

**ELYSIAN CITY COUNCIL  
REGULAR MEETING  
FEBRUARY 12, 2024**

The Elysian City Council met in regular session on Monday, February 12, 2024 at City Hall at 6:00 pm.

The meeting opened with the Pledge of Allegiance to the US Flag.

Roll Call: Mayor Tom McBroom, Sr.; Councilmembers Bobby Houlihan, Dennis Schnoor; Bryan Suemnick, and 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 January 8, 2024 Regular Meeting as presented.

On motion by McBroom, seconded by Schnoor, all voting in favor, to approve the agenda of the February 12, 2024 Regular Meeting as presented.

Le Sueur County Captain Bruce Collins reported that the month of January was quiet in the City.

Public Comment: None.

The Council considered Resolution No. 887/24 – Adopting Findings of Fact and Reasons for Approval for Variance Application of Sue Odegarden Simon at 8 Roots Beach Lane. Simon has requested a variance to build a house addition and new attached garage on her property. The lot is non-conforming with 9,866 square feet of area when 20,000 square feet is required, and the addition will result in 27.3% lot coverage when 25% is allowed.

The Planning and Zoning held a public hearing on February 6, 2024 to consider the variance request.

A letter of support for the variance was received from each of the abutting property owners.

Todd Piepho, Area Hydrologist, Minnesota Department of Natural Resources commented as follows: If this variance is approved I would recommend a condition be placed on the permit to require a native buffer 10' in width be planted along the length of the shoreline to allow for infiltration of surface water directed at the lake. Like others there could be specifications added to allow for a walk through opening to gain access to the lake/dock. In other cases I have seen this condition be placed and requirements for maintenance be added as well-just to make sure once the variance is approved the buffer doesn't disappear a year or two down the road.

The Planning and Zoning Commission recommended approval of the variance with the following conditions:

1. The variance is in harmony with the purposes and intent of the ordinance.
2. The variance is consistent with the comprehensive plan.
3. Practical Difficulties:
  - a. Reasonableness: This is a reasonable request because it is a minimal amount over the allowed lot coverage at 27.3%. Adding a garage to the property will increase safety in the winter and will improve the aesthetics of the property by providing a place to store cars, boats, and water toys.

- b. Uniqueness: The property is unique in its slope and shape. This creates a challenge to design an addition. The design takes the unique physical characteristics of the land into account and will not impose or create a barrier to the road or the DNR property.
  - c. Essential Character: The house addition and garage will not alter the essential character of the neighborhood. The size of the addition is modest in comparison to others on Roots Beach Lane. And the garage storage will improve the overall appearance and essential character of the property throughout the entire year.
4. And with the requirement that a native buffer 10' in width be planted along the length of the shoreline to allow for infiltration of surface water directed at the lake. A walk through opening to gain access to the lake/dock is allowed.

Simon asked the Council if they would consider deleting condition #4. Her patio goes right to the shoreline and there is rock down to the lakeshore to protect the shoreline.

Westby stated that if the Council requires a buffer for this property it will set a precedent. While a buffer may work on some properties, it will not work on this specific property without some major changes.

Suemnick stated the rip rap should help filter the sediment to keep it from entering the lake.

Councilmember Westby introduced the resolution and was seconded by Councilmember Suemnick.

CITY OF ELYSIAN  
LE SUEUR COUNTY, MINNESOTA  
RESOLUTION NO. 887/24  
RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS  
FOR APPROVAL FOR VARIANCE APPLICATION OF  
SUE ODEGARDEN SIMON AT 8 ROOTS BEACH LANE

FACTS

1. Sue Odegarden Simon is the owner of a parcel of land located at 8 Roots Beach Lane, (PID# 16.455.0100), Elysian, Minnesota; and,
2. The subject property is legally described as found on Exhibit A; and,
3. Sue Odegarden Simon has applied to the City for a variance to build a house addition and new attached garage as described in Exhibit B.
4. The proposal would vary from Elysian Code of Ordinances §156.091 General Standards (B)(1)(a) Lot coverage – 25% maximum and §156.016 Non-conformities (A)(2) Construction on Non-conforming Lot of Record in that the lot is 9,866 square feet where 20,000 square feet is required and the addition would result in 27.3% lot coverage.
5. Following a public hearing on the application, the Elysian Planning and Zoning Commission has recommended approval of the variance on February 6, 2024 with the requirement that a native buffer (10) ten feet in width be planted along the length of the shoreline to allow for infiltration of surface water directed at the lake. A walk through opening to gain access to the lake/dock is allowed.
6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of February 12, 2024.

APPLICABLE LAW

7. 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

8. The requested variance is in harmony with the purposes and intent of the ordinance.
9. The requested variance is consistent with the comprehensive plan.
10. The property owner does propose to use the property in a reasonable manner because the request results in a lot coverage that is a minimal amount over the allowed (27.3%). Adding a garage to the property will increase safety in the winter and will improve the aesthetics of the property by providing a place to store cars, boats, and water toys.
11. There are unique circumstances of the property not created by the landowner because the property is unique in slope and shape. This creates a challenge to design an addition. The design takes the unique physical characteristics of the land into account and will not impose or create a barrier to the road or the DNR property.
12. The variance will maintain the essential character of the locality because the size of the addition is modest in comparison to others on Roots Beach Lane. The garage storage will improve the overall appearance and essential character of the property throughout the entire year.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elysian, Minnesota, that the application to issue a variance to allow Sue Odegarden Simon to build a house addition and attached garage so as to deviate from Elysian Code of Ordinances §156.091 General Standards (B)(1)(a) Lot coverage – 25% maximum and §156.016 Non-conformities (A)(2) Construction on Non-conforming Lot of Record in that the lot is 9,866 square feet where 20,000 square feet is required and the addition would result in 27.3% lot coverage is hereby Approved. (The requirement for a native buffer on the shoreline was not included).

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, McBroom, Schnoor, Suemnick, Westby

Councilmembers voting in the negative: None

Adopted by the City Council of the City of Elysian on this 12<sup>th</sup> day of February 2024.

Approved:

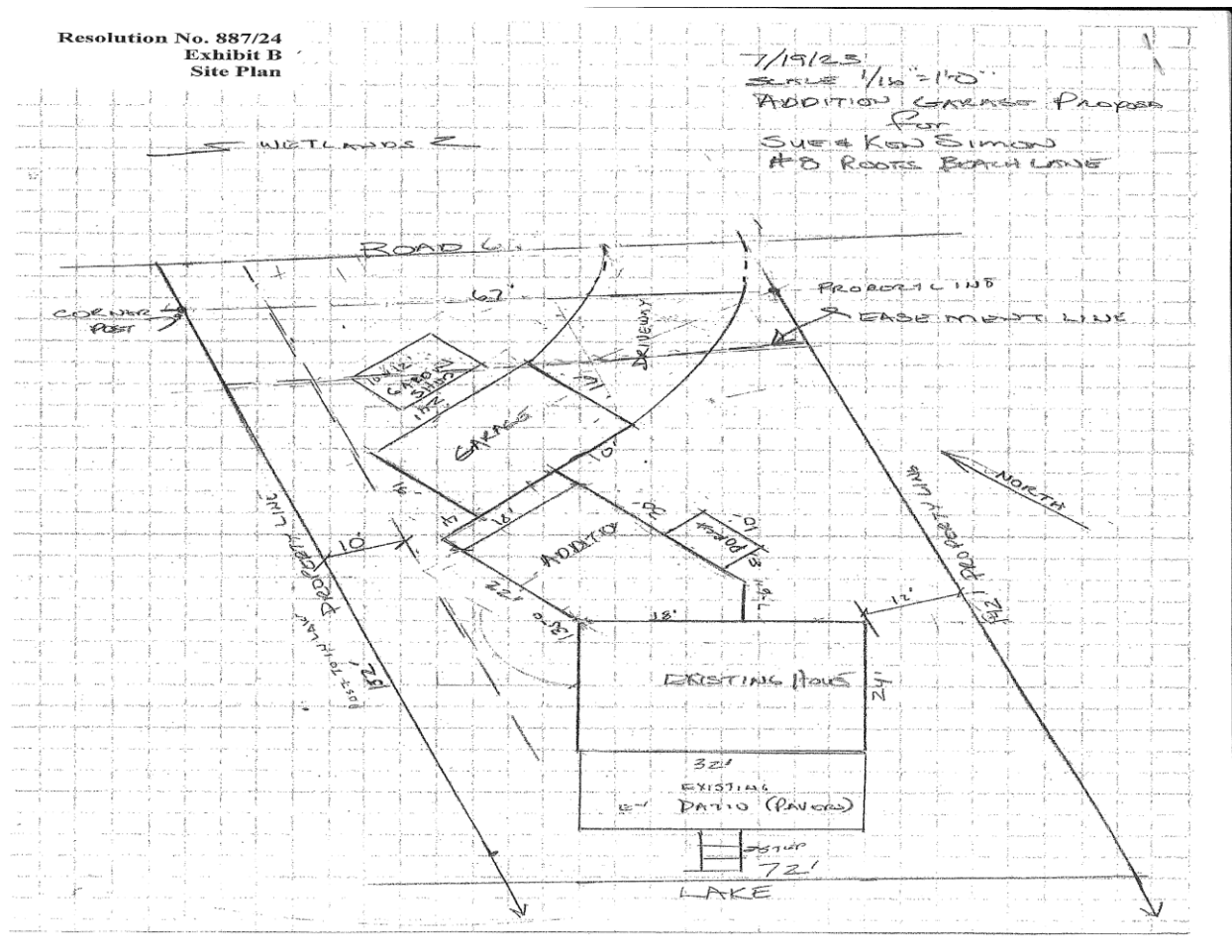
---

Tom McBroom Sr., Mayor

Attested:

Lot 11 in Root's Beach, which is part of Government Lot 6 in Section 35, Township 109 North, Range 24 West, Le Sueur County, Minnesota, except that part thereof described as follows: beginning at the Northwest corner of said Lot 11; thence South 39°00'30" East on the North line of said Lot 11, 20.00 feet; thence South 29°56'30" West, 109.17 feet to the westerly line of said Lot 11; thence North 20°51'30" East on said westerly line, 118.00 feet to the place of beginning.

AND all that part of Lot 12, said Root's Beach, described as follows: Beginning at a point 30 feet from the easterly corner of said Lot 12; thence in a northwesterly direction along the most southerly boundary of a private driveway adjacent to said Lot 12 on the most northeasterly boundary thereof to the northwesterly corner of said Lot 12; thence in a southwesterly direction along the westerly boundary of said Lot 12 to the southwesterly corner of said Lot 12; thence in a northeasterly direction on a line parallel to the southeasterly boundary of said Lot 12 to a point 30 feet northwesterly from the easterly corner of said Lot 12, said point being the point of beginning.



The Council considered Resolution No. 888/24 – Adopting Findings of Fact and Reasons for Approval for Variance Application of Mike and Kelly Toenges and Gregg and Diane Dertinger at 506 Lake Avenue NW. Toenges and Dertinger have requested a variance to demolish their cabin and construct a two-story home within the approximate same footprint. The lot is non-conforming with 10,000 square feet of area when 20,000 square feet is required in the shoreland ordinance. Also, there are (3) three homes on this lot. The deed states that the owners each have 1/3 interest in the parcel. There are no specific lot lines for each home as all (3) three homes are on one lot. There is no way to evaluate setbacks or lot coverage for each specific home.

The Planning and Zoning held a public hearing on February 6, 2024 to consider the variance request.

A letter of support for the variance was received from the owner of the house on this same property to the north.

Todd Piepho, Area Hydrologist, Minnesota Department of Natural Resources commented as follows: I had a discussion with Dan on this one yesterday after we spoke. Since the other 2 cabins on the lot have been upgraded even though this is a non-conforming lot, I don't know that I would recommend denial. However, I would recommend that the reconstruction not exceed the existing footprint of the cabin onsite. In addition I would recommend a condition be placed on the variance if approved to require a native buffer 10' in width be planted along the length of the shoreline for 2 reasons; one being how close one of the cabins sits in comparison to the OHWL, two being the lot appears to be over the 25% impervious limit. Planting natives along the shoreline would improve both of these non-conformities allowing screening of the existing cabins and also allowing infiltration of any surface water that would flow directly towards the lake. Specifications could be added to allow for a small open area to walk through to gain access to the lake/dock. Given the unique situation of having 3 owners, 3 cabins, and several non-conformities with this lot I think these 2 items are a fair condition if approved.

The Planning and Zoning Commission recommended approval of this variance request with the following conditions:

1. The variance is in harmony with the purposes and intent of the ordinance.
2. The variance is consistent with the comprehensive plan.
3. Practical Difficulties:
  - a. Reasonableness: The variance request is reasonable as the cabin is old and in need of significant life safety upgrades to bring it into the current code. The building is seasonal and not able to be used in the winter months. The new structure will be an all-season home.
  - b. Uniqueness: The property is unique in that it is one piece of property with three owners and three structures located on the property. Each owner has a 1/3 interest in the property. There are no lot lines specific to each property.
  - c. Essential Character: The new cabin will enhance the essential character of the neighborhood by meeting the current building codes and maintaining the current size on the lot. It will be similar in architectural design to the house to the south which was rebuilt in the past few years. The structure will be moved off the west property line which will also be an improvement.

4. And with the requirement that a native buffer 10' in width be planted along the length of the shoreline to allow for infiltration of surface water directed at the lake. A walk through opening to gain access to the lake/dock is allowed.

McBroom stated he has received comments that when there are guests at these properties, the amount of vehicles parking on the street makes travel difficult. He suggested visitors be asked to park on the grass.

The Council expressed concern with Condition #4.

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

CITY OF ELYSIAN  
LE SUEUR COUNTY, MINNESOTA  
RESOLUTION NO. 888/24  
RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS  
FOR APPROVAL FOR VARIANCE APPLICATION OF  
MIKE AND KELLY TOENGES AND GREGG AND DIANE DERTINGER  
AT 506 LAKE AVENUE NW

FACTS

1. Mike and Kelly Toenges and Gregg and Diane Dertinger are the owners of a parcel of land located at 506 Lake Avenue NW, (PID# 16.410.0190) Elysian, Minnesota; and,
2. The subject property is legally described as found on Exhibit A; and,
3. Mike and Kelly Toenges and Gregg and Diane Dertinger have applied to the City for a variance to demolish their cabin and construct a two-story home within the approximate same footprint as described on Exhibits B and B1.
4. The proposal would vary from §156.016 Non-Conformities (A)(2) Construction on Non-Conforming Lots of Record in that the lot is 10,000 square feet when 20,000 square feet of area is required and there are (3) three homes on the lot, each owned separately with no specific lot lines (the deed states 1/3 ownership).
5. Following a public hearing on the application, the Elysian Planning and Zoning Commission has recommended approval of the variance on February 6, 2024 with the requirement that a native buffer (10) ten foot in width be planted along the length of the shoreline to allow for infiltration of surface water directed at the lake. A walk through opening to gain access to the lake / dock is allowed.
6. The City Council of the City of Elysian reviewed the requested variance at its Meeting of February 12, 2024.

APPLICABLE LAW

7. 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

8. The requested variance is in harmony with the purposes and intent of the ordinance.
9. The requested variance is consistent with the comprehensive plan.
10. The property owner does propose to use the property in a reasonable manner because the cabin is old and in need of significant life safety upgrades to bring it into compliance with the current building code. The building is seasonal and not able to be used in the winter months. The new structure will be an all-season home.
11. There are unique circumstances to the property not created by the landowner because this is one parcel of property with three owners and three structures located on the property. Each owner has a 1/3 interest in the property. There are no lot lines specific to each property.
12. The variance will maintain the essential character of the locality because the new cabin will enhance the neighborhood by meeting the current building codes and maintaining the current size on the lot. It will be similar in architectural design to the house to the south which was built in the past few years. The structure will be moved off the west property line which will also be an improvement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elysian, Minnesota, that the application to issue a variance to allow Mike and Kelly Toenges and Gregg and Diane Dertinger to demolish their cabin and construct a two story home within the approximate same footprint on the lot so as to deviate from §156.016 Non-Conformities (A)(2) Construction on Non-Conforming Lots of Record in that the lot is 10,000 square feet when 20,000 square feet of area is required and there are (3) three homes on the lot, each owned separately with no specific lot lines (the deed states 1/3 ownership) is hereby Approved. (The requirement for a native buffer on the shoreline was not included.)

Upon vote being taken:

Councilmembers voting in the affirmative: Houlihan, McBroom, Schnoor, Suemnick, Westby

Councilmembers voting in the negative: None

Adopted by the City Council of the City of Elysian on this 12<sup>th</sup> day of February 2024.

Approved:

---

Tom McBroom Sr., Mayor

Attested:

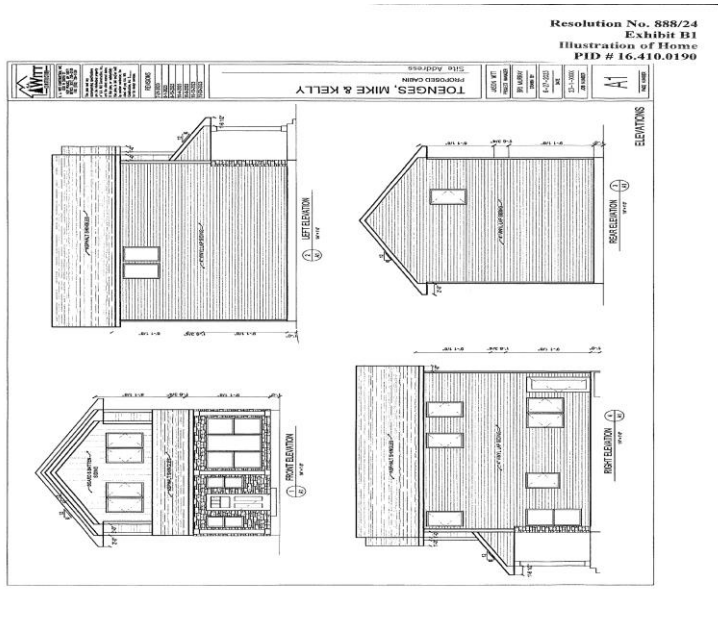
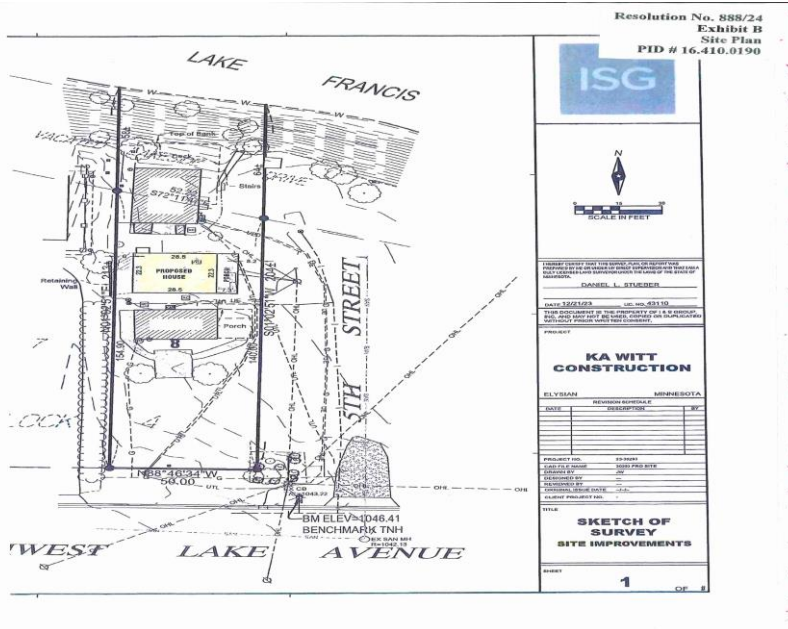
---

Lorri Kopischke, City Administrator

Resolution No. 888/24  
Exhibit A

An undivided 1/3 interest in Lot Numbered Eight, in Block 4, in the Village of Elysian, formerly in the Townsite of Elysium, Le Sueur County, Minnesota.

It is intended to include the cabin on said premises.



Draft Ordinance No. 112/24 was represented for consideration. This Ordinance will repeal Chapter 154 – Floodplain Management in its entirety. Both Waseca and Le Sueur County Flood Insurance



Rate Maps (FIRMS) and the Flood Insurance Study are now complete and will be effective March 27, 2024 and July 17, 2024, respectively. The City needs to amend their floodplain management ordinance or adopt a new floodplain management ordinance to incorporate the new maps and several updates to the model ordinance prior to the effective date in order to continue participating in the National Flood Insurance Program (NFIP). Some of the model ordinance updates were required by FEMA, some are clarifications or corrections to ensure the state and federal laws are followed, and some of the updates are optional recommended language. A Public Hearing to consider the revisions is required with adoption and publication prior to March 27, 2024.

On motion by Westby, seconded by Houlihan, all voting in favor, to schedule a Public Hearing for consideration of Ordinance No. 112/24 – An Ordinance Repealing Chapter 154 – Floodplain Management in its Entirety and Replacing Enacting Ordinance 112/24 – Floodplain Management for Monday, March 11, 2024 at 6:00 pm.

Public Works Greenwald reported that all repairs have been completed on the street sweeper and it is running well. He presented the costs of a new street sweeper in the range of \$400,000 and also a quote for a street sweeper with the same number of hours and (8) eight years older than the City owned sweeper in the range of \$70,000 less trade in. Options were discussed and staff was directed to obtain an estimate of a frame up restoration of the City owned sweeper for discussion at the next Council meeting.

Greenwald reported on the January meeting with the Fire Protection Analyst - Community Hazard Mitigation, the Fire Chief and himself to update the community ISO Rating. The new hydrants added as part of the 2023 Street and Utility Improvement Project should reduce nearby homeowner's fire protection insurance rates.

Greenwald reported attendance at a Cannon River Watershed Meeting in Faribault. He updated the Council on the progress of trimming of trees in this mild weather. There was Council consensus to trim the trees in the 30 foot sewer easement north of the DNR trail west of Elysian Auto.

Alan and Joyce MacPhail, homeowners 102 Willow Point Drive, submitted the following request:

"To: Elysian City Council

I'm writing to request waiving of sewer charges in connection with a burst water pipe which occurred around midnight January 22nd and caused a significant water leak for almost a week until discovered by the City. None of this water which filled the crawl space and engulfed our furnace went to any drain or to the sewer system. No one was at the cabin during the month of January and no water was used for any purpose during the month. The pipe burst was caused by an undetected furnace failure during the cold snap in late January. We would appreciate your waiving the sewer charges under these circumstances and anything else you can do concerning the water bill itself.

Thank you, Alan and Joyce MacPhail"

Staff reported the burst water pipe resulted in the loss of 156,778 gallons of water which calculates to \$1,097.45 in sewer usage fees.

On motion by Schnoor, seconded by Suemnick, all voting in favor, to waive the sewer usage fee of \$1,097.45 due to a burst water pipe which occurred on January 22, 2024 at 102 Willow Point Drive, Alan and Joyce MacPhail.

On motion by Schnoor, seconded by Westby, all voting in favor, to amend the pay rate for part-time summer help Tanner Hadler to \$15 per hour effective June 1, 2024.

On motion by Westby, seconded by Suemnick, all voting in favor, to offer employment of part time public works worker to Katie Corr.

In 2023, the City, with the guidance of SEH Engineering, applied for the DNR Trail Connection Grant. The City was not awarded the request. There are two DNR Grant Programs available this year for construction of the trails and connection to the Sakatah State Trail at Sunset Park.

1. The DNR Trail Connection. This is the grant the City applied for last year. The DNR covers 75% of the cost with max total project cost of \$333k. It does not cover pavilions or other extras. March 8<sup>th</sup> is the deadline for feedback. March 29<sup>th</sup> is the final deadline. SEH Engineering can assist with this grant for a minimal cost as it would only require updating information on last year's request.
2. The DNR Outdoor Recreation Grant. This is a one-time award. It is a 50% match with max total project cost of \$700k. It does cover pavilions/support facilities. February 29<sup>th</sup> is the deadline for feedback. April 1<sup>st</sup> is the final deadline. This application is lengthier and will require approximately 4 days of SEH budget for preparation.

On motion by Houlihan, seconded by Suemnick, all voting in favor, to approve SEH Engineering to assist in the preparation and submittal of the DNR Trail Connection Grant for construction of the trails and connection to Sakatah State Trail at Sunset Park.

The Minnesota Department of Labor and Industry (DOLI) has issued new guidance on how the new Earned Safe and Sick Time (ESST) Law applies to firefighters or ambulance personnel who respond to calls and are not on a regular paid shift. The League of MN Cities has updated provided the following in response to the new guidance:

“Cities raised numerous questions asking how ESST may be used by paid-on-call fire and ambulance personnel responding to a pager, especially when the staff is not scheduled to work for a specific day or shift. League staff reached out to the Minnesota Department of Labor and Industry (DOLI) for guidance. In early January 2024, DOLI Commissioner Nicole Blissenbach advised ESST provides paid leave from work so if an employee is not scheduled to work, the ESST law does not require an employer to allow employees to use ESST. Thus, this guidance means in the absence of an assigned shift, a city is not required to permit firefighters or ambulance personnel who respond to pager calls to use any accrued ESST for an unassigned shift absence. For cities with “duty crews” (assigned shifts), scheduled trainings, required meetings, and other events, those scheduled events would indeed be absences that would fall under the umbrella of ESST eligible use.”

On motion by Westby, seconded by Houlihan, all voting in favor, to amend the City of Elysian Personnel Policy Page 19, Section Sick and Safe Time description and Section a) Eligibility/Accrual as follows:

**“Sick and Safe Time (Effective 1/1/2024)**

“Earned Sick and Safe Time” is paid time off that applies to all employees performing work for at least 80 hours in a year for the City. Earned sick and safe time policy is in accordance with Minn. Stat. § 181.9445 – 181.9448 as amended from time to time. Earned safe and sick time does not apply to Council Members, or election judges.

**a) Eligibility/Accrual**

Full-time employees shall accrue sick and safe time at the rate of eight (8) hours per month. Earned sick and safe time shall accrue to a maximum of 600 hours. Upon reaching 600 hours of accrued leave, no further accruals shall be allowed.

Part-time, seasonal, ~~Volunteer firefighters~~, & temporary employees are entitled to earn sick and safe time at the rate of one (1) hour for every thirty (30) hours worked (0.033 for every hour worked), up to a maximum of forty-eight (48) hours accrued yearly. Accrued and unused hours carry over into future years, up to a maximum of eighty (80) hours accrued overall. Consistent with Minnesota Department of Labor and Industry guidelines, volunteer firefighters who attend scheduled meetings, scheduled trainings, or work assigned and scheduled shifts accrue earned safe and sick time benefits based upon the aforementioned accrual rate for those hours in attendance at such. Firefighters do not accrue earned safe and sick benefits in response to attendance at calls. When the 80-hour overall limit is reached, accrual immediately stops until usage occurs, at which time accrual restarts (until either the yearly or overall limit is reached). When the 48-hour yearly limit is reached, accrual does not restart until the following year.

The year starts on January 1 and ends on December 31. All employees begin accruing hours on the first day of work, regardless of whether they are full-time, part-time, seasonal, or temporary workers.”

On motion by Schnoor, seconded by Houlihan, all voting in favor, to approve the amendment to the 2024 Fee Schedule to include the Janesville Township water rates.

On motion by Westby, seconded by Houlihan, all voting in favor, to approve the Pay Equity Report as prepared by Minnesota Valley Council of Governments.

Reminder of Joint Meeting with City Council, Planning and Zoning Commission, and Economic Development Authority on February 27, 2024 at 6:00 pm to discuss the Update to the Comprehensive Plan.

Skywarn Training will be held April 10, 2024 at 6:30 pm at the Le Sueur County Justice Center.

The Le Sueur County 2024 Board of Review & Equalization is scheduled for April 9, 2024 from 10:00 am to 6:00 pm at Le Sueur County Government Center (Courthouse) – Open Book.

On motion by Houlihan, seconded by McBroom, all voting in favor, to schedule the Spring Citywide Clean Up for Saturday, May 18, 2024. More details to come.

On motion by Schnoor, seconded by Suemnick, all voting in favor, bills, payroll, and transfers were approved in the amount of \$868,923.01.

Public Comment: None.

On motion by McBroom, seconded by Suemnick, all voting in favor, to adjourn the meeting at 7:05 pm.

Approved:

---

Tom McBroom, Sr., Mayor

Attested:

---

Lorri Kopischke, City Administrator