



CITY OF

**NorthOaks**

*Building on a tradition of innovation*

*Minnesota*

## **CITY OF NORTH OAKS**

### **Regular City Council Meeting**

**Thursday, May 14, 2020**

**7 PM, Via Teleconference or Other Electronic Means Only**

#### **Remote Meeting Access Instructions**

*The meeting can be viewed live via the web broadcast on the City website under "Council meetings/webcast of council meetings". Those wishing to provide comment, email City Administrator Kevin Kress at [kkress@cityofnorthoaks.com](mailto:kkress@cityofnorthoaks.com) by 4 p.m. Tuesday May 12, 2020, or*

*Click the link below to join the webinar:*

<https://us02web.zoom.us/j/85787299428>

*Or iPhone one-tap : +13126266799,,85787299428#*

*Or Telephone: US: +1 312 626 6799 Webinar ID: 857 8729 9428*

## **MEETING AGENDA**

### **1. Call to Order**

### **2. Roll Call**

### **3. Approval of Agenda**

### **4. Discussion and review of Code of Conduct/Civility**

a. Memo on Civility/Code of Conduct

[REQUEST FOR COUNCIL ACTION 5-14-20 code of conduct civility.doc](#)

### **5. Discussion on Citizen Comment Procedure/Options**

a. Memo on Public Comment

[REQUEST FOR COUNCIL ACTION 5-14-20 public comment procedure.doc](#)

**6. Citizen Comments** - *Individuals may address the Council. Each person is granted 3 minutes to address the Council.*

**7. Consent Agenda** - *These are items that are considered routine and can be acted upon with one vote.*

a. Licenses for Approval: Advanced Heating and Air Conditioning; Diversified Plumbing & Heating, Inc.; Ray N. Welter Heating; Sentra-Sota Sheet Metal, Inc.; Shorewood Tree Service; SPI Mechanical LLC;

Checks #: 013539-013568

b. Resolution 2020-1381 for Approval of CUP at 15 Ridge Road

[1381.Approving 15 Ridge Rd CUP for fill excess 100 cubic yards.docx](#)

[15RidgeRoad\\_CUPmemo\\_FINAL.docx](#)

[15RidgeRoad\\_CUPmemo\\_FINAL.docx](#)

[MEMO\\_EXHIBITS\\_CUP\\_for\\_15\\_Ridge\\_Road.pdf](#)

c.Minutes of the Regular Council Meeting for Approval - 3/12/2020 and 4/9/2020

[City Council Minutes 03.12.2020\\_Timesavers.docx](#)

[City Council Minutes 04.09.2020\\_Timesavers.docx](#)

## **8.Petitions, Requests & Communications** -

*Deputy Mike Burrell Report*

## **9.Unfinished Business**

a.Discussion and possible action on code compliance and enforcement procedures

## **10. New Business**

a.Presentation of 2019 Audit

b.Discussion and consideration of Resolution 2020-1382 extending term of previously-declared local emergency

[REQUEST FOR COUNCIL ACTION 5-14-20 emergency declaration.doc](#)

[NO Resolution Extending Emergency Declaration kk 5-8-20.doc](#)

c. Review of Coyote Management Plan

[Coyote Management Plan North Oaks Draft4.docx](#)

d.Discussion and possible action on payment procedure for staff participating as hosts for Council and Commission zoom meetings

## **11.Council Member Reports**

## **12.City Administrator Reports**

## **13.City Attorney Reports**

## **14. Miscellaneous**

a. April Forestry Report

[April 2020 in Review.docx](#)

b. Tick Task Force April 2020 Meeting Minutes

[Tick Task Force Minutes April 2020.docx](#)

c. Emergency Septic Variance - 34 East Pleasant Lake Road

[34 East Pleasant Lake Road Var20-04 - Approval.doc](#)

d.Metropolitan Council 2021 Water estimates

[2021-Preliminary-MWC-North-Oaks.pdf](#)

**15. Adjournment** - *The next meeting of the City Council is 7 p.m. Thursday, June 11, 2020.*

**CITY OF NORTH OAKS**  
**REQUEST FOR COUNCIL ACTION**

<b>Requested Date of Council Consideration:</b> 5-14-2020 <b>Flexibility:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<b>Originating Department:</b> ADMINISTRATION
<b>Agenda Item: Discussion and review of Code of Conduct/Civility</b>	<b>Presenter: KEVIN KRESS</b>
<b>Estimated Time:</b> <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> 5 Min. <input type="checkbox"/> 15 Min. <input type="checkbox"/> 30 Min. <input type="checkbox"/> 45 Min. <input type="checkbox"/> 1 Hour	
<b>Council Action Requested:</b> <input checked="" type="checkbox"/> Information/Review <input type="checkbox"/> Motion to approve... <input type="checkbox"/> Motion to deny... <input type="checkbox"/> Other <input type="checkbox"/> Budget Change	
<b>Background:</b> <b>Council,</b>	
<p>As you know, we recently received a complaint form regarding concerns over the code of conduct being violated at several of our meetings. Since that time, I have sent several memos to the Council. I have also been working individually with members of the Council to discuss various scenarios to better handle civility and conduct during our meetings and outside of our meetings. Matters of civility are very challenging items to engage in from a City Administrator’s perspective and from members of the Council. I posed many questions relating to self-reflection and self-regulation that should be remembered in any scenario. I also listed a set of guiding principles that can be used by the Council and leadership team to have more effective meetings and increase civility. I will detail below some of those memos. I have had some inquiries on what options are available to the Council to deal with instances in which the Council or the public feels there was a breach of the Code of Conduct or a lack of civility. I also received inquiries on what would happen if the Council called for a hearing to discuss a perceived breach of the Code of Conduct. Below I will detail some questions the Council may consider asking as part of this discussion as well as my opinions on hosting a hearing.</p>	
<p>1.     <u><b>Civility/Conduct/Leadership</b></u></p>	
<p>A role model is more than just a person you look up to and admire. It’s someone who can help you unlock your potential by showing you what’s possible and providing examples of how you should — or shouldn’t — behave. I expressed that the as the leadership team we should strive to preserve, protect and enhance the present and the future of the community. That we can be the best role models, coaches and mentors possible. This has always been my top priority as a leader, coach, mentor, and City Administrator. These are and should always be our top priorities as members of the leadership team.</p>	
<p>I also requested the Council consider these to be the “guiding principles” of future discussions. I asked that members think of these and regulate ourselves when we fall short of our guiding principles. This process begins with members of the leadership team self-regulating. It doesn’t hurt to be reminded by someone either but they should also follow</p>	

these principles.

- **Tips for Council meetings –**
  - **Be direct – get to the point! Lay out facts and reasons behind your viewpoint.**
  - **Be specific – be honest and thorough in your feedback fully clarify your viewpoint. The more clarity the better it will be received.**
  - **Plan the conversation – think about what you’re going to say and how it will be received.**
  - **Watch your language – Be sensible of your presentation. You are in the public eye and people expect you to be leaders of the community.**
  - **Offer a solution – clearly explain your viewpoint and reasons you think are beneficial, offer suggestions to improve.**
  - **Manage your emotions – Have a conversation in an even tone and keep it professional. This is often the most challenging piece of any conversation. When emotions start to take over, remind yourself that the more in control of your emotions, the better you will be at delivering your viewpoint.**
  - **Be empathetic – think about the other members of your leadership team (council, staff, consultants) and give them time to process their emotions. DO NOT downgrade anyone of the leadership team we are all in this together!**
  - **Allow others to ask questions – this helps us process the discussion and clarify details that will set our direction moving forward.**

I requested the leadership team think and review the Code of Conduct. We agreed collectively as members of the leadership team to hold ourselves accountable. I asked we consider whether we are following these rules and what we can do moving forward. I asked members to self-reflect on the Code of Conduct and to be honest on whether or not you are following these and ways you can improve.

In addition, I posed a few questions to think about:

Think about what you are presenting (does it add value to the conversation? Am I asking it to aid in the discussion? Is what I’m about to say going to trigger a negative response? Is what I’m about to ask relevant to the discussion or have we already discussed it? Does what I’m saying or how I’m responding preserve, protect and enhance the present and the future of the community? Or does it put us in a poor position and give ammunition to the local news outlets and public to question this? Am I being a good role model, coach, and mentor by asking the question/making a statement? Will it put us under the microscope, damage the image of the city and create a lack of civility, drama, or poor behavior?

Following these items, I sent another memo to the Council detailing more ways to increase civility and productivity. Some of those items are as follows:

- **Work for win-win -- strive for consensus and seek common ground**
- **Honor “discussion” before “decisions” – reserving making formal motions**
- **until initial discussions have taken place**
- **Disagree agreeably and professionally**
- **Share information and avoid surprises**
- **Approach the business of governing in a professional manner – conducting business in a way that brings honor to the institution of government**
- **Praise in public; criticize in private**

- **Work together as a body, modeling teamwork and civility for our community**

**I posed some questions that impact an effective relationship:**

- **Not understanding/appreciating/respecting each other's roles.**
- **Differing philosophies.**
- **Differing personalities.**
- **Challenging issues.**
- **External pressures from the media, community groups, employee organizations, etc.**

**I added some items to think about the perception of the community and of individual members and items that build civility and trust:**

- **Organizational reputation.**
- **Value to the community.**
- **Personal reputation.**
- **Community pride and confidence.**

**I reminded everyone to conduct yourself at council meetings in a professional/businesslike manner: b**

**Even on very controversial topics with greatly varying opinions, the council deliberation can be and should be "businesslike" and professional. While it may be more entertaining (possibly from a reality TV perspective) to see councilmembers and citizens yelling and having temper tantrums, it gets in the way of thoughtful deliberations and only tends to lower the respect for the council and City in the eyes of your constituents. I mentioned the Council may want to consider the use of Council team-building and goal-setting workshops. Recognizing the importance of both effective councilmember/councilmember and council/City Administrator working relationships, often an investment of time in team-building workshops is very worthwhile. These workshops allow for a thoughtful conversation of working relationships outside the context of discussing specific issues. These discussions can help create a better understanding of work styles and perspectives.**

**In closing of my memos, I expressed the following:**

**Councilmembers and the Administrator need to make creating, supporting and sustaining relationships a high priority. If made a high priority, the odds of success are great. Remember that your service on the City Council is a unique honor that has been bestowed on you by your fellow citizens. While it is often a challenge, with inherent difficulties, someone needs to do it and your community has selected you for that responsibility. You have been selected to serve in a professional and honorable manner, during good times and bad. Your service on the City Council will be over soon enough. Conduct yourself in a manner that will allow you to look back with pride—not only for what you accomplished, but also the way in which you conducted yourself (which will likely be remembered the longest).**

**Now that I've given a recap of some of the items we have been working on let's dig into what options the Council has if a member(s) believe the Code of Conduct has been violated.**

**Options:**

- **The Council could hold a hearing and ask questions of the individual(s) on whether they perceived themselves to be outside of the Code of Conduct. I would suggest that if a member is believed to have violated the Code they be given the opportunity**

to speak and explain their point of view. Members should be careful with the questions they intend to ask. These scenarios can backfire quickly and multiple members may become under fire for previous displays of poor civility. Tempers can run high and this can create damaging effects for the City's image. Ask to understand and listen intently, remember the guiding principles. In many cases, these types of discussions are better held outside of a council meeting between the City Administrator and whomever is perceived to have violated the Code. Realistically, the Council is limited on the amount/type of disciplinary action available if there is an instance requiring Council discussion and or action.

**Examples of discipline:**

- **Host a hearing to discuss the matter (often better suited for a workshop setting)**  
Sometimes this makes the matter worse and other members of the leadership team are questioned on their own conduct both during the hearing or on events that previously happened.
- **An opportunity should be made available for a member that appears to have violated the Code. They should be given the opportunity to acknowledge and apologize for stepping outside of the Code. Members that believe a breach has occurred need to be mindful that their own comments to the individual may also constitute a breach or lack of civility.**
- **The Council could draft a resolution acknowledging the lack of civility, change desired, behavior that was unsavory, etc.**
- **The Council may ask that the individual resign but can't force an individual to resign. I express again to tread with caution in this area as it will be perceived negatively all around and gather media attention. In most cases, I also don't believe this is appropriate for members to ask. If you feel strongly about this it is better suited for a private conversation. It is ultimately up to the individual(s) if they believe this is the best option.**

**RECOMMENDED ACTION**

As outlined there is limited opportunity for the Council to discipline a member for failing to comply with the Code of Conduct. All members should understand that self-regulation is required and to remind each other when civility appears to be lacking. If there is concern over something happening at or during a Council meeting; members need to understand it is at that time a Point of Order should be raised by either the Mayor or a member(s) of the Council. It is very important that you respect when such a question is raised and you be respectful in dealing with the concern. If tempers or emotions are running high call for a recess or adjourn the meeting if necessary. Be mindful of the guiding principles and the Code of Conduct at all times.

**Supporting Documents:**  Attached  None

**Department Head Signature/Date:**

**Administrator Signature/Date:**

**ACTION TAKEN**  Approved  Denied  Tabled  Accepted Report  Other

**Date of Action:** \_\_\_\_\_

**Comments:**

**CITY OF NORTH OAKS**  
**REQUEST FOR COUNCIL ACTION**

<b>Requested Date of Council Consideration:</b> 5-14-2020 <b>Flexibility:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<b>Originating Department:</b> ADMINISTRATION
<b>Agenda Item: Discussion on Citizen Comment Procedure</b>	<b>Presenter: KEVIN KRESS</b>
	<b>Estimated Time:</b> <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> 5 Min. <input type="checkbox"/> 15 Min. <input type="checkbox"/> 30 Min. <input type="checkbox"/> 45 Min. <input type="checkbox"/> 1 Hour
<b>Council Action Requested:</b> <input checked="" type="checkbox"/> Information/Review <input type="checkbox"/> Motion to approve... <input type="checkbox"/> Motion to deny... <input type="checkbox"/> Other <input type="checkbox"/> Budget Change	
<b>Background:</b> <b>Council,</b>	
<p>As you know, we recently eliminated a few items on our agendas due to the inability to incorporate them. We recently acquired a new zoom platform that allows for more public participation as seen in their webinar application. We used this platform as part of our public hearing series at the Planning Commission. Since then a few members of the Council and the public have expressed interest in having a public comment section on our regular agendas. A public comment period is purely voluntary by the body and is not a requirement by law that it be conducted. If the Council does desire a public comment section I suggest creating some procedures/rules/guidelines. The Council has several options they may want to consider as outlined below:</p>	
<b><u>Option 1</u></b>	
<ul style="list-style-type: none"> <li>• Host a Public Comments section at the beginning of the meeting with a set of procedures/rules/guidelines that govern what is expected of the public comment section.</li> <li>• Having the comments at the front could potentially add to discussion items later on in the agenda. However, most comments should be deferred to staff or consultants for review at a later date.</li> <li>• Having comments at the front may also be detrimental if the questions or statements made are negative and received poorly by the Council. This sets a negative atmosphere from the start of the meeting and members of the Council may display poor attitude if any were/are offended by any statements/comments.</li> <li>• The Council needs to be mindful that the meetings are intended to be for “Business” purposes and they need to balance public comment with the idea that you are here to set and direct policy decisions and act on business related responsibilities. Allowing public comment may divert the Council from their business-related responsibilities. An example of this would be allowing comment throughout the meeting after public comment has been accepted. Another example would be receiving repetitive comments or statements that do not afford the Council and opportunity to take any action.</li> </ul>	

## Option 2

- Host a Public Comments section at the end of the meeting with a set of procedures/rules/guidelines that govern what is expected of the public comment section.
- This can sometimes be perceived negatively if those wishing to present public comment have to wait until the end of the meeting.
- This option is generally utilized with the understanding that any comments or statements are deferred to staff and consultants for potential action in a future meeting. This of course assumes the comment relates to some type of action the Council may take. If the comment is a statement that doesn't afford any action then this may be a more appropriate option.
- This is also considered by some Council's to afford action on business-related items first. This opinion varies depending on what the goal or reason for allowing public comment is. Keep in mind the Council was elected to make decisions on policy and procedure and were given the responsibility to act on behalf of the constituents.

## Option 3

- Do not offer any public comment at any meetings. The only comment received would be part of any necessary or desired public hearings. The Mayor also has the option to allow for public comment if someone raises their hand.
- This option is used by a number of cities for a variety of reasons. In some cases, this is utilized because the comments/statements received were derogatory and harmful to individual Council members, staff, or consultants.
- In other cases, this option is utilized because the comments being received could have easily been emailed to staff or Council. A phone call could also have been made to deliver the comment or concern.
- Some cities require that comments/statements be emailed on letterhead to City staff or the Mayor. Some choose to read these comments at the meeting or include them as reports at the end of the meeting.
- This option is also used on occasion merely because the City isn't required to receive public comment. The idea is that the Council was elected to make decisions on behalf of the residents and it is their responsibility to make business-related decision.
- In some cases, there is no public comment because there has been instances where personal attacks have been made. Council members or staff have been harassed and followed home or surrounded in parking lots, etc.

## Other thoughts to consider:

- Is the Council concerned about the amount of time public comment requires as part of the meeting?
- Is the Council concerned about receptiveness of questions raised?
- Is the Council concerned that the comments made are derogatory or set a negative mood?
- Is the Council concerned that the comments made do not allow for any action to be taken and that they could have been submitted outside of a meeting?
- Does the Council want questions about items on the current agenda or not on the current agenda or both?
- Does the Council want a form to be filled out prior to the submittal or delivery of public comment?

- Where does the Council align in terms of the options available and why?
- What type of procedures/rules/guidelines would the Council like to use if public comment is utilized?

**Samples of public comment guidelines:**

- This is an opportunity for citizens to bring to the Council's attention any items not currently on the agenda which are relevant to the City. In addressing the Council, you must first state your name and address for the record. To allow adequate time for each person wishing to address the Council, speakers must limit their comments to three (3) minutes. Written documents may be distributed to the Council prior to the meeting to allow a timelier presentation. Speakers should not use obscene, profane, or threatening language, or make personal attacks. Matters of litigation involving the City shall not be discussed during Public Inquiry by citizens or Council. The Council may not respond to speaker comments, engage in a debate, or take any action on the issues raised by citizens, but may direct City staff to research or follow up on an issue, if desired by Council. If Council directs further review by staff, the results of that review will be presented at a following regular Council meeting.
- Individuals may address the city council about any item not included on the regular agenda. Specific procedures that are used for citizens comments are available on notecards located in the rack near the entrance to the council chambers. Speakers are requested to come to the podium, state their name and address for the clerk's record, and limit their remarks to three minutes. Generally, the city council will not take of official action on items discussed at this time, but may typically refer the matter to staff for a future report or direct that the matter be scheduled on an upcoming agenda.
- **Speaking at a Council Meeting –**  
At each meeting, there is a designated period of time for "Recognition of Involved Citizens by City Council," during which community members in the audience who wish to speak on an item not listed on the meeting agenda are invited to the podium. Before addressing the City Council, attendees must sign in with their name and address. Most meetings of the City Council and the boards and commissions are televised, so speakers must step up to the podium and speak loudly and clearly. Comments should not be more than five minutes in length; the mayor may adjust the time depending on the number of persons seeking to comment. Longer presentations must be scheduled through the City Clerk's Office. This comment period may not be used to make personal attacks, air personality grievances, make political endorsements or for political campaign purposes. Council action should not be expected at the time of a proposed non-agenda item; questions from council are for clarification only. Public comments are always taken during public hearings. However, for other issues, it is left to the discretion of the mayor as to whether to take comments.

**Example of Rules of Conduct for Public Comment:**

The North Oaks City Council encourages public input at appropriate and scheduled times. To ensure all have an opportunity to speak and to allow the conduct of business, the City Council has established the following public participation rules. These rules apply to all City of North Oaks public meetings. Failure to comply may result in expulsion from council chambers or meeting rooms.

- Unless permitted, everyone should remain seated, not block any doorways and not enter the space forward of the speaker's podium. No movement of chairs is allowed.

- Speakers shall not make personal attacks, air personality grievances, make political endorsements or make political campaign statements.
- Audience members shall not engage in disorderly conduct, including using loud, threatening or abusive language; whistling; clapping; stamping of feet; repeatedly waving of arms; or other disruptive acts or gestures.
- All demonstrations that disrupt or impede the orderly conduct of meetings are prohibited.
- Photographs, audio and video may be taken from any available public seat or from the meeting room rear. This activity shall not be conducted in any manner that disturbs or disrupts the audience, speakers or council members or otherwise disrupts the council meeting.
- Animals are prohibited in the council chambers except for trained service animals as defined under state and federal law.
- The mayor or chair shall be responsible for maintaining the order of all meetings and has the following powers:
  - to issue a verbal warning to a person violating these rules;
  - to exclude a person from the remainder of a meeting if, after a warning, a person continues to violate the rules; and
  - to recess or adjourn the meeting for safety reasons.
- repeated violations of these Rules of Conduct may result in the exclusion of a person from future City Council meetings for a time period specified by the City Council.

**RECOMMENDED ACTION**

Discuss the available options and questions I have posed and determine if there is interest in any of the three options. Once an option has been chosen decide on guidelines/procedure/rules. There is a sample Rules of Conduct above that the Council may entertain adopting.

Supporting Documents:  Attached  None

Department Head Signature/Date:

Administrator Signature/Date:

**ACTION TAKEN**  Approved  Denied  Tabled  Accepted Report  Other

Date of Action: \_\_\_\_\_

Comments:

**CITY OF NORTH OAKS  
RAMSEY COUNTY, MINNESOTA  
RESOLUTION NO. 1381**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR LAND  
RECLAMATION ACTIVITIES ON REAL PROPERTY LOCATED AT 15  
RIDGE ROAD, NORTH OAKS, MN**

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**WHEREAS**, an application for a Conditional Use Permit has been submitted by Jon Reedy, the owner of the real property described below, for land reclamation activities, namely to allow the importation and depositing of 1,210 cubic yards of fill, on the real property located at 15 Ridge Road, North Oaks, Ramsey County, Minnesota, legal described on the attached **EXHIBIT A**; and

**WHEREAS**, pursuant to North Oaks Zoning Ordinance Section 151.027, a Conditional Use Permit is required for land reclamation involving 100 cubic yards or more of soil; and

**WHEREAS**, the request has been reviewed against the relevant requirements of North Oaks Zoning Ordinance Sections 151.027 and 151.076, regarding the criteria for issuance of a Conditional Use Permit, and meets the minimum standards, is consistent with the Comprehensive Plan, is in conformance with the Zoning Ordinance, and does not have a negative impact on public health, safety, or welfare; and

**WHEREAS**, a public hearing concerning the Conditional Use Permit was held before the North Oaks Planning Commission in accordance with Minnesota Statutes, Section 462.357, subd. 3, on April 28, 2020, at which hearing the Planning Commission voted to recommend approval of the Conditional Use Permit application.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH OAKS**, that a Conditional Use Permit to allow land reclamation activities, namely the installation of 1,210 cubic yards of fill, on the real property located at 15 Ridge Road and legally described on the attached Exhibit A is approved subject to the following conditions:

1. The total amount of fill installed on the Property shall not exceed approximately 1,210 cubic yards of fill, up to a maximum of 1,300 cubic yards.
2. Adjacent lot owners shall be notified prior any grading or filling activities within thirty (30) feet of adjacent lot lines.
3. Compliance with all building permits issued for the Property.
4. Compliance with all requirements in the City Engineer's Memo dated April 24, 2020.

**BE IT FURTHER RESOLVED** that the City Clerk, Deputy City Clerk, or City Attorney are hereby authorized to record a certified copy of this Resolution with the Ramsey County Registrar of Titles.

Adopted by the City Council of the City of North Oaks this 14<sup>th</sup> day of May, 2020.

By: \_\_\_\_\_

Gregg Nelson

Its: Mayor

Attested:

By: \_\_\_\_\_

Kevin Kress

Its: City Administrator/City Clerk

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

Tract J, Registered Land Survey No. 75, files of Register of Titles, Ramsey County,  
Minnesota.

PID: 183022420003  
Torrens Property

# Memorandum

DATE: Thursday, May 07, 2020  
TO: North Oaks Planning Commission  
FROM: Larina Vosika DeWalt, PE, PMP, City  
CC: Engineer  
Kevin Kress, City Administrator  
Bridget Nason, City Attorney  
SUBJECT: 15 Ridge Road  
Conditional Use Permit – Land Reclamation

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Date Application Determined Complete:	March 18, 2020
Planning Commission Meeting Date:	April 28, 2020
City Council Meeting Date:	May 14, 2020
60-day review Date:	May 17, 2020

## BACKGROUND

Applicant has requested the approval of a conditional use permit to allow the importation of 1,210 cubic yards of fill in conjunction with the construction of a home located at 15 Ridge Road

The subject 1.3-acre site is zoned RSL, Residential Single-Family Low Density. Within RSL Districts, per North Oaks Zoning Ordinance §151.050, material moving due to construction activities is not listed as a Conditional Use, however per North Oaks Zoning Ordinance §151.050 (F) (2), “No grading or filling shall be allowed within 30 feet of adjacent lot lines without prior notification to the adjacent lot owners and approval of the Planning Commission, except that grading and filling will be allowed if it is within 10 feet of a building. Based on application materials provided, this requirement applies.

In addition, per North Oaks Zoning Ordinance §151.027 (C) (1), “Land Reclamation” is defined as “the grading of land or reclaiming of land by the moving or depositing of material so as to change the existing topography of the land, provided that excavations for buildings pursuant to building permits shall not be considered land reclamation unless the disposal of excavated materials is in areas outside of the driveway and parking pads or at a distance greater than 25 feet from the side of the building.”

Although the requested material fill is pursuant to the building permit for construction of the primary building structure, per Exhibit C, Cut-Fill Plan, material is being deposited on the property at a distance greater than 25 feet from the side of the proposed structure. In addition, per §151.027 (D), “Land Reclamation involving 100 cubic yards or more of soil shall require a conditional use permit as provided in §151.076.

The application materials provided to the City include all necessary information as outlined in applicable code.

Application and supporting materials have been reviewed by City of North Oaks Building Official and it has been determined that if granted, CUP will not adversely affect the adjoining properties. Therefore, City Building Official has no objection to the approval of the CUP.

Attached for reference:

- Exhibit A: CUP Application
- Exhibit B: CUP Request Letter
- Exhibit C: Cut-Fill Plan

In consideration of conditional use permit applications to allow Land Reclamation activities, §151.027 (D) of the Zoning Ordinance states that such permit be provided according to §151.076. After evaluation of considerations as set forth in §151.076, staff determines that approval of the requested CUP will NOT have any adverse effect upon the general welfare, public health and safety.

## **PLANNING COMMISSION OPTIONS**

In consideration of the conditional use permit application, the Planning Commission has the following options:

- A) Recommend approval**, with conditions, based on the applicant's submission, the contents of this report, public testimony and other evidence available to the Planning Commission.
- This option should be utilized if the Planning Commission finds the proposal adheres to all City Code requirements or will do so with conditions.
  - Approval at this time means that, upon City Council approval, the applicant can complete land reclamation activities on subject property, as proposed, subject to the satisfaction of all imposed conditions.

**B) Recommend denial** based on the applicant's submission, the contents of City Staff report, received public testimony and other evidence available to the Planning Commission.

- This option should only be utilized if the Planning Commission can specifically identify one or more provisions of City Code that are not being met by the conditional use permit proposal.

**C) Table** the request for further study.

- This option should be utilized if the Planning Commission feels the proposal is appropriate and should move forward, but that certain design aspects need to be amended and brought back before a recommendation for approval can be given.

## **STAFF RECOMMENDATION**

Based on the preceding review, staff recommends approval of the requested conditional use permit to allow the completion of land reclamation activities on the property with above referenced exception to the 30 foot grading setback, subject to the following conditions:

1. Proper notification given to the adjacent lot owners per §151.050 (F) (2) of grading activities within the setback area.
2. All applicable state building codes are followed pursuant to existing Building Permit.
3. Erosion control measures such as silt fence must be installed downstream of all proposed grading, in order to ensure proper containment of sedimentation on site. Extra care shall be taken to maintain all existing erosion control measures to ensure sedimentation due to grading activities is not tracked off site.
4. Extra care shall be taken to protect and preserve all existing trees on site which are planned for preservation.
5. Applicant shall comply with all applicable City Code, state statute, and watershed district rules and regulations.
6. Applicant shall ensure that grading and filling work does not result in the deposit of additional stormwater runoff onto adjacent properties.



# Memorandum

DATE: Thursday, May 07, 2020  
TO: North Oaks Planning Commission  
FROM: Larina Vosika DeWalt, PE, PMP, City  
CC: Engineer  
Kevin Kress, City Administrator  
Bridget Nason, City Attorney  
SUBJECT: 15 Ridge Road  
Conditional Use Permit – Land Reclamation

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Date Application Determined Complete:	March 18, 2020
Planning Commission Meeting Date:	April 28, 2020
City Council Meeting Date:	May 14, 2020
60-day review Date:	May 17, 2020

## BACKGROUND

Applicant has requested the approval of a conditional use permit to allow the importation of 1,210 cubic yards of fill in conjunction with the construction of a home located at 15 Ridge Road

The subject 1.3-acre site is zoned RSL, Residential Single-Family Low Density. Within RSL Districts, per North Oaks Zoning Ordinance §151.050, material moving due to construction activities is not listed as a Conditional Use, however per North Oaks Zoning Ordinance §151.050 (F) (2), “No grading or filling shall be allowed within 30 feet of adjacent lot lines without prior notification to the adjacent lot owners and approval of the Planning Commission, except that grading and filling will be allowed if it is within 10 feet of a building. Based on application materials provided, this requirement applies.

In addition, per North Oaks Zoning Ordinance §151.027 (C) (1), “Land Reclamation” is defined as “the grading of land or reclaiming of land by the moving or depositing of material so as to change the existing topography of the land, provided that excavations for buildings pursuant to building permits shall not be considered land reclamation unless the disposal of excavated materials is in areas outside of the driveway and parking pads or at a distance greater than 25 feet from the side of the building.”

Although the requested material fill is pursuant to the building permit for construction of the primary building structure, per Exhibit C, Cut-Fill Plan, material is being deposited on the property at a distance greater than 25 feet from the side of the proposed structure. In addition, per §151.027 (D), “Land Reclamation involving 100 cubic yards or more of soil shall require a conditional use permit as provided in §151.076.

The application materials provided to the City include all necessary information as outlined in applicable code.

Application and supporting materials have been reviewed by City of North Oaks Building Official and it has been determined that if granted, CUP will not adversely affect the adjoining properties. Therefore, City Building Official has no objection to the approval of the CUP.

Attached for reference:

- Exhibit A: CUP Application
- Exhibit B: CUP Request Letter
- Exhibit C: Cut-Fill Plan

In consideration of conditional use permit applications to allow Land Reclamation activities, §151.027 (D) of the Zoning Ordinance states that such permit be provided according to §151.076. After evaluation of considerations as set forth in §151.076, staff determines that approval of the requested CUP will NOT have any adverse effect upon the general welfare, public health and safety.

## **PLANNING COMMISSION OPTIONS**

In consideration of the conditional use permit application, the Planning Commission has the following options:

- A) Recommend approval**, with conditions, based on the applicant's submission, the contents of this report, public testimony and other evidence available to the Planning Commission.
- This option should be utilized if the Planning Commission finds the proposal adheres to all City Code requirements or will do so with conditions.
  - Approval at this time means that, upon City Council approval, the applicant can complete land reclamation activities on subject property, as proposed, subject to the satisfaction of all imposed conditions.

**B) Recommend denial** based on the applicant's submission, the contents of City Staff report, received public testimony and other evidence available to the Planning Commission.

- This option should only be utilized if the Planning Commission can specifically identify one or more provisions of City Code that are not being met by the conditional use permit proposal.

**C) Table** the request for further study.

- This option should be utilized if the Planning Commission feels the proposal is appropriate and should move forward, but that certain design aspects need to be amended and brought back before a recommendation for approval can be given.

## **STAFF RECOMMENDATION**

Based on the preceding review, staff recommends approval of the requested conditional use permit to allow the completion of land reclamation activities on the property with above referenced exception to the 30 foot grading setback, subject to the following conditions:

1. Proper notification given to the adjacent lot owners per §151.050 (F) (2) of grading activities within the setback area.
2. All applicable state building codes are followed pursuant to existing Building Permit.
3. Erosion control measures such as silt fence must be installed downstream of all proposed grading, in order to ensure proper containment of sedimentation on site. Extra care shall be taken to maintain all existing erosion control measures to ensure sedimentation due to grading activities is not tracked off site.
4. Extra care shall be taken to protect and preserve all existing trees on site which are planned for preservation.
5. Applicant shall comply with all applicable City Code, state statute, and watershed district rules and regulations.
6. Applicant shall ensure that grading and filling work does not result in the deposit of additional stormwater runoff onto adjacent properties.



EXHIBIT A

No. \_\_\_\_\_

CITY OF NORTH OAKS, MINNESOTA  
APPLICATION FOR CUP, VARIANCE, APPEAL, AMENDMENT, PLAN REVIEW

Location of Property: (address) 278 Meadowood Lane

Legal Description of Property: Tract J RLS 75

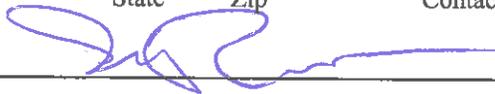
Fee Owner: Jonathan Reedy 278 Meadowood Lane  
Name Address

Vadnais Heights MN 55127 651-955-5508  
City State Zip Contact Number/s

Signature of Fee Owner:  Date 3-18-20

Applicant: \_\_\_\_\_  
(if different from owner) Name Address

City State Zip Contact Numbers/s

Signature of Applicant:  Date 3-18-20

Type of Request: *(Please circle correct request)*

**CONDITIONAL USE PERMIT** (as provided for in Chapter 151.076 of Code of Ordinances)

VARIANCE

APPEAL

AMENDMENT

BUILDING / SITE PLAN REVIEW

OTHER

Please attach **fifteen (10)** copies of detailed written and graphic material fully explaining the proposed request and include the reason for the request, present zoning classification and existing use of the property.

(For office use)

Application received with \$450 fee on 3-18-20 Check# CC Amt# \$462.50

Date for review of completeness fifteen (15) business days from initial receipt 318.20

\* If application is deemed incomplete, **written** notice must be sent to the applicant by above date stating the items that need to be submitted for the application to be deemed complete.

EXHIBIT A

Deadline for action sixty (60) days from initial receipt 3-18-20

**Extended deadline** \_\_\_\_\_

\*\* City may extend the review period by up to sixty days from the end of deadline for action only if applicant is notified in **writing** prior to the end of the initial sixty (60) day review period. The deadline may be extended beyond sixty days with applicant's approval.

**Conditional Use or Amendment request - Public Hearing date** \_\_\_\_\_

**Planning Commission action:**

Approval or disapproval on \_\_\_\_\_ with conditions \_\_\_\_\_

**City Council Action:**

Approval or disapproval on \_\_\_\_\_ with conditions \_\_\_\_\_

**Variance, Appeal, Building/Site Plan Review, Other**

**Action of Board of Adjustment and Appeals:**

Approval or disapproval on \_\_\_\_\_

**Bond Required** \_\_\_\_\_

**Bond Received on** \_\_\_\_\_

**CITY REIMBURSEMENT POLICY**

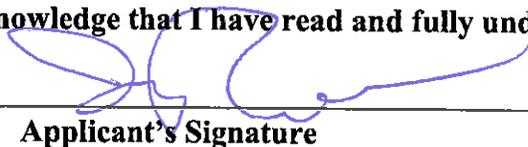
In connection with your request and submittal of material to be reviewed by the City of North Oaks, please be informed that if the City incurs any additional expense in the course of this application review beyond the normal processing fee, the cost will be assessed to the applicant. As authorized in Chapter 151.083 of the Ordinance Code, an applicant will be responsible for full reimbursement of incurred costs to the City of North Oaks. (A copy of this section of the Ordinance is available upon request.)

Your initial application fee of **\$450.00** covers the processing of a typical zoning action. A typical process for reviewing a zoning action may include some or all of the following: City employee help in explaining the application process, City employee receipt of completed application and proper scheduling on appropriate agenda, one legal notice for a public hearing (if applicable), written notice to abutting property owners (if applicable) generation of a staff report, presentation of the staff report to the Planning Commission and presentation of the staff report and Planning Commission recommendation to the City Council.

If the scope of your application goes beyond a typical review process, you will be asked for an additional escrow deposit. At that time, you will be advised of the additional review necessary to complete your zoning action request and the potential cost for completing said review. You will be provided written documentation for your acknowledgement that outlines the above two items.

An applicant will be allowed to remove their request at any time during said further review process. Any remaining escrow deposit that is not needed to pay incurred costs to the date of application removal will be refunded to the applicant within sixty days.

**I acknowledge that I have read and fully understand the above statements.**



Applicant's Signature

Date 3-18-20

# EXHIBIT B

March 18, 2020

City of North Oaks  
100 Village Center Drive, Suite 230  
North Oaks, MN 55127

Attention: Kevin Kress

RE: CUP 15 Ridge Road

Kevin,

I am the homeowner at 15 Ridge Road. I had hired an excavator H & T Trucking to excavate and backfill my house. After the excavator dug and backfilled, he called me and said he had some extra fill on a different project; and that I needed lots of fill to backfill my house and bring up the grade per the survey submitted with the permit. I said I would take it, assuming the dirt fill was covered under the building permit. After H&T Trucking brought in the fill, I was informed bringing in fill requires a CUP from the City.

After receiving notice from the City, I have hired a surveyor who has drawn up a map showing what needs to be cut and what needs to be filled. To date we have imported 400 yards of sand and 400 yards of fill. The surveyor anticipates we need an additional 410 yards of fill to get to the grades shown on the survey. (see attached)

No more fill will be imported until I have permission from the City, and until road restrictions are lifted. I'm anticipating we will want to haul in the remaining fill this May. There is currently erosion control installed, and this should have no impact on any lakes, streams or adjoining property.

Please review the survey and let me know what else I need to do to satisfy the City of North Oaks.

Respectfully,



Jon Reedy

Depositing

## EXHIBIT B

EXISTING GROUND 2-11-19 TO PROPOSED GRADES AS SHOW:

CUT = 620 YDS

FILL = 2,355 YDS

NET = 1,735 YDS FILL

SUBCUT FOR FOUNDATION = 400 YDS

SUBCUT FOR DRIVEWAY = 125 YDS

NET FILL AFTER SUBCUT = 1,210 YDS

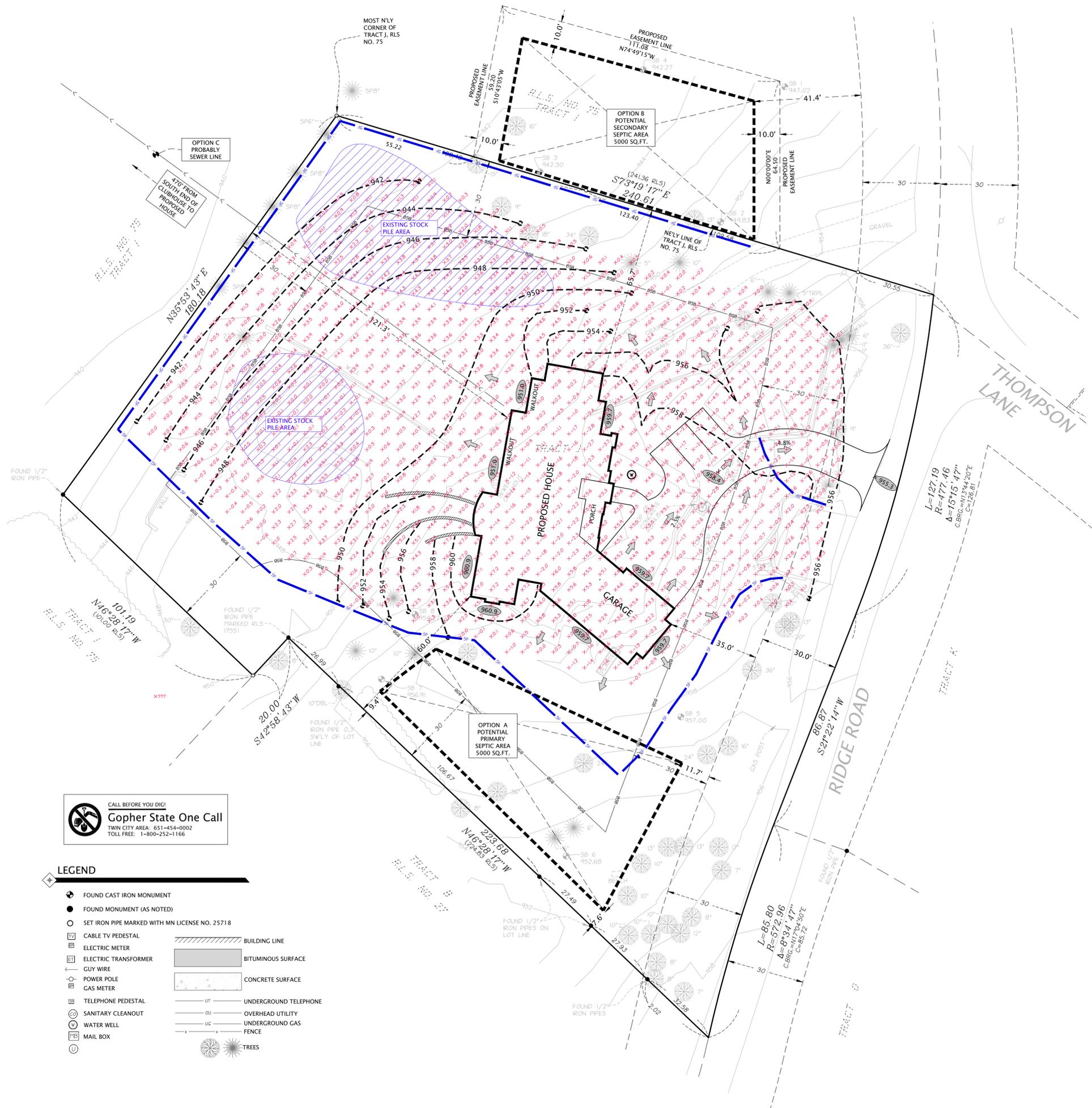
IMPORTED SAND TO DATE = 400 YDS

IMPORTED FILL TO DATE = 400 YDS

NET FILL AFTER IMPORT = 410 YDS

# EXHIBIT C

# 15 RIDGE ROAD



CALL BEFORE YOU DIG!  
**Gopher State One Call**  
 TWIN CITY AREA: 651-454-0002  
 TOLL FREE: 1-800-252-1166

- LEGEND**
- FOUND CAST IRON MONUMENT
  - FOUND MONUMENT (AS NOTED)
  - SET IRON PIPE MARKED WITH MN LICENSE NO. 25718
  - CABLE TV PEDESTAL
  - ELECTRIC METER
  - ELECTRIC TRANSFORMER
  - GUY WIRE
  - POWER POLE
  - GAS METER
  - TELEPHONE PEDESTAL
  - SANITARY CLEANOUT
  - WATER WELL
  - MAIL BOX
  - BUILDING LINE
  - BITUMINOUS SURFACE
  - CONCRETE SURFACE
  - UT — UNDERGROUND TELEPHONE
  - OU — OVERHEAD UTILITY
  - UC — UNDERGROUND GAS
  - FENCE
  - TREES

### CUT-FILL ANALYSIS

STOCKPILE LOCATIONS AND IMPORTED FILL AMOUNTS PER STEVE MAGNER. NOT FIELD VERIFIED.

EXISTING GROUND 2-11-19 TO PROPOSED GRADES AS SHOW:  
 CUT = 620 YDS  
 FILL = 2,355 YDS  
 NET = 1,735 YDS FILL

SUBCUT FOR FOUNDATION = 400 YDS  
 SUBCUT FOR DRIVEWAY = 125 YDS

NET FILL AFTER SUBCUT = 1,210 YDS

IMPORTED SAND TO DATE = 400 YDS  
 IMPORTED FILL TO DATE = 400 YDS

NET FILL AFTER IMPORT = 410 YDS

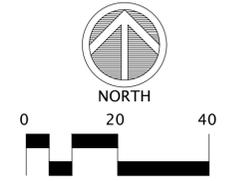
### CONTACT:

JON REEDY  
 15 RIDGE ROAD  
 NORTH OAKS, MN 55127  
 Ph. 6955-5508Cell  
 jreedy@neielectric.com

### COUNTY/CITY:

**RAMSEY COUNTY**

**CITY OF NORTH OAKS**



### REVISIONS:

DATE	REVISION
2-11-19	PRELIMINARY ISSUE
7-12-19	SITE PLAN
8-30-19	REVISE SITE PLAN
9-23-19	SOIL BORINGS
9-27-19	MOVE HOUSE
10-4-19	UPDATE FOUNDATION
12-10-19	ADD SEPTIC EASEMENT
3-11-20	CUT-FILL PLAN

### CERTIFICATION:

I hereby certify that this plan was prepared by me, or under my direct supervision, and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

*Daniel L. Thurmes*  
 Daniel L. Thurmes Registration Number: 25718  
 Date: 2-11-19

### PROJECT LOCATION:

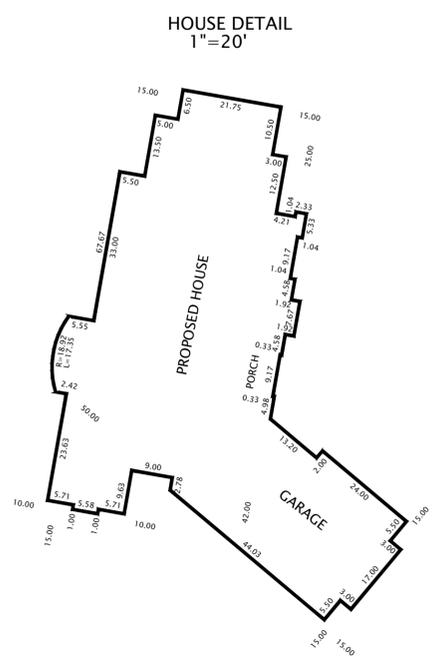
**15 RIDGE ROAD**  
 PID#183022420003

Suite #200  
 1970 Northwestern Ave.  
 Stillwater, MN 55082  
 Phone 651.275.8969  
 dan@cssurveying.net

## CORNERSTONE LAND SURVEYING, INC.

FILE NAME SURVZ2531  
 PROJECT NO. ZZ18531

### CUT-FILL PLAN



**North Oaks City Council  
Meeting Minutes  
North Oaks City Council Chambers  
March 12, 2020**

**CALL TO ORDER**

Mayor Nelson called the meeting of March 12, 2020, to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Everyone joined in the pledge of allegiance.

**ROLL CALL**

Present: Mayor Gregg Nelson. Councilmembers Kara Ries, Rick Kingston, Martin Long, and Katy Ross.

Staff Present: Administrator Kevin Kress, City Attorney Bridgett McCauley Nason.

Others Present: Videographer – Maureen Anderson.

A quorum was declared present.

**APPROVAL OF AGENDA**

**MOTION by Long, seconded by Kingston, to approve the Agenda as submitted.**

**AMENDMENT MOTION by Ries to revise the agenda and move the Open Business item to after the discussion of the poll that went out and the New Business items.**

Mayor Nelson asked Councilmember Ries what item she was talking about.

Councilmember Ries noted in Unfinished Business there is a Resolution for discussion and she thought it more appropriate to have it after the New Business item. She said there was a poll that was circulated with the community and the Council may want to talk about that first.

Mayor Nelson said the Resolution is to memorialize the vote that was taken last month, adding that it was at the request of the City Attorney.

Councilmember Ries stated the Council is approving the language of the Resolution so she would like to engage some citizen comments before the Council approves it.

Councilmember Ross said she thought that made sense.

**Councilmember Ross seconded the motion to amend.**

Mayor Nelson stated the Council has an order established that takes care of non-controversial issues, which he thinks is a good idea. He asked what the other Councilmembers thought.

Councilmember Kingston said, as he understands it, this is just to memorialize what the Council did at the last City Council meeting and is not to change anything in terms of what their discussion or vote was. He asked Staff to confirm his statement.

Administrator Kress stated Councilmember Kingston's understanding was correct.

Councilmember Ries said there is an item in the Petition that went around that talks about the items that are in the Resolution, so out of respect for the residents, she thought it might be advantageous if the Council shares their comments before passing a Resolution, because then the Council would have a more informed vote when passing it.

Mayor Nelson stated they had a 4-hour hearing last time, there were a lot of comments, and they went through them 1 by 1. He asked whether her motion was to change the Agenda order.

**AMENDMENT MOTION by Ries, seconded by Ross, to move the Open Business of the Resolution Discussion after the New Business item regarding the Petition Request.**

Councilmember Long asked for Staff to weigh in on the importance of the issue.

Administrator Kress said he thinks a lot of the questions will be answered as part of the consideration for the Resolution and he does not have a preference either way.

City Attorney Nason stated, as she understands it, there is a motion and second to adopt the Agenda as submitted, and a motion and second to amend the motion to move Item No. 8 after Item No. 9. The idea would be to have discussion regarding the Citizen Petition before the vote on the Resolution, which is the vote on the Housing Memo. She indicated it was up to the Council's discretion on how they want to go through the Agenda, noting it makes some sense to have discussion regarding the Petition before the vote.

Mayor Nelson said the City Council has already had a discussion regarding the items in the Resolution, so he does not think the order should be changed. The Council always deals with Unfinished Business first, and that is the way it should be.

Councilmember Ross said she is concerned about learning something in the discussion of the Petition that impacts the Resolution.

Mayor Nelson stated the Council has already voted and that it was their opportunity last month and the last 1½ years to speak.

Councilmember Kingston noted everything in the Petition was discussed at the last meeting.

Councilmember Long indicated the Council would be discussing the Petition.

Mayor Nelson agreed with Councilmember Long.

Councilmember Long asked Councilmember Ries why the City Council is taking an extra step before memorializing the document.

Councilmember Ries said it makes more logical sense to have a discussion about the Petition first and before a Resolution is passed to iron out and make sure of those discussions, particularly in light of the fact that we have 425 signatures on a Petition.

Mayor Nelson asked who the “we” is. He asked Councilmember Ries if it was her Petition or someone else’s Petition.

Councilmember Ries said it is not her Petition and is saying it in general; it is more of a “we” as the community.

Mayor Nelson stated she did a good job if that was true and asked if there was further discussion.

Councilmember Kingston asked whether the Council is being asked to simply vote on the Resolution that the Council agreed to at the last Council meeting.

City Attorney Nason stated there was discussion, part of which was around housing counts and then how to move forward. There were 2 paths outlined: 1 was a Resolution adopted by the Council. It is not binding nor a contractual amendment. In other words, it is not something like an amendment to the PDA to recognize development counts/acreage. She noted the direction from Council was to prepare a Resolution for consideration that memorializes the existing housing counts. After Staff had done some research, there were questions raised such as: have housing counts been looked at; have the units been counted. Those were things the Staff did between then and now. That is the purpose of the Resolution.

Councilmember Ross stated she did not have a copy of that Resolution in her packet.

Administrator Kress said he has a copy of it in the packet that is on the screen. Staff sent out the information in the afternoon after finalizing the count information.

Councilmember Ross asked what time it was sent in the afternoon.

Administrator Kress estimated it was between 4:30-5:00 p.m.

Councilmember Ross stated that was after she was done with the packet, so she did not get it.

Councilmember Ries said she did not get it, either; it was not in the electronic format until after 5:00 p.m.

Mayor Nelson indicated he had looked at it all day.

Administrator Kress noted the latest version with the Resolutions was put out that afternoon. In the first email it was indicated there were going to be new attachments to the packet, specifically for this item, because it was being reviewed internally with Staff and consultants. He stated

Councilmembers may not have a printed copy, but Staff sent it out by email to the entire Council for review prior to 7:00 p.m.

Councilmember Kingston said the Council is memorializing what was already voted on at the last Council meeting; and if the Council discusses the Petition tonight, there is nothing stopping the Council from entering a new Resolution if they think there is something that needs to be corrected or something they want to do with it. He asked if his understanding was correct.

City Attorney Nason said there were 2 points to Councilmember Kingston's question. First, she has not looked at the minutes from the Work Session; she believed the specific direction was to bring back a Resolution. She does not recall what votes were taken on that. With respect to the Resolution, the Council can always adopt a different Resolution. This is not a contractual amendment, it is not by 2 parties; but it is a Resolution that would basically say, "Here are the housing counts as we understand them today with the information we have, both with respect to dwelling units and available commercial acreage." She said that is the intent of the Resolution.

Councilmember Ries noted the vote was based on 174 dwelling units and commercial acreage used. The difference now is that there is a Draft Resolution and the Council is voting on the actual language of the Resolution at this point. In the 5 seconds she had to review it, there is more than just counts on building and commercial acreage at this point, so it is more substantial than what was voted on in the last Council meeting.

Councilmember Ross stated she thinks Councilmembers should get information a certain amount of time before the Council meeting so they have enough time to prepare for it.

City Attorney Nason commented if there has not been sufficient time for the Council to review it, it could always be tabled to the next meeting for further consideration at that point in the Agenda. To her understanding, the motion and second that is on the table is to amend the order of the Agenda, to move Item No. 8 to after Item No. 9. There needs to be a vote on the motion. Depending on whether the motion passes, then the motion on the table is amended, which would be to have the Agenda adopted with that change. If it fails, there is still a motion on the table to adopt the Agenda as presented. The Council needs to move into a vote regarding the order of the Agenda for tonight's business.

Administrator Kress, referring to the minutes, indicated it does state that a Resolution was asked for declaring the 174 dwelling units and 5.73 commercial acres which is indicated in the new Resolution. He said Staff and consultants reviewed every site within North Oaks that is related to the Planned Unit Development (PUD) / Project Development Agreement (PDA) to either confirm or deny that that was the case. Staff did not change anything in the Resolution; it is just the process they took to confirm or deny the 174 and 5.73 numbers.

Councilmember Kingston asked if the Council could still enter into any type of Resolution; or if they wanted, they could change anything that is already out there.

Administrator Kress stated Councilmember Kingston was correct.

Councilmember Ries said she thinks it is more respectful to the residents to hear a Petition that has 425 signatures before entering into a Resolution.

Councilmember Long commented that it is becoming a huge point. He said the Petition is on the Agenda; the Council will discuss it. When it first started, there were points put on it that were/weren't thoroughly researched. He asked if it was a big deal to change the Agenda.

Mayor Nelson stated they are trying to make forward progress and there are a lot of people trying to reduce the forward progress. He suggested having a vote.

**Motion on the amendment carried unanimously.**

Administrator Kress noted 8a would be switched with 9a; 9a would be first, with 8a to follow.

City Attorney Nason explained the vote was on the amendment to the Agenda order, and there needs to be a vote to approve the Agenda with the amended order.

**MOTION by Long, seconded by Ries, to approve the Agenda with the amended order.  
Motion carried unanimously.**

**CITIZEN COMMENTS**

Councilmember Ries read an email comment from Cheryl and Jeff DuBois, who were unable to attend, as follows: Hello City Councilmembers. We are sorry we could not be here tonight. We are writing to share a concern about the need for a commitment to a usable trail connection between the west and east major trail systems. We live on Black Lake Road which borders the Long Marsh Trail. Our family has been enjoying the trails year-round for 25 years. For many of those years, we were able to ski from our house to the Conservancy with just 1 driveway crossing. Several years ago, the connection between the two was shut off, requiring a 1/4 mile walk to resume skiing. We assumed it was temporary while North Oaks Company (NOC) worked on the new developments, but now we have learned that this proposal plan does not provide a usable trail connection. It will require removing skis and a long walk to reconnect passage, within 10 inches of a home. The need for wetland fill, runs along a roadway, and has a layout that is not conducive to maintenance of a ski trail. Ski boots are not meant for walking on. They have smooth surfaces on the bottom, presenting a slip hazard, especially when walking on ice and snow, and trails located adjacent to roads are impassable on skis due to buildup of dirt, rocks, and plowed snow. Just look at the trail along Wildflower Way. Our request to you is that you require a meaningful trail connection. Trail proposals by Greg Mack and Don Nightingale are both excellent, realistic alternatives to the current proposal and have minimal impact on the lot layout. Trails are 1 of the gems of our city, and ensuring continuity and access between the 2 major systems is critical for the future of the quality of life we enjoy here in beautiful North Oaks. Thank you.

**CONSENT AGENDA**

**MOTION by Ries, seconded by Ross, to approve the following Consent Agenda items:**

**a. Licenses for approval:** Breeze Heating and Cooling; Carter Custom Construction; Chimney Doctors; Craig's Heating and Air; CSH Enterprises; Flare Heating & Air Conditioning; Glowing Hearth & Home; Marsh Heating & Air Conditioning; Metro Gas Installers; Metro Heating & Cooling; Stafford Home Service; Twin City Fireplace & Stone; Twin City Heating & Air.

**Checks for approval: #013469–013505**

**b. Approval of Minutes of the City Council meeting of February 13, 2020**

**c. Approval of Dark Fiber Service Agreement with Comcast**

**MOTION carried unanimously.**

### **PETITIONS, REQUESTS & COMMUNICATIONS**

#### **b. Deputy Mike Burrell Report**

Deputy Burrell indicated he was out of town for a couple of weeks and there was not much to discuss. He reviewed the Patrol Calls Summary Report, noting there are continued issues at Village Center with some car break-ins and shoplifting incidents. He said road restrictions were in effect the first part of March and Traffic Deputy Mike Casey and himself have been monitoring for overweight vehicles; so far, they have found a couple. They will continue to monitor and cite if necessary, and anticipate more citations as construction starts and the weather gets warmer. Other than that, it is business as usual at Ramsey County. They are monitoring COVID-19; the Sheriff's Office is taking precautions to make sure everything is fully staffed.

Councilmember Kingston asked what First Responders and Police personnel are being taught/instructed to do when going into a situation where someone has Coronavirus.

Deputy Burrell said ideally you would try to avoid the person. The squad cars are being outfitted with masks and Personal Protective Equipment (PPE), although he has never had a mask in his squad before. Dispatchers are being told to ask certain questions to see if there is a possible infected person. If at all possible, they will avoid anybody who has COVID-19.

Councilmember Kingston indicated he thinks it is important that personnel get proper training in terms of ways to approach a scene and what types of things actually can prevent transmission.

Deputy Burrell said not a lot has been put out to his department, although he did receive a Memo about steps they can take. There are a couple of infections in Minnesota, but it has not hit them yet. If Ramsey County has widespread infections, there will be additional precautions. Currently, they are being told to wash their hands and clean/disinfect their squad cars before and after shifts. There will be more information in the next few weeks. If anyone gets infected with Coronavirus, he would put them out of action for a couple weeks in addition to anyone they have been in contact with. He hopes the virus does not knock out half of their department.

### **UNFINISHED BUSINESS**

- a. Discussion on East Oaks Housing Counts, and Related Materials, Consider Resolution Determining Remaining Counts (*This item was considered following New Business Item 9a.*)**

**NEW BUSINESS**

- a. Discussion on Citizen Petition Relating to East Oaks Housing Counts and Related Materials**

Mayor Nelson asked Administrator Kress to introduce the item.

Administrator Kress suggested that it might be better to ask the Petition's creator to present, if they were available.

Mayor Nelson asked who that would be.

Several Councilmembers indicated it was Franny Skamser Lewis.

Franny Skamser Lewis, 3 Red Maple Lane, said the Petition is fairly simple. The people that have signed it think there is compelling information that has been presented to the Planning Commission and Council that would indicate the units of Waverly Garden should not be counted as zero towards the 645 total dwelling units to be built in North Oaks as a result of the PDA. She indicated this is not to prevent additional development in North Oaks; they are proponents of the remaining development sites being developed in conformance with the PDA; it is to suggest they do not think the units of Waverly Gardens were ever intended to be counted as zero. They do not think it is in the best interests of the community. They know the number should not be zero; they also do not think it is 174. They think it is somewhere in the middle, somewhere in the 120s. If they look back at the February 28 Planning Commission meeting, NOC's representative, Mr. Houge, presented that "basically 5 units in Waverly Gardens correlated to 1 housing unit." She noted that statement was at minute marker 38:14 of the video. She stated it was a couple of City Council meetings ago -- February 6, 2020 -- when Councilmember Long recalled that that is what the case was for Waverly Gardens. She commented the table that was presented to the City Council last year shows that Waverly Gardens was counted as 45. She said 235 units divided by 5 is 45 units. If you subtract 45 from 174, you get 129. When they look back at that information, they think the commercial acreage has been exhausted, there should be fewer remaining development units available, and that should be used to inform all decisions about proposals that are brought to the City. She does not think that exhausting all of the density bonuses in the remaining development sites is respectful of the original 645-unit count of the PDA. She asked to respectfully amend Councilmember Ries' count to 429 people that have signed the Petition. She said everyone is fairly consistent in thinking there is a reasonable path forward, and that they can find a way to optimize the benefit for the community that respects the original PDA and intent of it, while promoting the development of the remaining parcels. She would be happy to talk about any language in the Petition, which she drafted with input from others in the community, and any of the citations she has made or other community members have presented to the City. She said what would be helpful to them is to understand, if the City does intend to move forward with the

174 housing count, how it explains the documentation that was provided by the Company that counts Waverly Gardens as 45 units or why the commercial acreage would not be exhausted, given what Ramsey County and Tom Watson presented to the Council about the commercial acreage.

Mayor Nelson stated, for purposes of clarity, the Petition could be read into the record. He asked if she was the person who drafted the Petition.

Ms. Skamser Lewis indicated she was and that it was the same language read at the last City Council meeting.

Mayor Nelson asked if the Petition was raised at the last meeting, too.

Ms. Skamser Lewis indicated he was correct.

Mayor Nelson asked if it was exactly the same and she was here again on this matter.

Ms. Skamser Lewis said it was the same and that she presented it during Citizen Comments.

Mayor Nelson asked Ms. Skamser Lewis to read the document into the record.

Ms. Skamser Lewis read the document as follows: “It was posited that the purpose of the 7th Amendment was to acknowledge the benefit that diverse housing types provide the community and, as such, only count the 235 units of Waverly Gardens as commercial acreage instead of dwelling units. The Voters and Signatories of this petition understand and acknowledge the value of diverse housing types and the implied implications of the Amendment, even though they are neither articulated to the normal contractual standard nor to the satisfaction of the undersigned taxpaying homeowners. Given that the total number of dwelling units codified in the original PDA (645) has been exceeded by the development of the 235 units in Waverly Gardens the Voters and Signatories of this petition respectfully request that, as a compromise, the heretofore unused density bonuses are forfeited by the Company, commercial acreage of 21 acres is determined to be spent, the original road access plan is strictly adhered to, and that the trail dedications are inline with all governing documents (PDA, Comprehensive Plan, EAW, Trail Easement Agreement.) In order to preserve the legacy of North Oaks, residents must advocate for an acceptable and reasonable compromise that enforces compliance to the intent of the original PDA, including housing densities and access that compliment trail obligations. By signing this petition, you are respectfully requesting a compromise that recognizes the value of housing diversity, additional tax base and the legacy of North Oaks.”

Mayor Nelson thanked Ms. Skamser Lewis and asked if her reference is to the 7th Amendment completed in 2010 to the PDA.

Ms. Skamser Lewis said he was correct.

Mayor Nelson clarified that she wanted to compromise on a compromise.

Ms. Skamser Lewis stated she did not know if that was true.

Mayor Nelson asked what she wanted to compromise.

Ms. Skamser Lewis said she moved into North Oaks in 2016, and when she reads the 7th Amendment, it does not clearly articulate, to total clarity, what the expectation is after citing that portion of the agreement. She does not see anywhere where it says that Waverly Gardens should be counted as zero.

Mayor Nelson noted that, in other words, the document is not clear to her.

Ms. Skamser Lewis said that is fair. She also does not see the 7th Amendment as a compromise. She sees it as a document that was signed and does not quite understand the intent of it. When she looks at the documentation that has been provided subsequently, she can kind of understand where it was going. She does not see the units as being clearly intended to be counted as zero.

Councilmember Kingston asked Ms. Skamser Lewis if she had her information on the record so Councilmembers could start the discussion or if she had anything else to say.

Ms. Skamser Lewis noted she presented the Petition at the last Council meeting via Citizen Comments and sent it to the Council electronically afterwards per Staff request. She knows the Mayor has had questions and is curious to know if he has any questions she can answer, because once the discussion starts, she knows there will not be an opportunity for her to participate.

Councilmember Ries asked where the Petition was posted.

Ms. Skamser Lewis said it was online at Change.org and circulated throughout the community. She is not on social media like Facebook, but it was passed out to a group of citizens who then passed it out. She believes it was a conversation-starter for many people.

Councilmember Kingston noted Ms. Skamser Lewis had reached out to Administrator Kress and himself and asked to meet to talk about any understanding/misunderstanding of the Petition. He has seen and read the Petition, has seen all of her emails, and knows where she stands on these things. He said the best thing to do is to have it more transparent so the whole community could have the conversation. He said, over the last 1½ years, the 7th Amendment is always being talked about. He suggested to Administrator Kress to give the community some background on how the City got to the 7th Amendment. He said they asked former Mayor John Schaaf to attend the meeting tonight because it seems to him that residents believe the former Mayor and City Council did not know what they were signing. Although he was not there, 2 members of the Council were. He asked former Mayor Schaaf to give everyone a thumbnail history of how the

Council got to the 7th Amendment and possibly answer some questions. He noted Staff prepared a lot of information on the subject as well.

Ms. Skamsler Lewis stated she would respectfully cede the podium, but before doing that, she encouraged the City Council to also think about community members like herself, who moved in after it was signed. All they have to go on is what is in the document, and nowhere does she read “units of Site E-3 count as zero dwelling units” and do not count towards the 645. She has tried to understand how that was created. She pleaded on behalf of everyone who moved in afterwards because all they have is that document, and stated it is not clear to them that those should be counted towards zero.

Councilmember Kingston said he thought that was addressed, and noted apparently there are still questions about it and hoped they could be cleared up at the meeting.

Former Mayor John Schaaf, 10 Larch Lane, retired Mayor/City Councilmember/Planning Commission member, stated he has also served on the Planning Commission of another city in Hennepin County for 10 years and headed up a Housing and Redevelopment Authority in another city in Hennepin County, totaling 40-plus volunteer years of government service. He asked if there was anyone present besides himself who lives in the PUD. After audience members raised their hands, he explained he was involved specifically, and was the lead signator as Mayor, in Amendment 7. He said there was an extensive amount of research done as to why the amendment was necessary, adding if anyone looks at the original draft of the amendment, they would see that dates and State statutes have been updated because things changed over the course of time from the original document. The work the City Council did at that time was not a 2-3-day event; according to his calendar, it went on almost 1½ years. He estimated he personally has 500-700 hours of work in the amendment as the volunteer Mayor. They worked with the Planning Commission, NOC, Lino Lakes, Shoreview, White Bear Township, Vadnais Heights, and Vadnais Lake Area Water Management (VLAWMO). They had discussions with the Corps of Engineers relative to water; they had discussions with NOHOA. They had many meetings involving residents in regard to what was going on in the development and how the PUD was changing. It was not something that happened by accident. As he has watched the meetings over the last 5-6 months, it has angered him to the point of saying if people stood back and looked at the development of this community from the PUD forward, they would be surprised at the amount of positive energy of new residents coming into the community, of what they brought to the community. People would be surprised at the tax base that has been brought into this community. People would be surprised at the number of volunteers that have been brought into this community, he himself being 1 of them. As far as Waverly Gardens, he was involved fairly early in the process on the Planning Commission. He can remember standing in the sand field, listening to the Company and developers talking about this building that was going to be built and what it would look like, and he could not imagine it. Eight years after it was built, his father died there. As he has been listening to members of the Council and the community who have come forth talking about Waverly Gardens and, to a certain degree, maligning it, he finds it offensive. He said it is 1 of the finest healthcare/assisted living centers in the United States, and

people should be proud of what was done. It most likely would never have happened without the PUD, and it clearly would not have happened without the support and energy of Doug and Mari/NOC. The mechanisms that were used in looking at zoning, platting, and development of the amendments in the PUD were consistent. However, things change over 20 years: addresses, where you can/can't build, roads, and trails. Regarding trails, when he was Mayor and served on the Planning Commission and City Council, trails was 1 of the last things done because you wanted to find out what was physically going to go there so you did not run a trail through somebody's living room. All of those things change over the process. During the remaining 9 years of the PUD, more things will change: building standards, building materials, and soil. He stated the City Council and Planning Commission keep track of the changes and work with a developer to make certain that whatever is built is correct and will last for a very long time and not done haphazardly. For people who think it was done haphazardly, they should sit in on the meetings and work with the developer on their personal time and learn how it is done, because it is not by accident. He indicated he was the Mayor when Charley Lake Preserve was built. He was told by many people that nobody would live there, nobody would buy a home there, nobody was interested in it, and it would take 7-10 years. They used the same methodologies when planning that area; and if you drive through the area today, it is full of young families, which is what the community needs. He noted North Oaks is an aging community, high in the 60- and 70-year-olds and short on youth. If you look at the demographics in North Oaks on the number of young children, the number is going down and the age of the community is going up. He supports the work that the Company is looking at because he has a long vision. When you are Mayor and a member of the City Council and Planning Commission, you cannot look at tomorrow or next week; you need to look 30-50 years down the road, because that is how everything got built. When people look 30-50 years down the road, they have to say to themselves, "What are we going to do about Retired Mayor Schaaf? Where are we going to put him? Is it okay to put him in Shoreview?" He himself would say probably not, because he would like to stay in North Oaks. He asked where he would live; if there is a smaller home than what he currently has, which is 3,700 square feet and a \$800,000 value. He stated when you look at property taxes of various people and what they pay to the City, you would be shocked that a considerable amount of the property tax comes out of homes like his. If someone wants to look to the future, they need to ask where the people are going to go, where the young families are going to come from, and who is going to pay the bill to run the City. He said if you want a City that is not capable of refreshing itself or financially maintaining itself, just stay status quo and don't do anything, and within 2 generations it will not be a very desirable city. He indicated a lot of work has gone into the PUD, development agreements, and building out the portions of it. It is now in the final stages. He told the City Council to not screw it up in the ninth hour. The younger families can come in and take somebody else's home, and then he and other seniors in the community can have someplace else to live. He stated he received an email from someone 2 days ago that suggested maybe he should live in Shoreview, that he might fit in better there. He took that as offensive, especially after what he has put into the community. He told the Council that they need to look at what is in the City's best long-term interests and head in that direction. Going backwards and a retraction from the number, in his mind, is not a good use of resources. It is not being a good steward of the land, the community and its future, and the community's

finances. He commented that the Council can tell he is worked up about this. He has run many meetings as Mayor and Planning Commission, and he does not think he has ever been as worked up about something as this issue, because he believes in the future.

Councilmember Kingston asked, when the 7th Amendment was passed, if there was any ambiguity about the count in Mr. Schaaf's mind or any other Councilmembers that he knew of.

Mr. Schaaf indicated there was not. He noted it was a unanimous vote, and 3 of the 5 people were in the room presently.

Councilmember Kingston said he keeps hearing from people that they think the East Oaks Project is somehow undermining the City's environmental life, is having a negative impact, and was never planned. He asked to be corrected if he was wrong on any of the details, but as he understands, Louie Hill, Senior, passed away in 1995; and in 1997 Doug and Mari bought the interests of the other siblings, buying into the property at that point. He understands that they were trying to develop it in a responsible manner so they reached out to a world-renowned architect, Randall Arendt, to get an idea of what would be best for the environment and community in terms of moving things to the periphery. They engaged that individual to help them take a look at open spaces. He understands that if they had wanted to sell the property at that time, they could have done that. There was approximately 1,650 acres, 60% buildable. With 3 units buildable per acre, which is lower density, that would have been 3,000 homes instead of the 645 that came out of the PUD. In terms of the Conservatory, the City asked them at that time for 80 acres; they said no, that they would give the City 680 acres. They put it into a Minnesota Land Trust because if they put it in there, no one could touch it -- NOHOA cannot touch it and the City cannot touch it -- and it is there for posterity. He thinks it is the largest private land trust in the State. Going back, as he understands it, when they were looking at these 645 units, they were trying to decide how they were going to develop it, which was part of the PUD. Then the community came to the City and said, "We don't have any place for our retiring seniors to go." The City asked Mari and Doug and the Company if they would consider looking at a Waverly Gardens type of property. They flew around the country and looked at multiple places. Presbyterian Home had a place in Arizona. They thought it was a great model and came back and said, "Why don't we try this. We can do maybe 150 units." He noted it was addressed in Amendment 4 which was amended because it said "the conversion of permitted uses, the limits of 645 dwelling units, and" they crossed out "21" and inserted "150-plus dwelling units of senior-attached residential housing and 13 commercial-use acres, may be varied as follows." It also says, "Should the developer elect to forego development of some or all of the" -- and again, they crossed out "21" and inserted that 13 number again -- "13 commercial acres, the number of permitted dwelling units within the development sites will be increased at the rate of 5 dwelling units for each full acre of commercial development foregone." He indicated that was essentially setting the formula or how the City would be looking at whether or not Waverly Gardens would be counted against commercial versus the 645 dwelling units. He asked Mr. Schaaf, had they gone to them and said, "We want you to develop Waverly Gardens but it's going to wipe out your remaining count of 235," what would have happened.

Mr. Schaaf clarified that “they” meant the NOC.

Councilmember Kingston stated former Mayor Schaaf was right.

Mr. Schaaf said he did not know.

Councilmember Kingston said that the City would ask them to give up 235 units so they could build Waverly Gardens and not have it count against commercial acreage.

Councilmember Long stated that they wanted Waverly Gardens and it turned out better than the 3 of them expected and that they should be pleased.

Mr. Schaaf said he did not think the Company should be prejudiced in its count by Waverly Gardens; the Company should be applauded for their actions to support and help get Waverly Gardens going. He reiterated in the Level of Service 1 through 8, it is ranked in the top 10 in the United States. He said that information came from his brother, who is a surgeon and retired as the President of the North Carolina Medical Society. The City has a gift in their hands, and to use it as a whipping post is just plain wrong; not only mathematically, but also morally wrong.

Mayor Nelson asked if the PDA that was done roughly 20 years ago was a compromise between the City and Company to establish stability for development; in exchange, the City got 600 acres set aside.

Councilmember Ries clarified that it was 625 acres.

Mayor Nelson stated it was 600-plus acres, which was part of the grand compromise to establish stable zoning so the Company could develop the property over 30 years, and that was the essence of the PDA. The 4th Amendment is when the City started to try to incorporate Waverly Gardens into the PDA with amendments, because Waverly Gardens did not fit the original PDA. He asked if his recitation was fair so far.

Mr. Schaaf said it was, with the exception of the Minnesota Land Trust. He lives in The Pines, and there is a substantial part of The Pines’ geography that has been dedicated, at the cost of The Pines’ owners, to the Minnesota Land Trust. He paid for and donated acreage to go into the Minnesota Land Trust.

Mayor Nelson noted, in addition to the contiguous donation, other donations occurred as part of the Randall Arendt concept of putting houses in fairly close proximity with open land around them, which was a change from the original North Oaks style of building a house on every 2 acres. He indicated that was the essence of the PDA: to incorporate the environmental plan proposed by Mr. Arendt. He asked if that recitation was also fair.

Mr. Schaaf agreed that it was.

Mayor Nelson stated that with the 4th, 5th, and 6th Amendments, the City kept incorporating plans relative to Waverly, it got bigger and bigger as it developed, and there were additions to Waverly that were not counted at the time of the 4th Amendment that had to be incorporated in later amendments.

Mr. Schaaf said a memory care unit was added, which is 1 of the top memory care units in Minnesota. The Muse did not exist when it was originally built. The lower care facility, The Gables, where his father died 10 years ago, also did not exist. What North Oaks as a community learned is, if you build it, they will come.

Councilmember Ries thanked former Mayor Schaaf for coming and explaining the history, noting it is important to keep history in context. She stated Mayor Nelson is correct, that the PDA was sort of an agreement between NOC and the City to develop. From what she understands, in the preceding years there was some tension about building, and the PDA helped to settle the community. There were meetings where people were bussed out and visited sites, things were discussed, and the vision of Architect Arendt was put in writing. From her understanding, it calmed some of the worries in the community at the time, and building proceeded. She looked through the different amendments and looked at Waverly Gardens, and everyone on the Council has made comments that it is a really good thing to have in the community, and North Oaks is very fortunate to have it. Both her and her parents have friends that live there and she appreciates the facilities. Also, she might be in a position where her parents will be living there someday, too, and she appreciates the opportunity to have the facility in North Oaks. She indicated the Council is currently looking at -- and former Mayor Watson gave some testimony -- the development of Waverly Gardens and how it went from 150 to 235. They are not saying it is a detriment to the community to add memory care; it is a really good thing to have. As was discussed in meetings with the Planning Commission and Council, there are some independent living areas there and Waverly Gardens did evolve to some degree, and the City is required to look at the agreement and how it is affecting the community and what the City should be building. It is the job of the Council to make sure all ages in this community are represented in what the Council is looking at and reviewing. She stated the Council also needs to look at responsible development and that once you overdevelop, it is tough to reverse. The Council needs to look at what the natural resources are, making sure that it does not make a mistake or overdevelop. She agrees the City should continue to develop. And, in doing so, the City looks at the PDA and says, "Where are we at and where do we need to go?" As she has indicated, the 7th Amendment language indicates the senior residential unit count should be contained and it does consist of varying unit count. She was not sure if anyone wanted to discuss the language of the 7th Amendment and how it states there is "varying unit count." She understands the amendment was done in 2010, but said since the document is in front of the Council, it might be nice to review it, because there has been a lot of confusion and need for clarification about what the 7th Amendment states. She suggested former Mayor Schaaf talk to

the language in the 7th Amendment that says NOC was restricted to 15.27 acres of commercial land. She asked if former Mayor Schaaf had any recollection how that language came about.

Mayor Nelson stated, for the record, that although there are some folks who express confusion about the 7th Amendment, there is no confusion relative to the individuals who were involved in completing and signing the 7th Amendment. He asked if former Mayor Schaaf could answer Councilmember Ries' questions.

Mr. Schaaf said he thought there were 5 questions but was not sure he could remember all of them. As far as natural resources, he suggested, for anyone who has not seen it, to drive into The Pines, The Summits, or Rapp Farm. They were all sand fields when he bought his lot over 20 years ago, and now there are mature trees and water. The retention systems that save the groundwater rather than have it run off did not exist 20 years ago. NOC, through its development and planning, helped improve the environment. It did not make it worse; it made it better. In his mind, the 7th Amendment is crystal-clear. As far as acreage, numbers can be massaged and moved around any way one might want to without getting to the point of what it accomplishes. There are certain acreages that have setbacks, conservation land attached to them, and are not buildable; and there are certain acreages such as the Rapp Farm that, for whatever reason, a number of housing slots were moved. The athletic field that sits on Centerville Road was supposed to be in Rapp Farm. NOC came to the Planning Commission and City and said they did not want it there because that would mean people will be driving into the City that do not belong to the City to use the athletic field and they did not want them coming through the neighborhood. NOC was petitioned by NOHOA and the City to move the athletic fields to Centerville Road. The original plan called for it to be in 1 spot; that is not where it is 15 years later. The plans, to a certain degree, have to be flexible. That is the whole purpose of the planning. It is called a Comprehensive Plan, a Planned Unit Development, rather than a haphazard development. He stated there was an enormous amount of thought that went into the project.

Mayor Nelson noted, relative to the 7th Amendment, the City was incorporating some new additions, The Muse and part of the building called "The North Addition," and then trying to figure out a compromise relative to NOC's development of the balance of the land. He asked if that fairly summarized the intention of the agreement.

Mr. Schaaf indicated that it did.

Mayor Nelson asked if that was accomplished in the agreement.

Mr. Schaaf said he believed so.

Mayor Nelson asked if there was a meeting of the minds of everyone in that agreement.

Mr. Schaaf said all 5 City Councilmembers voted for it; there was a unanimous vote of the Planning Commission. He noted he and **Gene Olson**, the President of NOHOA, are responsible

for the room they are currently meeting in, having moved out of the Tennis Club/East Rec. The purpose of the meetings was to determine how the City could best use the land and look to the long-term benefit of the residents from environmental, safety, and financial standpoints and to look at it beyond 1-3 generations. They did not have meetings like the past fall and last month; they had meetings where people would stand up and say: "Let's try to figure out a way to make this better. Let's try to figure out a way to take a crooked street and make it straight. Let's try to find a way to save North Mallard Pond." If it had not been done, South Mallard and North Mallard would not exist today.

Councilmember Ries stated to former Mayor Schaaf that when they were going through and negotiating this and there were some additions to the building and expanded services were added, it seems like there was some additions that went beyond what originally was envisioned and there was a lot of discussion, compromise, and planning. She noted that based on the agreement's language, the discussion was memorialized to say that some of the units that might consist of varying count because the City is adding particular types of services -- and some of the services might require more medical attention -- are more of a commercial use of the land and services, whereas there are also units where residents have fully independent living quarters. She knows there were changes back in Waverly Gardens where the very large apartment buildings were split and the numbers changed. It seems like, through that development, some of the compromise that was going back and forth through the planning, negotiation, and development of the facility was that maybe some units should be counted.

Mr. Schaaf indicated he disagreed.

Councilmember Ries noted The Terrace is fully independent living units and that those may qualify, similar to The Muse, as residential units that should be counted.

Mr. Schaaf indicated that he disagreed. He said the belief was, once the City had a firm understanding of Presbyterian Homes and how the institution worked, it was the Planning Commission's, the Council's, and the Mayor's mind at that time, that any resident that would come up there would not have to move to another part of town. He said most of the people that live in The Muse use the main building on a daily basis. That is where they get their healthcare, dining, and security. They are interrelated with each other even though there may be a sidewalk between them. That was the beauty of the planning of **Dan Linn** and the ability of being able to move in there between 65-70 years old until the end of life.

Councilmember Ries said Mr. Schaaf's comments were similar to testimony/information received at meetings where some of the benefit was that there were a lot of services provided, which is why the City should count the commercial space. With the addition of the beds, it seems like that tracks better with how the 7th Amendment was written, because "we are not counting units" was not put in the 7th Amendment. Instead, it says that the building is "to consist of varying unit counts" in the area where it identifies how to count. She stated it indicates that a lot of the medical services are more of a commercial use -- in addition to the restaurant, pool, and

gym -- but yet it also has The Terrace in 1 section where there is fully independent living. They enjoy using Waverly Gardens as some of the other residents do, but it is an independent living, so it tracks more that there is that growth of the development where independent living was added and those people were able to live in the facility closer to all of the amenities.

Councilmember Kingston asked Councilmember Ries what her point was because he was not following her.

Councilmember Ries said her point is that Mr. Schaaf has a very clear “no” in his response, but yet the 7th Amendment says that it consists of varying unit counts. She indicated when you set a precedent like The Muse, where you are counting the independent living residents and you are looking at the counts, the Council has to look at what is best for the community and all of the different groups of people, and talk about responsible development. In the agreement and amendments, a lot of timing consideration was done. The original 1999 agreement was something a lot of the residents participated in, which calmed a lot of the concerns in the community. She said no one is saying that development should be stopped. Everyone wants the development to continue on the east side, and they agree that the varying types of residential housing stock should be there. The concern she hears from the community is, to give a zero count to minimize commercial density is giving NOC carte blanche to develop.

Councilmember Kingston noted this was already discussed at the last Council meeting. The City Attorney and City Staff came in, and information was received on that front. That contract was signed. It was negotiated in good faith on the part of NOC and the City Council; it was unanimously adopted. There was no ambiguity on the part of either party that actually signed on to it. The only people that seem to not have an understanding on it are Councilmembers Ries and Ross. He suggested going to the Petition and taking it point by point and letting Staff weigh in on it. He indicated that at first it says, “It was posited that the purpose of the 7th Amendment was to acknowledge the benefit that diverse housing types provide the community and, as such, only count the 235 units of Waverly Gardens as commercial acreage instead of dwelling units.” He said the term “posited” has a number of meanings, but in this context, it appears to be used to say that this is just a mere suggestion. He asked City Attorney Nason and City Staff if it was just a suggestion that they only count the 235 units of Waverly Gardens as commercial acreage instead of dwelling units.

Administrator Kress stated in Staff’s internal research of Site E and E-3 specifically, the actual acreage is 15.27, so it indicates they chose not to count any of the 235 but, rather, use the 15.27. Staff has nothing else that would otherwise indicate the counting/accounting of 235 units.

Mayor Nelson asked whether the 7th Amendment represents yet another step in the need to compromise when the PDA is being changed to incorporate Waverly Gardens; in other words, each time Waverly Gardens is added to or changed, the City needs to compromise on how the City counts things. The 7th Amendment was the compromise for the last piece of Waverly Gardens. He asked if that was exactly what it says.

Administrator Kress stated he would argue that that is what it says. He said that it creates a value of the diverse housing types, and he thinks that is exactly what they did at the time and found a way to make it happen. The way they made it happen was accommodated by the 15.27 acres.

Councilmember Ries asked Administrator Kress if his calculation was 15.27 acres for Waverly Gardens.

Administrator Kress said if you take Site E-3 and take the underlying easements away, it is 15.27 acres, not the 16-and-change that it shows in Ramsey County.

Councilmember Ries asked where the document says you do not count setbacks when counting commercial acreage.

Administrator Kress clarified that she meant easements, which Councilmember Ries stated was correct.

City Attorney Nason said she thinks the thought is, when you look through the zoning ordinance, there are definitions related to how you calculate usable acreage.

Councilmember Ries noted that “usable acreage” was the last term used; however, in thinking through it more, if they have an actual definition in the ordinance, they should have used it in the agreement. Instead, they used the term “commercial acreage,” which has a legal definition as well, which is to use the land and area zoned as commercial. She said it does not anywhere give the right to subtract out the land and easements, etc. The only place she found the number 15.27 is in the actual 7th Amendment, where it says they are restricted to develop 15.27 acres. That is why they possibly keep indicating they have used 15.27, because that is all they had to develop at the time. There is nowhere in the PDA that uses the “usable acreage” term that needs to be in the 7th Amendment if you are not going to count easements.

City Attorney Nason said there was no specific how-this-was-calculated formula included in the 7th Amendment. However, the term “usable area” is a defined term within the zoning and subdivision ordinance. The specific term is “the area of a lot that excludes all required setbacks, easements, and wetlands.” It talks about how to calculate, during the subdivision process, what “usable area” looks like. It appears that for the purposes of determining what the acreage was for the commercial development Site E-3, what was counted for commercial use acreage is only the usable area of Site E-3. She said that is the analysis Staff has reached after reviewing the Ramsey County Property Records and having conversations internally regarding what the specific size of those roadway easements are for Centerville Road.

Councilmember Ries noted when you compare this area, which is zoned as commercial and residential mixed, you compare it to an area that is zoned   (RSL), which specifically says those lots have to be calculated based on usable acreage, whereas in this area there is commercial

acreage and it intentionally did not use the term “usable acreage.” She said it is very clear that in the areas where you would subtract out easements, wetlands, or other things that fall under the “usable area,” you would do that. In the zoning ordinance there are specific areas where it actually instructs you to do that, such as the RSL-zoned areas, Area K. Outside of that, for commercial, it does not indicate that, so it should not be subtracted out.

City Attorney Nason said she could not specifically speak to that, not having looked at it directly. She can say that the 7th Amendment has several references to the site area restriction being displayed on the screen, saying the site area restriction is 15.27 acres. There is also language on the bottom of the exhibit that says, “Total developed commercial acreage, 15.27.” She indicated that is the language found in the 7th Amendment attributing the 15.27 acres to that site.

Mayor Nelson clarified that the items Councilmember Ries referenced were from the 7th Amendment being shown on the screen currently.

City Attorney Nason said she agreed with Mayor Nelson.

Councilmember Kingston, referencing the 7th Amendment language, stated, “The Voters and Signatories of this petition understand and acknowledge the value of all diverse housing types and the implied implications of the Amendment even though they are neither articulated to the normal contractual standard,” and asked City Attorney Nason and Staff if there was anything to suggest this is not a contract and the terms are not articulated to the normal contractual standards.

City Attorney Nason stated it is a binding contract and appears to have been validly adopted, which was the analysis done in the fall. She indicated it was possible that things could have been explained more. However, based on the information contained in the 7th Amendment, it does appear that the clear implication and understanding was to count Site E-3 solely as commercial acreage and not to attribute any dwelling unit counts. She said that comes from several different places in the document. Number 1: at the back of the 7th Amendment, on Exhibit B5.1, there is a table which breaks down and lists Site E-1 and E-2 and language on the bottom regarding commercial acreage with an implication that it is commercial acreage. Number 2: looking at the table in Appendix 1, in all of the other sites it references planned number of dwelling units, but when you get to Site E-3, it references planned acreage. There is no reference on the column header to the planned number of dwelling units. Number 3: as it exists today, there are 471 dwelling units within the City without counting anything in Site E-3. If you include the 235 dwelling units that Ramsey County has ascribed to Waverly Gardens, there is a total of 706 dwelling units, which means if you were to count those, in addition to counting that as commercial development acreage, as of this moment, the maximum number of dwelling units is exceeded and the remaining sites theoretically would have no development potential without some further amendment to the PUD.

Councilmember Ries indicated unless there was some conversion in Site E-3.

Mayor Nelson asked Councilmember Ries what she meant; specifically, conversion of what.

Councilmember Ries said if you look at commercial acreage to residential units in the PDA, there is some language about 5:1 or 3:1 ratio conversions and it gives the opportunity, depending on how development goes, to change the numbers. You could actually apply a conversion, which she thought Ms. Skamsler Lewis was referring to, that there was some identification in former meetings about conversions that were done in Waverly Gardens, indicating a minimal counting of the units, not counting all 235 units, to stop some of the development.

Councilmember Kingston said that Councilmember Ries wants to renegotiate the 7th Amendment; to go over the counts and say she does not like the counts, so she wants to renegotiate them.

Mayor Nelson noted they may want to start with the PDA and start over and start with the 1,600 acres and do it differently; maybe that is what they are looking for. He said he does not know and does not understand how they are supposed to negotiate with themselves.

Councilmember Kingston suggested going through the additional items and then they could come back to that.

Councilmember Ries suggested hearing from the people in the audience who had their hands up.

Councilmember Kingston stated they were given an opportunity to talk and they can be asked to do so afterwards, but it is a discussion right now. Referencing the Petition, he said further language states, “the normal contractual standard nor to the satisfaction of the undersigned taxpaying homeowners.” He indicated he cannot say what people think; if they do not like the way it is stated, he cannot comment on that. Reading further, he stated, “Given that the total number of dwelling units codified in the original PDA (645) has been exceeded by the development of the 235 additional units in Waverly Gardens the Voters and Signatories of this petition respectfully request that, as a compromise, the heretofore unused density bonuses are forfeited by the Company, commercial acreage of 21 acres is determined to be spent, the original road access plan is strictly adhered to and that the trail dedications are inline with all governing documents (PDA, Comprehensive Plan, EAW, Trail Easement Assessment).” He asked City Attorney Nason and City Staff if it is “Given that the total number of dwelling units codified in the original PDA (645) has been exceeded by the development of the 235 additional units in Waverly Gardens” or not.

City Attorney Nason stated not if one counts Site E-3 solely as commercial acreage, which is what is shown in the 7th Amendment to the PDA.

Councilmember Kingston asked if that was to the understanding of all of the signatories on both sides, the NOC and all 5 Councilmembers that signed off on the document.

Mr. Schaaf indicated that he was correct.

Councilmember Kingston quoted material as, “the Voters and Signatories of this petition respectfully request that, as a compromise, the heretofore unused density bonuses are forfeited by the Company, commercial acreage of 21 acres is determined to be spent, the original road access plan is strictly adhered to and that the trail dedications are inline with all governing documents (PDA, Comprehensive Plan, EAW, Trail Easement Assessment).” He asked City Attorney Nason and City Staff if there is any basis for the City to honor this request or ask the Company to honor this request.

City Attorney Nason said that the City always has the ability to go back to the Company and discuss an amendment to the PDA. “Compromise” contemplates a certain type of bargaining position that does not appear to exist based on the status of the 7th Amendment. That being said, the Council could direct Staff to contact NOC and, with respect to any or all of these requested provisions, see if they would be willing to agree to any of this in exchange for whatever it would be. She noted that is part of the essence of a compromise: “If you do X, I will do Y,” which is how the parties are accommodated. She indicated the City can be directed.

Councilmember Kingston noted there is not any basis for a position of strength for the City to go to the Company and ask them to do anything.

City Attorney Nason stated that was correct.

Councilmember Ries noted the particular paragraph being referenced speaks to density bonuses and is not talking about counting in area E-3. She clarified and said it is about future development and density bonuses.

Councilmember Kingston stated if the density bonuses change, 30 lots will be taken away from them and they are being asked to give up \$20 million. He asked if she thought they would say, “Oh, yeah, that’s just great. We are more than happy to do that.”

Councilmember Ries said the question is about density bonuses.

Mayor Nelson noted he was even more offended than that.

Councilmember Ries called a point of personal privilege for Mayor Nelson interrupting.

Mayor Nelson stated she should just keep talking, that it was fine.

Councilmember Ries said the question is about density bonuses. In the PDA there is language about increasing bonuses, but her question is, after the effect of Waverly Gardens, since the City did work with NOC to develop Waverly Gardens, The Muse, and Wilkinson, if the density

bonuses are affected. She asked, if units are not counted in area E-3, whether it would still count against density bonuses.

City Attorney Nason said the 7th Amendment references, for each of the development sites under density, the density increases allowed for each site. It contemplates in Table 1 that there is the availability of certain density increases for each site. In answer to the question of could the density bonus, meeting the ability to increase the density of the site based off of not building units on a different site, be essentially foregone, she said that would be a point of negotiation or a request of the Company. She does not see anything specifically in the 7th Amendment that explicitly removed the ability of the Company to apply density increases. If the 235 were not counted in any way, shape, or form, it would be a different situation.

Councilmember Ries asked about just physical density, that they exist. She said they may not count them in terms of the 645, but they exist as part of the community's overall density, and asked if that, as a negotiating position, would play into the ability to say they may be limited now on density shifting or density increases in other areas going forward. She noted the numbers and counting are always looking in the past. If you look at Waverly Gardens and look forward, there may be other effects, and that is maybe where the density shifting may be impacted.

City Attorney Nason answered that it certainly could have been written into the 7th Amendment, that it could have been part of a compromise, but it is not there. She said the question is, if it is not written there explicitly, how can it possibly apply to reduce those bonuses. She does not see the City having a tenable legal position to say to the Company, absent some type of amendment, "We are counting these units for the purpose of density bonus," because the City is obviously not counting it for the purpose of dwelling units, or they cannot develop anything further.

Councilmember Ries clarified that it is not explicitly written in the 7th Amendment so it cannot be used as a negotiating point.

City Attorney Nason said the City can ask the Company for anything. The City can say, "We agreed to this and we would like the Company to agree to not apply any density bonus to these development sites." The question then is, if they say no, then what.

Councilmember Ries said her issue is, they are talking about overall density counts, etc., and there is an overall aspect to the 7th Amendment and PDA in general: the 645, Waverly Gardens, and others. She said you have to look at each of the individual areas and unique features of the areas -- where they are located, what their resources are -- and each of those areas may allow or not allow some of the density increases. She is concerned that if the City just says zero and does not count anything and minimizes commercial counting, what Staff is creating for the Council to negotiate going forward.

Councilmember Kingston stated the Council negotiates under the terms of the contract and asked what she was talking about.

Councilmember Ries gave the scenario that someone loves a park somewhere or a better trail or lookout point.

Councilmember Kingston said she can always ask for anything she wants, but trying to get leverage to coerce or exhort someone to do something is completely different. If she wants to ask them to do something, she can knock herself out; he does not care. But to try to reinvent the contract and say that it does not stand for what it stands for and try to extract something under that premise, which City Attorney Nason just said there was no basis for, does not make sense.

Councilmember Ries stated City Attorney Nason also told the Council that the amendment had to be explicitly indicated in the 7th Amendment and that counting zero is not explicitly in there.

Mayor Nelson told Councilmember Ries that 2 months ago she said the Company had breached the 7th Amendment, last month she said she had a different theory, and now she is saying the Council should breach the 7th Amendment and tell the Company they forfeited their density bonuses and commercial acreage because that is how she reads this. He noted each time the Council meets, there is a different theme; each time the Council meets, it gets talked about. He said it was done 10 years ago and there was absolute agreement among the parties of what was agreed upon. He said if anyone asked the City Attorney, she would say PDAs are hard to understand; and if you have not been part of it, it is difficult.

Councilmember Kingston asked City Attorney Nason, based on what was just said, if she would advise North Oaks City Council that it would be prudent to take away their density bonuses, and would that open North Oaks up to liability.

City Attorney Nason stated she would not advise the City to take that position based on the language of the 7th Amendment as it exists.

Councilmember Kingston referred to the language, "In order to preserve the legacy of North Oaks, residents must advocate for an acceptable and reasonable compromise that enforces compliance to the intent of the original PDA, including housing densities and access that compliment trail obligations." He asked City Attorney Nason and City Staff if there was any basis in fact to assume the compliance to the intent of the original PDA, including housing densities and access that complement trail obligations, that is not already in compliance with the contract and applicable law. Also, would the City Attorney and City Staff characterize the development plans as already low density.

City Attorney Nason said the remaining sites are essentially low density residential. There is some \_\_\_\_\_ (RMN) on the side where there might be commercial or higher density, but none of the development that is contemplated would be anything that would really be considered high density. If there is a commercial building that contains condo units as proposed for 1 of the exterior sites -- Island Field -- that may be characterized as a higher density, but nothing of a

high-density type. With respect to the trail obligation piece, adherence to the trail plan is part of the requirements of the PDA, and developments need to come forth with trails that are consistent with what is shown in the Conceptual Trail & Access Plan. As site plans come forward, the preliminary plans will be evaluated by Staff.

Councilmember Kingston asked if they are in compliance with the contract and applicable law. He clarified and asked if anyone was in violation of that.

City Attorney Nason indicated not to her knowledge.

Mayor Nelson said City Attorney Nason commented that the balance of the development plans for the East Oaks development are very low density. He asked, if the Council took a step back and looked at the entire PDA -- the initial 1,600 acres and before the 600 acres was taken away and the entire development was 645 units -- whether that would be below low density.

City Attorney Nason stated she understands some acres are not developable, but if one were to take an aggregated 1,600 acres, 645 dwelling units is typically **estate** acreage or very large lot.

Mayor Nelson said that is what the City started with and developed it differently because that was the concept of Randall Arendt, who said to put substantial chunks aside and develop the homes in other areas. That's how it was done and that's how it is being followed through now. He noted it is the new plan for North Oaks, not the old plan.

Councilmember Kingston asked, if it is already in compliance with the contracting law, is there any basis to demand any further compromise from the Company or essentially try to exhort something. He then noted the question has already been answered. He quoted the following, "By signing this petition you are respectfully requesting a compromise that recognizes the value of housing diversity, additional tax base and the legacy of North Oaks." He stated he cannot see how the City is not doing that right now. He said another interesting thing about Waverly Gardens, which Mr. Schaaf did not mention, is that when they negotiated that, Presbyterian Homes could have filed for tax-exempt status and they chose not to. What that means is that NOHOA gets \$87,000 a year in fees, and the taxes are about \$135,000 that they add to the City's tax base. Presbyterian Homes could have asked for tax-exempt and the City would not have gotten 1 dime out of it. He thinks they more than pay for the benefits that the City has gotten to have that asset in the community. He commented he does not think the folks there are wearing out the City's trails. He said he is concerned because for every question he has asked, 90% of the Petition is factually inaccurate. If he did not know anything about the situation and somebody walked up to him with the Petition and had him read it and he had taken at face value that everything in there was true, he probably would have signed it, too. He is not blaming the people that have signed this. He is asking citizens to go out and actually examine the facts and accuracy of the information that has been presented and make their own decision if they want to sign on to it. He noted if someone puts a Petition out, it seems like it should have both sides of the question.

Raising these items as questions is 1 thing, but to state them as indisputable facts is a disservice to the community.

Mayor Nelson stated that the project that has been going on with the PUD and PDA for now 20 years out of a total of 30 years involves hundreds of pages and thousands of hours of work by Staff, Counsel, City Council, and Planning Commission. To have a 3-paragraph Petition seek to invalidate it and have people sign it he finds offensive, because no one can possibly know the story from the Petition. He said the Petition misstates and obfuscates rather than explains, and he is irritated by it.

Councilmember Kingston said the City has also spent \$10,000 asking City Attorney Nason to research the matter because Councilmembers Ries and Ross were not comfortable with it. Although he voted for that, he was not happy to do it; but if they wanted to have it evaluated by Staff, he said, "Okay, we will spend the money." City Attorney Nason has already delivered opinions on this. This is what was talked about at the last Council meeting when the Council was asked about developing the Resolution in terms of moving forward with the count.

Councilmember Ries said she wanted to correct a couple of things. First of all, it was Mayor Nelson that instructed City Attorney Nason to take care of the Memo on that.

Mayor Nelson asked what Councilmember Ries was talking about; specifically, what he asked City Attorney Nason to do.

Councilmember Ries called a point of personal privilege because Mayor Nelson was interrupting her and she had the floor. She stated she finds it very offensive because Councilmember Kingston called it "exhort"; that is not the term. She is saying to look at the agreement and that she is simply responding to many concerns that she has gotten. When you look at the overall agreement, you look at the 645; and people are getting uncomfortable with the individual proposals, too, and the numbers being proposed. She said she cannot speak for the person who wrote the Petition per se, but what she sees happening in some of the discussion is, people are just trying to say, "Let's look and do what is best for the community and let's try to get back to the numbers in the PDA," because a lot of people were comfortable with what was proposed. We are not saying, "Sorry, North Oaks Company, \$20 million and we don't want you to develop." We are simply saying, "Hey, can we please get back to the original content of the agreement. Let's do what's best for the community." That is where there may be differing opinions. She said Councilmember Kingston might look at it from a tax base.

Councilmember Kingston said he is looking at it from all sides.

Councilmember Ries said some people might look at it from a natural resources standpoint and there are different viewpoints on what's best for the community. She stated she appreciates it when somebody puts this together and gets 429 signatures.

Councilmember Kingston said that it was under false pretenses.

Councilmember Ries told Councilmember Kingston that was his opinion.

Councilmember Kingston said that was not his opinion, that the City Attorney told the Council this. He noted they have spent good money to have the City Attorney review it and tell them that.

Councilmember Ries said City Attorney Nason also said it was the Council's discretion a number of times.

Mayor Nelson asked what City Attorney Nason talked about as far as "our discretion." He asked if it was the fact that the City Council can ask the Company to give up things.

Councilmember Ries said it was to ask the Company about development and bring up points about what the City Council might want to see.

Mayor Nelson said he thought it would not be in good faith to try to renegotiate it at this point. The City Council entered into a good-faith agreement that was complicated and took a lot of time and effort; and what Councilmember Ries is asking to do is negotiate in bad faith rather than engage in a good-faith discussion.

Councilmember Ries asked how it is in bad faith.

Mayor Nelson stated it is because Councilmember Ries has no basis to negotiate and is trying to hold this up and hold up the Company without a basis, which is what she was just told by the City Attorney less than 10 minutes ago.

Councilmember Kingston said he has no problem with the City Council going to the Company if there are things people want. He is more than happy to take it to the Company and see if they are willing to do that; and if it is within the PDA, the City Council should move forward on that.

Mayor Nelson stated he thought constructive work with the Company is an excellent idea.

Councilmember Kingston said what they are trying to do is constructive work and make it work for the entire community. It bothers him to see misinformation being disseminated like this and getting good citizens who don't have the time to spend all the time the City Council has spent going through this to figure out what is right or wrong. He noted there is an obligation to make sure that factual information is disseminated.

Councilmember Ross noted there are a couple people that have been raising their hands and stated maybe they have something to say and the City Council should hear them.

Mayor Nelson agreed and indicated someone should come up, although their comments would be limited to a reasonable length because the Council has been through this quite a few months.

After Rich Dujmovic stated it was 13 months, Mayor Nelson agreed it was 13 months, that Mr. Dujmovic was part of the reason, and that he should go ahead. Mr. Dujmovic said he was proud to be part of the reason. Mayor Nelson reminded Mr. Dujmovic to be reasonable in time.

Rich Dujmovic, 15 Black Lake Road, thanked former Mayor Schaaf for his service to the community, noting that it takes a lot to be a leader. He has done it; it is a hard job. He does not appreciate the words “coerce, exhort, 90% of the Petition is factually inaccurate, misinformation being disseminated, obligations for factual information.” He told Councilman Kingston that everyone agrees with that.

Councilman Kingston stated facts speak for themselves.

Mr. Dujmovic agreed that they do. He said he would read some facts and that he has read these facts from this particular place many times and would do it again. He said in North Oaks’ City Ordinances it defines a dwelling unit as: 1 or more rooms connected together constituting a separate, independent housekeeping unit for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking, sleeping, and sanitation facilities. He noted that up on the screen numerous times was a section which was not read, which is Page 10 in Amendment 7, which has the verbiage for planned acreage for E-3. He asked someone to please put the language on the screen. He said it is not that hard of a conversation. All they have been discussing for 13 months is that this is not a clear document. They have been arguing back and forth and have been given a lot of waffling answers. He noted 3 of the 5 people are present that signed off on it, and he would love to hear them interpret exactly what the statement under “Planned Acreage” means: “Not applicable; buildings to consist of varying unit count. Senior Residential unit count must be contained within stated allowable square footage.” He said that that is a fact; it is in the document. It says it consists of “varying unit count.” If, after 40 years of experience and 1½ years of discussion to make up Amendment 7, they wanted it to say: “The 235 units in Waverly Gardens, because Waverly Gardens is, number 1, beautiful; number 2, very well-constructed; number 3, a gem of a place and a beautiful addition to our community, we want to count the units there as zero,” none of the residents for the past 13 months would have been discussing anything. It would have been crystal-clear. People have never said anything disparaging about Waverly. It is politically attractive for the Council to say that about the residents and he understands why they would do that. However, the residents never said that. He said he thinks it is well-constructed, it’s beautiful and a gem for the community. He stated the reason that people like himself and others got engaged in the conversation is that back in December, in residential low density-zoned property, there were proposed lot sizes that were .46 acres in an area that was 1.45 designated or 1.25 minimum. That is what the Company proposed. They also proposed a number of units and density that was over the max and proposed a road that was inconsistent with the EAW and PUD. He stated that is why

people got engaged: they are defending the document the City Council created and the document that its predecessors created. When that changed, the nature of the conversation changed. The community backed off until most recently, when NOC said they were going to build condo units and take the 35 dwelling units that are allowed in Island Field, take the allowable 30% increase, and then proposed an additional 29 units, far exceeding the maximum. That is what got the community engaged again. The residents are not anti-development; they are against development that is not compliant. He told Councilmember Kingston he did not appreciate some of the words used to describe the citizens.

Councilmember Kingston said he did not appreciate the Petition and guessed they were even.

Ms. Skamsler Lewis said she would not reiterate everything that Rich Dujmovic said. She noted it has been said at the meeting that there has been no confusion about the 7th Amendment, and she hopes that sentence is explained before everyone walks out the door. She also requested that it would be explained as to why, in front of this body, NOC presented the Planning Commission with a document that suggests Waverly Gardens is counted as 45 and that a 5:1 conversion rate is the acceptable standard because of what happened in that development site. She hopes the citizens get clear answers to those questions, because if there is no confusion, it should not be challenging to provide that information. She suspected, after raising that question for a number of months and not getting an answer, that it might not be so straightforward. She takes exception to the idea that she is presenting false information to the public. She also, on behalf of the people that signed it, takes exception that they are blind sheep. She said everyone makes choices in life. They signed it for a reason. She hopes all of those people come forward and explain to the Council why they signed it. She is curious if the Council talked to any of the people that signed the Petition, if they expressed regret after speaking with them. She said if that is the case, she wishes they would come to the meeting and speak at the podium. However, they are not; they stand by their signature to the Petition, as far as she knows. She gets the feeling, particularly after listening to former Mayor Schaaf, that there is this thought that they are further away in their perspective than they really are. She agrees with the Council; she loves Waverly Gardens. That is where her Nana and Baba are, and she wants them to stay there as long as they can. As an almost-30-year-old, she is budgeting to be able to live in Waverly Gardens at some point. It is a dream of her family to not leave North Oaks. She agrees with the City Council that it is a valuable contribution to North Oaks. They do not want to denigrate or malign the existence of Waverly Gardens. They seek to understand the language of that amendment and how those units can be completely zeroed out. She thinks it is important to look towards the future. North Oaks does need younger families. As 1 of those younger families, she is doing her best to work on that. She looks forward to having younger families that have children the same age as her kids so they can play together. She thinks everyone agrees on a lot of things. What is being disagreed upon is the “not applicable, units to be counted” language and what the residents need clarity on. If someone could answer the question, she would love to have the answer as far as what the language means. She said she does not want to be civilly disobedient, but she would stand there respectfully and wait for any answer unless she is told to leave. She really hopes to get an answer to that question tonight.

Mayor Nelson suggested that the question be rephrased because he did not remember what Ms. Skamser Lewis started with anymore. He asked her what the question is in 1 sentence.

Ms. Skamser Lewis referred to Page 68 of the pdf that was being looked at.

Mayor Nelson noted that was not a question and asked what the question was.

Ms. Skamser Lewis noted she was going to use that pdf as a reference.

Councilmember Ross said that the document was on the screen.

Ms. Skamser Lewis, referencing the document on the screen, said for Site E-3 the header is “Commercial Acreage,” and in her mind, when the next word is “not applicable,” it means the commercial acreage is not applicable. She read, “buildings to consist of varying unit count. Senior Residential unit count must be contained within allowable square footage,” and asked what that meant, adding that if the intent was to count it as zero, why did it not say “units to be counted as zero.” She noted every other development site along that column has a count associated with it and that is the count that is used for that site. She asked why this is different and what that means. She stated that is her question.

Mayor Nelson thanked her and said he appreciated it.

Councilmember Long said he is frustrated because the 7th Amendment seems to be missing a few gray words; but if people do the math, it is still clear and the Council’s intention was clear. He asked when Staff can tell the Council that this is a legal binding document and it is over.

Councilmember Kingston stated he thought that happened at the last meeting.

Councilmember Ries stated they are not answering the question.

Councilmember Long said it is a very, very small area and if people do the math, they can come about it in a different manner and it is clear. He said at the time the City Council did this, he knew what the City was signing up for: they were putting the Presbyterian Home in a corner of the City. That was not going to affect density throughout what the City Council did at Rapp Farm and the hundreds of acres that the City Council had left. It was not an issue. He asked when is the end going to occur and the City can say these numbers are done.

Councilmember Kingston stated the City already did at the last meeting.

Councilmember Long asked why the issue is continuing.

Councilmember Kingston stated they wanted to have their Petition heard and the City Council offered to have their Petition heard and have this discussion.

City Attorney Nason stated she did not draft the language and maybe if she had, she would have drafted it differently. She thinks it is clear that when it talks about the planned acreage, it does say “not applicable.” She speculated that perhaps that was a carryover or the heading once said “planned number of dwelling units,” but she did not know. What it does say is “buildings to consist of varying unit count. Senior Residential unit count must be contained within stated allowable square footage.” She stated if you move to the next paragraph, it talks about the Senior Residential is an allowed use within this particular development, comprising approximately 450,000 square feet in connected buildings, consisting of these different types of uses intended for occupancy by people over 55. She noted if one reads the 2 in conjunction with each other, what it might be trying to say is that all of the unit counts have to be located inside the buildings and all of the buildings have to consist of approximately 450,000 square feet. And it might have been more geared toward ensuring that the dwelling units constructed on the site are constructed inside the buildings. She referenced the map for Site E-3 and stated there are 4-5 separate RLS tracts. She said perhaps it was to limit the dwelling units to those contained buildings, which are limited in how tall and large they can be. As far as the questions are concerned, the Council can take its position and say, “This is what we believe it means.”

Councilmember Long noted that former Mayor Schaaf and the original Council did that.

Councilmember Kingston added that the current Council did it last month.

City Attorney Nason said she understood the motion last month was a direction to Staff to create a Resolution. That is what is shown in the minutes; that is what she recalls. She stated the Resolution will come up later in the meeting and the Resolution has the language that says that the Council states, “Here is how dwelling units are counted and how we understand they are counted.” She stated that is the language of the Resolution in a nutshell. She does not know whether that will clarify and change people’s minds, but that is how the Council can express a position at this time regarding that particular question.

Mayor Nelson asked Mr. Schaaf what he thought.

Mr. Schaaf stated he agreed with the Council that when the 7th Amendment was put together, the 4 walls, roof, 4 floors, etc., was the consideration and the Council knew that the internal structure to Waverly Gardens would change over time and, in fact, did change over time. He said there is a group of residents, not necessarily in the room, that feel that NOC should be penalized 50-70 units for participating in building 1 of the finest assisted-living centers in the country. Those residents are using the housing count effectively, which changes the Waverly Gardens, regrettably, as a whipping post to say to NOC, “You have X number of lots distant from Waverly Gardens that you can build on,” and it is inconsistent logic and just plain wrong. He was looking at the Petition, the last line regarding financial strength or contribution, etc., to the City, and

stated reducing homes, apartments, and villa homes such as his does not help the City and the environment. He would be happy to drive people around and show them where the stormwater detention ponds are and where the protections and trees have been put in place. When his house was built, there were no trees. He said if people wanted to talk about healthy environments -- these developments, through coordination with NOC, the City, and NOHOA to a certain point with the trails -- have made significant and positive environmental contributions to the community, far more positive contributions than the legacy part of the community.

Mayor Nelson thanked former Mayor Schaaf for making that point. He stated he has been trying to note that the PDA really improved North Oaks' environmental footprint on that future development as opposed to the original homes in the center of North Oaks, large houses sitting in the middle of a lot. He said the City is actually doing a better job with the PDA environmentally and use-of-land-wise in every respect and will continue to do that, which is the real job of the City. He said another job of the City is to get past this issue and tend to other Agenda issues.

Mr. Schaaf said he was sorry to be emotional in front of everyone. It was a lifelong quest to get here, and he asked everyone to not screw it up at the last second.

Mayor Nelson said they would keep their fingers crossed.

### **UNFINISHED BUSINESS (continued)**

#### **a. Discussion on East Oaks Housing Counts, and Related Materials, Consider Resolution Determining Remaining Counts**

Administrator Kress stated the Memo outlines the last couple of months of the Council's work on the housing count issue. The Resolution speaks more to what the City has done over the last couple of months. He stated each "whereas" talks about terms of the PDA, times the dwelling units have been considered, the counts and acreage, etc.

Mayor Nelson asked Administrator Kress if it would be fair to say that his evaluation of the actual development as compared to the numbers on the sheet reflect that the sheet was accurate, other than the fact that the number should be 471.

Administrator Kress stated Mayor Nelson was correct and that the information was corrected in the sheets. He said the numbers came to 645 for the total planned dwelling units, 471 as of 2020, the commercial acreage was 15.27, potential density shifts were also shown, leaving a remaining unit count of 174. There are footnotes listed, most of which have already been exhausted in the discussion. When they counted individually, they came up to 174: that is, himself, the City Attorney, City Planner, City Engineer, and a number of members from NOHOA.

City Attorney Nason said they as a Staff had a meeting the previous day that did not start until 3:30 p.m., which was the final time they walked through some of the numbers and information with NOHOA technical staff to make sure the numbers that Staff had matched those. The meeting ended at 4:30 p.m.; she did not email the Draft Resolution until after it was done and the

numbers were confirmed, about 8:30 a.m. She clarified the process as being driven by the timing of the Staff meeting, which is why it was not presented until late in the day. With respect to the housing counts, 1 of the questions that was raised at the last meeting that she indicated, Staff had not gone through each site and counted. There were a lot of questions regarding site development; there was a lot combination that occurred on Site K that changed some of the numbers. Staff wanted to be confident that the numbers regarding actual dwelling units had been somewhat independently verified. Although they did not go through each and every tract, they took information they received where that calculation had already been done to come up with the numbers. She indicated the 472 is a result of her typo and it should say 471. The information notes the commercial acreage and notes that Site E-2 is counted as containing 90 dwelling units, even though there are only 76 physical dwelling units, based on the information from NOC that they have conveyed out the right to construct 14 dwelling units. There is a note saying Site E-3 contains 235 dwelling units but reflects that the site has a commercial use designation and that there is not any counting of the dwelling units on-site toward the 645 maximum.

Mayor Nelson noted former Mayor Schaaf brought the typo to his attention so he would not take credit for that. He asked if there was a Resolution number.

Administrator Kress stated it was 1378.

Mayor Nelson asked if there was a motion to approve Resolution 1378, which confirms the existing unit numbers and housing counts for development sites located within the East Oaks development area.

**MOTION by Kingston, seconded by Long, to approve Resolution 1378, Confirming Existing Dwelling Unit Numbers (Housing Counts) for Development Sites Located within the East Oaks Development Area, as outlined in the Council Action Request.**

Councilmember Ries said she thought the commercial acreage should be updated to 16.23 so the easements are clearly identified as being excluded and consideration given to area E-3.

Mayor Nelson noted that was the item was mentioned in the preceding discussion relative to easements.

Councilmember Ries indicated she agreed with Mayor Nelson.

**Councilmembers Kingston, Long, and Nelson voted for; Councilmembers Ries and Ross voted against. Motion carried.**

**NEW BUSINESS (continued)**

**b. Discussion on Invoices Sent to North Oaks Company and Payment Request**

Administrator Kress stated the City sent a bill to NOC, the majority of the bills were prior to his time with the City, and the submittal of the check was less than the amount they billed to NOC.

His comfort level with that was very minimal, as he was not sure it was appropriate to say whether or not they should pay some of the Invoices. He is asking the Council to agree or disagree that the Company should pay this amount relative to the amounts listed. There are notes indicated in the letter regarding some of the reasons NOC chose not to pay some of the Invoices. He displayed on the screen the bills to which he was referring.

Mayor Nelson said, if he understands it correctly, the issue is that some of the City's billings appear to have been generated in an effort to answer questions posed by inexperienced Planning Commission members or City Councilmembers, and the Company does not want to pay for that.

Administrator Kress commented that some of that is indicated, that NOC does not believe they should pay for any background research for the housing counts, in addition to a number of other items listed. Most were Attorney-related; he does not think any of them were Engineer-related.

Mayor Nelson asked what the difference is between what the City billed and received, noting engineering bills were not an issue.

Administrator Kress indicated it was mainly Attorney-related bills.

Councilmember Long asked whether it was training issues.

Mayor Nelson stated that is what is being discussed and he summarized it by describing it that way.

Councilmember Ries asked if any of the discussion/concern was about counts.

Administrator Kress noted the concern is that the Company was proposing to pay \$14,087.10 and, using rough math, it should have been over \$25,000 paid.

Councilmember Ries asked if the basis of the objection was counting.

Administrator Kress said the basis of the objection is listed in the letter, the second paragraph, where it says the responsibility to pay for the work of consultants, including the City Attorney, to educate new staff, Planning Commissioners, and City Council on the subdivision approval process and history of work on East Oaks Planned Unit Development Agreement.

Councilmember Ries clarified that would be the training for the Planning Commissioners.

Administrator Kress agreed with Councilmember Ries. He stated Mr. Houge has indicated on each bill what he thinks the Company should pay. He referenced a May 10, 2019 Invoice in the amount of \$15,879.38; the Company is paying \$8,032.90. Administrator Kress stated Mr. Houge used an "OK" to approve payment; but if there were concerns, he may notate "Do Not Pay." In

that document it talks about reviewing emails, draft findings of denial, and conditions of approval, which he believes are directly related to development review.

Mayor Nelson stated he requested a Memo which is being disputed relative to completeness from Mr. Magnuson, and \$400 was charged for that. He said he had indicated the Planning Commission, but most of the disputed bills are relative to requests from the City Council.

Administrator Kress said there are a number of items speaking to the number of remaining units.

Councilmember Ries asked if that was part of the decennial review and the Council's obligation.

Administrator Kress said he was not sure and that, because it was so long before he was with the City, he does not know what a lot of it is. That is why he did not feel comfortable accepting the check for almost half of what it should have been. He thinks there are certain pieces in the billing that the Company should definitely pay if they are directly related to a development review.

Mayor Nelson asked Administrator Kress if he had been identifying the disputed areas and making a proposal to the Company relative to the things that he feels the Company should pay. He clarified and asked if that had occurred or if there had been any negotiation.

Administrator Kress stated he had not done that. He brought it to Mr. Houge's attention and told him that his comfort level was minimal with the issue because he was not part of a lot of these items and does not have any background in what the discussions were, so it would be 100% opinion on his behalf to say whether or not he thinks they should pay. He would have to read between the lines and determine if it was part of a development application or not.

Mayor Nelson asked Administrator Kress if he thought it would be appropriate for Mr. Houge, himself, and Administrator Kress to get together and figure it out.

Administrator Kress said he is open to suggestions from the Council.

Mayor Nelson commented that it seems like 9:15 p.m. is not the time to negotiate a bill and they have never negotiated a bill before, so he is not about to start in a City Council meeting. He suggested addressing it in that way, unless someone else wanted to.

Administrator Kress stated the billing structure has been changed moving forward and it is very specific. If it is for a development, then it gets billed. There might be some pieces the Company does not agree with that he would feel comfortable negotiating with, but these bills were months before he was at the City and he does not have the background to say yes or no.

Mayor Nelson said he understands. He feels the City should move forward to resolve it.

Councilmember Kingston suggested Administrator Kress, the Mayor, and Mr. Houge try to solve it. If they cannot, then Administrator Kress could come back to the City Council.

Councilmembers Long and Ries stated they were in agreement with that suggestion.

Mayor Nelson asked Mr. Houge if that was acceptable to him.

Mark Houge of NOC indicated it was.

**MOTION by Ries, seconded by Ross, to table the issue on the billing and to instruct Administrator Kress, Mayor Nelson, and Mr. Mark Houge to meet to talk about the disputes of the billing. Motion carried unanimously.**

Councilmember Long said, in the future, the City should not wait 10 months to dispute billings.

Mayor Nelson said he agreed it was kind of antiquated.

Councilmember Long noted that some of the bills are from April 2019 and the City could be more timely, although he does not know when the City invoiced them.

Mayor Nelson stated they did not know either, but they would find out and report back.

Administrator Kress noted the only thing Council could consider is the City's requirements to pay the PDA within 30 days of receipt. He asked if the City is generally waiving the requirement because the City is working with the Company to figure it out.

Mayor Nelson thanked "Ms. Picky Lawyer" and asked if there was a motion to waive the 30-day requirement relative to this particular bill.

**MOTION by Long, seconded by Ries, to waive the 30-day requirement relative to this bill. Motion carried unanimously.**

### **COUNCILMEMBER REPORTS**

**Councilmember Kingston** said he spent a fair amount of time going over the 7th Amendment and PUD to make sure he was up-to-speed with some of the backdrop and history. As far as the Tick Task Force, people have probably been getting their notices about filling that out. They have gotten some feedback from folks saying it has been a bit more onerous for them than expected. He will sit down with Gretchen Needham and Deb Breen and work to streamline it so Polco can be used to their advantage. He would encourage people to try and fill out the survey so the City can determine if mitigation efforts are intact with regard to taking care of Lyme's disease and preventing it. He has been monitoring the Coronavirus issue and sat in on the Minnesota Department of Health webinar with the Minnesota League of Cities. The City will have to pay particular attention to this, especially with Waverly Gardens within the City compounds, in terms of the City being in a position to take action. Waverly Gardens has already

taken some action on a couple of different fronts, but there needs to be a more active engagement as things continue. He thinks it is going to get substantially worse than people can possibly imagine, and the City needs to be ready for it. The City doesn't want it to sneak up on them without having contingency plans and knowing how to take care of the residents. He will continue to monitor that and work with Administrator Kress to make sure things are covered on that front.

Mayor Nelson noted he has a call in to Dan Erickson from Waverly Gardens, and they will get together. Erickson instituted some containment issue plans. As of March 11, he is reducing visitors to “necessary visitors,” with an explanation of what that means. He has also published documents for the residents to identify how to deal with COVID-19 as it approaches. They are also stepping up hygiene and cleaning, as they did with a previous virus issue; he thinks they are very sensitive to the issue because of that. By next week there will be more information.

**Councilmember Long** said he was out of town for the VLAWMO meeting and there was not a Fire meeting so he had no report. He noted Councilmember Ries would take care of his VLAWMO report.

**Councilmember Ries** said she attended the VLAWMO meeting. One of the main issues that is related to North Oaks is that they approved a sedimentary study of Pleasant Lake up to \$19,000. The full scope of the study is \$21,000, and they are asking for a \$2,000 contribution from North Oaks. She stated she followed up with Administrator Kress about taking steps to get the \$2,000 approval and that he may want to report on that.

Administrator Kress said the City will submit \$2,000 to be part of that study. The hope is that the City will be reimbursed by St. Paul Water, which will probably happen next year. Since it is within the budget, it does not need Council approval. The check will be listed in the accounts payable probably in the next month.

Councilmember Ries stated VLAWMO went to St. Paul Watershed, but they had already maxed out their budget for the year. Since it is a 2-year project, the City could seek reimbursement next year. She said she has been elected Chair of the Cable Commission and President of the **Access/Axis Corporation**. They had their first meeting, and the technical report discussed that there is legislation currently pending where City Councils are going to be required to tape all meetings, there will not be an option to not tape, and they are reviewing the amount of technical equipment available and the type of technical equipment. Regarding the COVID-19 discussion, if a situation occurs where Councils cannot meet together, could it be done via video or another way to conference in. They are important issues, as far as still meeting and getting business done. She followed up with Administrator Kress about the social media stuff the City could be doing and website indication in educating the City's residents regarding what are the criteria for COVID-19 and what does one do if they have an infection, maybe giving some advice to the residents. She said Shoreview has been emailing clear instructions to their residents and she was urging Administrator Kress to do a similar type of publication that could be sent out to the

residents via email, put stuff on the website and Facebook, and then start to implement the plan if an outbreak occurs in North Oaks and how the City would react to that.

**Councilmember Ross** said an order for 46 mailboxes was placed this week. There were 2 areas in North Oaks where mail fraud occurred, 1 of which was the past Sunday. In both areas everybody got together and decided to order mailboxes. There will be another order within the next month.

Councilmember Kingston asked if this occurred in the periphery.

Councilmember Ross stated it did not. She could not recall where it was, but they were smaller streets where there are not a lot of homes. She did not know why they chose a Sunday afternoon and didn't know if the people were out of town and hadn't picked up their mail. She noted it is something to watch out for and that people need to pick up their mail as quickly as they can or have a neighbor do it. The mailboxes should be arriving within the next couple of weeks. She attended the NOHOA Safety and Security meeting. There was a discussion on realtor signs and similar things, and she will talk to Administrator Kress about that. The Natural Resources Commission had a movie night recently; it was well-attended and they are hoping to do more. They are looking for documentaries or things to present over the next few months. They are starting to work on Clean-Up Day for June 27.

**Mayor Nelson** thanked former Mayor Schaaf for attending the meeting and said he appreciated his input. He noted the former Mayor was at the meeting last month as well with Melinda Coleman, listening to the discussion regarding the same issue. He appreciated that and also appreciated the reminder of how long he has been around and how much work he has seen former Mayor Schaaf and others accomplish over the years on the City Council and during the time he worked with the City. He said as a small city, he thinks the ability to deal with things like COVID-19 is somewhat limited. There is certainly a concern about Waverly Gardens, and he thinks that is where the focus needs to be. There are also a lot of individuals who are over 60, himself included, which appears to be the target of this particular virus. They will address the issues as best they can, mostly by keeping track of what the State and County are recommending, but also by talking to Law Enforcement and the Fire Department and making sure the City is ready with what they need to do.

## **CITY ADMINISTRATOR REPORTS**

### **a. City Administrator Staff Report**

Administrator Kress stated most of his reports are in the packet and also displayed on the screen. One of the first things they did was look at a tree preservation ordinance plan and have the Natural Resource Commission (NRC) review it and make recommendations to the Council for the April meeting. They also reviewed the NRC Resolution of Incorporation. He had a discussion with City Attorney Nason that it would make more sense to create that as an ordinance and then restate some of the term limits, etc., that are included in the original Resolution. They can have the NRC look at that and make recommendations, and it will be presented at the April City Council meeting. The State wants to do an Open House about the 96 Superfund site. He intends

to have NRC schedule this, likely at the same time as their April meeting, unless the Council disagrees and would like to host it as a separate event.

Mayor Nelson asked if NRC was a corporation.

Administrator Kress stated NRC is the Natural Resource Commission.

Mayor Nelson indicated Administrator Kress said “Resolution of Incorporation” and asked if it was integrated as a separate company.

Administrator Kress said when he is talking about the Natural Resource Commission, he is talking about the City’s Natural Resource Commission. When it was originally put into practice, it was done by Resolution.

Mayor Nelson indicated it was a Resolution of Incorporation.

Administrator Kress indicated he agreed. He said they would prefer to remove the Resolution and incorporate it as part of an ordinance.

Mayor Nelson said he understands, but he saw the word “incorporation” and was thinking how that could have been. Instead, the City will adopt an ordinance that establishes the NRC, like the City Council and Planning Commission.

Administrator Kress agreed with Mayor Nelson.

Mayor Nelson asked why the State would be interested in an open house.

Administrator Kress said they want to update the members of the community on what is going on with the 96 Superfund site.

Mayor Nelson asked what is going on to generate that.

Administrator Kress said nothing new, but they want to keep people up-to-date on what is going on with the site and any findings. The City posts all the findings on their website so they are available for everyone to see. He thinks they are interested in touching base and making sure they are making the rounds with those that may be affected by that site.

Mayor Nelson commented that last year there was a proposal to discontinue some of the testing and sampling and the City pushed back on that. He can remember when the City was very worried about what the cloud was doing; and now they are getting feedback from the Superfund that people should not worry anymore, although he is still a little worried. He wondered why they wanted to have a meeting.

Administrator Kress said they would probably have it separate from the NRC Agenda because they expect other members of the public to be in attendance. The expectation is that NRC will make recommendations to the Council if they want any verbiage or changes to the agreement. He

also stated the Lake Johanna Fire Department is still pursuing the proposed Bethel location. He noted Councilmembers Ries and Long are aware that he has been sitting in on most of the discussions. If the proposal goes through, the City would be asked to pay anywhere from \$150-200,000 to acquire the property. North Oaks has the smallest stake in the property. The City would most likely finance the cost internally; they would not bond for that type of amount.

Mayor Nelson asked if the Bethel location would be the new headquarters.

Administrator Kress stated Mayor Nelson was correct.

Mayor Nelson noted it would be moving from Turtle Lake to Bethel.

Councilmember Ries said the current site that they are planning on closing is Station 3, which is on the railroad tracks on Victoria Street. The site they are proposing parallels Snelling.

Administrator Kress stated that he could send some maps out of the area.

Mayor Nelson asked if the Victoria Street location is already closed.

Councilmembers Ries and Ross stated it was still open.

Councilmember Ries said the Victoria people will be consolidated into the Bethel station. The Bethel station will be more of a robust station where they do their training, because they do not have training facilities right now.

Administrator Kress stated it was located at Pine Tree Drive in Arden Hills, parallel to Highway 51.

Councilmember Ries said they are still reviewing the plans and talking about street configuration and platting.

Administrator Kress stated she was correct. He said his next item was regarding Roseville. He is looking to change the City's agreement with Metro IT for IT services -- wireless connections, computer connections, phone connections -- into a Joint Powers Agreement (JPA). He said it makes a lot of sense for the City and he does not see any reason to look anywhere else. If the City were much larger, he would maybe ask to get proposals to take it in-house, but it is unrealistic at this time.

Mayor Nelson indicated Roseville has done a very good job over the years. He said he noticed some of the cities currently working with Roseville are thinking of setting up their own IT.

Administrator Kress agreed that some of the really large communities are. He thinks when they do that, they will find out that they can't compare, cost-wise, with what Metro IT does.

Mayor Nelson asked Administrator Kress to define what "really large" is.

Administrator Kress noted that would be 20,000-plus, although there are a few that are smaller such as Lake Elmo.

Mayor Nelson asked if the City would still be able to get a JPA even if some of the cities left.

Administrator Kress indicated North Oaks could still do so. He said he has also been reviewing the processes for code compliance/citation issuance. Generally, his process has been the 14-day compliance: he sends a letter and gives 14 days to comply. If they don't, he turns it over to the prosecuting Attorney to handle it. Prior practices involved some civil penalties. \$100 a day is what it was supposed to be; it ended up being \$100 every time a letter was sent, which is much different than the way the code is written. He noted it is a lot more work to send \$100 a day if that is the route the City wants to take. His preference would be to make some kind of an alteration because there is really no flexibility involved. It is either 14 days or he continuously sends them citations for \$100 every day that the condition exists. The worst 1 is the least fun to talk about, which are septic systems. If somebody decides not to pump their system -- and the City has had people that have not pumped their systems for several years -- realistically, he should go back to the first letter sent and bill them \$100 a day. He stated he needs some backing from the Council at some point as far as what they envision those processes to be so he is consistent with the Council's vision.

Councilmember Ries asked what Administrator Kress' bandwidth is to do the actions because it sounds like it is time-consuming.

Administrator Kress said it is very limited, if he were being honest.

Councilmember Ries asked Administrator Kress what the most efficient thing would be for him to get on top of the issue.

Administrator Kress said, for the most part, a lot of compliance issues are junk cars or cars sitting in driveways. In a majority of those cases, when they get the letter for 14 days, they have shown compliance and moved the vehicle into a garage or off-site. The more difficult ones are the septic sites or properties that have a majority of things that are not allowed on them, which still fits quite well with the 14 days, and then he would turn it over to the prosecuting Attorney to handle. For most of the cases, it is not worth the time to send the \$100-a-day letter because, realistically, it is not going to encourage much of an improvement on the property. The City sees that internally because they have tried that with a number of the properties, and they just tend to ignore it and pay it as part of their taxes when it is placed on there by the Council.

Mayor Nelson asked if City Attorney Nason could draft a better ordinance.

Administrator Kress said he would not necessarily change the ordinance but create a policy that speaks to code citations and compliance. There would be a number of issues that would need to be looked at. There is no defined process. It is either they get 14 days and they turn it over; or he takes the other route, where he still gives them 14 days but then he charges \$100 a day when someone remains out of compliance.

Councilmember Long and Mayor Nelson suggested reaching out to some of the other City Managers. Mayor Nelson suggested particularly checking with Shoreview.

Councilmember Ries stated she is concerned about Administrator Kress' bandwidth, noting Shoreview has a robust staff, and said if he needs any help or assistance with ideas or how the City Council can best support him, to not be afraid to ask.

Administrator Kress said, realistically, if the City Council wanted very strict code citation compliance, the City would be better off hiring someone directly related to that. He thinks it would be 1 of the worst positions for someone like himself to be in, because residents tend to get upset as part of the process and they think the City is being stiff while, in reality, ordinances are just being enforced.

Councilmember Ries noted Shoreview has hired someone and suggested Administrator Kress ask them about it.

Administrator Kress agreed and stated the City should still have a more defined process such as how much leeway there is after the 14 days: does the City Council want him to send the matter to the City Attorney for litigation; does the City Council want him to send a citation for \$100; what route is the Council's preference. His preference is to not do the citation. Everyone is an adult. They can fix their property and realize there is a mistake, or get in contact with himself if they need a couple of extra days. He said none of that is defined in the ordinance; there is no discretionary factor for him to weigh in.

Councilmember Ries asked Administrator Kress if he could possibly draft something after doing research that he thought would be reasonable and then propose it to Council.

Administrator Kress agreed to do so.

Councilmember Ries noted if the Council agrees with her suggestion, that Administrator Kress could tell them what he needs in writing and save some steps.

Councilmember Kingston agreed with the suggestion.

Administrator Kress said his last item is COVID-19. Staff had discussions with neighboring cities and created very similar points of information for residents. There are a number of cities that are shutting doors to their City Hall. He would have the same recommendation: shut City Hall down and limit activity within the office if at all possible. He contacted Metro IT to get remote access for admissions. The phones can be looped to cell phones. City Staff would still be very active with the community; some of the things Staff does would have to change. Staff would have to answer more online payment, credit card payment; there would be less walk-in of utility bills, etc. There will probably have to be alteration of the way groups meet, such as by telephone. He stated that might have to be considered for the NRC meeting.

Mayor Nelson asked if Administrator Kress was talking about making changes right now or whether he was talking about trying to flatten the curve out a week or 2, or what he was thinking.

Administrator Kress said most cities are taking action immediately, with a number of cities closing their doors the next day and/or the following Monday and will continue to do so until there is evidence to do otherwise. He said North Oaks is probably in the best position to do that because there are no in-house essential services like Public Works, Police, or Fire; North Oaks can minimize contact. There are certain days that Staff will have no choice but to come in, like to bring checks to the bank or something that needs to be done that can't be done at home. With the Council's permission, he would officially shut down City Hall. It does not mean Staff might not be there, but people will not be allowed inside the City's offices. He said they had the same discussion with NOHOA.

Mayor Nelson stated it is his understanding the City cannot have City Council meetings or Planning Commission meetings that are live and in-person.

City Attorney Nason noted it is a big issue and all of the cities are confronting it, which is, "How does City business get done?" She said there has been a lot of talk on the City Attorney Listserv and they are finding out when cities are moving to basically a meeting that is not an in-person meeting. There is a provision in the Open Meeting Law that specifically provides that when there is a situation and an emergency declared under Chapter 12 or there is a health pandemic, the City Council can meet in a way that's done entirely by remote access. Minnesota Statute § 13D.021 provides for that process. What it takes is the presiding officer, chief legal counsel, or the chief administrative officer of this City making a determination that an in-person meeting is not practical or prudent because of the health pandemic. If that is the case, the Council can meet by electronic means such as ITV or telephone. She talked to Administrator Kress, and it is her understanding the City does not have anything set up for the ITV-type piece, so it would probably be by telephone. She stated there are 2 criteria with respect to meeting by telephone. First, there should be an ability for the public to go to City Hall and hear and participate in the meeting, unless it is determined that it is not practical or prudent to have that happen, in which case the entire meeting can be done by telephone. The City also has to have the ability for members of the public to hear any of the discussion. All of the votes need to be taken by a roll call vote. As far as what the declaration looks like, Staff will probably put something in writing which will be signed by the Mayor and/or Administrator saying that there is a health pandemic, it is not practical or prudent to meet. At the time of the meeting it would be evaluated whether anyone would be present in Council Chambers or if it would all be done remotely. There has to be an ability for people to record or take minutes of the meeting. She noted the Planning Commission is meeting next month to hold public hearings on the preliminary plan applications. As it gets closer, it will have to be figured out. One of the other City Attorneys is already asking how to do a public hearing: If there are 100 people on the phone, how does the City possibly manage the meeting. If that is the case, the City will have to figure out what to do.

Councilmember Kingston noted they do it all of the time in his practice. You can log on and see the person; other people can call in and they can raise their hand to ask a question. They can say who they are, where they live, and ask the question.

Councilmember Ries asked what software that was.

Councilmember Kingston said there are 3-4 different ones and they are really cheap.

Councilmember Ries suggested looking into that.

Administrator Kress asked Councilmember Kingston if he wouldn't mind visiting with him.

Councilmember Kingston said he could show Administrator Kress how they do it. He noted he is on a number of different boards and this is something they are all moving to.

Councilmember Ries stated that her company uses Zoom.com a lot.

City Attorney Nason said there are a lot of options out there, and the key is to figure out the City's capacity and capabilities. If the City would have to have a meeting tomorrow, it would have to be by telephone. She stated Administrator Kress and herself would look at that and handle the legal piece. As far as whether the meetings are held by telephone or continued, they will have to see. Obviously, there are deadlines that will be impacted by meeting continuations.

Mayor Nelson said his direction would be to have the meetings 1 way or another, so the City needs to figure out how to get them done.

City Attorney Nason said the situation is evolving by the hour, so it is impossible to say what April 15-16 looks like. The takeaway is: yes, the City can meet by telephone; yes, the City will have to determine at the next meeting how that will be done. Since the City Council only meets once a month, there is time until that determination has to be made. If there is a need for an emergency meeting to take any action, Staff can work on how that is called as well.

Councilmember Ries referenced City Attorney Nason's legal boards and stated she thought City Attorney Nason was talking about the 60-day rule and the rules when plans are submitted, that the City Council has X number of days to respond and accept or deny and otherwise it is deemed automatic acceptance. She asked if there was any legal discussion in this type of scenario, when you can't meet or there are exceptional circumstances, where the time period can be paused.

City Attorney Nason said there is really nothing in the statute that allows for that. There is always an option to work with an applicant to extend the time frame, so that is something that might have to be considered. That determination will have to be made as things move along. These are questions that all the cities will be struggling with. The scenario assumes that all of the Councilmembers are healthy and can meet. There are a lot of different scenarios where Councilmembers could not meet, and then that situation will need to be addressed.

Mayor Nelson asked if Staff was asking for a motion.

Administrator Kress stated City Staff basically needs permission from the Council to deem the City Offices closed until further notice. His suggestion would be the Mayor and himself work to determine, probably in collaboration with the City Attorney, when the offices will re-open officially. He reiterated that business will continue but it will be done quite differently than

everyone is used to. He is pretty confident, along with the rest of Staff, that everyone can continue to be productive.

Mayor Nelson said he understands that if action is taken now, it might reduce the impact, which makes sense. It should be monitored closely and City Hall not stay closed longer than necessary.

Councilmember Kingston stated that within the next week you will find every city in the State operating remotely.

Mayor Nelson agreed that everyone should do it; he wondered how long it would last.

Councilmember Ries asked if the Council should make a motion.

Administrator Kress said he is looking for Council's direction and what they want him to do or how to direct Staff. He thinks 1 of those ways is to work with the Mayor or 2 Councilmembers to determine at what point it is realistic to re-open the City Call so that it is not him solely having the permission to do that. He is not comfortable with that; he thinks he needs some support from the Council to do that.

Mayor Nelson stated he thought they should both sign the proclamation of the medical emergency.

Administrator Kress stated something should be put together the following day that indicates the City is falling in line with that.

**MOTION by Ries, seconded by Ross, to Close the City Offices pending a thorough review and determination later on regarding when to re-open. Motion carried unanimously.**

Administrator Kress stated the next items are minutes from other Commissions which are there for feedback to the Council. He reminded the Council that when the meeting is adjourned, anyone who is in the room should vacate so the room can be picked up and shut down.

Mayor Nelson wanted to make it clear that City Offices will be closed but Staff will continue to be paid.

Administrator Kress stated he was correct and there would really be no alterations to the number of hours being put in. However, it will be very sporadic if people are in the office; and if Staff is in the office, they will not answer the door.

Councilmember Ries reiterated that Staff can work remotely and check emails, so people need to go online to do City business now. It is not that Staff is not working; it is just a different format.

Councilmember Ross asked if people could pay for things online, such as a permit.

Administrator Kress indicated that they could.

**CITY ATTORNEY REPORTS**

None

**MISCELLANEOUS**

**a. Next Regularly Scheduled Council Meeting is Thursday, April 9, 2020 @ 7:00 p.m.**

**ADJOURNMENT**

**MOTION by Ries, seconded by Ross, to adjourn the Council meeting at 9:54 p.m.**

**Motion carried unanimously.**

\_\_\_\_\_  
Kevin Kress, City Administrator

\_\_\_\_\_  
Gregg Nelson, Mayor

Date approved \_\_\_\_\_

**North Oaks City Council  
Meeting Minutes  
North Oaks City Council Chambers  
April 9, 2020**

**CALL TO ORDER**

Mayor Nelson called the meeting of April 9, 2020, to order at 7:00 p.m.

**ROLL CALL**

City Councilmembers participated **by telephone or other electronic means** pursuant to Minn. Stat. § 13D.021. Residents can view the meeting on our cable access channel and through the website portal just like other public meetings.

Present: Mayor Gregg Nelson. Councilmembers Kara Ries, Rick Kingston, Martin Long, and Katy Ross.

Staff Present: Administrator Kevin Kress, City Attorney Bridget McCauley Nason, Administrative Assistant Debbie Breen.

Others Present: Videographer – Maureen Anderson.

A quorum was declared present.

**APPROVAL OF AGENDA**

**MOTION by Kingston, seconded by Long, to approve the agenda as submitted. Motion carried unanimously by roll call.**

**CONSENT AGENDA**

Councilmember Kingston requested the removal of item 4b, Approval of Minutes from March 12, 2020 City Council Meeting, to New Business.

**MOTION by Kingston, seconded by Long, to approve the following Consent Agenda items as amended to remove item 4b for consideration as item 7b:**

- a. Licenses for approval: Massmann Geothermal  
Checks for approval: #013506–013538
- ~~b. Approval of Minutes from March 12, 2020 City Council Meeting (considered as item 7b)~~
- c. Approval of Minutes from the March 19, 2020 Emergency City Council Meeting

**Motion carried unanimously by roll call.**

**PETITIONS, REQUESTS & COMMUNICATIONS**

**a. Deputy Mike Burrell Report**

Deputy Burrell said a lot has changed in the last month and it has been a big change to the Sheriff's office. They are dealing with COVID-19 so they have been responding to calls differently, even medicals. Everyone has taken a big step back as far as some of the productivity to make sure everyone stays healthy. He knows citizens want things handled. Two things have happened due to the virus. First, there have been a lot more people out and about, especially on trails and walking paths, including nonresidents. He has been in contact with Councilmember

Ross and NOHOA in regard to that. Recently there were about 30 motorcyclists going through North Oaks without any valid reason to be in the City, resulting in a trespassing ticket. He has also been dealing with numerous fishing complaints.

Councilmember Long asked Deputy Burrell to give an update on the conversation they had with Administrator Kress about fishing, and an idea about the beach and pumphouse. Administrator Kress came up with a policy, and with Mayor Nelson's approval, they will meet to address that issue and the parking issue.

Deputy Burrell stated the City and NOHOA need to discuss the issues as far as how they will be handled. It has always been a big issue as far as how trespassing should be handled. He said fishing is a violation of a DNR order. The lakes are closed per the DNR, and he writes tickets for fishing on a closed lake. A lot of times, high school kids from North Oaks and other areas are caught fishing. They are often juveniles, and the process is different than it is for adults. With juveniles, he generally takes the individual's fishing equipment, makes Dad come to pick it up, and gives them a warning if it's their first time. They usually do not repeat the offense; but if they do, they get a ticket. He is open for discussion if the City feels there is a different way to handle it. As far as the parking issue, if there is a better way to handle the lots used by trespassing nonresidents, the City should let him know. He has given a half dozen or so tickets to trespassing vehicles the last few weeks.

Councilmember Long asked Deputy Burrell to share the incident with 2 women who claimed to be former residents and said they should be allowed to continue to use the community facilities.

Deputy Burrell said he came across a couple of people who had NOHOA stickers. When he observed their plates, he noted they were from White Bear Township and Vadnais Heights. When he asked if they were residents, they admitted they were not but felt they should still be allowed to use the trails, since one was a former resident. He thought it had been quite a few years since she was a resident.

Councilmember Long said he and Administrator Kress had a discussion with Mikeya Griffin and some good things came out of it. With the pandemic, the lots are full of cars, and he does not think the City should use the Sheriff's/Deputy Burrell's time, as there are more important things for them to do. He stated Administrator Kress had an idea that some NOHOA Board members, among others, could hand out a flyer of sorts when people are there.

Administrator Kress stated they talked about having a short piece of paper asking people's name, address, what they are doing in the City, and, if they are a visitor, who they are with. He checked with Mikeya Griffin, and it sounds like they have a form similar to that. He suggested that when people enter parking lots, they fill out the form and put it on the vehicle's dash to make it easy for Deputy Burrell to tell if they are supposed to be there or not. If they do not have the form, they could be ticketed. They also discussed having a security subcommittee to have a deeper discussion with NOHOA on how to secure the City more appropriately.

Councilmember Long said they would need Mayor-sponsor for that but he would be willing to do that. He would recommend the group meet with Mikeya Griffin, Administrator Kress, Deputy Burrell, Tim Boehlke from the Fire Department, and maybe a NOHOA Board member.

Councilmember Ross stated she thinks she should be involved in the meeting because she is working with Deputy Burrell.

Councilmember Long agreed with Councilmember Ross.

Councilmember Ries suggested including Mark Ash from NOHOA since he is on their Security.

Councilmember Long stated he would not support the suggestion of Mr. Ash being on the committee, noting he has done some things that are not consistent with the Sheriff's Department.

Mayor Nelson suggested to Administrator Kress that they come up with the balance of the committee after the meeting unless it needed to be decided during the meeting.

Administrator Kress suggested making a motion with a second regarding who the Council wants on the subcommittee. He does not know if the Council will have a lot of control over who NOHOA places on the subcommittee, although the Council could suggest who they want on it and refuse to meet if they choose Mr. Ash.

**MOTION by Long, seconded by Ross, to establish a subcommittee for a meeting to deal with trespassing, fishing, and related issues.**

Councilmember Ries asked if this would be a permanent subcommittee or just when there is a Governor's order in place for the pandemic.

Mayor Nelson stated he viewed it as a very temporary committee, but it might involve some discussion of long-term planning for trespassing issues.

Councilmember Ries said she just wants to be clear on what they are voting for.

**Motion carried unanimously by roll call.**

Deputy Burrell noted road restrictions are still in effect. He was told they will go down on Monday. With COVID-19, they have had a lesser approach to doing things like traffic stops. Their deputies have flagged vehicles down. He only knows of 3 overweight trucks that have been ticketed.

### **UNFINISHED BUSINESS**

#### **a. Discussion on Citizen United Petition and consideration of Resolution 1380**

Administrator Kress presented the Council Action Request included in the packet.

Mayor Nelson said a number of people have been making their wishes known via email and also people are indicating their approval/disapproval of the Petition. The percentage ratio is 91:9.

Councilmember Kingston said the Polco survey indicates it is 10:1. He noted when the issue first started, they came with a few people that asked the Council to consider it. The Council sent it back and said they needed to see more citizen representation. He was chairing the meeting and suggested they would need to have at least 100 names. They came back with over 200 names, addresses, and contact information. The Council decided to use a Polco survey to make sure that people who may not be in favor of it also had a chance to weigh in.

Mayor Nelson asked if the Petition was presented and the City Council has actually seen the Petition.

Administrator Kress stated it was hand-delivered to him at the City offices in about December.

Councilmember Long asked if it was fairly presented so it was not biased for one or the other and asked how it was done.

Administrator Kress said he did not create the Petition; the language is very similar to what is included in the Resolution. It was up to the person to decide if they agreed with what is in the Resolution, in particular the last 2 points. There were more supporting details within the Petition, but generally the question is, "Do you support this or not?"

Mayor Nelson noted it was a national movement to invalidate or abrogate the Citizens United decision. He commented that he actually thinks it is sort of funny. He said the Citizens United decision essentially held that corporations are natural persons -- of course, only a lawyer could come to that conclusion after manipulating the facts and law to such a degree that you can end up with corporations being natural persons -- even though everyone knows a natural person is not a corporation. In the United States Supreme Court, you do not have to be a lawyer, although there has not been a non-lawyer on the Supreme Court for many generations and maybe it is time to get somebody in that has some common sense.

Councilmember Long asked if this is something the City should participate in.

Mayor Nelson stated it is a grassroots movement that is trying to get municipalities and states and counties to support it. There are a number of Minnesota counties that have already given support, as well as cities, and about 20 states that have indicated their approval.

**MOTION by Long, seconded by Kingston, to approve Resolution 1380, Supporting a United States Constitutional Amendment to Regulate Corporate Political Spending and Campaign Financing, as outlined in the Council Action Request.**

Mayor Nelson stated he talked to the Mayors of other cities, and he is not aware of the Resolution currently being in front of any of the neighboring cities.

Councilmember Ries asked Administrator Kress if he was able to talk to other cities and find out what cities that are in favor of this are doing to support such a resolution, or other activity they were doing.

Administrator Kress said there was not any indication of anything additional other than the presented resolutions. Minneapolis, New Brighton, Sherburne County, and some others have been involved. It was a mixture of approval or the choice to not entertain at all.

Mayor Nelson noted New Brighton has already approved it.

**Motion carried unanimously by roll call.**

## **NEW BUSINESS**

### **a. Discussion of Public Hearing Options**

Administrator Kress said City Staff wanted to have a discussion about options available for public hearings. He indicated it will be very challenging to go through the process of hosting a public hearing. There are 2 for next week which were scheduled in advance of COVID-19 hitting the United States. City Attorney Nason, himself, and other consultants have been working through different ways to facilitate that. He stated City Attorney Nason would give further detail on some ways to accommodate and also concerns and possible roadblocks.

City Attorney Nason said she attended a League of Minnesota Cities-sponsored City Attorney round-table discussion regarding COVID-19, and public hearings was one of the major issues discussed. There are 2 avenues pursued: first is some potential legislation the League is seeking which would extend out the 60-day/120-day deadlines found in the statutes to try and give cities some breathing room. She noted some cities were at the end of those deadlines and scrambling to provide a meaningful opportunity for a public hearing, especially the cities that do not have the same technological capabilities as others. Pending a legislative change, the City is obligated to comply with the deadlines established by state statute for land use-related/subdivision applications. There is a Planning Commission public hearing scheduled on the Nord and Anderson Woods applications. The City provided the required notice by statute and City Code in the paper. The City provided an opportunity for individuals who wished to provide comments in advance of that meeting to Administrator Kress. They are exploring other options -- but haven't been able to finalize it -- such as the ability to record a 3-minute message or 3-minute video to be played during the public hearing. She does not know how any of the public hearings will go; it will probably depend on technology. She said the Planning Commission might have some thoughts about how the hearing goes and if they want to continue the hearings to allow for potential in-person comments. Alternatively, there is the second option, which is to approach an applicant and ask if they would be willing to extend out deadlines to facilitate in-person public

hearings. Everyone is in shelter-in-place until May 4, and it is realistic to assume Council meetings might not resume in-person until sometime after the middle of May or June. She does not have any great intelligence on the issue. It is an evolving situation, and no one knows what the timeframe looks like for when some of the social-distancing regulations might be revised.

Administrator Kress stated the challenging part will be, when the Stay-at-Home Order has been lifted, Staff does not know when in-person meetings will be allowed because there will still be the challenge of keeping 6 feet apart, etc. He noted it will not be over even when the order is lifted. He asked for feedback on whether or not the City wants to ask for an extension from the Company, how the process should go the following Tuesday and Wednesday in order to give some feedback to the Planning Commission, and generally what the Council wants to see as a process.

Mayor Nelson said the cable TV facility is very capable and the City may be a little ahead of the curve as far as dealing with technology. Continuity of local government is the essence of what the Council's job is; it is not to delay things but it is to figure out ways to move things forward.

Councilmember Ries said the City is using a Zoom platform and a lot of technical advisors and computer people consider it malware, as it is subject to hacking and people getting personal information off of the computers. Until the City tightens up some security measures, she does not think it is the safest platform and said it may discourage members of the public to enter into the meetings. CTV is working to tighten up a lot of the measures/security protocols. She does not know if it is safe at this point to have the public hearings.

Mayor Nelson stated Zoom came out with a new version and made several security enhancements, although he was not an expert and would have the City's cable people address it.

Councilmember Ries agreed some enhancements were made but there have still been a lot of hacking issues, data acquisition, and Zoom bombing. Zoom and CTV are working on it while they are live-streaming meetings, but it is still a major concern. She also indicated it is a health crisis issue. A lot of people in the community are taking care of loved ones or working extra shifts at hospitals/clinics to take care of people; and because of the health crisis, people do not have access to child care or other support they might need in order to attend a public meeting. She is concerned that things are being pushed forward. She noted in the order Governor Walz signed in March, he stated that cities should prioritize what they are working on and focus on health, safety, and the general welfare of people. The hearing is not considered to be some of the critical industries mentioned by Governor Walz. The City is also not prioritizing what they are doing. The City should focus more on its residents and make their health, welfare, and safety a priority. She thinks it would be prudent to ask for an extension and work with the League to extend out the deadlines so the City is not put into a position where they have to approve something they have not taken the necessary steps to review.

Councilmember Long said he is keeping in mind the Council's next meeting is 30 days from now and the Council will know a lot more then. He noted everyone is kind of on a sabbatical right now and there will be normal business again, but maybe it is an opportunity for the City to keep things moving again because of the prediction of a recurrence in November. These are scary times, but the City still has business to perform. He will count on the City Attorney, Administrator, and League to guide North Oaks.

Councilmember Ries mentioned that Minneapolis has extended some of their hearings out to May 20 and are only doing town halls. St. Paul has also paused some of their scheduled hearings. Since there are a lot of unknowns, a lot of cities are deferring to a future date or waiting to see what happens, which might be a prudent way for North Oaks to go as well.

Mayor Nelson stated there are things that can be delayed and also things that cannot be delayed until the legislature acts/fails to act on the issue. Until that time, the City has to keep things moving so the City does not end up in a situation where it is approved by default, which he assumed would upset Councilmember Ries quite a bit. By doing what they are doing, the City is maintaining control over the approval process. If the City stops the approval process on its own unilaterally, it does not stop the process; it just means the City is not acting. He asked City Attorney Nason about the timeline.

City Attorney Nason said she believes the City has until June 23, which would be the 120-day deadline. The Planning Commission always has the option to continue the public hearings into May. The caution Staff would provide to the Planning Commission is that they need to provide more than sufficient time for the Council to act on the applications as well. There are potential concerns with respect to the Planning Commission hearings which need to be weighed against the Council having enough time to take action. When both bodies only meet once a month each, it creates some tensions with respect to timing issues. If there is any legislative change, she will communicate that to Administrator Kress, and the Council would probably find out about it quickly as well. She is not aware at this point of anything imminent from a legislative standpoint.

Mayor Nelson asked if it would be prudent to ask North Oaks Company (NOC) for a waiver of the time limitations.

City Attorney Nason stated the City could ask NOC. Without a legislative fix, if NOC does not agree in writing to extend the 120-day deadline past June 23, the City would want a specific date in mind, whether it is July 30, August 1, etc., for the Company. If they are not willing to entertain an extension, there is no legal avenue for the City to not take action within 120 days of receipt of the completed applications. Failure to do so results in automatic approval of the applications.

Mayor Nelson asked if there was a consensus within the City Council to request an extension of time with NOC.

Councilmember Ross stated it made sense and that it is worth a try.

Mayor Nelson asked City Attorney Nason if asking for a 30-day extension would be appropriate.

City Attorney Nason said a 30-day extension would be within the realm of a reasonable request. She indicated no one knows what the situation will look like in 30-60 days, but if the deadline was extended into July, hopefully meetings could occur in-person before that time.

Mayor Nelson stated the City needs to be reasonable, too. The Company has been waiting over a year to get the application through, and now there is COVID-19 to deal with.

Councilmember Kingston said he understands that if the City asks the Company, they could say no; and the City would still be held to the 120 days from the time the plans were submitted.

City Attorney Nason stated he was correct.

Councilmember Kingston asked whether anyone that has made an application has to automatically accept an extension if the legislature takes action, or if the cities have an opportunity to say that things are good to go and they will move forward.

City Attorney Nason said she has not seen the language of any proposed legislation so she does not know what is being contemplated. If there were no barriers to making a final decision, the City could move forward on any such application. She would assume, even if the legislature were to grant an extension, it would not require that anything take longer than the allotted timeframe but, instead, would give cities flexibility.

Councilmember Kingston asked what would happen in the meantime if the Council decided to ask the Company if they wanted to have an extension, as far as whether the City would go ahead with its public hearings.

City Attorney Nason stated the public hearings are noticed for the next Tuesday and Wednesday. She would anticipate that the public hearing would open and then be continued to a later date. For example, if the Company agreed to an extension, in theory the public hearings could be continued out to the end of May, leaving June and July open to go through the decision process by the Planning Commission and City. If NOC did not agree in writing, her recommendation to the Planning Commission would be to keep moving with the process to ensure that there is not a deadline issue for Council action.

Councilmember Kingston said it sounded like the City Council is coming up with multiple ways that people can voice their opinions; in addition, the application has been going on for 1½ years. He is not sure the Council will hear anything that they have not already heard. People can email, do video clips, and be on Zoom during the open meeting, and he suspected the Council could decide whether they would accept additional comments even after the scheduled public meeting.

He thinks the City Council should continue to move forward until they get information from either the Company or legislation comes out that gives some latitude to make some adjustment in the schedule. He feels the City Council needs to proceed because there is no agreement by the Company to have an extension.

Mayor Nelson noted last year the City Council ended up in a terrible situation where the Council did not have an adequate opportunity to evaluate a proposal because the Planning Commission got so far underwater on it. In the end, the Council had one meeting and about 20 minutes to address it. He does not want to see that happen again; he wants the City to move forward unless it is known that the proceedings can be delayed.

Councilmember Ries stated the City does not have the technical capabilities that are proven to hold an adequate public meeting.

Mayor Nelson told Councilmember Ries that is her opinion.

Councilmember Kingston and Mayor Nelson noted that the City Council is holding a meeting at the moment.

Councilmember Ries asked Councilmember Kingston and Mayor Nelson to mute their microphones.

Mayor Nelson said Councilmember Ries said what she said; he heard her.

Councilmember Ries stated the reason why they are taking steps to postpone some of their controversial issues is because they want to make sure the public hearings are competent and binding. She noted at this point with development, some of the platforms still need to be tested. May is right around the corner and a few weeks away, when the Governor will lift his Executive Order.

Mayor Nelson asked Councilmember Ries to stop talking because she was saying the same thing over and over.

Councilmember Ries called a point of personal privilege.

Mayor Nelson indicated there is no such thing, that Councilmember Ries was out of order and needed to stop talking.

Councilmember Ries stated she was not out of order.

Mayor Nelson asked City Attorney Nason to address the issue, because Councilmember Ries was out of order and she did not have a point of personal privilege to address unless she needed to use the restroom.

Councilmember Ries called a point of personal privilege and said Mayor Nelson was interrupting the train of thought. She noted other cities are prolonging things and setting deadlines, which she feels is the prudent thing to do. The City does not have a platform. If the Planning Commission and City Council goes forward and votes on something, it requires a public hearing which is a substantial risk. She thinks the City should talk to NOC because no one predicted the situation, it is not anyone's fault, it is a health pandemic, and the proper thing to do is to ask for an extension.

Mayor Nelson asked City Attorney Nason to address this issue, because Councilmember Ries was out of order.

City Attorney Nason, in regard to *Robert's Rules of Order*, said someone who is raising a point of order can interrupt a speaker on the floor. It is not a debatable, amendable, or seconded motion; and it is decided by the Chair. She stated she was not sure who raised the point of order first; it may have been Councilmember Ries. She was not sure that answered the question that she was asked.

Mayor Nelson said he thought Councilmember Ries was out of order and he raised it. She asked for a point of personal privilege which he thought would be used for going to the bathroom, which he felt was not appropriate unless she needed to go to the restroom.

Councilmember Ries stated it is used for when other people are interrupting.

Mayor Nelson stated the City has heard from Councilmember Ries at length and her concerns have been noted. He said the City is trying to establish a legal remedy going forward, and not anything less. The City can ask the Company for an extension, but the City Council must follow the law and that is what the City will do.

Councilmember Long stated there are some other cities doing this with serious deadlines. North Oaks has one developer and can get through this. These are unusual times and the City needs help, but the City should first ask the Company for a 30-day extension. The City has to have their act ready to go if the Company says no.

Mayor Nelson stated the City has to have their act ready to go in either direction: the City needs to continue working on establishing a legal way to have hearings via videoconference, and they will also ask the Company for a 30-day extension. The City will be ready to have hearings; it will not put things on hold and hope for the best.

**MOTION by Long to direct Staff to contact the North Oaks Company and ask for a 30-day extension.**

Councilmember Ries asked City Attorney Nason if she is recommending 30 or 60 days.

City Attorney Nason said she does not know and would defer to the Council. She mentioned the City could ask for 30 and then a subsequent extension if more time is necessary based on how the situation evolves.

**Councilmember Ross seconded the motion. Motion carried unanimously by roll call.**

Administrator Kress noted Staff would test out a couple of platforms the next day. He will see how next Tuesday and Wednesday work out. Staff is still a little unclear on how it will happen. He knows some cities that have tried to do public hearings have extended them; he does not believe there has been a full-blown public hearing that has taken place yet.

Mayor Nelson encouraged Staff to keep working on it.

**b. Approval of Minutes from March 12, 2020 City Council Meeting**

Councilmember Kingston said he noticed, when reviewing the minutes, there is more detail in some areas and less detail in others. He noted there is so much information that is coming out and a lot of people are interested in it, and he suggested re-entertaining the way that minutes are being collected. He recommended the City use verbatim transcription so people can see the entire conversations that took place. He said Administrator Kress and himself talked about the fact that other cities have instituted similar types of processes, where they have both verbatim and highlights of motions and votes. He stated that would be his suggestion on how to move forward. There was a lot of information, especially in the last set of minutes, that, unfortunately, got left out or maybe others wanted to see a little more detail in some areas and it wasn't there. He does not want to have the minutes rewritten but feels the City should entertain having full narratives available.

Mayor Nelson said he thinks there are 2 ways to do minutes: to record the motions and the results of the motions, or to have the minutes verbatim. The idea of summarizing minutes does not work; they are always somewhat inaccurate to someone's perspective. He also would like to see a verbatim transcript, although he would not mind a one-page summary which would indicate the motions made and results of the motions.

Councilmember Ross stated it has been talked about in the past, and she suggested the possibility of having both the verbatim record and a sheet at the beginning/end of the minutes to show the overall information.

Mayor Nelson agreed with Councilmember Ross and clarified the sheet would not contain anything except the motions made -- a brief summary, a document saying here's what happened at the City Council meeting as far as legal actions -- and the entire transcript would be appended as by reference. There would not be a summary of minutes, which he thinks is always confusing and never accurate.

Councilmember Ross stated she thinks that scenario makes sense.

Councilmember Kingston suggested doing a verbatim transcript for the March minutes. It was a longer meeting, and he thinks starting off with that would probably be best. He said Administrator Kress has been investigating some options on that, so it should not be that difficult to get it done, and the minutes can be approved at the next Council meeting.

Mayor Nelson asked if Administrator Kress had checked into the idea.

Administrator Kress stated he contacted some neighboring cities to see what they do regarding minutes. Only one city did them internally. The majority of cities next to North Oaks and outside the metro area are shopping them out and they are doing close to verbatim. He noted you have to be careful with that language because they will never be truly verbatim, but they will be very close. When he talked to Staff and their perspective initially about the subject, they did not go into a lot of detail on it because the Council had never had a discussion since he has been with the City. He said some of the advantages of shopping it out is that it puts less pressure on Staff; they no longer would have the responsibility to do the minutes. Also, there is no negative perspective that somebody is writing something in favor of one Councilmember or another. He reiterated the major reasons they are shopped out is the time-savings and the pressure it takes off Staff.

Mayor Nelson asked if Staff knew what it would cost and whether it was expensive.

Administrator Kress said he thought it would depend on who the City would go with. If he were to venture a guess, it would be anywhere from \$100 an hour and upwards. It really depends on what the Council wants to see. If the Council wants to shop it out and take the pressure off Staff, then there is no pointing of fingers that “this was in there,” or “this wasn’t in there,” which are common problems you see with minutes, because certain members want to see this language in there, or “I said this,” or “You said that.” That is eliminated when you shop it out; there is a third-party person who has no ties to the City communicating the minutes back to the Council. He noted there are still times the Council will make changes to the minutes, but it is usually to cut out some of the verbatim.

Mayor Nelson asked Administrator Kress/Staff whether he/Staff was willing to do the very short motion record, the one-page record of the meeting.

Administrator Kress said he thought that would be pretty simple. He understands the Council wants City Staff to shop out the March 13 minutes to a third party and basically do a verbatim transcript for consideration at the next Council meeting, and also a one-page summary of just the motions.

Mayor Nelson clarified it was March 12 rather than March 13, but otherwise yes.

**MOTION by Long, seconded by Kingston, to approve shopping out for transcription of the March 12, 2020 meeting and also have Administrator Kress/Staff prepare a one-page summary of the actions taken. Motion carried unanimously by roll call.**

Administrator Kress asked if the intention moving forward would be to shop out the minutes such as tonight's or how he could advise Staff moving forward so they are aware of the process.

Mayor Nelson said that is what he would like to see done. He asked if anyone had a problem with that. He noted if the City finds out it is unduly expensive it can be revisited, but he thinks they will find a way to do it.

Administrator Kress said he would like to see a separate motion indicating that as well.

**MOTION by Long, seconded by Ross, to approve shopping out for transcription of this meeting and future meetings until such time that the City Council changes its mind, and also have Administrator Kress prepare a one-page summary of the actions taken. Motion carried unanimously by roll call.**

Administrative Assistant Debbie Breen asked if she should stop typing or keep going just in case.

Mayor Nelson stated the Council would like to have a very brief summary, so her typing should be constrained to simply what motions were made by whom and what the result was. He thinks the City needs that, anyway. He asked if that was fair and noted he saw yeses on the screens.

### **COUNCILMEMBER REPORTS**

**Councilmember Kingston** said he spent time in the last month, working with the Mayor and City office, reaching out to local businesses to see if there is anything the City could do to help and if they had any special needs. He thinks they really appreciated the City's interest in helping them. Of specific interest was Waverly Gardens and Brookdale, the other nursing home in North Oaks. At Waverly Gardens, they were running out of hand sanitizer. He was able to work with another North Oaks resident that had access to a large supply of hand sanitizer; they were manufacturing it. About 500 gallons were made available to Waverly Gardens, with enough to provide additional support to some other Presbyterian Homes. The Brookdale facility seemed to be doing fine on that front but were in need of masks, the same as Waverly Gardens. He stated the Mayor could bring people up-to-speed on that front. He said the Council needs to be sensitive to some challenges North Oaks' businesses are facing and do everything possible to let residents know what services are being offered, including carryout, and encouraged people to avail themselves of that and help businesses get through these difficult times. He stated the Tick Task Force Survey has come to an end, and the results will be tabulated and presented at upcoming meetings. He reminded everyone that tick season is upon us, especially with the recent temperatures. He also reminded everyone to use protective clothing, DEET, and other procedures that have been outlined with the Tick Task Force.

**Councilmember Ries** said everything is going according to plan with the cable company. The cable company, as with this meeting, is having to convert everything over. They are having to review everything from electronic documents, how those are done, to how meetings are filmed, reviewed, and everything in between. It has been a lot of work to make sure the cities are taken

care of. She stated that with a healthcare provider in her home, she wanted to thank the community for their outpouring of support for everything from making homemade masks to gathering N95 masks and bringing them to hospitals. It is very meaningful to her that people are going that extra step in the community to make sure they are taken care of. She thanked everyone for their efforts. She said the website is being redone and they are making sure it will be high-performance. Because of COVID-19 and everyone working remotely, being able to have functionality from remote access is very critical from the City's perspective. He said they are working with the first design for the website to make sure it functions, is easy to use, and has all of the features needed to support residents. She indicated Administrator Kress may add some features for emergency updates and announcements from the City. That way people are kept informed and residents are able to see in real-time what is happening with the City. She reminded everyone that with COVID-19 people are home; and since it is Earth Day on April 22, she encouraged everyone to get out and take a walk, walk a block, pick up garbage if possible and help keep the community great. She noted she did that with her daughter and it was great.

**Councilmember Long** stated it is the first time he has ever been at a City Council meeting in a hot tub. He said it has been weird but fun walking the trails every day and getting to see everyone. There have been a lot of complaints, but people are out walking, they are keeping their distance, and it is actually a nice thing. He noted they will have the DNR fishing again, probably within the next 2 months. Sheriff Fletcher will have the Ramsey County boat out which will be clearly marked so there should not be any problems. Vadnais Lake Area Water Management Organization (VLAWMO) had a Zoom meeting. There is a new Administrator starting April 15 who is extremely qualified, and he would like everyone to reach out to him. He stated he is no longer on the Fire Board, but with COVID-19, the group should maybe re-look at purchasing a \$12 million station and hold off on the land. He noted it is a new world now and he would like Administrator Kress to look at that. On the VLAWMO front, they did an alum treatment for about \$200,000; they are taking care of Bruce Lake. He reminded everyone that it was a year ago when North Oaks had a very difficult Council meeting; he witnessed the Mayor get physically hit by a resident who was a little too involved at the April meeting. He and a few other concerned citizens nicknamed him "King of the Dirty Dozen," and that person is not welcome at Council meetings anymore. He said it was extremely disturbing to see a public official, a volunteer like the Mayor, physically hit by this person whom he will not name. He said it has been a year and the process continues to work. There have been a lot of changes at the City, and he feels the Council continues to listen to people. It has been difficult, to say the least. There has been a lot of anger, a lot of YouTube videos and police reports. He said the following day marks a one-year anniversary of a police report on him because he talked to the person who watched the Mayor get hit, and 5 days later the police received a 9-page email from her after he spoke with her. The Police Officer said it wasn't a police matter; there was not a crime. Ramsey County Sheriff Bob Fletcher also looked at the incident. The "Dirty Dozen" continue to bring the incident up and are using/misusing it, all for their own NIMBY (Not In My Back Yard) attitude. He said there are 12 people pushing this; he is tired of it, and will not allow it to happen. He said Administrator Kress has a copy of the goofy police report and there are statements from the Police Officer. He

commented that if people think the new world is going to be where you can abuse and hit people and write things about them, that is not going to happen in North Oaks.

**Councilmember Ross** noted she had a big delivery of mailboxes to her garage. There have been another 48 mailboxes that have been sent out into the community and another list started. It seems to be ever-popular and she thinks it will be ongoing for a while. She thinks the City's calls are going up in volume and there are people coming in to the community. She noted Deputy Burrell stopped someone who was driving his car with his knees. The man claimed he was working with one of the builders in town. However, he was not a resident and was not working with the builder that he said he was. She stated they are seeing a lot of odd things such as the 30 motorcyclists, and the City has to watch out and be prepared to deal with things as they come. She said North Oaks is a really attractive community for people and people have time on their hands now. There were basketball players that were not residents in the community; there was a car with several guys in it, including persons smoking marijuana and drinking. Deputy Burrell ended up calling for reinforcements and 4 police cars showed up. She noted these incidents were all within the last couple of days. She thinks the weather is inviting, especially when you live in North Oaks because it has lots of amenities.

**Mayor Nelson** noted it is a changed world since the last meeting. He thanked Councilmember Kingston, **Sandy Guka**, and another North Oaks resident whose name he has not heard, who helped Waverly Gardens after the COVID-19 crisis started to unfold. He spoke to Dan Erickson, a very capable administrator of Waverly Gardens, who noted they were very short of disinfectant cleaner for the facility. Councilmember Kingston checked around and got a hold of a person who is in the business of manufacturing disinfectant, and Waverly Gardens purchased 400 gallons and distributed that product to other Presbyterian Homes as well. Dan Erickson also told him they had no supply of masks. In checking the North Oaks area, they found there was a virtual army of individuals who were interested in making masks. Tami McNeil became "General McNeil" and started working with individuals. **Judy Oanesian, Emily Nelson, Heidi Keil, Phil Fleming, Teri Gustafson, Dan Gustafson, Ann Gustafson, Joanne Helgeson, and Nancy Lane-Smith** were involved in making masks for Waverly Gardens and are now making masks for Brookdale. It takes effort and time to make good masks, and there are well over 100 masks. He appreciates the efforts the residents in North Oaks have made. He said there are a lot of healthcare providers, and they are doing a terrific job in putting themselves in harm's way. The Council will make sure the City continues to provide the services that are appropriate and dedicated to helping residents. He noticed the Sheriff's Department has a help program for individuals they learn are vulnerable or in need of special assistance. The Sheriff is a resident in North Oaks, and the City appreciates his efforts and the fact that his people are in harm's way as well.

## **CITY ADMINISTRATOR REPORTS**

### **a. City Administrator Staff Report**

Administrator Kress said they are working on the new City website. He is working on securing the ".gov" domain so it would read "cityofnorthoaksmn.gov" or something similar. City Staff is also working on laser fiche implementation. There are "Alert" symbols on the new website which people will also see. North Oaks has been dealing with Granicus to change some

templates because of struggles with the header information notifying the public that the meetings are all electronic. They have been forced to send them out as pdf's and they are not loading properly in iLegislate. He noted the City has been using the Zoom platform for a number of different applications. They have also tried Skype and GoToMeeting platforms. They will continue to look at different options that will help the City during this time. They have been working exhaustively in the development application and spent a lot of time going back-and-forth and meeting with NOHOA, getting perspective, and listening to residents' concerns on the projects. Those will move forward soon. He noted he will give the Council some guidance about the Closed Session item as far as how it is processed.

Mayor Nelson said there are a lot of other people in North Oaks making masks and doing other good things; and although he does not know their names, he appreciates everyone's efforts during COVID-19.

Councilmember Long asked Administrator Kress to give the Council an update on the new water meters, as far as activity.

Administrator Kress said he does not have a new update yet and is still waiting on the final City audit which he thinks will indicate some new information. As soon as he has the City audit in hand, he can give the City Council an update on findings for Charley Lake and Red Pine Forest.

Councilmember Long noted the laptops are close to 4-5 years old. He asked if there is any technology the City should look at, given Zoom and the way the City is conducting business now, that might be a better tool.

Administrator Kress said he had a number of Councilmembers share they are displeased with the Surface tablets being used, even tonight. His recommendation is that if anyone is not in favor of using Surface tablets, that the City look into using a different platform. He would probably go away from the tablets entirely; it would be better to get laptops. He is open to ideas from the Council if they want to look at **app-wide pads** or a service like that. He noted that it is not budgeted but does not think it will break the bank. He felt it could be budgeted for the following year to recoup the cost.

Mayor Nelson recalled Granicus was originally written for the Apple iPad, so that is one of the reasons why **MyPad/iPad** might be a good choice. He suggested looking at the various items because the current ones are getting old.

### **CITY ATTORNEY REPORT**

City Attorney Nason stated she has been working with City Staff on the Planning applications the City received, adjusting to the emergency declaration timeframe, and staying in touch with the League of Minnesota Cities. She noted all cities/City Attorneys are in the same boat in that everyone is in uncharted waters, with everyone meeting electronically and not knowing when it will be possible to meet again in-person. She is trying to keep abreast of the different changes that are occurring with respect to the Governor's various Executive Orders and how that impacts businesses and residents within the City, as well as Federal regulations that have come out with respect to essential workers and best practices with respect to social distances, etc.

Councilmember Long said he spoke with the author of the PDA/PUD over the last year, Bruce Malkerson, who said he is willing to speak to City Attorney Nason as a professional courtesy if she has any questions. He is the person who wrote the contract 20 years ago. If City Attorney Nason spent more than a little bit of courtesy time, Mr. Malkerson would need to bill the City.

City Attorney Nason said she knows Mr. Malkerson and has worked with him on other matters. She stated she thought **Tom Newcomb, III**, wrote the document. If the City Council would direct her to reach out to Mr. Malkerson, she would be happy to do so if he is willing to speak to her briefly and in a way that does not impact the City financially,

Councilmember Long said Mr. Malkerson was very concerned about the continued cost. He said he recommended \$8,000-10,000 be spent to look further. It is an opportunity to speak to the person who wrote the whole thing. He noted that Mr. Malkerson said if someone is taking a paragraph out of a 400-page document just to push someone's own agenda, that is wrong and the City should not allow that; it is just wasting money. The City cannot bill it to the Company anymore and they are refusing to pay for this.

Mayor Nelson suggested Councilmember Long talk to Administrator Kress offline after the meeting and see what Mr. Malkerson has to offer. He also mentioned he attended a virtual Zoom conference hosted by Senator Chamberlain and Representative Runbeck a couple weeks ago. There will be another conference on April 15. In the earlier conference the Representative and Senator stated if people had questions, they could submit them before the meeting and possibly have them addressed. He stated if people have questions they would like addressed relative to the COVID-19 crisis and relative to legislative action, he would be happy to hear from them via email, or people could send them to Administrator Kress and the Council can submit them to Roger Chamberlain and Linda Runbeck prior to that meeting. They may or may not get a response, but at least people could do that.

**CITY ADMINISTRATOR PERFORMANCE REVIEW – PURSUANT TO MINNESOTA STATUTE CHAPTER 13D.05, SUBD. 3, THIS MEETING WILL BE CLOSED TO THE PUBLIC**

Mayor Nelson stated there would be a City Administrator performance review taking place which is closed to the public. He stated notice is given this day, April 9, that the North Oaks City Council will be meeting in a closed session at 8:31 p.m. to conduct the City Administrator's performance review.

**Consider Authorizing City Attorney Nason to talk with Bruce Malkerson**

Administrator Kress said before that occurred, he needed to go back to the authorization for the City Attorney to work with Mr. Malkerson. He stated there needs to be approval from the Council if the intent is to have City Attorney Nason do some kind of review. He clarified and said if the City is looking for authorization, he would like to see a motion indicating that. Otherwise, he is not authorized to have City Attorney Nason talk with a separate Attorney.

Mayor Nelson asked Councilmember Long if he would like to make a motion.

Councilmember Long stated it was going to be a friendly conversation with no bill.

Mayor Nelson noted City Attorney Nason will have to charge the City.

Councilmember Long said he does not want any more City bills.

City Attorney Nason said she is happy to talk to him for ½-1½ hours and not bill the City. She noted the question is, does the City want their lawyer talking to this other lawyer, which is what Administrator Kress was getting at.

Mayor Nelson said he does not want City Attorney Nason working for free for any reason but there could be a short conversation.

Councilmember Long said there does not need to be a motion. He can talk to Mr. Malkerson because they are friends and have business together.

Councilmember Kingston said City Attorney Nason indicated she is willing to have a conversation with Mr. Malkerson if he wants to talk to her and there is no cost to either party. If she is able to find out what he knows or has a question, there is no harm/no foul.

**MOTION by Long, seconded by Kingston, to approve a short discussion between Bruce Malkerson and City Attorney Nason to see if there is anything that needs clarifying relative to the original PDA and things Mr. Malkerson was involved in.**

Administrator Kress stated he would like to sit in on the conversation as well.

Mayor Nelson said he thinks that is great and anybody can as long as there is not a quorum issue.

**AMENDMENT MOTION by Long, accepted by Kingston, to have City Attorney Nason, Administrator Kress, and himself sit in on the meeting. Motion carried unanimously by roll call.**

**CITY ADMINISTRATOR PERFORMANCE REVIEW – PURSUANT TO MINNESOTA STATUTE CHAPTER 13D.05, SUBD. 3, THIS MEETING WILL BE CLOSED TO THE PUBLIC (continued)**

City Attorney Nason indicated she sent out a script of the motion that needs to be made, seconded, and a roll call vote taken to go into the closed session. She offered to read it if necessary for Council consideration.

Administrator Kress told City Attorney Nason she needed to read it.

City Attorney Nason said she is looking for a motion by a member of the Council or the Mayor as follows: “I move to close the meeting pursuant to Minn. Stat. § 13D.05 Subd. 3 for the purpose of evaluating the performance of City Administrator Kevin Kress. The closed meeting will be held via telephone only on a separate Zoom conference call number and will commence immediately. Once the closed meeting is completed, the City Council will reconvene the open

meeting portion of tonight's City Council meeting on this Zoom conference call number. Members of the public who wish to remain on the line may do so. The line will be silent until the Council and City Administrator re-join following completion of Mr. Kress' performance evaluation."

**MOTION by Ross, seconded by Ries, to adopt the language read by City Attorney Nason. Motion carried unanimously by roll call.**

The meeting was reconvened at 9:22 p.m.

Mayor Nelson noted the City Council had a closed session wherein they discussed performance and employment issues with Kevin Kress relative to his contract. He was scheduled for an April review of his contract, which began on December 2, 2019. Mayor Nelson gave a summary as follows: the City Council reviewed the contract and noted the COLA increases had surpassed the anticipated increase in his salary that would have occurred in April that had been built into the contract. The City Council has taken this to public meeting to have a vote on what they are going to do, and the anticipated action is to revisit Mr. Kress' contract in September relative to pay scale for an increase that would take place in December, depending on performance and review in September. Additionally, the City Council is prepared to make a motion to grant the balance of the PTO that was, pursuant to the original contract, accruing every quarter. Now that the City Council is highly satisfied with Mr. Kress' performance, they are going to grant the balance of his PTO that would accrue through the end of his first-year contract, January 1. Mayor Nelson said that is the motion before the City Council if someone wished to make it.

**MOTION by Ries, seconded by Kingston, to amend Kevin Kress' employment contract to allow him to take the remainder of his PTO upfront/release the balance of the PTO that would be accruing in Mr. Kress' contract.**

Mayor Nelson said he understood from Mr. Kress that the Council will draft the language offline and change it around.

**Motion carried unanimously by roll call.**

Administrator Kress stated he will work with Mayor Nelson to clarify the COLA language and resend the contract to the City Council.

### **NEW BUSINESS (continued)**

#### **b. Approval of Minutes from March 12, 2020 City Council Meeting**

Administrative Assistant Debbie Breen asked if the verbatim minute-taking would apply to the City Council, Planning Commission, and Natural Resource Commission (NRC) meetings.

Administrator Kress said he took it as all of them even though it was not directly stated in the motion. He suggested a separate motion would be cleaner stating that all Planning Commission and Natural Resource Commission minutes will be verbatim/contracted out.

Mayor Nelson suggested that there should be a verbatim transcript when there is a significant Planning Commission issue. He said the NRC meeting is such a causal meeting that he is not sure it is suitable for verbatim. He asked for input from other Councilmembers.

Councilmember Ross said she doesn't think it is necessary for the NRC; instead, save the money and do the City Council and Planning Commission meetings.

Mayor Nelson noted it is a pretty casual meeting and he thinks it is reasonable if everybody agrees. There does not have to be an end date, but the City Council can approve verbatim transcripts for the Planning Commission and not the NRC on an indefinite basis and revisit it when necessary.

**MOTION by Kingston, seconded by Ross, to apply the verbatim minute-taking for the City Council and Planning Commission. Motion carried unanimously by roll call.**

**ADJOURNMENT**

**MOTION by Ross, seconded by Kingston, to adjourn the Council meeting at 9:33 p.m. Motion carried unanimously by roll call.**

\_\_\_\_\_  
Kevin Kress, City Administrator

\_\_\_\_\_  
Gregg Nelson, Mayor

Date approved\_\_\_\_\_

**CITY OF NORTH OAKS**  
**REQUEST FOR COUNCIL ACTION**

<b>Requested Date of Council Consideration:</b> 5-14-2020 <b>Flexibility:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<b>Originating Department:</b> ADMINISTRATION
<b>Agenda Item: New Business – Resolution extending local emergency</b>	<b>Presenter: KEVIN KRESS</b>
	<b>Estimated Time:</b> <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> 5 Min. <input type="checkbox"/> 15 Min. <input type="checkbox"/> 30 Min. <input type="checkbox"/> 45 Min. <input type="checkbox"/> 1 Hour
<b>Council Action Requested:</b> <input checked="" type="checkbox"/> Information/Review <input type="checkbox"/> Motion to approve... <input type="checkbox"/> Motion to deny... <input type="checkbox"/> Other <input type="checkbox"/> Budget Change	
<b>Background:</b> <b>Council,</b>	
<p>Attached, please find the draft resolution extending the existing local emergency. I know that the current state-wide emergency declaration is set to expire on May 13<sup>th</sup>, so the reality is that the lay of the land will change between now and next Thursday’s Council meeting, and that based on what the Governor does as far as extending the state-wide emergency declaration may influence how the Council wants to proceed with approving/modifying this resolution. Note that based on the expiration date of this resolution, it will cover the June 11<sup>th</sup> Council Meeting, meaning that if the Council intends to act on the Nord and Anderson Woods applications, under this resolution, that meeting would be a virtual meeting. I think that it is worthwhile to discuss this, as that meeting does seem like it would be best if it were held in person. I have no doubt that in June we will still be in the thick of the pandemic, there will still be social distancing guidelines, and there will be a need to address considerations including:</p>	
<ol style="list-style-type: none"> <li>1. Whether, at that time, it will be practical or prudent to have an in-person meeting of the City Council</li> <li>2. How the council chambers will need to be reconfigured to comply with social distancing recommendations (for example, Bob, Larina, Bridget, and I will need to find a new place to sit or spread out much farther along that wall, which will limit the number of people who are able to attend the meeting in-person)</li> <li>3. Whether we want to incorporate technology into the meeting, such as having the meeting run on Zoom so people attending remotely may be able to make a public comment during the public comment section of the meeting, or as the applications are being discussed if the Council chooses to open the discussion up to public comment (I do not see this as likely, but I’m trying to anticipate all possibilities)</li> <li>4. Whether the City should look at its options for holding the meeting by interactive TV under Minn. Stat. Sec. 13D.02, if we are no longer under the auspices of 13D.021. The Council could meet under 13D.02 if the following conditions are met:</li> </ol>	
<p>(a) A meeting governed by section <a href="#">13D.01, subdivisions 1, 2, 4, and 5</a>, and this section may be conducted by interactive television so long as:</p>	

- (1) all members of the body participating in the meeting, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented at any location at which at least one member is present;
  - (2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of members of the body;
  - (3) at least one member of the body is physically present at the regular meeting location; and
  - (4) all votes are conducted by roll call so each member's vote on each issue can be identified and recorded; and
  - (5) each location at which a member of the body is present is open and accessible to the public.
- (b) A meeting satisfies the requirements of paragraph (a), although a member of the public body participates from a location that is not open or accessible to the public, if the member has not participated more than three times in a calendar year from a location that is not open or accessible to the public, and:
- (1) the member is serving in the military and is at a required drill, deployed, or on active duty; or
  - (2) the member has been advised by a health care professional against being in a public place for personal or family medical reasons. This clause only applies when a state of emergency has been declared under section 12.31, and expires 60 days after the removal of the state of emergency.

There are quite a few variables related to this decision to extend the local emergency and to determine whether it is practical or prudent to return to in-person meetings. Bridget and I will be prepared at the Council meeting to provide updates regarding the latest Executive Orders (assuming there will be one extending the declaration of emergency), LMNC guidance on remote versus in-person meetings, information on meeting requirements under 13D.02 as detailed above, and anecdotal information regarding what other cities that have been meeting remotely under 13D.021 are doing as far as remaining in a virtual meeting space or moving back into in-person meetings.

**RECOMMENDED ACTION**

Motion to adopt the proposed resolution 2020-1382 with any changes after a discussion is held regarding the information above and any new information received by the meeting night.

**Supporting Documents:**  Attached  None

**Department Head Signature/Date:**

**Administrator Signature/Date:**

**ACTION TAKEN**  Approved  Denied  Tabled  Accepted Report  Other

**Date of Action:** \_\_\_\_\_

**Comments:**

**RESOLUTION NO. 2020- 1382**

**CITY OF NORTH OAKS  
RAMSEY COUNTY, MINNESOTA**

**RESOLUTION EXTENDING TERM OF PREVIOUSLY-DECLARED LOCAL EMERGENCY  
TO JUNE 13, 2020**

**WHEREAS**, on March 13, 2020, Governor Tim Walz, by way of Emergency Executive Order 20-01, declared a Peacetime State of Emergency pursuant to Minnesota Statutes, Chapter 12, to authorize any and all necessary resources to be used in support of the COVID-19 response, effective immediately; and

**WHEREAS**, by that Proclamation and Declaration of Emergency dated March 16, 2020, Mayor Gregg Nelson declared that a local emergency existed due to the COVID-19 health pandemic; and

**WHEREAS**, on March 19, 2020, the City Council adopted Resolution No. 1379 which agreed with the Mayor's Proclamation and Declaration of Emergency, consented to the declaration of a local emergency pursuant to Minn. Stat. Cha. 12, due to the COVID-19 health pandemic, and extended the declaration of local emergency for a period of sixty (60) days from the date of adoption of the Resolution until May 18, 2020; and

**WHEREAS**, the City Council of the City of North Oaks finds that the existing local emergency will continue past May 18, 2020, therefore necessitating an extension of the existing emergency declaration.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of North Oaks, Minnesota, as follows:

1. The City Council finds that the existing local emergency due to the COVID-19 health pandemic will continue past May 18, 2020, and that it is necessary to extend the existing declaration of a local emergency through June 13, 2020.
2. The City Council hereby extends the existing declaration of local emergency pursuant to Minn. Stat. Cha. 12 through June 13, 2020.
3. All of the authorizations and approvals granted in the initial Proclamation and Declaration of Emergency and in Resolution No. 1379 are hereby continued for the duration of the extension of the declaration of local emergency.
4. The City Council and Mayor hereby determine that in-person meetings of the City Council, Planning Commission, and other commissions of the City of North Oaks at the Community Room, 100 Village Center Drive, North Oaks, MN, are not practical or prudent due to the COVID-19 health pandemic, and subsequent Emergency Executive Orders, including Emergency Executive Order 2020-35, and recommendations of the United States Center For Disease Control. The City Council extends the authority to all city public bodies to conduct public meetings pursuant to and in compliance with Minnesota Statutes, Section 13D.021 until such time as the presiding officer of each body determines, in consultation with the City Administrator, that it is no longer impractical or imprudent for the respective public body to

resume in-person meetings or the termination of this declaration of local emergency, whichever occurs first.

5. The City Council hereby specifically authorizes city offices to remain closed to the public until June 13, 2020, or such earlier time as it is determined by the City Administrator that city offices may be safely reopened.
6. The City Clerk is authorized and directed to file and post notice of adoption of this resolution and any emergency regulations as authorized and required by State law or City Code.

Adopted by the City Council of the City of North Oaks this 14<sup>th</sup> day of May, 2020.

Ayes:                      Nays:

Attest:

Attest:

---

Gregg Nelson, Mayor

---

Kevin Kress, City Administrator/City Clerk



## Coyote Management Plan



City of North Oaks  
Natural Resources Commission  
100 Village Center Drive, Suite 230  
North Oaks, MN 55127  
Tel: 651-792-7750  
[cityofnorthoaks.com](http://cityofnorthoaks.com)

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## Coyote Management Plan

### Goals

The goal of this Management Plan is to support coexistence with urban coyotes using education, behavior modification, and development of a tiered response to aggressive coyote behavior. The tiered response requires active participation on the part of the entire community including residents, homeowners' associations, and City personnel.

This Management Plan is based on research and best-known management practices and includes a full spectrum of management tools. Basic principles that guide this Plan are the following:

1. Urban wildlife is valued for biological diversity, as members of natural ecosystems, and reminders of larger global conservation issues.
2. Urban wildlife and wildlife habitats are important to North Oaks residents. Although urban environments are more favorable to some species than others, coexistence is the foundation of city's general wildlife management programs.
3. Human safety is a priority in managing wildlife/human conflicts that pose a danger to people.
4. Preventive practices—such as reduction and removal of wildlife attractants, habitat manipulation (e.g., removal of potential coyote denning areas), and responding appropriately to human and wildlife interactions—are key to minimizing potential human conflicts.
5. Management techniques and decisions are based on a thorough understanding of the biology and ecology of urban wildlife species.
6. Education and communication are essential in supporting human and animal needs and coexistence.
7. Emphasis of this management plan is placed on preventative measures and non-lethal controls.



### Difficulties Managing Wildlife

Although North Oaks places a high value on its wildlife, some species adapted to urban environments have the potential for problems and/or conflicts in specific situations.

In addressing problems, the City promotes policies supporting prevention and implementation of remedial measures that do not harm the wildlife or their habitats.

A wildlife problem is defined as any situation that causes a health or safety issue to its residents. In cases where problems with wildlife are associated with human behavior (leaving garbage exposed or intentional wildlife feeding), ordinances and enforcement may be enacted to minimize conflict.

In some cases, particular or traditional management tools are ineffective. For example, trapping coyotes and relocation of animals is not ecologically sound. Generally, many relocated animals do not survive the transfer. If they do, they tend to disperse to other locations where they may cause problems. In some instances, the dispersed coyotes will go to great lengths to return to known territory or adversely affect residents.

As a last resort, lethal control measures are possible but not always selective. If they are used, they must be humane and in compliance with federal and state laws and require prior approval by the City of North Oaks' Administrator. City funds will not be used to trap and/or kill coyotes.

### Limits of this Management Plan

The intent of this plan is to provide guidance for City staff in dealing with coyotes in North Oaks. Guidelines and provisions of this plan do not supersede federal, state and county regulations and policies. Furthermore, the provisions of this plan do not apply to North Oaks residents in pursuit of their legal rights in dealing with coyotes.





## The Coyote (*Canis latrans*)

### Where Are Coyotes from?

The historical range of coyotes was the prairies and desert areas of Mexico and central North America. Due to their intelligence, adaptability, the decline of larger animals (e.g., wolves) in some areas, and urban sprawl, coyotes have successfully expanded their range. They are now found in all states except Hawaii and have successfully established themselves in many urban ecosystems across North America.

### What Do Coyotes Look Like?

On the upper parts of their body, coyote pelts vary from gray-brown to yellow-gray; some can even be mostly black in color. Their backs have tawny-colored under fur and long overcoats with black-tipped guard-hairs. The latter forms a dorsal stripe and dark band over their shoulders. Throat and bellies tend to be buff or white. Forelegs, sides of the head, muzzle and feet are reddish brown. Coyotes have long legs, small paws, large pointed ears and a pointed snout.

Weighing between 20 to 38 pounds, their long legs and thick fur make them appear larger. As a reference point, a beagle is on average 30 lbs.

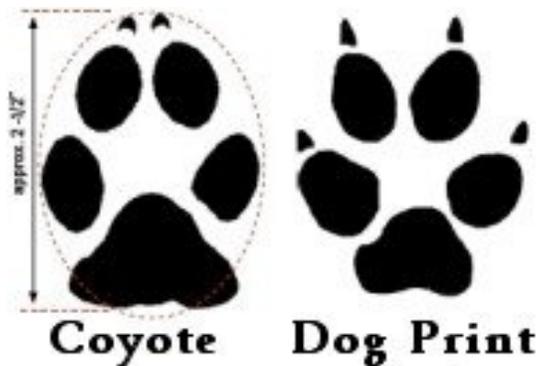


Adult coyote



### How Do You Know Where Coyotes Are?

If you do not directly see a coyote, you may notice paw prints or scat (feces) left behind or even may hear them. Their prints are similar to some medium or large dog breeds and difficult to tell apart. Coyote prints are often slightly more oval in shape, whereas many dog prints are more round. Coyote prints typically show no or small nail marks (rarely long), whereas dogs may show a wide range of nail marks (none to very long) depending on whether or how much owners have trimmed their nails. Unlike dogs, coyote scat is more segmented and typically filled with hair, seeds and bones. Coyotes use scat to communicate and often deposit it in the middle of a trail or edge of their territory where it is easily seen. Coyotes howl, bark or whine—usually to communicate with each other.



Coyote scat



Dog scat

### How and Where Do Coyotes Live?

Coyotes may live alone, in pairs, or in family groups with one breeding pair, generally mating once a year, from January through February. Social organization and group size are highly correlated with food availability. The rest of the group is comprised of multiple (though usually just the most recent) generations of offspring. Pups are born March through May. Older pack members actively protect the pups, though pup mortality can often be 50 and 70% in the first year. Litter size depends on available resources and the number of coyotes in the area.



Although a litter varies from two to 12 pups, the average is six or seven. Pups remain in the den the first six weeks and then travel with the adults. By the end of summer; they are more independent, yet, may still travel with parents and siblings.

Because coyotes are socially organized, the group raises the young and defends their territory from other coyotes. Territories do not overlap. Although they generally live in groups, coyotes often travel alone or in pairs.



In urban areas, most coyotes live in large parks, golf courses, greenways and natural open space where they find food and cover. Thus, their territory may follow the park or open space boundaries. They are extremely adaptable in creating territories under a wide range of urban conditions, and may venture outside preferred greenspaces in the evening in search of prey.

#### What Role Do Coyotes Play in the Environment?

Coyotes play an important role in the urban ecosystem. They are predators of geese, eggs, squirrels, mice, rabbits, rats, gophers, and other small animals, as well as larger animals such as turkey and deer. Rodents make up a majority of their diet. Areas with resident coyotes often report a decrease in rodents and geese populations. A result of reducing rodent populations is reduced disease prevalence on the landscape. Coyotes also kill feral cats. As feral cats kill many birds, greater bird diversity results from cat removal.

#### How Do Humans Perceive Coyotes?

People respond to coyotes in various ways. Some observe them with enjoyment, others with indifference, and some with fear or concern. Personal experiences with coyotes may influence perceptions. Experiences range from animal sightings without incident to stalking or killing of pets and, at the extreme, an attack on a person. Attacks on humans are very rare, and often correspond with sick or injured coyotes. Conflicts between coyotes and pets typically peak around coyote pup rearing in May and June.



Because wild animals conjure up fear in some people, actual sightings and perceptions may become exaggerated or misconstrued (see Appendix A for coyote description encounters). The wide range in perceptions of urban coyotes from North Oaks residents supports the need for strong and consistent educational messages on coyote ecology, behavior, and management techniques.

#### Have Coyote Numbers Increased in North Oaks?

Without local long-term monitoring, it is difficult to know if the number of coyotes has increased in an area. However, data from the Minnesota Department of Natural Resources (MN DNR) does show that coyote numbers have notably increased in the rural areas of southern Minnesota. And as is true for almost every wildlife species, coyotes can become habituated if they are intentionally or unintentionally fed, or if they do not experience negative feedback, which can lead to bolder behavior when coyotes lose their fear of people.

Coyote populations—as with many predators—will stabilize when numbers are near that which can be supported by available food and space resources. Coyotes regularly roam an area of about 3–6 square miles or more; actual size will vary based on food availability, landscape features, and presence of other coyotes. Normally, each pack is a territorial family group that varies in number from 3 to 10 individuals. A portion of the territory the pack inhabits, oftentimes the central portion, is more heavily defended from other coyotes. The number of coyotes in the pack is partially linked to the amount of food resources in the territory.

A coyote pack usually has one breeding (or alpha) female. This female often produces more pups than can be supported long term in the territory. Young coyotes may leave the pack at about 9–11 months of age, but dispersal patterns are highly variable. These coyotes become at least temporary transients. Other types of transients include older individuals that can no longer defend their role as upper level pack members and leave the pack.

Transients often move through narrow undefended zones that exist between pack territories searching for an open habitat to occupy or a group to join. They often die before they succeed (many are hit by cars).

However, any removal of coyotes in urban areas is typically focused on problem areas or individuals (not widespread population control). Whether such removal will be effective at solving a problem depends on how quickly the area is recolonized by new coyotes, and importantly, whether the new coyotes are likely to cause problems (and many do not).



### How Do Cities Provide Habitat for Coyotes?

Cities may support populations of wild animals in close proximity to people for the following reasons:

- 1) Access to food. People provide easy access to large supplies of food by leaving pet food, bird seed, unsecure compost or trash, and fallen fruits in yards. Even pets can become viewed as potential prey by coyotes. Furthermore, natural food/prey (e.g., squirrels, rabbits, mice, and birds) is also present even in developed neighborhoods, with prey habitat provided by trees, shrubbery, and gardens. Whether natural or artificial, or intentionally provided or not, coyotes can be highly successful at finding the food they need even in urban areas.



- 2) Access to water. Year-round water supplies in cities from man-made ponds, natural lakes, creeks, and wetlands, irrigation systems, pet water dishes, bird watering stands, etc. provide water for prey animals and coyotes.
- 3) Access to shelter. Parks, open spaces, golf courses, abandoned buildings and vehicles, sheds, decks, and crawl spaces can provide shelter for adaptable carnivores. Coyotes have also been found to sleep in gardens, culverts, vegetated cul-de-sac turnarounds, and about any other small patch of natural or manmade cover, even near areas with high human activity. Many of these areas also provide habitat for small prey.

Because cities provide all the resources (food, water, shelter) necessary for adaptable carnivores to thrive, it brings wild animals in close proximity to a large number of people and pets. Although these animals provide great enjoyment to many, in the absence of any “negative feedback,” most will lose fear and become increasingly “bold” around humans or dwellings. However, only a small subset of these coyotes will ultimately cause an actual conflict with humans or their pets. Pets, for example, may become viewed as a potential food source or as a competitor (much like another coyote) to some individual coyotes.



While human attacks are very rare, urban landscape development, habituation through unintentional and intentional feeding, pet-related incidents, and media attention have led some urban residents to fear coyotes. Steps must be taken to address safety concerns, misconceptions, and appropriate responses to potential conflicts. It's important to keep in mind that coyotes have been in and around St. Paul and Minneapolis (and other parts of the Twin Cities Metro area), interacting with and being seen by people, for a long time.

### Hazing and Behavioral Change

Some coyotes have become habituated to or fearless of people. To safely coexist, it's important to prevent or eliminate this behavior in resident coyotes. Habituated coyote behavior can often be reshaped to encourage coyotes to avoid close interactions with humans and pets.

Hazing—also known as “fear conditioning”—is the process that facilitates this change and requires a community response to reduce or eliminate negative encounters with coyotes. The more often an individual animal is hazed, the more effective hazing is in changing coyote behavior (see Appendix C for coyote hazing overview). It is most effective, however, if it is done BEFORE an animal has become habituated, and if any “attractant” that may be drawing the animal to a specific area of concern is removed.

### Goals of Hazing

The goals of hazing are to:

- Prevent habituation before it occurs. Once habituated, hazing can be less effective.
- Reshape habituated coyote behavior to avoid close interactions with humans and pets in an urban setting.
- Give residents tools to actively engage in reshaping coyote behavior and to support feeling safe in their parks and neighborhoods.
- Model hazing behavior and share accurate information about coyotes with other residents, friends and family.

### Hazing Process

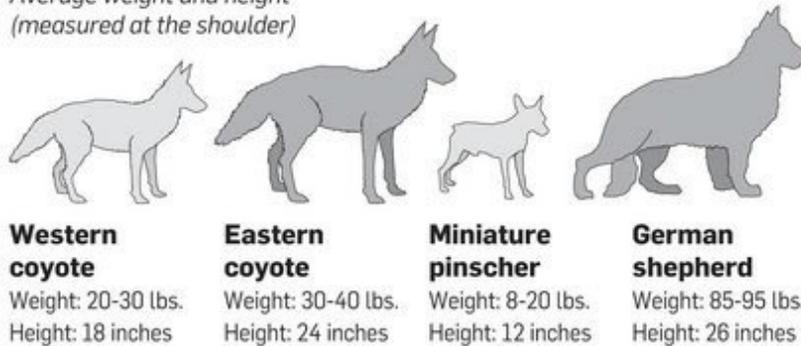
Human behavior can shape animal behavior in either a negative or positive manner. People living in close proximity to coyotes should remove coyote attractants, identify potentially dangerous situations for their pets and themselves, not wait until habituation has occurred before hazing, and respond in a manner designed to change coyote behavior.



### AT A GLANCE

Larger, more wiley and much more varied in color than its Western counterpart, the Eastern coyote is a product of migration and adaptation, establishing itself in New Jersey and other urbanized Eastern areas more than 50 years ago.

*Average weight and height  
(measured at the shoulder)*



THE STAR-LEDGER

*Source: Jonathan Way, Eastern Coyote Research,  
American Kennel Club, dogsindepth.com, NJ  
Division of Fish and Wildlife*

Behavioral change and hazing include the following:

- Pet owners need to protect pets. Off-leash and unattended dogs, and unattended outside cats (as well as pet food, water, and odors), attract coyotes.
- Residents need to learn effective hazing techniques. A hazing program must be consistently applied by all in order to be effective.
- Hazing needs to be active for a sustained period of time to achieve the desired change for the highest possible long-term success.
- Hazing requires monitoring to assess its effectiveness and to determine if further action or more aggressive hazing is needed.



### Overview of Hazing

Hazing is a process whereby a number of individuals encountering a coyote respond in like manner to make a coyote uncomfortable and choose to leave a situation where their presence is unwanted.

Basic hazing consists of standing your ground, never ignoring or turning your back to a coyote(s), yelling, and making unpleasant and frightening noises until the animal(s) choose to leave.

More aggressive hazing consists of approaching an animal quickly and aggressively, throwing projectiles such as rocks or sticks, spraying with a hose or water gun, or creating fear of contact so the animal leaves the situation. For more options, see Appendix C on hazing.

Hazing must continue once it begins until the animal leaves, otherwise, the coyote will learn to “wait” until the person gives up. Not following through with hazing will create an animal more resistant to hazing instead of reinforcing the image that “people are scary.”

Hazing must be adaptable. Coyotes can eventually habituate not only to people, but also to hazing techniques. It is important to observe whether a specific technique is losing effectiveness, and consider alternating numerous techniques to minimize the chance of habituation.

Hazing should never injure the animal. An injured animal can become less predictable or more dependent on human food sources, making risk of negative encounters more likely.

A common concern with hazing involves potential danger to the hazer. A coyote’s basic nature is very skittish. A normal, healthy coyote will rarely escalate a situation with an aggressive person; however, an unhealthy animal may not retreat thereby creating an unsafe situation. Also, if a den is suspected to be nearby, use more caution with aggressive hazing and consult with trained biologists or animal control agents. Hazing is NOT successful with every species of wild animal because different types of animals have different traits.



## Management Strategy

City strategy for managing coyotes is based on balancing respect and protection for wildlife and their habitats without compromising public safety. The main strategy is comprised of a two-pronged approach consisting of public education designed around co-existence with coyotes and ensuring public safety by implementing appropriate responses to coyote encounters humans, should they occur.

### Public Education and Outreach

Education is the key to having residents make appropriate decisions regarding their safety, or managing their property and pets. This involves decreasing attractants, increasing pet safety and creating reasonable expectations of normal coyote behavior.

Learning how to respond to a coyote encounter empowers residents and supports reshaping undesired coyote behavior. The public should understand what normal coyote behavior is when living in close proximity with coyotes. For example, coyote vocalization (i.e., howling or high-pitched yelping) is normal, acceptable behavior and does not indicate aggression. Education and outreach include:

- a) Understanding human safety, pet safety, coyote attractants, deterrents to coyotes on private property, including appropriate fencing, exclusion techniques, “what to do” tips, and information on appropriate hazing techniques.
- b) Developing a common language and awareness of normal versus abnormal behavior when discussing encounters with coyotes (see definitions in Appendix A)
- c) Dissemination of information to residents, businesses, and schools through the City’s website, CTV, North Oaks News, Facebook, etc.
- d) Cooperating with the MN DNR, and Department of Fisheries, Wildlife and Conservation Biology at the University of Minnesota provide public education materials, programs, coyote research, and expertise.

### Attack Response Plan

An “attack” is defined as: when a human or pet is injured or killed by a coyote (see Appendix A for definitions). If a human is attacked and physically injured by a coyote, City staff will inform local law enforcement and the MN DNR and the Minnesota Department of Health (see Appendix B on levels of coyote behavior.)



City funds will not be spent on trapping as a strategy for reducing or regulating coyote population. It is not economically, ecologically, or in other ways efficient to try and remove coyotes from the urban ecosystem with the aim of reducing their population. A coyote that is not responding to repeated hazing techniques, however, may be targeted for trapping and removal. According to State laws, coyotes are considered “unprotected wildlife,” therefore any resident or homeowner association Board of Directors can initiate, at their own expense, action to protect themselves and their property from coyote attacks.

No private individual is authorized to discharge a firearm within the City of North Oaks.



## Appendix A Definitions on Encounters with Coyotes

Active coexistence: Humans and coyotes exist together. Humans take an active role in keeping coyotes in their community wild by learning about coyote ecology and behavior, removing attractants, taking responsibility for pet safety, and hazing coyotes in neighborhoods and community spaces.

Attack – A human or pet is injured or killed by a coyote.

Provoked — A human-provoked attack or incident where the human involved indirectly encourages the coyote to engage. An example may include when a human intentionally approaches or feeds a coyote.

Unprovoked — An unprovoked attack or incident where the human involved does not encourage the coyote to engage.

Attended animal loss or injury — When a person is within 6’ of the pet and the pet is attacked and injured by a coyote.

Domestic animal loss or injury — A coyote injures or kills a pet animal. Also includes “depredation” —predation on domestic pets or livestock. Unattended animal loss or injury is normal behavior for a coyote.

Encounter: An unexpected, direct meeting between a human and a coyote.

Feeding

Intentional feeding —A resident or business actively and intentionally feeds coyotes.

Unintentional feeding — A resident or business is unintentionally providing access to food (e.g., accessible compost, fallen fruit from trees, sheds left open, pet food left outdoors, among others).

Unintentional feeding: bird feeders — A resident or business with bird feeders that may provide food for coyotes. Bird feeders must be kept high enough from the ground so a coyote is unable to reach the feeding animals. The area under the bird feeder must be kept clean and free of residual bird food, so as not to attract rodents, which are food for coyotes.

Hazing: Training method that employs immediate use of deterrents to move an animal out of an area or discourage an undesirable behavior or activity. Hazing techniques include loud noises, spraying water, bright lights, throwing objects, and shouting. Hazing can help maintain a coyote’s fear of humans and deter them from neighborhood spaces such as backyards and play spaces. Hazing does not damage animals, humans or property.



Incident: A conflict between a human and a coyote where the coyote exhibits the following behavior: approaches a human and growls, bares teeth, or lunges; injures or kills an attended domestic animal. A human is not injured.

#### Levels of animal contact

Level 1: A coyote that has been involved in an investigated and documented unprovoked attack on a human. Targeted education and hazing instruction, public awareness of incident and circumstances discussed. Lethal response may be appropriate.

Level 2: A coyote that has been involved in an investigated and documented provoked attack on a human with no pet involved. Evaluate circumstances and human safety, provide education and hazing training, and enhance public awareness of incident and circumstances. Lethal response may be appropriate.

Level 3: A coyote is involved in an incident(s) and/or an attended domestic animal loss. Education and hazing needed, public awareness of incident and circumstances discussed.

Level 4: A coyote appears to frequently associate with humans or human-related food sources, and exhibits little wariness of people presence, including unattended domestic animal loss. Education and hazing needed, public awareness of incident and circumstances discussed.

Observation: The act of noticing or taking note of tracks, scat or vocalizations.

Sighting: A visual observation of a coyote(s). A sighting may occur at any time of the day or night.

Unsecured Trash – Trash that is accessible to wildlife, e.g. individual garbage cans, bags or uncovered or open dumpsters or trash cans over-flowing or where scattered trash is outside the receptacle.



Appendix B  
Coyote behavior, behavior classification, and recommended response

Coyote Action	Classification	Response
Coyote heard	Observation	Distribute educational materials and info on normal coyote behavior
Coyote seen moving in area	Sighting	Distribute education materials and info on normal coyote behavior
Coyote seen resting in area	Sighting	If area frequented, educate people on normal behavior, haze to encourage animal to leave
Coyote entering a yard without pets	Sighting	Educate on coyote attractants, yard audit, hazing info
Coyote entering a yard with pets	Sighting	Educate on coyote attractants, yard audit, hazing info, pet management
Coyote entering yard with people & pets, no injury occurring	Sighting	Gather info on specific animals involved, report circumstances, educate on coyote attractants, yard/neighborhood audits, hazing, pet management
Coyote following or approaching a person & pet	Sighting / Encounter	Educate on potential hazing techniques, what to do tips and pet management. Animal Contact Level = Level 4
Coyote following or approaching a person w/o pet	Sighting/ Encounter	Educate on potential hazing techniques, what to do tips and pet management. Animal Contact Level = Level 4
Coyote aggressive, showing teeth, back fur raised, lunging, nipping w/o contact	Incident	Gather info on specific animals involved, report circumstances, educate on coyote attractants, yard/neighborhood audits, hazing, pet management; lethal response may be appropriate. Animal Contact Level = Level 3
Coyote biting or injuring pet on leash	Incident	Gather info on specific animals involved, report circumstances, educate on coyote attractants, yard/neighborhood audits, hazing, pet management; lethal response may be appropriate. Animal Contact Level = Level 3
Coyote entering yard and injuring or killing pet	Incident	Gather info on specific animals involved, report on circumstances, educate on coyote attractants, yard and neighborhood audits, pet management; lethal response may be appropriate. Animal Contact Level = Level 3
Coyote biting or injuring person	Attack	Identify and gather information on specific animal involved, report circumstances, educate on coyote attractants, yard/neighborhood audits, hazing, and pet management. If a human is attacked and physically injured by a coyote, City staff will inform local law enforcement, the MN DNR, and the MN Dept. of Health. Lethal response may be appropriate. Animal Contact Level = Level 1 or 2



## Appendix C

### Hazing Program and Training Plan

Coexistence is not a passive undertaking. North Oaks' guiding principles are to coexist with wildlife.

#### Hazing and Behavioral Change

It is critically important to prevent habituation before it happens. However, some urban coyotes have and will become habituated to people. To safely coexist, it's important to modify this behavior and attitude in resident coyote populations. Urban coyote behavior needs to be reshaped to encourage coyotes to avoid contact with humans and pets.

Hazing is the process that facilitates this change and is by necessity a community response to encounters with coyotes. The more often an individual animal is hazed, the more effective hazing is in changing coyote behavior.

Hazing employs immediate use of deterrents to move an animal out of an area or discourage undesirable behavior or activity. Deterrents include loud noises, spraying water, bright lights, throwing objects, shouting, etc. Hazing can help maintain a coyote's fear of humans and discourage them from neighborhoods such as backyards and play areas. Hazing does not harm or damage animals, humans or property. Behavioral change also applies to human activities such as identifying and removing attractants and learning how to responsibly protect pets.

#### Foundation of Hazing

- a) It is not economically, ecologically, or in other ways efficient to try and remove coyotes from the urban ecosystem as a form of coyote reducing or controlling coyote population.
- b) Hazing is one piece of a long-term plan in creating safe and acceptable living situations, increasing understanding, and reducing conflict between coyotes and people.



### Goals of Hazing

- 1) To reshape coyote behavior to avoid human contact in an urban setting. Human behavior can shape animal behavior, in either a negative or positive manner. People living in close proximity to coyotes can remove coyote attractants, identify potentially dangerous situations for their pets and themselves, and respond in a manner designed to change coyote behavior.
- 2) To provide residents information and tools to actively engage in reshaping coyote behavior and to support feeling safe in their parks and neighborhoods. This can be accomplished by teaching residents hazing techniques.
- 3) To model hazing behavior and share accurate information about coyotes among other residents, friends, and family.

### General Considerations

1. Levels of hazing need to be appropriately relevant to coyote activity.
  - a) Coyotes live in open spaces and the best practice is to leave them alone and educate the public on personal safety.
  - b) Coyotes are often out late at night when few people are present. This is normal acceptable behavior. Hazing may not be necessary.
  - c) Exceptions: In early stages of hazing, programs should safely and properly “engage” with the animal. Coyotes that associate danger with people (under all circumstances) will be reinforced to avoid contact with them.
2. Hazing must be more exaggerated, aggressive and consistent when first beginning a program of hazing. As coyotes “learn” appropriate responses to hazing, it will take less effort from hazers, especially if the “attractant” that may be drawing the coyote to an area is removed. Early in the process, it is extremely common for coyotes not to respond to hazing techniques. Without a history of hazing, they do not have the relevant context to respond in the desired outcome (to leave).
3. Techniques and tools can be used in the same manner for one or multiple animals. Usually there is a dominant animal in a group who will respond -- others will follow its lead. DO NOT ignore, turn your back or avoid hazing because there are multiple animals instead of a single individual.
4. Just as coyotes can habituate to humans, they can also habituate to a specific hazing technique. The more often an individual coyote is hazed by a variety of tools and techniques and a variety of people, the more effective hazing will be in changing that animal’s future behavior.
5. Hazing must be directly associated with the person involved in the hazing actions. The coyote must be aware of where the potential threat is coming from and identify the person.



6. Coyotes can and do recognize individual people and animals in their territories. They can learn to avoid or harass specific individuals in response to behavior of the person and/or pet.
7. Coyotes can be routine in habit. Identifying their normal habits can help identify which habits to change. For example, the coyote patrols the same bike path at the same time in the morning three to five days a week. Hazers should concentrate on that time and place to encourage the animal to adapt its routine to decrease contact with people.
8. Certain levels of hazing must always be maintained so that future generations of coyotes do not learn or return to unacceptable habits related to habituation to people.
9. You must always give a coyote an escape route. Never corner a coyote.
10. Human behavior must change to support hazing and continued identification and, if necessary, remove possible attractants. Hazing will be less effective if an attractant remains present and it is “rewarding” to a coyote.
11. Education about exclusion techniques—including how to identify and remove attractants, personal responsibility in child and pet safety, and having reasonable expectations—are critical parts of a coyote hazing plan.
12. Coyotes are skittish by nature. Habituated behavior is learned and reinforced by human behavior. Coyotes as a rule DO NOT act aggressively toward aggressive people (exceptions to this general rule are sick or injured animals, and adults near den sites). Engaging a sick or injured animal, or a coyote protecting a den site, can result in unpredictable behavior. If this is suspected, people should not engage but should instead remove themselves from the situation, then inform appropriate local animal control and law enforcement.
13. Individuals involved in hazing need to be educated in explaining hazing to residents who witness the process. They also need to explain the difference between hazing and harassment of wildlife and goals of appropriate behavior for coexistence.



### Summary of Hazing

Hazing is a process whereby an individual responds in a manner to make a coyote uncomfortable and choose to leave a situation where their presence is unwanted.

Basic hazing consists of standing your ground, never ignoring or turning your back to a coyote(s), yelling and making unpleasant and frightening noises until the animal(s) choose to leave.

More aggressive hazing consists of approaching an animal quickly and aggressively, throwing projectiles such as sticks and rocks, spraying with a hose or water gun, or creating fear of contact so the animal leaves the situation. Note: Many projectiles are not legal including but not limited to slingshots, paintballs, guns and pepper balls.

Hazing must continue once it begins until the animal leaves, otherwise, the coyote will learn to “wait” until the person gives up. The coyote will create an animal more resistance to hazing instead of reinforcing the image that “people are scary.”

Hazing should never injure the animal. An injured animal can become less predictable, and is more likely to become dependent on human food sources, thereby making risk of negative encounters more likely.

Hazing should be conducted in a manner that allows the coyote to return to its normal habitat in a direction that would minimize harm to the animal. Hazing the animal in the direction of other houses and busy streets should be avoided. Always give the coyote an escape route; never corner a coyote.

Hazing uses a variety of different tools and tactics. This is critical as coyotes get used to individual items and sounds.

- Noisemaker: Voice, whistles, air horns, bells, “shaker” cans, pots, pie pans
- Projectiles: sticks, small rocks, cans, tennis balls, rubber balls
- Deterrents: hoses, spray bottles with vinegar, pepper spray, bear repellent, walking sticks



# April Month in Review

April 2020



Rehder Forestry Consulting

- Organized and promoted Spring Brush pick-up program for May 29<sup>th</sup>. We will be using Langer Tree Service as Moga's equipment is broken and Langer will be charging by volume. Residents can request a price check before having brush picked up.
- Sent out a certified letter for one property with oak wilt trees still standing. Trees will need to be removed by May 13<sup>th</sup> or the city will remove and assess. Letter received 4/29/2020.
- Sent out 3 certified letters for hazard trees still standing. One to be removed this week, and one next week. Have not heard back from last resident but letter was picked up 4/29/2020. Will get bids for removal next week.
- Provided material for proper pruning on City eblast.
- Reviewed proposed development plan for Nord & Anderson Woods. Provided summary of forest resources at both proposed development sites to Planning Commission for review. Attended Planning Commission meetings and public hearing.
- Answered questions from North Oaks Company with regards to trees on site. Made myself available to make a site visit with North Oaks Company and provided recommendations on tree preservation.
- Working with NRC members to draft a tree preservation policy and create a Woodland Subcommittee.
- Had EAB informational letter approved by NRC targeted to properties with high ash tree populations preparing them for EAB. Working on getting out 270 letters at lowest cost to City.
- Still working with MDA to finalize funding for Oriental Bittersweet treatments. Working jointly with VLAMO, County, MDA, NOHOA, and City to use procured grant funds to battle invasive Oriental Bittersweet.
- Completed 4 homeowner calls but used proper social distancing and a mask as a precaution if homeowner was present.

21 April 2020

Tick Task Force Meeting – held via Zoom for social distancing

Attendees: David White-NRC, Rick Kingston-City Council Liaison, Brooke Moore-Chair

## Survey

### Reviewed 2020 Survey Results

- 55 responses
  - Decreased from 133 last year (which was down from the previous year)
  - No cases of tick-borne illness were reported
- Awaiting comparison numbers from MDH. There will be a delay in getting these as David Neitzel is helping with COVID19 work. David Neitzel also informed Brooke that he is retiring in July. He provided contact information for Erin Kough, Elizabeth Schiffman, Molly Peterson, and Jenna Bjork at MDH – who will be available for tick related questions after July.
- Discussed reasons the response rate is down. Likely in part due to change to POLCO software. May also represent a decrease in disease – people who are diagnosed may be more likely to report than those who have not been diagnosed.
- Discussed with responses decreasing if it is still worthwhile to continue to survey the community.
  - The group decided the survey was still important, but we may need to change our approach.
  - Brooke will email Gretchen Needham/Deb Breen to see if it is possible to create a real-time survey for people who are diagnosed with a tickborne illness to complete at the time of their diagnosis. Rick was concerned that the survey may only allow one response per registered voter. Brooke will clarify this. If this is possible Brooke will draft an updated version of the survey to implement.

## Articles

- Brooke and Rick will submit articles to both North Oaks News and North Oaks Living Magazine with tick survey results

Next meeting: July 21<sup>st</sup>, 7pm, Community Room (COVID19 permitting)



City of North Oaks  
100 Village Center Drive, Suite 230  
North Oaks, MN 55127

May 5, 2020

Mr. John Hartinger  
34 E Pleasant Lake Road  
North Oaks, MN 55127

Re: RSL Zoning  
VARIANCE 20-04

**Description of Request**

The applicant is requesting a variance to install a replacement subsurface sewage treatment system (SSTS), which would encroach 10 feet into the required 30-foot southeast property line setback, and three feet into the required 30-foot northeast property line setback.

The applicable regulations are as follows:

§ 151.050 RSL - RESIDENTIAL SINGLE-FAMILY LOW-DENSITY DISTRICT.  
(F) Setbacks.

(1) No building or structure (except fences, screening, planting strips, and landscaping in compliance with Sections 151.033 and 151.034), individual sewage treatment system, or well shall be located within thirty (30) feet of the lot lines, the nearest edge of any road easement(s), or any wetland(s), except that additions which do not exceed twenty five (25) percent of the existing building footprint area, on buildings or structures lawfully existing upon the effective date of this chapter shall be excluded from wetland setback requirements.

**Staff Review**

The current septic system at this property has failed and is discharging sewage onto the ground. Therefore, this is an emergency situation, which needs immediate attention. A delay in processing the variance request through normal channels will endanger the health and safety of the city's residents.

A large percentage of this lot has been disturbed due to the house, septic system, and impervious areas, which do not allow for the installation of an SSTS. The only areas available for the installation of a primary SSTS are located along the northeast and southeast property lines. Based on these facts, it is the staff's opinion that the applicant has met the requirements for a variance as outlined in Section 151.078 of the code. We are in agreement with the designer, Ten Thirty Environmental Solutions, that the proposed location of the new system appears to be the most viable location for an SSTS. This would be the minimum variance, which would alleviate the practical difficulties.

VARIANCE 20-04

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**Action Requested**

That the Mayor approve or deny Variance 20-04 to encroach 10 feet into the required 30-foot northeast property line setback, 10 feet into the required 30-foot southeast property line setback, and three feet into the required 30-foot northeast property line setback.

**Approval**

That Variance 20-04, for 34 E Pleasant Lake Road be APPROVED with the following conditions:

1. Completion date by **June 15**, 2020.
2. System to be located per the design dated April 7, 2020 by Ten Thirty Environmental Solutions.
3. Erosion control must be installed prior to system construction.

The Mayor Gregg Nelson hereby approves Variance #20-04 with the conditions as listed.

Dated: May 5, 2020

Signed:

Gregg Nelson, Mayor City of North Oaks



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**City of North Oaks**

For 2021, the estimated wastewater service fee for your community is **\$71,433.09, a change of -4.70% from 2020**. The table below details your wastewater flow, in millions of gallons (mg), and allocated cost of service:

Community Allocation	2021	2020	2019
Metered flow (mg)	0.00	0.00	0.00
Unmetered flow (mg)	28.82	27.96	26.51
Total flow (mg)	28.82	27.96	26.51
Percent of regional flow	0.03%	0.03%	0.03%
Municipal wastewater charge	<b>\$71,433</b>	\$74,958	\$67,001
Cost change from prior	<b>-4.70%</b>	11.88%	4.57%

Your fee is based on the portion of wastewater flow discharged from your community to the regional system in the past year (2019) multiplied by the regional wastewater charge for the next year (2021). Year-to-year changes are affected by growth, water conservation, and inflow and infiltration.

Region	2021	2020	2019
Regional allocated flow (mg)	96,967.05	87,891.72	89,991.18
Flow change from prior	10.33%	-2.33%	-0.83%
Regional wastewater charge	\$240,342,000	\$235,629,000	\$227,441,000
Cost change from prior	2.0%	3.6%	3.5%

Some wastewater may enter or leave your community but not be included in the metered flow total. These unmetered flows are shown below. Assigned wastewater volumes per unit, such as single-family unit (SFU) or residential equivalent connection (REC), vary based on past flow response to wet weather, age of services, and other available data.

**Flow from North Oaks = 28.82 mg; added to allocated flow:**

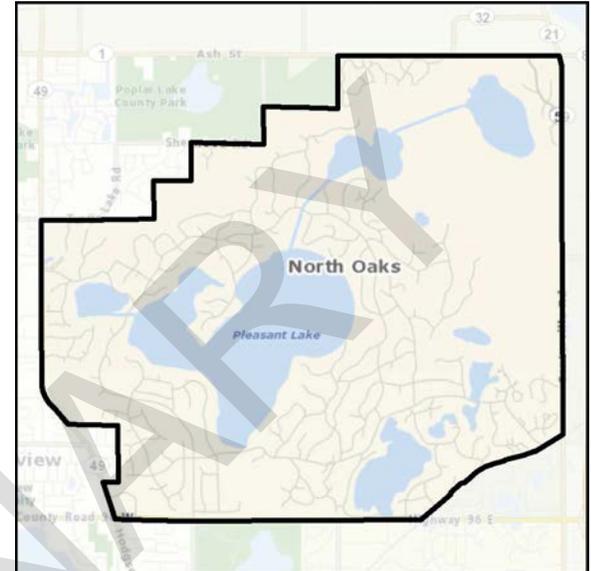
To:	Calculation/ Description	1 <sup>st</sup> Q	2 <sup>nd</sup> Q	3 <sup>rd</sup> Q	4 <sup>th</sup> Q	Notes
Shoreview	(194 + 2 REC x 80,000) + Water use records	5.67	6.27	6.00	7.35	Conn. Verified in '17
White Bear Township	44 REC x 80,000	0.87	0.88	0.89	0.89	Conn. Verified in '07

**Flow to North Oaks = 0.00 mg; deducted from allocated flow:**

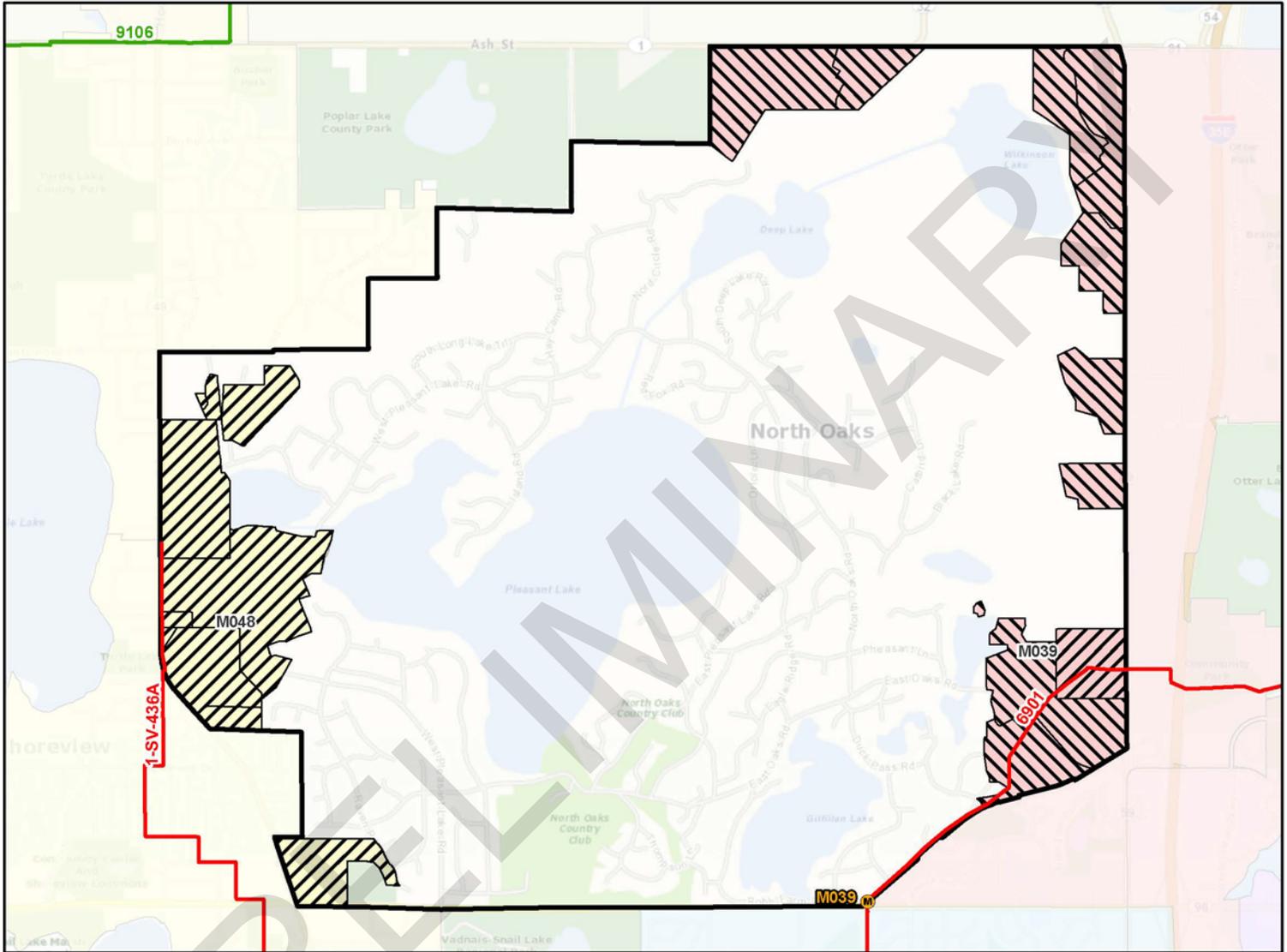
From:	Calculation/ Description	1 <sup>st</sup> Q	2 <sup>nd</sup> Q	3 <sup>rd</sup> Q	4 <sup>th</sup> Q	Notes

**Unmetered flow total = 28.82 mg**

Community Map; see next page for details.



City of North Oaks



City of North Oaks MCES Facilities



- MXXX Metershed
- M Meters
- Gravity Interceptor
- Forcemain Interceptor
- Unmetered (Flow From)**
- Not Adjusted
- Adjusted