

City of Lake Elmo

3800 Laverne Avenue North

Lake Elmo, MN 55042

City Council Meeting

March 20, 2012

7:00 p.m.

- A. **CALL TO ORDER:**
- B. **PLEDGE OF ALLEGIANCE:**
- C. **ATTENDANCE:** ___ Johnston ___ Emmons ___ Park ___ Pearson ___ 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 conducts its public business.)
- F. **GROUND RULES:** (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. **ACCEPT MINUTES:**
1. Accept March 6, 2012, 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. **REPORTS AND ANNOUNCEMENTS:**
(These are verbal updates and do not have to be formally added to the agenda.)
- Mayor and Council
 - Administrator
 - City Attorney
 - City Engineer
 - Planning Director

J. **CONSENT AGENDA:** (Items 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. 2012 Seal Coat Project - Agreement for Joint Services with West Lakeland Township
4. 2012 Seal Coat Project - Preparation of Plans and Specifications
5. Professional Engineering Support Services - Adopt Consultant Pool
6. Approval and Reading of Arbor Day Proclamation

K. **REGULAR AGENDA:**

7. DPW Multi-Use 2012 Pickup Purchase (Per MAC Recommendation)
8. Olson Lake Trail Sanitary Sewer Extension - Joint Sewer Project with the City of Oakdale
9. Council - Staff Goal Setting Retreat
10. Surface Water Utility Fee Appeal Process / Credit Policy
11. Lot Area (Size) and Width Variance – 5577 Lake Elmo Ave. N.

L. Adjourn

LAKE ELMO COUNCIL MINUTES
DRAFT

City of Lake Elmo
City Council Minutes

March 6, 2012

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

PRESENT: Council Members Emmons, Park, Pearson, and Smith

Also Present: City Administrator Zuleger, Attorney Snyder, City Engineer Griffin, Planning Director Klatt, and Interim City Clerk Luczak

APPROVAL OF AGENDA:

MOTION: Council Member Emmons moved to approve the March 6, 2012, City Council Agenda as amended. Council Member Pearson seconded the motion. The motion passed 5-0.

ACCEPTED MINUTES:

The February 21, 2012, City Council minutes were accepted as amended by consensus of the City Council.

PUBLIC COMMENTS/INQUIRIES:

Government students of Stillwater Area High School, Ben Williams, 361 Cimarron, Lake Elmo, Joe Bush, 1911 Pine St. W, Stillwater, Christy Prentice, 8151 Hill Trail N, Lake Elmo, T. J. Hughes, 5470 Marquess Trail, Lake Elmo, attended their first Council meeting as a class assignment.

REPORTS:

Mayor Johnston reported that he had attended the celebration approval by Congress of a new Stillwater bridge which promotes regional economic development transportation monies, legislation regarding waste collection being discussed, and preliminary growth.

Council Member Pearson attended the Fire Relief Association, 10th Street and Village meetings.

City Administrator Zuleger updated City Council on debt service and investment; City Newsletter and Website; HOA meeting scheduled for March 15, 2012; Community Development Workshop on April 10, 2012; Board of Equalization scheduled for April 25, 2012, 5-7 p.m.

Planning Director Klat informed the Council about the upcoming meetings: March 8th is I-94 buffering, March 15 is Village Work Group large landowners, March 22nd is Work Group, March 28th 6-9 pm is Public Open House; March 12th the Planning Commission will be addressing the lighting ordinance; attended the Gateway Corridor meeting.

City Attorney Snyder reported that library facility options were being reviewed, code enforcement and compliance has been voluntary cooperation; detachment litigation had been appointed to the Courts.

City Engineer Griffin reported the Test Well No. 4 test results showed high capacity and closing on property is March 13, 2012.

CONSENT AGENDA:

MOTION: Council Member Emmons moved to approve the Consent Agenda. Council Member Pearson seconded the motion. The motion passed 5-0.

- Approved Disbursements and Payroll in the amount of \$119,849.02
- Authorized Signatures for the Grant Fund and Regular Savings Account from the Lake Elmo Bank
- Approved 2012 Fee Schedule
- Approved Appointment of Finance Director
- Approved Reestablishment of Precincts and Polling Places

Administrator Zuleger and City Council welcomed Cathy Bendel as the new Finance Director.

REGULAR AGENDA:

MnDNR Watercraft Inspection Grant

Administrator Zuleger requested the Council adopt Resolution 2012-009 to expend \$2,000 from the City's undesignated fund balance as a matching grant to secure a MnDNR Watercraft Inspection Grant. The Council had approved the funds at the February 21, 2012, Council meeting.

Council Pearson commented that non-lake shore homeowners take onus of the City; people who enjoy the benefits should pay for it. A better option would be a split with cost between the City and lakeshore owners.

Council discussed that it should be addressed year by year; lakes are assets; beneficial to protect what we have.

MOTION: Council Member Emmons moved to adopt Resolution No. 2012-009 to expend from the City's undesignated fund balance as a matching grant to secure a MnDNR

LAKE ELMO COUNCIL MINUTES
DRAFT

Watercraft Inspection Grant to prevent the spread of invasive aquatic species in Lake Elmo lakes. Council Member Smith seconded the motion. The motion passed 4-1. Council Member Pearson voting against—lakeshore owners' responsibility and residents already pay for lake concerns thru their property taxes.

Lot Area (Size) and Width Variances – 5577 Lake Elmo Avenue

Planning Director Klatt informed the Council that due to miscommunication, Steve Weber (applicant) requested tabling his variance request until the March 20, 2012, City Council meeting.

Fire Relief Association Raffle Drawing

Steve Rutkowski, Firefighter, requested the City Council draw the winning raffle tickets from their Annual fund raising raffle.

New Finance Director Cathy Bendel drew the names.

Demontreville Highlands Area Street Improvements – Public Improvement Hearing and Resolution No. 2012-011 Ordering Improvement and the Preparation of Plans and Specifications

City Engineer Griffin provided a brief overview of the Feasibility Report of the recommended street reclamation improvement project. Total cost estimates for two alternatives were provided. At Council's direction, cost estimates reflect bituminous gutter and curbs.

Council discussed road widths; narrowing of roads affects storm water runoff, drivers tend to slow down, and waiting can be very costly.

Engineer Griffin stated there are five cul-de-sacs and will meet with residents during design process. All residents must agree.

Public Hearing Opened at 8:01 p.m.

Tim Roden, 8080 59th St., was not in favor of narrowing 59th Street stating the road provided traffic to the Trail.

Larry Ptasienski, 5715 Highlands Trail N., expressed concerns about the speed near the park and inquired about a walkway on one side. He asked about the total debt to tax revenue to the City.

Administrator Zuleger stated the funds were available and stable; General Obligation debt ratio was good.

John Fremont, 7741 53rd St., stated the road needs repair; requested the same road width; looking forward to a new road.

Mike Groetsch, 5675 Highlands Tr., requested the same road width; expressed concerns for the safety of residents; speeding problems with a newly paved thoroughfare; questioned why County did not keep the road.
David Nielsen, 5680 Highlands Tr., stated the road traffic increased since 1994, not as safe, wider road is better, and inquired about traffic calming options.

Gary Peltzer, 5747 Highlands Ct., requested same road width, as he's been walking it for 33 years; commented that the bituminous curbs are gone due to snow plows.

Mary Noreen, 7960 Demontrville Tr., stated it is hard economic times and plans need to be reevaluated; maintain road width; aware that Highlands Tr. in tough shape due to high traffic but why not all of Highlands Tr.

Michael Miller, 5810 Highlands Tr., requested same road width, commenting that streets narrow during winter (snowy) months; walking and bicycling lanes would be helpful.

Public Hearing Closed at 8:40 p.m.

Council discussed the new Stillwater Bridge and preserving frontage road access to the City; City would not pay additional costs for concrete curbs; costs cannot increase if concrete comes up after closing; explore "red zone policing" regarding ticketing; sensitive to cost less street maintenance, speed concerns and parking.

Engineer Griffin stated quantities are managed which help save disturbance of properties; pedestrian safety; emergency vehicles.

MOTION: Council Member Pearson moved to adopt Resolution No. 2012-011, ordering the improvement and the Preparation of the Plans and Specifications for the Demontrville Highlands Area Street Improvements. Council Member Park seconded the motion. Motion passed 5-0.

Keats Avenue North: MSA Street and Trunk Watermain Improvements – Public Improvement Hearing and Resolution No. 2012-012 Ordering Improvement and the Preparation of Plans and Specifications

City Engineer Griffin updated the Council on the Feasibility Report for the Keats Avenue North and Trunk Watermain Improvements project. Keats Avenue is a major north and south collector roadway and a designated Municipal State Aid route within the City. The pavement surface showed significant distresses including subgrade failure, indicating that a street reclamation process could not be utilized as a low cost payment rehabilitation option. The project improvements include the reconstruction of Keats Avenue together with a 16-inch diameter trunk watermain extension.

LAKE ELMO COUNCIL MINUTES
DRAFT

The City Engineer then presented an alternative project schedule that would allow the Council time to review the capital water system investment. The new schedule allows the Council to postpone ordering the improvement until August 21, 2012, with the project construction being moved back to 2013.

City Council discussed temporary road closures during construction, various design alternatives, use of State Aid funds; for the watermain project, the pros and cons of charging lateral benefit charges.

Public Hearing Opened at 9:14 p.m.

George Crocker, 5093 Keats Ave., lived there since 1958; appreciates Hwy. 36 and Keats Avenue interchange; road improvement needed; assessment does not fit reality; traffic ratio inaccurate and to reconsider ratio and assessment; not interested in hooking up to water and residents should not need to pay.

Jim Dyer, 5435 Keats Ave., requested clarification of subdividing into two lots and a second access; two hookup charges if service stub is placed in front of home.

George Dege, 5193 Keats Ave., commented that it would be cheaper to put in another well or repair than the proposed watermain assessment charge; keep existing road bed.

Robert Meyer, 5220 Keats Ave., maintain street width; existing street needs improvements; expressed safety concerns about speeding with new road; not interested in hooking up to water and assessment fees; issue is about the City wanting to extend water service.

Bill Vogel, 5055 Keats Ave., appreciates the benefit of City water but unable to afford hookup and assessment charges; too expensive to justify a community benefit.

City Council discussed the watermain investment; possible lateral benefit charge in lieu of an assessment; State Aid funds will bear majority of street project costs; traffic ratio; City-wide benefit of watermain extension, but the goal is not to pay anything until hookup.

City Administrator Zuleger stated that the City is doing a water fund analysis and was currently reviewing operations, including water fee, rate case and storm water concerns.

MOTION: Mayor Johnston moved to continue the Public Hearing to the August 2, 2012, Council meeting. Council Member Park seconded the motion. The motion passed 5-0.

Council – Staff Goal Setting / Development Retreat

City Administrator Zuleger requested the City Council authorize funds, not to exceed \$3,300, for the purpose of conducting a Council-Staff Developmental Retreat to be held in April 2012 utilizing Don Salverda and Associates. It has been the desire of several

City Council Members to facilitate a forum/retreat to define and improve the relationship between the City Council and appointed operational staff.

Administrator Zuleger stated the goals are to build trust, team building, develop goals and engage citizenry. It will help develop the Council and Staff strengths and build on the positive attributes.

MOTION: Council Member Pearson moved to authorize funds not to exceed \$3,300 for the purpose of conducting a Council-Staff Developmental Retreat to be held in April 2012, utilizing Don Salverda and Associates. Council Member Park seconded the motion. The motion passed 5-0.

The meeting was adjourned at 9:57 p.m.

Respectfully submitted by Carole Luczak, Interim City Clerk

- Resolution No. 2012-007: Authorized Signatures for Grant Fund and Regular Savings from the Lake Elmo Bank
- Resolution No. 2012-008: Approved Reestablishing Precincts and Polling Places
- Resolution No. 2012-009: Approved Disbursing Public Funds for the Purpose of Protecting Surface Waters Within the Confines of the City of Lake Elmo from Certain Aquatic Invasive Species
- Resolution No. 2012-010: Approved Denying Lot Area and Width Variances to Allow a Minor Subdivision at 5577 Lake Elmo Avenue
- Resolution No. 2012-011: Approved Ordering the Improvement and Preparation of Plans and Specifications for the Demonstration of the Highlands Area Street Improvements
- Ordinance No. 08-056: Approved Setting Municipal Fees for Calendar Year 2012



MAYOR & COUNCIL COMMUNICATION

DATE: 3/21/2012
CONSENT
ITEM #: 2
MOTION *as part of Consent Agenda*

AGENDA ITEM: Approve Disbursements in the Amount of \$95,705.35

SUBMITTED BY: Cathy Bendel, Finance Director

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Joan Ziertman, Finance Consultant

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$95,705.35. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

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

Claim #	Amount	Description
ACH	\$ 6,410.36	Payroll Taxes to IRS 3/8/2012
ACH	\$ 1,071.73	Payroll Taxes to MN Dept. of Revenue 3/8/2012
ACH	\$ 3,714.01	Payroll Retirement to PERA 3/8/2012
DD3838 – DD3872	\$ 24,280.33	Payroll Dated 3/8/2012 (Direct Deposit)
38169-38171	\$ 567.43	Payroll Dated 3/8/2012 (Payroll Paper Checks)
38172-38224	\$ 58,401.49	Accounts Payable Dated 3/21/2012
1353-1373	\$ 1,260.00	Accounts Payable Dated 3/21/2012 (Library Checks)
TOTAL	\$ 95,705.35	

STAFF REPORT: City staff has compiled 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 \$95,705.35.

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 March 21, 2012, Disbursements as Presented *(and modified)* herein.”

ATTACHMENTS:

1. Accounts Payable Dated 3/21/2012

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: 03/15/2012 - 2:48 PM

Batch: 005-03-2012

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ARAM Aramark, Inc.										
629-7444314	03/15/2012	22.91	0.00	03/21/2012	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
629-7444314	Total:	22.91								
629-7446141	03/05/2012	169.93	0.00	03/21/2012	Linen City Hall		-	No		0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
629-7446141	Total:	169.93								
629-7449263	03/15/2012	19.19	0.00	03/21/2012	Uniforms		-	No		0000
101-430-3100-44170	Uniforms									
629-7449263	Total:	19.19								
ARAM Total:		212.03								
ASPENMI Aspen Mills, Inc.										
118609	02/29/2012	172.78	0.00	03/21/2012	Uniforms		-	No		0000
101-420-2220-44170	Uniforms									
118609	Total:	172.78								
118610	02/29/2012	132.83	0.00	03/21/2012	Uniforms		-	No		0000
101-420-2220-44170	Uniforms									
118610	Total:	132.83								
118611	02/29/2012	110.83	0.00	03/21/2012	Uniforms		-	No		0000
101-420-2220-44170	Uniforms									
118611	Total:	110.83								
118612	02/29/2012	133.90	0.00	03/21/2012	Uniforms		-	No		0000
101-420-2220-44170	Uniforms									
118612	Total:	133.90								
ASPENMI Total:		550.34								
BATTYPL Batteries Plus Woodbury, Corp										
32-746210	03/05/2012	13.84	0.00	03/21/2012	94 Lift Station Alarm Battery		-	No		0000
602-495-9450-44030	Repairs/Maint Imp Not Bldgs									
32-746210	Total:	13.84								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	BATTYPL Total:	13.84								
BIFFS Biff's Inc.										
W456577	03/15/2012	61.29	0.00	03/21/2012	Portable Restrooms		-	No		0000
101-450-5200-44120	Rentals - Buildings									
	W456577 Total:	61.29								
	BIFFS Total:	61.29								
BOYER Boyer Trucks										
612613	03/15/2012	29.72	0.00	03/21/2012	Fuel Line and Seal 98-2		-	No		0000
101-430-3125-44040	Repairs/Maint Eqpt									
	612613 Total:	29.72								
	BOYER Total:	29.72								
C&J CONS C & J Consulting Services, LLP										
Feb 2012	03/01/2012	4,875.00	0.00	03/21/2012	Monthly Accounting Services - Feb 2012		-	No		0000
101-410-1520-43150	Contract Services									
	Feb 2012 Total:	4,875.00								
	C&J CONS Total:	4,875.00								
COMCAST COMCAST										
02/27/2012	02/27/2012	7.90	0.00	03/21/2012	Monthly Service		-	No		0000
101-420-2220-44300	Miscellaneous									
	02/27/2012 Total:	7.90								
	COMCAST Total:	7.90								
COMPENSA Compensation Consultants, Ltd										
03/31/2012	03/06/2012	40.00	0.00	03/21/2012	Monthly FSA Admin Fee March 2012		-	No		0000
101-410-1320-44300	Miscellaneous									
	03/31/2012 Total:	40.00								
	COMPENSA Total:	40.00								
CTYBLOOM City of Bloomington										
Feb 2012	02/27/2012	40.00	0.00	03/21/2012	Lab Bacteria Tests		-	No		0000
601-494-9400-42270	Utility System Maintenance									
	Feb 2012 Total:	40.00								
	CTYBLOOM Total:	40.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
CTYOAKDA City of Oakdale										
10000460-01	02/29/2012	2,694.98	0.00	03/21/2012	Water Service I-94		-	No		0000
601-494-9400-43820	Water Utility									
10000460-01 Total:		2,694.98								
Multiple	03/09/2012	225.00	0.00	03/21/2012	Brake Repair, E2		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	03/09/2012	29.00	0.00	03/21/2012	Oil Change, CV1		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	03/09/2012	86.76	0.00	03/21/2012	Replace interior vehicle compartment		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple	03/09/2012	451.36	0.00	03/21/2012	Install Battery seperator/Replace Batt		-	No		0000
101-420-2220-44040	Repairs/Maint Eqpt									
Multiple Total:		792.12								
CTYOAKDA Total:		3,487.10								
CTYROSEV City of Roseville										
215841	03/15/2012	1,652.08	0.00	03/21/2012	Monthly IT Services - March 2012		-	No		0000
101-410-1450-43180	Information Technology/Web									
215841 Total:		1,652.08								
CTYROSEV Total:		1,652.08								
CUMMINGS Cummings Mary Jo										
03/08/2012	03/08/2012	1,800.00	0.00	03/21/2012	40 hours of Library Consulting		-	No		0000
206-450-5300-43150	Contract Services									
03/08/2012 Total:		1,800.00								
CUMMINGS Total:		1,800.00								
ECN Networks, Inc. Emergency Communica										
03/06/2012	03/06/2012	5,250.00	0.00	03/21/2012	Code Red Services		-	No		0000
101-420-2500-43150	Contract Services									
03/06/2012 Total:		5,250.00								
ECN Total:		5,250.00								
EMERGAUT Emergency Automotive tech, Inc										
JC030612-2	03/06/2012	18.92	0.00	03/21/2012	Amber Lenses for 86-1 98-2		-	No		0000
101-430-3125-44040	Repairs/Maint Eqpt									
JC030612-2 Total:		18.92								
EMERGAUT Total:		18.92								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ENVENTIS ENVENTIS										
738507	03/12/2012	572.04	0.00	03/21/2012	Telephone/Data Service CH March 2012		-	No		0000
101-410-1940-43210	Telephone									
738507	03/12/2012	456.22	0.00	03/21/2012	Telephone/Data Service PW March 2012		-	No		0000
101-430-3100-43210	Telephone									
738507 Total:		1,028.26								
ENVENTIS Total:		1,028.26								
EQUINOX Equinox Software										
03/06/2012	03/06/2012	500.00	0.00	03/21/2012	Intro to Koha Training		-	No		0000
206-450-5300-44370	Conferences & Training									
03/06/2012	03/06/2012	250.00	0.00	03/21/2012	Cataloging Training		-	No		0000
206-450-5300-44370	Conferences & Training									
03/06/2012 Total:		750.00								
EQUINOX Total:		750.00								
FASTENAL Fastenal										
MNOAK1133	02/22/2012	30.58	0.00	03/21/2012	Misc Hardware UB Plows		-	No		0000
101-430-3125-44040	Repairs/Maint Eght									
MNOAK1133 Total:		30.58								
FASTENAL Total:		30.58								
FIORILLO Fiorillo Megan										
03/05/2012	03/05/2012	27.50	0.00	03/21/2012	Cabled Live - Training 3/5/12		-	No		0000
101-410-1450-43620	Cable Operations									
03/05/2012 Total:		27.50								
FIORILLO Total:		27.50								
GRUBER Gruber's Power Equipment										
105380	03/07/2012	25.60	0.00	03/21/2012	Throttle kit for V-Box Sander		-	No		0000
101-430-3125-44040	Repairs/Maint Eght									
105380 Total:		25.60								
GRUBER Total:		25.60								
HAGBERGS Hagbergs Country Market										
03/01/2012	03/01/2012	55.92	0.00	03/21/2012	Workshop Mtg - 2/14/2012 Box Lunches		-	No		0000
101-410-1320-44300	Miscellaneous									
03/01/2012 Total:		55.92								
HAGBERGS Total:		55.92								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
INTERSTA Interstate All Battery Ctr 44930 02/22/2012		428.89	0.00	03/21/2012	Replace Batteries on E1		-	No		0000
101-420-2220-44040 Repairs/Maint Eqpt 44930 Total:		428.89								
INTERSTA Total:		428.89								
JOHNSON& Johnson & Turner Attorneys Feb 12 03/13/2012		1,638.50	0.00	03/21/2012	Legal Services - Civil		-	No		0000
101-410-1320-43040 Legal Services Feb 12 03/13/2012		4,315.00	0.00	03/21/2012	Legal Services - Prosecution		-	No		0000
101-420-2150-43045 Attorney Criminal Feb 12 03/13/2012		65.00	0.00	03/21/2012	Legal Services - Infrastructure		-	No		0000
420-480-8000-43040 Legal Services Feb 12 03/13/2012		422.50	0.00	03/21/2012	Legal Services - Library		-	No		0000
206-450-5300-44300 Miscellaneous Feb 12 03/13/2012		2,379.00	0.00	03/21/2012	Legal Services - 3M		-	No		0000
601-494-9400-43040 Legal Services Feb 12 Total:		8,820.00								
JOHNSON& Total:		8,820.00								
KDV Kern DeWenter Viere Ltd 141971 02/29/2012		7,735.50	0.00	03/21/2012	Financial Services - February 2012		-	No		0000
101-410-1520-43150 Contract Services 141971 Total:		7,735.50								
KDV Total:		7,735.50								
Lillie Newspapers Inc. Lillie Suburban 02/29/2012 02/29/2012		274.45	0.00	03/21/2012	Publish of Res & Ord 2012		-	No		0000
101-410-1410-44300 Miscellaneous 02/29/2012 Total:		274.45								
Lillie Total:		274.45								
LINNER Linner Electric Company, Inc. 22162 03/02/2012		2,708.00	0.00	03/21/2012	Well house II Electrical Work - Chlorina		-	No		0000
601-494-9400-43150 Contract Services 22162 Total:		2,708.00								
LINNER Total:		2,708.00								
LOFF Loffler Companies, Inc. 1371086 03/02/2012		217.67	0.00	03/21/2012	Copy Machines Overage & Base 3/31/12		-	No		0000
101-410-1940-44040 Repairs/Maint Contractual Eqpt										

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
1371086	03/02/2012	-45.00	0.00	03/21/2012	Credit on invoice #1304113		-		No	0000
101-410-1940-44040	Repairs/Maint Contractual Eqpt	172.67								
	1371086 Total:	172.67								
	LOFF Total:	172.67								
LUCZAK Carole Luczak										
03/08/12	03/08/2012	129.65	0.00	03/21/2012	Reimb Mileage for Conference		-		No	0000
101-410-1320-43310	Mileage									
03/08/12	03/08/2012	26.21	0.00	03/21/2012	Reimb Meals for Conference		-		No	0000
101-410-1320-44370	Conferences & Training									
	03/08/12 Total:	155.86								
	LUCZAK Total:	155.86								
MARONEY'S Maroney's Sanitation, Inc										
426107	03/02/2012	108.32	0.00	03/21/2012	Waste Removal - City Hall		-		No	0000
101-410-1940-43840	Refuse									
426107	03/02/2012	47.68	0.00	03/21/2012	Waste Removal - Fire		-		No	0000
101-420-2220-43840	Refuse									
426107	03/02/2012	207.82	0.00	03/21/2012	Waste Removal - Public Works		-		No	0000
101-430-3100-43840	Refuse									
426107	03/02/2012	207.82	0.00	03/21/2012	Waste Removal - Parks		-		No	0000
101-450-5200-43840	Refuse									
	426107 Total:	571.64								
	MARONEY'S Total:	571.64								
MARVS Marv's Professional Tools										
246669	03/08/2012	5.27	0.00	03/21/2012	Wire Brushes		-		No	0000
101-430-3100-42400	Small Tools & Minor Equipment									
	246669 Total:	5.27								
	MARVS Total:	5.27								
MENARDSDO Menards - Oakdale										
69294	03/01/2012	7.37	0.00	03/21/2012	Misc Office Supplies		-		No	0000
101-410-1410-44300	Miscellaneous									
	69294 Total:	7.37								
72056	03/12/2012	16.01	0.00	03/21/2012	Fire Station II Drainfield Pipe Repair		-		No	0000
101-450-5200-44010	Repairs/Maint Bldg									
	72056 Total:	16.01								
	MENARDSDO Total:	23.38								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
MENARDST Menards - Stillwater 56325 02/24/2012 101-420-2220-44170 Uniforms 56325 Total: MENARDST Total:		22.41 22.41 22.41	0.00	03/21/2012	Containers for Uniform Storage		-	No		0000
MES Municipal Emergency Services 00299276-SNV 02/29/2012 101-420-2220-42400 Small Tools & Equipment 00299276-SNV Total: MES Total:		176.17 176.17 176.17	0.00	03/21/2012	Replacement fitting for T2		-	No		0000
METCOU Metropolitan Council 983683 03/02/2012 602-495-9450-43820 Sewer Utility - Met Council 983683 Total: METCOU Total:		1,081.28 1,081.28 1,081.28	0.00	03/21/2012	Monthly Wastewater Service - March 2012		-	No		0000
MFRA McCombs Frank Roos Assoc Inc. 70169 02/29/2012 101-410-1910-43150 Contract Services 70169 Total: MFRA Total:		1,869.30 1,869.30 1,869.30	0.00	03/21/2012	Planning Services - February 2012		-	No		0000
MILLEREX Miller Excavating, Inc. 16100 02/29/2012 601-494-9400-44030 Repairs\Maint Imp Not Bldgs 16100 Total: MILLEREX Total:		1,566.84 1,566.84 1,566.84	0.00	03/21/2012	Water Main Break Excavation & Material		-	No		0000
MINNESOT Minnesota Abstract & Title Com Ck Req 03/06/2012 601-000-0000-37100 Water Sales Ck Req Total: MINNESOT Total:		424.65 424.65 424.65	0.00	03/21/2012	Refund Overpayment of Reg Water Acct		-	No		0000
MSFCB MN Fire Service Cert. Board 101525 03/09/2012 101-420-2220-44330 Dues & Subscriptions 101525 Total:		20.00 20.00	0.00	03/21/2012	FFII Recertification		-	No		0000

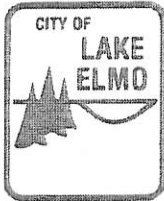
Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
	MSFCB Total:	20.00								
ONECALL Gopher State One Call										
33972	03/01/2012	30.55	0.00	03/21/2012	Line Located - February 2012		-		No	0000
101-430-3100-43150	Contract Services									
33972 Total:		30.55								
ONECALL Total:		30.55								
PLUNKETT Plunkett's Pest Control										
3048494	03/01/2012	83.56	0.00	03/21/2012	Pest Control Svs - City Hall		-		No	0000
101-410-1940-44010	Repairs/Maint Contractual Bldg									
3048494 Total:		83.56								
PLUNKETT Total:		83.56								
PRESSA Anastasia Press										
03/06/2012	03/06/2012	55.00	0.00	03/21/2012	City Council Meeting 3/6/12		-		No	0000
101-410-1450-43620	Cable Operations									
03/12/2012	03/06/2012 Total:	55.00	0.00	03/21/2012	Planning Commission Meeting		-		No	0000
101-410-1450-43620	Cable Operations									
03/12/2012 Total:		55.00								
PRESSA Total:		110.00								
PROSTAFF PROSTAFF										
102-849560	03/01/2012	472.75	0.00	03/21/2012	Temp Help WE 2/26/2012		-		No	0000
101-410-1320-41010	Full-time Salaries									
102-849560 Total:		472.75								
102-850330	03/08/2012	604.50	0.00	03/21/2012	Temp Help WE 3/4/2012		-		No	0000
101-410-1320-41010	Full-time Salaries									
102-850330 Total:		604.50								
PROSTAFF Total:		1,077.25								
RICHTMAN Richman Karen										
11202	03/05/2012	261.10	0.00	03/21/2012	Recycled Newspaper Pencils		-		No	0000
101-430-3200-42100	Recycling Supplies									
11202 Total:		261.10								
RICHTMAN Total:		261.10								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
RIVRCOOP River Country Cooperative 02/29/2012 02/29/2012 101-420-2220-42120 Fuel, Oil and Fluids 02/29/2012 Total: RIVRCOOP Total:		652.14 652.14 652.14	0.00	03/21/2012	Fuel		-	No		0000
ROGERS Rogers Printing Services, Corp 18496 02/29/2012 101-410-1320-42030 Printed Forms 18496 Total: ROGERS Total:		363.91 363.91 363.91	0.00	03/21/2012	Thank you cards		-	No		0000
S&T S&T Office Products, Inc. 01PB4401 02/29/2012 101-410-1320-42000 Office Supplies 01PB4401 Total: 01PB7844 03/08/2012 101-410-1320-42000 Office Supplies 01PB7844 Total: S&T Total:		22.12 22.12 54.62 54.62 76.74	0.00 0.00	03/21/2012 03/21/2012	Office Supplies - Signature Stamp Office Supplies		- -	No No		0000 0000
SAMSClub Sam's Club 02/06/2012 02/06/2012 101-420-2220-44300 Miscellaneous 02/06/2012 02/06/2012 101-410-1320-44300 Miscellaneous 02/06/2012 Total: SAMSClub Total:		37.48 28.98 66.46 66.46	0.00 0.00	03/21/2012 03/21/2012	Rehab Supplies City Hall Supplies		- -	No No		0000 0000
TDS TDS METROCOM - LLC 651-779-8882 03/13/2012 101-420-2220-43210 Telephone 651-779-8882 03/13/2012 101-430-3100-43210 Telephone 651-779-8882 03/13/2012 602-495-9450-43210 Telephone 651-779-8882 03/13/2012 601-494-9400-43210 Telephone 651-779-8882 Total: TDS Total:		167.73 152.75 106.77 42.90 470.15 470.15	0.00 0.00 0.00 0.00	03/21/2012 03/21/2012 03/21/2012 03/21/2012	Analog Lines - Fire Analog Lines - Public Works Analog Lines - Lift Station Alarms Analog Lines - Well House #2		- - - -	No No No No		0000 0000 0000 0000

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close	PO Line #
TREGILGA Tregilgas Michael											
03/05/2012	03/05/2012	27.50	0.00	03/21/2012	Training for cable operator 3/5/12		-		No		0000
101-410-1450-43620	Cable Operations										
	03/05/2012 Total:	27.50									
	TREGILGA Total:	27.50									
TRKUTI Truck Utilities Inc.											
237045	03/01/2012	32.20	0.00	03/21/2012	Hyd Hose Ends UB Plow 98-2		-		No		0000
101-430-3100-42210	Equipment Parts										
	237045 Total:	32.20									
	TRKUTI Total:	32.20									
VISALE40 VISA											
02/03/2012	03/15/2012	35.43	0.00	03/21/2012	Springstead Meeting		-		No		0000
101-410-1320-44300	Miscellaneous										
02/03/2012	03/15/2012	101.72	0.00	03/21/2012	Part for the Ranger		-		No		0000
101-420-2220-44040	Repairs/Maint Eght										
	02/03/2012 Total:	137.15									
	VISALE40 Total:	137.15									
WATERCON Water Conservation Sys Inc.											
3026	03/06/2012	241.42	0.00	03/21/2012	Leak Detection Service		-		No		0000
601-494-9400-44300	Miscellaneous										
	3026 Total:	241.42									
	WATERCON Total:	241.42									
XCEL Xcel Energy											
51-0117417-0	03/15/2012	36.69	0.00	03/21/2012	Welcome Sign		-		No		0000
101-430-3160-43810	Street Lighting										
	51-0117417-0 Total:	36.69									
51-4504807-7	03/15/2012	54.34	0.00	03/21/2012	Lights at Legion Park		-		No		0000
101-450-5200-43810	Electric Utility										
51-4504807-7	03/15/2012	70.96	0.00	03/21/2012	Lift Station		-		No		0000
602-495-9450-43810	Electric Utility										
51-4504807-7	03/15/2012	32.01	0.00	03/21/2012	Traffic Lights		-		No		0000
101-430-3160-43810	Street Lighting										
	51-4504807-7 Total:	157.31									
51-4572945-7	03/15/2012	58.33	0.00	03/21/2012	Street Lights		-		No		0000
101-430-3160-43810	Street Lighting										
	51-4572945-7 Total:	58.33									
51-4576456-3	03/15/2012	841.97	0.00	03/21/2012	Fire Station #2		-		No		0000
101-420-2220-43810	Electric Utility										

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
51-4576456-3	03/15/2012	341.67	0.00	03/21/2012	City Hall		-	No		0000
101-410-1940-43810	Electric Utility									
	51-4576456-3 Total:	1,183.64								
51-4580376-5	03/15/2012	28.87	0.00	03/21/2012	Traffic Lights		-	No		0000
101-430-3160-43810	Street Lighting									
51-4580376-5	03/15/2012	824.39	0.00	03/21/2012	City Hall		-	No		0000
101-410-1940-43810	Electric Utility									
	51-4580376-5 Total:	853.26								
51-4733556-8	03/15/2012	10.17	0.00	03/21/2012	Tennis Courts		-	No		0000
101-450-5200-43810	Electric Utility									
	51-4733556-8 Total:	10.17								
51-5044219-0	03/15/2012	266.75	0.00	03/21/2012	Parks Building		-	No		0000
101-450-5200-43810	Electric Utility									
	51-5044219-0 Total:	266.75								
51-5275289-3	03/15/2012	10.17	0.00	03/21/2012	Pebble Park		-	No		0000
101-450-5200-43810	Electric Utility									
	51-5275289-3 Total:	10.17								
51-5356323-8	03/15/2012	817.02	0.00	03/21/2012	Wells 1 & 2		-	No		0000
601-494-9400-43810	Electric Utility									
	51-5356323-8 Total:	817.02								
51-5522332-2	03/15/2012	41.82	0.00	03/21/2012	Traffic Lights		-	No		0000
101-430-3160-43810	Street Lighting									
	51-5522332-2 Total:	41.82								
51-5747685-4	03/15/2012	192.91	0.00	03/21/2012	Arts Center		-	No		0000
101-450-5200-43810	Electric Utility									
	51-5747685-4 Total:	192.91								
51-5916043-7	03/15/2012	19.74	0.00	03/21/2012	Lift Station		-	No		0000
602-495-9450-43810	Electric Utility									
	51-5916043-7 Total:	19.74								
51-6429583-8	03/15/2012	16.04	0.00	03/21/2012	Lift Station		-	No		0000
602-495-9450-43810	Electric Utility									
	51-6429583-8 Total:	16.04								
51-6433976-2	03/15/2012	535.77	0.00	03/21/2012	Fire Station #1		-	No		0000
101-420-2220-43810	Electric Utility									
	51-6433976-2 Total:	535.77								
51-6625457-1	03/15/2012	285.20	0.00	03/21/2012	Legion Park		-	No		0000
101-450-5200-43810	Electric Utility									
	51-6625457-1 Total:	285.20								
51-6736544-2	03/15/2012	1,963.29	0.00	03/21/2012	Street Lights		-	No		0000
101-430-3160-43810	Street Lighting									
	51-6736544-2 Total:	1,963.29								
51-6928283-3	03/15/2012	28.11	0.00	03/21/2012	Traffic Lights		-	No		0000
101-430-3160-43810	Street Lighting									
	51-6928283-3 Total:	28.11								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
51-6956201-4	03/15/2012	50.12	0.00	03/21/2012	VFW Ballfield Lts		-		No	0000
101-450-5200-43810	Electric Utility									
51-7538112-1	03/15/2012	50.12	0.00	03/21/2012	Public Works		-		No	0000
101-430-3100-43810	Electric Utility	2,032.63								
51-8126093-5	03/15/2012	2,032.63	0.00	03/21/2012	Water Tower 2		-		No	0000
601-494-9400-43810	Electric Utility	148.78								
51-8711719-3	03/15/2012	148.78	0.00	03/21/2012	Speed Sign Hwy 5		-		No	0000
101-430-3160-43810	Street Lighting	11.26								
	51-8711719-3 Total:	11.26								
	XCEL Total:	8,719.01								
ZULEGER Zuleger Dean										
03/04/2012	03/04/2012	39.96	0.00	03/21/2012	Mileage		-		No	0000
101-410-1320-43310	Mileage									
	03/04/2012 Total:	39.96								
	ZULEGER Total:	39.96								
	Report Total:	58,401.49								



MAYOR & COUNCIL COMMUNICATION

DATE: 3/20/2012

CONSENT

ITEM #: 3

MOTION as part of the *Consent Agenda*

AGENDA ITEM: 2012 Seal Coat Project – Agreement for Joint Services with West Lakeland Township

SUBMITTED BY: Ryan Stempski, Assistant City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Jack Griffin, City Engineer
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider approving the 2012 Seal Coat Project Agreement for Joint Services with West Lakeland Township. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

STAFF REPORT: Staff has prepared a Joint Services Agreement with West Lakeland Township to allow West Lakeland to contract with the City for seal coating services again in 2012. Through a joint project effort, it is anticipated that project cost savings can be realized through an economy of scale.

The agreement addresses the terms and conditions upon which the City of Lake Elmo prepares and administers a contract for seal coating services for streets within both the City and the Township. Each jurisdiction then pays its portion of the contractor costs and shares in the engineering design and construction administration costs. For construction observation services performed during the construction duration, each jurisdiction contracts these services directly.

The City of Lake Elmo is defined as the lead entity and prepares the plans and specifications with input from the Township's engineer. The City bids the project and enters into a contract with the selected contractor for all the work. West Lakeland will pay a fee to the City in the amount of 6% of the Township's construction costs as received at the time of bid. The 6% is considered reimbursement to the City for the design, bidding and construction administration services related to the project. The Township will also reimburse the City within 30 days of receiving contractor invoices for the work performed by the contractor on West Lakeland streets.

In 2011, the City of Lake Elmo and West Lakeland Township jointly bid and constructed street seal coating. The 2011 unit price was \$1.00 per square yard. Staff feels that this price was in fact

a reduced price that translated a cost savings to both communities. By competitively bidding both the City and Township projects together, we hope to continue to promote a favorable bidding environment as well as share in the fixed costs associated with the preparation of the specifications, contract documents, and facilitating the bidding process.

RECOMMENDATION: Based upon the above Staff Report, it is recommended that the City Council consider approving as part of tonight's *Consent Agenda* the 2012 Seal Coat Project Agreement for Joint Services with West Lakeland Township.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss, deliberate and/or, if appropriate, amend the recommended motion prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

“Move to approve the 2012 Seal Coat Project Agreement for Joint Services
[as amended and/or modified at tonight's meeting].”

ATTACHMENTS:

1. 2012 Seal Coat Project Agreement for Joint Services with West Lakeland Township

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 Facilitates
- Action on Motion..... Mayor & City Council

2012 SEAL COAT PROJECT AGREEMENT FOR JOINT SERVICES

This Agreement is made this ____ day of _____ 2012, by and between the West Lakeland Township (hereinafter referred to as "West Lakeland") and the City of Lake Elmo (hereinafter referred to as "Lake Elmo").

WHEREAS, it is the desire of the parties, and it is the purpose of this Agreement, that certain road-related services be performed or contracted by Lake Elmo on behalf of West Lakeland;

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the above parties hereto agree as follows:

1. Term: The term of this Agreement shall commence upon the date of execution and shall be for the duration of the 2012 Seal Coat Project as specified by the Contract documents, including the 1-Year Warranty Period.

2. Services. For the term of this Agreement, Lake Elmo shall provide West Lakeland with the following services in and on behalf of West Lakeland and at the direction of West Lakeland's Engineer:

- a. Lake Elmo will prepare Plans and Specifications and Contract documents that includes seal coating for streets located in West Lakeland, in addition to the streets within Lake Elmo for which Lake Elmo is otherwise contracting. Prior to April 10, 2012, West Lakeland will provide Lake Elmo with a plan suitable for inclusion in the Plans, along with a tabulation of the estimated quantities (in square yards) showing the seal coating work to be performed in West Lakeland as a part of the project.

3. Payments. West Lakeland shall make payments to Lake Elmo for services related to the project or directly for services as follows:

- a. West Lakeland will pay Lake Elmo a fee in the amount of 6% of the West Lakeland construction cost as tabulated at the time of bid, for engineering and administration fees performed by Lake Elmo for the seal coat project. Lake Elmo will invoice this amount to West Lakeland once the Lake Elmo City Council accepts the bids and awards the construction contract.
- b. Lake Elmo will make Contractor payments for all work completed in accordance with the Contract. West Lakeland will reimburse Lake Elmo for the work completed in accordance with the contract for the quantities of work performed on West Lakeland streets.
- c. At its sole cost and expense, West Lakeland will provide a construction observer to inspect the seal coat work performed on West Lakeland streets.
- d. Lake Elmo will invoice West Lakeland for services to be reimbursed by West Lakeland as outlined above and West Lakeland will pay all invoices within 30

days after receipt of the invoice. Lake Elmo shall include with its invoices copies of the contractor's claims showing the amount charged for the work performed and materials used in West Lakeland.

4. Insurance. Lake Elmo shall require its contractor(s) to provide insurance as specified below, and West Lakeland shall be named as an additional insured on such insurance:

Comprehensive General Liability	\$1,000,000 per occurrence, \$2,000,000 aggregate
Auto Liability	\$1,200,000 per occurrence
Workers compensation	Statutory amount

5. Indemnification. Lake Elmo agrees to defend, indemnify and hold harmless West Lakeland, and its officials, agents and employees from and against all claims, actions, damages, losses and expenses, including attorneys' fees, arising out of or resulting from Lake Elmo's performance of the duties required under this Agreement, provided that any such claim, action, damage, loss or expense is caused in whole or in part by an alleged negligent act, omission, or willful misconduct (including, but not limited to, a claimed breach of contract made by the contractor) of Lake Elmo. Lake Elmo agrees to require, as part of its contract with the contractor used to provide the seal coating, to include West Lakeland in the contractor's indemnification obligation under the contract. West Lakeland agrees to defend, indemnify and hold harmless Lake Elmo, and its officials, agents and employees from and against all claims, actions, damages, losses and expenses, including attorneys' fees, arising out of or resulting from West Lakeland's performance of the duties required of it under this Agreement, provided that any such claim, action, damage, loss or expense is caused in whole or in part by an alleged negligent act or omission or willful misconduct of West Lakeland. This provision shall not be construed as a waiver by either party of any defenses, immunities or limitations on liability to which they are entitled, under Minnesota Statutes, Chapter 466 or otherwise. Under no circumstances shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits of liability established in Minnesota Statutes, Chapter 466, applicable to any one party. The limits of liability for some or all of the parties may not be added together to determine the maximum amount of liability for any party.

6. Service Contract. This is a service contract. The parties do not intend to create, and nothing herein shall be construed as creating, a joint powers agreement, joint venture, or joint enterprise. However, to the extent a court of competent jurisdiction may find such a relationship exists, Lake Elmo and West Lakeland shall be considered a single governmental entity as provided in Minnesota Statutes, section 471.59, subdivision 1a for the purposes of determining total liability. The limits of liability for Lake Elmo and West Lakeland shall not be added together to determine the maximum amount of liability for either party or for any occurrence.

7. Contracting Procedure and Oversight. Lake Elmo shall be solely responsible for letting the contracts for the services to be provided hereunder in accordance with all applicable laws, rules, and regulations. The bonds obtained from the contractor for the work shall include the work to be performed in West Lakeland. Lake Elmo shall, to the extent reasonably necessary, assist West Lakeland to draw upon the performance bond as needed to complete or correct any work the contractor fails to perform in West Lakeland in accordance with the contract. West Lakeland will be responsible for inspecting the work to be performed in West Lakeland, but Lake Elmo shall be

responsible for generally overseeing the contractor's performance of services in accordance with the contract.

8. Miscellaneous. This Agreement is solely for the benefit of the parties hereto and no other person shall have any right, claim, or interest in it.

9. Legal Compliance. Both parties agree to comply with all applicable state, federal and local laws, rules and regulations in carrying out their respective obligations under this Agreement.

10. Entire Agreement. This Agreement represents the entire agreement between Lake Elmo and West Lakeland and supersedes and cancels any and all prior agreements or proposals, written or oral, between the parties relating to the subject matter hereof. No amendments, addenda, alterations, or modifications to the terms and conditions of this Agreement shall be effective unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have set forth their hands on the day and year first written above.

CITY OF LAKE ELMO

By: _____
Its Mayor

Date

By: _____
Its City Administrator

Date

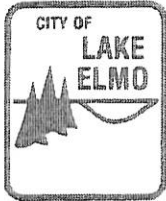
TOWN OF WEST LAKELAND

By: _____
Its Town Chairperson

Date

By: _____
Its Town Clerk-Treasurer

Date



MAYOR & COUNCIL COMMUNICATION

DATE: 3/20/2012

CONSENT

ITEM #: 4

MOTION as part of the *Consent Agenda*

AGENDA ITEM: 2012 Seal Coat Project – Preparation of Plans and Specifications

SUBMITTED BY: Ryan Stempiski, Assistant City Engineer

THROUGH: Dean A Zuleger, City Administrator

REVIEWED BY: Jack Griffin, City Engineer
Mike Bouthilet, Public Works

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to consider authorizing the preparation of Plans and Specifications for the 2012 Seal Coat Project. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION AND STAFF REPORT: As part of the annual street maintenance program, certain street and roadway segments are routinely treated with crack sealing and seal coating to preserve and extend the useful life of the pavement. The City maintains a 5-year street maintenance plan which identifies and programs each paved city street with a proposed maintenance application and designated year. Best management practices for street maintenance are followed to maximize benefit on the City's investments. One year in advance of the scheduled maintenance application, public works and engineering staff jointly perform a field review to verify the scheduled maintenance activity.

The proposed 2012 Seal Coat project will consist of 4.6 miles of City streets (see attached Street Maintenance Program Map). The approved 2012 City budget for seal coating and crack sealing is \$125,000 (Fund No. 45300), including construction and engineering. The actual mileage of roadway to be seal coated is managed to remain within the adopted budget once Contractor bids have been received. Crack sealing was authorized and applied to each of these street segments in 2011 in preparation of the scheduled seal coating. Crack sealing will be completed in the fall of 2012 for those streets to be seal coated in 2013.

RECOMMENDATION: Based upon the above Staff Report, it is recommended that the City Council consider approving, as part of tonight's *Consent Agenda*, the preparation of Plans and Specifications for the 2012 Seal Coat Project.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda*, table this item for future consideration, or further discuss, deliberate and/or, if appropriate, amend the recommended motion prior to taking action. If the latter is done so, the appropriate action of the Council following such discussion would be:

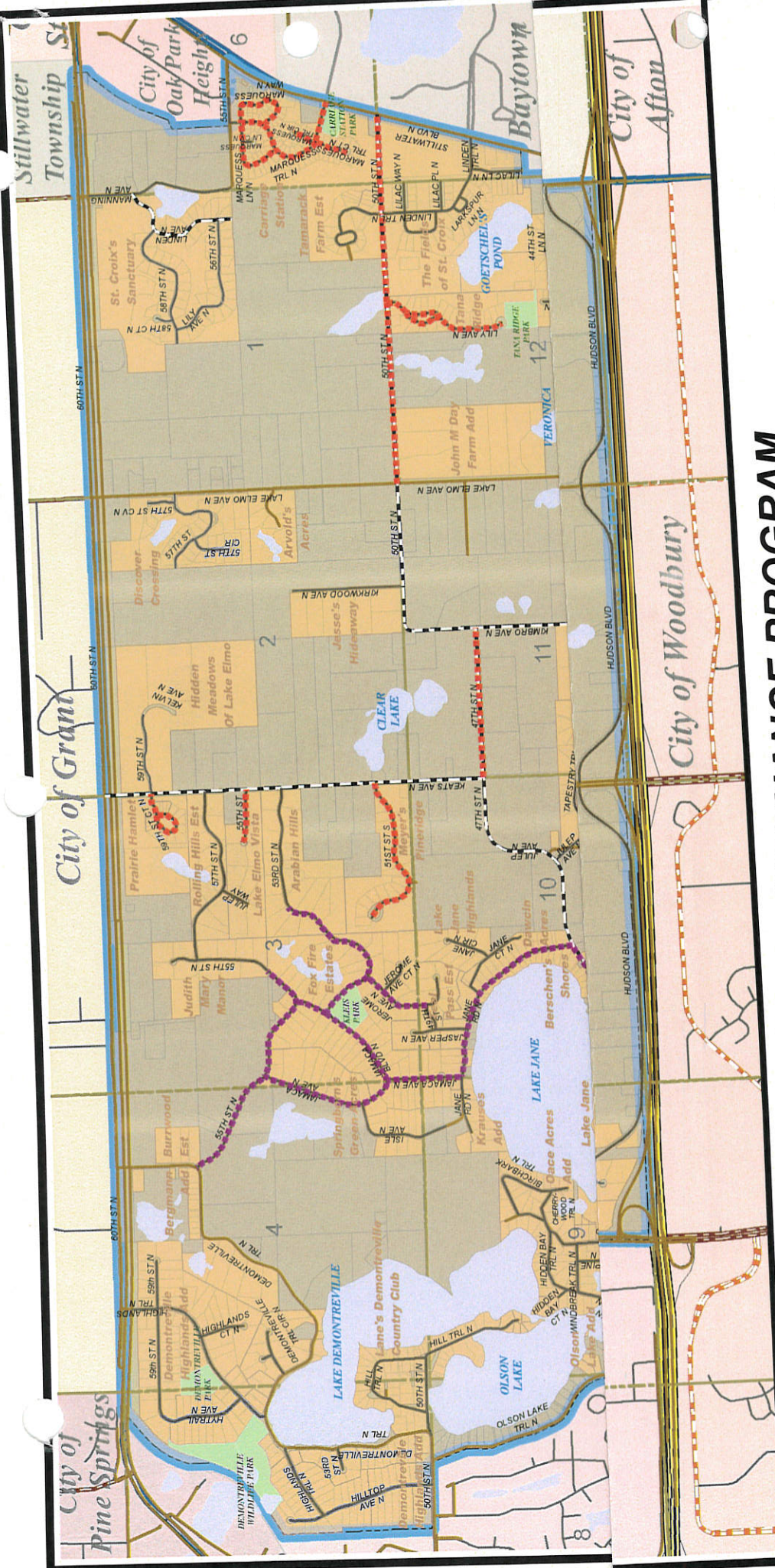
“Move to authorize FOCUS Engineering, Inc. to prepare Plans and Specifications and provide Construction Phase Services for the 2012 Seal Coat Project in the amount of \$8,500 [as amended and/or modified at tonight’s meeting].”

ATTACHMENTS:

1. Street Maintenance Program Map

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 Facilitates
- Action on Motion..... Mayor & City Council



STREET MAINTENANCE PROGRAM



SEALCOAT YEAR

2013

2012

- City Hall**
3800 Laverne Avenue N
651/777-5510
www.lakeelmo.org
- Public Works Building**
3445 Ideal Ave N
651/233-5414
- Fire Stations**
Station No. 1
3510 Laverne Ave N
651/770-5006
Station No. 2
4259 Jamaica Ave N
651/779-8882
- Schools**
- Parcels**
- Subdivisions**
- City Parks**
- Golf Course**
- Lake Elmo Regional Park Reserve**
Park Office
651/430-8368
- Lakes**

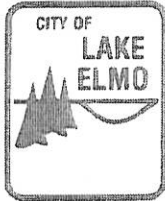
Map Date: March 2012

Created By:

FOCUS

ENGINEERING, inc.

THE CITY OF
LAKE ELMO



MAYOR & COUNCIL COMMUNICATION

DATE: 3/20/2012

CONSENT

ITEM #: 5

MOTION as part of consent agenda

AGENDA ITEM: Professional Engineering Support Services – Adopt Consultant Pool

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Ryan Stempksi, Assistant City Engineer

SUMMARY AND ACTION REQUESTED: As part of its consent agenda, the City Council is respectfully requested to consider approving the Professional Engineering Support Services Consultant Pool as presented in the attached Table 1. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

STAFF REPORT AND BACKGROUND INFORMATION: From time to time, it is necessary for staff to retain outside Professional Engineering support services from various consultants in order to meet the needs of the City. It is customary for Cities to develop a predefined pool of qualified firms that offers staff the ability to access this support in a cost effective and timely manner. At the January 17, 2012 Council meeting the City Council authorized staff to send out a Request for Qualifications from various firms. Twenty three (22) firms submitted a Statement of Qualification for consideration by the City.

Staff has reviewed each proposal, completed reference checks, and contacted firms to obtain clarifications when needed. Table 1 outlines the selected Consultant Pool for consideration. The establishment of the pool does not commit the City to using any of the firms nor does it guarantee any work to any of the firms. The Pool establishes a list of prequalified firms for staff to turn to for specialized engineering, architectural, landscape architectural, surveying and other support services when the need arises. The prequalification step only serves to streamline the process for staff to access the available support and to simplify the Request for Proposal (RFP) process when a specific project need is requested. In the end the Consultant Pool model saves considerable staff time and resources.

RECOMMENDATION: Based upon the above staff report and background information, the City Council is respectfully requested to consider approving, *as part of the Consent Agenda*, the Professional Engineering Support Services Consultant Pool as presented in the attached Table 1.

Alternatively, the City Council does have the authority to remove this item from the *Consent Agenda* to further discuss, deliberate and/or, if appropriate, amend the recommended motion prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to Approve the Professional Engineering Support Services
Consultant Pool as presented in the attached table.”
[as amended and/or modified at tonight’s meeting].”**

ATTACHMENTS:

1. Table 1: Professional Engineering Support Services Consultant Pool

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

- Questions from Council to staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion (if needed)..... Mayor Facilitates
- Action on Motion (if needed) Mayor Facilitates

TABLE 1

CITY OF LAKE ELMO - PROFESSIONAL ENGINEERING SUPPORT SERVICES CONSULTING POOL						
General Municipal Services	Traffic Engineering & Transportation Planning	Water System	Wastewater	Surface Water	Municipal Buildings & Facilities	Parks, Landscaping, Urban Design
Bolton & Menk Inc. FOTH Infrastructure STANTEC Stevens TKDA	SRF Consulting Spack Consulting, Inc.	Barr Engineering Inc SEH KLM Engineering Inc.	Barr Engineering Inc	Barr Engineering Inc Hydromethods Solution Blue	No Award	No Award
<u>General Services - Specialties</u> <u>Surveying / Easements</u> Cornerstone Land Survey E.G.Rud and Sons, Inc. Folz, Freeman and Erickson <u>Water Tower Maintenance / Antennas</u> KLM Engineering Inc. <u>GIS / Mapping</u> Flat Rock Geographics						



MAYOR & COUNCIL COMMUNICATION

DATE: 3/20/12
CONSENT
ITEM #: 6
MOTION

AGENDA ITEM: Approval and Reading of Arbor Day Proclamation

SUBMITTED BY: Dr. Kathy Widin, Forestry Consultant

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Carole Luczak, Interim City Clerk

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is respectfully requested to approve the Arbor Day Proclamation for 2012. 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 authority to make public proclamations, when appropriate and consistent with applicable City policy, state statutes and federal law. Traditionally, the City has made an annual Proclamation in observance of Arbor Day.

STAFF REPORT: City staff has reviewed the Proclamation. All appears to be in order and consistent with policies and past Council action. It is suggested that, following approval of the Consent Agenda, the Mayor read the attached Proclamation.

RECOMMENDATION: It is recommended that the City Council approve, as part of the Consent Agenda, the proposed Arbor Day Proclamation for 2012.

"Move to proclaim April 28, 2012, as Arbor Day in the City of Lake Elmo and the month of May 2012, to be Arbor Month, and request the Mayor to public read said Proclamation."

ATTACHMENTS:

1. Proposed Arbor Day Proclamation for 2012

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... City Administrator

- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

CITY OF LAKE ELMO

ARBOR DAY/MONTH PROCLAMATION

- WHEREAS:** Minnesota is home to many of our nation's natural resources, foremost among them are our beautiful and abundant forests; and
- WHEREAS:** Trees are an increasingly vital resource in Minnesota today, enriching our lives by purifying the air, conserving soil, water and energy, creating jobs through a large forest products industry, serving as recreational settings, providing habitat for wildlife of all kinds, and creating beautiful landscapes to make our communities more livable; and
- WHEREAS:** Human activities such as construction damage, pollution and neglect, as well as climatic extremes, disease and insects threaten our trees, creating the need for concerted action to ensure the future of community and rural forests in our state and throughout the country; and
- WHEREAS:** Each individual can act locally to improve the environment by planting trees and ensuring that these trees are protected and receive proper maintenance in the years ahead; and
- WHEREAS:** Each year on the last Friday in the month of April and throughout the month of May, the people of Minnesota pay special tribute to the vital natural resource that our trees represent and dedicate themselves to the continued vitality of our state's community and rural forests;

NOW, THEREFORE I, Dean A. Johnston, Mayor of the City of Lake Elmo, do hereby proclaim April 27, 2012 to be

ARBOR DAY

and the month of May, 2012 to be **ARBOR MONTH** in Lake Elmo, Minnesota.

Signed this

2012

Dean Johnston, Mayor

Tree City U.S.A.



MAYOR & COUNCIL COMMUNICATION

DATE: March 20, 2012

REGULAR

ITEM #:

MOTION 7

AGENDA ITEM: DPW Multi-Use 2012 Pick-Up Purchase (Per MAC Recommendation)

SUBMITTED BY: Mike Bouthilet, Public Works Superintendent

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Dean Zuleger, Administrator, Cathy Bendel, Finance Director,
Maintenance Advisory Commission

SUMMARY AND ACTION REQUESTED:

Purchase a new utility pick-up and put the 1985 Dodge pick-up on public auction.

BACKGROUND INFORMATION:

The CIP has programmed a replacement for the 1998 GMC pick-up.

STAFF REPORT:

The 1998 GMC pick-up replacement was scheduled for replacement on the CIP for 2010. We have been able to delay the purchase primarily due to the acquisition of the 1985 grass rig from the Fire Department. The grass rig was used for hauling park mowing equipment and personnel. The current plan is to sell the 1985 Dodge, utilize the 1998 GMC in the parks, and the new truck in the general fleet.

The MAC met and reviewed the truck purchase, including options and accessories. With the exception of Fury Motors and lettering, all prices are from the *MN State Contract*. Listed below are the **total costs** which include:

- Base Truck
- Options on Truck
- Plow
- Warning Lights and City ID Lettering
- External Accessories
- Sales Tax, Transit Tax, License, and Document Fees

Midway.....	Ford F-250.....	\$32,997.14
Hawkins.....	Chev 2500.....	\$33,065.15
Burnsville.....	Dodge 2500.....	\$33,436.00
Fury.....	Dodge 2500.....	\$35,926.10

STAFF REPORT: The MAC motion to recommend the purchase of the Ford F-250 included a request for staff to get pricing on adding additional warning lights to the truck. The additional warning lights would amber flash in the head and tail lights. Cost: \$738.16
The CIP has a \$35,000 line item for this purchase.

RECOMMENDATION: Purchase the 2012 Ford F-250 off the *MN STATE CONTRACT* from Midway Ford and all staff proposed accessories for **\$32,997.14** (or include MAC recommended additional warning lights for **\$33,735.30**) and auction 1985 Dodge.

ATTACHMENTS: MAC Minutes, Midway Ford Contract

MOTION: Authorize the purchase of the 2012 Ford F-250 off the *MN STATE CONTRACT* from Midway Ford and all staff proposed accessories for **\$32,997.14** and MAC recommended additional warning lights for a total of **\$33,735.30**, and auction 1985 Dodge.

SUGGESTED ORDER OF BUSINESS:

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

**CITY of LAKE ELMO
MAINTENANCE ADVISORY COMMITTEE**

Minutes of
March 7th, 2012

Present: George Dege, Dick Gustafson, Dave Moore, Steve Ziertman. Also present: Administrator Zuleger, PW Supt. Bouthilet, PW Staff Duddeck and Gustafson

The meeting was called to order at 5:13 PM by George Dege.

1. Agenda: Public Works Utility Pick-Up Purchase (no additions or changes)
2. No Minutes Presented for Review
3. Public Works Utility Pick-Up Purchase

Superintendent Bouthilet presented specifications for the MAC to review. Three trucks, a Ford F-250, Chevrolet 2500, and Dodge 2500 were presented with a price, specification and option comparisons. All options outside of the *State Contract Base Price* were discussed for need and value.

Bouthilet advised that since this was *State Contract Pricing* all three trucks were competitive financially; in addition Fury Motors was also presented our pricing for an opportunity to purchase locally. Due to the competitive nature of *State Contract Prices*, it was determined that the purchase would be based on specifications, options, and overall utility. This led to a significant conclusion, which was, only the Ford had the rating necessary to pull our Bobcat trailer and vacuum excavator. This is not a requirement, but clearly an advantage. The Chevrolet and Dodge would have to move up to the 3500 category resulting in a significant price increase.

A reverse camera system installed in the rearview mirror prompted discussion about the value of the camera and whether it would be better to have an after-market version or the video display in a GPS unit. Administrator noted that in Weston they installed the cameras and it resulted in insurance savings. The group consensus was to add the camera and check the price differential of a GPS video screen.

One significant option that was added to the Ford, but still kept it the low quote, was the addition of heavy duty rear leaf springs. The Ford met our towing requirement before it was determined the value of adding this heavy duty spring. Between the snow plow prep package in the front and extra springs in the rear, the truck essentially meets all the specifications of a Ford-F350.

The options review led to a brief discussion about our current CIP, future purchases, and retention vs. trade-ins on equipment. Administrator Zuleger noted he has tackled these issues in the past, and given some time, he will be reviewing all the City equipment needs, and viability of service, with a fiscally responsible approach for planning the future.

3a. Public Works Utility Pick-Up Purchase (cont.)

With the consensus of the MAC to recommend purchase of the Ford F-250, discussion continued reviewing all proposed accessories, including plow, warning lights, and box amenities. Box amenities included a "Back-Rack" for warning light installation, cab protection, and a side box rail for load securing. All were deemed appropriate. Steve Ziertman asked if we looked in adding additional warning lights (*commonly called hide-aways*) in the head and tail lights. Price quotes were not obtained, but we were told by a recent purchaser that they were approximately \$800 a truck. Ziertman asked if we could obtain a quote for the City Council, because you cannot underestimate the importance of warning lights in adverse conditions.

The type of plow was established as a straight reversible, but discussion ensued about the brand to purchase. All the plows reviewed were on the *State Contract*, but pricing is determined by brand. The Public Works recommendation was to purchase a 9 foot Leo Plow. It was noted that it had heavier gauge steel, manufactured locally, and received positive reviews from three employees who have utilized them in the past.

It was determined that the **total cost** of a new Ford-F250 (*built out to F-350 specs*) with plow, warning lights, accessories, sales tax, transit tax, licensing, and document fees is **\$25,730.48** (*excluding hide-away light option, additional cost TBD for Council*)

M/S/P: Moore/Gustafson-Recommend to the City Council the purchase of the Ford F-250 complete as presented in the amount of \$25,730.48 and obtain a quote for hide-away lights for the City Council presentation.

Motioned Passed: 4-0

Without Exception Meeting Adjourned at 5:57 PM

Midway Ford Commercial
Fleet and Government Sales
 2777 N. Snelling Ave.
 Roseville MN 55113



See Waitas
 -315-0960

Travis Swanson
 651-343-5212

T-69 Contract # 37667

F250 4X4- Regular Cab- 8' Box 8650 GVWR +

Standard

Vehicle will include the following required OEM equipment if not part of standard base package.

Automatic Transmission
Dual Front Air Bags
AM/FM Radio
Tow Hitch
Tilt Wheel

Split Bench Front Seat Seating
Standard Base Upholstery
4-Wheel ABS Brakes
Air Conditioning

Front Tow Hooks
Base Package Floor Covering
Bumpers w/Rear Step
Matching Full Size Spare Tire

Options	Code	Price	Select
4x4 Shift on Fly	213	\$148	x
Brake Controller	52B	\$184	x
Cloth Seat 40/20/40	1	\$80	x
Snow Plow Pkg	473	\$68	x
Cab Steps	18B	\$256	x
Upfitter Switches	66S	\$100	x
Roof Clearance Lts	592	\$44	x
Power Grp	90L	\$716	x
Spray-In Liner		\$360	x
E-Locking Rear Diff	X3E	\$312	x
LT245/75r17E AT	TBM	\$100	x
Gate Step	85G	\$300	x
Rearview Camera	76V	\$376	x
Mud Flaps		\$104	x
Cruise Control	525	\$188	x
Upgraded rear Springs		\$600	x
Option Total		\$3,936	

Exterior Colors		Select
Dark Blue Pearl Metallic	DX	
Vermillion Red	F1	
Forest Green Metallic	GG	
Pale Adobe Metallic	LQ	
Tuxedo Black Metallic	UH	
Sterling Grey Metallic	UJ	
Ingot Silver Metallic	UX	
Oxford White	Z1	x

Interior Colors

Steel only color for XL

Extended Service Contracts	Cost	Select
5yr/100000m F250/350 Gas 4x2	\$885	
5yr/100000m F250/350 Gas 4x4	\$1,015	
5yr/100000m F250/350 Diesel 4x2	\$935	
5yr/100000m F250/350 Diesel 4x4	\$1,080	

More time and mileage options available

Base Price	Totals
6.2 Gas	\$20,086.82
Options Price Totals	\$3,936.00
Extended Warranty	
Transit Impr Excise Tax	\$20.00
Tax Exempt Lic	\$51.50
Sales Tax (6.5%)	\$1,561.48
Document fee	\$75.00
Sub total per vehicle	\$25,730.80
Number of Vehicles	1
Grand Total for all units	\$25,730.80

You must have a active FIN code to participate in this purchase contract : FIN code #
Purchase Order required prior to order placement
 Payment due upon agreed vehicle acceptance

Name of Organization

Address

City, State, Zip

Contact Person/ Phone #

Contact's e-mail address and fax #

Midway Ford Acceptance Signature

Date

PO #

Acceptance Signature

Print Name and Title

Date



MAYOR & COUNCIL COMMUNICATION

DATE: 3/20/2012
REGULAR
ITEM #: 8
DISCUSSION/MOTION

AGENDA ITEM: Olson Lake Trail Sanitary Sewer Extension – Joint Sewer Project with the City of Oakdale

SUBMITTED BY: Jack Griffin, City Engineer

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Ryan Stempski, Assistant City Engineer
Kyle Klatt, City Planner

SUMMARY AND ACTION REQUESTED: Staff is requesting Council direction in regards to an invitation from the City of Oakdale to participate in a joint sanitary sewer extension project along the shared City border of Olson Lake Trail. The City Engineer will present a brief overview of the Oakdale project and the request being made, together with some background information on the project area for Council discussion and deliberation.

STAFF REPORT AND BACKGROUND INFORMATION: The City of Oakdale is proceeding with a sanitary sewer extension project along Olson Lake Trail to provide municipal sewer service to Oakdale properties residing along the west side of the road. The Oakdale project will initially be constructed for a length of 550 feet to serve the two properties located at 4656 and 4678 Olson Lake Trail. The sewer main will be placed so that it can be extended further north at some future date to provide municipal sewer service to an additional 9 properties. See attached Project Map.

There are 15 existing residential homes located in Lake Elmo along the easterly side of Olson Lake Trail that will be immediately adjacent to this sewer line once it is constructed. The City of Oakdale has approached Lake Elmo staff to inquire if the City of Lake Elmo has any interest in pursuing this as a joint project by adding the Lake Elmo properties to municipal sewer service.

Staff has briefly reviewed the City files regarding individual sewage treatment systems for the subject properties and has also contacted the residents to determine the level of potential interest in having municipal sewer service. This information is summarized in the attachments to this agenda report and will be further summarized at the meeting.

RECOMMENDATION: Based upon the above staff report, the City Council is respectfully requested to consider the request for a joint sanitary sewer extension project with the City of

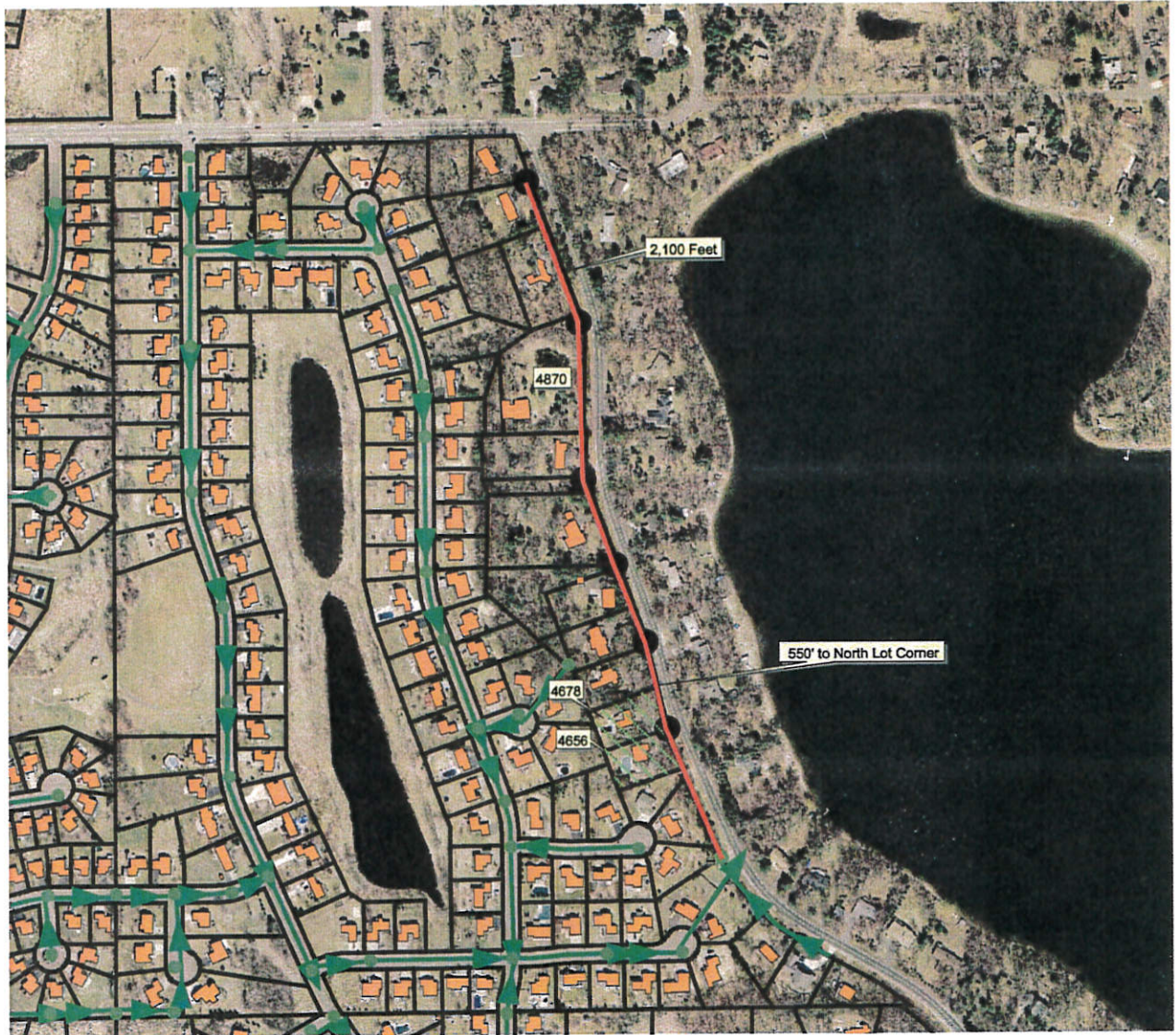
Oakdale along Olson Lake Trail, and provide direction to staff for responding to the City of Oakdale.

ATTACHMENTS:

1. Olson Lake Trail Sanitary Sewer Project Map
2. Lake Elmo Property Map
3. Property Owner Information and initial project comments if reached
4. Property Septic System Information on File at City Hall

SUGGESTED ORDER OF BUSINESS:

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



Olson Lake Trail Petition for Sanitary Sewer to Serve 4656 & 4678





City of Lake Elmo, Minneosta
Olson Lake Trail Sanitary Sewer Project - Joint Sewer Project with Oakdale
Project No. 2012.107

INDIVIDUAL SEPTIC SYSTEM INFORMATION

PROPERTY OWNER NAME(S)	ADDRESS	PHONE NO.	INFO ON FILE	YEAR BUILT	SYSTEM AGE	COMMENTS
Nicholas & Joan Winkel	4575 Olson Lake Trail	779-6389				
Richard Graham	4635 Olson Lake Trail	777-0893	NO	1976	36	
Joyce Kvaase	4655 Olson Lake Trail	777-3586	YES	1979	33	
Rebecca Taylor	4671 Olson Lake Trail	777-2514	YES	1998	14	Mound System w/ 2 tanks
Charles Shultz & Marsha Anderson	4709 Olson Lake Trail	748-9299	YES	1985	27	Inspected in 2001 at point of sale
Catherine Coles	4719 Olson Lake Trail	777-4129	NO	1974	38	
Fred & Carol Schmiesing	4751 Olson Lake Trail	770-1065	YES	1984	28	
Roy & June Brogren	4769 Olson Lake Trail	777-3564	NO			
James & Elizabeth Gergen	4823 Olson Lake Trail	777-5547	YES	1988	24	
Thomas & Judith Koppy	4849 Olson Lake Trail	773-2148	YES	1999	13	
Bruce & Beth Ketzner	4863 Olson Lake Trail	426-6308	YES			
Dennis & Susan Hawkinson	4891 Olson Lake Trail	770-0220	YES	1985	27	
Richard & Wendy Gimpel	4911 Olson Lake Trail	330-8623	YES	1995	17	Inspected in 2009 at point of sale
John Seffl	4941 Olson Lake Trail	777-5661	YES	2008	4	New system installed in 2008 (\$20,000 investment)
Harold & Jane Revolir	7803 50th Street	777-6468	NO	1973	39	

City of Lake Elmo, Minnesota
Olson Lake Trail Sanitary Sewer Project - Joint Sewer Project with Oakdale
Project No. 2012.107

PROPERTIES TO BE POTENTIALLY SERVED - EACH PROPERTY WAS CONTACTED TO INQUIRE INTEREST IN REGARDS TO MUNICIPAL SEWER SERVICE

PROPERTY OWNER NAME(S)	ADDRESS	PHONE NO.	CONTACT DATE	COMMENTS
Nicholas & Joan Winkel	4575 Olson Lake Trail	779-6389	3/12/2012	U Phone # has been temporarily disconnected
Richard Graham	4635 Olson Lake Trail	777-0893	3/12/2012	U Left message 3/12/2012
Joyce Kvaase	4655 Olson Lake Trail	777-3586	3/12/2012	U Left message 3/12/2012
Rebecca Taylor	4671 Olson Lake Trail	777-2514	3/13/2012	Y Interested, mound system w/ 2 tanks, would like to not worry about septic, would improve lake
Charles Shultz & Marsha Anderson	4709 Olson Lake Trail	748-9299	3/13/2012	Y Moved in during 2001, not original system, grinder pump would be necessary, interested in sanitary sewer connection
Catherine Coles	4719 Olson Lake Trail	777-4129	3/13/2012	Y Daughter (Mary Florence Brink) to Rebuild in 2 yrs and is interested in sewer connection, does not know condition of septic system
Fred & Carol Schmiesing	4751 Olson Lake Trail	770-1065	3/13/2012	U Phone # not in service
Roy & June Brogren	4769 Olson Lake Trail	777-3564	3/13/2012	Y Getting house ready for sale, interest in project depends on \$\$ cost
James & Elizabeth Gergen	4823 Olson Lake Trail	777-5547	3/13/2012	U Hung up
Thomas & Judith Koppy	4849 Olson Lake Trail	773-2148	3/13/2012	N Not interested, new home built in 2000, they have area for a back-up system
Bruce & Beth Ketzner	4863 Olson Lake Trail	426-6308	3/12/2012	U Updated Phone # on 3/12/2012 (residents on vacation week of 3/12)
Dennis & Susan Hawkinson	4891 Olson Lake Trail	770-0220	3/12/2012	U Left message 3/12/2012
Richard & Wendy Gimpel	4911 Olson Lake Trail	330-8623	3/12/2012	U Phone # no longer in service
John Seffi	4941 Olson Lake Trail	777-5661	3/12/2012	N Resident installed a new septic system 2 years ago (\$20,000 investment), not interested in sanitary sewer connection
Harold & Jane Renvoir	7803 50th Street	777-6468	3/12/2012	Y Concerned about the Lake contamination related to septic systems, interested in sanitary sewer connection

Y	YES	5	33%
N	NO	2	13%
U	CONTACT UNSUCCESSFUL	8	53%
		15	



MAYOR & COUNCIL COMMUNICATION

DATE: 3-20-12
REGULAR
ITEM #: 9
MOTION / \$\$ Fiscal Impact

AGENDA ITEM: Council – Staff Goal Setting Retreat

SUBMITTED BY: Dean Zuleger, City Administrator

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: To affirm April 20-21st, 2012 as the date for a Lake Elmo City Council – Staff Retreat at the Wildwood Lodge in Lake Elmo, Minnesota.

<u>FISCAL IMPACT:</u> \$ 3200 (incl. Speaker/Workbook/Meeting Logistics)

BACKGROUND INFORMATION: The City Council of Lake Elmo has approved the development of a Council – Staff Retreat to be held on a Friday evening and Saturday morning for the purposes of creating a mission statement and setting long-term goals for the community. The approved motion (March 6, 2012) also mandated that the cost of the retreat was not to exceed \$3285.

STAFF REPORT: The City Administrator, via Council Schedule Coordination, has arranged with Don Salverda & Associates & Mo French, CEO of the Wildwood Lodge to conduct a retreat on April 20th – 21st at the Wildwood Lodge in Lake Elmo. The retreat will begin at 5:30 PM with orientation and conclude at 9:30 PM on Friday. Then retreat will resume at 8:30 AM on Saturday and conclude at Noon. Don Salverda & Associates will facilitate the retreat and provide an after-action report for the City Council. Mo French of the Wildwood Lodge has agreed to waive the room charge for the event.

The retreat will focus on four main areas: Public Sector Leadership, Team-Building, Behavior Styles & Communication, Understanding External Influences on Lake Elmo, and Creating a Mission Statement and 1-3 Year Goals.

Those participating in the retreat include: City Council, City Administrator, City Clerk, Finance Director, City Planning Director, Director of Public Works, Focus Engineering and the Fire Chief.

RECOMMENDATION: The City Council affirms April 20- 21st at the dates for the Lake Elmo City Council-Staff Retreat to be held at the Wildwood Lodge, Lake Elmo, MN for a cost not to exceed. \$3200.

SUGGESTED ORDER OF BUSINESS:

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



MAYOR & COUNCIL COMMUNICATION

DATE: 3-20-12
REGULAR
ITEM #: 10
MOTION / \$\$ Fiscal Impact

AGENDA ITEM: Surface Water Utility Fee Appeal Process / Credit Policy

SUBMITTED BY: Dean Zuleger, City Administrator

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: City Engineer / Planning Department

SUMMARY AND ACTION REQUESTED: To create a formal appeal process and equitable credit policy for the City of Lake Elmo's Surface Water Utility Fee Schedule"

"To Adopt a Surface Water Utility Fee Appeal Process Based on Individual Property Impact On Surface Water Run-Off - AND - to establish a Surface Water Utility Fee Credit Policy Based on Intentional, Measureable Retention Efforts by the Property Landowner".

<u>FISCAL IMPACT:</u>	\$ 56,317.82	Current Appealed Receivables (2009-2011)
	\$ 15,000.00	Estimated Annual Revenue Reduction Due to Credit

BACKGROUND INFORMATION: The City of Lake Elmo has established a Surface Water Utility with the intent to manage surface water flow and mitigate any effects of suspended solids and other adulterants traveling in surface water run-off to lakes, ponds and streams in the community. The Surface Water Utility also serves a vital role in the prevention of erosion caused by surface water run-off. The current base fee is \$50 /per resident and for larger parcels increases based on an equivalent run-off unit that correlates to impervious surface impact. As part of the management of utility fee collections / management, the City of Lake Elmo allowed for property owners to appeal the allocated fee. However, no formal process has been established to arbitrate appeals.

STAFF REPORT: At the request of the Council, the City Administrator and the Finance Director-Designee began a review of the Surface Water Utility Account with special attention given to past due balances and property owner appeals dating back as far as 2008. Specifically, 21 appeals have been left unattended with balances as high as +\$20,000 without any formal review. The City Administrator has been handling each of these appeals personally to develop

benchmarks for appeal and to establish a prudent credit policy for those property owners who intentionally retain surface water or whose property has minimal impact on surface water run-off. A financial hardship consideration has also been examined where the property has a negligible impact on surface water.

The most difficult task in the review process has been the fact that many of those who have appealed have not been informed of a decision or kept current on their annual obligation to the surface water utility. This lack of information has caused uncertainty and confusion among residents and many believe that their obligation has been waived when in fact their outstanding balance has continued to accrue. This has led to a total outstanding balance of \$56,317.82.

After a week of field work, analysis of credit policies of other MN surface water utilities and individual case analysis to be able to approach the appellants with a credible rationale for their participation in Lake Elmo's surface water utility, it became that there were three types of appeals:

1. A property owner that has intentionally retained surface water on their land either through government mandate or voluntary efforts;
2. A property owner that has not been explained the purpose of the surface water utility and has refused to pay for principle purposes;
3. A property owner who has not contributed to the surface water utility based on an arbitrary decision or omission of assessment.

In the first ten appeals, there were three specific cases where there was an intentional effort by the property owner to retain water not only for their own property but for others as well. There were two instances of financial hardship from religious non-profit groups located in Lake Elmo. There was one appeal where the property had extenuating circumstances in the original billing. There was one appeal where natural ponds on the property hold at least 60% of the property run-off based on topographical analysis. Finally, there were three properties where there was a measurable contribution by the property to surface water run-off and the appeal was denied.

Since Lake Elmo is home to a variety of surface water features that make the determination of impact more complicated than most surface water utilities. It is inevitable that 90% of property assessed will have an impact on drain-ways / ditches, road system or surface water – therefore reducing the number of appeals and lessening the degree of credit. The first 10 appeals acted as a beta test for a tangible appeal and credit policy listed below.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council undertake the following action to create a credible appeal process and credit policy for the Surface Water Utility:

1. Establish a definition of intentional effort to retain on-site surface water;
2. Establish a one-time credit policy for the installation of rain barrel;
3. Establish a one-time credit for the construction of a rain garden. In the case of a rain garden constructed in the right-of-way as part of a street improvement

- project, establish an annual credit of 25% provided the affected landowner agrees to perform annual maintenance on said rain garden;
4. Establish an annual credit (25%-75%) for the construction of an on-site surface water retention facilities (swale, pond, et al), that is based on facility holding capacity and effective metering of water enter municipal drain-ways.
 5. Establish an economic hardship policy for the reduction of surface water utility fees.

The following policy will be adopted no later than June 1, 2012 to allow for adequate time for policy implementation. In addition, staff is directed to use their best judgment in negotiating and collecting past due receivables using the aforementioned five-point policy structure as a guideline for settlement.

Alternatively, the City Council may agree to eliminate the appeal process and use the current formulaic calculation to assess / collect all current and future surface water fees.

SUGGESTED ORDER OF BUSINESS:

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



MAYOR & COUNCIL COMMUNICATION

DATE: 3/20/12

REGULAR

ITEM #: \\\

MOTION: RESOLUTION 2012-XX

AGENDA ITEM: Lot Area (Size) and Width Variances – 5577 Lake Elmo Avenue

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Dean A. Zuleger, City Administrator

REVIEWED BY: Planning Commission
Nick Johnson, Interim City Planner

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider a request from Steven Weber, 12729 22nd Street North, West Lakeland, MN to allow the subdivision of a 5.11-acre lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size. One of the newly created lots would contain an existing home, while a new buildable lot would be created on the northerly portion of the site. A variance has been requested from the minimum lot size requirement of 10 acres in a RR – Rural Residential zoning district and the minimum width requirement of 300 feet for lots in this district (the proposed lot widths would be 195 and 95 feet respectfully).

The applicant has previously requested a Comprehensive Plan and Zoning Map Amendment on the same property, but has withdrawn that request in favor of the current variance application. The public hearing on the variance application was opened at the February 13, 2012 Planning Commission meeting, and was continued until February 27, 2012 because the applicant was not able to attend on the prior meeting date. The Planning Commission recommended denial of the variance request based on the draft findings prepared by Staff. The recommended motion to act on this on this request is as follows:

“Move to adopt Resolution No. 2012-XXX denying a request by Steven Weber for variances to allow the subdivision of a 5.11-acre lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size”

BACKGROUND INFORMATION: The attached Planning Commission report includes a detailed review of the application along with the original Staff recommendation to the Commission. Should the Council support the Planning Commission recommendation, the attached resolution reflects the findings that were adopted by the Commission. If the Council decides to approve the variance, it will need to work with staff to develop findings of fact that

are supportive of this decision. Staff has suggested how such findings could be constructed under the alternate actions presented below.

PLANNING COMMISSION REPORT: The Planning Commission reviewed the variance requests at its February 13th and 27th meetings, and conducted a public hearing on this matter over the course of these two meetings. At the prior hearing, the Commission received public testimony from one neighboring property owner against the granting of the variance and noted receipt of a letter from another adjoining property owner opposed to the variance requests. At the latter meeting, the Commission heard testimony as follows:

- Eileen Bergman (5500 Lake Elmo Avenue) reviewed the history of the surrounding land, and restated her opposition to the proposed variances and lot split. She expressed concern over setting precedent for other rural property owners to subdivide their land.
- James DeLaplain, Attorney at Law, representing the applicant, indicated that all of the surrounding lots are consistent with the lots that would be created through the variance. He disagreed with the draft findings prepared by Staff, and expressed concern that the standards in the code had not properly been applied in this situation, noting:
 - That the shape of the lot is much more important to determine unique circumstances than lot size.
 - That the proposed lots would not be any different than surrounding parcels, many of which are actually smaller.
 - That the “adjacent properties and traffic” finding in the staff report does not address the issue of congestion, which is the term referenced in City Code.

- Steven Weber discussed the history of his family’s ownership of the parcel, and noted that the character of the surrounding land is not rural. He discussed future plans for a frontage road in the area, and explained that he would look at other options for the driveway access if needed.

The Commission generally discussed the proposed variances, and offered the following comments in support of the staff recommendation:

- Not being able to subdivide a lot further than allowed under the zoning regulations does not represent a practical difficulty. It was noted that the lot was created under a 5-acre minimum standard, and could have been subdivided into two 2.5-acre lots if that had been the requirement at the time.
- The lot was created by the landowner, and therefore any proposed hardship due to the shape of the lot would have been created by the property owner.
- The proposed variances would take an existing non-conforming lot and create two non-conforming lots, neither of which would come close to otherwise being considered a buildable lot under the Zoning Ordinance.

The Commission recommended denial of the variance requests, and suggested that Staff revise the first finding to better reflect that the Planning Commission does not consider the creation of a new 2.5-acre parcel within a 10-acre zoning district to be a reasonable use of the property. It was noted that the configuration of the lot does not have any relationship to this first finding because the split of any 5-acre lot in the Rural Residential District would be considered unreasonable.

The Planning Commission vote on the recommendation was unanimous, with one abstention.

RECOMMENDATION: Based upon the above background information, staff report and Planning Commission recommendation, it is recommended that the City Council deny the request from Steven Weber, 12729 22nd Street North, West Lakeland, MN to allow the subdivision of a 5.11-acre lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size by undertaking the following action

“Move to adopt Resolution No. 2012-XXX denying a request by Steven Weber for variances to allow the subdivision of a 5.11-acre lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size”

Alternatively, the City Council may consider the other actions that were suggested as part of the Planning Commission report, which includes the following:

- A. Recommend approval of the variance request, and developing appropriate findings of fact to support this action. These findings would need to address the following:
 - 1. That the inability to subdivide the property will cause practical difficulties for the property owner, and that the proposed subdivision is a reasonable use of the property.
 - 2. That the plight of the land owner is due to circumstances unique to the property, and specifically that the odd shape of the lot and the disconnected area of the parcel make it difficult to use.
 - 3. That the variance will not alter the essentially character of the locality, and that the surrounding properties are similar in size, shape, density, and usage. Furthermore, the surrounding land is comprised of smaller residential lots and commercial activity and is not rural in character.
 - 4. That the proposed variance will not negatively impact the adjacent properties and traffic in the area.
- B. Table taking action on the variance in order to request additional information from either staff or the applicants.
- C. Direct Staff to consider the request as part of a broader Comprehensive Plan or Zoning Map amendment that would look at a change to the entire area, and in particular, the other non-conforming lots that were created in this area before the City's 1979

Comprehensive Plan and Zoning Ordinance. This action does not appear to be supported by the City Council based on its discussions concerning the applicant's previous request.

ATTACHMENTS:

1. Resolution No. 2012-XXX

2. Planning Commission Staff Report (2/27/12 Meeting)

3. Application Form

4. Legal Description

5. Application Narrative

6. Proposed Lot Split Drawing

7. Location Map

8. Septic Site Evaluation Report

9. Washington County Comments

10. Aerial Photograph

11. Lake Elmo Access Analysis Map

12. Letter from Mike and Mary Jo Neuman

13. City Engineer Review Letter

14. League of MN Cities Variance FAQ Sheet

SUGGESTED ORDER OF BUSINESS:

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

City of Lake Elmo Planning Department
Variance Review

To: **Planning Commission**

From: Kyle Klatt, Planning Director

Meeting Date: **2/27/12**

Applicant: **Steven Weber**

Owner: Steven Weber

Location: **5577 Lake Elmo Avenue**

Zoning: RR – Rural Residential

Introductory Information

***Application
Summary:***

The Planning Commission is being asked to consider a request by Steven Weber, 12729 22nd Street North, West Lakeland, for variances to allow the subdivision of a 5.11 acres lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size. The applicant is seeking to create a new buildable lot while retaining the existing single family residence located at this address. The specific variances that have been requested are as follows:

- A variance from the minimum lot size requirement of 10 acres in a RR – Rural Residential zoning district. The proposed lots would be 2.27 and 2.84 acres in size.
- A variance from the minimum width requirement of 300 feet for lots in this district. The proposed lots would be 195 feet and 95 feet in width, which are 105 and 205 feet narrower than allowed in an RR zoning district.

The applicant has previously requested a Zoning Map and Comprehensive Plan Amendment that would have allowed the proposed lot split without variances, but decided to withdraw this application after the Planning Commission had completed its review and forwarded its recommendation to the City Council. The review requirements for consideration of a variance are different than those for zoning amendments, and the Planning Commission should keep this in mind while considering the present application. Staff has included the relevant background information from the Commission's previous review in this report, but updated the analysis section to reflect the specific aspects of the variance request and subsequent findings that must be considered.

Should the requested variances be approved for the subject property, the applicant would then be able to apply for a Minor Subdivision to officially split the property into two parcels.

**Property
Information
and Site
Background:**

The applicant's property is located along Lake Elmo Avenue approximately one-third of a mile south of Highway 36. The property was split from an adjoining parcel to the west owned by the Bergmann family in 1978, and at the time the City Zoning regulations allowed for a minimum lot size of 5 acres. In looking back through the City records for this parcel, it appears that the request was intended to allow the subdivision of the portion of the property that was not suitable for agricultural purposes to be split off from a larger farm site to create a new residential lot. The current boundaries of the applicant's parcel were therefore the result of the original owner's intent to keep any tillable acreage as part of the larger farm operation, as well as to meet the minimum lot area requirement of 5 acres. The result was the "U" or "C" shaped parcel that is presently owned by Mr. Weber, who inherited the property from his father (who originally purchased the land when it was subdivided).

As part of the City's approval of the subdivision, the Bergmann's were required to grant easements to the City over a 60-foot wide segment that is located immediately to the south of the applicant's property, and to further allow the newly subdivided parcel to use this strip of land as its access to Lake Elmo Avenue. The easement agreement that is of record in the City files provides for an emergency vehicle access, installation and maintenance of public utilities, and the provision of public service, but does not otherwise appear to grant any rights of the public to use the property for access purposes. The agreement does provide for an option by the City to acquire this land if it is needed for a public street in the future, but otherwise only describes the potential for a private roadway to be built on this strip of land (not a public road). Shortly after the subdivision was approved, the applicant's father applied for a building permit and constructed the house that is on the site today. This house is located on the southern leg of the "C" shape, about 45 feet back from the Lake Elmo Avenue right-of-way, and centered in the middle of the 96-foot wide segment. The driveway providing access to the house does cross into the 60-foot wide segment still owned by the Bergmann's. Staff is not aware of any private easements that exist for such access, and would consider this a private matter between the two affected property owners.

There are three other single family homes in close proximity to the applicant's property, and all of these are very close to one acre in size. In addition to the residential lots, there are two other parcels of one acre in size that do not have any buildings on them, one of which is owned by the neighboring property owner and the other of which was retained by the Bergmann family. All of these lots were split at a time then the City's (or township) zoning regulations allowed for the creation of these smaller lots. In 1977, the City of Lake Elmo adopted a zoning ordinance that closely followed the township zoning requirements, allowing for 5-acre lots in rural areas, but revised this code in 1979 in conjunction with the adoption of a Comprehensive Plan that changed the standards for rural development areas. The code after 1979 required a minimum lot size of 10 acres in rural areas, which is the standard that is still in place today.

**Applicable
Codes:**

Section 150.017 Variances.

(A-I) Variances. Identifies procedures and requirements for the processing and review of a variance application. Please note that this section was recently updated by the City to comply with revisions to Minnesota State Statutes.

Section 154.036 RR – Rural Residential

Outlines the general requirements for the RR Rural Residential Zoning District in Lake Elmo, and includes the following minimum requirements:

Lot Size: Nominal 10 acres. A 10-acre parcel not reduced by more than 10% and/or a 10-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations

Lot Width: 300 feet

Septic Drainfield Regulations: All lots must have at least 1 acre of land suitable for septic drainfields and area sufficient for 2 separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited.

Findings & General Site Overview

Site Data:

Lot Size: 5.11 Acres

Existing Uses: Single Family Residence

Existing Zoning: RR – Rural Residential

Future Land Use: RAD – Rural Agricultural Density

Property Identification Number (PID): 01-029-21-23-0001

Variance Review:

**Variance
Analysis:**

As part of the report concerning a previous zoning request on the applicant's property, Staff provided the Planning Commission with information concerning the future land use designation of this site. It was noted that this site is located in a portion of the City that is guided for RAD – Rural Agricultural Density, which represents the bulk of the rural development areas within the City. With the current application, Mr. Weber is not requesting any changes to either the future land use or the zoning classification for the property, and has instead requested a variance from the current zoning requirements for a RR – Rural Residential Zoning District.

The RR – Rural Residential Zoning district specifies a minimum lot size of 10 acres and a minimum lot width of 300 feet, and the proposed variance would allow two lots to be created that fall well under both of these requirements. The existing lot is considered a legal non-conforming lot since it was created prior to the adoption of the current standards, and splitting it into two separate parcels would not be allowed without a variance. In this case, the resulting lots would be 7.73 and 7.16 acres smaller than required in the RR zoning district. Moreover, the resulting lot widths would also fall 105 and 205 feet shorter than required.

The criteria for consideration of a variance is found in the Zoning Ordinance, which includes the following provision:

- A request for a variance from the literal provisions of this chapter may be granted in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. All requests for variances shall be reviewed in accordance with the required findings listed [below].
- A more detailed analysis of the variance findings form Staff is included a little later in this report. The applicant has provided a narrative (attached) describing their request, which includes the following general comments:

- The proposed usage if the variance were granted would be consistent with the surrounding lot sizes, shapes, density, and usage.
- The existing parcel is very odd in its shape.
- The existing configuration of the parcel is inconsistent with the surrounding lot sizes, shapes, density, and usage.
- The proposed densities would be consistent with the surrounding land use and would not alter the character of the locality.
- The proposed land use and zoning would be in substantial conformity with the policies goals, and standards of the Comprehensive Plan.
- The soil has been perk tested and the size of the proposed parcels and soil type allow for a suitable septic system.
- The proposed variance would have no impact on an adequate supply of light and air to adjacent properties.
- The proposed use under a variance would not substantially increase the congestion of public streets.
- The proposed use under the variance would do nothing to diminish or impair property values in the neighborhood

All of the other information that has been submitted is either the same or substantially similar to the materials submitted as part of the previous request.

Staff Review Comments

In reviewing the present request for a variance, Staff would like to note that most of the general comments that were provided during the Commission's previous review are relevant as well. In particular Staff is concerned that the proposed variance would allow and augment a pattern of development that is contrary to the purpose and intent of the City's Rural Residential zoning requirements. In addition, the creation of smaller lots within rural areas presents numerous planning issues related to traffic, safety, provision of future services, and maintaining the character or rural areas. Staff has also found that the proposed request also does not meet the four criteria that must be met in order for the City to grant a variance. In particular, the applicant's lot

was created to meet the minimum district requirements at the time, and the inability to further subdivide the lot does not constitute "practical difficulties". It is not reasonable to allow a subdivision that would otherwise not be permitted on a piece of property that already is five acres smaller than allowed in the underlying zoning district. Staff also does not support the argument that the property is unusable and therefore the City must allow the property to be split. A person's definition of usability can vary substantially from one individual to another, and there are many properties in the City's rural development areas that are larger parcels with large areas that have limited use options (which can be seen as an intentional restriction to help preserve rural areas). The shape of the property clearly is unusual for Lake Elmo, but was created and eventually purchased in this configuration with the clear understanding that only one house could be built on the property.

The City Engineer has submitted review comments for consideration by the Planning Commission, and has augmented his previous review by noting additional concerns regarding the location of the driveway and the current and future traffic levels along Lake Elmo Avenue. Lake Elmo Avenue is classified as a Minor Aerial (A) roadway in the City's Comprehensive Plan, and this designation is defined as follows:

"Minor arterials also emphasize mobility over property access and connect cities with adjacent communities and the metropolitan highway system. "A" minor arterials are roadways that are of regional importance because they relieve, expand, or complement the principal arterial system."

This designation specifically notes that mobility be given emphasis over access along these streets, and in this case, the creation of an additional driveway access to Lake Elmo Avenue would not be consistent with the roadway classification. Please also note the existing and future traffic counts that are included in the Engineer's report. Traffic levels along Lake Elmo Avenue are forecast to increase nearly four times beyond the current amount, and the continued operation of individual driveway accesses along this road segment will present serious safety concerns in the future. Although the County has stated that it will issue a permit for the new driveway, if requested, the County does rely in local jurisdictions to regulate access in accordance with their respective plans since it does not have land use authority over a city like Lake Elmo.

Other comments from Staff pertaining to the variance request, some of which were also applicable to the previous request, are as follows:

- The subdivision of lots less than 10 acres in size that are not otherwise part of an OP development is not consistent with the City's goal of preserving its rural character. The 10-acre minimum lot size in rural areas has been in place for over 30 years, with the RED zoning representing the only development allowed before the Open Space zoning regulations were adopted by the City in the mid 1990's.
- Lots less than five acres in size are not as efficient to serve with public services as lots that are planned and developed as part of a broader subdivision. Some of the surrounding properties have been developed as an OP subdivision,

which included plans for providing water and sanitary sewer services, roads, and other utilities.

- Adding another access to Lake Elmo Avenue is not recommended by the City Engineer, and could present problems for managing traffic in the future. Although the County would issue a new driveway permit for a lot along Lake Elmo Avenue, it is up to the City to plan for its future access needs and to ensure that the overall transportation network is planned in an efficient and safe manner. Considering current traffic levels, and with the increases projected in the Comprehensive Plan for Lake Elmo Avenue, individual driveways will not be a safe option for new homes.

- The applicant is not losing any rights to use his property in the way it was initially approved by the City, and the lot is already much smaller than would be allowed for a single family home on a separate parcel in this portion of the City (except for OP development lots).

- There have been no changes to the City since the applicant's lot was originally subdivided that would warrant a consideration of a request to further subdivide this lot. For example, the City has not implemented any transportation improvements near the applicant's property that would provide for more efficient and safe access to this portion of the City.

- The City Engineer has provided the Planning Commission with a recommendation to deny the applicant's request along with information to support this recommendation.

- The proposed driveway to serve the new lot would be located along an incline along Lake Elmo Avenue, which would reduce the visibility for vehicles entering and exiting the site and for vehicles that would be stopped and waiting for turn into the property.

- The City's access spacing standard for the distance between local streets on a Minor Arterial road is $\frac{1}{4}$ mile, and as traffic increases on Lake Elmo Avenue in the future (once the counts exceed 7,500 average daily trips), no direct access for residential driveways is recommended. The attached access analysis map depicts all of the present driveway and road connections to Lake Elmo Avenue, which shows 12 existing (and the one proposed) road/driveway accesses over a distance that would support one such connection point under the City's guidelines.

- Staff does not support the creation of any new access points along Lake Elmo Avenue unless some of the existing driveways could be consolidated into one new public roadway.

For the reasons noted above, Staff is recommending that the Planning Commission recommend denial of the variance request, and is proposing findings to support this action in the section that follows.

**Variance
Criteria:**

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicants' request.

1. **Practical Difficulties.** *A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.*

The language concerning "practical difficulties" is the first standard that must be met in order for the City to consider granting a variance. Under this standard, the Planning Commission would need to find that the subdivision of an existing non-conforming lot is a reasonable use of the property not otherwise permitted under the zoning ordinance. The appropriate findings for this standard would therefore need to note the subdivision is a reasonable request within a Rural Residential zoning district. Using this standard as a basis, Staff is suggesting that the Planning Commission consider the following:

FINDINGS: That the proposed subdivision is not reasonable because the property as it exists can be used for a single family residential home. Reasonable use of the property already exists, and the variance is not needed in order to make use of the parcel under the Rural Residential zoning district requirements. The current configuration of the lot is not relevant to the establishment of reasonable use because the lot would not have been usable for a single family home without this additional area.

2. **Unique Circumstances.** *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

In order to demonstrate compliance with this standard, the Planning Commission would need to note those aspects of the applicant's property that would not pertain to other properties within the same zoning classification. In this case, all Rural Residential property is subject to the same area and width requirements, and the current lot presently does not meet these standards. Again, Staff is suggesting some findings that could be considered by the Planning Commission as follows:

FINDINGS: That the applicant's property is not unique because the property is able to support a single family home, and the vast majority of parcels in the Rural Residential zoning district are required to have a larger area than that owned by the

applicant. The ability to find a suitable use for the areas outside of the immediate intent of the Rural Residential district is to promote the preservation of open space and rural character, and therefore, the uses and densities allowed in the district are intentionally limited.

3. **Character of locality.** *The proposed variance will not alter the essential character of the locality in which the property in question is located.*

The subdivision of rural residential lots, by definition, changes the character of the City's rural areas by introducing higher densities into areas that have not been planned for more intensive uses. A more formal set of findings related to this standard is suggested as follows:

FINDINGS: That the proposed variance will alter the essential character of the locality in which the property in question is located. The applicant's property is (RAD) development, which corresponds to the City's Rural Residential Zoning District. This district requires a minimum lot size of 10 acres, and the applicant's request to create two lots of under 2.5 acres in size represents a substantial departure from the district requirements. Although there are existing non-conforming lots in the vicinity of the applicant's property, the continued subdivision of lots less than 10 acres will continue to alter the character of the area and create a denser, more urban environment in an area that is not intended to be served by municipal water, sewer services.

4. **Adjacent properties and traffic.** *The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.*

A large part of the Staff report above is devoted to transportation and access issues, and based partially on comments from the City Engineer, Staff is suggesting the following findings pertaining to this criterion:

FINDINGS: The proposed variance will have a negative effect on adjacent properties and traffic because the proposed driveway to serve the new home would not comply with the City's access management policies and guidelines. In particular, new driveway accesses are discouraged along streets classified as Minor Arterials (such as Lake Elmo Avenue) at the traffic levels that are forecast for this road. The proposed driveway would also fail to comply with the City's use of best management practices for spacing guidelines, which include: minimizing new access locations and reducing/consolidating existing access points, protecting and improving intersection functional and sight distance areas, and proper design of driveways and intersections. The creation of a new driveway/lot will create a safety concern by adding an access point to Lake Elmo Avenue in a location that

has reduced visibility dues to an incline in the roadway.

Considering the potential findings of fact as suggested in the preceding section, Staff is recommending denial of the variance request based on the findings noted in items 1-4 above.

Conclusion: Based on the report and analysis provided above, Staff is recommending that the Planning Commission recommend **denial** of the request by Steven Weber for variances to allow the subdivision of a 5.11 acres lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size.

Additional Information: Valley Branch Watershed District did not submit any comments specific to the applicant's variance request, but did note that a Minor Subdivision would require a permit from the watershed district.

The City Engineer's comments are included as part of the attached memorandum.

Recommendation:

Staff is recommending that the Planning Commission recommend denial of the request by Steven Weber for variances to allow the subdivision of a 5.11 acres lot at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size.

Commission Options: The Planning Commission should consider the following options with this request:

- A) Recommend approval of the variance request, and developing appropriate findings of fact to support this action.
- B) Table taking action on the variance in order to request additional information from either staff or the applicants.
- C) Direct Staff to consider the request as part of a broader Comprehensive Plan or Zoning Map amendment that would look at a change to the entire area, and in particular, the other non-conforming lots that were created in this area before the City's 1979 Comprehensive Plan and Zoning Ordinance. This action does not appear to be supported by the City Council based on its discussions concerning the applicant's previous request.

cc: Steven Weber, 12729 22nd Street North, West Lakeland, MN

City of Lake Elmo DEVELOPMENT APPLICATION FORM

Fee \$ _____

- ☐ Comprehensive Plan Amendment
- ☒ Variance * (See below)
- ☐ Zoning District Amendment
- ☐ Text Amendment
- ☐ Flood Plain C.U.P.
- ☐ Conditional Use Permit
- ☐ Conditional Use Permit (C.U.P.)
- ☐ Residential Subdivision
- ☐ Lot Line Adjustment
- ☐ Minor Subdivision
- ☐ Sketch/Concept Plan
- ☐ Residential Subdivision
- ☐ Site & Building Plan Review
- ☐ Preliminary/Final Plat
- ☐ 01 - 10 Lots
- ☐ 11 - 20 Lots
- ☐ 21 Lots or More
- ☐ Excavating & Grading Permit
- ☐ Appeal
- ☐ PUD

APPLICANT: Steven John Weber, 1829 22nd St. N., West Lakefield, MN 55082
 (Name) (Mailing Address) (Zip)
 TELEPHONES: (651) 337-0541 (952) 851-8862 (612) 619-6595 (952) 767-3878
 (Home) (Work) (Mobile) (Fax)

FEE OWNER: Same as above
 (Name) (Mailing Address) (Zip)
 TELEPHONES: Same as above
 (Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description):
5577 Lake Elmo Avenue, Lake Elmo, MN 55042
 P.I.N. # 01.029.21.23.0001

Legal description attached as Schedule A.

DETAILED REASON FOR REQUEST:

See Schedule B

*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of Applicant

Date

Signature of Applicant

Date

Schedule "A" Legal Description

All that part of the Southwest 1/4 of the Northwest 1/4 of Section 1, Township 29 North, Range 21 West, Washington County, Minnesota described as follows: Commencing at the Southwest corner of said Southwest 1/4 of the Northwest 1/4; thence North 01 degrees 31 minutes 43 seconds West (recorded as N 00 degrees 00' 46" W) along the West line of said Southwest 1/4 of the Northwest 1/4, a distance of 334.70 feet to the North line of the South 334.70 feet of said Southwest 1/4 of the Northwest 1/4, and the point of beginning of this description; thence continuing North 01 degrees 31 minutes 43 seconds West (recorded as N 00 degrees 00' 46" W), a distance of 494.71 feet; thence North 87 degrees 32 minutes 27 seconds East (recorded as N 89 degrees 03' 24" E) a distance of 618.20 feet to the West line of the East 695.22 feet of said Southwest 1/4 of the Northwest 1/4; thence South 01 degrees 19 minutes 29 seconds East, along said West line of the East 695.22 feet, a distance of 502.85 feet to the North line of the South 334.70 feet of said Southwest 1/4 of the Northwest 1/4; thence South 88 degrees 17 minutes 37 seconds West, along said North line of the South 334.70 feet, a distance of 616.33 feet to the point of beginning, together with an easement for roadway purposes over and across the North 60.00 feet of the South 334.70 feet which lies West of the East 695.22 feet of said Southwest 1/4 of the Northwest 1/4, excepting therefrom the North 209.00 feet of the South 639.40 feet of the West 417.42 feet of said Southwest 1/4 of the Northwest 1/4

SCHEDULE B

Variance Request Application
5577 Lake Elmo Avenue
PN 01.029.21.23.0001
Owner: Steven Weber

Detailed Reason for Request:

Summary of Request.

Applicant property owner requests a partition of the existing 5.11 acre parcel into two new parcels, 2.27 and 2.84 acres in size, with one single family residential unit allowed on each parcel. All existing and intended future use would conform to the zoning requirements of R-1.

Practical Difficulties.

The applicants submit that the strict enforcement of the city code zooming restrictions in regard to the affected property would cause practical difficulties because of circumstances unique to the property under consideration. The requested use would be in keeping with the spirit and intent of the chapter. The applicant proposes to use the property in a reasonable manner not permitted by an official control. Namely, the applicant wished to use the property in a way not inconsistent with the dwelling unit density allowed under the comprehensive plan, and with dwelling density in conformity with the majority of the surrounding parcels. In short, the proposed usage if the variance were granted would be consistent with the surrounding lot sizes, shapes, density, and usage.

Unique Circumstances.

The existing parcel is very odd in its shape. It is unknown to applicant why the parcel was configured as it is. One of the members of the family of the original seller of the property around 1978 reports that it was shaped as it exists is a little over 5 acres and, if a map is oriented to the North, is in the shape of a backwards C or a horseshoe. The two ends of the horseshoe front onto Lake Elmo Avenue. On the South prong of the horseshoe there is an existing single family home, with a driveway crossing over a City easement allowing access to Lake Elmo Avenue. There is no other access. The north prong of the horseshoe is not developed. In the interior of the horseshoe shape there are two 1 acre parcels owned by a single property owner (one home on two one acre parcels owned by the occupant of the home). If one were traveling north on Lake Elmo Avenue, one would see the north portion of the parcel at issue, with a driveway and a single family home, then a neighbors parcel, with a driveway accessing two parcels, then the south portion of applicants parcel, without a driveway or access.

The existing configuration of the parcel is inconsistent with the surrounding lot sizes, shapes, density, and usage. The majority of surrounding lots are 1 to 2 acres in size, each with one single family home. Applicant proposes a new boundary line between the north and south portions of the existing parcel, allowing the north parcel to be developed with a single family residential unit, rendering both the existing and new parcel consistent with the surrounding parcels and use.

Character of the locality: The proposed densities of the site would be consistent with surrounding land use and would not alter the character of the locality.

The existing density of the parcels surrounding applicants parcel is in the range of 1 residential unit per one or two acres. Additionally, directly on the other side of Lake Elmo Avenue, in Discover Crossing, the residential lot sizes appear to be .75 acres.

The proposed partition would result in two new parcels, approximately 2.27 and 2.84 acres each, with each anticipated to contain one residential dwelling unit. The existing parcel makes contact with 8 other parcels (ignoring the City Easement to the South). 7 of these 8 parcels are smaller than the two new proposed parcels. The two parcels surrounded on three sides by applicant's lot, the ones on the interior of the "horseshoe," are each one acre in size. (lots 01-029-21-23-0006 and 0007). The two parcels to immediate north are 2 acres (01-029-21-23-0011) and 1 acre (01-029-21-23-0002). The three parcels to the south are 1 acre (01-029-21-23-0010), 1 acre (01-029-21-23-0009) and 1.2 acres (01-029-21-23-0005) .

The proposed land use and zoning would be in substantial conformity with the policies goals and standards of the Comprehensive Plan

Future land use map for the City of Lake Elmo Comprehensive Plan, 2005-2030, shows the area designated as RAD - 0.45 DU/Acre. Petitioner understands this to mean a maximum dwelling unit density of .45 per acre. The proposed use and development is consistent as the new south parcel would contain one residence on 2.27 acres (0.44) and the north parcel would contain one residence on 2.84 acres (0.35).

The soil has been perk tested and the size of the proposed parcels and soil type allow for a suitable septic system.

The proposed variance would have no impact on an adequate supply of light and air to adjacent properties.

The proposed use under a variance would not substantially increase the congestion of public streets.

The County will issue a permit for a new driveway for the proposed new north lot to access Lake Elmo Avenue. The County has not indicated any danger or hazard created by the new drive.

The County suggested that if feasible a driveway across the City Easement currently running on the south side of the south parcel would be preferable. The logistics of this appear difficult, but applicant is open to that suggestion if the City requires.

The proposed use under the variance would do nothing to diminish or impair property values in the neighborhood.

LEGEND
DNR PROTECTED WATERS
DNR PROTECTED WATERS
DNR PROTECTED WATERS
MUNICIPAL BOUNDARY
PARK BOUNDARY

NORTH
SCALE: 1 inch = 360 feet

SECTION NUMBER	PARCEL NUMBER
00001	00001
00002	00002
00003	00003
00004	00004
00005	00005
00006	00006
00007	00007
00008	00008
00009	00009
00010	00010
00011	00011
00012	00012
00013	00013
00014	00014
00015	00015
00016	00016
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00100	00100

SECTION	QUARTER	PARCEL
1	1	00001
1	2	00002
1	3	00003
1	4	00004
2	1	00005
2	2	00006
2	3	00007
2	4	00008
3	1	00009
3	2	00010
3	3	00011
3	4	00012
4	1	00013
4	2	00014
4	3	00015
4	4	00016

SECTION	QUARTER	PARCEL
1	1	00001
1	2	00002
1	3	00003
1	4	00004
2	1	00005
2	2	00006
2	3	00007
2	4	00008
3	1	00009
3	2	00010
3	3	00011
3	4	00012
4	1	00013
4	2	00014
4	3	00015
4	4	00016

SECTION	QUARTER	PARCEL
1	1	00001
1	2	00002
1	3	00003
1	4	00004
2	1	00005
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2	3	00007
2	4	00008
3	1	00009
3	2	00010
3	3	00011
3	4	00012
4	1	00013
4	2	00014
4	3	00015
4	4	00016

THIS DRAWING IS THE RESULT OF A COMPARISON AND REPRODUCTION OF THE SURVEY RECORDS OF THE WASHINGTON COUNTY SURVEY AND LAND MANAGEMENT DIVISION. THE DRAWING IS NOT A SURVEY AND DOES NOT REPRESENT ANY ACTUAL LOCATIONS. PROPERTY LINES AS SHOWN ARE FOR REFERENCE PURPOSES AND MAY NOT REPRESENT ACTUAL LOCATIONS. DATE OF COMPARISON: April 2009 DATE OF PHOTOGRAPHY: May 2011

ADD

258.16

967.18

LAKE ELMO AVENUE NORTH

HWY R/W EASE PER BK 258 DEEDS, PG 45

Proposed New Driveway to 17

(0011)

417.42

818.19

(0002)

200.78

(B)

[New Parcel 123,963 sq. ft. Approx 2.84 acres]

(A)

NEW BOUNDARY LINE

200.78

WEST LINE OF EAST 505.25 FT

OF SW 1/4 OF NW 1/4

(0001)

NORTH LINE OF SOUTH 639.40 FT

209.00

(0008)

209.00

(0006)

208.42

417.42

NORTH LINE OF SOUTH 430.40 FT

(E)

NORTH LINE OF SOUTH 334.70 FT

60 FT WIDE CITY UTILITY EASEMENT PER DOC 384574

(0003)

616.32

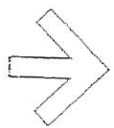
208.70

208.70

01-029-21-23

(0004)

NORTH



Undivided Parcel is 01.029.21.23.0001

C) Proposed new boundary line

D) Approximate size of new North Parcel 123,963 sq. ft. (2.84 acres)

D) Proposed new driveway entering onto Lake Elmo Avenue North

E) Approximate location of existing entrance onto Lake Elmo Avenue North

Ed Eklun Septic System Design & Inspection LLC
2303 County Road F East
White Bear Lake, MN 55110
651.485.2300

November 7, 2011

Steven Weber
2626 E. 82nd St., Suite 105
Bloomington, MN 55425

Dear Steven:

At your request, a site evaluation was performed at the property located at 5577 Lake Elmo Ave.

Since you propose to divide the lot into two parcels, I have established a sewage treatment area of at least 10,000 square feet on the north east part of the property.

It appears that a trench drainfield could be installed in the area and there is plenty of area for a possible house site.

This is a preliminary evaluation of the lot, a sewage treatment design and specific house plans will be needed before a building permit can be issued.

The proposed septic area must not be excavated, compacted or filled and must remain as it is.

This site evaluation must be reviewed and approved by Washington County Public Health.

If you have any questions or concerns, please feel free to call me. I would be glad to help.

Sincerely,



Ed Eklun

MPCA License #3321/Certification #C3268
SEPTIC SYSTEM DESIGNS • PERCOLATION TESTS
SOIL BORINGS • SUB-DIVISION PLANNING

Steven Weber
5577 Lake Elm Ave
Lake Elmo
1"=100'

Verify Septic
Location



Proposed
Property Line

01-029-21-23

(0004)



NORTH

WEST LINE OF EAST 68533

(0002)

200.78
BNA 9%
New Parcel 123,983 sq ft
2.84 acres

LOW

High Ridge

LOW

BH4 35°
NEW BOUNDARY LINE BH5

200.77

(0001)

New Parcel 99,981 sq ft
2.27 acres

616.12
NORTH LINE OF SOUTH 134.70 FT

60 FT WIDE CITY UTILITY EASEMENT PER DOC 384574

(acquit)

208.70

208.70

- (C) is approximate size of new south parcel
- (D) is proposed new entrance to Lake Elmo Avenue from North Parcel
- (E) is approximate location of existing entrance to Lake Elmo Avenue
- (F) is approximate location of existing entrance

undivided parcel is 01-029-21-23-0001
is proposed new boundary line
approximate size of new north parcel (highlighted in yellow)

EXCEPTION

NORTH LINE OF SOUTH 619.40 FT

417.42 NORTH LINE OF SOUTH 430.40 FT

(0008)

(0006)

209.00

208.42

93.07

(E)

Proposed New Driveway to 17

(0007)

417.42

Hwy R/W EASE PER B... PG 46

NORTH

LAKE ELMO AVENUE

LAKE ELMO AVENUE

END ADD

102

2



November 10, 2011

James W. Delaplain
The Lowry Rose Building
2124 Dupont Avenue South
Minneapolis, MN 55405

STEVEN WEBER RESIDENTIAL ACCESS REQUEST TO COUNTY STATE AID HIGHWAY 17 (LAKE
ELMO AVENUE) CITY OF LAKE ELMO MINOR SUBDIVISION CONCEPT
PID 01-029-21-23-0004

Dear Mr. Delaplain:

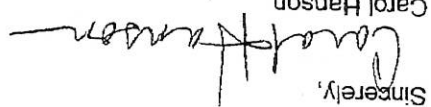
Washington County has reviewed the residential driveway location along Lake Elmo Avenue for a
proposed new parcel of record based on a concept plan for a minor subdivision of a 5 acre parcel of
property owned by Mr. Steven Weber, in the City of Lake Elmo.

Typically, the county process in cities within Washington County is to respond to formal applications
submitted to the local government since we do not have land use authority. Also, when a subdivision is
proposed, it is common practice to seek alternative access locations to local streets within a municipality.
If those alternatives are not feasible, access to a county highway would be permitted. Alternatives in this
case would be to consider a shared driveway and the feasibility of access to the 60 Ft wide City Utility
Easement shown on the plan that could be improved to provide local access.

Finally, as you are aware, Washington County requires driveway permits for access to a county road. In
this case, once the property owner has gone through the appropriate review and approval process at the
local level, the minor subdivision has been recorded and a permit application is filed with our office, an
access permit can be issued.

Please feel free to give me a call any questions at 651-430-4313 or email me at
carol.hanson@co.washington.mn.us.

Sincerely,


Carol Hanson

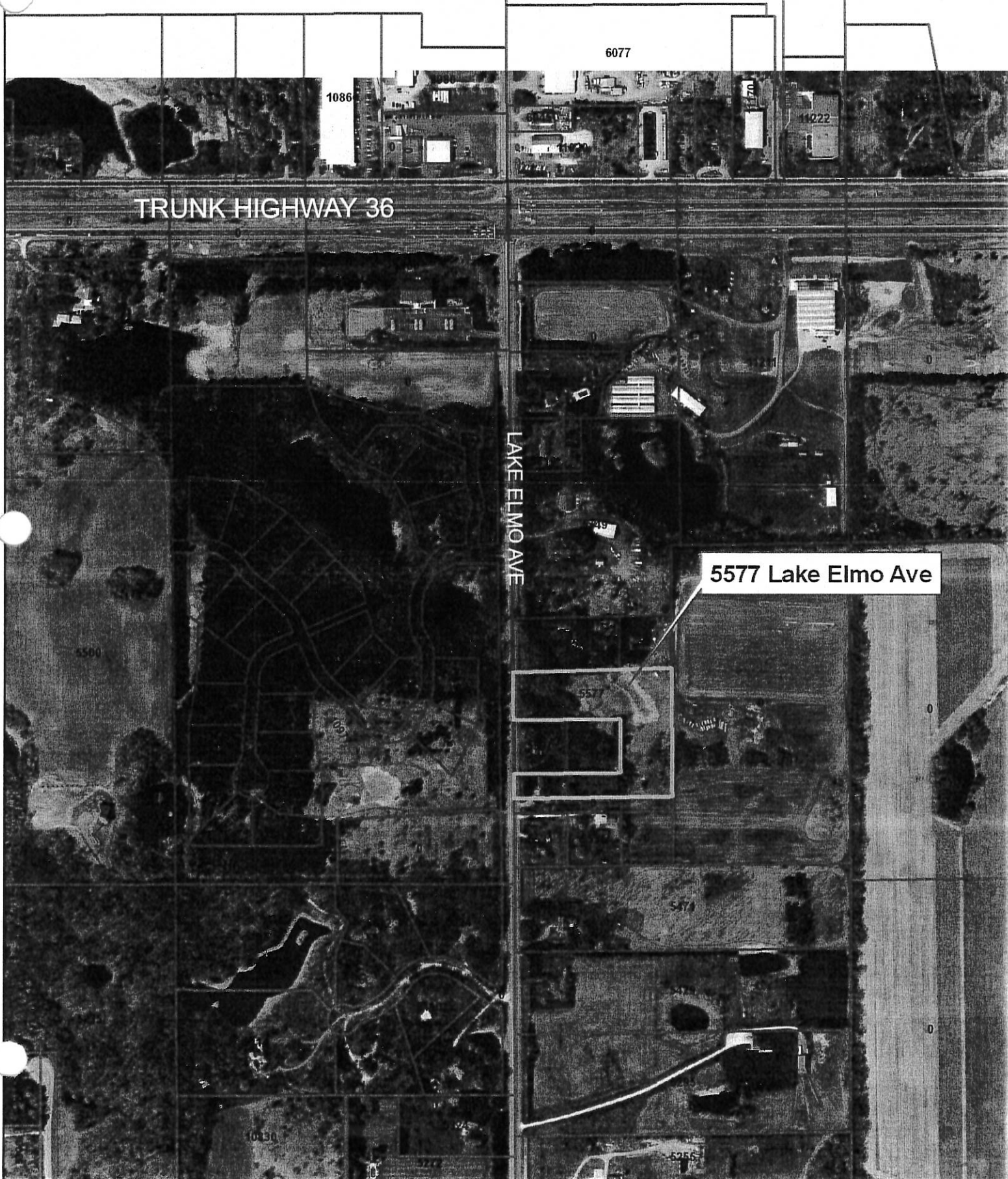
Office Specialist
Carol Hanson

cc: Joe Gustafson, Washington County Transportation Engineer
Ann Pung-Terwedo, Washington County Senior Planner
Kyle Klatt - City of Lake Elmo Community Development Director

11660 Myeron Road North, Stillwater, Minnesota 55082-9573
Phone: 651-430-4300 • Fax: 651-430-4350 • TTY: 651-430-6246
www.co.washington.mn.us
Equal Employment Opportunity / Affirmative Action

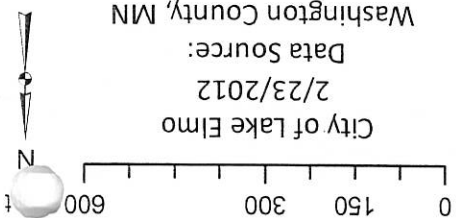
Public Works Department
Donald J. Thelsen, P.E.
Director
Wayne H. Sandberg, P.E.
Deputy Director/County Engineer

Location Map - 5577 Lake Elmo Ave



- Legend**
- Existing Access Point
 - Proposed Access Point
 - Parcel Boundary
 - 200' Distance Between Access Points

City of Lake Elmo
2/23/2012
Data Source:
Washington County, MN



5577 Lake Elmo Ave N Access Analysis

February 12, 2012

2:37 pm
Mike G.

To: City of Lake Elmo

Subject: Variance for 5577 Lake Elmo Avenue



To whom it may concern:

We are opposing the division/variance of the property at 5577 Lake Elmo Avenue North.

Sincerely,

  2/12/12

Mike and Mary Jo Neuman
5685 Lake Elmo Avenue
Lake Elmo, MN 55042

651.300.4261

Cara Geheren, P.E.

651.300.4264

Jack Griffin, P.E.

651.300.4267

Ryan Stempski, P.E.

Date: February 22, 2012

To: Kyle Klatt, Lake Elmo Planning Director

Re: City of Lake Elmo

5577 Lake Elmo Avenue

Lot Split Variance

Cc: Ryan Stempski, P.E.

From: Jack Griffin, P.E., City Engineer

We have received the Variance Request Development Application for 5577 Lake Elmo Avenue North; PIN 01.029.21.23.0001. The following items were received:

- Application with Schedule A [Legal Description] and Schedule B [Request Narrative].
- Plat Drawing; NTS. PIN 01.029.21.23.0001.
- Sketch drawing showing proposed Lot Split.
- Septic System preliminary site review letter by Ed Elkin Septic System Design, dated 11-07-2011.
- Washington County Review Letter dated 11-10-2011.

The engineering department continues to find that this Lot Split proposal and Variance Application remains inconsistent with the City's Comprehensive Plan, including the Transportation Plan, and therefore is recommending denial of this request.

Coordinated, Efficient Infrastructure: The Comprehensive Plan has guided the zoning in this area to allow development at 1 unit per 10 acres unless completed as part of a cluster type development with supporting infrastructure. When development is allowed to occur at higher densities, it is important to require the development to occur through a *coordinated approach* to allow for adequate and efficient supporting infrastructure. Adequate and efficient infrastructure will not occur if parcels are allowed lot splits, completed on an independent basis. For this application, the proposed infrastructure is not consistent with the requested higher density development (1 unit per 2.5 acres). Surrounding development that allows higher density (i.e. Discover Crossing) was required to plan infrastructure differently to serve individual properties.

The Transportation Situation: The Transportation issue relates to Access Management. Access management is the balance between corridor mobility and property access. Increased access results in a decrease in mobility and a decrease in safety. The City is responsible for creating and implementing Access Management policies as part of its Transportation Plan. While both the State and County own and operate roadways within the City **they cannot deny** access to local properties. They rely on the City

or local authority to manage the proper access spacing along State and County roadways through its land use controls.

In the vicinity of the proposed private driveway, there are currently 10 existing private driveways and two intersecting local roads. In accordance with the City Transportation Plan, private driveway access to Lake Elmo Avenue (A Minor Arterial Road) is to be prohibited. Lake Elmo Avenue is a County owned roadway that supports the City's transportation needs including mobility, safety, efficiency, and the local economy. This roadway is classified as an "A Minor Arterial" in the City's Transportation Plan. Minor Arterial roads are one step higher than collector roads in the Transportation hierarchy. They are intended to prioritize mobility, efficiency and safety over property access. Collector roads supplement the arterial roadway system by providing access between neighborhoods and to the arterial system. Local Streets have the primary purpose to provide direct access to local properties within neighborhoods. Therefore future development along this corridor needs to require a collector or local roadway to be constructed from Lake Elmo Avenue into the developed property. The local property access may then extend to this new road. As traffic increases along this corridor and other access points are needed, future corrective improvements may be required to actually remove the number of private driveways in this area.

Access Spacing Guidelines from Transportation Plan:

- Principal Arterials: No direct access to local properties. Access from Minor Arterials only.
- Minor Arterials (i.e. Lake Elmo Avenue): No direct access to local properties. ¼ Mile spacing between Collector Roadways. 1/8 Mile spacing between residential street intersections.
- Collector Roadways No direct access to local properties. ¼ Mile spacing between Collector Roadways. 1/8 Mile spacing between residential street intersections.

Water and Sewer Treatment Systems: In a similar manner, the extension of municipal water service needs to be planned in an efficient and cost effective way. Typically watermain is expanded along public roadway corridors to avoid easement acquisition costs. When higher density development is allowed without a planned supporting road network, the future expansion of other city services to the area results in significantly elevated costs. Future water system hookups become more costly and prohibitive for property owners due to easement acquisition costs and/or longer water services.

Higher density development places greater pressure on the private infrastructure in a rural area, such as private wells and septic systems. With greater densities, the probability of failure for private wells and/or septic systems is increased. When septic systems fail, the available land needed for replacement systems becomes limited.



CONNECTING & INNOVATING
SINCE 1913

VARIANCES

Frequently Asked Questions
(Reflects 2011 law change)

What is a variance?

A variance is a way that a city may allow an exception to part of a zoning ordinance. It is a permitted departure from strict enforcement of the ordinance as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits). A variance allows the landowner to break a dimensional zoning rule that would otherwise apply.

Who grants a variance?

Minnesota law provides that requests for variances are heard by a body called the board of adjustment and appeals; in many smaller communities, the planning commission or even the city council may serve that function. A variance decision is generally appealable to the city council. For more information, see Minn. Stat. § 462.357.

When can a variance be granted?

A variance may be granted if enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner "practical difficulties." For the variance to be granted, the applicant must satisfy the statutory three-factor test for practical difficulties. If the applicant does not meet all three factors of the statutory test, then a variance should not be granted. Also, variances are only permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan. For more information, see Minn. Stat. § 462.357.

What kind of authority is the city exercising?

A city exercises so-called "quasi-judicial" authority when considering a variance application. This means that the city's role is limited to applying the legal standard of practical difficulties to the facts presented by the application. The city acts like a judge in evaluating the facts against the legal standard. If the applicant meets the standard, then the variance may be granted. In contrast, when the city writes the rules in zoning ordinance, the city is exercising "legislative" authority and has much broader discretion.

What is practical difficulties?

Practical difficulties is a legal standard set forth in law that cities must apply the when considering applications for variances. It is a three-factor test and applies to all requests for variances. To constitute practical difficulties, all three factors of the test must be satisfied. For more information, see Minn. Stat. § 462.357.

This material is provided as general information and is not a substitute for legal advice.
Consult your attorney for advice concerning specific situations.

LEAGUE OF MINNESOTA CITIES
INSURANCE TRUST

145 UNIVERSITY AVE. WEST
ST. PAUL, MN 55103-2044
PHONE: (651) 281-1200
FAX: (651) 281-1298
TOLL FREE: (800) 925-1122
WEB: WWW.LMC.ORG

What are the practical difficulties factors?

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line, or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land, and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

Are there are other factors a city should consider?

Yes. State statute provides variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan. So, in addition to the three-factor practical difficulties test, a city evaluating a variance application should make findings as to (1) whether or not the variance is in harmony with the purposes and intent of the ordinance, and (2) whether or not the variance is consistent with the comprehensive plan.

What about economic considerations?

Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs or argue they will not receive expected revenue without the variance. State statute specifically notes that economic considerations alone cannot create practical difficulties. Rather, practical difficulties exists only when the three statutory factors are met.

What about undue hardship?

"Undue hardship" was the name of the three-factor test prior to a May 2011 change of law. Effective May 6, 2011 Minnesota Laws, Chapter 19, amended Minn. Stat. § 462.357, subd. 6 to restore municipal variance authority in response to *Krummenacher v. City of Minnetonka*, 783 N.W.2d 721 (Minn. June 24, 2010). In *Krummenacher*, the Minnesota Supreme Court interpreted the statutory definition of "undue hardship" and held that the "reasonable use" prong of the "undue hardship" test was not whether the proposed use is reasonable, but rather whether there is a reasonable use in the absence of the variance.

What did the 2011 law change?

The 2011 law changed the first factor back to the "reasonable manner" understanding that had been used by some lower courts prior to the *Krummhaefer* ruling. The 2011 law renamed the municipal variance standard from "undue hardship" to "practical difficulties," but otherwise retained the familiar three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character. The 2011 law also provides that: "Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan."

Can a city grant a use variance?

Sometimes a landowner will seek a variance to allow a particular use of their property that would otherwise not be permissible under the zoning ordinance. Such variances are often termed "use variances" as opposed to "area variances" from dimensional standards. Use variances are not generally allowed in Minnesota—state law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located. For more information, see Minn. Stat. § 462.357.

Is a public hearing required?

Minnesota statute does not clearly require a public hearing before a variance is granted or denied, but many practitioners and attorneys agree that the best practice is to hold public hearings on all variance requests. A public hearing allows the city to establish a record and elicit facts to help determine if the application meets the practical difficulties factors.

What is the role of neighborhood opinion?

Neighborhood opinion alone is not a valid basis for granting or denying a variance request. While city officials may feel their decision should reflect the overall will of the residents, the task in considering a variance request is limited to evaluating how the variance application meets the statutory practical difficulties factors. Residents can often provide important facts that may help the city in addressing these factors, but unsubstantiated opinions and reactions to a request do not form a legitimate basis for a variance decision. If neighborhood opinion is a significant basis for the variance decision, the decision could be overturned by a court.

What is the role of past practice?

While past practice may be instructive, it cannot replace the need for analysis of all three of the practical difficulties factors for each and every variance request. In evaluating a variance request, cities are not generally bound by decisions made for prior variance requests. If a city finds that it is issuing many variances to a particular zoning standard, the city should consider the possibility of amending the ordinance to change the standard.

When should a variance decision be made?

A written request for a variance is subject to Minnesota's 60-day rule and must be approved or denied within 60 days of the time it is submitted to the city. A city may extend the time period for an additional 60 days, but only if it does so in writing before expiration of the initial 60-day period. Under the 60-day rule, failure to approve or deny a request within the statutory time period is deemed an approval. For more information, see Minn. Stat. § 15.99.

How should a city document a variance decision?

Whatever the decision, a city should create a record that will support it. In the case of a variance denial, the 60-day rule requires that the reasons for the denial be put in writing. Even when the variance is approved, the city should consider a written statement explaining the decision. The written statement should explain the variance decision, address each of the three practical difficulties factors and list the relevant facts and conclusions as to each factor.

Can meeting minutes adequately document a variance decision?

If a variance is denied, the 60-day rule requires a written statement of the reasons for denial be provided to the applicant within the statutory time period. While meeting minutes may document the reasons for denial, usually a separate written statement will need to be provided to the applicant in order to meet the statutory deadline. A separate written statement is advisable even for a variance approval, although meeting minutes could serve as adequate documentation, provided they include detail about the decision factors and not just a record indicating an approval motion passed.

Can a city attach conditions to a variance?

By law, a city may impose a condition when it grants a variance so long as the condition is directly related and bears a rough proportionality to the impact created by the variance. For instance, if a variance is granted to exceed an otherwise applicable height limit, any conditions attached should presumably relate to mitigating the affect of excess height. For more information, see Minn. Stat. § 462.357.

What happens to the variance once granted?

A variance once issued is a property right that “runs with the land” so it attaches to and benefits the land and is not limited to a particular landowner. A variance is typically filed with the county recorder. Even if the property is sold to another person, the variance applies.

Jed Burkett 2011/06

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

RESOLUTION NO. 2012-_____

***A RESOLUTION DENYING LOT AREA AND WIDTH VARIANCES TO ALLOW A MINOR
SUBDIVISION AT 5577 LAKE ELMO AVENUE***

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Steven Weber, 12729 22nd Street North, West Lakeland, MN (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for variances to the minimum lot size and lot width requirements for a Rural Residential Zoning District to allow the subdivision of a 5.11-acre parcel at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size; and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on February 13, 2012 and continued this hearing until its February 27, 2012 meeting; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated March 6, 2012; and

WHEREAS, the City Council considered said matter at its March 6, 2012 meeting, and tabled discussion on said matter until its March 20, 2012 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.017.

2) That all the submission requirements of said 154.017 have been met by the Applicant.

3) That the proposed variances are to allow the subdivision of property at 5577 Lake Elmo Avenue into two separate lots that do not meet the minimum requirements of the RR – Rural Residential zoning district, and include the following components:

- a) Variances from the minimum lot size requirement of 10 acres in a RR – Rural Residential zoning district in order to create two new lots of 2.27 and 2.84 acres in size.
 - b) Variances from the minimum lot width requirement of 300 feet in a RR – Rural Residential zoning district in order to create two new lots that are 195 and 95 feet in width.
- 4) That the Variance will be located on property legally described as follows:

All that part of the Southwest 1/4 of the Northwest 1/4 of Section 1, Township 29 North, Range 21 West, Washington County, Minnesota described as follows: Commencing at the Southwest corner of said Southwest 1/4 of the Northwest 1/4; thence North 01 degrees 31 minutes 43 seconds West (recorded as N 00 degrees 00' 46" W) along the West line of said Southwest 1/4 of the Northwest 1/4, a distance of 334.70 feet to the North line of the South 334.70 feet of said Southwest 1/4 of the Northwest 1/4, and the point of beginning of this description; thence continuing North 01 degrees 31 minutes 43 seconds West (recorded as N 00 degrees 00' 46" W) a distance of 494.71 feet; thence North 87 degrees 32 minutes 27 seconds East (recorded as N 89 degrees 03' 24" E) a distance of 618.20 feet to the West line of the East 695.22 feet of said Southwest 1/4 of the Northwest 1/4; thence South 01 degrees 19 minutes 29 second East, along said West line of the East 695.22 feet, a distance of 502.85 feet to the North line of the South 334.70 feet of said Southwest 1/4 of the Northwest 1/4; thence South 88 degrees 17 minutes 37 seconds West, along said North line of the South 334.70 feet, a distance of 616.33 feet to the point of beginning, together with an easement for roadway purposes over and across the North 60.00 feet of the South 334.70 feet which lies West of the East 695.22 feet of said Southwest 1/4 of the Northwest 1/4, excepting therefrom the North 209.00 feet of the South 639.40 feet of the West 417.42 feet of said Southwest 1/4 of the Northwest 1/4.

More commonly known as 5577 Lake Elmo Avenue.

- 5) That the strict enforcement of Zoning Ordinance would **not** cause practical difficulties and that the property owner **does not** propose to use the property in a reasonable manner not permitted by an official control. *Specific findings:*
- a) *That the subdivision of an existing 5-acre parcel into two smaller parcels in a zoning district that requires a minimum lot size of 10 acres is not a reasonable use of the property.*
 - b) *That the proposed subdivision is not reasonable because the property as it exists can be used for a single family residential home. Reasonable use of the property already exists, and the variance is not needed in order to make use of the parcel under the Rural Residential zoning district requirements. The current configuration of the lot is not relevant to the establishment of*

reasonable use because the lot would not have been usable for a single family home without this additional area.

6) That the plight of the landowner is not due to circumstances unique to the property and was created by the landowner. *Specific findings:*

a) That the applicant's property is not unique because the property is able to support a single family home, and because a large majority of parcels outside of Open Space Preservation developments in the Rural Residential zoning district are larger than the lot owned by the applicant. The ability to find a suitable use for the areas outside of the immediate building location is not something that is unique to the applicant's site since the intent of the Rural Residential district is to promote the preservation of open space and rural character, and therefore, the uses and densities allowed in the district are intentionally limited.

b) That the proposed lot was created by the land owner and met the minimum lot size requirements when it was subdivided. The land owner was able to build on the lot and has been able to use the property as a single family residential lot for over 30 years.

7) That the proposed variance will alter the essential character of the locality in which the property in question is located. *Specific findings:*

a) That the applicant's property is located in a portion of the City that is guided for Rural Agricultural Density (RAD) development, which corresponds to the City's RR - Rural Residential Zoning District. This district requires a minimum lot size of 10 acres, and the applicant's request to create two lots of under 2.5 acres in size represents a substantial departure from the district requirements. Although there are existing non-conforming lots in the vicinity of the applicant's property, the continued subdivision of lots less than 10 acres will continue to alter the character of the area and create a denser, more urban environment in an area that is not intended to be served by municipal water or sewer services.

8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question but will substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *Specific findings:*

a) That the proposed variance will have a negative effect on adjacent properties and traffic because the proposed driveway to serve the new home would not comply with the City's access management policies and guidelines. In particular, new driveway accesses are discouraged along streets classified as Minor Arterials (such as Lake Elmo Avenue) at the traffic levels that are forecast for this road. The proposed driveway would also fail to comply with the City's use of best management practices for spacing guidelines, which include:

minimizing new access locations and reducing/consolidating existing access points, protecting and improving intersection functional and sight distance areas, and proper design of driveways and intersections. The creation of a new driveway/lot will create a safety concern and add to congestion on Lake Elmo Avenue by adding an access point to Lake Elmo Avenue in a location that has reduced visibility dues to an incline in the roadway.

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicants' application for a Variance is denied.

Passed and duly adopted this 20th day of March 2012 by the City Council of the City of Lake Elmo, Minnesota.

Dean A. Johnston, Mayor

ATTEST:

Dean A. Zuleger, City Administrator

