parcels and how these situations may relate to wayside stands and to clarify how small community gardens could come together to form a wayside stand. This motion passed with a 7:0 vote (with one abstention).

The Commission made a separate motion to recommend that the City Council consider establishing a farmer's market in Lake Elmo and specified that the motion should not commit the City to making any financial commitments or expend other resources at this time. This motion passed with a 4:3 vote (with one abstention).

June 28, 2010

Dear Planning Commission,



This letter is in response to the proposal that will be considered at the June 28, 2010 meeting. Country Sun Farm does not agree with the proposal to delete "or on other property in Lake Elmo" from the definition of "Wayside Stand." This does not help our city's farmers. Farmers who sell goods from their own farms have to be able to supplement their products. Otherwise they will go out of business. Instead, we propose a comprehensive and simple solution. This is amending the definition of "Agricultural Sales Business" by simply deleting the following ~~stricken~~ language:

***AGRICULTURAL SALES BUSINESS.*** The retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products ~~produced on the premises~~. The operation may be indoors or outdoors, include pick-your-own opportunities, and may involve accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25% of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the ***AGRICULTURAL SALES BUSINESS.***

This would not lead to undesirable or unsafe farm business practices. Agricultural Sales Businesses would still be regulated by Lake Elmo Code Section 154.110:

#### **§ 154.110 AGRICULTURAL SALES BUSINESSES.**

Agricultural sales businesses shall be subject to the following performance standards:

- (A) Activities shall be limited to those listed within the definition for *Agricultural Sales Business*.
- (B) The agricultural sales business shall be located on land owned or leased by the producer or the operator of the business, and not within or on any public right-of-ways or easements.
- (C) The operator must be able to demonstrate at all times to the city that there is sufficient access, parking and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.
- (D) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.



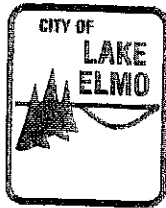
(E) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.

This would mean the City can still ensure farms do not pose a danger to the public or create a nuisance, but will enable farms to stay in business when they need to bring in outside products for sale.

Sincerely,

A handwritten signature in cursive script, appearing to read "Keith Bergmann".

Keith Bergmann  
Country Sun Farm



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/6/10  
REGULAR  
ITEM #: 6  
DISCUSSION/MOTION

**AGENDA ITEM:** Home Occupations Ordinance No. 08-027

**SUBMITTED BY:** Danielle Bailey, Planning Intern

**THROUGH:** Lake Elmo Planning Department  
Bruce Messelt, City Administrator *BNM*

**REVIEWED BY:** Kelli Matzek, Planner

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to review and provide Staff with feedback on a revised draft of Lake Elmo's Home Occupation regulations. This issue has been ongoing since 2004 with significant discussion (see Home Occupation Timeline) and was tabled by the City Council on July 18, 2006. Staff is providing the Council with a Timeline of the Home Occupation Ordinance, Draft Planning Commission minutes from June 28, 2010, Ordinance No. 08-027, and Resolution No. 2010-024 (necessary for summary publication).

If it is desirous by the Council to further discuss this ordinance given its complexity and history, the City Council may schedule additional time for future discussion and consideration.

**BACKGROUND INFORMATION:** The Planning Commission has made the following changes and decisions to the City Council's tabled 2006 Home Occupation Ordinance:

- Home Occupations will be defined by two subtypes: Home Offices and Home Based Businesses.
- Home Based Businesses should have a Home Based Business Permit that is monitored by the staff using an application procedure.
- Exceptions to the Home Occupation Ordinance include Agricultural Sales, Garage Sales, Licensed Residential Facilities, and Merchandise Sales.
- A Garage Sale provision and a Merchandise Sales provision were added to the definition section.
- Storage will not be limited by size.
- The hours of operation for Home Based Businesses shall be between 7:00 a.m. and 10:00 p.m.
- Home Based Businesses shall require the signature of the property owner.

The City Council originally sent back a draft of the Home Occupation Ordinance noting that one deficiency was that the size of storage was unregulated. The Planning Commission took note of

that comment and after several discussions and several votes; a non-unanimous majority concluded that it would be unwise to regulate what happened within the residential or accessory structures if nuisances to surrounding properties could be abated by the other provisions in the Home Occupation Ordinance.

**STAFF REPORT:** The Home Occupation Ordinance is currently out of date. It is only referenced in the definition section of the City Code, does not address garage sales or merchandise sales, and provides no review process to evaluate how intrusive a Home Occupation is on surrounding property. Now that more and more individuals are beginning to use Home Occupations it is becoming a necessity to update the Lake Elmo's regulation in order to provide better guidance on the proper usage of Home Occupations.

**RECOMMENDATION:** Based upon the above background information and staff report, it is recommended that the City Council discuss and, if appropriate, adopt Ordinance No. 08-027 by undertaking the following action:

***"Move to approve Ordinance 08-027 regarding Home Occupations and related definition sections."***

Alternatively, the City Council may schedule additional time for future discussion and consideration.

**ATTACHMENTS:**

1. Home Occupation Timeline
2. June 28, 2010 Planning Commission Minutes--DRAFT
3. Ordinance No. 08-027
4. Resolution No. 2010-024

**SUGGESTED ORDER OF BUSINESS:**

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

## Home Occupation Timeline

- June 28, 2010—Planning Commission recommended approval of the Home Occupation Ordinance to the City Council
- April 12, 2010—Planning Commission made the following decisions with regard to Home Occupations:
  - Home Occupations will be defined by two subtypes: Home Offices and Home Based Businesses.
  - Home Based Businesses should have a Home Based Business Permit that is monitored by the staff using an application procedure.
  - Home Offices should be regulated by performance standards.
  - Exceptions to the Home Occupation Ordinance should include garage sales, licensed facilities, and agricultural sales.
  - A Garage Sale provision should be added to the definition section.
- March 22, 2010—Planning Commission made the following decisions with regard to Home Occupations:
  - They wanted separate regulations and definitions for home offices and home based businesses and wanted to return to the old planning commission draft as a starting point.
  - Degree of storage should not be limited for any home occupation.
  - Home offices would not have a permit and home based businesses would require a Special Home Occupation Permit.
  - Signs would not be permitted for any home occupation
- March 8, 2010—Planning Commission reopened discussion on the Home Occupation Ordinance
- July 18, 2006—City Council
  - Tabled discussion
- June 12, 2006—Planning Commission made revisions to the recommended ordinance
  - Made the following changes:
    - Degree of storage should not be limited
    - Two non-resident employees are allowed in a home-based business
    - Annual license renewals is not needed
    - Three business related vehicles are allowed at any time (parked off street)
    - Limited visits from 10 to 5 per day
    - Deliveries limited to 6 trips daily
- June 6, 2006—City Council workshop
  - Made a draft ordinance
- March 27, 2006—Planning Commission Public hearing
  - Concern over stock and trade being limited because of invasion of privacy
  - Concern over how to address adverse impacts on adjacent property
- March 13, 2006—Planning Commission Public Hearing
  - Discussed Shoreview ordinance

- Discussed the definition currently in use and suggested splitting it into two categories: home based business, and home office
  - Discussed difference between seasonal and year long businesses
  - Discussed deliveries
- November 14, 2005—Planning Commission
  - Discussed Shoreview Ordinance and created a table
  - Discussed accessory structures
  - Discussed licensing
  - Discussed distinction between land uses
- October 24, 2005—Planning Commission
  - Discussed traffic concerns
  - Discussed exterior visibility of business
- March 14, 2005—Planning Commission
  - Home occupations discussed under a zoning text amendment
    - Was amended to include RR zoning
- February 28, 2005—Planning Commission
  - Set up schedule for March 14, 2005 text amendment, and suggest tabling rest of the issue
- February 7, 2005—City Council, Home Based Business Workshop

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of June 28, 2010**

Vice Chair Fliflet called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Bidon, Britz, Fliflet, Hall, Pearson, Pelletier, Williams, and Ziertman. Absent: McGinnis, Van Erem and Van Zandt. STAFF PRESENT: City Administrator Messelt, City Attorney \_\_\_\_\_, Attorney \_\_\_\_\_, Attorney \_\_\_\_\_, Planning Director Klatt, Planner Matzek, and Planning Intern Bailey.

**Agenda**

M/S/P, Hall/Williams, move to approve the agenda as presented. Vote: 8:0.

**Minutes – May 10, 2010**

Commissioner Hall asked for Mr. Freeman's statement on page four to be clarified. M/S/P, Williams/Pearson, move to approve the minutes as revised. Vote: #:0. Abstained:

**Public Hearing – Home Occupation Ordinance**

Planning Intern Bailey gave the history on the evolution of the proposed ordinance and explained the ordinance changes from the last time the commission reviewed the ordinance. She identified typos previously presented to her by Commissioner Williams.

Commissioner Williams asked how a wayside stand would be reviewed in relation to the home occupation ordinance.

Planning Intern Bailey said the ordinance would explicitly exclude wayside stands.

Vice Chair Fliflet asked to have the end of the sentence stricken in the garage sale definition so it wouldn't be repetitive and the meaning wouldn't change. She asked how holiday boutiques would fit into the definition of garage sales.

Commissioner Pelletier suggested private parties such as candle parties should not be limited to twice a year like a public garage sale. She asked what the previous discussion was regarding limiting storage for home occupations.

Planning Intern Bailey said the commission had discussed it at length at a past meeting and the majority of the commission voted to not regulate the amount of storage allowed.

THE VICE CHAIR OPENED THE PUBLIC HEARING AT 7:26 P.M.

No one spoke.

THE VICE CHAIR CLOSED THE PUBLIC HEARING AT 7:27 P.M.

Commissioner Pearson asked if renters should be allowed to conduct a home occupation.

Planning Director Klatt suggested requiring the property owner to sign the application form.

M/F, Williams moved to approved the draft including the corrections in subdivision five where additional language should be added requiring a property owner's signature on a home occupation permit. Motion failed for a second.

Commissioner Ziertman suggested hours of operation are added to the ordinance.

A straw vote was taken and a majority voted for 7 a.m. to 10 p.m. seven days a week.

Vice Chair Fliflet asked that the following language be added to the exception section: "This ordinance does not pertain to licensed day care facilities as they are licensed by the State."

Commissioner Ziertman asked if the code regulated the type or size of vehicles allowed in residential areas.

Planning Director Klatt stated that the specific section of code could be referenced in the home occupation ordinance.

Commissioner Pelletier said she is uneasy about not regulation the amount and location of storage associated with a home based business.

A straw vote was held in favor of the currently drafted wording regarding storage. Six commissioners were for leaving the text as written. Two opposed: Ziertman and Pelletier.

Commissioner Ziertman suggested taking out "seasonal goods" from the definition.

A straw vote was taken and a majority voted in favor of creating a second definition and removing "seasonal goods" from the garage sale definition.

Commissioner Hall suggested the sales could be defined as public and private with different requirements. He said public sales, like garage sales, could be allowed twice a year for three days each whereas private sales, like a Mary Kay party, could be unlimited.

M/S/P, move to recommend approval of the ordinance as amended with the understanding that staff will circulate potential rewording of the definitions.

Pelletier suggested a friendly amendment that the straw votes and discussion of the commission on the topic be passed along to the City Council.

Vote: 8:1. Ziertman against as she believes it is a mistake not to regulate the storage size.

CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 08-027

AN ORDINANCE ADDING HOME OCCUPATION REGULATIONS  
TO THE CITY CODE

**SECTION 1.** The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to eliminate existing definitions as follows:

~~**HOME OCCUPATION.** Any gainful occupation or profession engaged in by the occupant, only, of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those normally utilized in a residential district are present, no stock in trade is stored on the premises, that no over-the-counter retail sales are involved, and entrance to the home occupation is or can be gained from within the structure. Uses include professional office, hairdressing, or teaching limited to 3 students at any time, and similar uses. A **HOME OCCUPATION** shall not be interpreted to include barber shops, beauty shops, tourist homes, restaurants, disorderly house as defined by M.S. § 609.33, Subd. 1, as it may be amended from time to time, or similar uses. No **HOME OCCUPATION** shall be permitted that creates the need for more than 3 parking spaces at any given time in addition to the parking spaces required by the occupants. **HOME OCCUPATIONS** shall not be carried on except between the hours of 7:00 a.m. and 10:00 p.m.~~

**SECTION 2.** The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to add the following definitions in alphabetical order with the already existing definitions:

**Garage Sales.** Any isolated or occasional display and sale of used personal property or home-crafted items conducted on residential premises by the occupant of the residential property. Garage sales shall include rummage sales, basement sales, yard sales, porch sales, craft sales, and seasonal boutiques. Garage sales are limited to no more than two (2) sales per calendar year at any one property. Such sale cannot exceed three (3) consecutive calendar days.

**Home Based Business.** A home occupation that does not meet the definition of home office either because it allows non-resident employees, additional parking, or customer visits.

**Home Occupation.** Any occupation, profession or trade engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of



the premises and does not change the character of said premises. There are two types of home occupations: home offices and home based businesses.

**Home Office.** A home occupation which consists primarily of an office or home crafts. It includes, but is not limited to, receiving or initiating correspondence, such as phone calls, mail, fax, or e-mail; preparing or maintaining business records; word or data processing; and telephone, mail order, and off-premise sales.

**Merchandise Parties.** Private parties held for the purpose of soliciting sales. Merchandise parties shall include but not be limited to Tupperware, Mary Kay, and Avon parties. Merchandise parties shall be limited to no more than six (6) sales per year from a residential dwelling unit.

**SECTION 3.** The City Council of the City of Lake Elmo hereby adds 154.112: Land Usage; Chapter 154: Zoning Code, by adding the following language:

**§ 154.112 Home Occupations.**

(A) **Purpose and Intent.** The City of Lake Elmo recognizes the desire and/or the need of some citizens to use their residences for business activities. The City also recognizes that the use of residences for limited business purposes may result in a reduction of vehicle trips on City streets as well as economic benefit to City residents. It is therefore the purpose and intent of this Section to allow the use of residences for limited business purposes while regulating such business use in a manner that precludes such business use from becoming a nuisance to neighboring residential property owners, and while preserving the distinction between residential and commercial zoning districts.

(B) **Home Based Business and Home Office.** Permits responsive to this Section shall be applicable to Home Based Businesses, but not to Home Offices, as both are defined by Section 150 of this City Code.

(C) **Administrative Enforcement.**

(1) **Home Based Business Permit.** Any Home Based Business shall require a "Home Based Business Permit." Permits shall not run with the land and shall not be transferrable. A complete application, including the signature of the property owner, shall be submitted to the City. The planning department may impose such conditions on the granting of a Home Based Business Permit as may be necessary to carry out the purpose and provisions of this Section.

(2) **Review.** The planning department shall approve or deny Home Based Business Permit applications upon receipt of a complete application. If the permit is denied, the planning department will send a written notice of denial to the applicant. The written notice will indicate the reason(s) for denial and a description of the applicant's appeal rights as indicated in section 31.10

(D) **Home Office Performance Standards.** Home Offices must meet the following Performance Standards:

(1) **Residency.** A full-time resident of the property must conduct the home office.

(2) **Impact on Adjacent Properties.** The Home Office shall have no adverse effect on adjacent properties which shall include but is not limited to traffic or offensive noise, light, odor, dust, electro-magnetic interference or other noxious substances, as may be defined elsewhere in the City Code.

(3) **Exterior Appearance.** There shall be no exterior evidence, including signs advertising the home occupation, that a building is being used for any purpose other than as a residential dwelling or permitted accessory structure.

(4) **Number of Businesses.** More than one Home Office is allowed, however the combined impact shall be considered when evaluating if it meets the requirements of a Home Office.

(5) **Non-resident Employees.** No non-residents may work on the site.

(6) **Customer Visits to Site.** The general public shall not come to the premises in question for purposes pertaining to the conduct of the Home Office.

(7) **Deliveries to Site.** No more than six (6) delivery/pickup trips per week. Delivery vehicles shall not be larger than a typical residential delivery truck.

(8) **Storage.** Any merchandise or stock in trade sold, repaired, or displayed shall be stored entirely within the residential structure, garage, or an accessory building.

(D) **Home Based Business Performance Standards.** Review of applications for Home Based Business Permit and subsequent determinations regarding revocation of a Home Based Business Permits shall be based on the initial and continued compliance of a Home Based Business on the following Performance Standards:

(1) **Residency.** A full-time resident of the property must conduct the business.

(2) **Impact on Adjacent Properties.** The Home Based Business shall have no adverse effect on adjacent properties which includes but is not limited to traffic or offensive noise, light, odor, dust, electro-magnetic interference or other noxious substances, as may be defined elsewhere in the City Code.

(3) **Exterior Appearance.** There shall be no exterior evidence, including signs advertising the home occupation, that a building is being used for any purpose other than as a residential dwelling or permitted accessory structure.

(4) **Number of Businesses.** More than one Home Based Business is allowed, however the combined impact shall be considered when evaluating the terms of the Home Based Business Permit.

(5) **Non-resident Employees.** Not more than two (2) non-residents may work on the site.

(6) **Business Vehicles.** A maximum of three (3) business vehicles may be on site at any time, and the vehicles must be parked off-street at all times. No parking shall replace the required parking of the residents. Said vehicles must be in compliance with section 154.095 in the City Code regarding the maximum size of vehicles permitted to be parked in residential zones.

(7) **Customer Visits to Site.** Permitted only where specified by the Home Based Business Permit, and shall be limited to a maximum of five (5) per day.

(8) **Deliveries to Site.** No more than six (6) delivery/pickup trips per week. Delivery vehicles shall not be larger than a typical residential delivery truck.

(9) **Storage.** Any merchandise or stock in trade sold, repaired, or displayed shall be stored entirely within the residential structure, garage, or an accessory building.

(10) **Off-Street Parking.** When customer site visits are specifically allowed by the Home Based Business Permit, adequate Off-Street Parking must be provided for customers and for those who reside on the premises. All required parking spaces shall be in compliance with section 154.095 in the City Code.

(11) **Hours of Operation.** Home Based Businesses can only have non-resident employees at the site, deliveries to the site, or customer visits to the site between the hours of 7:00 a.m. to 10:00 p.m. seven (7) days a week.

(E) **Exceptions.** Home Occupations do not pertain to Agricultural Sales, Garage Sales, Licensed Residential Facilities, or Merchandise Parties.

#### **SECTION 4. Effective Date**

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

#### **SECTION 5. Adoption Date**

This Ordinance No. 08-027 was adopted on this 6<sup>th</sup> day of July 2010, by a vote of \_\_\_\_ Ayes  
and \_\_\_\_ Nays.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Bruce Messelt  
City Administrator

This Ordinance No 08-027 was published on the \_\_\_\_ day of \_\_\_\_\_,  
2010.

**CITY OF LAKE ELMO**

**RESOLUTION NO. 2010-032**

**RESOLUTION AUTHORIZING PUBLICATION OF  
ORDINANCE NO. 08-027 BY TITLE AND SUMMARY**

**WHEREAS**, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-027, an ordinance to update the existing city code to improve home occupation regulations; and

**WHEREAS**, the ordinance is lengthy; and

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

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

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo, that the City Administrator shall cause the following summary of Ordinance No. 08-027 to be published in the official newspaper in lieu of the entire ordinance:

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-027 which adds new regulations to the city code for the regulation of Home Occupations. This new regulation will apply to all Home Offices and Home Based Businesses, but does not pertain to Agricultural Sales, Garage Sales, Licensed Residential Facilities, or Merchandise Parties.

The full text of Ordinance No. 08-027 is available for inspection at Lake Elmo city hall during regular business hours.

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Mayor Dean Johnston

**BE IT FURTHER RESOLVED** by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance in his office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: July 6, 2010.

ATTEST:

\_\_\_\_\_  
Mayor Dean Johnston

\_\_\_\_\_  
Bruce A. Messelt  
City Administrator

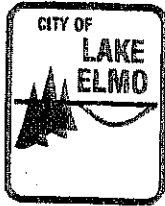
(SEAL)

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

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

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010  
PUBLIC HEARING  
ITEM # 7  
MOTION *Resolution 2010-033*

**AGENDA ITEM:** Drainage and Utility Easement Vacation – 11950 21<sup>st</sup> Street North

**SUBMITTED BY:** Kyle Klatt, Planning Director

**THROUGH:** Bruce Messelt, Cit Administrator *BAM*

**REVIEWED BY:** Kelli Matzek, City Planner  
Ryan Stempski, Assistant City Engineer

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to convene a *Public Hearing* and then, following this, consider a request from Richard and Elizabeth Heath, 11950 21<sup>st</sup> Street North, to vacate a portion of an existing drainage and utility easement on their property and to further accept the dedication of a new easement on this property to replace the one being vacated. This request has been made to comply with a condition of the Variance that was recently granted for this property. The recommended motion to act on this is as follows:

***SUGGESTED MOTION:*** *“Move to adopt Resolution No. 2010-033 vacating a drainage and utility easement and dedicating a new easement over a portion of Lot 1, Block 1 of Eden Park 2<sup>nd</sup> Addition”*

**BACKGROUND INFORMATION:** The City Council approved a variance request by the applicants on June 1, 2010 that allowed them to remove an existing attached garage on the property and to replace it with a new garage with living space above it. The old garage had been built in the early 1980's over a portion of the 30-foot wide drainage and utility easement that follows the eastern property line.

The new garage will be moved further away from the property line, but would still encroach slightly into the easement area. In order to address the past encroachment issues and to provide some additional benefit to the City, the applicant has proposed to dedicate a new easement over all portions of their property below the 100-year flood elevation. This new dedication is consistent with the City's storm water and erosion control ordinance and would provide the City an easement over a larger portion of the site than presently exists.

The proposed action to vacate and rededicate easements over the applicant's property will not significantly alter the original intent of the 30-foot wide easement, and should actually be more consistent with the City's current regulations since all the easement would cover all portions of

the site that are subject to regulation under the Flood Plain Management Ordinance. Please note that prior to taking action on a request to vacate an easement, the City Council must conduct a public hearing in accordance with State Statutes. Notice of a public hearing has been published in the local paper and was mailed to all property owners within Eden Park 2<sup>nd</sup> Addition.

**RECOMMENDATION:** Based upon the above background information and findings documented in the attached Resolution No. 2010-033, Staff recommends that the City Council approve the request to vacate an existing drainage and utility easement over a portion of Lot 1, Block 1 Eden Park 2<sup>nd</sup> Addition as described in the attached materials and to further accept the dedication of a new drainage and utility easement over the same property and also as described in the attached materials..

***“Move to adopt Resolution No. 2010-033 vacating a drainage and utility easement and dedicating a new easement over a portion of Lot 1, Block 1 of Eden Park 2<sup>nd</sup> Addition”***

Alternatively, the City Council may consider denial of the request if it can make findings that the proposed vacation and rededication is not in the public interest. To do so, the following alternative motion should be used:

***“Move to deny the vacation of a drainage and utility easement and dedication of a new easement over a portion of Lot 1, Block 1 of Eden Park 2<sup>nd</sup> Addition, based upon the following findings of fact [as articulated at tonight’s meeting].”***

**ATTACHMENTS:**

1. Resolution No. 2010-033
2. Notice of Completion of Vacation Proceeding
3. Easement Conveyance Agreement
4. Easement Descriptions
5. Site Plan Depicting Areas to be Vacated and Dedicated

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to Staff..... Mayor Facilitates
- Open the Public Hearing..... Mayor Facilitates
- Close the Public Hearing ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates



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

**RESOLUTION NO. 2010-033**

*A RESOLUTION VACATING A DRAINAGE AND UTILITY EASEMENT AND DEDICATING A  
NEW EASEMENT OVER A PORTION OF LOT 1, BLOCK 1, EDEN PARK 2<sup>ND</sup> ADDITION*

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

**WHEREAS**, the City of Lake Elmo has received a request for a Variance from Richard Heath, 11950 21<sup>st</sup> Street North, to allow the construction of an addition to an existing residence that would be set back 115 feet from the Ordinance High Water Elevation of Down's Lake

**WHEREAS**, the City Council approved the Variance at its June 1, 2010 meeting subject to the vacation of a portion of the existing and rededication of a new drainage and utility easement to be located at or above the 100-year flood elevation of Down's Lake; and

**WHEREAS**, a request has been made to the City Council pursuant to Minnesota Statute §412.851 to vacate a portion of the existing drainage and utility easement over Lot 1, Block 1 of Eden Park 2<sup>nd</sup> Addition described as follows:

The 30.00 foot wide drainage easement along the east line of Lot 1, Block 1, EDEN PARK 2ND ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, more particularly described as follows:

The east 30.00 feet of said Lot 1 lying northerly of the south 12.00 feet and southerly of the survey line and drainage easement line shown on said EDEN PARK 2ND ADDITION and described as follows:

Commencing at the southeast corner of said Lot 1; thence North 00 degrees 51 minutes 47 seconds West, bearings oriented to said EDEN PARK 2ND ADDITION, along the east line of said Lot 1, a distance of 255.00 feet, to the point of beginning of the survey line to be described; thence South 85 degrees 46 minutes 58 seconds West a distance of 119.19 feet and said line there terminating.

**WHEREAS**, an associated request has been made to the City Council to dedicate a new drainage and utility easement over Lot 1, Block 1 of Eden Park 2<sup>nd</sup> Addition, described as follows:

That part of Lot 1, Block 1, EDEN PARK 2ND ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1; thence westerly along the south line of said Lot 1 a distance of 18.00 feet along a curve concave to the south, having a radius of 330.00 feet, a central angle of 03 degrees 07 minutes 31 seconds, and the chord of said curve bears North 83 degrees 41 minutes 49 seconds West; thence North 09 degrees 02 minutes 25 seconds West a distance of 85.37 feet; thence North 05 degrees 50 minutes 42 seconds East a distance of 73.42 feet; thence North 33 degrees 30 minutes 28 seconds West a distance of 10.06 feet; thence North 84 degrees 09 minutes 18 seconds West a distance of 11.31 feet; thence North 04 degrees 14 minutes 14 seconds West a distance of 83.17 feet to the southerly line of a drainage easement as shown on said EDEN PARK 2ND ADDITION; thence North 85 degrees 46 minutes 58 seconds East, along said southerly line, a distance of 119.19 feet to the east line of said Lot 1; thence South 00 degrees 51 minutes 47 seconds East, along said east line, a distance of 255.00 feet to the point of beginning.

**WHEREAS**, the City Clerk reviewed and examined the signatures on said request and determined that such signatures constituted all of the landowners abutting upon the portion of easement to be vacated and rededicated; and

**WHEREAS**, a public hearing to consider the vacation and rededication of the drainage and utility easement was held on the 6<sup>th</sup> day of July 2010 before the City Council in the Lake Elmo City Hall located at 3800 Laverne Avenue North at 7:00 p.m. or shortly thereafter after due published and posted notice had been given, as well as personal mailed notice to all property owners within Eden Park 2<sup>nd</sup> Addition by the City Clerk on the 30<sup>th</sup> day of June 2010 and all interested and affected persons were given an opportunity to voice their concerns and be heard; and

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

- 1) A detached accessory building had been constructed on this lot in 1981 over a portion of the drainage and utility easement. This building will be removed and replaced with a new structure that is located outside of the proposed easement area.
- 2) The new easement will cover a larger portion of the property and will incorporate all portions of the site that are located below the 100-year flood elevation of Down's Lake.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE ELMO, COUNTY OF WASHINGTON MINNESOTA**, that such request for vacation of an existing and dedication of a new drainage and utility easement is hereby granted in accordance with the property descriptions provided above.

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

Adopted by the Council this 6<sup>th</sup> day of July 2010.

Effective Date: \_\_\_\_\_

	AYES	NAYS
_____ Dean A. Johnston, Mayor	_____	_____
_____ Brett Emmons, Council	_____	_____
_____ Nicole Park, Council	_____	_____
_____ Steve DeLapp, Council	_____	_____
_____ Anne Smith, Council	_____	_____

Approved:

\_\_\_\_\_  
Dean A. Johnston, Mayor

Attested by:

\_\_\_\_\_  
Bruce Messelt, City Administrator

**NOTICE OF COMPLETION  
OF VACATION PROCEEDING**

TO: AUDITOR-TREASURER, WASHINGTON COUNTY, MINNESOTA:

PLEASE TAKE NOTICE, that the City of Lake Elmo has completed proceedings for the vacation of the following described Drainage and Utility Easements in the City of Lake Elmo, Washington County, Minnesota:

The 30.00 foot wide drainage easement along the east line of Lot 1, Block 1, EDEN PARK 2<sup>ND</sup> ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, more particularly described as follows:

The east 30.00 feet of said Lot 1 lying northerly of the south 12.00 feet and southerly of the survey line and drainage easement line shown on said EDEN PARK 2<sup>ND</sup> ADDITION and described as follows:

Commencing at the southeast corner of said Lot 1; thence North 00 degrees 51 minutes 47 seconds West, bearings oriented to said EDEN PARK 2<sup>ND</sup> ADDITION, along the east line of said Lot 1, a distance of 255.00 feet, to the point of beginning of the survey line to be described; thence South 85 degrees 46 minutes 58 seconds West a distance of 119.19 feet and said line there terminating.

Said proceeding was completed on the 6<sup>th</sup> day of July, 2010. The only lands affected thereby are the lands within the above-described drainage and utility easement.

Dated at the City of Lake Elmo this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**CITY OF LAKE ELMO**

\_\_\_\_\_  
Bruce Messelt  
City Administrator

## EASEMENT

THIS INSTRUMENT is made by Richard Heath and Elizabeth Heath, husband and wife (Grantors) in favor of the City of Lake Elmo, a Minnesota municipal corporation (Grantee).

### Recitals

A. Grantors are the fee owners of the following described property in Washington County, Minnesota (the "Property"):

*Lot 1, Block 1, Eden Park 2<sup>nd</sup> Addition*

B. Grantors desire to grant to the Grantee easements, according to the terms and conditions contained herein.

### Terms of Easements

1. Grant of Easements. For good and valuable consideration, receipt of which is acknowledged by Grantors, Grantors grant and convey to the Grantee the following easements:

A perpetual easement for drainage and utility purposes over, under, across and upon that part of Washington County, Minnesota, which is described as follows:

That part of Lot 1, Block 1, EDEN PARK 2ND ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1; thence westerly along the south line of said Lot 1 a distance of 18.00 feet along a curve concave to the south, having a radius of 330.00 feet, a central angle of 03 degrees 07 minutes 31 seconds, and the chord of said curve bears North 83 degrees 41 minutes 49 seconds West; thence North 09 degrees 02 minutes 25 seconds West a distance of 85.37 feet; thence North 05 degrees 50 minutes 42 seconds East a distance of 73.42 feet; thence North 33 degrees 30 minutes 28 seconds West a distance of 10.06 feet; thence North 84 degrees 09 minutes 18 seconds West a distance of 11.31 feet; thence North 04 degrees 14 minutes 14 seconds West a distance of 83.17 feet to the southerly line of a drainage easement as shown on said EDEN PARK 2ND ADDITION; thence North 85 degrees 46 minutes 58 seconds East, along said southerly line, a distance of 119.19 feet to the east line of said Lot 1; thence South 00 degrees 51 minutes 47 seconds East, along said east line, a distance of 255.00 feet to the point of beginning.

2. Scope of Easement. The perpetual easements granted herein include the right of the Grantee, its contractors, agents, and employees to enter upon the aforesaid easement tracts at all reasonable times for the purposes of locating, constructing, reconstructing, operating, maintaining, inspecting, altering and repairing within the described easement tracts public drainage and utilities over, across, through and under the lands described together with the right to excavate and refill ditches and/or trenches for the location of said public utilities and drainage.





June 10, 2010

### **Proposed Description for Vacation of Existing Drainage Easement**

The 30.00 foot wide drainage easement along the east line of Lot 1, Block 1, EDEN PARK 2<sup>ND</sup> ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, more particularly described as follows:

The east 30.00 feet of said Lot 1 lying northerly of the south 12.00 feet and southerly of the survey line and drainage easement line shown on said EDEN PARK 2<sup>ND</sup> ADDITION and described as follows:

Commencing at the southeast corner of said Lot 1; thence North 00 degrees 51 minutes 47 seconds West, bearings oriented to said EDEN PARK 2<sup>ND</sup> ADDITION, along the east line of said Lot 1, a distance of 255.00 feet, to the point of beginning of the survey line to be described; thence South 85 degrees 46 minutes 58 seconds West a distance of 119.19 feet and said line there terminating.

### **Proposed Description for Conveyance of Proposed Drainage Easement**

That part of Lot 1, Block 1, EDEN PARK 2<sup>ND</sup> ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1; thence westerly along the south line of said Lot 1 a distance of 18.00 feet along a curve concave to the south, having a radius of 330.00 feet, a central angle of 03 degrees 07 minutes 31 seconds, and the chord of said curve bears North 83 degrees 41 minutes 49 seconds West; thence North 09 degrees 02 minutes 25 seconds West a distance of 85.37 feet; thence North 05 degrees 50 minutes 42 seconds East a distance of 73.42 feet; thence North 33 degrees 30 minutes 28 seconds West a distance of 10.06 feet; thence North 84 degrees 09 minutes 18 seconds West a distance of 11.31 feet; thence North 04 degrees 14 minutes 14 seconds West a distance of 83.17 feet to the southerly line of a drainage easement as shown on said EDEN PARK 2<sup>ND</sup> ADDITION; thence North 85 degrees 46 minutes 58 seconds East, along said southerly line, a distance of 119.19 feet to the east line of said Lot 1; thence South 00 degrees 51 minutes 47 seconds East, along said east line, a distance of 255.00 feet to the point of beginning.



# HEATH EXHIBIT

## Easement Vacation - Conveyance

Folz, Freeman, Erickson, Inc.  
LAND PLANNING • SURVEYING • ENGINEERING  
12445 55TH STREET NORTH  
LAKE ELMO, MINNESOTA 55042  
Phone (651) 439-8833 Fax (651) 430-9331



### Prepared For:

Richard Heath  
11950 21st Street North  
Lake Elmo, MN 55042

### NOTES

- 1) ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM 1988.
- 2) ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE RECORDED PLAT OF EDEN PARK 2ND ADDITION.

### Parcel Legal Description:

Lot 1, Block 1, EDEN PARK 2ND ADDITION  
according to the plat thereof on file and of record in the Office  
of the County Recorder, Washington County, Minnesota.

### Proposed Description for Vacation of Drainage Easement

The 30.00 foot wide drainage easement along the east line of Lot 1, Block 1, EDEN PARK 2ND ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, more particularly described as follows:

The east 30.00 feet of said Lot 1 lying northerly of the south 12.00 feet and southerly of the following described line:

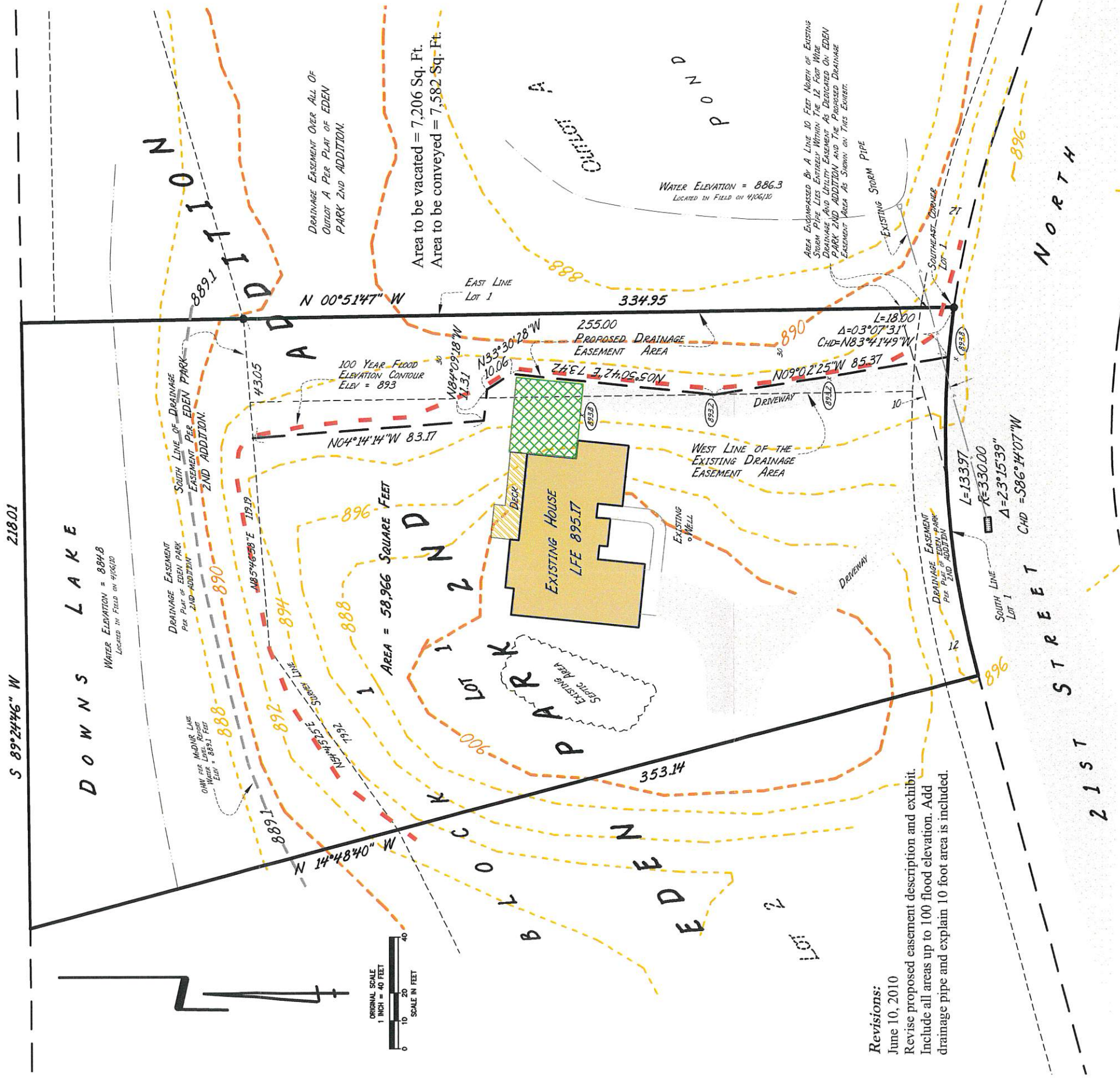
Commencing at the southeast corner of said Lot 1; thence North 00 degrees 51 minutes 47 seconds West, bearings oriented to said EDEN PARK 2ND ADDITION, along the east line of said Lot 1, a distance of 255.00 feet, to the point of beginning of the line to be described; thence South 85 degrees 46 minutes 58 seconds West a distance of 119.19 feet and said line there terminating.

### Proposed Description for Conveyance of Drainage Easement

That part of Lot 1, Block 1, EDEN PARK 2ND ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Washington County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1; thence westerly along the south line of said Lot 1 a distance of 18.00 feet along a curve concave to the south, having a radius of 330.00 feet, a central angle of 03 degrees 07 minutes 31 seconds, and the chord of said curve bears North 83 degrees 41 minutes 49 seconds West; thence North 09 degrees 02 minutes 25 seconds West a distance of 85.37 feet; thence North 05 degrees 50 minutes 42 seconds East a distance of 73.42 feet; thence North 33 degrees 30 minutes 28 seconds West a distance of 10.06 feet; thence North 84 degrees 09 minutes 18 seconds West a distance of 11.31 feet; thence North 04 degrees 14 minutes 14 seconds West a distance of 83.17 feet to the southerly line of a drainage easement as shown on said EDEN PARK 2ND ADDITION; thence North 85 degrees 46 minutes 58 seconds East, along said southerly line, a distance of 119.19 feet to the east line of said Lot 1; thence South 00 degrees 51 minutes 47 seconds East, along said east line, a distance of 255.00 feet to the point of beginning.

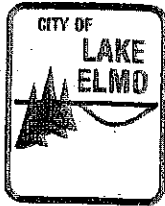
BASE FLOOD ELEVATION PER FEMA FIRM MAP PANEL 27163C0355E = 893 FEET



### Revisions:

June 10, 2010  
Revise proposed easement description and exhibit.  
Include all areas up to 100 flood elevation. Add  
drainage pipe and explain 10 foot area is included.





## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010  
REGULAR  
ITEM #: 8  
DISCUSSION

**AGENDA ITEM:** Unsewered Area Population Projections and Density Analysis – Review of 2030 Comprehensive Plan Information

**SUBMITTED BY:** Kyle Klatt, Planning Director

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

**REVIEWED BY:** Kelli Matzek, City Planner  
Daniele Bailey, Planning Intern

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to review the housing and population projections from the Lake Elmo Comprehensive Plan, and to specifically discuss the status of these projections as they relate to the City's rural (unsewered) development areas. Staff has attempted to expand upon the population projection chart from the Comprehensive Plan (page III-17) to provide additional information concerning the number and location of both sewer and unsewered households throughout the time period addressed by the Plan.

The attached charts contain a significant amount of information that will be more thoroughly discussed at the City Council meeting on July 6th. No Council Action is requested at this time, though direction regarding further analysis/refinement is requested, as appropriate.

**REVIEW OF COMPREHENSIVE PLAN PROJECTIONS:** One of the attached charts developed by Staff provides information on the population and number of households in Lake Elmo as of the year 2000 and then projected in 5-year increments out to 2030. The Comprehensive Plan does not give any specific information; however, regarding how many of these units will be located in rural areas (non-sewered). By deducting the number of projected sewer units from the total household estimates, we can begin to make some assumptions about where these non-sewered units will be located. There are a couple of issues; though, that complicate this analysis: 1) some existing non-sewered units will be converted to sewer units in the future, and 2) the conversion of the existing village housing units in 2030 overstates the number of units currently located in the Village.

Removing the existing housing units to be converted to sewer (which includes the Cimarron Manufactured Housing Park and the existing Village Area units) is a fairly straight-forward process. What is more problematic is the overestimate of the current housing in the Village. A

study conducted in 2007 showed that there were 194 housing units within the Village area, which is 306 less than would hook up to the regional sewer in 2030 according to the Comprehensive Plan. In order to address this problem, Staff revised the rural area unit counts to address the over count. The net affect of this recalculation is a more accurate baseline concerning unsewered housing units for the years 2000 and 2009.

The problem with attempting to adjust the numbers used in the Comprehensive Plan is that the 306 Village units either need to be added to the unsewered development areas or the sewer development areas in order for the overall housing unit and population projections to reach the respective targets of 8,727 and 24,000 set in the Comprehensive Plan. For the purposes of the analysis below, Staff made the assumption that these units would be added to sewer service areas, but did not attempt to redistributed the 306 units on the attached charts (for the numbers to be accurate, the total number of Village units would need to be reduced by 306 or the unsewered areas would need to be increased by 306 units).

In order to address this problem, the City has three primary options:

- Add the 306 units into the sewer development areas in the Village or along the I-94 corridor. This action would either keep the overall Village total housing unit amount the same (by increasing the new sewer units to 906) or would result in a final distribution of 4,406 sewer units along I-94 and 794 sewer units within the Village area (4,100 units plus the 306 unit shortfall and 1,100 units minus the 306 unit shortfall).
- Add the 306 units into the unsewered development areas guided RAD or RAD2 on the future land use map. This action would address the overall population total for the City in 2030, but would cause the City to fall short of achieving the sewer household projections for 2030 (4,894 verses the required 5,200).
- Reconsider the calculations for employment Residential Equivalency (REC) Units throughout the City to claim credit for existing employment within the Village area. It is possible that the City's total projected REC units might remain the same under this scenario, but there would need to be 1,500 employees in the Village area in order to reach this total. In addition, the population projections would need to be adjusted downward under this scenario, which would not be consistent with the 2005 Memo or Understanding between the City and Met Council.

**RURAL AREA ANALYSIS:** Based on the information assembled by Staff, the City will need to add 1,259 unsewered housing units to rural areas by 2030 to achieve the overall population targets in the Comprehensive Plan. This number was achieved by taking the number of non-sewered households projected in 2030 and subtracting from this amount the City's current household numbers as of 2009 (and removing the known number of units that will be sewer in Cimarron and the Village area).

From there, Staff worked to identify the amount of land available for rural development in the future by taking all land guided RAD, RAD2, and RED on the future land use map and then subtracting out land that has already been developed in these areas.

The total amount of available land that is devoted to unsewered residential development (RAD, RAD2, RE) is 3,816 acres. This total includes land that is not developable, for instance land that has been placed into a conservation easement or water surface areas, and parcels that are not likely to be redeveloped in the future due to the small size of the lot or other circumstances that make consolidation or several parcels unlikely. Staff has estimated that at least 145 acres of this land is not developable and removed this amount from the final calculations presented below.

In order to evaluate whether or not the City is on pace to reach the rural population targets in the Comprehensive Plan, Staff has developed three distinct scenarios related to future rural development to specifically address how many units might realistically be developed in the City's rural areas between now and 2030. These scenarios include the following:

- An aggressive development scenario that assumes all land over 10 acres in size will be developed as part of an open space project in the future.
- A more moderate scenario that assumes only parcels over 20 acres in size will be developed in the future.
- A conservative development scenario that assumes only parcels over 40 acres in size will be developed in the future.

Based on these scenarios, Staff is projecting that the following future household growth may be anticipated within rural development areas:

<u>Scenario</u>	<u>Households</u>
Aggressive	1,578
Moderate	1,442
Conservative	1,070
<b>Comprehensive Plan</b>	<b>1,259</b>

**ADDITIONAL INFORMATION:** Given the complex nature of this information, Staff is planning to take time with the City Council to review and discuss attached report and charts at the July 6<sup>th</sup> meeting.

**RECOMMENDATION:** The City Council is not asked to undertake any specific action at this time. Staff is seeking feedback concerning the methodology used to achieve the population

scenarios described above, and any additional comments regarding the Comprehensive Plan's population and household projections.

**ATTACHMENTS:**

- 1) Household Projection Chart
- 2) Future Rural Development Analysis
- 3) Comprehensive Plan Population Projections

**SUGGESTED ORDER OF BUSINESS:**

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

2030 Population Projections  
Lake Elmo Planning Department - 7/1/10

	2000 CENSUS	2005 Net Change	2009 ESTIMATED	2010 Net Change	2015 Net Change	2020 Net Change	2025 Net Change	2030 Net Change
<b>2005 Comp Plan Projections</b>								
Total Households	2,347	2,750 (403)	2,814	3,619 (869)	5,114 (1,495)	6,324 (1,210)	7,524 (1,200)	8,727 (1,203)
Unsewered Households	2,347	2,750 (403)	2,814	3,104 (354)	3,464 (360)	3,324 (360)	3,674 (350)	3,527 (353)
Sewered Households	0	0 (0)	0	515 (515)	1,650 (1,135)	3,000 (850)	3,850 (850)	5,200 (850)
Converted to Sewer	0	0 (0)	0	0 (0)	0 (0)	500 (500)	500 (0)	1,000 (500)
<b>Households by Area</b>								
Village Sewered	0	0 (0)	0	515 (515)	600 (85)	600 (0)	600 (0)	1,100 (500)
Village Unsewered*	500	500 (0)	500	500 (0)	500 (0)	500 (0)	500 (0)	0 (-500)
Total Village*	500	500 (0)	500	1,015 (515)	1,100 (85)	1,100 (0)	1,100 (0)	1,100 (0)
I-94 Sewered	0	0 (0)	0	0 (0)	1,050 (1,050)	2,400 (1,350)	3,250 (850)	4,100 (850)
I-94 Unsewered	108	108 (0)	108	108 (0)	102 (-6)	96 (-6)	90 (-6)	83 (-7)
<b>Rural Analysis (June 2010)</b>								
Rural (Unsewered) Dev. Areas								
- Including Village Overcount	1,347	1,750 (403)	1,814	2,104 (354)	2,464 (360)	2,824 (360)	3,174 (350)	3,527 (353)
- Removing Village Overcount	1,653	2,056 (403)	2,120	2,410 (354)	2,770 (360)	3,018 (248)	3,368 (350)	3,527 (159)
<b>Summary</b>								
Persons per Household	2.92	2.80 (-0.12)	2.96	2.75 (-0.05)	2.75 (0)	2.91 (0.16)	2.91 (0)	2.75 (-0.16)
Total Population	6,863	7,700 (837)	8,326	9,952 (2,252)	14,064 (4,112)	18,403 (4,339)	21,895 (3,492)	24,000 (2,105)
Population Shortfall from 2009				(1,626)	(5,738)	(10,077)	(13,569)	(15,674)

**Notes**

\* The household unit counts in the Comp Plan overstate the number of existing housing units in the Village by 306. These households are removed from the Rural Analysis section, but not added to another category in the chart.

\*\* Changes reported between each 5-year time period

Rural Development Areas - Household Projections  
Lake Elmo Planning Department - 7/1/10

<u>Land Analysis</u>	<u>Acreages</u>	<u>Density</u>	<u>Capacity</u>
Future RAD (Comp Plan)	5007	0.45	2253
Future RAD (Remaining)	3556	0.45	1600
Future RAD (Developable)	3386	0.45	1524
Future RAD (Over 40)	1573	0.45	708
Future RAD (Over 20)	2400	0.45	1080
Future RAD (Over 10)	2703	0.45	1216
Future RAD2	167	2	334
Future RED	93	0.3	28

<u>Projections</u>	<u>Households</u>
All undeveloped rural (unsewered) areas	1886
Only RAD over 10 acres	1578
Only RAD over 20 acres	1442
Only RAD over 40 acres	1070

<u>Household Information</u>	<u>Households</u>
2030 Rural (unsewered) Households	3527
2009 Rural (unsewered) Households	2120
New Rural (unsewered) HH Projected	1407

<u>Vacant Lots</u>	<u>Lots</u>
Vacant Platted Lots (2010)	148

**Rural (Unsewered) Household Estimates (2009-2030)**

Additional households needed by 2030: 1259

Aggressive	1578
Moderate	1442
Conservative	1070

\* All estimates remove lakes and non-open space conservation easements from totals (reported as "developable" RAD land)

Replacement  
counted  
2/3/06

1. The 2030 population and employment forecasts contained in Appendix A of the Metropolitan Council 2030 Development Framework – as adjusted in regard to forecasted persons-per-dwelling unit and the 2005 MOU.
2. The Regional wastewater flow targets for Lake Elmo from the Metropolitan Council Draft 2030 Water Resources Management Plan.
3. Paragraphs #2 and #5 of the City of Lake Elmo/Metropolitan Council 2005 MOU.
4. The City of Lake Elmo Community Facilities and Staffing Report – 2002

With respect to Regionally sewered growth, Paragraph #5 of the 2005 MOU details the planned Regional Wastewater capacities available to Lake Elmo as follows:

	REC	MGD
To WONE Interceptor - Metro Plant (estimated construction completion: Dec. 2006)	1,825	0.50
To Cottage Grove Interceptor - Eagles Point Plant Phase I (estimated construction completion: Dec. 2007)	1,825	0.50
Phase II (estimated construction completion: Dec. 2010)	4,675	1.28
Total	8,325	2.28

As required by the Metropolitan Council "Local Planning Handbook," the Lake Elmo Development Staging Plan, in 5 year increments, shall be as follows:

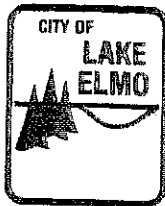
	2000	2005	2010	2015	2020	2025	2030
Total Households	2347	2750	3619	5114	6324	7524	8727
Households							
Old Village – Sewered	0	0	515	600	600	600	1100
Cimarron – Sewered	0	0	0	0	500	500	500
Other Sewered	0	0	0	1050	1900	2750	3600
Total Population	6863	7700	9952	14064	18403	21895	24000
Total Sew. Employees	1000	1000	1000	3800	5950	8800	13000
Total Employment	1636	1943	2250	5050	7200	10050	14000

5,200

see VI-2

The foregoing projections of sewered and unsewered dwelling units, population and employment shall be reviewed by the City at 5 year increments utilizing the data of the US Census Bureau for even year increments and the official estimates of the Metropolitan Council for odd year increments – when such data becomes available to the Public. If it is determined that the actual production of dwelling units, population and employment within the City is not equal to or greater than the foregoing projections, the City, with the cooperation and concurrence of the Metropolitan Council, will development measures to overcome any shortfalls during the ensuing 5 year period.

The City will adopt legal provisions to maintain this Staging Plan that may include a limitation on annual number of lots approved for platting, number of building permits issued, geographic extent of allowable development, or some combination of these or other suitable provisions. Such staging provisions shall provide for acceleration of the



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/06/2010

**REGULAR**

ITEM #: 9

**MOTION**

**AGENDA ITEM:** Whistling Valley Development, Phases 1, 2, and 3 – Request to extend the Development Completion Deadline of June 30, 2010

**SUBMITTED BY:** Ryan Stempski, Assistant City Engineer

**THROUGH:** Bruce Messelt, City Administrator *BAW*

**REVIEWED BY:** Kyle Klatt, Planning Director  
Jack Griffin, City Engineer  
Dave Snyder, City Attorney

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**SUMMARY AND ACTION REQUESTED:** The City Council is asked to consider an extension to complete the remaining work in Whistling Valley Development Phases 1, 2, and 3. The completion dates in the Development Agreements of all phases have passed. Due to recent economic times, the Developer has indicated that he has not been able to complete the improvements in accordance with the Development Agreement.

The Developer has recently met with Contractors and approached City Staff to schedule the remaining work. Staff recommends that the City Council move to approve the motion by undertaking the following action:

***SUGGESTED: "Move to allow an extension to complete all remaining items in the MOTION: Whistling Valley Development, Phases 1, 2, and 3 in accordance with the attached Schedule of Remaining Work dated June 30, 2010; contingent upon receipt of a Letter of Credit in the amount of \$379,125 and in the form acceptable to the City Attorney. Failure by the Developer to meet each and any deadline noted in the Schedule of Remaining Work dated June 30, 2010, may be considered default of the Development Agreement and subject to all available remedies by the City."***

**BACKGROUND INFORMATION:** At the request of the Developer to address extenuating circumstances, City staff worked with the Developer of Whistling Valley Developments, Phases 1, 2, and 3 to identify all outstanding work items necessary to complete the development improvements, and identified a reasonable work schedule to complete the work. Subsequently, a time extension for completing the development improvements was approved by the City Council in accordance with the attached Schedule of Remaining Work, issued November 17, 2009, thereby extending the final completion date to June 30, 2010. At this time, the only item that has been addressed was the installation of 27 trees in Whistling Valley Phase II.



**STAFF REPORT:** At this time, the developer has failed to meet the approved completion schedule of June 30, 2010, for the remaining work in the Whistling Valley Development, Phases 1, 2, and 3. Staff has met with the Developer and the Developer has discussed additional circumstances leading to the delays. In addition, the Developer has been conducting inspections and meeting with his contractors to schedule the work. The Developer now proposes to complete all remaining development improvements in the Whistling Valley Development, Phases 1, 2, and 3 per the attached schedule, dated June 30, 2010 (see Attachment No. 2)

In accommodating this request, City Staff has requested that the current Financial Bonds issued for the Development Security, be replaced with a Letter of Credit in a form acceptable to the City Attorney, and in an amount sufficient to complete all remaining work. Attachment No. 3 provides a breakdown of the remaining items and associated costs. It is recommended that the extension request be contingent upon receipt of a Letter of Credit in the amount of \$375,125.

**RECOMMENDATION:** The Council at its discretion may approve another extension for the work to be completed. Based upon the above background information and staff report, it is recommended that the City Council move to approve the motion by undertaking the following action:

***“Move to allow an extension to complete all remaining items in the Whistling Valley Development, Phases 1, 2, and 3 in accordance with the attached Schedule of Remaining Work dated June 30, 2010; contingent upon receipt of a Letter of Credit in the amount of \$379,125 and in the form acceptable to the City Attorney. Failure by the Developer to meet each and any deadline noted in the Schedule of Remaining Work dated June 30, 2010, may be considered default of the Development Agreement and subject to all available remedies by the City.”***

Alternatively, the Council may table action at tonight’s meeting or decide to declare the Development in default, subjecting it to all the remedies outlined in the Development Agreements. The suggested motion to undertake the latter is as follows:

**“Move to declare Whistling Valley Development Phases 1, 2, and 3 in default, and direct the City to seek all available remedies outlined in the Development Agreements.”**

**ATTACHMENTS:** (3)

1. Previous Schedule of Remaining Work – Issued November 17, 2009
2. Proposed Schedule of Remaining Work dated June 30, 2010
3. Development Security Requirements – Cost Breakdown of Remaining Work, 6/29/2010

**SUGGESTED ORDER OF BUSINESS:**

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

## Remaining Items to be Completed – Extension Granted November 17, 2009

The City Engineer must be notified 24 hours prior to any construction activity.

The City Engineer must also be notified within 24 hours of completion of each item to perform a final review.

Note: Erosion and Sediment Control must be consistently maintained for the entire site until final acceptance.

### **Whistling Valley Phase I – Each Item to be Completed by Following Date:**

1. Perform street patching and edge control placement – **November 30, 2009**
2. Perform maintenance on storm sewer outfalls – **December 30, 2009**
3. Cross sections of ponds and infiltration basins must be surveyed to verify storage depths. Ponds and infiltration basins must be graded to Final Plan elevation. – **December 30, 2009**
4. All sediment in storm sewer lines must be cleaned out – **December 30, 2009**

*Winter 2010*

1. Complete “As-built” record drawings – **March 1, 2010**

*Spring 2010*

1. Wear course paving – **June 30, 2010**

### **Whistling Valley Phase II – Each Item to be Completed by Following Date:**

1. Perform street patching and edge control placement – **November 30, 2009**
2. Complete tree replacement – **November 30, 2009**
3. Perform maintenance on storm sewer outfalls – **December 30, 2009**
4. Cross sections of ponds and infiltration basins must be surveyed to verify storage depths. Ponds and infiltration basins must be graded to Final Plan elevation. – **December 30, 2009**
5. All sediment in storm sewer lines must be cleaned out – **December 30, 2009**

*Winter 2010*

1. Complete “As-built” record drawings – **March 1, 2010**

*Spring 2010*

1. Wear course paving – **June 30, 2010**

### **Whistling Valley Phase III – Each Item to be Completed by Following Date:**

*Spring 2010*

1. Wear course paving – **June 30, 2010**
2. Complete all landscaping improvements with approval of the City Forester – **May 31, 2010**
3. Verify all storm water ponds and infiltration basins are constructed to plan – **May 31, 2010**
4. Complete restoration– **June 30, 2010**
5. Installation of the pedestrian bridge– **May 31, 2010**
6. Community Well Installation – **May 31, 2010**
7. Complete “As-built” record drawings– **June 30, 2010**

Date: June 30, 2010

**WHISTLING VALLEY DEVELOPEMNT – PHASES 1, 2, AND 3  
SCHEDULE OF REMAINING WORK**

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June 30, 2010	DEADLINE of previous extension, new extension provided as follows:
July 30, 2010	<ul style="list-style-type: none"><li>Street patching, paving, and edge control completed in Phases 1 and 2 (including wear course paving)</li><li>Storm Sewer/Pond Inspection completed for ALL PHASES (Any new Punch List Items to be completed within 30 days)</li><li>Grading and Utility Record Drawings for ALL PHASES completed in accordance with Record Drawing Requirements (sent to the Developer previously) (Any new Punch List Items to be completed within 30 days)</li><li>Installation of deer protection per City Forester's recommendation and 2-Year Warranty Bond to be provided for newly planted trees in Phase 2</li><li>Installation of Pedestrian Bridge in Phase 3</li><li>Installation of Well in Phase 3</li><li>Completion of unpaved portion of trail in Phase 3</li></ul>
August 31, 2010	<ul style="list-style-type: none"><li>Completion of Well and Well Structure in Phase 3 (with MDH approval)</li><li>Installation of Drainage System in island in Phase 3</li><li>Installation of all Signage in Phase 3</li></ul>
October 31, 2010	<ul style="list-style-type: none"><li>Completion of Landscaping in Phase 3</li><li>Completion of Remaining Punch List Items in Phase 3</li></ul>
July 1, 2011	Completion of Final Lift of Bituminous in Phase 3 (including required preparation work and Spring walk-through)

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Failure to meet each and any deadline noted above may be considered default of the Development Agreement and subject to all available remedies by the City.

**Whistling Valley Development, Phases I-III**

Date: 6/29/2010

Lake Elmo, Minnesota

TKDA Project No. 13819.001

**Development Security Requirements****Whistling Valley Development - Phase I**

Improvement	Original Amount	Required Security
Site Grading/Turf Establishment	\$ 61,100	\$ 5,000
Storm Sewer	\$ 60,100	\$ 1,000
Sanitary Sewer	\$ 206,075	-
WWTF	\$ 206,075	\$ 4,000
Street Improvements	\$ 136,100	\$ 20,000
Street Signs	\$ 500	-
Landscaping	\$ 138,000	\$ 5,000
	Subtotal	\$ 35,000
	125%	\$ 43,750
	<b>Total Required Security</b>	<b>\$ 43,750</b>

**Whistling Valley Development - Phase II**

Improvement	Original Amount	Required Security
Site Grading/Turf Establishment	\$ 346,500	\$ 5,000
Storm Sewer	\$ 120,500	\$ 5,000
Sanitary Sewer	\$ 102,750	\$ 2,000
WWTF	\$ 102,750	\$ 40,000
Street Improvements	\$ 212,800	\$ 25,000
Street Signs	\$ 1,000	\$ 1,000
Landscaping	\$ 150,000	\$ 30,000
	Subtotal	\$ 108,000
	125%	\$ 135,000
	<b>Total Required Security</b>	<b>\$ 135,000</b>

**Whistling Valley Development - Phase III**

Improvement	Original Amount	Required Security
Site Grading	\$ 108,800	\$ 2,400
Landscaping	\$ 65,000	\$ 59,000
Sidewalk & Trails	\$ 44,300	\$ 11,900
Storm Sewer	\$ 81,000	\$ 5,000
Street Improvements	\$ 86,500	\$ 26,000
Sanitary Sewer	\$ 58,700	\$ 5,000
Watermain	\$ 47,800	\$ 5,000
Water Supply System	\$ 40,000	\$ 40,000
WWTF	\$ 14,300	\$ 5,000
Street Signs	\$ 1,000	\$ 1,000
	Subtotal	\$ 160,300
	125%	\$ 200,375
	<b>Total Required Security</b>	<b>\$ 200,375</b>

**Total Development Security Requirement for all Phases: \$ 379,125**