

**ELYSIAN CITY COUNCIL
REGULAR MEETING
SEPTEMBER 11, 2017**

The Elysian City Council met in regular session on Monday, September 11, 2017, at City Hall at 6:00 pm.

Roll Call: Mayor Clinton Stoen; Councilmembers Robert Houlihan, Tom McBroom, Mary Opsahl, and Dennis Schnoor; City Administrator Lorri Kopischke; Public Works Director Ron Greenwald; and City Attorney Jason Moran. Absent: City Utility Clerk Nicole Lamont.

On motion by Stoen, seconded by McBroom, all voting in favor, to close the Regular Meeting and open the Public Hearing at 6:02 pm.

The purpose of the hearing is to allow public input from citizens in regard to the request of John H Carpenter, Ramona M Carpenter, and Barbara C Nelson, the property owners of a property located at 411 Sixth Street NW, Elysian, Le Sueur County, Minnesota, to close and vacate Lakeside Drive from Sixth Street NW to PID # 16.460.0100.

The property owners would like to combine the three adjacent parcels of land they own into one developable parcel and then place the parcel for sale. The City does not maintain the road. It has not been used for many years. There is access to the lots to the west via private drive also named Lakeside Drive.

Barbara C. Nelson, property owner 411 Sixth Street NW, stated this portion of Lakeside Drive has not been used as a street for years. It just shows up on the map. They would like to combine the three sections and sell as a whole unit. That way a new buyer could build a home 75 feet back from the lake.

Public Comment:

Dale Gandrud, owner of property located at 706 Lakeside Drive NW, stated he had no problem with what Ms. Nelson would like to do. His question was if the private drive that he lives on will be affected. City Attorney Moran stated the private drive would not be affected.

There was no further public comment. No written comments were received.

On motion by Stoen, seconded by Houlihan, all voting in favor, to close the Public Hearing at 6:07 pm and open the Regular Meeting.

Le Sueur County Chief Deputy Greenig stated the City has been quiet. He encouraged residents to contact the Sheriff's Department with any questions or comments.

Mayor Stoen congratulated Mack Evans on being named 2017 Le Sueur County Outstanding Senior Citizen and presented him a certificate of appreciation as follows: "In recognition of your Deep Commitment, Outstanding Devotion, and Committed Leadership to the City of Elysian including: Six Years as the Mayor of Elysian; Initiated a National Night Out Event for the Community; Current Elysian Economic Development Authority Commissioner; Active member of the Elysian Area Chamber of Commerce; Active with the American Legion Post #311, Legion Marching Unit and Honor Guard; Generous Volunteerism; and Constant Public Relations and Promotion of the City. Thank you. You have made a difference."

On motion by McBroom, seconded by Schnoor, all voting in favor, to approve the minutes of the August 14, 2017 Regular Meeting and August 29 Budget Workshop Meeting as presented.

On motion by Stoen, seconded by Houlihan, all voting in favor, to approve the agenda of the September 11, 2017 Regular Meeting as presented. Stoen noted there are two variance requests and one rezoning issue on the agenda that are not public hearings. He invited public comment on those items to be made during the public comment time.

The Council considered Resolution #581/17. City Attorney Moran stated he had reviewed the Resolution and it meets all standards. Mayor Stoen introduced the resolution and was seconded by Councilmember Opsahl.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION 581/17

A RESOLUTION VACATING A PORTION OF STREET UPON PETITION OF A MAJORITY OF ABUTTING LANDOWNERS.

THE CITY COUNCIL FOR THE CITY OF ELYSIAN, MINNESOTA, DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, a petition signed by the majority of property owners abutting Lakeside Drive a portion of street in the city of Elysian was received by the City Clerk on the 8th day of August, 2017; and

WHEREAS, the City Council for the City of Elysian called for a public hearing by notifying its interest in vacating a portion of a street pursuant to Minnesota Statute §412.851; and

WHEREAS, the portion of the street subject to vacation is a platted street lying west of Sixth Street NW and described as follows: that portion of a street platted and measuring approximately 368' x 66' lying north of Block Five (5), in the Townsite of Elysium, now known as the Village of Elysian, according to the plat on file in the Office of the Register of Deeds of Le Sueur County, Minnesota and lying directly south of Reserve Block Number One (1) in the Townsite of Elysium, according to the plat thereof, on file and of record in the office of the Register of deeds in and for said county, as is illustrated on the attached map; and

WHEREAS, a public hearing was set to consider the vacation of said portion of a street; and

WHEREAS, a public hearing to consider the vacation of said portion of street was held on September 11, 2017 before the City Council at City Hall located at 110 West Main Street, Elysian, Minnesota at approximately 6:00 pm. Further, all property owners adjacent to said portion of street and all affected persons were given notice of said Public Hearing, and all were given an opportunity to be heard and voice their concerns regarding the vacation of the subject portion of a street. Finally, said notice was published in the City's legally designated newspaper for the requisite time parameters called for in Minnesota Statutes §412.851; and

WHEREAS, the Council, in its discretion has determined that the vacation will benefit the public interest because the portion of street is not used by the City and vacation of the portion of street will provide an opportunity for the homeowner to further develop and enhance his property, which will further enhance the City's tax base, and it will additionally lessen the City's liability for the portion of said street and eliminate any maintenance obligation the City may have for the same; and

WHEREAS, four-fifths of all members of the Elysian City Council concur in this resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF ELYSIAN, LE SUEUR COUNTY, MINNESOTA, that portion of a street platted and measuring approximately 368' x 66' lying north of Block Five (5), in the Townsite of Elysium, now known as the

Village of Elysian, according to the plat on file in the Office of the Register of Deeds of Le Sueur County, Minnesota and lying directly south of Reserve Block Number One (1) in the Townsite of Elysium, according to the plat thereof, on file and of record in the office of the Register of deeds in and for said county, as is illustrated on the attached map shall be, and hereby is vacated.

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

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, McBroom, Opsahl, Schnoor, Stoen.

Councilmembers voting in the negative: None.

Adopted by the Council this 11th day of September, 2017.

Approved:

Clinton Stoen, Mayor

Attested:

Lorri Kopischke, City Administrator

The Council considered Resolution #582/17 adopting the 2018 proposed budget. It was noted that the Council had met in budget workshop on August 8 and August 29, 2017. Councilmember Schnoor introduced the resolution and was seconded by Councilmember McBroom.

RESOLUTION NO. 582/17
RESOLUTION ADOPTING THE 2018 PROPOSED BUDGET
FOR THE CITY OF ELYSIAN
LESUEUR AND WASECA COUNTIES

WHEREAS, the City of Elysian has considered and discussed the budget for the year 2018;
and

WHEREAS, the 2018 proposed budget is attached to this Resolution.

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

1. That the attached proposed budget for 2018 marked as "Exhibit A" is hereby adopted.

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, McBroom, Opsahl, Schnoor, Stoen

Councilmembers voting in the negative:

Whereupon said resolution was declared duly passed and adopted.

Dated this 11th day of September, 2017.

Approved:

Clinton Stoen, Mayor

Attested:

Lorri Kopischke, City Administrator

Public comment will be taken on the levy and budget at the December 11, 2017 meeting at 6:01 pm.

The Council considered Resolution #583/17 adopting preliminary 2017 Tax Levy, payable 2018. Mayor Stoen introduced the resolution and was seconded by Councilmember McBroom.

RESOLUTION NO. 583/17
RESOLUTION ADOPTING PRELIMINARY 2017 TAX LEVY, PAYABLE 2018
CITY OF ELYSIAN
LE SUEUR AND WASECA COUNTIES

WHEREAS, the City of Elysian has adopted the proposed budget for the year 2018; and

WHEREAS, the City of Elysian has determined the tax levy for taxes payable in the year 2018 to be in the amount of \$561,002.00.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY ELYSIAN, MINNESOTA; that the following sums of money are levied for the current year, collectible in 2018, upon taxable property in the City of Elysian, for the following purposes:

General Fund	\$413,855
Fire Relief	\$ 14,651
Maintenance Replacement Eq.	\$ 10,000
Storm Sewer	\$ 5,000
Kaplan	\$ 15,000
City Hall Debt	\$ 26,000
2012 Local Improvement Levy	\$ 50,000
2016 Local Improvement Levy	\$ 6,000
2016 Fire Truck Debt	\$ 20,496
 Total Preliminary Levy	 \$561,002

Councilmembers voting in the affirmative: Houlihan, McBroom, Opsahl, Schnoor, Stoen.

Councilmembers voting in the negative: None.

The City Administrator is hereby instructed to transmit a certified copy of this resolution to the County Auditor for Le Sueur County and Waseca County, Minnesota.

Adopted by the Elysian City Council on September 11, 2017.

Approved:

Clinton Stoen, Mayor

Attested:

Lorri Kopischke, City Administrator

Public comment will be taken on the levy and budget at the December 11, 2017 meeting at 6:01 pm.

The Council considered Resolution #586/17 accepting a donation from American Legion Post #311. Councilmember Schnoor introduced the resolution and was seconded by Councilmember McBroom.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION 586/17

RESOLUTION ACKNOWLEDGING A DONATION FROM
ELYSIAN AMERICAN LEGION POST #311

WHEREAS, the City of Elysian has received a donation in the amount of \$100.00 from the Elysian American Legion Post #311, for tax relief to the Elysian Area Chamber of Commerce for the purpose of funding a portion of the National Night Out Celebration.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELYSIAN, MINNESOTA THAT: the City Council of the City of Elysian acknowledges and accepts the donation from the Elysian American Legion Post #311 in the amount of \$100.00 for tax relief to the Elysian Area Chamber of Commerce for a portion of the expenses of the National Night Out Celebration.

Upon vote being taken:

Council Members voting in the affirmative: Houlihan, McBroom, Opsahl, Schnoor, Stoen.

Council Members voting in the negative: None.

Adopted by the City Council of the City of Elysian this 11th day of September, 2017.

Approved:

Clinton Stoen, Mayor

Attested:

Lorri Kopischke, City Administrator

The Council considered Resolution #587/17 granted approval for one day off site gambling license. Councilmember Schnoor introduced the resolution and was seconded by Councilmember McBroom.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION 587/17

WHEREAS; The Elysian City Council was presented with a request from the American Legion Post #311 for one day off site lawful gambling,

WHEREAS; State Laws of Minnesota require approval be granted by the local governing body, thus the City of Elysian,

WHEREAS; the request was made at a regular meeting of the Elysian City Council,

NOW THEREFORE, BE IT RESOLVED; The Elysian City Council granted approval for a one day off site lawful gambling license to the Elysian American Legion Post #311 in conjunction with a fishing contest to be held on February 4, 2018.

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, McBroom, Opsahl, Schnoor, Stoen.

Councilmembers voting in the negative: None.

Whereupon said resolution was declared duly passed and adopted.

Dated this 11th day of September, 2017.

Approved:

Clinton Stoen, Mayor

Attested:

Lorri Kopischke, City Administrator

Kopischke reported that the Le Sueur County Commissioners held a Public Hearing on August 22, 2017 and passed an Ordinance to allow golf carts, mini trucks and ATVs to be operated on county roads within city limits that have adopted an Ordinance permitting the use of such vehicles as allowed by Minnesota law. The City of Elysian does have such an Ordinance regulating golf carts, Ordinance #65/09 and that Ordinance will have to be updated to include operation on county roads and highways.

Councilmember Schnoor asked if the Ordinance could be amended to address the use of registered, insured, side by side utility vehicles operated by licensed drivers. City Attorney Moran will add that language to the amendment.

On motion by Stoen, seconded by Schnoor, all voting in favor, to set a Public Hearing for October 9, 2017 to consider Ordinance #65/09A – An Ordinance Amending Elysian Ordinance #65/09 relating to the Operation of Motorized Golf Carts on Public Streets and Roadways within the City of Elysian.

On motion by Stoen, seconded by McBroom, all voting in favor, to close the Regular Meeting and open the Public Hearing at 6:18 pm.

The purpose of the hearing is to allow public input from citizens in regard to Ordinance No. 86/17 – An Ordinance Pertaining to Driveways in the City of Elysian.

The issue of regulating driveways came up during the 2016 Street and Utility Improvement Project and also with new home construction. Staff brought the issue to the Council at the May meeting and Council referred it to Planning and Zoning for a recommendation. Planning and Zoning researched and discussed the issue at their June, July, and August meeting and have presented Ordinance No. 86/17 to the Council for consideration.

Councilmember Schnoor stated that he would like to have language added that states: “All currently existing driveways be grandfathered in.”

Public Comment:

Steve Ritchison, 101 Fourth Street NW, stated he currently has a 16 by 70 foot gravel driveway and can't afford to blacktop it if he wanted to and he has no intention to do so. He stated he cannot even believe the Council is considering the requirement that driveways be surfaced within one year of sale of property. He feels that this considerably lessens his house value. He asked that the Council show some common sense that that part of the Ordinance will just go away.

Dennis Jewison, owner of property located at 206 Main Street East, stated he agreed with the previous comments. The homes in question are not high-end homes. They may be owned by single mothers or low-income families. What we don't need to do is impose a big tax on them to buy these houses. It is a privilege for those who can afford it but not burden those people without as much. As far as improving the environment, he would question that. Rather it would be bad for the environment as it creates more impervious land. It would seem to be better to tear up the driveways and let the water pass through. So, he asked that the portion of the Ordinance relating to paving the driveways be removed.

There was no further public comment. No written comments were received.

On motion by Stoen, seconded by Houlihan, all voting in favor, to close the Public Hearing at 6:25 pm and open the Regular Meeting.

Public Comment:

Pat Nusbaum, 104 Park Avenue NE, stated she was speaking in regard to the possible rezoning of the properties on the north side of Main Street East from the fire hall to the corner. She would like to ask the Council to keep them zoned as commercial and here are the reasons why. The downtown commercial property is limited. The potential of commercial being located on the property being discussed tonight is a definite possibility. If it is changed to residential this eliminates that possibility. The houses that are on the north side of the street could someday become businesses. Potential for a developer to come in and purchase the entire area and develop it is a possibility. If the area is zoned residential it will unlikely ever go back to commercial. Fifteen years ago, when Elysian Auto was considering building a new building, we worked really hard with them to build within the City limits and to build in the downtown district. One of the questions at that time was whether the north side of the street would remain commercial since the Morschings wanted to be assured that they

would get no complaints regarding noise or traffic. They were assured that it would remain commercial. She would like the Council to consider her concerns or take a bit more time and consider amending the Ordinance to allow homes in that area to update or improve as this is a unique situation. She stated she had no problem to allow the homes to update as they may become businesses someday. She realizes it is a non-conforming use in a commercial district but she would like the Council to investigate as this would result in part of the block being residential and part of it being commercial.

Dennis Jewison, owner of property located at 206 Main Street East, stated this really is residential housing and should be zoned what it is. It never should have been changed. He questioned if it was even legal as it affects the values of those properties. If someone goes to buy the property and it is discovered it is zoned commercial they can't get a loan from the bank so it has created an undue hardship for these people. It has been zoned commercial for 37 years and he doesn't see a lot of businesses coming in there. If we do see commercial it would be good to have it here but let's put it up on Highway 60 where it belongs. If there is not room, then we need to annex in more property and put the commercial where it should be located.

There was no further public comment.

The Council considered Ordinance #86/17 pertaining to driveways in the City of Elysian.

Councilmember Schnoor stated that personally he did not believe that we need it. If a person wants a bigger driveway, so be it. We are small town.

Councilmember McBroom stated he believed it was needed for consistency. Without regulations, the entire front yard could be driveway and there would be no grass and people would be parking in the front yards.

Councilmember Houlihan stated he did not see a need to limit the size of the driveway. He noted there are some really long driveways in town and the purpose of paving the driveway is to keep the gravel out of the storm sewer. He proposed that the surfacing requirement only be for the first 20 feet of the driveway from the road. This would keep the gravel off the road but would not be as expensive for the homeowner.

Mayor Stoen stated he is on the Planning and Zoning Commission and they did research this issue and had a lot of discussion. A 24-foot curb cut which widens after a five-foot setback should provide plenty of room to get in and out. It does standardize driveways especially for a street project. He does support people being able to keep the driveways they have. He understands the 70-foot-long driveway issue but questioned if there were a lot of those driveways out there. He supported the Ordinance as written.

Councilmember Opsahl noted that some driveways are long and it seems that the whole road is part of the driveway.

After considerable discussion, on motion by Stoen, seconded by McBroom, all voting in favor, to approve Ordinance #86/17 with the following changes: Addition of: All current driveways as of the date of this ordinance are grandfathered in with regard to width, setbacks, and curb cuts. And change: #8 All driveways and required off-street parking spaces shall be surfaced with concrete, bituminous or pavers. All existing driveways that are not surfaced with concrete, bituminous, or pavers shall be upgraded to be surfaced "a minimum of 24 feet from the street" within one-year of sale of the property to a new owner.

The Ordinance was presented by Mayor Stoen and seconded by Councilmember McBroom:

ORDINANCE 86/17
CITY OF ELYSIAN
LE SUEUR COUNTY, MINNESOTA

AN ORDINANCE PERTAINING TO DRIVEWAYS IN THE CITY OF ELYSIAN

The City Council for the City of Elysian, Le Sueur County, Minnesota, does hereby Ordain as follows:

1. A Driveway Permit is required and can be obtained at the office of the City Administrator. The permit shall identify the property owner, the property address, and provide a plan of the proposed driveway including dimensions of the proposed driveway.
2. Residential uses shall be limited to two curb cuts or driveway accesses per property. The two curb cuts or driveway accesses shall be set back at least ten (10) feet from each other.
3. Driveways are limited to a maximum width of twenty-four (24) feet at the curb.
4. Driveways may widen after a five (5) foot setback from the curb.
5. Driveways are limited to a maximum of thirty-six (36) feet in width.
6. Driveways shall meet the required side yard setback for the adjacent structure. For example, a driveway that serves an attached garage must meet the eight (8) foot side yard setback; a driveway that serves a detached garage must meet the three (3) foot side yard setback.
7. Driveway setback for corner lots shall not be less than 20-feet from adjacent right-of-way, (meeting Front Yard setback).
8. All driveways and required off-street parking spaces shall be surfaced with concrete, bituminous, or pavers. All existing driveways that are not surfaced with concrete, bituminous, or pavers shall be upgraded to be surfaced "a minimum of 24 feet from the street" within one-year of sale of the property to a new owner.
9. All current driveways as of the date of this Ordinance are grandfathered in with regard to width, setbacks, and curb cuts.

This Ordinance shall be in effect after its passage and publication.

The Ordinance was presented by Mayor Stoen, seconded by Councilmember McBroom with the following vote being taken:

Voting Yes: Houlihan, McBroom, Opsahl, Schnoor, Stoen.

Voting No: None

Passed this 11th day of September, 2017.

By: _____
Clinton Stoen, Mayor

Attest:

Lorri Kopischke, City Administrator

The Council considered Resolution #584/17 – Approval of a Variance Application for Larry and Roberta Radke for property located at 405 Lake Avenue NW.

The Planning and Zoning Commission held a Public Hearing on September 5, 2017 to consider the request of Larry and Roberta Radke, owners of the property located at 405 Lake Avenue NW, for a variance to construct an addition of four feet onto the west side of their entryway which will encroach into the side yard setback to within five feet of the west property line. The Radkes are planning to make this their full-time home. Along with the addition, the Radkes plan to re-side the house and replace several windows. They state the addition needs to be on the entryway due to the location of the electric and gas meter and the roofline.

Kopischke reported there was one neighbor present at the Public Hearing. His issue was not related to the variance and other than that issue, he stated he was in favor of the variance request.

The Planning and Zoning Commission is recommending approval of the variance request based on the following findings of fact:

1. Reasonableness: The request to construct the addition onto the entryway is reasonable due to the restriction of the roofline. This is the only place on the home that an addition would be practical.
2. Uniqueness: There are unique circumstances on the property in that the gas and water meter are located on the south end of the home and based on the size of this addition it would not be in the best interest of the property owner to have those meters moved.
3. Essential Character: The addition will not alter the essential character of the area. It will be part of a remodel that will improve the look of the building and the encroachment into the setback will not be noticeable.

And with the following Condition:

1. That the entire building will be re-sided upon completion of the addition.

Councilmember Opsahl introduced the resolution and was seconded by Councilmember Houlihan.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION 584/17

RESOLUTION ADOPTING FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND APPROVAL OF A VARIANCE APPLICATION FOR LARRY AND
ROBERTA RADKE FOR PROPERTY LOCATED AT 405 LAKE AVENUE NW,
ELYSIAN, MINNESOTA

FACTS

1. Larry and Roberta Radke are the owners of a parcel of land located at 405 Lake Avenue NW, Elysian, Minnesota; and,
2. The subject property is legally described as follows: Lot Five (5) and the East Half (E1/2) of Lot Six (6) and the West Three (3) feet of Lot Four (4), all in Block Eight (8), in the Village of Elysian, formerly known as the Townsite of Elysium, according to the New Amended and Re-arranged Plat of said Townsite of Elysium, Le Sueur County, Minnesota; and,
3. Larry and Roberta Radke have applied to the City for a variance to construct an addition of four (4) feet by ten (10) feet onto the west side of their entryway which will encroach into the side yard setback to within five (5) feet of the west property line.

4. The proposal would vary from Section 6.0. R1 – General Residential Zone, Subd. E. R1 Standards, 2. Side yards – minimum of eight (8) feet in that it would encroach into the side yard setback to within five (5) feet of the west property line.
5. Following a public hearing on the application, the City of Elysian Planning and Zoning Commission has recommended approval of the variance on September 5, 2017.
6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of September 11, 2017.
7. Approval was made with the following condition:
 - a. That the entire building will be re-sided upon completion of the addition.

APPLICABLE LAW

8. Minnesota Statute Section 462.357, subd. 6 provides:
 - a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
 - b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.

CONCLUSIONS OF LAW

9. Reasonableness: The request to construct the addition onto the entryway is reasonable due to the restriction of the roofline. This is the only place on the home that an addition would be practical.
10. Uniqueness: There are unique circumstances on the property in that the gas and water meters are located on the south end of the home and based on the size of this addition it would not be in the best interest of the property owner to have those meters moved.
11. Essential Character: The addition will not alter the essential character of the area. It will be part of a remodel that will improve the look of the building and the encroachment into the setback will not be noticeable.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elysian, Minnesota, that the application to issue a variance to allow Larry and Roberta Radke to construct an addition of four (4) feet onto the west side of their entryway which will encroach into the side yard setback to within five (5) feet of the west property line so as to deviate from Section 6.0. R1 – General Residential Zone, Subd. E. R1 Standards, 2. Side yards – minimum of eight (8) feet is hereby Approved.

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, McBroom, Opsahl, Schnoor, Stoen.

Councilmembers voting in the negative: None.

Adopted by the City Council of Elysian on this 11th day of September 2017.

Approved:

Clinton Stoen, Mayor

Attested:

Lorri Kopischke, City Administrator

The Council considered Resolution #585/17 – Approval of a Variance Application for Bryan and Tami Paulsen for property located at 121 Willow Point Drive.

The Planning and Zoning Commission held a Public Hearing on September 5, 2017 to consider the request of Bryan and Tami Paulsen, the property owners of a property located at 121 Willow Point Drive, for a variance for lot area of less than 20,000 square feet, setback to the OHWL of 39 feet, and lot coverage of 39.8%, to allow construction of a new home.

The Paulsens purchased the property at 121 Willow Point Drive and removed the two older trailer homes that were located on the lot. The lot has a total square footage of 13,962. The zoning shoreland ordinance requires a lot area of 20,000 square feet. The required setback from the OHWL is 75 feet. The trailer homes that were previously located on this lot were 25 feet from the shoreline. The proposed location of the new home is 39 feet from the OHWL on the north side and 46.6 feet on the south side. The property owner has stated that this location does line up with the location of the surrounding homes. All other required setbacks are met. The allowable lot coverage in the shoreland zone is 25%. The Paulsen's proposed building footprint is 3,322 square feet and the impervious coverage including driveway, etc. is estimated at 2,117 which results in a lot coverage of 39.8% which is 24.3% building and 15.5% impervious surface. The Paulsens have also proposed a 400-square foot bio-swale or rain garden on the south side of the house to manage the stormwater runoff from the driveway.

The Minnesota Department of Natural Resources was notified of the variance request. Their concerns have been addressed. The only other public comment received was from the neighbor at 123 Willow Point Drive in support of the project.

The Planning and Zoning Commission is recommending approval of the variance request based on the following findings of fact:

1. Reasonableness: The request is reasonable as the setback to the OHWL is conforming to the setbacks of the other surrounding homes and all other setback requirements have been met. The home is located further back from the OHWL than the trailer homes that were previously located on the property
2. Uniqueness: The uniqueness is that this is a substandard lot and the home has been designed to fit within the lot.
3. Essential Character: This home will not alter the essential character of the area. It will improve the neighborhood by replacing two old trailer homes that needed repair.
4. The Minnesota Department of Natural Resources is in support of the project and their stated concerns have been addressed.

And with the following conditions:

1. The lakeside patio be reduced to 500 square feet.
2. A filtration basin (rain garden) of approximately 400 square feet be installed on the south side of the property.
3. Screening be planted on the shoreline and to one side of the property.
4. That the driveway adheres to any ordinance requirements at the time of issuance of the building permit.

Councilmember Opsahl introduced the resolution and was seconded by Councilmember McBroom.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION 585/17

RESOLUTION ADOPTING FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND APPROVAL OF A VARIANCE APPLICATION FOR BRYAN AND TAMI PAULSEN FOR
PROPERTY LOCATED AT 121 WILLOW POINT DRIVE,
ELYSIAN, MINNESOTA

FACTS

1. Bryan and Tami Paulsen are the owners of a parcel of land located at 121 Willow Point Drive, Elysian, Minnesota; and,
2. The subject property is legally described as found on Exhibit A; and,
3. Bryan and Tami Paulsen have applied to the City for a variance to construct a new home on a substandard lot that will encroach into the required OHWL setback and will exceed the allowed lot coverage in the Shoreland Ordinance.
4. The proposal would vary from Section 13.0. Shoreland Overlay Zone, Subd. G. Shoreland Standards - General., 1. Shoreland Standards – Residential (R-1 & R-2), a. Recreational Development Lakes (Elysian/Frances/Rays) – Sewered Areas, Single Family Water Frontage Required Lot Area 20,000 square feet in that it would be 13,962 square feet; Required Setback from OHWL of 75 feet in that the proposed setback would be 39 feet; and Required Lot Coverage of 25% in that the proposed lot coverage including the house and all impervious surface would be 39.8%.
5. Following a public hearing on the application, the Elysian Planning and Zoning Commission has recommended approval of the variance on September 5, 2017.
6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of September 11, 2017.
7. Approval was made with the following conditions:
 - a. The lakeside patio be reduced to 500 square feet.
 - b. A filtration basin (rain garden) of approximately 400 square feet be installed on the south side of the property.
 - c. Screening be planted on the shoreline and to one side of the property.
 - d. That the driveway adheres to any ordinance requirements at the time of issuance of the building permit.

APPLICABLE LAW

8. Minnesota Statute Section 462.357, subd. 6 provides:

- a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
- b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.

CONCLUSIONS OF LAW

9. Reasonableness: The request is reasonable as the setback to the OHWL is conforming to the setbacks of the other surrounding homes and all other setback requirements have been met. The home is located further back from the OHWL than the trailer homes that were previously located on the property.
10. Uniqueness: The uniqueness is that this is a substandard lot and the home has been designed to fit within the lot.
11. Essential Character: This home will not alter the essential character of the area. It will improve the neighborhood by replacing two old trailer homes that needed repair.
12. The Minnesota Department of Natural Resources is in support of the project and their stated concerns have been addressed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elysian, Minnesota, that the application to issue a variance to allow Bryan and Tami Paulsen to construct a new home on a substandard lot that will encroach into the required OHWL setback and will exceed the allowed lot coverage in the Shoreland Ordinance so as to deviate from Section 13.0. Shoreland Overlay Zone, Subd. G. Shoreland Standards - General., 1. Shoreland Standards – Residential (R-1 & R-2), a. Recreational Development Lakes (Elysian/Frances/Rays) – Sewered Areas, Single Family Water Frontage Required Lot Area 20,000 square feet; Required Setback from OHWL of 75 feet; and Required Lot Coverage of 25% is hereby Approved.

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, McBroom, Opsahl, Schnoor, Stoen.

Councilmembers voting in the negative: None.

Adopted by the City Council of Elysian on this 11th day of September 2017.

Approved:

Clinton Stoen, Mayor

Attested:

Lorri Kopischke, City Administrator

The Council considered Ordinance #87/17 – Amending the Zoning Ordinances of the City of Elysian.

The Planning and Zoning Commission held a Public Hearing on September 5, 2017 to consider a change in zoning designation from C-1 Central Business Commercial District to R1 General Residential Zone for properties of 206, 208, 210, 212 and 213 East Main Street. The area was zoned commercial after the houses were located there. It was zoned commercial to retain an area of Main Street that could be used for commercial businesses when the commercial area expanded. The zoning has put restrictions on the residential homes located in this area as the residential use is non-conforming and the houses are not able to be expanded. There also is a vacant parcel in the middle of these houses and this parcel cannot be sold for residential use. It also creates a difficulty for a potential buyer to obtain a loan for residential use.

Four persons spoke at public comment time at the Planning and Zoning Meeting – two in favor of the rezoning and two against. Written comment was also received from the owners of Elysian Auto Service (against) and the Executive Vice President of the Elysian Bank (not a strong opinion either way but wanted to bring up some items for consideration). This information is recorded in the draft minutes of the Planning and Zoning Meeting and has been provided to the Council in their packets.

After a lengthy debate, the Planning and Zoning Commission is recommending to City Council that the properties on the north side of Main Street East - 206, 208, 210, and 212 East Main Street (PID # 16.440.0700, 16.440.0710, 16.440.0720, and 16.440.0730) would be rezoned to R1 General Residential Zone and that the property on the south side of Main Street - 213 East Main Street (16.440.0960) would remain C-1 Central Business Commercial District.

Mayor Stoen commented that Planning and Zoning did recommend approval of the rezone on the north side of East Main Street but to keep the commercial zoning designation on the south side of the street adjacent to Highway 60. That is the largest piece of property and seemed to fit in with the other commercial uses on that side of the street.

Stoen stated the residential use is already there and having this zoning does not allow the houses to expand or to be used to their potential.

Councilmember Houlihan stated it sounded like things could be done to them if you requested a variance. City Attorney Moran stated it was a grey area but it was possible.

Councilmember McBroom stated that 37 years ago, the leaders of the City had a vision. That vision was to make that area of Main Street into a very viable commercial area. But at some point, we need to refocus our vision. The reality is that we are better set keeping things to the south commercial and changing everything to the north to residential.

Houlihan stated he disagreed. He stated that even when Jewison purchased 206 East Main Street, the Fire Department was interested in purchasing it. There are commercial uses that have an interest and there might be for those other lots also if there were not a house there.

McBroom stated he understood what Houlihan was saying. He had talked with the Morschings this week and their concern is that there will be complaints regarding noise, etc. from residents. McBroom put that back on Jewison that when the property was sold, to inform those potential

buyers that there are commercial uses that are located there and if that bothers them, perhaps that is a piece of property they do not want to buy.

Jewison stated he agrees that is very important. He also commented that part of the problem is that the realtors are not required to disclose the zoning so that a buyer may not be aware that it is commercial.

Houlihan stated he would rather see it remain commercial and get a variance to do something on the lot than change it to residential and the City of Elysian never be able to expand in that direction.

Kopischke explained that one problem with granting variances was that the other lot requirements such as setbacks, follow the zoning as well. So, if you use the commercial zoning requirements, you will have a residential use being held to commercial requirements. It is rather complicated.

Councilmember Schnoor asked what would happen in the future if the Fire Hall needed to be expanded and the City wanted to acquire that property by eminent domain? City Attorney Moran stated that in that situation, the property can be acquired by eminent domain even if it is zoned residential.

Stoen stated that at the current time, he believes the residential zoning outweighs the benefit to the community of having it zoned commercial. By allowing the people to update their houses, they may remodel, and the values will go up. Realistically, it is a residential piece of property.

Houlihan stated that if it is zoned commercial, you should know what you are getting when you buy. Moran stated that they are not required to disclose that and a lot of these things are not discovered until after the fact.

On motion by Stoen, seconded by Opsahl, to approve Ordinance #87/17, an Ordinance Amending the Zoning Ordinances of the City of Elysian, Le Sueur County, MN thereby effectively Rezoning Property from Commercial to Single Family Residential on the North Side of East Main Street, and leaving the property on the South Side of East Main Street Zoned Commercial, and calling for a change in the Zoning Map Reflecting the Rezoning of said property.

Upon roll call vote: 3 ayes (McBroom, Opsahl, Stoen), 2 nays (Houlihan, Schnoor). Motion carried.

Upon the vote of 3 in favor and 2 against the measure passes. City attorney Jason Moran initially advised the council that a supermajority was needed to rezone the property from commercial to residential however that was in error. Upon further review by him a rezone from commercial to residential only needs a majority vote pursuant to Minnesota Statute Sec. 462.357. In light of Minnesota Statute Sec. 462.357, and upon majority vote received, the measure passes and the subject properties are now rezoned residential with the following properties remaining commercial: 213 Main Street East. In addition, the zoning map shall be amended to reflect this.

ORDINANCE 87/17
CITY OF ELYSIAN
LE SUEUR COUNTY, MINNESOTA

AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF ELYSIAN, LE SUEUR COUNTY, MN THEREBY EFFECTIVELY REZONING PROPERTY FROM COMMERCIAL TO SINGLE FAMILY RESIDENTIAL AND CALLING FOR A CHANGE IN THE ZONING MAP REFLECTING THE REZONING OF SAID PROPERTY.

The City Council for the City of Elysian, Le Sueur County, Minnesota, does hereby and herein Ordain as follows:

- (A) Purpose. The purpose of this Amended Ordinance is to ensure for the wellbeing and general welfare of the citizens of the City of Elysian. Elysian currently has zoning regulations in place and a zoning map exists whereby zoning and land use control designations are in place. The City of Elysian Planning and Zoning Commission met on September 5, 2017, held a public hearing pertaining to a change in the city's zoning designation and zoning map, and upon majority vote affirmatively recommended the following Amendment to the City's Zoning Designation concerning the following properties:

The properties on the north side of Main Street East - 206, 208, 210, and 212 East Main Street (PID # 16.440.0700, 16.440.0710, 16.440.0720, and 16.440.0730) would be rezoned to R1 General Residential Zone and that the property on the south side of Main Street - 213 East Main Street (16.440.0960) would remain C-1 Central Business Commercial District.

The Planning and Zoning Commission opined that these properties have been historically, and are currently entirely single family residential and would likely remain such for the foreseeable future and that it would be in the best interest of the city for them to be designated R1-Single Family Residential. In addition, keeping them commercial would unduly burden the district as it is entirely single family residential in its current form and the commercial designation mandates that variances be reviewed for any improvements to the properties. In addition, keeping it single family residential will certainly enhance the City's tax base, keep the neighborhood in harmony with the land use comprehensive plan and keeping it single family residential will be in the overall best interest and general welfare of the City of Elysian.

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF ELYSIAN,
LE SUEUR COUNTY MINNESOTA,
HEREBY AND HEREIN ORDAINS AS FOLLOWS:

1. The properties on the north side of Main Street East - 206, 208, 210, and 212 East Main Street (PID # 16.440.0700, 16.440.0710, 16.440.0720, and 16.440.0730) would be rezoned to R1 General Residential Zone and that the property on the south side of Main Street - 213 East Main Street (16.440.0960) would remain C-1 Central Business Commercial District.
2. The City's Zoning Map shall be changed to reflect this re-zone.

This Amended Ordinance shall take effect upon publication.

Passed this 11th day of September, 2017.

The Ordinance was presented by Mayor Stoen, seconded by Councilmember Opsahl with the following vote being taken:

Voting Yes: McBroom, Opsahl, Stoen.

Voting No: Houlihan, Schnoor.

By: _____
Clinton Stoen, Mayor

ATTEST:

Lorri Kopischke, City Administrator

Chris Cavett, SEH Engineering, presented two soil boring proposals for the 2018 Street and Utility Project – American Engineering Testing, Inc, (AET) in the amount of \$5,900 and Braun Intertec in the amount of \$5,825. Cavett is recommending acceptance of the AET proposal as they did the soil boring work and testing for the 2016 project. They have been very responsive to our needs and are proposing to deliver the report sooner.

Cavett presented three sewer televising proposals for the 2018 Street and Utility Project – Hydro-Klean in the amount of \$4,874, Hydro Vac & Televising in the amount of \$7,500, and Empire Pipe Services in the amount of \$5,590. Cavett is recommending acceptance of the Hydro-Klean proposal.

On motion by Stoen, seconded by McBroom, all voting in favor, to accept the soil boring proposal from American Engineering Testing, Inc, in the amount of \$5,900 and to accept the sewer televising proposal from Hydro-Klean in the amount of \$4,874 – both for the 2018 Street and Utility Project.

Cavett reported the 2018 Street and Utility Improvement Project remains on schedule. There is a neighborhood meeting scheduled for September 25 from 6:30 to 8:00 pm. A report will be provided at the October Council Meeting and the Public Hearing will be called for the November Council Meeting.

Public Works Director Ron Greenwald reported that the water tower has been cleaned inside and outside. Several water test results have been received including lead and copper and they are all satisfactory. Copies are available upon request. The check valves on Lift Station A have been replaced.

Greenwald then reported that a large hackberry tree on G Street is split in half and needs to be removed. He provided two quotes for the removal of the tree and grinding of the stump – Suemnick's Final Cut Tree Service, L.L.C. in the amount of \$650 and Scheurer's Tree Service in the amount of \$1,200.

On motion by Schnoor, seconded by Houlihan, all voting in favor, to approve the bid of Suemnick's Final Cut Tree Service, L.L.C. in the amount of \$650 for the removal of a hackberry tree on G Street and grinding of the stump.

Greenwald presented two quotes for street repair on 1st Street South from Maple Street to G Avenue – WW Blacktopping, Inc. in the amount of \$9,000 and Crane Creek Asphalt in the amount of \$8,400. The quote is for an overlay and to address the drainage there as much as possible.

On motion by Schnoor, seconded by Houlihan, all voting in favor, to approve the bid of WW Blacktopping, Inc. in the amount of \$9,000 for street repair on 1st Street South.

Greenwald reported that the shut off from the main to the property owner's home 107 Willow Point Drive needs to be dug up and replaced as it is not working. Currently, if we need to shut his service off, we need to shut off the entire block. The shut off is in the middle of his driveway. Greenwald stated he has received an estimate for this work but he believes it is rather high. Greenwald asked the Council for authorization to hire an outfit to do the digging and the sawing of the pavement and the Public Works Department would fix the standpipe. He stated the shut off is still working but the standpipe is shot. Class 5 would be put back in and the blacktop would be replaced during the next street project. The Council agreed to this method of replacement of the curb stop for this property for this incident.

On motion by Schnoor, seconded by Stoen, all voting in favor, to set a Council Workshop Meeting with Representatives of MNDOT regarding State Highway 60 on September 26, 2017 at 6:00 pm.

The Fall City-wide Clean-Up will be held on October 21, 2017 from 8:30 to 11:00 am at the Lake Francis Park parking lot.

Reminder of the Le Sueur County Elected Officials Meeting on September 27, 2017 at 6:30 pm to be held at the New Prague Country Club.

Employee Evaluations will be completed this month. On motion by Stoen, seconded by McBroom, all voting in favor, to schedule the evaluation of City Administrator following the October 9, 2017 City Council Meeting.

The City Council expressed their appreciation to the Elysian Area Chamber of Commerce, City Employees, and all the volunteers for making the Second Annual Lake Francis Bash such a success. The weather was nice and the event was well attended.

City Attorney Moran reported that the property owner of property PID # 16.450.0170 has been contacted and asked to share in the cost of an appraisal for consideration of purchase of the property for installation of a storm water basin in conjunction with the proposed 2018 Street and Utility Project. The property owner is not interested in sharing in that cost.

On motion by Stoen, seconded by McBroom, all voting in favor, to order and pay for an appraisal of the property known as PID # 16.450.0170 for the purpose of considering purchase of the property for installation of a storm water basin in conjunction with the proposed 2018 Street and Utility Project.

On motion by Schnoor, seconded by McBroom, all voting in favor, bills, payroll, and transfers were approved in the amount of \$61,750.15.

Public Comment: None.

On motion by Stoen, seconded by Houlihan, all voting in favor, to adjourn the meeting at 7:24 pm.

Approved:

Clinton Stoen, Mayor

Attested:

Lorri Kopischke, City Administrator