

MINUTES OF THE REGULAR COUNCIL MEETING

Date June 14, 2012

The Council Meeting was called to order by Mayor John Schaaf at 7:03 p.m. at the Community Meeting Room, 100 Village Center Drive, Suite 150, City of North Oaks, Minnesota. Present were Council Members Gregg Nelson, Marty Long, Bruce Ackerman, and Mayor John Schaaf. Council Member Tim Dunleavy was absent. Also present were City Administrator Melinda Coleman, City Attorney Dave Magnuson, Recording Secretary Maureen Geier, and Videographer Kevin Scattum.

Pledge of Allegiance

Approval of Agenda

Council Member Nelson moved to approve the agenda. The motion was seconded by Council Member Ackerman and passed unanimously.

Citizen Comments

There were no comments.

Consent Agenda

Acting Mayor Gregg Nelson, in Mr. Dunleavy's absence, read the consent agenda items.

1. Minutes of the Regular Council Meeting of May 10, 2012 for approval.
2. Planning Commission Minutes of May 31, 2012 for approval
3. Licenses for Approval:
 - Mechanical Contractors:** Home Energy Center, Massmann Geothermal & Mechanical, UMR Geothermal
 - Plumbing & Heating:** None
 - General Contractors:** Omni Contracting
 - Arborists:** Treecology
 - Sewer/Water Installation** None
4. Claims for Approval: Check #010040 to #010083
5. Administrative Variance 12-06, 1 Squirrel Lane, Michael Quinn
6. Northern Star Council Boys Scouts- Raffle Permit
7. Approval of the Absence Ballot Board

Mayor Schaaf noted that the Planning Commission minutes were not in the packet so Consent Agenda item #2 was tabled until the next meeting and Council Member Ackerman stated that he would also like to table Item #5 until further discussion.

The motion to accept the Consent Agenda (with the two items removed) and claims for Checks 010040 to 010083 was made and it passed unanimously.

Administrative Variance 12-06, 2 Squirrel Lane, ISTS system

City Administrator Coleman gave an update on this request. The ISTS system is close to failing and appears to be an emergency situation. The variance is asking to encroach 15 feet into the setback for the new ISTS system. City Building Inspector Greg Schmit

explained that all conditions have been met and that it was the Staff's position that this is the best place to put this system. Council Member Ackerman asked Mr. Schmit if the tank could have been put on the other side and then it would not be in the set back. Mr. Schmit explained that when a design is done, all areas are considered but that this was the final recommendation from the design company. It appears that for the mound this is the best location. This system has been identified as an imminent threat to public health which is why it is an Administrative Variance. Mr. Schmit also responded that the location requested is based on the correct distance from the current well and the soil conditions found on this property.

A motion was made by Council Member Long and seconded by Council Member Nelson to approve the items on the Consent Agenda. The motion carried unanimously.

Petitions, Requests & Communications

1. Mat Vos; Abdo, Eick and Myers, 2011 City Audit

The Mayor introduced Mat Vos, the audit manager who has been working with the City on the audit for the past 7-8 years. He reviewed the Management Letter which includes required information as well as financial results. It is his responsibility to give an "unqualified" opinion that the City's financial statements are fairly presented and are generally acceptable with accounting principles. He also looks at internal controls in order to help the City plan and prepare for the audit. Three findings were addressed, two from the past and one new one. The first finding addressed limited segregation of duties because of the small staff. This is common but not best to have one person responsible for all financial data. It is important to be aware of this and take opportunities to keep the risk at a minimum. He suggested that the Council continue to review the Budget vs. Actual expenses as well as the sequence of checks written. He assured the Council that in cities the size of North Oaks, it is common in 80 to 90% of the time to have this issue. The second item regarding preparation of financial statements is a similar issue to the first involving segregation of duties. There is not enough staff to allow more eyes on the financial statements and accounting software. But again, this is very common in cities of the same size. It is something to be aware of but there are very few adjustments needed and the City Staff looks over reports very closely. The new finding was an isolated incident regarding the LGWA project. Every check that came through in 2011 was properly identified. The one issue that is easy to miss is one that involves a large project where the City retains 5%. Although the check does not get written until the project is done, it still needs to be accounted for in 2011, not 2012.

MN statutes require that an audit include looking at specific statutes that include deposits, debts, conflict of interest and other items. No issues of non-compliance were found. Only one incident mentioned above was in error. He commended the Staff for the preparation and the understanding of entries. He also reminded the Staff to continue to look for potential opportunities for diversifying investments.

Next, he discussed the financial results. The Main Operating Fund was separated

from the General Fund to add transparency to the audit. By moving the LGWA project into its own fund, it makes the entries more clear. The ending fund balance decreased by \$360,000 due to the separation of funds. This leaves the City a fund balance of 68% of the 2012 expenditures. The fund balance policy requires a city to have a minimum of 40-50%. The City is well above this minimum. Taxes from Ramsey County are paid in June and will add to the fund balance.

Mr. Vos included a summary of the fund balances for the past five years. There on average was a 2.1% increase each year. Money was set aside for fire equipment. By setting up separate funds, it is much more transparent to see the money set aside for cash reserves for the fire equipment, municipal water, and IT expenses.

The Charges of Services is \$96,000 at this time. Of this, \$65,000 is for water and sewer which is offset by expenses resulting in approximately a net of six to seven thousand dollars. Also, rent from NOHOA is included in this entry.

The General Fund expenditures are comparable to the past few years and generally much less than other cities of about the same size experience. The LGWA shows a negative \$825,000 fund balance recorded as a current liability. This will change in 2012 when the bonds are assessed. The fire equipment increased \$40,000 due to a transfer from the general fund so that \$60,000 could be set aside for the fire truck assessment that will come later. Mr. Vos does recommend that the Council continue to get quarterly information on the various projects and reserves needed to cover any purchases.

It was also pointed out that the City of North Oaks debts-to-assets are very low compared to other cities of a similar size. Taxes per capita are significantly less and Mr. Vos stated that the City was doing a good job in managing spending and thanked the City for the opportunity to do the audit.

The Mayor thanked Mr. Vos especially for helping the Council understand the separation of funds. He also wanted to remind the residents that the City does not have any debt. The LGWA project debt will be relieved with special bonding which will be applied against the 44 residences that are served by the project. It is unusual for a city to not have any debt. North Oaks has used reserves in the past to meet cash requirements until payments come in for taxes from Ramsey County. The City pays as it goes.

The Mayor also mentioned that Sue Iverson has also been retained to help with the segregation of duties. Mr. Vos stated he would be happy to advise the City on how to best go about this. The Mayor stated that the auditors have helped the City to make the audit report more clear. He also stated that the City has requested input from three senior executives from major financial institutions in regards to the cash balances and how to best invest. It was recommended that the City wait at this time.

The audit is available to City residents in the City office.

Council Member Nelson made the motion to accept the audit and Council Member Ackerman seconded it. It passed unanimously.

2. Night to UNITE Proclamation

Mayor Schaaf asked the Acting Mayor/Council Member Nelson to read the Night to Unite proclamation. A motion to approve the proclamation was made by Council Member Long and seconded by Council Member Ackerman. The motion unanimously carried. Tuesday, August 12th is the date set for the Night to Unite celebrations.

Unfinished Business

None

New Business

1. Variance 12-05: James & Sarah Cameron, 6 North Mallard Road, Garage Extension

City Administrator Coleman asked Building Inspector Greg Schmit to explain the variance request for a garage addition to the existing garage structure. Mr. Schmit explained that the Variance involves a request to encroach 18 feet into the required 75' setback from the ordinary high water mark of North Mallard Pond. Staff believes the applicants met the conditions listed and the requirements for obtaining a variance.

The home was built prior to adoption of the Shore land ordinance which made the designation of North Mallard Pond into a recreational lake rather than a wetland. This then required the 75 foot setback rather than a 30 foot setback. This body of water does not appear to have an accurate description as it is more of a wetland. The other fact is that if this lot was vacant, one could build into this area since the homes on each side are in that setback. The setback is from the Ordinary High Water mark which has not been accurately noted for this body of water. The Planning Commission unanimously moved to recommend approval of this variance.

Council Member Ackerman stated that Staff did a good job and the variance should be granted. However, he stated that the Planning Commission was properly concerned about setting precedent, but did not agree that the fact that the house was built back in 1964 was a sufficient reason for granting the variance. He thought that the other grounds though were sufficient. Council Member Nelson stated that a number of factors that came later affected this property and should not be reason to decline this request.

Mayor Schaaf asked if the Floor Area Ratio would be in compliance and Ms. Schmit stated it would be within the .12 or below ratio. Also, he questioned if the addition would extend past the bay window that is located in the adjacent home. Mr. Schmit explained that the encroachment would not be any closer than what is currently there. The Mayor also asked the Cameron's if they would be agreeable relative to this approval to hold the City harmless if the water rises and causes them problems.

Mr. Cameron agreed that they would not hold the City liable.

Council Member Ackerman made the motion that Variance 12-05 for 6 North Mallard Road, Garage Extension into Setback be approved with the following conditions:

1. Structure to be located per the survey dated September 1, 2011, prepared by Kemper and Associates.
2. The Cameron family agrees to hold the City harmless for any damage that may be caused to the structure due to the closeness of the structure to the High Water mark.

The motion was seconded by Council Member Long and passed unanimously.

2. MSN 2012 Permit- Storm Water Pollution Prevention Program Annual Public Meeting

Ms. Coleman introduced Paul Pearson from MFRA to discuss the process for the MS-4 Permit. A public meeting is required and this meeting was published in the newspaper. This is a prevention program administered by the Minnesota Pollution Control Agency. The intent is to reduce or control the amount of storm water runoff for both water quality and rate control. Each city that is an MS-4 city such as North Oaks is required to have a Storm Water Pollution Prevention Program. The North Oaks document was updated in March 2008 and includes the following six minimum control measures: 1. Public education and outreach, 2. Public participation and involvement, 3. Illicit discharge detection and elimination, 4. Construction site run-off control, 5. Post-construction site run-off control, and 6. Pollution prevention and good housekeeping.

The City is required to submit an annual report and conduct an annual meeting by the end of June, 2012. The intent of this meeting is to make the public aware and give the public a chance to comment on the pollution program as well. This is an unfunded mandate. There will be an update in November, 2012 that may involve changes that could impact the City. MFRA will be attending the meetings so that the City is informed of any changes.

The Storm Water Pollution Prevention Program contains best practices for solving problems regarding pollution to the storm water system as well as how to prevent further damage.

The Storm Water Pollution Prevention document for North Oaks is located at the City office.

The Mayor opened the public hearing at 8:12 PM and with no questions or comments, he closed the hearing. Council Member Long asked Mr. Pearson about what planning is being done with the North Oaks Company and where the City has storm water systems. Mr. Pearson explained that in the document, an inventory of the systems can be found as well as any devices used. These are maintained as part of the program as well.

The Mayor thanked Mr. Pearson and stated that the City has an obligation to the neighboring cities to maintain the run-off.

3. Ordinance 105- Illicit Discharge and Storm Water Connection

City Administrator Coleman informed the Council that the MPCA requires the City as part of the MS-4 Permit to have an ordinance to regulate the introduction of pollutants into the storm sewer system. MFRA was hired to help the City with this ordinance. It was introduced at the Planning Commission meeting on May 31st and published in the paper inviting any public comments or questions. There were no public comments at this meeting. The Planning Commission did ask that City Attorney, Dave Magnuson look at the ordinance. Mr. Magnuson reviewed the wording especially in regards to the penalties and enforcement involved and Mr. Pearson believes this is a good ordinance as it protects the environment and is a tool for enforcement if needed. Also the Planning Commission was concerned that this ordinance might be valuable if and when the property at the Good Shepherd is developed.

Mr. Magnuson suggested that this ordinance be placed in Chapter 154 (Erosion and Sediment control) of the City Code. It is the Staff's recommendation that the Council look at the wording and pass a favorable resolution for Ordinance 105.

Council Member Ackerman had a concern regarding the language in 154.06 (A) which states that the application is for industrial activity. Mr. Magnuson explained that the ordinance pertains to anyone making illicit connections to the storm systems, but in the case of developments of property, a permit would be required and in the case of industrial development, monitoring would also be involved. He continued to explain that this ordinance was modeled after one given by the MPCA and they have seen the language and accepted it. The ordinance includes sections on emergency cease and desist orders, suspension of MS-4 permits and violations that could result in a misdemeanor as well as a provision for recovering clean-up costs. These provisions are in line with the suggestions made by the Planning Commission and are helpful remedies if needed.

The Mayor asked that the language be changed on page 2, line 3 from AND to OR as it implies that the City has to own and operate the system. Since the City has no assets, the OR better applies in this situation. Council Member Ackerman questioned the language regarding properties that were for parcels five acres or more. He questioned what would happen if the parcel was less than five acres. Mr. Magnuson explained that the MPCA requires a permit for larger parcels, but that all individuals would have to comply with the standards to avoid pollution of the storm water systems. Council Member Nelson pointed out a spelling error. Council Member Long asked what would happen if VLAWMO needed to work with the MPCA and Mr. Magnuson said if it was a conflicting situation, the more restrictive language would be followed. Ms. Coleman explained that VLAWMO generally requires the same things that MPCA requires.

Council Member Nelson made the motion to adopt Ordinance 105 – Illicit Discharge

and Storm Water Connection with the corrections listed above and Council Member Long seconded it. The motion passed unanimously. (see attachment A)

4. **Preliminary Plan Review, 12-04 Rapp Farm Phase II, North Oaks Company.**

Ms. Coleman introduced Ben Gozola, the City Planner with MFRA, who presented a report on the Preliminary Plan Revision for Rapp Farm. She also stated that in the packet was a letter from resident, Stephen Motta, 75 Monarch Way, requesting the road closure for the entrance into Phase I.

Mr. Gozola reviewed the history of this project. The PDA was originally approved in 1999 and authorized 645 units and 14 neighborhoods with Rapp Farm being one of the fourteen. The wetlands were taken in consideration in developing the lot layouts, but the original plan created lots with back to back rear yards. The current plan has two access points along County Road J and both are rather shallow before reaching private property.

The revised plan has an increase from 15 acres to 26 of open space which will be owned by the homeowners' association. In the new plan the wetlands will be better protected as there will be no back to back lots. This will help with drainage and better connectivity to open areas and wildlife corridors. The lots will be more desirable as all will abut open space. In addition, the new plan will have only one entry point that will be 400 feet long with a turn-around rather than 100 feet like the current entrance. The total number of lots will not change but will remain at 110 lots. The footage of roads remains the same and parking is sufficient in the new plan. Also the homes will be similar in design to Phases I and II. The trail connections and shore land standards are the same as in the original plan.

A review will be done at a later time to address driveway locations, required separations, building heights, the entryway monument, and final landscaping plans with significant plantings. The new plan does include two park areas: one off Monarch and Crescent which will be a common open space with no equipment and the other will be south of the new entrance and will include a tot lot, swimming pool, and pool house. This area will be easy for guests to get to without going through the neighborhoods. Also, the MFRA recommends that temporary markers be used to distinguish lot lines until natural vegetation grows in making the lot lines more obvious.

Mr. Gozola stated that one resident letter was received expressing the neighborhood concern of the entrance on Monarch. The residents would like to see this entrance closed based on its proximity to the homes. His staff cannot support this request due to safety. In case of a fire, two entrances are desired. Also when County Road J is redone, two entrances will be needed to accommodate the construction. Mr. Gozola believes there could be a solution at a later time. One would be providing a link to the Nord Development which would tie into the larger road network in North Oaks. By making this connection, Monarch Way could be closed and residents could reach a local neighbor's home without leaving the area. This northern entrance would also serve as a time saver for those wanting to access the interstate. The

Planning Commission recommended that the entrance on Monarch be made into an emergency entrance only, and MFRA believes this is not ideal but could work. Details would need to be worked out on who would bear the cost to convert this street and select the design to make this work.

In conclusion, Mr. Gozola believes this revised preliminary plan is a significant improvement over the original plan.

Mr. Pearson, from MFRA, also commented on the engineering related items. Standard comments apply for this development and any problems he for sees can be solved.

Chris Heim, from the North Oaks Company, stated they are most concerned with the safety and welfare of the residents. However, the Company believes that the entrance is a City issue that should be dealt with at a later time and involve resident input. The new entrance will be finished next year which will give the City ample time to study the issue. She asked that this issue not be considered with the approval of the revised plan. In her opinion, the issues should be separated. The Mayor agreed with Ms. Heim as the entrance issue will require more thought.

Council Member Ackerman asked about the sizes of the lots. His concern was with the size of the homes. The lots are about the same width and do have the same buildable space so the homes will be similar in size. The depth has changed so that no home backs up to another resident's lot. This still is in conformance to the original PDA that focused on the distance of the building separation.

Council Member Long reminded the Council that when meetings were held in the past, residents were clear they did not want to open up an entrance on the north side. He does not feel this is a viable choice in the future based on the residents' feelings. Council Member Nelson believes the preliminary plan is a better plan, but he is concerned about the residents who are upset with the current entrance. He is afraid that by separating the issues out, some leverage will be lost. He would like the Council to acknowledge that this will be addressed at a later time. He also is concerned about the linkage to the main roads and believes the Company has changed their position about what should be done with the Monarch Way road closure. The Mayor stated that he served on the committee ten years before and thought they made the best decision at that time. However, he believes that the decision was not the best. His main concern is that Monarch Way is much like the entrance on Wildflower off of Hodgson. He stated that the Pines have two entrances and an emergency exit that has been used a couple of times. Council Member Nelson does not object to making Monarch Way an emergency exit and the fire department seems to agree that this can work. Mayor Schaaf believes a traffic expert should be consulted.

Chris Heim stated that she did not believe the North Oaks Company changed its opinion because the City will make the final decisions and they will be fine with what is decided. They do not have a vote.

Council Member Ackerman wanted to say two things. One, he is in agreement with Council Member Long that there should not be an entrance that connects directly to the main roads in North Oaks. This was decided long ago and should not be revisited. Second, he agrees with Council Member Nelson that there is a consensus to have a second entrance with a gate on Monarch for safety purposes. The only question to resolve is who will pay for the changes to Monarch or the gate. Mr. Ackerman also had a question about the width of the roads in Rapp Farm. The roads will be 24 feet wide which allows fire trucks and emergency vehicles to access homes. Pleasant Lake Road is 32 feet wide.

Ms. Heim mentioned that a decision will have to be made about the kind of gate used as there are many types of gates.

Mayor Schaaf asked if the Council wanted to make a follow up motion dealing specifically with Monarch Way to direct the Staff along with a safety consultant to study this issue. He believes this decision needs more study before converting two entrances down to one. He also has concerns about who will pay for this.

Ms. Coleman explained that she and Gary Eagles from the North Oaks Company met with Ramsey County who wanted additional right of way. They were in support of making Monarch an emergency entrance/exit only. The Fire Marshall is fine with this, but is concerned with who will pay to get it done and then maintain it. Ramsey County would like to see turn lanes into the development. Ms. Coleman does not believe the City needs to hire a traffic consultant. If a study is needed, she believes this should be paid for by the developers. She does feel the City needs some guidance about the entrances. The Mayor agrees that the study should be paid for by the developer. He feels the entrances on East Oaks, Wildflower, and the main entrance all have traffic problems during rush hour and he does not want to see another problem. The Planning Commission recommended making Monarch Way an emergency entrance/exit with the approval of the Fire Chief.

Council Member Long had further questions about the open space and how it will be identified. Mr. Gozola explained that temporary markers will be used until the natural vegetation grows and makes it more obvious. Ms. Heim explained that markers were used in Phase I and still are there. They have been in use about five years with little problems. Mr. Long was concerned about what can be done to further protect the open space. Mayor Schaaf stated that open space landscaping plans often change once the development is completed. The wetlands are protected, but the landscape plans for the common areas may get modified at a later date.

Council Member Nelson made the motion that the Council approves the requested preliminary plan Amendment 12-04 for Rapp Farms, Phase II with the following conditions:

1. The final plans shall continue to incorporate all information shown in the preliminary plan unless required to be updated by the City;
2. Incorporate comments as indicated from the City Engineer, as well as comments received from VLAWMO with respect to wetlands and storm

- water;
3. All public utilities and facilities shall be flood-proofed in accordance with the building code or elevated to above the regulatory flood protection elevation;
 4. Telephone, electric, and/or gas service lines shall be placed underground in accordance with the provisions of all applicable City ordinances;
 5. The developer shall follow all of the rules and regulations spelled out for applicable permits from partnering agencies;
 6. Copies of all necessary permits shall be provided to the City, and all requirements of such permits shall be met;
 7. North Oaks Company shall pay for a traffic safety engineering evaluation related to the conversion of the Monarch Way entrance to an appropriate entrance as requested by the parties involved or residents of North Oaks and be acceptable to the fire department that would incorporate appropriate design changes.

Council Member Ackerman seconded the motion and it passed unanimously.

Council Member Reports

1. Tim Dunleavy

Finance Committee

Due to Mr. Dunleavy's absence, there was no report at this time.

Lake Johanna Fire Board

Again, due to Mr. Dunleavy's absence, no report was given.

2. Bruce Ackerman

NOHOA

Council Member Ackerman attended the NOHOA meeting on June 7th, 2012. The work of the Governance Committee was discussed. Karen Ecklund made a presentation on changes that came out of the ASC and bylaw study. All seven people on the committee were in agreement. The committee interviewed past presidents, board members, and staff. In addition, they plan to survey the residents. The survey will appear in the July North Oaks News and the results will be published in the October issue. The survey will focus on volunteerism. The draft of this report is on the NOHOA website.

The Ramsey County Sheriff gave a report on increasing security as the entrances. President Azman gave an update on the by-laws. The Director's report covered the property at the Home of the Good Shepherd and the importance of keeping lines of communication open with the developer so that NOHOA can keep up on their plans. The oxygenations issue was discussed and roads were also discussed.

NRC

Mr. Ackerman also attended the NRC meeting on June 5th, 2012 and found it very interesting. Deer was the focus of this meeting. The DNR will be testing all deer removed for Chronic Wasting Disease as there is some concern that it may have spread from Hill Farm. They are also working on a deer population ordinance to see if the present number should be adjusted as well as a deer feeding ordinance for all areas except agricultural areas. An open public meeting may be scheduled later in the summer to discuss this issue.

3. Marty Long**NRC**

Mr. Long announced that the DNR will be at the July 10th NRC meeting. They are considering a fish survey on Pleasant Lake. He thanked Mr. Ackerman for attending the meeting in his absence.

VLAWMO

Council Member Long announced that John Blackstone, the representative from the St. Paul Water Authority will be leaving due to health reasons. Mr. Long was able to meet his temporary replacement.

4. Gregg Nelson**Planning Commission**

Council Member Nelson attended the Planning Commission Meeting on May 31st. Issues covered at this meeting were basically the same covered at the Council Meeting.

The Pleasant Lake Oxygenation Committee had its first meeting. The members on this committee are the following: Bruce Ackerman, Mark Azman, Mike Egelston, Marty Long, Gregg Nelson, Keith Eibenstiener, and Robert Tipler. All were present except Mr. Tipler. The City of St. Paul Water Utility has sent a proposed plan for the oxygenation equipment installation. The plan was reviewed and issues were discussed. The proposal involves a very large tank to supply oxygenation to the lake. One concern is that this tank could be rather unsightly if not planned for carefully. The committee discussed the City's options and the kind of leverage the City might have in dealing with this issue. The members felt that it is important to know exactly what the City's legal status is in regards to the installation of this equipment: so the Committee is recommending that outside counsel be hired to prepare an opinion on the property rights of the City. These documents go back to the 1880's. The committee agreed that it was important to do due diligence.

Mr. Nelson felt the committee had an obligation to understand all of the options and to determine if the proposed plan is the best option. Mike Egelston agreed to contact SEH, the engineering firm that worked on the Lake Gilfillan project, to see if they could help. They are willing.

Ms. Coleman stated that she knew of law firms that also could help in this matter. The Committee instructed Staff to obtain the following information from the Water Utility:

1. Information from similar projects using the same product such as the one on Lake Vadnais and also from the manufacturer
2. The possibility of using other locations such as the mouth of the Charlie Lake aqueduct
3. The possibility of using two smaller tanks rather than one large
4. A document showing elevation drawings

Council Member Nelson made a motion based on the recommendation of the committee to direct the Staff to retain outside counsel to arrive at a legal opinion regarding property rights of the City in regards to the proposal from the St. Paul Water Authority and request a presentation from SEH regarding the engineering of this project. Council Member Ackerman seconded the motion and the motion was opened for discussion.

Ms. Coleman clarified that SEH can do a review of the project and give the City another perspective of what is feasible or not. Mr. Nelson agrees that the City has an obligation to make sure the information given by the St. Paul Water Utility is correct. The City Attorney has stated that the City has little rights in this case, but a second opinion might be helpful.

Mr. Azman, President of NOHOA, and Council Member Ackerman felt that the meeting should have been done earlier; however, Mr. Nelson stated that no formal plan was submitted until recently. Also the Water Utility has always been willing to work with the City. There will be some issues for NOHOA as they do own some of the property around this site and an easement may be needed.

Council Member Ackerman stated that Mr. Nelson has done an outstanding job leading the committee meeting, but wanted to emphasize the importance of getting accurate information regarding this project and all options available. He believes this is a very important matter to the community and will be a significant change to the shoreline. He stated the necessity of hiring a good, experienced law firm. Council Member Nelson stated that we do have one opinion from the City Attorney who is experienced, but that another opinion is a good idea.

The Mayor asked that the motions be split. Council Members Nelson and Ackerman agreed to make this change. The Mayor stated that he also has read all of the documentation and it is his opinion that retaining another attorney to tell the City what they already know or may not know has limited value because at the end of the day the St. Paul Regional Water Authority has the final power because they are a public utility. He stated that doing something on a nonconforming lot is something that the Council has approved in the past. The equipment proposed to replace the aeration system would be smaller than what was there in the past. He also believes all of the past documents refer back to the authorities of the SPRWS. He will vote against the motion based on his opinion that this motion sets up a potential confrontation. His hope would be that if an attorney is hired that the selection be limited to the City Administrator, Council Members Nelson and Dunleavy. Council Members Ackerman and Long did not agree with this condition and would not second a

motion if stated in this way. Council Member Long stated that he has worked with members of the watershed and has worked with the corps of engineer, Bruce Malkerson who did the East Oaks PUD. He would be willing to discuss the issue with him at no cost to the City. Council Member Nelson stated that he is concerned about the cost and does not want to be confrontational, but is concerned that in a year or so the residents may ask how this decision was made. He feels that by getting a second opinion it shows that due diligence was done.

Mayor Schaaf stated that the cost was not his main concern, and thought that this could possibly be done with \$2500.00 but that it was more an issue of appearing taking confrontational action with the SPRWS. He also stated that by appointing the three people he suggested to take this action; the recommended appointees and City Administrator Coleman, the selection process can get done quickly and efficiently. Council Member Ackerman expressed his dissatisfaction with this request and stated that it would make sense to have the three Council Members who were on that the committee to select the law firm and that the cost would probably be greater than \$2,500 because this is a very complicated issue. The Mayor stated that Council Members would be able to move this process expeditiously. Council Member Dunleavy who sits on the Financial Committee has selected attorneys in the past and Council Member Nelson is the chairman of the committee. Council Member Ackerman stated that if it should be two Council Members, he would like to be one of the two. Council Member Long stated that the St. Paul Water Authority is a public utility that in the past has not always had the best interests of the City in mind when they brought in milfoil, zebra mussels, and heavy metals.

Council Member Nelson made a motion to direct the Staff to retain outside council to give an opinion on the real property rights and other rights of the City in regards to the Water Authority and selection of the attorney be made by City Administrator Coleman and Council Members Nelson and Dunleavy. No second was made, so the motion was not passed.

Council Member Ackerman made a motion to amend the above motion stating the selection of the attorney to be made by City Administrator Coleman and the three Council Members of the Pleasant Lake Oxygenation Committee. This motion was modified to state that the selection would be done by the City Administrator Council and Members Nelson and Ackerman. Council Member Long seconded the motion and it passed three to one, with the Mayor voting no.

A motion to obtain outside council to give an opinion on the real property rights and other rights of the City in regards to the Water Authority was made by Council Member Nelson and seconded by Council Member Long. The motion carried three to one, with the Mayor voting no.

A motion was made by Council Member Nelson and seconded by Council Member Ackerman to retain SEH to review the project and provide an opinion and to work with the Pleasant Lake Oxygenation Committee. The motion passed unanimously.

Council Member Nelson also attended the North Suburban Cable Award meeting. They granted scholarships to about 20 students. They encourage students to apply as they have

too few applicants. Two North Oaks students may have received scholarships. This information will be checked out. Information about the scholarships can be found on the City website or at the City office.

Mayor John Schaaf

The Mayor attended the Finance Committee Tuesday and went over the income statement. The City is waiting for the tax payment from Ramsey County which should arrive soon. The budget process is starting again and will consist of 6-7 meetings prior to the October meeting. Budget challenges due to lower property valuations in the City were discussed. The City is looking to Ramsey County to provide guidance on this issue. As property values go down, the levy must go up since about 80% of the budget goes for mandated items. The audit was also discussed.

Ms. Coleman and Mayor Schaaf presented a recognition certificate to General Vessey who was quite honored.

The Mayor participated in sharing the story of the Lake Gilfillan project on video for the White Bear Chamber of Commerce. He stressed that the residents were big participants in getting this project done.

Administrator Reports

1. 2012 Budget vs. Actual Expenditures
The City is doing well on the income side and is expecting the payment from Ramsey County next week. Also the City is ahead on license and permit fees.
2. July 12th Council Meeting
Ms. Coleman asked if Council Members will be able to make the July 12th meeting. The Mayor will be absent and Council Member Nelson may have an issue attending. Hopefully, there will be a quorum as needed.
3. North Suburban Cable Commission
Ms. Coleman asked the Council to consider appointing an alternate to the North Suburban Cable Commission. A motion was made by Council Member Long to appoint Council Member Nelson as an alternate to the North Suburban Cable Commission and Council Member Ackerman seconded the motion. It carried unanimously.
4. Pentom Project Update
Ms. Coleman has been in correspondence with the Pentom group. They are currently working with Ramsey County to develop access points for this property and with Shoreview regarding informal consent for utilities. Ben Gozola has attended the Ramsey County Traffic meeting. It appears that Pentom will be submitting application materials by the end of the month. At that time, the formal process will begin to review the project.

5. Comcast Award

Ms. Coleman announced that resident Andrew Ovshak received a Comcast Award as a leader and achiever. A luncheon at the St. Paul Hotel was scheduled for June 18th and Council Members were invited.

Council Member Long made a motion to invite Andrew Ovshak to a Council Meeting to formally recognize this honor and Council Member Nelson seconded it. The motion carried unanimously.

City Attorney Report

1. LGWA Schedule of Assessment Process

A schedule for the adoption of the final assessment process for the Lake Gilfillan Augmentation Project needs action at this time. Mr. Magnuson explained that this is a very formalized process that is prescribed by state statute. At this meeting, a resolution to adopt the regulation of the assessment roll is needed. Once the roll is approved (at the August Council meeting), a notice will be published and the improvement hearing will be set. This will probably take place at the August 9th meeting, but could be as late as the September meeting. At this meeting, the final amount of the assessment must be given. Once the assessment is adopted, thirty days must pass to allow residents to pay the assessment without interest. Following the thirty days, a second roll is filed with the county auditor. All of this needs to be done by October 13th so that the final definitive bond amount can be determined and at the November meeting the financing can be finalized.

2. Resolution #1259 Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment

Currently the assessment amount is at \$944,530 which includes administrative costs. However, some costs are not yet added to this amount. Additional administrative costs, attorney costs, and miscellaneous costs need to be considered and also more time needs to be spent on final numbers to make sure no expenses are included that are not part of this project. The Mayor stated that it is probably best to start a little higher and then adjust for the final numbers. In Mr. Magnuson's opinion he agreed that it is best to start higher. The Mayor suggested \$975,000, but Ms. Coleman stated that she would be comfortable with \$960,000.

Council Member Ackerman read the final resolution beginning the process to assess for the Lake Gilfillan Augmentation Project. (See attachment B).

Council Member Long moved to approve Resolution #1259 (Resolution Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment) and Council Member Nelson seconded the motion. It carried unanimously.

3. Ordinance #106 To Establish Billing Procedures for Utility Services

The ordinance covers a way to handle the expenses going forward for utility services for this project. The expenses are for water, utilities, and maintenance. If the amount

assessed is not collected, the amount can be added to taxes. This is the way municipalities often handle utility costs. The rate will be assessed each fall (most likely in August) so that there is time to forward this information to Ramsey County.

A motion was made by Council Member Long and seconded by Council Member Ackerman to establish a billing procedure for utility services (see attachment C). The motion carried unanimously.

Mr. Magnuson also included information that should be given to the new counsel in regards to the oxygenation project. He included two documents. The first was the plans given to the City from the Water Board and include the volume and area of both projects as requested by Mr. Magnuson. The computations given are conservative. The second was additional information requested by Mr. Magnuson to include when a structure was first built on this land. This is important because vacant property does not require nonconforming use status because it is not used. The Water Board pointed out that the first was in 1898 and was replaced in 1934 and the existing compressor building was added in 1991.

Another document Mr. Magnuson gave the Council was a copy of the memorandum on the rights of the Water Board and NOHOA. In 1993 the Company granted an easement to NOHOA before the commencement of the Water Board. It appears that a deed of the Water Board included a reservation of rights to the residents to review what is on this property.

Mr. Ackerman did not agree with the volume and area measurements given in this plan. Mr. Magnuson explained that this was the information given to him by the Water Board.

Miscellaneous

Next Regularly Scheduled Council Meeting – Thursday, July 12, 2012 @ 7:00 pm in the Community Meeting Room

Next Natural Resource Commission Meeting – Tuesday, July 10, 2012 @ 7:00 pm. in the Community Meeting Room

Next Planning Commission Meeting – Thursday, June 28, 2012 @7:00 pm in the Community Meeting Room

Adjournment

On motion duly made by Council Member Long, seconded by Council Member Nelson and carried unanimously, the meeting was adjourned at 10:28 p.m.

Attest:

Respectfully submitted,

Mayor John Schaaf

Maureen C. Geier
Recording Secret

Attachment A**Illicit Discharge and Connection Storm Water Ordinance****ORDINANCE NO. 105**

THE CITY COUNCIL OF THE CITY OF NORTH OAKS DOES ORDAIN:

§154A.01 PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of North Oaks through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

§154A.02 SCOPE OF AUTHORITY

- (A) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user.
- (B) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
- (C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

§154A.03 DEFINITIONS.

For the purposes of this ordinance, the following means:

The City of North Oaks and its employees, agents or designees.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. ' 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 5 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this ordinance.

ILLICIT CONNECTIONS. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City or designed or used for collecting or conveying storm water, and that is not used for collecting or conveying wastewater.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC ' 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM. Publicly-owned facilities, including the MS4, by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER MANAGEMENT PLAN. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

§154A.04 APPLICABILITY.

This ordinance shall apply to all water entering the drainage system generated on any developed and undeveloped lands unless explicitly exempted by the City.

§154A.05 RESPONSIBILITY FOR ADMINISTRATION.

The City must administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City may be delegated in writing by the City Administrator to persons or entities acting in the beneficial interest of or in the employ of the agency.

§154A.06 DISCHARGE PROHIBITIONS.

(A) *Prohibition of Illegal Discharges.* No person shall throw, drain, discharge or cause to be discharged into the municipal storm drainage system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water; except as follows:

(1) The water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), sump pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, DE chlorinated swimming pools (typically less than one PPM chlorine), firefighting activities, and any other water source not containing Pollutants.

(2) Discharges specified in writing by the City as being necessary to protect public health and safety.

(3) Dye testing if verbal notification is given to the City prior to the time of the test.

(4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA).

(B) *Prohibition of Illicit Connections.*

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) Illicit connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City.

§154A.07 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit must comply with all provisions of such permit.

§154A.08 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(B) *Access to Facilities.*

(1) The City must be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

(2) Facility operators must allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

§154A.09 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

City of North Oaks will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drainage system, or waters of the state. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drainage system or watercourses through the use of these structural and non-structural BMPs.

§154A.10 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

§154A.11 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the State said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of North Oaks within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Records shall be retained for at least three years.

§154A.12 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

Any person violating any provision of this ordinance is guilty of a misdemeanor.

(A) *Emergency cease and desist orders.* When the City finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened illicit discharge to the MS4 or waters of the state, which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City may issue and order to the violator directing it to immediately cease and desist all such violations.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. Such suspension may also be imposed if it is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger.

(C) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided in this ordinance, any condition caused or permitted to exist in violation of any of the provision of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, and may be summarily abated or restored at the violator's expense; and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

(D) *Assessments.* All costs, expenses and attorney fees incurred by the City in abating any public nuisance under this Ordinance may be assessed against the premises at which the violation exists as a special assessment under Minnesota Statutes Chapter 429.

§154A.13 ADOPTION OF ORDINANCE.

This ordinance shall be in full force and effect upon its final passage and publication.

PASSED BY THE CITY COUNCIL this 14th day of June, 2012

APPROVED:

John Schaaf, Mayor, City of North Oaks

ATTEST:

Melinda Coleman, City Administrator

Attachment B

State of Minnesota)
County of Ramsey) ss
City of North Oaks)

RESOLUTION NUMBER 1259

Resolution Declaring Cost to be Assessed and Ordering Preparation of

Proposed Assessment

WHEREAS, costs have been determined for the Lake Gilfillan Augmentation Project improvement so that the total cost of the improvement will be \$960,000.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH OAKS, MINNESOTA:

1. The portion of the cost to be assessed against benefited property owners is declared to be \$960,000.00

2. Assessments shall be payable in equal annual installments extending over a period of ten (10) years, the first installments to be payable on or before the first Monday in January, 2013, and shall bear interest at the rate of six percent (6%) per annum from the date of the adoption of this assessment resolution.

3. The City Administrator, with the assistance of the consulting engineer, shall forthwith calculate the property amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, as provided by law, and shall file a copy of such proposed assessment in her office for public inspection.

4. The Administrator shall upon the completion of such proposed assessment, notify the Council thereof.

PASSED BY THE CITY COUNCIL of the City of North Oaks this 14th day of June, 2012.

APPROVED:

John Schaaf, Mayor, City of North Oaks

ATTEST:

Melinda Coleman, City Administrator

Attachment C

ORDINANCE NO. 106

THE CITY COUNCIL OF THE CITY OF NORTH OAKS, RAMSEY COUNTY, DOES ORDAIN:

SECTION 1. DEFINITIONS.

For the purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

Account. A record of utility services used by each property and the periodic costs for those utility services.

City. The City of North Oaks, County of Ramsey, State of Minnesota.

City Utility System. Facilities used for providing public utility service owned or operated by City or authorized agent of the City, including lake augmentation, sewer, storm sewer and water service.

SECTION 2. ACCOUNTS.

All accounts shall be carried in the name of the owner. The owner is liable for the services supplied to the property, whether occupying the property or not. Unpaid charges will be a lien upon the property.

SECTION 3. BILLING.

Water, sewer, and lake augmentation charges will be billed on one bill as applicable to each account. All charges for water, sewer and lake augmentation are due upon receipt and considered delinquent after the tenth day of the following month. All bills must contain the title, address and telephone number of the official in charge of billing; the title, address and phone number must be clearly visible and easily readable. Bills must be mailed to the customers on or before the fifth day of April of each year. Charges will be in accordance with the current fee schedule set by the City Council.

SECTION 4. UTILITY RATE SCHEDULE.

- 4.1 The utility rate schedule will be adopted annually by resolution of the City Council.
- 4.2 The City Council resolution setting out the utility rate schedule must also establish the number of certification cycles per year. At least one certification cycle will be timed each year to coincide with Ramsey County's requirements for certification to the following year's taxes.

SECTION 5. DELINQUENT ACCOUNTS.

- 5.1 **Penalties.** A late payment penalty of ten percent (10%) will be assessed on all accounts with a past due balance.

- 5.2 **Certification for collection with taxes.** Unpaid charges may not be certified to the county auditor until notice and an opportunity for a hearing have been provided to the owner of the premises involved. The notice must be sent by first class mail and state that if payment is not made before the date for certification, the entire amount unpaid plus penalties will be certified to the county auditor for collection as other taxes are collected. The notice must also state the occupant may, before the certification date, attend or schedule a hearing on the matter to object to certification of unpaid charges.

SECTION 6. OTHER REMEDIES.

In addition to any procedures or penalties provided for in this ordinance, if any person, firm or corporation fails to comply with any provision of this ordinance, the Council or any city official designated by it may institute appropriate proceedings at law or at equity to procure payment and or enforce the provisions of this ordinance.

SECTION 7. EFFECTIVE DATE.

This ordinance becomes effective from and after its passage and publications.

Adopted by the City Council this 12th day of June, 2012.

CITY OF NORTH OAKS

John Schaff, Its Mayor

ATTEST:

Melinda Coleman, Its City Administrator