

**ELYSIAN CITY COUNCIL
REGULAR MEETING
MARCH 8, 2021**

The Elysian City Council met in regular session on Monday, March 8, 2021 at City Hall at 6:00 pm.

Roll Call: Mayor Tom McBroom; Councilmembers Bobby Houlihan, Dennis Schnoor, Bryan Suemnick, Derek Westby; City Administrator Lorri Kopischke; Public Works Director Ron Greenwald; City Attorney Jason Moran. Absent: None.

On motion by Westby, seconded by Houlihan, all voting in favor, to approve the minutes of the February 8, 2021 Regular Meeting and March 3, 2021 Joint Meeting with Elysian Area Chamber and Elysian Area Economic Development Authority as presented.

On motion by Houlihan, seconded by Westby, all voting in favor, to approve the agenda of the March 8, 2021 Regular Meeting with the following addition:

1. 3.2 Beer Legislative Proposal

Le Sueur County Chief Deputy Nick Greenig reported it has been quiet in the City. Greenig noted that Deputy Moon has left the County to join the MN State Patrol so his position at the County will need to be filled.

Public Comment: None.

Council considered Resolution #740/21 Adopting Findings of Fact and Reasons for Approval of One Request and Denial of Two Requests for Variance Application of Leo Brown at 117 Willow Point Drive.

Mr. Brown is requesting to build an addition to his existing home and an accessory building on the lot across the road from his home located at 117 Willow Point Drive. The variance request is threefold.

The first request is a home addition. The addition would meet the side yard setback requirement of 8 feet. The setback to the OHW is less than the 75 foot requirement but would match the existing house setback. The variance request in regard to the home addition is to allow him to build approximately 30 square feet of area in the platted driveway and utility easement. The utilities were installed, and the road was moved but the easement has not been corrected and there are no utilities located in this portion of the driveway and utility easement. The home addition would result in a 26.8% lot coverage. The Planning and Zoning Commission is recommending approval of the home addition as proposed.

The second request is to build an 1,800 square foot accessory building with an 8 foot side and rear yard setback when a 15 foot rear and side yard setback are required. This would also require a third request to allow a 32% lot coverage. The Planning and Zoning Commission is recommending denial of both the second and third request. The Commission cited the stormwater run-off issues in this area and that increased lot coverage would increase those issues. There is nothing unique to this property. The homeowner is building the large accessory building and placing it within the required setback based on personal preference. The Commission is recommending that no other building be allowed on this property.

Brown stated that he appreciated the time and efforts of the Planning and Zoning Commission. He reported that Todd Piepho, Area Hydrologist, MN DNR, had visited the site this morning and stated that the grading Brown has done on the property is not responsible for the flooding in the area, that nothing had been done illegally and that there is no evidence of a wetland.

Councilmember Schnoor stated he cannot see the hardship in this request. The ordinance allows 25% lot coverage, and the Council should stick to that. In this case, the house and/or the shed can be made smaller to fit the lot. He did not approve the variance request.

Brown stated the hardship was that he and his wife have special needs based on a handicap situation. Also, there is no lower level in the house for storage. With regard to the 25% lot coverage, he agrees that the requirement be followed but he also agrees that if there is a plan to take care of the excess water, that then a higher lot coverage should be considered. He has three raised gardens on the property that Piepho had stated would work as rain gardens.

Brown stated he intends to have the utility and driveway easement corrected and will then show a 24% lot coverage including the home addition. He has contacted Rory Jensen at Bolton & Menk, and it appears to be a fairly simple process.

Brown stated that he is happy to move the accessory building and adhere to the 15 foot rear and side yard setback.

Mayor McBroom, Planning and Zoning Commission member, reported that the Commission has just recently revised the ordinance with regard to setbacks based on the size of an accessory building. They did not see a justification to deviate from those requirements. The area where this shed would be located is the crux of where the flooding is going on.

Mayor McBroom introduced the resolution and was seconded by Councilmember Houlihan.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION NO. 740/21

RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS FOR APPROVAL OF ONE
REQUEST AND DENIAL OF TWO REQUESTS FOR VARIANCE APPLICATION OF LEO BROWN
AT 117 WILLOW POINT DRIVE

FACTS

1. Leo Brown is the owner of a parcel of land located at 117 Willow Point Drive, Elysian, Minnesota; and,
2. The subject property is legally described as found on Exhibit A; and,
3. Leo Brown has applied to the City for a variance to build a home addition and an 1,800 square foot accessory building as described on Exhibit B
4. The proposal would vary from City of Elysian Code of Ordinances §156.091 General Standards (B) (1) (a) Lot Coverage 25% maximum and §156.065 R1, General Residential Zone (E) (3) Required Side Yard Setback minimum of 15 feet and (5) Required Rear Yard Setback minimum of 15 feet in that it would result in a Lot Coverage of 32% and the accessory shed would have a Rear and Side Yard Setback of 8 feet.
5. Following a public hearing on the application, the Elysian Planning and Zoning Commission has recommended approval of the request to construct the home addition that will encroach approximately 30 feet into a disused driveway and utility easement and result in a 26.8% lot

coverage and recommended denial of the request to construct an 1,800 square foot accessory building that would result in a lot coverage of 32% of the variance on March 2, 2021.

6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of March 8, 2021.
7. The Planning and Zoning Commission does not recommend approval of any further lot coverage above and beyond the 26.8% required to construct the proposed home addition. No other building on the lot is approved.

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. Recommend City Council approval to allow the proposed home addition to extend into the recorded but disused driveway and utility easement based on the following findings of fact:
 - a. Reasonableness: The request is reasonable because the applicant now lives at the property full time. The property does not have a garage for the possibility of needed handicap parking in the future. The garage will provide inside storage for cars and other items. The water table makes below grade structures not feasible, necessitating above ground storage.
 - b. Uniqueness: The blacktop road where the utilities are located was moved. The driveway and utility easement that was in place prior to moving that road and installing the utilities has not been corrected and is not needed or being used. There are no utilities located in the Easement area that the property owner is proposing to encroach on the driveway and utility easement.
 - c. Essential Character: This will provide an overall improvement to the property and will allow for inside storage of cars and other items. Most of the homes in this area do have an attached garage.
10. Recommend City Council denial of the request to deviate from the required rear and side yard setback of 15 feet to a setback of 8 feet for an 1,800 square foot accessory building based on the following findings of fact:
 - a. Reasonableness: The accessory building can be reasonably located on the property with a 15-foot rear and side setback. The proposed location is owner preference rather than necessity.

- b. Uniqueness: There are no unique topography issues that necessitates the accessory building being located 8 feet from the rear and side yard property line. Homeowners' request is an optional improvement and is entirely self-created. Homeowners can comply with the Zoning Controls with little to no issue by simply downsizing the structure so that it complies with the City's setback requirements.
 - c. Essential Character: There are significant stormwater issues in this area of the Willow Point Subdivision. Placement of a large accessory structure that close to the property line may cause flooding on adjacent properties.
11. Recommend City Council denial of the request to allow 32% lot coverage which exceeds 25% allowed based on the following findings of fact:
- a. Reasonableness: There are stormwater run-off issues in this area of the Willow Point Subdivision. Allowing more than 25% lot coverage would unnecessarily increase the water runoff issues on the adjacent properties.
 - b. Uniqueness: There is nothing unique to this property. Homeowner is constructing an attached garage and has two existing sheds on the property for storage. Homeowners can comply with the Zoning Controls with little to no issue by simply downsizing the structure so that it complies with the City's lot coverage requirements.
 - c. Essential Character: There are significant stormwater issues in this area of the Willow Point Subdivision. Allowing increased lot coverage may cause flooding on adjacent properties.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elysian, Minnesota, that the application to issue a variance to allow Leo Brown to build a home addition that encroaches into the platted driveway and utility easement and results in a 26.8% lot coverage so as to deviate from City of Elysian Code of Ordinance §156.091 is hereby approved and that the application to issue a variance to allow Leo Brown to build an 1,800 square foot accessory building so as to deviate from City of Elysian Code of Ordinance §156.091 and §156.065 is hereby Denied. The City Council does not approve of any further lot coverage beyond the 26.8% required to construct the proposed home addition. No other building on the lot is approved.

Upon vote being taken:

Council Members voting in the affirmative: Houlihan, McBroom, Suemnick, Westby.

Council Members voting in the negative: Schnoor.

Adopted by the City Council of Elysian on this 8th day of March, 2021.

Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Clerk / Administrator

Exhibit A – Resolution 740/21
 Leo Brown – 117 Willow Point Drive

DESCRIPTIONS OF RECORD

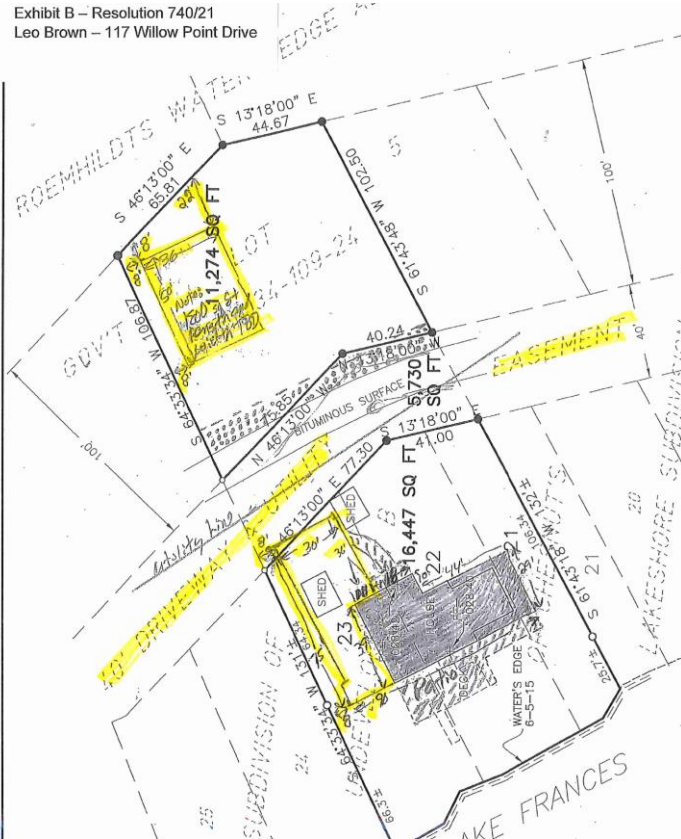
That part of the following described real estate:

Commencing at the Northwest Corner of Lot Seventeen (17) of Chesnut's Lakeshore Subdivision of Undeveloped Lot B, thence in a Northeasterly direction on an extension of the West lot line of Lot Seventeen (17) to a point on the Northeast right-of-way line of the driveway and utility easement, the place of beginning; thence in a Northeasterly direction on an extension of the Westerly lot line of Lot Seventeen (17), a distance of One Hundred (100) feet; thence in a northwesterly direction and parallel to the Northeasterly right-of-way line of the driveway and utility easement, to a point which bears from the Southeast Corner of Lot Thirty-three (33) of Chesnut's Lakeshore Subdivision of Undeveloped Lot B, which is an extension of the Southeast lot line of Lot Thirty-Three (33) to a point on the driveway and utility easement, and thence on a further extension of said line a distance of One Hundred (100) feet; thence in a Southwesterly direction over the previous description line a distance of One Hundred (100) feet to the Northeasterly right-of-way line of the driveway and utility easement. Thence in a Southeastery direction on the Northeasterly right-of-way line of the driveway and utility easement to place of beginning. Said Tract located in Government Lot Five (5) Section Thirty-four (34) Township One Hundred Nine (109) North, Range Twenty-four (24) West lying adjacent to and Easterly of Lots 23, 22 and the North Half of Lot 21, Chesnut's Lakeshore Subdivision, Le Sueur County, being more specifically described as that portion of the above described parcel lying between the easterly extension of the North line of Lot 23 and the easterly extension of the South line of the North half of Lot 21.

AND

Lot Numbered Twenty-two (22) and one-half of Lot Numbered Twenty-one (21) that joins said Numbered Twenty-two (22) and Lot Numbered Twenty-three (23), of the Subdivision of Undeveloped Lot B of Chesnut's Lakeshore Subdivision, which Subdivision is a part of Government Lot Numbered Five (5), in Section Numbered Thirty-four (34), and of Government Lot Numbered Seven (7) of Section Numbered Thirty-five (35), in Township Numbered One Hundred Nine (109) North, Range Numbered Twenty-four (24) West, Fifth P.M. Le Sueur County, Minnesota.

Exhibit B – Resolution 740/21
 Leo Brown – 117 Willow Point Drive



Due to the decreasing cases of COVID -19 and the increased availability of the vaccine, Council discussed the reopening of City buildings.

On motion by Schnoor, seconded by McBroom, all voting in favor, to reopen all City owned buildings to normal business hours effective March 9, 2021.

Staff reported the \$1.9 trillion American Rescue Plan Act of 2021 includes funding for local government. At this time, Elysian is scheduled to receive \$87,118.

Council considered Resolution #739/21 to approve the mill and overlay on CSAH 50 (Main Street). Le Sueur County Highway Engineer Dave Tiegs reports this will be a 2" mill and overlay of the surface of CSAH 50 between 5th Street NW and 2nd Street NE. Improvements to the Ped Ramps at the intersection of CSAH 11 (1st Street NE) are also planned. He intends to have the project letting sometime in April. Schedule will be dependent upon the contractor's workload. He will however add language to the contract that requires the contractor to either complete the project prior to the 4th of July Celebration or wait to begin work until after the celebration. (It was noted that Tiegs had also been informed of Elysian Dayz scheduled for June 18 and 19).

Mayor McBroom introduced the resolution and was seconded by Councilmember Houlihan.



STATE AID FOR LOCAL TRANSPORTATION April 2007
RESOLUTION – Approving County Project within Municipal Corporate Limits

CITY OF ELYSIAN
ELYSIAN, MINNESOTA

RESOLUTION NO. 739/21

WHEREAS, plans for Project No. S.A.P. 040-650-004 showing the proposed mill and overlay improvement of County State-Aid Highway No. 50 within the limits of the City of Elysian as a State Aid Project have been prepared and presented to the City.

NOW, THEREFORE, BE IT RESOLVED: That said plans be in all things approved.

Dated this _____, day of _____, 20_____.

CERTIFICATION

State of Minnesota

County of Le Sueur

City of Elysian

I hereby certify that the foregoing Resolution is a true and correct copy of a resolution presented to and adopted by the City Council of _____ at a meeting therefor held in the City of _____, Minnesota, on the _____ day of _____, 20_____, as disclosed by the records of said City in my possession.

City Clerk

(Seal)

Upon vote being taken:

Council Members voting in the affirmative: Houlihan, McBroom, Schnoor, Suemnick, Westby.

Council Members voting in the negative: None.

Adopted by the City Council of Elysian on this 8th day of March, 2021.

Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Clerk / Administrator

Public Works Director Greenwald reported that the water valve on Main Street that is right straight in front of the Library is not operative. When a repair needs to be made on Main Street, the entire block has to be turned off via the valve in front of Fischers Corner Bar. He suggested it would be ideal to replace that valve in conjunction with the mill and overlay.

On motion by Schnoor, seconded by Suemnick, all voting in favor, to approve an estimate from James Bros. Construction, Inc. in the amount of \$8,290 to replace the 8" valve in front of the Library prior to the mill and overlay project on Main Street.

Greenwald noted there are issues with some areas of the sidewalk on Main Street. It may make sense to repair / replace those areas in conjunction with the mill and overlay. There are 2 panels near the Post Office to be replaced, 2 spots in front of City Hall that may be able to be mud jacked and major cracks in front of the American Legion that would need to be filled.

There was Council direction for Greenwald to obtain estimates on the repairs needed to the sidewalk on Main Street and present at the April Council meeting.

Greenwald presented the February 16, 2021 MN Department of Health Sanitary Survey Report for Elysian Public Water System (PWS). The report notes that the City is currently looking at ways to reduce the level of Radium in the water supply. Overall, the report is good.

Greenwald presented two estimates to replace the furnace in the 2nd Street City Shop. The flues have cracked, and the unit is so old it is not worth replacing the flues. Greenwald noted that the Knish quote includes all the hanging of the new furnace. The estimates are: Knish Plumbing and Heating in the amount of \$2,841.50 and Waterville Heating & A/C in the amount of \$2,778.

On motion by Schnoor, seconded by Houlihan, all voting in favor, to approve the estimate to replace the furnace at the 2nd Street City Shop in the amount of \$2,841.50 from Knish Plumbing and Heating.

Greenwald presented a quote from Minnesota Pump Works in the amount of \$1,843 to install a Dialer for the Water Tower. The Dialer will alarm for low pressure in the tower, power outage of the well, and high level in the water tower.

On motion by Schnoor, seconded by Suemnick, all voting in favor, to approve the quote from Minnesota Pump Works in the amount of \$1,843 to install a Dialer for the Water Tower.

Greenwald reported his participation in a Zoom meeting with Karen Cavett and Jeff Ledin, SEH Engineering, to discuss the Radium in the drinking water. The Pilot Study will begin the last week in April and will take 2 weeks.

The Minnesota Department of Health (MDH) has presented a Compliance Agreement (CA) for signature. The CA establishes a formal, enforceable agreement between the City of Elysian Water System and the MDH regarding the correction of the water quality violation. The corrective actions required are:

- a. Complete feasibility study and provide a copy to MDH. Study will evaluate options including, but not limited to: Treatment, Blending, Drilling a new well. To be completed no later than June 30, 2021.
- b. Provide MDH with actions and timetable to return to compliance based on results of the feasibility study. These actions will be used to create a new compliance agreement to be completed no later than September 30, 2021.
- c. Sign and return new compliance agreement. To be completed no later than October 31, 2021.

On motion by McBroom, seconded by Westby, all voting in favor, to approve and authorize signature of the Compliance Agreement between the City of Elysian Water System and the Minnesota Department of Health regarding the correction of water quality violation.

Greenwald reported on recent filming of the storm sewer system in the alley behind Fischers Bar. There is a large piece of limestone in the system that will need to be removed. There also is an open intake in the alley that is taking in a lot of gravel. The manhole will need to be raised.

There was Council direction for Greenwald to obtain quotes to repair the streets that were not included in last year's overlay.

On motion by Schnoor, seconded by McBroom, all voting in favor, to call a special meeting to receive the 2020 Audit Report for Monday, April 12, 2021 at 5:30 pm.

Councilmember Schnoor introduced the resolution and was seconded by Mayor McBroom.

CITY OF ELYSIAN
ELYSIAN, MINNESOTA
RESOLUTION NO. 741/21
RESOLUTION ACKNOWLEDGING A DONATION FROM
ELYSIAN AMERICAN LEGION POST #311

WHEREAS, the City of Elysian has received a donation in the amount of \$3,000.00 from the Elysian American Legion Post #311, for tax relief to the Elysian Area Chamber of Commerce for the purpose of funding toward the July 4th Parade during the July 4th 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 \$3,000.00 for the purpose of funding toward the July 4th Parade during the July 4th Celebration.

Upon vote being taken:

Council Members voting in the affirmative: Houlihan, McBroom, Schnoor, Suemnick, Westby.

Council Members voting in the negative: None.

Adopted by the City Council of the City of Elysian this 8th day of March, 2021.

Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Administrator

Forrest Hasty, Project Manager, MnDOT, State Highway #60 Project was contacted to discuss replacement of the lights on State Highway #60 as part of the 2021 Project. Hasty reported that MnDOT would provide and install new lights at paved county road intersections but would not provide any maintenance to those lights after installation. The City would be responsible for all maintenance on those lights. MnDOT does not participate in the cost of any other lighting.

On motion by Westby, seconded by Suemnick, all voting in favor, to approve replacement of the lights at the intersections of paved county roads (County Roads #11 and #50) and to pursue cost share with MnDOT for the remaining lights at all intersections included in the State Highway #60 2021 Project.

Dennis Reindl, Minnesota Department of Natural Resources (DNR), forwarded conceptual plans for a fence along the Sakatah Trail between the trail and the alley on the north side of State Hwy #60 between County Road 11 and Second Street SE. Their intention is to proceed with the fence this season to ensure adequate clear space is maintained for the safety of trail users. Reindl also inquired on the Council's thoughts on the Wayside Rest.

On motion by McBroom, seconded by Schnoor, all voting in favor, for City Administrator and City Attorney to resume negotiations with DNR for acquisition of the Wayside Rest property and the alleyway property.

There was Council direction to obtain a quote from Mosquito Control of Iowa for service year 2021 and to present to Council at their April meeting.

Le Sueur County Elected Officials Meeting will be Wednesday, March 31, 2021 at 7 pm. This will be a remote meeting held via Microsoft Teams. The April meeting is set to be held at the Le Sueur County Justice Center.

Severe Weather Awareness Week is April 12 – 16, 2021. Tornado Drill Day is April 15, 2021.

Board of Review and Equalization Open Book Meeting for Le Sueur County is April 13, 2021 from 10 am to 6 pm at the Le Sueur County Courthouse. Waseca County is April 12, 2021 from 9 am to Noon at the Waseca County Courthouse.

The Elysian Area Chamber of Commerce sponsored City-Wide Garage Sales will be May 7 and 8, 2021.

The City-Wide Clean-Up will be held Saturday, May 22, 2021 from 8:30 to 11 am at Lake Francis Park.

Mayor McBroom reported there is legislation being proposed to eliminate 3.2 beer in Minnesota. Council discussed options to assist the businesses that serve 3.2 beer in the City.

On motion by McBroom, seconded by Suemnick, all voting in favor, bills, payroll, and transfers were approved in the amount of \$83,842.89.

Public Comment: None.

On motion by McBroom, seconded by Westby, all voting in favor, to adjourn the meeting at 7:27 pm.

Approved:

Tom McBroom, Mayor

Attested:

Lorri Kopischke, City Administrator