

*Our Mission is to Provide Quality Public  
Services in a Fiscally Responsible Manner  
in Partnership with our Community.*

## **NOTICE OF MEETING**

**City Council Workshop  
3800 Laverne Avenue North  
April 12, 2022  
6:30 PM**

## **AGENDA**

- |  |                |
|--|----------------|
| <b>I. Call to Order</b>  | <b>6:30 PM</b> |
| <b>II. Review Status of Unfinished Developments and Next Steps</b> | <b>6:30 PM</b> |
| <b>III. Franchise Fees</b>   | <b>7:00 PM</b> |
| <b>IV. Remote Meetings</b>   | <b>7:30 PM</b> |
| <b>V. Items for Future Work Session Agenda</b>                     | <b>7:45 PM</b> |
| <b>VI. Adjourn</b>   | <b>8:00 PM</b> |



## STAFF REPORT

DATE: April 12, 2022

### **DISCUSSION**

**AGENDA ITEM:** Update on Development Projects and Potential Enforcement Action for Non-completed Projects.

**SUBMITTED BY:** Jack Griffin, City Engineer  
Chad Isakson, Assistant City Engineer

**REVIEWED BY:** Kristina Handt, City Administrator  
Molly Just, Planning Director  
Marty Powers, Public Works Director

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**ISSUE BEFORE COUNCIL:** Should staff initiate enforcement actions in accordance with the respective Development Agreement for Non-completed Development Projects?

**PROPOSAL DETAILS/ANALYSIS:** The City of Lake Elmo currently has 59 active development projects with construction work in progress that are responsible for the construction of various municipal infrastructure. The attached spreadsheet itemizes each active project together with any warranty expiration dates and remaining security amounts.

City staff will provide a status update on these active development projects with a focus on the older, non-active developments that remain incomplete, and discuss options available to the city for development completion. Developments of specific concern that will be discussed include the following:

1. Savona 1st-4th Additions. Developer remains non-responsive for very aged punch lists. There are 3 infiltration basins within these developments that are not functioning as designed.
2. Royal Golf Club 1st Addition. The developer is disputing their obligation to replace the South Lift Station Generator that failed before warranty expiration.
3. Inwood PUD 6th Addition (Kwik Trip). Developer remains non-responsive for very aged punch lists and submittal of record drawings for the improvements.
4. Easton Village 3rd-4th Addition. Work remains incomplete and inactive. Work, including record drawings, has not been accepted. There is a rear yard drainage issue between the 3th and 4th Additions that has been ignored by the developer that is resulting in frequent property owner complaints and finger pointing between builder and developer.
5. Easton Village 7th Addition. Developer is disputing the scope of work required in regards to the removal of the 32nd Street Access closure to Manning Avenue and monument relocation.
6. Legacy at North Star 1st-4th Additions: All infiltration basins within the development remain inoperable. Developer remains non-responsive in developing corrective action/measures.
7. Boulder Ponds 3rd Addition. An infiltration basin continues to experience significant erosion requiring a site redesign to address a permanent solution.
8. Halcyon Cemetery Site Improvements. Aged Project. Securities remaining.
9. Northport 1<sup>st</sup> Addition. City holding \$100,000 for the future relocation of storm sewer pipe that was installed along Manning Avenue.

### **OPTIONS:**

- 1) Direct staff to take no action at this time and continue to work with the developers at the staff level to encourage project completion.

- 2) Direct staff to issue an enforcement letter to one or more of these Development Projects with a response deadline, requiring the developer to submit a work plan and schedule for project completion.
- 3) Direct staff to bring one or more of these Development Projects before a future council meeting with recommendations for initiating enforcement actions.

**ATTACHMENTS:**

- Development Status Spreadsheet.

CITY OF LAKE ELMO  
DEVELOPMENT PROJECTS CONSTRUCTION TRACKING

DEVELOPMENT	APPROVED PLAN DATES			CONSTRUCTION STATUS					SECURITY STATUS										OVERSIZE COST STATUS	
	Construction Status	Grading Plans	Construction Plans	Eng. Items Completed for Building Permits	Utility Warranty Expiration	Public Improvements Warranty Expiration	Landscape Improvements Warranty Expiration	STATUS: Comments/Remarks	TOTAL SECURITY	Grading		Sanitary Sewer + Watermain	Streets + Storm Sewer	As-builts + Misc Categories	Landscaping		Wateramin Oversizing	Sanitary Sewer Oversizing		
CROSSROADS-LAUNCH BUSINESS PARK	PENDING		11/30/2021	BLDG-PHASED				Preconstruction meeting pending DA Right to Proceed PL	\$3,460,754	\$585,250	100%	\$1,005,859	100%	\$1,252,787	100%	\$187,302	100%	\$429,556	100%	
ENTERPRISE RENT-A-CAR	PENDING	2/21/2022	2/21/2022					Preconstruction meeting pending DA approval and Right to Proceed PL	\$910,000	\$325,000	100%	\$47,500	100%	\$368,750	100%	\$93,750	100%	\$75,000	100%	
LAKEWOOD CROSSING 2ND - PHASE 1	IN PROGRESS		9/27/2017	NA				LOC reductions pending Phase 2 construction	\$235,100	\$0	0%	\$97,881	100%	\$58,750	100%	\$40,969	100%	\$37,500	100%	
LAKEWOOD CROSSING 2ND - PHASE 2	IN PROGRESS		10/4/2021	NA				Pending preconstruction meeting / full size plans												
SPRINGS AT LAKE ELMO	IN PROGRESS		4/20/2020	BLDG-PHASED				Accetance and LOC reductions Pending 11/03/2021 PL completion, VBWD sign-off + Record Plans; Re-inspection to be held in Spring 2022	\$3,325,186	\$1,186,625	100%	\$483,609	100%	\$1,125,605	100%	\$328,159	100%	\$201,188	100%	
LEGACY AT NORTH STAR 1ST	WARRANTY + BMP		9/7/2018	YES	9/17/2021	1/5/2022		Pending 12/23/2021 warranty PL + 12/3/2021 utility warr. PL + BMP completion	\$995,094	\$247,500	100%	\$210,415	25%	\$351,562	25%	\$92,817	25%	\$92,800	100%	
LEGACY AT NORTH STAR 2ND	IN PROGRESS		4/22/2019	YES	1/21/2022			Pending 12/22/2021 utility warranty PL + BMP completion	\$663,295	NA		\$181,887	25%	\$275,802	25%	\$103,606	100%	\$102,000	100%	
LEGACY AT NORTH STAR 3RD	IN PROGRESS		4/3/2020	YES	1/5/2023			Pending 12/03/2021 substantial completion PL; No record plan submittal	\$1,109,482	NA		\$195,655	25%	\$647,797	50%	\$137,657	100%	\$128,375	100%	
LEGACY AT NORTH STAR 4TH	IN PROGRESS		4/27/2021	YES	1/4/2024			Pending 11/17/2021 substantial completion PL; No record plan submittal	\$671,618	NA		\$122,052	25%	\$389,847	50%	\$52,219	100%	\$107,500	100%	
NORTHPORT 1ST	IN PROGRESS		11/2/2017	YES	1/15/2021			Pending 02/01/2021 PL (resent 12/3/2021); Pending 12/14/2020 Utility warranty PL (resent 12/3/2021); Pending Record Plans (per 10/18/2021 email)	\$1,542,954	\$0	0%	\$263,281	25%	\$767,134	50%	\$272,508	100%	\$240,031	100%	
NORTHPORT 2ND	IN PROGRESS		8/3/2018	YES	1/15/2021			Pending 02/01/2021 PL (resent 12/3/2021); Pending 12/14/2020 Utility warranty PL (resent 12/3/2021); Pending Record Plans (per 10/18/2021 email)	\$436,763	NA		\$41,604	25%	\$294,503	50%	\$35,031	100%	\$65,625	100%	
NORTHPORT 3RD	IN PROGRESS		3/16/2020	YES	1/4/2024			Pending 10/07/2021 substantial completion PL; Pending Pond 4SE as-builts	\$669,952	NA		\$132,925	25%	\$432,125	50%	\$104,902	100%	\$0	0%	
UNION PARK 1ST	IN PROGRESS		6/8/2020	YES	4/20/2023			Acceptance Pending 10/7/2021 PL completion + Record Plans	\$1,378,982	\$0	0%	\$196,211	25%	\$943,315	100%	\$193,681	100%	\$45,775	100%	
UNION PARK 2ND	IN PROGRESS		4/22/2021	YES				\$1,699,860	\$155,606	100%	\$591,525	100%	\$669,548	100%	\$87,438	100%	\$195,743	100%		
UNION PARK WEST	IN PROGRESS		7/6/2021	NO				\$2,731,771	\$608,853	100%	\$848,352	100%	\$927,170	100%	\$241,713	100%	\$105,683	100%		
ROYAL GOLF CLUB 3RD (Lennar)	IN PROGRESS	7/15/2021	7/15/2021	NO				Construction in progress; No as-builts / verifications completed	\$5,044,448	\$1,155,575	100%	\$1,336,330	100%	\$1,939,447	100%	\$296,485	100%	\$316,611	100%	
ROYAL GOLF CLUB 5TH (Lennar)																				
HIDDEN MEADOWS 2ND - PHASE 2	IN PROGRESS	10/31/2017	10/31/2017	YES	1/18/2024	Pending	Pending	Pending 11/05/2021 Substantial Completion PL; Pending Record Plans	\$1,464,242	\$156,250	100%	\$125,001	25%	\$391,361	50%	\$560,380	100%	\$231,250	100%	
HIDDEN MEADOWS 2ND - PHASE 1	IN PROGRESS	6/5/2018	10/31/2017	YES														\$58,064		
WILDFLOWER AT LAKE ELMO 1ST	CLOSED			YES	2/16/2018	12/5/2018			\$0	NA		\$0		\$0		\$0		\$0		
WILDFLOWER AT LAKE ELMO 2ND	CLOSED		3/3/2017	YES	12/5/2019	11/5/2020			\$0	NA		\$0		\$0		\$0		\$0		
WILDFLOWER AT LAKE ELMO 3RD	WARRANTY		6/11/2018	YES	11/19/2021	7/6/2022		Landscape acceptance pending	\$299,014	NA		\$0		\$265,895	25%	\$20,619	25%	\$12,500		
WILDFLOWER AT LAKE ELMO 4TH	PENDING	11/15/2021	2/16/2022	NO				Preconstruction meeting pending DA Right to Proceed PL	\$2,626,238	NA		\$595,198	100%	\$1,848,963	100%	\$175,827	100%	\$6,250		
EASTON VILLAGE 1ST	CLOSED	6/12/2015	6/12/2015	YES	8/2/2018	5/15/2019		Escrow received for Manning closure (\$27K); Easements received for UPRR crossing	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	\$0		
EASTON VILLAGE 2ND	WARRANTY	6/21/2017	5/24/2017	YES	2/7/2020	2/4/2021	2/4/2022	Pending 11/03/2020 Street+Storm warranty PL; last sent 09/29/2021	\$127,754	\$0	0%	\$0	0%	\$87,883	25%	\$25,493	25%	\$14,378		
EASTON VILLAGE 3RD	WARRANTY	7/10/2017	7/10/2017	YES	2/7/2020	2/4/2021	2/4/2022	Pending 11/03/2020 Street+Storm warranty PL; last sent 09/29/2021	\$137,708	\$0	0%	\$0	0%	\$86,206	25%	\$20,698	25%	\$30,804		
EASTON VILLAGE 4TH	IN PROGRESS	7/25/2018	7/25/2018	YES	1/15/2021	Pending	Pending	Pending 12/14/2020 Utility warranty PL; last sent 09/29/2021; Acceptance pending Record Plans (02.21.2021 memo)	\$454,178	NA		\$62,088	25%	\$319,727	100%	\$52,488	100%	\$19,875		
EASTON VILLAGE 5TH	IN PROGRESS	7/19/2019	7/19/2019	YES	10/6/2022	Pending	Pending	Pending 06/10/2021 Grading + ESC PL; last sent 09/29/2021	\$926,389	NA		\$170,172	25%	\$737,128	50%	\$3	0%	\$19,086		
EASTON VILLAGE 7TH	PENDING	6/17/2021	6/17/2021	NO				Preconstruction meeting pending closure of 32nd Street Access to CSAH 15	\$1,200,734	NA		\$421,648	100%	\$685,433	100%	\$59,272	100%	\$34,381		
INWOOD PUD 1ST+2ND	CLOSED		6/2/2015	YES	3/21/2019	12/1/2021		Final security relased 12/7/2021	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	\$0		
INWOOD PUD 3RD	CLOSED		5/24/2016	YES	3/21/2019	12/17/2020		Final security relased 12/7/2021	\$0	NA		\$0	0%	\$0	0%	\$0	0%	\$0		
INWOOD PUD 4TH	WARRANTY		10/25/2016	YES	9/5/2019	10/19/2022			\$145,015	NA		\$0	0%	\$124,352	25%	\$10,663	25%	\$10,000		
INWOOD PUD 5TH	IN PROGRESS		5/22/2017	YES	3/6/2020	Pending		Pending updated 08/09/2021 Substantial completion PL (previoulsty sent February 2021);	\$1,367,574	NA		\$0	0%	\$539,734	50%	\$602,840	100%	\$225,000		
INWOOD PUD 6TH (KWIK TRIP)			1/14/2020	NA				Pending 09/28/2020 PL (resent 6/2/2021); Pending Record Drawings (12/1/2020 memo)	\$439,246	\$203,053	100%	\$72,325	100%	\$90,650	100%	\$36,340	100%	\$36,878		
SAVONA 1ST	DEFAULT			YES	12/20/2018	9/3/2020		Pending 09/08/2020 Warratny PL/Enforcement warning (resent 04/26/2021 as default Notice); Includes 08/31/2020 PL	\$483,454	\$0	0%	\$0	0%	\$392,841	25%	\$60,227	25%	\$30,386		
SAVONA 2ND	DEFAULT			YES	12/20/2018	9/3/2020		Pending 09/08/2020 Warratny PL/Enforcement warning (resent 04/26/2021 as default Notice); Includes 08/31/2020 PL	\$405,946	NA		\$0	0%	\$339,427	25%	\$18,577	25%	\$47,942		
SAVONA 3RD	DEFAULT			YES	1/16/2020	9/3/2020		Pending 09/08/2020 Warratny PL/Enforcement warning (resent 04/26/2021 as default Notice); Includes 08/31/2020 PL	\$544,562	\$0	0%	\$0	0%	\$469,108	25%	\$45,698	25%	\$29,756		
SAVONA 4TH	IN PROGRESS		6/13/2016	YES	1/16/2020			Pending 10/21/2019 PL; Pending 10/31/2019 Utility warranty PL	\$757,791	NA		\$0	0%	\$545,520	25%	\$145,429	25%	\$66,842		

CITY OF LAKE ELMO  
DEVELOPMENT PROJECTS CONSTRUCTION TRACKING

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	Construction Status	Grading Plans	Construction Plans	Eng. Items Completed for Building Permits	Utility Warranty Expiration	Public Improvements Warranty Expiration	Landscape Improvements Warranty Expiration	STATUS: Comments/Remarks	TOTAL SECURITY	Grading		Sanitary Sewer + Watermain	Streets + Storm Sewer		As-builts + Misc Categories		Landscaping		Wateramin Oversizing	Sanitary Sewer Oversizing	
BOULDER PONDS 1ST ADDITION	CLOSED			YES	1/16/2019	1/16/2019		Final security release 10/05/2021	\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	\$0	0%		
BOULDER PONDS 1ST / 5TH STREET NORTH	CLOSED			NA	2/21/2019	6/16/2021		Final security release 12/07/2021	\$0	NA	\$0	0%	\$0	0%	\$0	0%	\$0	0%			
BOULDER PONDS 2ND	PENDING LANDSCAPING			YES	9/5/2019	6/16/2021		Landscape security remaining.	\$67,500	NA	\$0	0%	\$0	0%	\$0	0%	\$67,500	72%			
BOULDER PONDS 3RD	WARRANTY			YES	3/5/2021	4/20/2022		Pending 02/24/2021 utility warranty PL; Pending Improvements warranty	\$273,976	\$0	0%	\$72,583	25%	\$63,688	25%	\$105,354	25%	\$32,351	25%		
BOULDER PONDS 4TH (SR LIVING FACILITY)	WARRANTY			YES	10/5/2023	10/5/2022		10/5/2023	Pending warranty expirations	\$88,752	\$0	0%	\$23,914	25%	\$33,842	25%	\$7,594	25%	\$23,402		25%
BOULDER PONDS 5TH (Lot Split only)	CLOSED			YES																	
HAMMES ESTATES 1ST	WARRANTY	9/28/2021	9/30/2016	YES	9/5/2019	11/17/2021	Pending	Pending 10/21/2021 warranty PL; Utility security released; Landscape security remaining	\$750,901	\$0	0%	\$0	0%	\$288,546	25%	\$156,202	25%	\$306,153	100%	\$25,573	
HAMMES ESTATES 2ND	WARRANTY	9/28/2021	1/23/2017	YES	11/20/2020	11/17/2021	Pending	Pending 11/06/2020 Utility warranty PL; Pending 10/26/2021 warranty PL;	\$272,936	NA		\$71,698	25%	\$117,265	25%	\$16,988	25%	\$66,985	100%		
HAMMES ESTATES 3RD	WARRANTY	3/21/2018	10/3/2018	YES	3/17/2022	11/17/2021	Pending	Pending 10/26/2021 warranty PL	\$861,169	NA		\$277,543	25%	\$269,317	25%	\$48,934	25%	\$265,375	100%		
ROYAL GOLF CLUB GRADING	CLOSED	9/25/2017		NA	NA	NA	NA	Final security release 10/06/2020	\$0	\$0											
ROYAL GOLF CLUB SITE UTILITIES	CLOSED			7/28/2017	NA	7/2/2021	7/2/2020		Final security release 08/04/2021	\$0	NA	\$0									
ROYAL GOLF CLUB 1ST	PENDING PL / GENERATOR			9/27/2017	YES	7/2/2021	7/2/2020		Pending utility warranty PL dated 06/17/2021; Generator repair/replacement	\$341,371	NA	\$341,371	25%	\$0		\$0	\$0				
ROYAL GOLF CLUB 2ND	CLOSED			7/24/2018	YES	1/15/2021	12/17/2020		Final security release 11/16/2021	\$0	NA	\$0	\$0		\$0	\$0					
SOUTHWIND AT LAKE ELMO	WARRANTY - LANDSCAPING			YES	1/16/2020	12/17/2020	4/16/2023		\$70,328	\$0	0%	\$0	0%	\$0	0%	\$0	0%	\$70,328	25%		
LAKE ELMO SENIOR LIVING	WARRANTY		3/6/2020	NA	2/2/2023	11/16/2022	11/16/2023		\$135,990	\$0	0%	\$67,094	25%	\$45,188	25%	\$9,063	25%	\$14,645	25%		
FOUR CORNERS 1ST	WARRANTY			NA	9/21/2023	9/21/2022	9/21/2023		\$441,632	NA	\$254,847	25%	\$156,019	25%	\$28,578	25%	\$2,188	25%			
ISD #834 STILLWATER BUS FACILITY	WARRANTY		WARRANTY	NA	10/5/2023	NA			Landscape security remaining.	\$89,063	NA	\$39,063	25%	NA		NA	\$50,000	100%			
HUNTERS CROSSING 1ST	CLOSED			YES	12/20/2018	2/5/2020	2/5/2020		\$0	\$0	0%	\$0	0%	\$0	0%	\$0	0%	\$0	0%		
HUNTERS CROSSING 2ND	CLOSED			YES	12/20/2018	2/5/2020	2/5/2020		\$0	NA	\$0	0%	\$0	0%	\$0	0%	\$0	0%			
HALCYON CEMETERY SITE IMPROVEMENTS	UNKOWN		8/16/2018	NA	Watermain testing complete (04/22/2021 email)				\$56,250	\$0	0%	\$31,250	100%	\$0	0%	\$0	0%	\$25,000	100%		



## STAFF REPORT

DATE: April 12, 2022

**TO:** Mayor and Council  
**FROM:** Samuel Magureanu, Finance Director  
**AGENDA ITEM:** Utility Franchise Fees

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### **BACKGROUND:**

City Staff have been researching options to generate additional revenues for the City and would like to explore the option of Utility Franchise Fees. Utility Franchise Fees are used by many cities to cover increasing costs of providing important services.

### **ISSUE BEFORE THE CITY COUNCIL:**

Should the City Council direct City Staff to work toward implementing Utility Franchise Fees?

### **DISCUSSION:**

City staff conducted independent research and gathered data on the topic. Additionally, City staff has reached out to Xcel Energy and requested a preliminary analysis to help assist discussion regarding franchise fees.

### **FISCAL IMPACT:**

Fiscal impact will be determined based on the amount of revenues the City would decide to generate. Possible decrease in property taxes if used to replace revenues otherwise levied. Higher utility bills for Lake Elmo residents.

### **OPTIONS:**

Direct Staff to work toward implementing Utility Franchise Fees

### **ATTACHMENTS:**

- 1) Utility Franchise Fees Presentation
- 2) Additional Documents provided by Xcel Energy

# Utility Franchise Fees

# Why Franchise Fees?

- ▶ Utility franchise fees help cities cover increasing costs of providing important services - such as maintaining aging facilities and infrastructure - without raising property taxes. Many cities in Minnesota have them in place.
- ▶ These fees are also more equally distributed than property taxes, and would be paid by ALL utility customers - even those who do not currently pay property tax.



# What are the Pros and Cons of Franchise Fees?

- ▶ When comparing franchise fees as a revenue sources to property taxes, some advantages include:
  - Cover a wider base than property taxes
  - Will diversify the City's revenue sources
  - Reliable sources of revenue
  - A flat-rate franchise fee would be the same for each property, making it easy to administer
  - New construction would contribute immediately, which would eliminate any lag for the City to receive property taxes.
  - Improve internal processes for ROW's.

# What are the Pros and Cons of Franchise Fees?

- ▶ Some potential disadvantages include:
  - Everyone must pay since gas and electricity are needed. This is unlike a cable franchise fee where only subscribers choosing to receive the service are subject to paying the fee
  - A flat-rate franchise fee would be the same for all homes, regardless of their value
  - It will eliminate part of the ROW (right of way) revenues for the City
    - ✓ 2020 ROW revenues: \$15,678
    - ✓ 2021 ROW revenues: \$19,881

# Franchise Fees Comparison

ELECTRICAL - FRANCHISE FEES							
City	Residential	Small Commercial Non-demand	Small Commercial	Large Commercial	Public Street Lighting	Municipal Pumping Non-demand	Municipal Pumping Demand
Afton	\$ 2.00	\$ 2.00	\$ 5.00	\$ 5.00	\$ 1.00	\$ 1.00	\$ 1.00
Bayport	\$ 1.50	\$ 3.00	\$ 25.00	\$ 50.00	\$ 3.00	\$ 3.00	\$ 25.00
Burnsville	\$ 4.00	\$ 12.00	\$ 40.00	\$ 180.00	\$ -	\$ -	\$ -
Cottage Grove	\$ 1.65	\$ 1.65	\$ 8.25	\$ 33.00	\$ 3.00	\$ 0.75	\$ 8.25
Inver Grove Heights	\$ 2.75	\$ 3.00	\$ 25.00	\$ 95.00	\$ -	\$ -	\$ -
Mahtomedi	\$ 1.30	\$ 1.38	\$ 14.40	\$ 110.28	\$ 12.71	\$ 0.63	\$ 14.84
Maplewood	\$ 3.00	\$ 4.75	\$ 30.00	\$ 180.00	\$ 4.00	\$ 4.00	\$ 4.00
Lake Elmo	\$ 4.00	\$ 4.00	\$ 20.00	\$ 35.00	\$ 10.00	\$ -	\$ -
Little Canada	\$ 2.75	\$ 5.25	\$ 40.00	\$ 230.00	\$ 15.00	\$ 2.00	\$ 3.00
Newport	\$ 1.00	\$ 1.50	\$ 14.00	\$ 70.00	\$ 5.00	\$ 1.00	\$ 10.00
Oakdale	\$ 1.50	\$ 3.00	\$ 10.00	\$ 8.00	\$ 6.00	\$ 2.00	\$ 8.00
Rogers	\$ 5.00	\$ 7.00	\$ 45.00	\$ 210.00	\$ 17.00	\$ 12.00	\$ 65.00
Stillwater	\$ 2.00	\$ 2.50	\$ 18.00	\$ 125.00	\$ 4.00	\$ 2.00	\$ 18.00

Lake Elmo Est. Annual Collection: \$296,544

# Franchise Fees Comparison

GAS - FRANCHISE FEES							
City	Residential	Commercial Firm Non-demand	Commercial Firm Demand	Small Interruptible	Medium and Large Interruptible	Firm Transportation	Interruptible Transportation
Afton	\$ 2.00	\$ 4.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00
Bayport	\$ 1.25	\$ 10.00	\$ 25.00	\$ 10.00	\$ 50.00	\$ 10.00	\$ 10.00
Burnsville							
Cottage Grove	\$ 1.65	\$ 4.95	\$ 8.25	\$ 16.50	\$ 24.75	\$ 24.75	\$ 24.75
Inver Grove Heights	\$ 2.00	\$ 10.50	\$ 50.00	\$ 90.00	\$ 100.00	\$ 15.00	\$ 15.00
Mahtomedi							
Maplewood	\$ 3.00	\$ 12.00	\$ 100.00	\$ 75.00	\$ 110.00	\$ 2.50	\$ 2.50
Lake Elmo	\$ 2.25	\$ 11.25	\$ 20.00	\$ 35.00	\$ 35.00	\$ -	\$ -
Little Canada							
Newport	\$ 1.00	\$ 5.00	\$ 10.00	\$ 15.00	\$ 15.00	\$ 15.00	\$ 15.00
Oakdale	\$ 1.50	\$ 5.00	\$ 8.00	\$ 17.00	\$ 17.00	\$ 17.00	\$ 17.00
Rogers	\$ 4.00	\$ 7.00	\$ 20.00	\$ 70.00			
Stillwater	\$ 1.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00

Lake Elmo Est. Annual Collection: \$159,534

# Impact to the Community

- ▶ Higher cost of energy for all customers vs lower levy
  - ❑ *This will result in an instance where the franchise fee revenues are used to pay for expenditures otherwise levied. **Example:** Pavement management program/plan.*
- ▶ New or improving services
  - ❑ *Since the funds can be used for anything the city can use the revenues to pay for new services or improve existing services. **Example:** Develop and implement a communications plan, including image-improvement.*
- ▶ New or improved facilities
  - ❑ *Since the funds can be used for anything the city can use the revenues to pay for new services or improve existing facilities. **Example:** Build/update parks. The park dedication fund is mainly funded with park dedication fees from developers.*

# Implementation Steps Needed

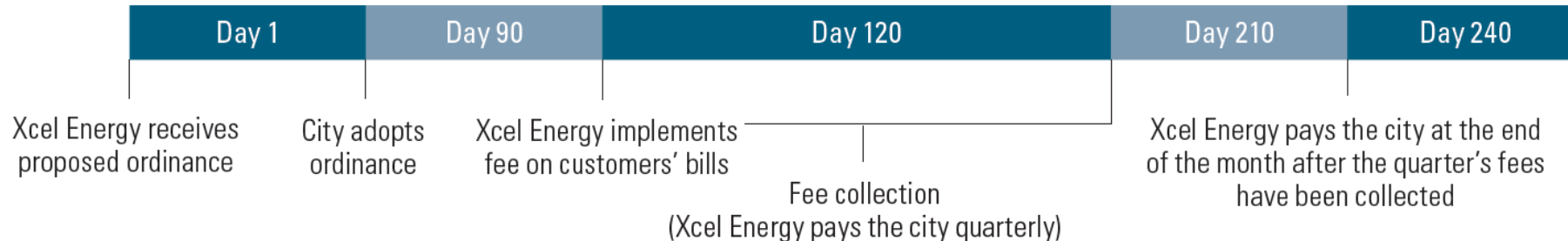
- ▶ **Draft and adopt a fee ordinance for electricity and gas.** *The fee is calculated as a flat fee, per premise and is applied equally for all customers in a given rate class.*
- ▶ **Draft and adopt franchise agreements with the city electricity and gas providers.** *An equivalent fee must be placed on all energy suppliers serving the city.*

# Timeline

Implementing franchise fees is a complex process that requires adequate time for system programming and testing. Here's a typical sequence of events:

- City provides us with written notice of intent to enact a fee prior to formal consideration.
- City and Xcel Energy negotiate the fee.
- In order to meet the PUC's requirements, the approved fee ordinance must be received by us at least 90 days before the anticipated start of fee collection.
- We collect the fee from our customers monthly and transfer it to the city on a quarterly basis.

## Sample Timeline



Discussion and Questions?



## Utility Franchise Fees

Some cities have imposed franchise fees on their energy providers as part of utility franchise agreements. As allowed by the Minnesota Public Utilities Commission, franchise fees levied on us are passed on directly to our customers within a city. This fee is itemized on our customer bills as a City Fee.

A franchise fee can only be implemented if it is allowed by the city's existing franchise agreement with us. If a community determines that a franchise fee is appropriate, there are several guiding principles that we follow in discussing fee options.

- Franchise fees are set forth in a fee ordinance authorized by, but separate from, the franchise agreement.
- An equivalent fee must be placed on all energy suppliers serving the city.
- We will not be subject to permit fees while franchise fees are in effect.
- We will prepare fee schedule options for the amount of revenue sought by the city.
- The fee is calculated as a flat fee, per premise and is applied equally for all customers in a given rate class.
- Fees are paid to the city on a quarterly basis.

### Franchise Fee Considerations

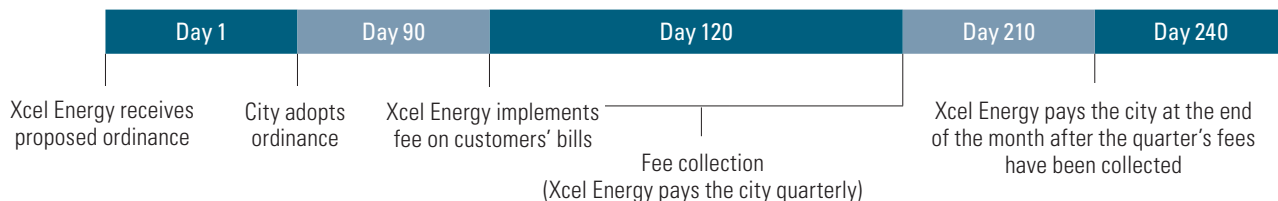
As in any case where a city is considering a new revenue source, we urge careful consideration of the possible negative impacts of a franchise fee since they increase the cost of energy for all customers in that city.

### Timeline

Implementing franchise fees is a complex process that requires adequate time for system programming and testing. Here's a typical sequence of events:

- City provides us with written notice of intent to enact a fee prior to formal consideration.
- City and Xcel Energy negotiate the fee.
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- We collect the fee from our customers monthly and transfer it to the city on a quarterly basis.

### Sample Timeline



# Utility Franchise Agreements

## The Basics of Utility Service

Electric and natural gas utility companies provide essential services to the public. Minnesota has designated electric utility service providers for each part of the state. These utilities have the exclusive authority and obligation to provide service to all customers in their designated service territories.

State law allows utilities to use public rights of way to locate poles, wires and natural gas pipes. Public rights of way typically include public roads, highways, streets, bike lanes and sidewalks. Local governments have the responsibility to manage the rights of way and have an interest in where the utilities locate their facilities.

## Utility Franchise Agreements

A franchise agreement sets expectations between a city and Xcel Energy, including how we construct, operate and maintain our equipment located in the public rights of way. Franchise agreements can also address things like roadway restoration when a utility project has been completed. In addition to the conditions in franchise agreements, cities may require utilities to obtain permits for work within the right of way.

Franchise agreements do not set energy goals, determine the mix of energy resources used by a utility, set energy prices or service standards. Those policy decisions are made by the Minnesota legislature and regulated by the Minnesota Public Utilities Commission and cannot be included in franchise agreements.

## Xcel Energy Franchise Agreements

We have more than 350 franchise agreements in Minnesota. These shared agreements enhance strong working relationships with the communities we serve by providing clear expectations while supporting consistent and efficient operations and service.

In some cases, a city may choose to establish a franchise fee as part of the franchise agreement. This is done in cooperation with Xcel Energy and is executed through a separate ordinance, which can be implemented at any time during the life of the franchise agreement. In those cases, we collect the fee from our customers and transfer it to the city on a quarterly basis.



## City of Lake Elmo, MN

### Franchise Fee Estimate – Gas and Electric

### March 2022

The following information is being provided to assist your community in discussions regarding franchise fees. **Given market sensitivity to electric and gas rates, we strongly encourage the city to reach out to residents and businesses regarding franchise fees.**

- Information based on a one-year average ending January February 28, 2022.
- Fee amounts are rounded to the nearest \$0.25 and applied as a flat fee.
- The table below shows the fee that would be reflected on a customer's monthly bill.
- Franchise fees must be applied equally to all energy providers.
- Franchise Fees are collected in lieu of any other permit fees.
- Xcel Energy retains no portion of a franchise fee.

#### Franchise Fee: Gas

Customer class	Monthly Fee
Residential	\$2.25
Commercial Non-Demand	\$11.25
Commercial Demand	\$20.00
Small Interruptible	\$35.00
Medium and Large Interruptible	\$35.00
Firm Transportation	n/a
<b>Est. Annual Collection</b>	<b>\$159,534</b>

#### Franchise Fee: Electric

Customer class	Monthly Fee
Residential	\$4.00
Small C&I – Non-Demand	\$4.00
Small C&I – Demand	\$20.00
Large C&I	\$35.00
Street Lighting	\$10.00
Municipal Pumping	n/a
<b>Est. Annual Collection</b>	<b>\$296,544</b>

<b>Combined Est. Fee Collection</b>	<b>\$456,078</b>
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## **STAFF REPORT**

DATE: April 12, 2022

### **DISCUSSION**

**AGENDA ITEM:** Remote Meeting Capabilities in New City Center

**TO:** Mayor and City Council

**SUBMITTED BY:** Kristina Handt, City Administrator

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#### **BACKGROUND:**

At the last work session, Council Member McGinn asked that we talk about remote meeting capabilities in the new city center.

#### **PROPOSAL DETAILS/ANALYSIS:**

An email attached from City Attorney Sarah Sonsalla, lays out the statutory requirements for having remote meetings outside of the emergency declaration we operated under during COVID.

I have also reached out to our consultant on the audio/visual/IT components of the new city center to ensure we have a system that allows folks to participate remotely and still allow everyone to see and hear everything without the feedback problems we currently have. They responded, "Yes – we have the ability to do for remote participants to join the meeting. Currently we have accommodated for an owner furnished PC to be in the control room to host/join the meeting. The audio system has been designed with remote meeting capability in mind to eliminate feedback and provide the far end users with clean audio and a video feed from the chambers. The operators can switch between providing the remote users a camera or presentation content. And we can show the remote meeting participants on the monitors in the chambers."

#### **FISCAL IMPACT:**

The items noted by FinePoint to allow for remote meetings has already been included in the city center budget.

#### **OPTIONS:**

Provide direction to staff on how to proceed.

#### **ATTACHMENT:**

- Sonsalla Email

**From:** [Sonsalla, Sarah J.](#)  
**To:** [Kristina Handt](#)  
**Cc:** [Sonsalla, Sarah J.](#)  
**Subject:** Open Meeting Law Information  
**Date:** Tuesday, March 15, 2022 9:01:09 AM

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**Caution:** This email originated outside our organization; please use caution.

Hi Kristina,

You had asked for some information regarding council members being able to attend city council meetings remotely under the Open Meeting Law. Under the Open Meeting Law, city council members must generally attend meetings in-person unless the City is operating under the “pandemic” exception to the Open Meeting Law (Minnesota Statutes Section 13D.021). However, if the City is not operating under the “pandemic exception,” a council member may still attend a meeting remotely if certain requirements are met (see Minnesota Statutes Section 13D.02).

The requirements are as follows:

1. The council member must participate remotely by “interactive technology.” “Interactive technology” is defined as a device, software program, or other application that allows individuals in different physical locations to see and hear one another. Zoom, WebEx, Teams, Skype, GoToMeeting, and similar programs with an audio and video connection satisfy this definition. All members of the body participating in the meeting, wherever their physical location, must be able to see and hear one another and must be able to hear and see all discussion and testimony presented at any location at which at least one member is present. Members of the public present at the meeting site must also be able to see and hear the member participating at the remote location.
2. The council member who is participating remotely must be in a location that is open and accessible to the public. The council member’s location must be included in the meeting notice. There are some exceptions to this requirement, but they only apply to when a state of emergency is declared by the governor or the council member is deployed by the military. “Open and accessible to the public” means that the public is able to enter the location which the council member is located to observe the meeting (i.e. a hotel lobby would be “open and accessible” to the public but a hotel room would not be).
3. The minutes of the meeting in which the council member participates remotely must state the name of the council member appearing via interactive technology and the reason for such appearance.
4. All votes must be conducted by roll call so each member's vote on each issue can be identified and recorded.

Let me know if you have any questions or if you need any other information.

Thanks!

Sarah

**Sarah J. Sonsalla | Attorney | Kennedy & Graven, Chartered** | 150 South Fifth Street, Suite 700 | Minneapolis, MN 55402 | direct: 612.337.9284 | fax: 612.337.9310 | e-mail: [ssonsalla@kennedy-graven.com](mailto:ssonsalla@kennedy-graven.com)