

**CITY OF ELKO NEW MARKET
CITY COUNCIL AGENDA
ELKO NEW MARKET CITY HALL
601 MAIN STREET
ELKO NEW MARKET, MINNESOTA 55054
THURSDAY, OCTOBER 10, 2019**

**BUSINESS MEETING
7:00 PM**

REVISED

1. Call to Order

2. Pledge of Allegiance

3. Adopt/Approve Agenda

4. Presentations, Proclamations and Acknowledgements (PP&A)

- a. Legislative Update – Senator Draheim and Representative Vogel

5. Public Comment

Individuals may address the Council about any item not contained on the regular agenda. The Council may limit the time allotted to each individual speaker. A maximum of 15 minutes will be allotted for Public Comment. If the full 15 minutes are not needed for Public Comment, the City Council will continue with the agenda. The City Council will not normally take any official action on items discussed during Public Comment, with the exception of referral to staff or commission for future report.

6. Consent Agenda

All matters listed under consent agenda are considered routine by the City Council and will be acted on by one motion in the order listed below. There may be an explanation, but no separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and considered separately.

- a. Approve September 26, 2019 Minutes of the City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds
- c. Approve Marketplace Development Agreement Amendment for Paving and Sidewalk
- d. Fire Hydrant Maintenance Ordinances
 - a. Adopt Ordinance No. 204 Amending City Code Related to Fire Hydrants
 - b. Adopt Ordinance No. 205 Amending 2019 Schedule of Fees
- e. Approve the Assignment of Development Agreement between Syndicated Properties, LLC and The State Bank of Faribault, including Acknowledgement and Consent by the City of Elko New Market.
- f. Approve Woodcrest 2019 Sewer Improvement Agreements
 - a. Adopt Resolution No. 19-77 Adopting Special Assessments – Thomas & Maree Campbell
 - b. Adopt Resolution No. 19-78 Adopting Special Assessments – Donovan & Karin Moore
 - c. Adopt Resolution No. 19-79 Adopting Special Assessments – Michael & Amy Wald

7. Public Hearings

- a. Amending Regulations Regarding Snowmobiles and Special Use Vehicles
 - i. Ordinance No. 201 Amending Title 7, Chapter 3 Of The Elko New Market City Code Concerning Snowmobiles And Special Use Vehicles
 - ii. Summary Ordinance No. 202 Amending Title 7, Chapter 3 Of The Elko New Market City Code Concerning Snowmobiles And Special Use Vehicles
 - iii. Ordinance No. 203 Amending City Of Elko New Market Fee Schedule, Ordinance No. 193, Concerning Special Use Vehicles

8. General Business

- a. Stipulation of Facts and Civil Sanction, TDF Liquors

9. Reports

- a. Administration
- b. Public Works
 - i. Monthly Report - September 2019
- c. Police Department
 - i. Monthly Report – September 2019
- d. Fire Department
- e. Engineering
- f. Community Development
- g. Parks Department
 - i. Monthly Parks & Recreation Update – September 2019
- h. Community & Civic Events Committee (CCEC)
- i. Other Committee and Board Reports
 - i. Scott County Association for Leadership and Efficiency (SCALE)
 - Executive Committee
 - Service Delivery Committee
 - Unified Transit Plan Steering Committee
 - ii. Minnesota Valley Transit Authority (MVTA)
 - iii. I35 Solutions Alliance
 - iv. Chamber of Commerce

10. Discussion by Council

11. Adjournment

1. CALL TO ORDER

The meeting was called to order by Mayor Julius at 6:00 p.m.

Members Present: Mayor Julius, Councilmembers: Berg, Schwichtenberg

Members Absent: Councilmembers Seepersaud and Timmerman

Also Present: City Administrator Terry, Police Chief Juell, City Attorney Poehler, and City Engineer Revering

2. PLEDGE OF ALLEGIANCE

Mayor Julius led the Council and audience in the Pledge of Allegiance.

3. ADOPT/APPROVE AGENDA

City Administrator Terry presented a revised agenda.

Mayor Julius had requested some expansion of the detail in the minutes as it related to the legal services contract discussions, specifically on the decision. The revised Minutes were provided.

City Administrator Terry noted there are two additional items under General Business. Woodcrest 2019 Sewer Improvement Quotes was added due to the quotes coming back before the meeting and staff would like to have Council consider as soon as possible in order to get work underway this season. The revised minutes were also moved to General Business.

MOTION by Councilmember Berg, second by Councilmember Schwichtenberg to approve the agenda. **APIF, MOTION CARRIED**

4. PRESENTATIONS, PROCLAMATIONS AND ACKNOWLEDGEMENTS

None

5. PUBLIC COMMENT

Pastor Gordon Duel, Crossroads Church, noted he was also the Chaplin for the Police Department and he was also the Vice President of the Chamber of Commerce. He shared an update of the Chamber of Commerce with the City.

6. CONSENT AGENDA

MOTION by Councilmember Berg, second Councilmember Schwichtenberg to approve Consent Agenda.

- a. Moved to general business for corrections and discussion
- b. Approve Payment of Claims and Electronic Transfer of Funds
- c. Approval of Liquor Licenses
 - i. Adopt Resolution 19-57 granting On Sale and Sunday Liquor License for Boulder Pointe Golf Club, LLC
 - ii. Adopt Resolution 19-58 granting On Sale, Sunday and Off Sale Liquor Licenses for Captain Black's Bar & Grill, Inc.

- iii. Adopt Resolution 19-59 granting On Sale Non-Intoxicating Beer Liquor License for Elko Baseball Club, Inc.
- iv. Adopt Resolution 19-60 granting On Sale and Sunday Licenses for Elko Holding Company
- v. Adopt Resolution 19-61 granting On Sale, Sunday and Off Sale Liquor Licenses for The End Zone
- vi. Adopt Resolution 19-62 granting On Sale, Sunday and Off Sale Liquor Licenses for Leo's Bar
- vii. Adopt Resolution 19-63 granting On Sale Non-Intoxicating Beer Liquor License for New Market Baseball Association
- viii. Adopt Resolution 19-64 granting On Sale, Sunday and Off Sale Liquor Licenses for Red Eye Enterprises/Bullseye Saloon
- ix. Adopt Resolution 19-65 granting Off Sale Liquor License for TDF Liquors, Inc.
- x. Adopt Resolution 19-66 granting On Sale, Sunday and Off Sale Liquor Licenses for Wide Awake Enterprises/The Doublewide
- d. 2020 Preliminary Budget
 - i. Adopt Resolution 19-71 Approving 2020 Preliminary Budget
 - ii. Adopt Resolution 19-72 Approving 2019 Tax Levy Collectible in 2020
- e. Approve Agreement for Animal Control Services
- f. Approve Amended Job Descriptions for City Administrator, Deputy Clerk and Accountant
- g. Appoint City Administrator/Clerk and Deputy Clerk
 - i. Adopt Resolution 19-73 Appointing Thomas Terry as City Administrator/Clerk
 - ii. Adopt Resolution 19-74 Appointing Lynda Jirak as Deputy City Clerk
- h. Responsible Authority for Data Practices
 - i. Adopt Resolution 19-75 Appointing A Responsible Authority And Assigning Duties

APIF, MOTION CARRIED

7. PUBLIC HEARINGS

None

8. GENERAL BUSINESS

Liquor License for Firehouse Grille LLC

City Administrator Terry noted this item was pulled in case a Councilmember needed to abstain from this item. He requested the City Council consider granting On Sale and Sunday Liquor license for Firehouse Grill LLC. Mayor Julius noted there were no issues with this item and requested staff to move forward with granting the liquor license. **MOTION** by Mayor Julius, second Councilmember Berg, to approving Resolution 19-67 granting On Sale and Sunday Liquor License for Firehouse Grill LLC. **APIF, MOTION CARRIED**

Woodcrest 2019 Sewer Improvement Quotes

City Engineer Revering requested the City Council consider Woodcrest 2019 Sewer Improvement Quotes. **MOTION** by Councilmember Schwichtenberg, second Councilmember Berg, to accept the quote provided by Kruger Excavating. **APIF, MOTION CARRIED**

September 12, 2019 City Council Minutes

City Administrator Terry requested the City Council consider approving the revised September 12, 2019 City Council Minutes. He noted the expanded on the section of the minutes that the Mayor had requested on the legal service agreement. **MOTION** by Mayor Julius, second Councilmember Berg, to approve the September 12, 2019 City Council Minutes as amended. **APIF, MOTION CARRIED**

9. REPORTS

a) ADMINISTRATION

Chlan Property Hydrology Study

Administrator Terry indicated that he would be sending out the PDF version of the Executive Summary for Council information. He explained that he waiting on League of Minnesota Cities feedback regarding any response.

b) PUBLIC WORKS

Written report included in Council Packet.

c) POLICE DEPARTMENT

Written report included in Council Packet.

Police Chief Juell indicated there was an incredible turnout for the Point of Impact on Tuesday night. It was a great presentation and a wonderful experience for him.

d) FIRE DEPARTMENT

None

e) ENGINEERING

City Engineer Revering updated the Council on projects going on in the City.

f) COMMUNITY DEVELOPMENT

None

g) PARKS DEPARTMENT

Written Parks Commission Update and September 20, 2019 Minutes included in Council Packet.

h) COMMUNITY & CIVIC EVENTS COMMITTEE (CCED)

Draft Community & Civic Events Committee Minutes of September 17, 2019 Meeting.

i) OTHER COMMITTEE AND BOARD REPORTS

i. SCALE

Mayor Julius explained there was a presentation on the Public Nuisance Ordinance. It was more controversial than he expected it to be. He reviewed the discussion with the Council. He noted there was also a presentation on Cyber Crimes.

ii. MVTA

None

iii. I35 SOLUTIONS ALLIANCE

None

iv. CHAMBER OF COMMERCE

Verbal report was provided in public comment.

10. DISCUSSION BY COUNCIL

Councilmember Schwichtenberg asked if the city was still on track with the golf cart and ATV public hearing for the October meeting. City Administrator Terry indicated that the Public Hearing had been noticed for October 10.

Councilmember Berg asked if anyone was planning on going to the League's or Metro Cities Annual meeting to vote on the policies. Mayor Julius indicated he had an email but has not responded to it yet.

11. ADJOURNMENT

MOTION by Mayor Julius, second by Councilmember Berg, to adjourn the meeting at 6:20p.m.
APIF, MOTION CARRIED

Respectfully submitted by:

Thomas Terry, City Administrator



STAFF MEMORANDUM

| | |
|--------------------------|---|
| SUBJECT: | Presentation of Elko New Market Claims and Electronic Transfer of Funds |
| MEETING DATE: | October 10, 2019 |
| PREPARED BY: | Stephanie Fredrickson, Administrative Assistant |
| REQUESTED ACTION: | Approve Payment of Current Claims |

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

Each City Council meeting the Administrative Assistant presents for approval the Elko New Market Claims and Electronic Transfer of Funds.

BUDGET IMPACT:

Budgeted

Attachments:

- Check Summary Register

Check Summary Register©*October 10, 2019**

| Name | Check Date | Check Amt | |
|--|------------|---------------------|---------------------------------|
| AUTOPAYS | | | |
| Paid Chk# 006307E PERA | 9/20/2019 | \$9,619.64 | Vendor Liability |
| Paid Chk# 006308EMN DEPT OF REVENUE | 9/20/2019 | \$2,284.04 | Vendor Liability |
| Paid Chk# 006309E INTERNAL REVENUE SERVICE | 9/20/2019 | \$11,141.51 | Vendor Liability |
| Paid Chk# 006310E HEALTH EQUITY, INC. | 9/20/2019 | \$806.92 | HSA PR16- Craig Bell |
| Paid Chk# 006311E NUVERA COMMUNICATIONS, INC. | 9/20/2019 | \$49.99 | DSL |
| Paid Chk# 006312E NUVERA COMMUNICATIONS, INC. | 9/20/2019 | \$328.01 | 461-6067 |
| Paid Chk# 006313E NUVERA COMMUNICATIONS, INC. | 9/20/2019 | \$545.76 | Area Hall |
| Paid Chk# 006314E NUVERA COMMUNICATIONS, INC. | 9/20/2019 | \$170.63 | Telephone/DSL |
| Paid Chk# 006315E NORTHERN TOOL & EQUIPMENT | 9/12/2019 | \$126.39 | |
| Paid Chk# 006316E TRANSFER | 9/4/2019 | \$150,000 | BANK TRANSFER |
| Paid Chk# 006317E HEALTH PARTNERS | 10/4/2019 | \$19,558.22 | MEDICAL INS |
| Paid Chk# 006318E SUN LIFE FINANCIAL | 10/4/2019 | \$1,590.90 | Life Insurance |
| Paid Chk# 006319E DELTA DENTAL OF MINNESOTA | 10/4/2019 | \$1,244.90 | Delta Dental |
| Paid Chk# 006320E HEALTH EQUITY, INC. | 10/4/2019 | \$731.92 | HSA PR16- Craig Bell |
| Paid Chk# 006321E PERA | 10/4/2019 | \$9,001.44 | Vendor Liability |
| Paid Chk# 006322E MN DEPT OF REVENUE | 10/4/2019 | \$2,166.17 | Vendor Liability |
| Paid Chk# 006323E INTERNAL REVENUE SERVICE | 10/4/2019 | \$10,090.79 | Vendor Liability |
| Paid Chk# 006324E MINNESOTA ENERGY RESOURCES | 10/15/2019 | \$5.36 | 26518 France Avenue |
| Paid Chk# 006325E MINNESOTA ENERGY RESOURCES | 10/18/2019 | \$3.55 | 359 James Parkway |
| Paid Chk# 006326E MINNESOTA ENERGY RESOURCES | 10/18/2019 | \$6.37 | 408 Carter Street |
| Paid Chk# 006327E MINNESOTA ENERGY RESOURCES | 10/15/2019 | \$0.31 | 26518 France Avenue |
| Paid Chk# 006328E MN VALLEY ELECTRIC COMPANY | 10/22/2019 | \$46.83 | 27059 Beard Ave Lift Pump |
| Paid Chk# 006329E MN VALLEY ELECTRIC COMPANY | 10/9/2019 | \$73.68 | Glenborough Dr & Chowen |
| Paid Chk# 006330E MN VALLEY ELECTRIC COMPANY | 10/22/2019 | \$1,388.61 | Streetlights, Elko |
| Paid Chk# 006331E MN VALLEY ELECTRIC COMPANY | 10/9/2019 | \$10.74 | City of Elko Park, Elko |
| Paid Chk# 006332E XCEL ENERGY | 10/18/2019 | \$699.30 | Library - 100 J Roberts Way |
| Paid Chk# 006333E XCEL ENERGY | 10/18/2019 | \$1,263.30 | 26536 France Ave |
| Paid Chk# 006334E XCEL ENERGY | 10/22/2019 | \$1,082.93 | Wellhouse - 26460 France Ave |
| Paid Chk# 006335E XCEL ENERGY | 10/22/2019 | \$177.20 | Lift Station / 10010 Ptarmigan |
| Paid Chk# 006336E XCEL ENERGY | 10/21/2019 | \$280.74 | Storage |
| Paid Chk# 006337E EPSN | 10/4/2019 | \$1,477.33 | Webstore/Credit Card Processin |
| Paid Chk# 006338E XCEL ENERGY | 10/1/2019 | \$4,659.90 | 601 Main Street |
| Paid Chk# 006339E DAKOTA ELECTRIC ASSN | 10/4/2019 | \$128.18 | 200001441377 - Ptarmigan Dr St |
| Paid Chk# 006340E MN VALLEY ELECTRIC COMPANY | 9/22/2019 | \$140.00 | 268X Xerxes Water Tower, Elko |
| Paid Chk# 006341E POSTALIA TDC POSTAGE | 9/19/2019 | \$1,000.00 | Postage Download 9-19-19 |
| TOTAL | | \$231,901.56 | |
| PRE-PAIDS | | | |
| Paid Chk# 040190 PAYROLL | 9/19/2019 | \$69.26 | |
| Paid Chk# 040191 PAYROLL | 9/19/2019 | \$429.25 | |
| Paid Chk# 040192 PAYROLL | 9/19/2019 | \$46.17 | |
| Paid Chk# 040193 PAYROLL | 9/19/2019 | \$954.53 | |
| Paid Chk# 040194 PAYROLL | 9/19/2019 | \$46.17 | |
| Paid Chk# 040195 PAYROLL | 9/19/2019 | \$69.26 | |
| Paid Chk# 040197 IUOE LOCAL #49 | 9/20/2019 | \$140.00 | Union Dues- Marty Deutsch |
| Paid Chk# 040198 LEAGUE OF MN CITIES INS TRUST | 9/20/2019 | \$3,454.00 | Worker's Comp General |
| TOTAL | | \$5,208.64 | |
| CHECK REGISTER | | | |
| Paid Chk# 040199 ACE HARDWARE & PAINT | 10/10/2019 | \$9.99 | PW - Water Repairs |
| Paid Chk# 040200 AMERICAN MAILING MACHINES | 10/10/2019 | \$260.85 | Ink Cartridges for Postage Mac |
| Paid Chk# 040201 APPLE FORD LINCOLN | 10/10/2019 | \$536.75 | PW - Fleet Maint & Equip |
| Paid Chk# 040202 AZZONE, TYLER & KRISTINA | 10/10/2019 | \$430.42 | 000000106100 - CR Bal Refund/9 |
| Paid Chk# 040203 BOLTON & MENK | 10/10/2019 | \$44,148.80 | T15.100719 - Streets/Facilities |
| Paid Chk# 040204 CHRISTENSEN, MICHAEL | 10/10/2019 | \$9.71 | 000000344103 - CR Bal Refund/9 |
| Paid Chk# 040205 CINTAS CORPORATION NO. 2 | 10/10/2019 | \$68.24 | PW OPERATING SUPPLIES |
| Paid Chk# 040206 CITY OF SAVAGE | 10/10/2019 | \$9,063.57 | IT Items/Support |
| Paid Chk# 040207 COMMERCIAL ASPHALT COMPANY | 10/10/2019 | \$821.78 | PW - Streets |
| Paid Chk# 040208 CULLIGAN BOTTLED WATER | 10/10/2019 | \$10.45 | Bottled Water |
| Paid Chk# 040209 EMERGENCY AUTO TECH INC | 10/10/2019 | \$482.69 | PD - Fleet |
| Paid Chk# 040210 EAGLE CREEK TITLE, LLC | 10/10/2019 | \$317.79 | 000000190100 - CR Bal Refund/2 |
| Paid Chk# 040211 ECOLAB | 10/10/2019 | \$161.54 | Pest Control |
| Paid Chk# 040212 EXECUTIVE TITLE SERVICES | 10/10/2019 | \$141.29 | 000000004400 - CR Bal Refund/1 |
| Paid Chk# 040213 FASTENAL COMPANY | 10/10/2019 | \$64.54 | PW - Operating Supplies |
| Paid Chk# 040214 FIRST AMERICAN TITLE INS. CO. | 10/10/2019 | \$167.27 | 000000181100 - CR Bal Refund/2 |
| Paid Chk# 040215 FRIEDGES LANDSCAPING | 10/10/2019 | \$67.00 | PW - Streets |

Check Summary Register©*October 10, 2019**

| | Name | Check Date | Check Amt | |
|--------------|-------------|--------------------------------|------------------|--|
| Paid Chk# | 040216 | GLOBAL CLOSING & TITLE SVCS | 10/10/2019 | \$84.57 000000358100 - CR Bal Refund/9 |
| Paid Chk# | 040217 | INTERNATIONAL INSTITUTE CLERKS | 10/10/2019 | \$110.00 New Membership - Steph Fredric |
| Paid Chk# | 040218 | KEILEN, TAMI | 10/10/2019 | \$71.57 000000425100 - CR Bal Refund/4 |
| Paid Chk# | 040219 | KELLEY FUELS, INC. | 10/10/2019 | \$2,099.68 PW - Fuel |
| Paid Chk# | 040220 | LAKEVILLE SANITARY, INC. | 10/10/2019 | \$236.65 Garbage Pickup for Fire Rescue |
| Paid Chk# | 040221 | LANDTITLE | 10/10/2019 | \$121.25 000000318100 - CR Bal Refund/2 |
| Paid Chk# | 040222 | MAHOWALD BUILDERS | 10/10/2019 | \$10,200.00 Landscape Escrow - 1141 Seurer |
| Paid Chk# | 040223 | MIDWEST SAFETY COUNSELORS, INC | 10/10/2019 | \$760.00 Safety Training 9/19/19 |
| Paid Chk# | 040224 | MINNESOTA/WISCONSIN | 10/10/2019 | \$2,035.00 Wood Fiber for Playgrounds |
| Paid Chk# | 040225 | MN CRITTER GETTERS, INC. | 10/10/2019 | \$1,174.00 Monthly Animal Control |
| Paid Chk# | 040226 | MTI DISTRIBUTING INC. | 10/10/2019 | \$87.31 PW - Fleet Maint & Equip |
| Paid Chk# | 040227 | MUNICIPAL INSPECTIONS, INC. | 10/10/2019 | \$14,738.15 Building Inspections |
| Paid Chk# | 040228 | MVTL LABORATORIES | 10/10/2019 | \$95.00 PW - Water Testing |
| Paid Chk# | 040229 | NAPA AUTO PARTS | 10/10/2019 | \$145.41 PW - Fleet Maint & Equip |
| Paid Chk# | 040230 | NEW MARKET TOWNSHIP | 10/10/2019 | \$10,220.00 Overpayment of 1st Half Fire C |
| Paid Chk# | 040231 | PETERS, STEVE | 10/10/2019 | \$135.17 000000005301 - CR Bal Refund/2 |
| Paid Chk# | 040232 | POMPS TIRE SERVICE, INC. | 10/10/2019 | \$2,147.12 PD - Fleet |
| Paid Chk# | 040233 | RAV HOLDINGS LLC | 10/10/2019 | \$77.83 000000512100 - CR Bal Refund/9 |
| Paid Chk# | 040234 | RIVER'S EDGE CONCRETE INC. | 10/10/2019 | \$1,632.50 PW - Streets |
| Paid Chk# | 040235 | ALAN ROLEK | 10/10/2019 | \$310.88 Mileage Reimbursement 5/28-9/9 |
| Paid Chk# | 040236 | SCHLOMKAS PORTABLE | 10/10/2019 | \$1,130.00 Portable Restrooms |
| Paid Chk# | 040237 | STANO, SCOTT & JENNIFER | 10/10/2019 | \$232.15 000000159100 - CR Bal Refund/2 |
| Paid Chk# | 040238 | STERLING CODIFIERS | 10/10/2019 | \$1,385.00 Code Book Supplement |
| Paid Chk# | 040239 | STEWART, KELLIE | 10/10/2019 | \$20.00 Rice County Recorder Fee - Not |
| Paid Chk# | 040240 | STREICHER'S INC | 10/10/2019 | \$139.99 PD - Duty Holster |
| Paid Chk# | 040241 | SUEL PRINTING COMPANY | 10/10/2019 | \$413.00 Legal Ads |
| Paid Chk# | 040242 | MIKE SUTTON | 10/10/2019 | \$6.86 Hostess Cakes for Cake Walk - |
| Paid Chk# | 040243 | THREADS & INKS | 10/10/2019 | \$100.00 PD - Baseball Caps |
| Paid Chk# | 040244 | TIMESAVER OFF SITE SECRETARIAL | 10/10/2019 | \$395.00 City Council Minutes |
| Paid Chk# | 040245 | TIM'S SMALL ENGINE SERVICE | 10/10/2019 | \$94.60 FD - Fleet |
| Paid Chk# | 040246 | TRADEMARK TITLE SERVICES, INC. | 10/10/2019 | \$127.76 000000469100 - CR Bal Refund/9 |
| Paid Chk# | 040247 | JEREMY & MARLA ULSTAD | 10/10/2019 | \$44.22 000000194100 - CR Bal Refund/9 |
| Paid Chk# | 040248 | SPLIT ROCK MANAGEMENT INC | 10/10/2019 | \$845.00 Library Cleaning |
| Paid Chk# | 040249 | VERIZON WIRELESS | 10/10/2019 | \$928.99 Cell Phones |
| Paid Chk# | 040250 | WABI, GUILLERMO | 10/10/2019 | \$17.65 000000524100 - CR Bal Refund/1 |
| Paid Chk# | 040251 | WERNER IMPLEMENT CO., INC. | 10/10/2019 | \$523.45 PW - Fleet Main & Equip |
| Paid Chk# | 040252 | WOOD, MARK & MONICA | 10/10/2019 | \$173.60 000000001600 - CR Bal Refund/1 |
| TOTAL | | | | \$109,822.04 |

DIRECT DEPOSIT

| | | | | |
|--------------|--------|----------------|-----------|--------------------|
| Paid Chk# | 502771 | Ebi-Weekly ACH | 9/19/2019 | \$37,544.83 |
| TOTAL | | | | \$37,544.83 |



BOLTON & MENK, INC.

Consulting Engineers & Surveyors

12224 Nicollet Avenue · Burnsville, MN 55337-1649

Phone (952) 890-0509 · FAX (952) 890-8065

www.bolton-menk.com

MEMORANDUM

Date: October 10, 2019
To: Honorable Mayor and City Council of Elko New Market, Minnesota
Thomas Terry, City Administrator
From: Rich Revering PE, City Engineer
Subject: Marketplace Development Agreement Amendment for Paving and Sidewalk
T15.100719

BACKGROUND

The City Council is being asked to approve the attached Development Agreement Amendment related to wear course paving and sidewalk improvements at Marketplace.

DISCUSSION

The original Development Agreement is dated March of 2006. This agreement required the Developer to pave final wearing course after the underlying street went through one freeze/thaw cycle. It also required the developer to install a 5-foot sidewalk from CSAH 2 south to the Post Office entrance. These improvements have not yet been completed. Extensions were negotiated initially to avoid damage from subsequent site development. The recession of the late 2000s resulted in no site development activity and a prolonged delay in making these improvements.

The base course of the roadway is aging. To delay further deterioration, the Developer and City agree the wear course should now be placed. The Developer intends to take advantage of a paving contract the City currently has in place to get the wear course placed in 2019 at his cost.

Staff and the Developer agree the sidewalk improvement is best made in conjunction with trail improvements along CSAH 2 programmed with the Roundabout project in 2020. Accordingly, a cash in lieu of arrangement has been negotiated with the Developer in the amount of \$6,000 whereby the City would make this improvement when it deems it is most advantageous. While the value of the sidewalk improvements could be argued to be higher than the proposed cash amount, there is no way to pin down a number without taking bids, and the City currently holds no security for these improvements. It is staff's opinion it is in the City's interest to take advantage of the opportunity presented rather than to risk further delay by attempting to negotiate relatively minor potential value differentials.

RECOMMENDATIONS

Staff recommends approval of the attached amendment

h:\elnm\t15100719\marketplace blvd paving\approve dev agreement amendment.doc

**AMENDMENT TO
PLANNED UNIT DEVELOPMENT AGREEMENT
AND DEVELOPMENT CONTRACT**

ELKO MARKET PLACE
(Sidewalk Development Contract Term)

AMENDMENT dated October __, 2019 (“Amendment”) by and between the **CITY OF ELKO NEW MARKET**, a Minnesota municipal corporation ("City"), and **R&F PROPERTIES, LLC**, a Minnesota limited liability company (hereinafter the "Developer").

RECITALS

A. The City previously entered into a Planned Unit Development Agreement and Development Contract dated March 17, 2006 and recorded with the Scott County Recorder’s Office on May 19, 2006 as Document No. A 739444, (“PUD Agreement”) for approval of the **ELKO MARKET PLACE** development as amended by the following Amendments:

- (i) Amendment to Planned Unit Development Agreement and Development Contract dated October 23, 2008 which was recorded with the Scott County Recorder’s Office on October 28, 2008, as Document No. A 811112;
- (ii) Amendment to Planned Unit Development Agreement and Development Contract dated December 11, 2008 which was recorded with the Scott County Recorder’s Office on January 27, 2009, as Document No. A 816499;
- (iii) Amendment to Planned Unit Development Agreement and Development Contract dated January 13, 2011 which was recorded with the Scott County Recorder’s Office on February 11, 2011, as Document No. A 874758;
- (iv) Amendment to Planned Unit Development Agreement and Development Contract dated February 13, 2014 which was recorded with the Scott County Recorder’s Office on March 25, 2014, as Document No. A 955514;
- (v) Amendment to Planned Unit Development Agreement and Development Contract dated April 10, 2014 which was recorded with the Scott County Recorder’s Office

on April 21, 2014, as Document No. A 956842;

- (vi) Amendment to Planned Unit Development Agreement and Development Contract dated April 9, 2015 which was recorded with the Scott County Recorder's Office on July 7, 2015, as Document No. A 983002;
- (vii) Amendment to Planned Unit Development Agreement and Development Contract dated October 22, 2015 which was recorded with the Scott County Recorder's Office on November 5, 2015, as Document No. A 990992;

The PUD Agreement and subsequent Amendments are collectively referred to herein as the "Development Contract."

B. Developer now seeks to pay a cash fee in lieu of construction of a sidewalk required under the Development Contract and the City agrees to accept the cash fee.

NOW, THEREFORE, the City and the Developer have agreed to the following:

1. EFFECT OF DEVELOPMENT CONTRACT. The Development Contract between Developer and the City, as previously amended, shall remain in full force and effect except as specifically amended herein.

2. AMENDMENT TO DEVELOPMENT CONTRACT. The Developer shall pay \$6,000 to the City upon execution of this Amendment in lieu of constructing a five (5) foot sidewalk on the east side of Marketplace Boulevard as required under Paragraph 21(C) of the Development Contract, which sidewalk will be constructed by the City in connection with the construction of the County Road 2 and 91 roundabout in 2020.

**[remainder of page intentionally left blank]
[signature pages to follow]**

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

BY: _____
Thomas Terry, City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Joe Julius and by Thomas Terry, respectively the Mayor and City Administrator of the City of Elko New Market, a Minnesota municipal corporation, on its behalf.

NOTARY PUBLIC

R&F PROPERTIES, LLC

BY: _____
Its

STATE OF MINNESOTA)
 (ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, the _____ of **R&F PROPERTIES, LLC**, a Minnesota limited liability company, on behalf of the company.

NOTARY PUBLIC

DRAFTED BY:
Campbell Knutson
Professional Association
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, Minnesota 55121
Telephone: (651) 452-5000



STAFF MEMORANDUM

| | |
|--------------------------|---|
| SUBJECT: | Fire Hydrants |
| MEETING DATE: | October 10, 2019 |
| PREPARED BY: | Renee Christianson, Community Development Specialist |
| REQUESTED ACTION: | Adopt Ordinance #204 Amending City Code Related to Fire Hydrants Adopt Ordinance #205 Amending 2019 Schedule of Fees |

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

Fire hydrants located within City rights-of-way or on public property are regularly maintained by the City. Annual maintenance includes flushing the hydrants and exercising the valves to ensure that the hydrants are in working order, should they be needed for emergency purposes. The Minnesota State Fire Code requires regular maintenance.

As the City continues to grow, there will be private developments that have privately owned fire hydrants within private property. It is important that the private hydrants also be regularly maintained to ensure they are in working order. Rather than rely on private property owners to complete the maintenance on private hydrants, staff is suggesting that maintenance of private hydrants located on private property be handled by City staff. This maintenance could be completed annually as the City's Public Works staff is doing regular maintenance on publicly owned hydrants.

The current City Code does not contain any language pertaining to fire hydrants or maintenance. Proposed Ordinance #204 amends Section 9-1 of the City Code and adds a section related to fire hydrants and privately owned fire hydrants. In addition to allowing for regular maintenance, the proposed ordinance also allows the City to recommend repairs that may be needed to the hydrant, and in the event that the property does not complete the repairs, allows the City to complete repairs with charges to the property. Proposed Ordinance #205 amends the City's Fee Schedule to incorporate a charge of \$50 per hydrant per year, to be charged on the annual utility bill.

REQUESTED ACTION:

Adopt Ordinance #204 Amending Title 9-1 of the City Code Concerning Water Use and Service Regulations Related to Fire Hydrants.

Adopt Ordinance #205 Amending the City's Fee Schedule Concerning Private Fire Hydrant Maintenance.

Attachments:

- Draft Ordinance #204
- Draft Ordinance #205

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

ORDINANCE NO. 204

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 1 OF THE ELKO
NEW MARKET CITY CODE CONCERNING WATER USE AND
SERVICE REGULATIONS RELATED TO FIRE HYDRANTS**

THE CITY COUNCIL OF THE CITY OF ELKO NEW MARKET, MINNESOTA
ORDAINS:

SECTION 1. Title 9, Chapter 1, Section 15 is hereby amended to read as follows:

9-1-15: FIRE HYDRANTS:

All publicly owned hydrants shall remain visible and accessible from the roadway for maintenance and emergency use. All sides, including top, shall have a minimum three foot clear zone. No person other than authorized City employees shall operate fire hydrants or interfere in any way with the water system.

SECTION 2. Title 9, Chapter 1, Section 16 is hereby added as follows:

9-1-16: PRIVATELY OWNED FIRE HYDRANTS:

- A. Section 508 of the Minnesota State Fire Code requires inspection, testing and maintenance of fire protection water supplies which include water lines and fire hydrant systems. Fire hydrant systems shall be subject to periodic tests, maintained in an operative condition at all times and shall be repaired where defective. Additions, repairs, alterations and servicing shall comply with approved standards. Section 101 of the Minnesota State Fire Code authorizes the city to adopt rules to implement the fire code. The City considers the private hydrants part of the municipal waterworks system. It is in the public interest that private hydrants be inspected and tested by qualified personnel and repaired and maintained in good working order to protect life and property.
- B. Fire Protection Inspections shall be conducted annually by the City on all private hydrants directly or indirectly connected to the municipal water system. This inspection shall include testing of the operation and flow of the hydrants.
- C. A hydrant inspection fee shall be charged for each hydrant inspected by the City or City's agent and the fee shall be billed once annually to the owner of the private hydrant as part of the water bill. The city council must establish the rates to be charged for a hydrant inspection to the customer annually within the fee schedule.
- D. In the event the inspection indicates that repairs are required, the City shall notify the

owner of the hydrant or water line, with a copy to the fire department, setting forth the repairs required. If repairs are not made within the time period set forth by the Public Works Department in the notification, the necessary repairs shall be made by the city and the cost billed to the owner.

- E. The property owner may sign a waiver and petition the city for the repairs. The city will contract for the repairs and assess the property in accordance with the city's assessment policy.
- F. Action to Collect Charges: Any amount due for the above charges in excess of 90 days past due shall be certified to the County Auditor for collection with real estate taxes. This certification shall take place regardless of who requested the inspection services, whether it was the owner, tenant or other person. All applications for inspection services shall contain an explanation in clear language that unpaid bills will be collected in real estate taxes in the following year. The City shall also have the right to bring a civil action or other remedies to collect unpaid charges.
- G. Duty of Owners: The owner of any privately owned fire hydrant shall keep the fire hydrant visible and accessible for emergency use.

SECTION 3. Title 9, Chapter 1, Section 17 is hereby added as follows:

9-1-17: MISDEMEANOR VIOLATION:

Any person violating a provision of this chapter shall be guilty of a misdemeanor. Each day shall be a separate offense. (New Market 2004 Code § 6-3-15)

SECTION 4. This ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 10th day of October, 2019 by the City Council for the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, City Clerk



STAFF MEMORANDUM

| | |
|--------------------------|---|
| SUBJECT: | Dakota Acres 1 st Addition - Assignment of Development Contract |
| MEETING DATE: | October 10, 2019 |
| PREPARED BY: | Renee Christianson, Community Development Specialist |
| REQUESTED ACTION: | Approve the Assignment of Development Agreement between Syndicated Properties, LLC and The State Bank of Faribault, including Acknowledgement and Consent by the City of Elko New Market. |

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
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COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

On September 27, 2018 the City Council approved the plat and development contract for Dakota Acres 1st Addition. The plat consists of 28 townhome lots and one outlot. Under the terms of the development contract, private streets and public infrastructure must be constructed to serve the townhome lots.

The State Bank of Faribault is financing the development project and is requiring that the developer, Syndicated Properties, LLC, execute an "Assignment of Development Agreement" (attached). The Agreement does not assign full obligations and duties of the developer under the development contract, but does allow the State Bank of Faribault to exercise its right to complete construction of the improvements, should the developer default. The Agreement requires an acknowledgement and consent by the City.

The City Attorney has reviewed the Assignment of Development Agreement and has no objections to the City Council approving the Agreement and executing the Acknowledgement and Consent.

REQUESTED ACTION:

Approve the Assignment of Development Agreement between Syndicated Properties, LLC and The State Bank of Faribault, including Acknowledgement and Consent by the City of Elko New Market.

Attachments:

- Assignment of Development Agreement (Dakota Acres 1st Addition)
- Development Contract for Dakota Acres 1st Addition (approved September 27, 2018)

ASSIGNMENT OF DEVELOPMENT AGREEMENT

This ASSIGNMENT OF DEVELOPMENT AGREEMENT (this “**Assignment**”) is made this 4th day of October, 2019, by and between Syndicated Properties LLC, a Minnesota limited liability company (“**Borrower**”), and The State Bank of Faribault, a Minnesota banking corporation (together with its successors and/or assigns, “**Bank**”).

RECITALS

A. Borrower and others have entered into a Construction Loan Agreement of even date herewith with Bank (the “**Loan Agreement**”), under which Bank has agreed to make advances to Borrower not exceeding the aggregate principal sum of \$2,075,261.24 in accordance with the terms thereof to finance the development and construction of certain improvements on Real Estate located in Scott County, Minnesota (the “**Project**”). Advances to be made under the Loan Agreement will be evidenced by promissory notes of Borrower of even date herewith, payable to the order of Bank in the principal amount of \$2,075,261.24 (the “**Notes**”).

B. To secure payment of the Notes, Borrower has executed and delivered to Bank mortgages covering certain property described in Exhibit A hereto which constitutes real estate upon which the Project is to be constructed (the “**Real Estate**”) and the buildings, improvements, and fixtures now or hereafter located thereon (the “**Mortgages**”).

C. Bank has required, as a condition to making any advances under the Loan Agreement, the execution hereof by Borrower and the acknowledgement and consent hereto by the City of Elko New Market, Minnesota.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged by Borrower, Borrower and Bank hereby agree that the foregoing recitals are true and correct, and all such recitals are by this reference hereby made a part hereof as if fully set forth below, and Borrower further covenants and agrees with Bank as follows:

1. Borrower does hereby grant, assign, transfer and set over unto Lender all of its right, title and interest in and to the Development Contract: Dakota Acres 1st Addition dated the 27th day of September, 2018, and entered into between the City of Elko New Market, Minnesota

and Borrower (the “**Development Agreement**”) for construction of improvements on the Project, a true and correct copy of which is attached hereto and made a part hereof.

2. Borrower agrees that Bank does not assume any of the obligations or duties of Borrower under or with respect to the Development Agreement unless and until Bank shall have given the City of Elko New Market written notice that it has affirmatively exercised its right to complete or cause the completion of construction of the improvements on the Project following the occurrence of an Event of Default under the Loan Agreement. In the event that Bank does not personally undertake to complete Borrower’s obligations under the Development Agreement, Bank shall have no liability whatsoever for the performance of any such obligations and duties. For the purpose of completing the improvements under the Development Agreement, Bank may, in its absolute discretion, re-assign its right, title and interest in the Development Agreement upon notice to the City of Elko New Market but without any requirement of Borrower’s consent.

3. Borrower represents and warrants that there have been no prior assignments of the Development Agreement, that the Development Agreement is a valid, enforceable agreement, that neither party is in default thereunder and that all covenants, conditions and agreements have been performed as required therein, except those not due to be performed until after the date hereof. Borrower agrees that no change in the terms thereof shall be valid without the written approval of Bank. Borrower agrees not to assign, sell, pledge, mortgage or otherwise transfer or encumber its interest in the Development Agreement so long as this Assignment is in effect.

4. Borrower hereby irrevocably appoints Bank as its attorney-in-fact to demand, receive, and enforce Borrower’s rights with respect to the Development Agreement, to make payments under the Development Agreement and give appropriate receipts, releases and satisfactions for or on behalf of and in the name of Borrower or, at the option of Bank, in the name of Bank, with the same force and effect as Borrower could do if this Assignment had not been made.

5. This Assignment shall constitute a perfected, absolute and present assignment provided that Bank shall have no right under this Assignment to enforce the provisions of the Development Agreement until an Event of Default shall occur under the Loan Agreement or Borrower shall be in default under the Notes or under any other instrument, document or agreement related to the Project. Upon the occurrence of any such default or Event of Default, Bank may, without affecting any of its rights or remedies against Borrower under any other instrument, document or agreement, exercise its rights under this Assignment as Borrower’s attorney-in-fact in any manner permitted by law.

6. Borrower hereby agrees to pay all costs and expenses (including without limitation reasonable attorney’s fees) which Bank may incur in exercising any of its rights under this Assignment.

7. Subject to the aforesaid limitation on further assignment by Borrower, this Assignment shall be binding upon Borrower and its successors and assigns, and shall inure to the benefit of Bank, its successors and assigns.

8. This Assignment can be waived, modified, amended, terminated or discharged only in a writing signed by Bank. A waiver signed by Bank shall be effective only in a specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of Bank's rights or remedies hereunder. All rights and remedies of Bank shall be cumulative and may be exercised singularly or concurrently, at Bank's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise of enforcement of any other rights.

IN WITNESS WHEREOF, Borrower and Bank have executed this Assignment as of the day and year first above written.

BORROWER:

SYNDICATED PROPERTIES LLC

12280 Nicollet Ave. Ste. 103

Burnsville, MN 55337

By: _____

Printed Name: Joseph Paul Lehrer

Its: Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 4th day of October, 2019, by Joseph Paul Lehrer, the Chief Manager of Syndicated Properties LLC, on behalf of the company.

Notary Public
My commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION

Lots 1, 2, 3 and 4, Block 1;

Lots 1, 2, 3, and 4, Block 2;

Lots 1, 2, 3, 4, 5, 6, and 7, Block3;

Lots 1, 2, 3 and 4, Block 4,

Lots 1, 2, 3 and 4, Block 5;

Lots 1, 2, 3 and 4, Block 6;

Lot 1, Block 7; and

Outlot A;

all in Dakota Acres 1st Addition, according to the plat thereof on file and of record
in the office of the County Recorder of Scott County, Minnesota

(reserved for recording information)

DEVELOPMENT CONTRACT

DAKOTA ACRES 1ST ADDITION

CONTRACT dated September 27, 2018, by and between the CITY OF ELKO NEW MARKET, a Minnesota municipal corporation ("City"), and SYNDICATED PROPERTIES LLC, a Minnesota limited liability company (the "Developer").

1. **REQUEST FOR PLAT APPROVAL.** The Developer has asked the City to approve a plat for *DAKOTA ACRES 1ST ADDITION* (referred to in this Contract as the "plat"). The land is situated in the County of Scott, State of Minnesota, and is legally described in Exhibit A attached hereto.

2. **CONDITIONS OF PLAT APPROVAL.** The City hereby approves the plat on condition that the Developer enter into this Contract, furnish the security required by it, and record the plat with the County Recorder or Registrar of Titles within 90 days after the City Council approves the final plat.

3. **RIGHT TO PROCEED.** Within the plat or land to be platted, the Developer may not grade or otherwise disturb the earth or remove trees, unless a grading permit has been approved by the City Engineer following approval of a preliminary plat by the City Council, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings until all the following conditions have been satisfied: 1) this agreement has been fully executed by both parties and filed with the City Clerk, 2) the necessary security has been received by the City, 3) the necessary insurance for the Developer and its

construction contractors has been received by the City, and 4) the plat has been recorded with the Scott County Recorder or Registrar of Titles' office.

4. PHASED DEVELOPMENT. If the plat is a phase of a multi-phased preliminary plat, the City may refuse to approve final plats of subsequent phases if the Developer has breached this Contract and the breach has not been remedied. Development of subsequent phases may not proceed until Development Contracts for such phases are approved by the City. Park dedication charges referred to in this Contract are not being imposed on outlots, if any, in the plat that are designated in an approved preliminary plat for future subdivision into lots and blocks. Such charges will be calculated and imposed when the outlots are final platted into lots and blocks.

5. PRELIMINARY PLAT STATUS. If the plat is a phase of a multi-phased preliminary plat, the preliminary plat approval for all phases not final platted shall lapse and be void unless final platted into lots and blocks, not outlots, within 2 years after preliminary plat approval.

6. CHANGES IN OFFICIAL CONTROLS. For 2 years from the date of this Contract, no amendments to the City's Comprehensive Plan or official controls shall apply to or affect the use, development density, lot size, lot layout or dedications of the approved plat unless required by state or federal law or agreed to in writing by the City and the Developer. Thereafter, notwithstanding anything in this Contract to the contrary, to the full extent permitted by state law, the City may require compliance with any amendments to the City's Comprehensive Plan, official controls, platting or dedication requirements enacted after the date of this Contract.

7. DEVELOPMENT PLANS. The plat shall be developed in accordance with the following plans. The plans shall not be attached to this Contract. With the exception of Plans A, B, and D the plans may be prepared, subject to the City Engineer's approval, after entering the Contract, but before commencement of any work in the plat. The City Engineer may approve minor amendments to Plan B without City Council approval. If the plans vary from the written terms of this Contract, the written terms shall control. The plans are:

Plan A - Plat

Plan B - Final Grading, Drainage, and Erosion Control Plan, prepared by Larson Engineering, dated 9/4/18

Plan C - Plans and Specifications for Public Improvements, prepared by Larson Engineering, dated 9/4/18

Plan D - Landscape Plan, prepared by RHA Architects, dated 8/29/18

8. IMPROVEMENTS. The Developer shall install and pay for the following:

- A. Sanitary Sewer System
- B. Water System
- C. Storm Sewer System
- D. (Private) Streets
- E. Concrete Curb and Gutter
- F. Street Lights
- G. Site Grading, Stormwater Treatment/Infiltration Basins, and Erosion Control
- H. Underground Utilities
- I. Setting of Iron Monuments
- J. Surveying and Staking
- K. Retaining Walls

The improvements shall be installed in accordance with the City subdivision ordinance; City standard specifications and details for utility and street construction; the City Engineering Manual; and any other ordinances including Section 11-11-3 of the City Code concerning erosion and drainage and Section 5-5-2(C) restricting time frames for grading, construction activity, and the use of power equipment. The Developer shall submit plans and specifications which have been prepared by a competent registered professional engineer to the City for approval by the City Engineer. The Developer shall instruct its engineer to provide adequate field inspection personnel to assure an acceptable level of quality control to the extent that the Developer's engineer will be able to certify that the construction work meets the approved City standards as a condition of City acceptance. In addition, the City may, at the City's discretion and at the Developer's expense, have one or more City inspectors and a soil engineer inspect the work on a full or part-

time basis. The Developer, its contractors and subcontractors, shall follow all instructions received from the City's inspectors. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor. The Developer or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at the City with all parties concerned, including the City staff, to review the program for the construction work. Within thirty (30) days after the completion of the improvements and before the security is released, the Developer shall supply the City with a complete set of reproducible "as constructed" plans and an electronic file of the "as constructed" plans in an AutoCAD .DWG file or a .DXF file, and a PDF format, all prepared in accordance with City standards.

In accordance with Minnesota Statutes 505.021, the final placement of iron monuments for all lot corners must be completed before the applicable security is released. The Developer's surveyor shall also submit a written notice to the City certifying that the monuments have been installed following site grading, utility and street construction.

9. PERMITS. The Developer shall obtain or require its contractors and subcontractors to obtain all necessary permits, which may include:

- A. Minnesota Department of Health for Watermains
- B. MPCA NPDES Permit for Construction Activity
- C. MPCA for Sanitary Sewer and Hazardous Material Removal and Disposal
- D. DNR for Dewatering
- E. City of Elko New Market for Building Permits
- F. MCES for Sanitary Sewer Connections
- G. City of Elko New Market for Retaining Walls

10. DEWATERING. Due to the variable nature of groundwater levels and stormwater flows, it will be the Developer's and the Developer's contractors and subcontractors responsibility to satisfy themselves with regard to the elevation of groundwater in the area and the level of effort needed to perform dewatering and storm flow routing operations. All dewatering shall be in accordance with all

applicable county, state, and federal rules and regulations. DNR regulations regarding appropriations permits shall also be strictly followed.

11. TIME OF PERFORMANCE. The Developer shall install all required public improvements by November 30, 2019, with the exception of the final wear course of asphalt on streets. The Developer may, however, request an extension of time from the City. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and the extended completion date.

12. LICENSE. The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the plat to perform all work and inspections deemed appropriate by the City in conjunction with plat development.

13. EROSION CONTROL. Prior to initiating site grading, the erosion control plan, Plan B, shall be implemented by the Developer and inspected and approved by the City. The City may impose additional erosion control requirements if they would be beneficial. All areas disturbed by the grading operations shall be stabilized per the MPCA Stormwater Permit for Construction Activity. Seed shall be in accordance with the City's current seeding specification which may include temporary seed to provide ground cover as rapidly as possible. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the MPCA Stormwater Permit for Construction Activity or with the erosion control plan and schedule or supplementary instructions received from the City, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. If the Developer does not reimburse the City for any cost the City incurred for such work within ten (10) days, the City may draw down the letter of credit to pay any costs. No development, utility or street construction will be allowed and no building permits will be issued unless the plat is in full compliance with the approved erosion control plan.

14. GRADING. The plat shall be graded in accordance with the approved grading development and erosion control plan, Plan "B". The plan shall conform to City of Elko New Market specifications. Within

thirty (30) days after completion of the grading and before the City approves individual building permits (except 2 model home permits on lots pursuant as provided herein), the Developer shall provide the City with an "as constructed" grading plan certified by a registered land surveyor or engineer that all storm water treatment/infiltration basins and swales, have been constructed on public easements or land owned by the City. The "as constructed" plan shall include field verified elevations of the following: a) cross sections of storm water treatment/infiltration basins; b) location and elevations along all swales, wetlands, wetland mitigation areas if any, locations and dimensions of borrow areas/stockpiles, and installed "conservation area" posts; and c) lot corner elevations and house pads, and all other items listed in City Code. The City will withhold issuance of building permits until the approved certified grading plan is on file with the City and all erosion control measures are in place as determined by the City Engineer. The Developer certifies to the City that all lots with house footings placed on fill have been monitored and constructed to meet or exceed FHA/HUD 79G specifications. The soils observation and testing report, including referenced development phases and lot descriptions, shall be submitted to the Building Official for review prior to the issuance of building permits.

15. CLEAN UP. The Developer shall clean dirt and debris from streets that has resulted from construction work by the Developer, home builders, subcontractors, their agents or assigns. Prior to any construction in the plat, the Developer shall identify in writing a responsible party and schedule for erosion control, street cleaning, and street sweeping.

16. OWNERSHIP OF IMPROVEMENTS. Upon completion of the work and construction required by this Contract and final acceptance by the City, the improvements lying within public easements shall become City property without further notice or action, except for private roads located within City utility easements.

17. CITY ENGINEERING ADMINISTRATION, CONSTRUCTION OBSERVATION AND RECORD DRAWINGS. The Developer shall pay for city engineering and construction observation performed by the City Engineer, that shall include part or full time inspection of proposed public utilities and street construction, and City engineering administration, that will include monitoring of construction

observation, consultation with Developer and its engineer on status or problems regarding the project, coordination for final inspection and acceptance, project monitoring during the warranty period, and processing of requests for reduction in security, and for preparation of record drawings. Fees for this service shall be on hourly rates, with a total estimated fee of \$5,000..

18. STORM WATER AREA CHARGE. Dakota Acres 1st Addition is subject to a storm sewer area charge of \$7,612.10. The area charge is calculated as follows:

$$2.17 \text{ acres} \times \$3,507.88/\text{acre} = \mathbf{\$7,612.10}$$

The Developer shall pay the storm sewer area trunk fee in cash at the time of final plat approval.

19. SANITARY SEWER TRUNK FEE. Dakota Acres 1st Addition is subject to a sanitary sewer trunk fee of \$113,568.00. The charge is based on the number of units within the plat and is calculated as follows:

$$28 \text{ dwelling units} \times \$4,056.00/\text{unit} = \mathbf{\$113,568.00}$$

The Developer must pay the sanitary sewer trunk fee in cash at the time of final plat approval.

20. WATER TRUNK FEE. Dakota Acres 1st Addition is subject to a water trunk fee of \$101,220.00. The charge is based on the number of units within the plat and is calculated as follows:

$$28 \text{ units} \times \$3,615.00/\text{unit} = \mathbf{\$101,220.00}$$

The Developer shall pay the water trunk fee in cash at the time of final plat approval.

21. CONSTRUCTION ACCESS. Construction traffic access and egress for grading, public utility construction, and public street construction is restricted to access the subdivision via James Parkway. No construction traffic is permitted on the adjacent local streets.

22. PARK DEDICATION. The Developer shall pay a cash contribution of \$56,000.00 in satisfaction of the City's park dedication requirements. The charge was calculated as follows: 28 units at \$2,000.00 per unit. The Developer shall pay the park dedication fee in cash at the time of final plat approval.

23. STREET LIGHT OPERATION COSTS. The Developer shall pay to the City \$1,458.24 in payment of the first year operating costs for street lights. The fee was calculated as follows:

$$28 \text{ units} \times \$4.34 \text{ per unit} \times 12 \text{ months} = \mathbf{\$1,458.24}$$

The Developer shall pay the street light operation fee in cash at the time of final plat approval.

24. BUFFER YARD BERM/LANDSCAPE SCREEN/LANDSCAPING. City zoning and subdivision ordinances require the installation of a buffer yard berm/landscape screen for the lots that abut Dakota Avenue and landscaping throughout the development. Landscaping shall be installed in accordance with the approved landscape plan. The Developer shall post a security of \$30,000 for landscaping screen/buffer and landscape at the time of final plat approval to ensure that the landscaping is installed in accordance with the approved plan. An irrigation system for the landscaping is required.

25. SPECIAL PROVISIONS. The following special provisions shall apply to plat development:

- A. Implementation of the recommendations listed in the June 26, 2018 Planning Report.
- B. **Survey/Monumentation.** Prior to City Council approval of the final plat, the Developer shall furnish a boundary survey of the proposed property to be platted with all property corner monumentation in place and marked with lath and a flag. Any encroachments on or adjacent to the property shall be noted on the survey. Pursuant to City Code Section 12-10-2(E), the Developer shall post a \$2,800.00 security for the final placement of interior subdivision iron monuments at property corners. The security will be held by the City until the Developer's land surveyor certifies that all irons have been set following site grading and utility and street construction. In addition, the certificate of survey must also include a certification that all irons for a specific lot have either been found or set prior to the issuance of a building permit for that lot.
- C. **Townhome Association.** The development must be added to the Dakota Acres Townhome Association or a new Townhome Association must be formed, addressing maintenance, repair and reconstruction of the private drives (Oriole Street and Cardinal Street), landscaping, irrigation and private recreational areas and required recreational improvements within the Plat. If a new townhome association is formed, the association must enter into a cross-access agreement for access through the two existing private drives (Oriole Street and Cardinal Streets) with the Dakota Acres Townhome Association. The Townhome Association documents and Agreement

are subject to the review and approval of the City Attorney and must be recorded prior to releases of the plat mylars for recording.

- D. **Recreational Areas.** The development shall include private recreational areas within the plat which shall include picnic tables and a swing-set structure consistent with the approved development plans, which shall be constructed by the Developer and maintained, repaired and replaced by the Townhome Association.
- E. **Access Removal.** The Developer shall remove the current access to James Parkway at Oriole Street and restore the area with turf or landscaping. The Developer shall maximize any off-street parking spaces in the area where the current access is located. The Developer shall obtain necessary easements for access removal, rights to terminate access, and post a \$10,000 security to ensure the removal of the current access and restoration.
- F. **Sanitary Sewer and Watermains.** The Developer shall provide public utility easements over Outlot A for the public sanitary sewer and water utilities serving the townhomes to be located within the private streets.
- G. **Street Lights.** The Developer shall be responsible for the cost of street light installation consistent with a street lighting plan approved by the City and shall utilize the Domus style fixture or a visually equivalent fixture. Before the City signs the final plat, the Developer shall post a security for street light installation consistent with the approved plan. The estimated amount of this security is \$6,000 and consists of three (3) decorative lights at \$2,000 each.

26. SUMMARY OF SECURITY REQUIREMENTS. To guarantee compliance with the terms of this Contract, payment of the costs of all public improvements, and construction of all public improvements, the Developer shall furnish the City with a cash escrow, letter of credit, in the form attached hereto, from a bank ("security") for \$470,761.59. The amount of the security was calculated as follows:

CONSTRUCTION COSTS:

| | | |
|-------------------|----|-----------|
| A. Sanitary Sewer | \$ | 51,840.00 |
| B. Watermain | \$ | 82,940.00 |

| | |
|--|----------------------|
| C. Storm Sewer/Draintile | \$ 9,495.00 |
| D. Streets | \$ 103,359.00 |
| E. Site Preparation and Grading, Erosion Control/Stormwater Basins, Restoration, Grading Certification | \$ 73,519.50 |
| F. Access Removal | <u>\$ 10,000.00</u> |
| CONSTRUCTION SUB-TOTAL | \$ 331,153.50 |

OTHER COSTS:

| | |
|---|---------------------|
| A. City Legal Expenses (Est. 0.5%) | \$ 1,655.77 |
| B. City Construction Observation, Engineering Administration And Record Drawings | \$ 5,000.00 |
| C. Landscaping/Screening/Berming | \$ 30,000.00 |
| D. Street Lights & Installation | \$ 6,000.00 |
| E. Lot Corners/Iron Monuments | <u>\$ 2,800.00</u> |
| OTHER COSTS SUB-TOTAL | \$ 45,455.77 |

SUBTOTAL SECURITIES: \$ 376,609.27

TOTAL SECURITIES (Cost plus 25%) \$ 470,761.59

This breakdown is for historical reference; it is not a restriction on the use of the security. The bank shall be subject to the approval of the City Administrator. The City may draw down the security, on five (5) business days written notice to the Developer, for any violation of the terms of this Contract or without notice if the security is allowed to lapse prior to the end of the required term. If the required public improvements are not completed at least thirty (30) days prior to the expiration of the security, the City may also draw it down without notice. If the security is drawn down, the proceeds shall be used to cure the default. Upon receipt of proof satisfactory to the City that work has been completed and financial obligations to the City have been satisfied, with City approval the security may be reduced from time to time by the value of the work to be done or the financial obligations that have been satisfied taking into consideration the amount determined by the City for the costs of the remaining improvements and financial obligations, except as further provided

herein. Security shall not be reduced to less than 25% of the original security amount until all improvements have been completed, all financial obligations to the City satisfied, the required "as constructed" plans have been received by the City, a warranty security is provided, and the public improvements are accepted by the City Council. The City's standard specifications for utility and street construction outline procedures for security reductions.

27. SUMMARY OF CASH REQUIREMENTS. The following is a summary of the cash requirements under this Contract which must be furnished to the City prior to the City Council signing the final plat:

| | |
|------------------------------------|--------------------------|
| A. Park Dedication | \$ 56,000.00 |
| B. Street Light Operating Fee | 1,458.24 |
| C. Storm Water Trunk Fee | 7,612.10 |
| D. Sanitary Sewer Trunk Fee | 113,568.00 |
| E. Water Trunk Fee | <u>101,220.00</u> |
| TOTAL CASH REQUIREMENTS | \$ 279,858.34 |

28. WARRANTY. The Developer warrants all improvements required to be constructed by it pursuant to this Contract against poor material and faulty workmanship. The warranty period for underground utilities is two years and shall commence following completion and acceptance by City Council. The Developer shall post maintenance bonds in the amount of twenty-five percent (25%) of final certified construction costs to secure the warranties. The City shall retain 25% of the security posted by the Developer until the maintenance bonds are furnished to the City or until the warranty period expires, whichever first occurs. The retainage may be used to pay for warranty work. The City's standard specifications for utility and street construction identify the procedures for final acceptance of streets and utilities.

29. RESPONSIBILITY FOR COSTS.

- A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the development of the plat, including but not limited to, legal, planning,

engineering and construction observation inspection expenses incurred in connection with approval and acceptance of the plat, the preparation of this Contract, review of construction plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting development of the plat.

- B. The Developer shall hold the City and its officers, employees, and agents harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from plat approval and development. The Developer shall indemnify the City and its officers, employees, and agents for all costs, damages, or expenses which the City may pay or incur in consequence of such claims, including attorneys' fees.
- C. The Developer shall reimburse the City for costs incurred in the enforcement of this Contract, including engineering and attorneys' fees.
- D. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Contract within thirty (30) days after receipt. If the bills are not paid on time, the City may halt plat development and construction until the bills are paid in full. Bills not paid within thirty (30) days shall accrue interest at the rate of eighteen percent (18%) per year. Additionally, the Developer shall pay in full all bills submitted to it by the City prior to any reductions in the security for the development.
- E. In addition to the charges referred to herein, other charges may be imposed at the time of the building permit for each lot, such as but not limited to, sewer availability charges ("SAC"), City water connection charges, City sewer connection charges, and building permit fees.

30. DEVELOPER'S DEFAULT. In the event of default by the Developer as to any of the work to be performed by it hereunder, the City may, at its option, perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer, except in an emergency as determined by the City, is first given notice of the work in default, not less than forty-eight (48) hours in advance. This Contract is a license for the City to act, and it shall not be necessary for the City to seek a

Court order for permission to enter the land. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part.

31. MISCELLANEOUS.

- A. The Developer represents to the City that the plat complies with all city, county, metropolitan, state, and federal laws and regulations, including but not limited to: subdivision ordinances, zoning ordinances, and environmental regulations. If the City determines that the plat does not comply, the City may, at its option, refuse to allow construction or development work in the plat until the Developer does comply. Upon the City's demand, the Developer shall cease work until there is compliance.
- B. Third parties shall have no recourse against the City under this Contract.
- C. Breach of the terms of this Contract by the Developer shall be grounds for denial of building permits, including lots sold to third parties.
- D. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Contract is for any reason held invalid, such decision shall not affect the validity of the remaining portion of this Contract.
- E. Grading, curbing, and one lift of asphalt shall be installed on all public and private streets prior to issuance of any building permits, except two model homes on lots acceptable to the Building Official. Approval of an administrative permit in compliance with Section 11-5-10 of the City's zoning ordinance is required prior to the construction of any model homes.
- F. If building permits are issued prior to the acceptance of public improvements, the Developer assumes all liability and costs resulting in delays in completion of public improvements and damage to public improvements caused by the City, Developer, its contractors, subcontractors, material men, employees, agents, or third parties. No sewer and water connections or inspections may be conducted and no one may occupy a building for which a building permit is issued on either a temporary or permanent basis until the streets needed for access have been paved with a bituminous surface and the utilities are accepted by the City Engineer.

- G. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Contract. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Contract shall not be a waiver or release.
- H. This Contract shall run with the land and may be recorded against the title to the property. In the event this Contract is recorded, the City covenants to provide a recordable Certificate of Completion promptly upon the completion of the work and responsibilities required herein, payment of all costs and fees required and compliance with all terms of the Contract. The Developer covenants with the City, its successors and assigns, that the Developer is well seized in fee title of the property being final platted and/or has obtained consents to this Contract, in the form attached hereto, from all parties who have an interest in the property; that there are no unrecorded interests in the property being final platted; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants. After the Developer has completed the Improvements required of it under this Agreement and all obligations under the terms of the Development Contract have been met, including all financial obligations, at the Developer' s request the City will execute and deliver a termination of this Agreement (in recordable form) and a release of the Developer.
- I. Insurance. Prior to execution of the final plat, Developer and its general contractor shall furnish to the City a certificate of insurance showing proof of the required insurance required under this Paragraph. Developer and its general contractor shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, such insurance as shall protect Developer and its general contractor and the City for work covered by the Contract including workers' compensation claims and property damage, bodily and personal injury which may arise from operations under this Contract, whether such operations are by Developer and its general contractor or anyone directly or indirectly employed by either of them. The minimum amounts of insurance shall be as follows:

Commercial General Liability (or in combination with an umbrella policy)
\$2,000,000 Each Occurrence
\$2,000,000 Products/Completed Operations Aggregate
\$2,000,000 Annual Aggregate

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability

Automobile Liability
\$2,000,000 Combined Single Limit – Bodily Injury & Property Damage
Including Owned, Hired & Non-Owned Automobiles

Workers Compensation
Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Employer's Liability with minimum limits are as follows:

- \$500,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$500,000 – Bodily Injury by Accident

The Developer's and general contractor's insurance must be "Primary and Non-Contributory".

All insurance policies (or riders) required by this Contract shall be (i) taken out by and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State of Minnesota, (ii) shall name the City, its employees and agents as additional insureds (CGL and umbrella only) by endorsement which shall be filed with the City. A copy of the endorsement must be submitted with the certificate of insurance.

Developer's and general contractor's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the City, or ten (10) days' notice for non-payment of premium.

An Umbrella or Excess Liability insurance policy may be used to supplement Developer's or general contractor's policy limits on a follow-form basis to satisfy the full policy limits required by this Contract.

- J. Indemnification. To the fullest extent permitted by law, Developer agrees to defend, indemnify and hold harmless the City, and its employees, officials, and agents from and against all claims, actions, damages, losses and expenses, including reasonable attorney fees, arising out of Developer's negligence or its performance or failure to perform its obligations under this Contract. Developer's indemnification obligation shall apply to Developer's general contractor, subcontractor(s), or anyone directly or indirectly employed or hired by Developer, or anyone for whose acts Developer may be liable. Developer agrees this indemnity obligation shall survive the completion or termination of this Contract.
- K. Each right, power or remedy herein conferred upon the City is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to City, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.
- L. The Developer may not assign this Contract without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer sells one or more lots, the entire plat, or any part of it, until the City's issuance of a Certificate of Completion and Release.
- M. Retaining walls that require a building permit shall be constructed in accordance with plans and specifications prepared by a structural or geotechnical engineer licensed by the State of Minnesota. Following construction, a certification signed by the design engineer shall be filed with the Building Official evidencing that the retaining wall was constructed in accordance with the approved plans and specifications. All retaining walls identified on the development plans and by special conditions referred to in this Contract shall be constructed before any other building permit is issued for a lot on which a retaining wall is required to be built.

N. Should the Developer convey any lot or lots in the Development to a third party, the City and the owner of that lot or those lots may amend this Development Contract or other city approvals or agreements for development or use of those lots without the approval or consent of the Developer or other lot owners in the Development. Private agreements between the owners of lots within the Development for shared service or access and related matters necessary for the efficient use of the Development shall be the responsibility of the lot owners and shall not bind or restrict City authority to approve applications from any lot owner in the Development.

32. NOTICES. Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified mail at the following address: Syndicated Properties LLC, P.O. Box 190, Prior Lake, MN 55372. Notices to the City shall be in writing and shall be either hand delivered to the City Administrator, or mailed to the City by certified mail in care of the City Administrator at the following address: 601 Main Street, Elko New market, MN 55020.

*[The remainder of this page has been intentionally left blank.
Signature pages follow.]*

CITY OF ELKO NEW MARKET

BY: *Bob Crawford*
Bob Crawford, Mayor

AND *Sandra Green*
Sandra Green, City Clerk

(SEAL)

STATE OF MINNESOTA)
)ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this 27th day of September, 2018, by Bob Crawford and by Sandra Green, the Mayor and City Clerk of the City of Elko New Market, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

Stephanie Schultz
NOTARY PUBLIC

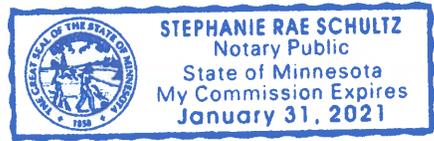


EXHIBIT "A"
TO
DEVELOPMENT CONTRACT

**Legal Description of Property Being Final Platted as
Dakota Acres 1st Addition**

Outloc C, Dakota Acres, according to the recorded plat thereof, Scott County, Minnesota, except that part lying westerly of the east line of Outlot D, said Dakota Acres and it's southerly extension.

AND

That part of Outlot B, Dakota Acres, according to the recorded plat thereof, Scott County, Minnesota, described as follows: Commencing at the most northerly corner of said Outlot B; thence South 00 degrees 24 minutes 49 seconds East, assumed bearing, along a west line of said Outlot B, a distance of 245.75 feet to a southwest corner of said Outlot B; thence north 89 degrees 35 minutes 11 seconds East, along a south line of said Outlot B, a distance of 6.02 feet to the point of beginning; thence North 00 degrees 24 minutes 46 seconds West, a distance of 31.56 feet; thence North 89 degrees 35 minutes 11 seconds East, a distance of 45.00 feet; thence South 00 degrees 24 minutes 49 seconds East, a distance of 31.56 feet to said south line of Outlot B; thence South 89 degrees 35 minutes 11 seconds West, along said south line of Outlot B, a distance of 45.00 feet to the point of beginning.

AND

The south 20.50 feet of Lot 1, Block 2, Dakota Acres, according to the recorded plat thereof, Scott County, Minnesota and that part of Outlot B, said Dakota Acres, described as follows: Beginning at the southeast corner of said Lot 1; thence South 00 degrees 23 minutes 54 seconds West, along the southerly extension of the east line of said Lot 1, a distance of 9175 feet; thence South 31 degrees 53 minutes 32 seconds West, a distance of 892 feet to a southwest corner of said Outlot B; thence North 89 degrees 36 minutes 06 seconds West, along a south line of said Outlot B, a distance of 40.34 feet; thence North 00 degrees 23 minutes 54 seconds West, a distance of 17.36 feet to the southwest corner of said Lot 1; thence South 89 degrees 36 minutes 06 seconds East, along the south line of said Lot 1, a distance of 45.00 feet to the point of beginning.

[BANK LETTERHEAD]

IRREVOCABLE LETTER OF CREDIT

No. _____
Date: _____

TO: City of Elko New Market
601 Main Street
Elko New Market, Minnesota 55020

Dear Sir or Madam:

We hereby issue, for the account of _____ (Name of Developer) and in your favor, our Irrevocable Letter of Credit in the amount of \$ _____, available to you by your draft drawn on sight on the undersigned bank.

The draft must:

- a) Bear the clause, "Drawn under Letter of Credit No. _____, dated _____, 2_____, of (Name of Bank) _____";
- b) Be signed by the City Administrator of the City of Elko New Market.
- c) Be presented for payment at _____ (Address of Bank) _____, on or before 4:00 p.m. on November 30, 2_____.

This Letter of Credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be November 30 of each year), the Bank delivers written notice to the Elko New Market City Administrator that it intends to modify the terms of, or cancel, this Letter of Credit. Written notice is effective if sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed as follows: Elko New Market City Administrator, Elko New Market City Hall, 601 Main Street, Elko New Market, MN 55020, and is actually received by the Finance Director at least thirty (30) days prior to the renewal date.

This Letter of Credit sets forth in full our understanding which shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement, whether or not referred to herein.

This Letter of Credit is not assignable. This is not a Notation Letter of Credit. More than one draw may be made under this Letter of Credit.

This Letter of Credit shall be governed by the most recent revision of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600.

We hereby agree that a draft drawn under and in compliance with this Letter of Credit shall be duly honored upon presentation.

[NAME OF BANK]

BY: _____

Its _____



BOLTON & MENK, INC.

Consulting Engineers & Surveyors

12224 Nicollet Avenue · Burnsville, MN 55337-1649

Phone (952) 890-0509 · FAX (952) 890-8065

www.bolton-menk.com

MEMORANDUM

Date: October 10, 2019
To: Honorable Mayor and City Council of Elko New Market, Minnesota
Thomas Terry, City Administrator
From: Rich Revering PE, City Engineer
Subject: Woodcrest 2019 Sewer Improvement Agreements
T15.102632

BACKGROUND

The City Council is being asked to improve Special Assessment Agreements related to the Woodcrest Sewer 2019 Extension Project.

DISCUSSION

The attached agreements are for each of the three parcels that would be connected under the Contract approved by the Council on September 26, 2019. A fourth request has been received. We will be discussing with the Contractor whether he's willing to add the fourth location at the contract unit prices. This approval is for three parcels.

Two of the parcels will be assessed \$33,000 as they would be eligible for credit of the Connection Fee since forcemain is only now being made available. (one agreement was signed in the amount of \$32k prior to bids. The owner has verbally agreed to the \$33k amount. We're awaiting return of the updated agreement but intend to assess \$33k.)

The other parcel will need to pay the Connection Fee per approved policy as they waived the opportunity to earn credit for it by voluntarily paying the forcemain charge when it was offered in 2016. Addition of the Connection Fee and rounding results in the \$35k assessment proposed to this parcel.

RECOMMENDATIONS

We recommend approval of the attached agreements and initiating assessments in the amounts above upon completion of the work.

h:\elnm\t15102632\1_corres\b_to others\approve assessment agreements for 2019 extensions.doc

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

RESOLUTION NO. 19-77

**RESOLUTION APPROVING AND ADOPTING A PUBLIC IMPROVEMENT AND
SPECIAL ASSESSMENT AGREEMENT
AND ASSESSMENTS**

WHEREAS, Thomas P. and Maree C. Campbell, husband and wife, (“Owners”) have requested that the Elko New Market City Council specially assess certain public improvement costs that affect Owners’ property legally described in Exhibit A attached hereto (“Subject Property”);

WHEREAS, the City has received the following signed Public Improvement and Special Assessment Agreement (Exhibit B) waiving all applicable assessment procedural requirements and requesting to be assessed for the public improvement costs in the amount itemized therein for the Subject Property;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELKO
NEW MARKET, MINNESOTA:**

1. The signed Public Improvement and Special Assessment Agreement is hereby accepted and approved.

2. The public improvement costs amounting to \$33,000.00 are hereby adopted and shall constitute a special assessment against the Subject Property and hereby made part of this Resolution by reference and that the tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.

3. Such assessment shall be payable in equal annual installments extending over a period of ten (10) years, the first of the installments to be payable in 2020 and shall bear the interest rate of 2.3% per annum from the date of adoption of this assessment Resolution. To the first installment shall be added interest on the entire assessment from the date of this Resolution until December 31, 2019.

4. The Owners, at any time prior to certification of the assessment to the County Auditor, may pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City, except that no interest shall be charged if the entire assessment is paid within thirty (30) days from the adoption of this Resolution; and such owner may at any time thereafter, pay the City the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be

made before November 15 or interest will be charged through December 31 of the next succeeding year. The Owners may also at any time prior to November 15, of any year, pay the remaining unpaid principal balance with interest accrued to December 31 of the year in which such prepayment is made.

5. The City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County.

PASSED AND DULY ADOPTED by the Elko New Market City Council this 10th day of October, 2019.

Joe Julius, Mayor

ATTEST:

Thomas Terry, City Administrator/Clerk

**EXHIBIT A
TO
RESOLUTION**

That part of the Northwest Quarter of the Southwest Quarter of Section 26, Township 113, Range 21, Scott County, Minnesota, described as follows: Beginning at the Southeast corner of the plat of Ptarmigan Heights, Scott County, Minnesota; thence West along the South line of said plat a distance of 210.00 feet to the Southwest corner of Lot 4, Block 1, of said plat; thence Southerly along the Southerly extension of the Westerly line of said Lot 4, a distance of 100.00 feet; thence Easterly parallel with the South line of said plat a distance of 213.00 feet, thence Northerly a distance of 100.00 feet, more or less, to the point of beginning, Scott County, Minnesota.

(Abstract Property)

[PID 239260021]

**EXHIBIT B
TO
RESOLUTION**

**PUBLIC IMPROVEMENT
AND
SPECIAL ASSESSMENT AGREEMENT**

AGREEMENT made this ___ day of _____, 2019, by and between the **CITY OF ELKO NEW MARKET**, a Minnesota municipal corporation (“City”) and **THOMAS P. CAMPBELL** and **MAREE C. CAMPBELL**, husband and wife (“Owners”).

RECITALS

A. Owners are the owner of property having a street address of 26520 Woodcrest Lane, Elko New Market, Scott County Minnesota, legally described on Exhibit “A” attached hereto and incorporated herein, (the “Subject Property”).

B. The Owners desire to connect the Subject Property to the City’s public sanitary sewer system which includes the construction of a grinder pump and forcemain system (“Public Improvement”);

C. In order to connect to City’s sanitary sewer system, Owners have requested that the City assess the cost of the Public Improvement and the MCES Sewer Availability Charge (collectively the “Fees”) against the Subject Property.

NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:

1. PUBLIC IMPROVEMENTS. The City shall construct the Public Improvements.

2. SPECIAL ASSESSMENT. The City will assess the cost of the Public Improvement and the Fees in the amount of Thirty-Three Thousand 0/100ths Dollars (\$33,000.00) against the Subject Property. The special assessment shall be deemed adopted on the date this Agreement has been signed by all parties. The assessment shall be spread without deferment over a ten (10) year period in equal annual installments, together with interest of two and three tenths percent (2.3%) per year on the unpaid balance. The first installment shall be payable with taxes paid in 2020.

3. WAIVER. Owners, their successors and assigns, waive any and all procedural and substantive objections to the Public Improvements and special assessment, including but not limited to hearing requirements and any claim that the assessment exceeds the benefit to the Subject Property. Owners waive any appeal rights otherwise available pursuant to Minn. Stat. § 429.081.

EXHIBIT "A"
Legal Description

That part of the Northwest Quarter of the Southwest Quarter of Section 26, Township 113, Range 21, Scott County, Minnesota, described as follows: Beginning at the Southeast corner of the plat of Ptarmigan Heights, Scott County, Minnesota; thence West along the South line of said plat a distance of 210.00 feet to the Southwest corner of Lot 4, Block 1, of said plat; thence Southerly along the Southerly extension of the Westerly line of said Lot 4, a distance of 100.00 feet; thence Easterly parallel with the South line of said plat a distance of 213.00 feet, thence Northerly a distance of 100.00 feet, more or less, to the point of beginning, Scott County, Minnesota.

(Abstract Property)

[PID 239260021]

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

RESOLUTION NO. 19-78

**RESOLUTION APPROVING AND ADOPTING A PUBLIC IMPROVEMENT AND
SPECIAL ASSESSMENT AGREEMENT
AND ASSESSMENTS**

WHEREAS, Donovan M. and Karin A. Moore, husband and wife, (“Owners”) have requested that the Elko New Market City Council specially assess certain public improvement costs that affect Owners’ property legally described in Exhibit A attached hereto (“Subject Property”);

WHEREAS, the City has received the following signed Public Improvement and Special Assessment Agreement (Exhibit B) waiving all applicable assessment procedural requirements and requesting to be assessed for the public improvement costs in the amount itemized therein for the Subject Property;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELKO
NEW MARKET, MINNESOTA:**

1. The signed Public Improvement and Special Assessment Agreement is hereby accepted and approved.

2. The public improvement costs amounting to \$33,000.00 are hereby adopted and shall constitute a special assessment against the Subject Property and hereby made part of this Resolution by reference and that the tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.

3. Such assessment shall be payable in equal annual installments extending over a period of ten (10) years, the first of the installments to be payable in 2020 and shall bear the interest rate of 2.3% per annum from the date of adoption of this assessment Resolution. To the first installment shall be added interest on the entire assessment from the date of this Resolution until December 31, 2019.

4. The Owners, at any time prior to certification of the assessment to the County Auditor, may pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City, except that no interest shall be charged if the entire assessment is paid within thirty (30) days from the adoption of this Resolution; and such owner may at any time thereafter, pay the City the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be

made before November 15 or interest will be charged through December 31 of the next succeeding year. The Owners may also at any time prior to November 15, of any year, pay the remaining unpaid principal balance with interest accrued to December 31 of the year in which such prepayment is made.

5. The City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County.

PASSED AND DULY ADOPTED by the Elko New Market City Council this 10th day of October, 2019.

Joe Julius, Mayor

ATTEST:

Thomas Terry, City Administrator/Clerk

**EXHIBIT A
TO
RESOLUTION**

Lot 1, Block 3, Woodcrest, Scott County, Minnesota, according to the recorded plat thereof.

[230310410]

**EXHIBIT B
TO
RESOLUTION**

**PUBLIC IMPROVEMENT
AND
SPECIAL ASSESSMENT AGREEMENT**

AGREEMENT made this 4th day of October, 2019, by and between the **CITY OF ELKO NEW MARKET**, a Minnesota municipal corporation ("City") and **DONAVAN M. MOORE** and **KARIN A. MOORE**, husband and wife ("Owners").

RECITALS

A. Owners are the owner of property having a street address of 26616 Woodcrest Circle, Elko New Market, Scott County Minnesota, legally described as follows:

Lot 1, Block 3, Woodcrest, Scott County, Minnesota, according to the recorded plat thereof.

(the "Subject Property").

B. The Owners desire to connect the Subject Property to the City's public sanitary sewer system which includes the construction of a grinder pump and forcemain system ("Public Improvement");

C. In order to connect to City's sanitary sewer system, Owners have requested that the City assess the cost of the Public Improvement and the MCES Sewer Availability Charge (collectively the "Fees") against the Subject Property.

NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:

1. PUBLIC IMPROVEMENTS. The City shall construct the Public Improvements.

2. SPECIAL ASSESSMENT. The City will assess the cost of the Public Improvement and the Fees in the amount of Thirty-Three Thousand 0/100ths Dollars (\$33,000.00) against the Subject Property. The special assessment shall be deemed adopted on the date this Agreement has been signed by all parties. The assessment shall be spread without deferment over a ten (10) year period in equal annual installments, together with interest of two and three tenths percent (2.3%) per year on the unpaid balance. The first installment shall be payable with taxes paid in 2020.

3. WAIVER. Owners, their successors and assigns, waive any and all procedural and substantive objections to the Public Improvements and special assessment, including but not limited

to hearing requirements and any claim that the assessment exceeds the benefit to the Subject Property. Owners waive any appeal rights otherwise available pursuant to Minn. Stat. § 429.081.

4. RELEASE. Owners, their successors and assigns, hereby unconditionally release and forever discharge the City, its elected officials, employees, agents and insurers from any and all claims and causes of action of whatever kind or nature that is in any way connected with or related to the Public Improvements and the City’s sewer systems, including mapping errors.

5. BINDING EFFECT; RECORDING. This Agreement shall be binding upon Owners and Owners’ successors and assigns. This Agreement shall run with the land and may be recorded against the title to the Subject Property.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

AND: _____
Thomas Terry, Acting City Clerk

STATE OF MINNESOTA)
)ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by **Joe Julius** and by **Thomas Terry**, respectively the Mayor and Acting City Clerk of the City of Elko New Market, a Minnesota municipal corporation, on behalf of the corporation pursuant to the authority granted by its City Council.

Notary Public

OWNERS:



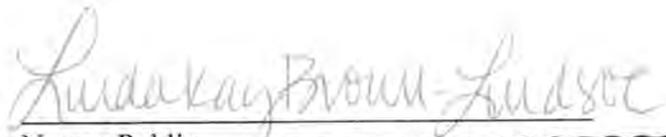
Donavan M. Moore



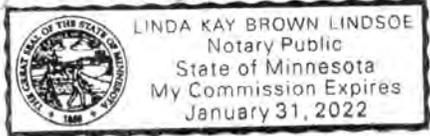
Karin A. Moore

STATE OF MINNESOTA)
)ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this 4 day of October, 2019, by **Donavan M. Moore** and **Karin A. Moore**, husband and wife.



Notary Public



**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

RESOLUTION NO. 19-79

**RESOLUTION APPROVING AND ADOPTING A PUBLIC IMPROVEMENT AND
SPECIAL ASSESSMENT AGREEMENT
AND ASSESSMENTS**

WHEREAS, Michael T. and Amy J. Wald, husband and wife, (“Owners”) have requested that the Elko New Market City Council specially assess certain public improvement costs that affect Owners’ property legally described in Exhibit A attached hereto (“Subject Property”);

WHEREAS, the City has received the following signed Public Improvement and Special Assessment Agreement (Exhibit B) waiving all applicable assessment procedural requirements and requesting to be assessed for the public improvement costs in the amount itemized therein for the Subject Property;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELKO
NEW MARKET, MINNESOTA:**

1. The signed Public Improvement and Special Assessment Agreement is hereby accepted and approved.

2. The public improvement costs amounting to \$35,000.00 are hereby adopted and shall constitute a special assessment against the Subject Property and hereby made part of this Resolution by reference and that the tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.

3. Such assessment shall be payable in equal annual installments extending over a period of ten (10) years, the first of the installments to be payable in 2020 and shall bear the interest rate of 2.3% per annum from the date of adoption of this assessment Resolution. To the first installment shall be added interest on the entire assessment from the date of this Resolution until December 31, 2019.

4. The Owners, at any time prior to certification of the assessment to the County Auditor, may pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City, except that no interest shall be charged if the entire assessment is paid within thirty (30) days from the adoption of this Resolution; and such owner may at any time thereafter, pay the City the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be

made before November 15 or interest will be charged through December 31 of the next succeeding year. The Owners may also at any time prior to November 15, of any year, pay the remaining unpaid principal balance with interest accrued to December 31 of the year in which such prepayment is made.

5. The City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County.

PASSED AND DULY ADOPTED by the Elko New Market City Council this 10th day of October, 2019.

Joe Julius, Mayor

ATTEST:

Thomas Terry, City Administrator/Clerk

**EXHIBIT A
TO
RESOLUTION**

Lot 1, Block 2, Woodcrest, Scott County, Minnesota, according to the recorded plat thereof.

[230310030]

**EXHIBIT B
TO
RESOLUTION**

**PUBLIC IMPROVEMENT
AND
SPECIAL ASSESSMENT AGREEMENT**

AGREEMENT made this 26 day of September, 2019, by and between the CITY OF ELKO NEW MARKET, a Minnesota municipal corporation ("City") and MICHAEL T. WALD and AMY J. WALD, husband and wife ("Owners").

RECITALS

A. Owners are the owner of property having a street address of 26633 Woodcrest Circle, Elko New Market, Scott County Minnesota, legally described as:

Lot 1, Block 2, Woodcrest, Scott County, Minnesota according to the recorded plat thereof.

(the "Subject Property").

B. The Owners desire to connect the Subject Property to the City's public sanitary sewer system which includes the construction of a grinder pump and forcemain system ("Public Improvement");

C. In order to connect to City's sanitary sewer system, Owners have requested that the City assess the cost of the Public Improvement, the MCES Sewer Availability Charge and the Sanitary Sewer Connection Fee (collectively the "Fees") against the Subject Property.

NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:

1. PUBLIC IMPROVEMENTS. The City shall construct the Public Improvements.

2. SPECIAL ASSESSMENT. The City will assess the cost of the Public Improvement and the Fees in the amount of Thirty-Five Thousand 0/100ths Dollars (\$35,000.00) against the Subject Property. The special assessment shall be deemed adopted on the date this Agreement has been signed by all parties. The assessment shall be spread without deferment over a ten (10) year period in equal annual installments, together with interest of two and three tenths percent (2.3%) per year on the unpaid balance. The first installment shall be payable with taxes paid in 2020.

OWNERS:

Michael T. Wald

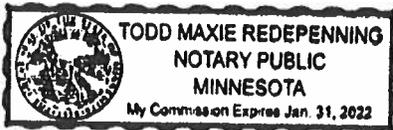
Michael T. Wald

Amy J. Wald

Amy J. Wald

STATE OF MINNESOTA)
)ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this 26 day of September, 2019, by **Michael T. Wald** and **Amy J. Wald**, husband and wife.



Todd Maxie Redepenny
Notary Public



STAFF MEMORANDUM

| | |
|--------------------------|--|
| SUBJECT: | Snowmobiles and Special Use Vehicles |
| MEETING DATE: | October 10, 2019 |
| PREPARED BY: | Haley Sevening, Planner I |
| REQUESTED ACTION: | Hold Public Hearing and Adopt Ordinance #201, #202, and #203 Concerning Snowmobiles and Special Use Vehicles |

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND:

Under Minnesota State Statute, special vehicles such as golf carts, all-terrain vehicles (ATVs), and utility task vehicles (UTVs) are NOT allowed to operate on city streets unless local jurisdictions adopt an ordinance permitting the use of these special vehicles.

Currently, the Elko New Market Snowmobile and ATV Ordinance (City Code section 7-3) only allows snowmobiles and ATVs to be driven on city streets for the purpose of going to or returning from an area of permissible operation outside the City limits. It does not allow the use of these special vehicles for general transportation purposes.

Additional regulations under the City's current ordinance are as follows:

- Prohibits operation: on sidewalks, in parks, when driving at an unreasonable speed for conditions, in a careless manner, in a noisy manner that creates a public nuisance, on private property without permission, without lights when required, under the influence of intoxicants, and within 100 feet of pedestrians or others when it would cause a dangerous situation.
- Sets a minimum age limit for operation at age 14 with possession of a safety certificate or 14-18 years old with a Safety Certificate or Driver's license with a snowmobile endorsement.
- Mandates the vehicle pull over for police when signaled, follow all other state laws and regulations, and makes a violation of the City ordinance a Misdemeanor crime.

It should be noted that the current ordinance does not include golf carts or UTVs. These types of special vehicles are not permitted under the current ordinance and thus may not be operated on city streets.

As previously mentioned, cities may adopt local ordinances permitting the operation of special vehicles. This is a local decision, so if a city does not specifically permit the use of these vehicles by adoption of a local ordinance, they may not operate on city streets. State law includes some vehicle-specific requirements that must be in each city ordinance, should a city choose to adopt local controls. Specifically, the local ordinance must, among others:

- Require all golf carts to display a slow-moving vehicle emblem.
- Limit the operation of golf carts, UTVs, and ATVs on designated roadways to between sunrise and sunset, unless equipped with original equipment headlights, taillights, and rear-facing brake lights.
- Require special vehicles to have rear-view mirrors.
- Require evidence of insurance complying with state law.
- Regulate only what the state law allows a city to regulate.
- Provide the same procedural protections as the state law when prosecuting offenses covered by an ordinance.

DISCUSSION:

On August 8, 2019, the Council began discussions regarding the regulation of snowmobiles, ATVs, UTVs, and golf carts. Specifically, the Council directed Staff to draft an ordinance amendment that would allow the use of special vehicles for general transportation purposes. A draft ordinance to be considered by the Council is attached. Amendments to be considered in the ordinance include:

- The inclusion of other types of special vehicles (i.e. UTVs and golf carts)
- Requiring a permit for special vehicle use within the City limits
- Allowing the use of special vehicles on the trails along County Road 2 and 91
- Age restrictions, which would require a valid learner's permit or driver's license to drive special vehicles on streets within the City limits, unless operating for purposes of going to or returning from places of permissible operation outside the City limits

On September 12, 2019, the Council reviewed a draft of the proposed ordinance amendments and directed Staff to make changes related to hours of operation and requirements for persons accompanying operators age 12-15. Staff advised the Council that these changes would be incorporated into the next draft and that a public hearing would be prepared for the October 10, 2019 Council meeting.

At this time, Staff is asking the Council to hold a public hearing regarding the proposed Snowmobiles and Special Use Vehicles ordinance amendments. Following the public hearing, the Council may decide to adopt ordinances #201, #202 and #203. If adopted, the ordinances will go into effect on November 1, 2019. Permit decals have been ordered in preparation of the new ordinance, but will take approximately 2-3 weeks to be received.

BUDGET IMPACT:

The budget impact for this item to date is the cost of City staff time and City Attorney review time and cost of permit decals (\$230 for 100). Future budget implications will include the cost to revise the City Code and staff time required to process the Special Use Vehicle Permit applications. The proposed \$30 permit fee will cover costs associated with purchase of permit decals and Staff time associated with processing the permit application.

Attachments:

- Draft Ordinance No. 201 Regarding Snowmobiles and Special Use Vehicles
- Draft Summary Ordinance No. 202
- Draft Ordinance No. 203 Amending the 2019 Fee Schedule

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

ORDINANCE NO. 201

**AN ORDINANCE AMENDING TITLE 7, CHAPTER 3
OF THE ELKO NEW MARKET CITY CODE
CONCERNING SNOWMOBILES AND SPECIAL USE VEHICLES**

THE CITY COUNCIL OF THE CITY OF ELKO NEW MARKET, MINNESOTA
ORDAINS:

SECTION 1. Title 7, Chapter 3 of the Elko New Market City Code is hereby amended in its entirety to read as follows:

Chapter 3
SNOWMOBILES AND SPECIAL USE VEHICLES

7-3-1: PURPOSE:

7-3-2: APPLICATION AND SCOPE:

7-3-3: DEFINITIONS:

7-3-4: SNOWMOBILES

7-3-5: SPECIAL USE VEHICLES

7-3-6: EMERGENCIES:

7-3-7: OBEDIENCE TO POLICE:

7-3-8: LOCKED VEHICLES REQUIRED:

7-3-9: COMPLIANCE WITH OTHER LAWS; STATE REGULATIONS ADOPTED:

7-3-10: NO ASSUMPTION OF LIABILITY:

7-3-11: MISDEMEANOR VIOLATION:

7-3-1: PURPOSE:

The purpose of this chapter is to provide reasonable regulations for the use of snowmobiles and special use vehicles on public and private property in the city. This chapter is intended to protect life and property and to prevent public nuisances.

7-3-2: APPLICATION AND SCOPE:

A. Conflicts With State Law: If any provision in this chapter contradicts the regulations pertaining to snowmobiles, ATVs, UTVs or golf carts set forth in Minnesota Statutes chapter 168 (motor vehicle registration), chapter 169 (traffic regulations), chapter 169A (driving while impaired), chapter 171 (driver license regulations) or chapter 84 (snowmobile and all-terrain vehicle registrations), the state regulations shall control.

B. Scope: This chapter shall apply to the control of traffic and the regulation of that certain class of vehicles falling within the definition of snowmobiles, ATVs, UTVs or golf carts as to matters set forth herein. All provisions of other ordinances not relating to matters herein stated apply as equally to snowmobiles, ATVs, UTVs or golf carts as to other vehicles. Nothing contained in this chapter shall be construed to change state law, and said laws shall remain in full force and effect.

7-3-3: DEFINITIONS:

For the purpose of this chapter, the terms defined in this section shall have the meanings stated:

ALL-TERRAIN VEHICLE OR ATV: A motorized vehicle with: not less than three, but not more than six low pressure or non-pneumatic tires; a total dry weight of 2,000 pounds or less; and a total width from outside of tire rim to outside of tire rim that is 65 inches or less. All-terrain vehicle includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle. All-terrain vehicle does not include a golf cart, mini-truck, dune buggy, or go-cart or a vehicle designed and used specifically for lawn maintenance, agriculture, logging, or mining purposes.

COMMISSIONER: The state commissioner of natural resources acting directly or through the commissioner's authorized agent.

GOLF CART: An electric or gas-powered vehicle not completely enclosed, generally having a small wheel base.

MINI-TRUCK: A motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements.

NATURAL TERRAIN: Areas other than roadways or driveways (private or public), parking lots and other areas of which the surface has been intentionally modified for motor vehicle operation thereon.

OPERATE: To ride in or on and control the operation of a snowmobile or special use vehicle.

OPERATOR: Every person who operates or is in actual physical control of a snowmobile or special use vehicle.

OWNER: A person, other than a lienholder, having the property in or title to a snowmobile or special use vehicle and entitled to the use or possession thereof.

PERSON: Includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.

ROADWAY: That portion of a highway improved, designed, or ordinarily used for vehicular travel.

SHARED USE PATH: A multi-use trail or other path, physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way, and typically used by pedestrians, bicyclists, skaters, and other nonmotorized users.

SIDEWALK: The portion of a street between the curb line, or the lateral line of a roadway, and the adjacent property line that is paved and intended for use by pedestrians.

SNOWMOBILE: A self-propelled vehicle designed for travel on snow or ice and steered by skis or runners.

SPECIAL USE VEHICLE: An ATV, UTV or golf cart as defined under this title.

STREET OR HIGHWAY: The entire width between boundary lines or any way or place when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic.

UTILITY TASK VEHICLE OR UTV: A side-by-side, four-wheel drive, off-road vehicle that has four wheels, is propelled by an internal combustion engine with a piston displacement capacity of 1,200 cubic centimeters or less, and has a total dry weight of 1,800 but less than 2,600 pounds.

7-3-4: SNOWMOBILES:

A. Operation Regulations:

1. Prohibited Hours; Exceptions: No person shall operate a snowmobile upon any public property, street, alley, lot, lake or stream within the city between the hours of one o'clock (1:00) A.M. and six o'clock (6:00) A.M.; provided, however, that if the snowmobile is being driven for the purpose of going in the most direct, practicable route possible from a point outside the city limits to the residence of the operator within the city limits, or from the residence of the operator inside the city limits in the most direct, practicable route to a specific destination outside the city limits, then, and for that purpose only, operation of a snowmobile between the aforesaid hours shall be lawful.

2. Operation On Banks Of Highways: Snowmobiles may be operated upon the ditch bottom or outside bank of trunk, county state aid and county highways where such highways are configured within the corporate limits.

3. Driving On Roadways: It is unlawful to operate a snowmobile on the portion of any right of way of any public highway, street, road or alley used for motor vehicle travel except as otherwise provided in this Section. It is lawful to operate a snowmobile upon the most right hand lane of a municipal street or alley and may, in passing or making a left hand turn, operate on other lanes which are used for vehicle traffic in the same direction, only when going to or from a designated trail or non-highway area of permissible operation outside the city limits to the operators place of residence or establishment within the city limits.

4. Direct Crossing:

a. A snowmobile may make a direct crossing of a street or highway, except an interstate highway or freeway, provided:

1. The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;
2. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way;
3. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
4. In crossing a divided street or highway, the crossing is made only at an intersection of the street or highway with another public street or highway.

b. If the crossing is made between the hours of one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise or in conditions of reduced visibility, the crossing may be made only if both front and rear lights are on.

5. Compliance With State Law: No snowmobile shall be operated within the city in violation of the requirements under Minnesota Statutes section 84.87, subdivision 1.

B. Prohibited Operation:

1. On Sidewalks or Shared Use Path: No snowmobile shall be operated at any time whatsoever upon any sidewalk or shared use path within the corporate limits of the city.

2. In Parks: It shall be unlawful to operate a snowmobile in any city park unless authorized by the City as part of an event.
3. Occupants: The number of occupants on the snowmobile shall not exceed the design occupancy load. Each occupant must be seated in a seat designed for occupants.
4. Hurting Or Chasing Animals: It is unlawful to intentionally drive, chase, run over or kill any animal with a snowmobile.
5. Established Public Places: In addition to the regulations provided in this subsection, it is unlawful to operate a snowmobile on any public place where prohibited by order of the city council. The city council shall have the power, by resolution, to prohibit the operation whenever, in its discretion, the same would be likely to produce damage to property or endanger the safety or repose of other persons. The areas shall be appropriately signposted following the enactment of the city resolution, and the prohibition shall become effective upon the posting.

C. Unsafe Operation: It shall be unlawful for any person to drive or operate any snowmobile in the following unsafe or harassing ways:

1. Speed: At a rate of speed greater than the posted limit or reasonable or proper under all surrounding circumstances.
2. Carelessness, Negligence: In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
3. Noisy Conditions: In such a manner so as to create loud, unnecessary and excessive noise or in any way which shall unduly disturb the peace and quiet of other persons in the city or in any manner which creates a public nuisance thereby.
4. Lights: Without a lighted headlight and taillight when required for safety.
5. Tree Nurseries: In any tree nursery or planting in a manner which damages or destroys growing stock.
6. Private Property: On private property of another without specific permission of the owner or person in control of said property.
7. Under Influence Of Intoxicants: At any place while under the influence of "alcohol" or a "controlled substance", as those terms are defined in Minnesota Statutes. Minnesota Statutes section 169A.20, "driving while impaired", is incorporated herein by reference.

D. Equipment Requirements: It is unlawful for any person to operate a snowmobile to any place within the city unless it is equipped with the following:

1. Mufflers: Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation (no person shall use a muffler cutout, bypass, straight pipe or similar device on a snowmobile motor);
2. Brakes: Brakes adequate to control movement of and to stop and hold the snowmobile under any condition of operation;
3. Safety Throttle: A safety or so called "dead man" throttle in operating condition;
4. Lights: When operated between the hours of one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise or at a time of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet (100') ahead during the hours of darkness and under normal atmospheric conditions; and the headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red taillamp having a minimum power of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred feet (500') to the rear during the hours of darkness under normal atmospheric conditions; and
5. Reflective Material: Reflective material at least sixteen (16) square inches on each side, forward of the handlebars or steering device of a snowmobile and at the highest practicable point of any towed object, as to reflect light at a ninety degree (90°) angle.

E. Age of Operator:

1. It is unlawful for any person under the age of fourteen (14) years to operate a snowmobile on streets and city parks or other public land or on the roadway surface of highways or to make the crossing of a trunk, county state aid or county highway as the operator of a snowmobile.
2. All other persons operating a snowmobile within the City must have in their possession a safety certificate issued by the commissioner of natural resources, a driver's license that has a valid snowmobile qualification indicator, or an identification card that has a valid snowmobile qualification in accordance with and to the extent required under Minnesota Statutes section 84.862.
3. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this section.

7-3-5: SPECIAL USE VEHICLES:

A. Permit Required: It is unlawful for any person to operate a special use vehicle on public streets in the city without first obtaining a permit as provided herein. Persons who obtain a permit as required below are authorized to operate a special use vehicle on designated public roadways and trails or portions thereof under the jurisdiction of the city. Operators must have proof of insurance in possession while operating a special use vehicle on designated streets and trails and shall produce such proof of insurance on demand of a police officer as specified in Minnesota Statutes section 169.791.

1. Term of Permit: Except as otherwise provided herein, all permits issued shall be issued for a specified three (3) year term and must be renewed following their expiration. All permits issued during 2019, shall be issued for the remainder of 2019 and the three (3) year term beginning on January 1, 2020.

2. Permit Fee: All applications for a permit under this chapter shall be accompanied by the fee set forth in the city fee schedule, as it may be amended from time to time. The permit fee shall not be prorated.

a. Replacement Permit: If the issued permit is lost or damaged, a new application for a permit shall be required and shall be accompanied by the fee set forth in the city fee schedule, as it may be amended from time to time.

3. Exemption: Authorized city staff may operate city owned special use vehicles without obtaining a permit within the city on city streets, sidewalks, share use paths, rights-of-way, and other public property when conducting city business.

B. Application for Permit: Application for a permit shall be made at least two (2) regular business days before the applicant desires to begin operating special use vehicles unless otherwise approved by the city clerk or their designee. Application for a permit shall be made on a form available from the office of the city clerk. All applications shall be signed by the applicant and include the following information:

1. The name, address and contact information of the applicant.

2. The make, model name, year and serial number of the special use vehicle.

3. Proof of insurance complying with Minnesota Statutes section 65B.48.

4. All additional information deemed necessary by the city.

C. Permit Display: All permits shall be issued for a specific special use vehicle. A current city-issued permit tag/sticker shall be plainly visible from the front or driver's side of the special use vehicle.

D. Suspension or Revocation of Permit: The Police Chief may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any of the provisions of this section or Minnesota statute chapter 169, as it may be amended from time to time, or if there is evidence that the permit holder cannot safely operate the special use vehicle on the designated roadways. Appeal: The permit holder may appeal a permit suspension, revocation or nonrenewal to the city council. The permit holder must file with the city clerk a notice of appeal within ten (10) days of a suspension, revocation or nonrenewal. The council shall consider the appeal at a regularly or specially scheduled council meeting on or after fifteen (15) days from service of the notice of appeal upon the city clerk by the permit holder. Hearing on the appeal shall be open to the public. At the conclusion of the hearing, or as soon as thereafter as practicable, the council may order:

1. The revocation, suspension or non-renewal of the permit.
2. The revocation, suspension or non-renewal by the Police Chief be lifted and the permit be returned to or re-issued to the permit holder.

E. Operation Regulations:

1. Prohibited Hours; Exceptions: No person shall operate a special use vehicle upon any public property, street, alley, lot, lake or stream within the city between the hours of one o'clock (1:00) A.M. and six o'clock (6:00) A.M.; provided, however, that if the special use vehicle is being driven for the purpose of going in the most direct, practicable route possible from a point outside the city limits to the residence of the operator within the city limits, or from the residence of the operator inside the city limits in the most direct, practicable route to a specific destination outside the city limits, then, and for that purpose only, operation of a special use vehicle between the aforesaid hours shall be lawful.
2. Operation On Banks Of Highways: Special use vehicles may be operated upon the ditch bottom or outside bank of trunk, county state aid and county highways where such highways are configured within the corporate limits.
3. Driving On Roadways: It is lawful to drive a special use vehicle upon the most right hand portion of any public highway, street, road or alley used for motor vehicle travel.
4. Compliance With State Law: No special use vehicle shall be operated within the city in violation of the requirements under Minnesota Statutes sections 84.92 Through 84.928.

F. Prohibited Operation:

1. On Sidewalks: No special use vehicle shall be operated at any time whatsoever upon any sidewalk within the corporate limits of the city.

2. On Shared Use Paths: No special use vehicle shall be operated at any time whatsoever upon any shared use path within the corporate limits of the city; except, along County Road 2 or County Road 91. All special use vehicles must yield to pedestrians when operating on a shared use path.
 3. In Parks: It shall be unlawful to operate a special use vehicle in any city park unless authorized by the city as part of an event.
 4. Occupants: The number of occupants on the special use vehicle shall not exceed the design occupancy load. Each occupant must be seated in a seat designed for occupants.
 5. Hurting Or Chasing Animals: It is unlawful to intentionally drive, chase, run over or kill any animal with a special use vehicle.
 6. Established Public Places: In addition to the regulations provided in this subsection, it is unlawful to operate a special use vehicle on any public place where prohibited by order of the city council. The city council shall have the power, by resolution, to prohibit the operation whenever, in its discretion, the same would be likely to produce damage to property or endanger the safety or repose of other persons. The areas shall be appropriately signposted following the enactment of the city resolution, and the prohibition shall become effective upon the posting.
 7. Mini-Trucks: It shall be unlawful to operate a mini-truck upon any public sidewalk, shared use path, street or other public place within the corporate limits of the city.
- G. Unsafe Operation: It shall be unlawful for any person to drive or operate any special use vehicle in the following unsafe or harassing ways:
1. Speed: At a rate of speed greater than the posted limit or reasonable or proper under all surrounding circumstances.
 2. Carelessness, Negligence: In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
 3. Noisy Conditions: In such a manner so as to create loud, unnecessary and excessive noise or in any way which shall unduly disturb the peace and quiet of other persons in the city or in any manner which creates a public nuisance thereby.
 4. Lights: Without a lighted headlight and taillight when required for safety.
 5. Tree Nurseries: In any tree nursery or planting in a manner which damages or destroys growing stock.

6. Private Property: On private property of another without specific permission of the owner or person in control of said property.
7. Under Influence Of Intoxicants: At any place while under the influence of "alcohol" or a "controlled substance", as those terms are defined in Minnesota Statutes. Minnesota Statutes section 169A.20, "driving while impaired", is incorporated herein by reference.

H. Equipment Requirements:

1. ATVs and UTVs: It is unlawful for any person to operate an ATV or UTV to any place within the city unless it is equipped with the following:
 - a. Mufflers: Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation (no person shall use a muffler cutout, bypass, straight pipe or similar device on an ATV or UTV motor);
 - b. Brakes: Brakes adequate to control movement of and to stop and hold the ATV or UTV under any condition of operation;
 - c. Safety Throttle: A safety or so called "dead man" throttle in operating condition;
 - d. Lights: When operated between the hours of one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise or at a time of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet (100') ahead during the hours of darkness and under normal atmospheric conditions; and the headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming special use vehicle operator. It shall also be equipped with at least one red taillamp having a minimum power of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred feet (500') to the rear during the hours of darkness under normal atmospheric conditions; and
 - e. Reflective Material: Reflective material at least sixteen (16) square inches on each side, forward of the handlebars or steering device of an ATV or UTV and at the highest practicable point of any towed object, as to reflect light at a ninety degree (90°) angle.
2. Golf Carts: It is unlawful for any person to operate a golf cart to any place within the city unless it is equipped with the following:
 - a. Slow Moving Vehicle Emblem: Golf carts must display a slow moving vehicle emblem in accordance with Minnesota Statutes section 169.522.

I. Age of Operator:

1. ATVs and UTVs:

- a. A person sixteen (16) years of age or older may operate an ATV or UTV, as permitted under this chapter, only if the individual has, in the individual's possession, a safety certificate issued by the commissioner of natural resources in accordance with Minnesota Statutes section 84.925 and a valid driver's license.
- b. A person fifteen (15) years of age or older may operate an ATV or UTV, as permitted under this chapter, only if the individual has, in the individual's possession, a safety certificate issued by the commissioner of natural resources in accordance with Minnesota Statutes section 84.925 and a valid learner's permit, and is accompanied by a person eighteen (18) years of age or older who meets the requirements of subsection IIa of this section.
- c. A person twelve (12) years of age or older, but less than fifteen (15) years of age may operate an ATV or UTV upon the most right hand lane of a municipal street or alley and may, in passing or making a left hand turn, operate on other lanes which are used for vehicle traffic in the same direction, for purposes of going to or returning from a nonhighway area of permissible operation outside the city, by the most direct route, only if the individual has, in the individual's possession, a safety certificate issued by the commissioner of natural resources in accordance with Minnesota Statutes section 84.925 and is accompanied by a person eighteen (18) years of age or older who meets the requirements of subsection IIa of this section.
- d. Any person born prior to July 2, 1987 is not required to have a safety certificate issued by the commissioner of natural resources.

2. Golf Carts:

- a. A person sixteen (16) years of age or older may operate a golf cart, as permitted under this chapter, only if the individual has, in the individual's possession, a valid driver's license.
- b. A person fifteen (15) years of age or older may operate a golf cart, as permitted under this chapter, only if the individual has, in the individual's possession, a valid learner's permit and is accompanied by a person eighteen (18) years of age or older who meets the requirements of subsection I2a of this section.

3. It is unlawful for the owner of a special use vehicle to permit the special use vehicle to be operated contrary to the provisions of this section.

7-3-6: EMERGENCIES:

Notwithstanding any prohibitions in this chapter, a snowmobile or special use vehicle may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

7-3-7: OBEDIENCE TO POLICE:

It is unlawful for a snowmobile or special use vehicle operator, having received a visual or audible signal from any law enforcement officer to come to a stop, to operate a snowmobile or special use vehicle in willful or wanton disregard of the signal, to interfere with or endanger the law enforcement officer or any other person or vehicle or to increase their speed or attempt to flee or elude the officer.

7-3-8: LOCKED VEHICLES REQUIRED:

It is unlawful for any person to leave a snowmobile or special use vehicle on a public place unless he or she shall lock the ignition, remove the key and take the same with him or her.

7-3-9: COMPLIANCE WITH OTHER LAWS; STATE REGULATIONS ADOPTED:

City ordinances relating to vehicular traffic shall apply to the operation of snowmobiles and special use vehicles upon streets and highways within the city; and Minnesota Statutes sections 84.81 through 84.92 Minnesota Statutes chapters 169 and 169A, and applicable rules and regulations promulgated thereunder by the state departments of natural resources and public safety are hereby adopted by reference except those provisions which by their nature have no application.

7-3-10: NO ASSUMPTION OF LIABILITY:

Nothing in this chapter shall be construed as an assumption of liability by the city for injuries to persons or property which may result from the operation of any snowmobile or special use vehicle by a permit holder or the failure by the Police Chief or city council to suspend or revoke a permit.

7-3-11: MISDEMEANOR VIOLATION:

Anyone who violates any provision of this chapter is guilty of misdemeanor and subject to punishment as provided by law. Any parent or legal guardian of a juvenile found in violation of this ordinance may be cited for the violation committed under this ordinance.

SECTION 2. This ordinance shall take effect on November 1, 2019.

ADOPTED this 10th day of October, 2019 by the City Council for the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, City Clerk

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

SUMMARY ORDINANCE NO. 202

**AN ORDINANCE AMENDING TITLE 7, CHAPTER 3
OF THE ELKO NEW MARKET CITY CODE
CONCERNING SNOWMOBILES AND SPECIAL USE VEHICLES**

NOTICE IS HEREBY GIVEN that, on October 10, 2019, Ordinance No. 201 was adopted by the City Council of the City of Elko New Market, Minnesota.

NOTICE IS FURTHER GIVEN that, because of the lengthy nature of Ordinance No. 201, the following summary of the ordinance has been prepared for publication.

NOTICE IS FURTHER GIVEN that the ordinance adopted by the Council amends City Code Title 7, Chapter 3, Snowmobiles and All-Terrain Vehicles, in its entirety to permit the operation of the following special use vehicles for general transportation purposes: all-terrain vehicles, utility task vehicles, and golf carts. Additional amendments include:

- Amended hours of operation for snowmobiles and special use vehicles
- The addition of shared use paths as an area of prohibited operation, except along County Road 2 and County Road 91
- Equipment requirements for golf carts
- Age restrictions for the operation of snowmobiles and special use vehicles

NOTICE IS FURTHER GIVEN that Ordinance No. 201 shall take effect on November 1, 2019.

A printed copy of the complete ordinance is available for inspection by any person during the City's regular office hours.

APPROVED for publication by the City Council of the City of Elko New Market this 10th day of October, 2019.

CITY OF ELKO NEW MARKET

By: _____
Joe Julius, Mayor

By: _____
Thomas Terry, City Clerk

MEMORANDUM



CAMPBELL KNUTSON
Professional Association

TO: Elko New Market Mayor and City Councilmembers
CC: Tom Terry, City Administrator
FROM: Andrea McDowell Poehler
DATE: October 10, 2019
RE: TDF Liquors, Inc. Liquor License Violation

BACKGROUND

TDF Liquors, Inc. has an on-sale liquor license at TDF Liquors. On March 13, 2018, an employee of TDF Liquors, Inc. sold intoxicating liquor to an obviously intoxicated person in violation of State law and the Elko New Market City Code. The license holder was notified, in writing of the violation. In order to avoid a public evidentiary hearing before the City Council, the license holder may enter into a Stipulation of Facts and Civil Sanction.

The license holder has executed the Stipulation of Facts attached hereto agreeing to the minimum penalties set forth in the City Code for a first violation pursuant to City Code § 4-2-26.

ACTION

Motion to approve the Stipulation of Facts and Civil Sanction.

ATTACHMENTS

Executed Stipulation of Facts with TDF Liquors, Inc.

CITY OF ELKO NEW MARKET

SCOTT COUNTY, MINNESOTA

In Re:

City of Elko New Market Liquor
Licensing Complaint Against

**STIPULATION OF FACTS
AND CIVIL SANCTION**

TDF Liquors, Inc.
450 Main Street/PO Box 117
Elko New Market, MN 55020

The City of Elko New Market through its undersigned attorney, and the above designated liquor licensee, through its undersigned authorized officer, hereby agree and stipulate as follows:

1. The TDF Liquors, Inc. is licensed under Title 4, Chapter 2 of the Elko New Market City Code to operate an on-sale intoxicating liquor establishment at 450 Main Street, in the City of Elko New Market, Minnesota.
2. On March 13, 2018, Dennis Paul Gargano, an employee of the TDF Liquors, Inc., did sell intoxicating liquor to an obviously intoxicated person in violation of Minn. Stat. 340A.502 and Elko New Market City Code Section 4-2-1.
3. This constitutes TDF Liquors, Inc.'s first liquor license violation pursuant to Elko New Market City Code Section 4-2-26.
4. Copies of the Elko New Market Police Department reports regarding this incident are incorporated into this Stipulation by reference.
5. TDF Liquors, Inc. will not sell alcoholic beverages for three (3) consecutive days; starting October 20, 2019 at 2:00 a.m. until October 22, 2019 at 2:00 a.m. TDF Liquors, Inc.

will also provide proof of clerk training acceptable to the Elko New Market Police Department within thirty (30) days.

6. TDF Liquors, Inc. waives its right to the hearing provided by Minnesota Statute § 340A.415 and Elko New Market City Code Section 4-2-24.

7. The civil sanction set forth in Section 5 is contingent upon the Elko New Market City Council's approval. If the City Council rejects the sanction agreed to in this Stipulation in favor of more severe sanctions, TDF Liquors, Inc. has the absolute right to withdraw its waiver of hearing and to have a hearing before the City Council.

Dated: _____, 2019

CITY OF ELKO NEW MARKET

By _____
Andrea McDowell Poehler, #221739
Attorneys for the City of Elko New Market
Campbell Knutson, P.A.
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, Minnesota 55121
Telephone: (651) 452-5000

TDF LIQUORS, INC.

Dated: 10-10-19, 2019

By 
Joseph B. Friedges, President
450 Main Street/PO Box 117
Elko New Market, MN 55020



STAFF MEMORANDUM

SUBJECT: Monthly Public Works Report – September 2019
MEETING DATE: October 10, 2019
PREPARED BY: Corey Schweich, Public Works Superintendent
REQUESTED ACTION: Information Only

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance “shovel ready” status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND:

Staff is presenting a written report for Public Works activities in September.

DISCUSSION:

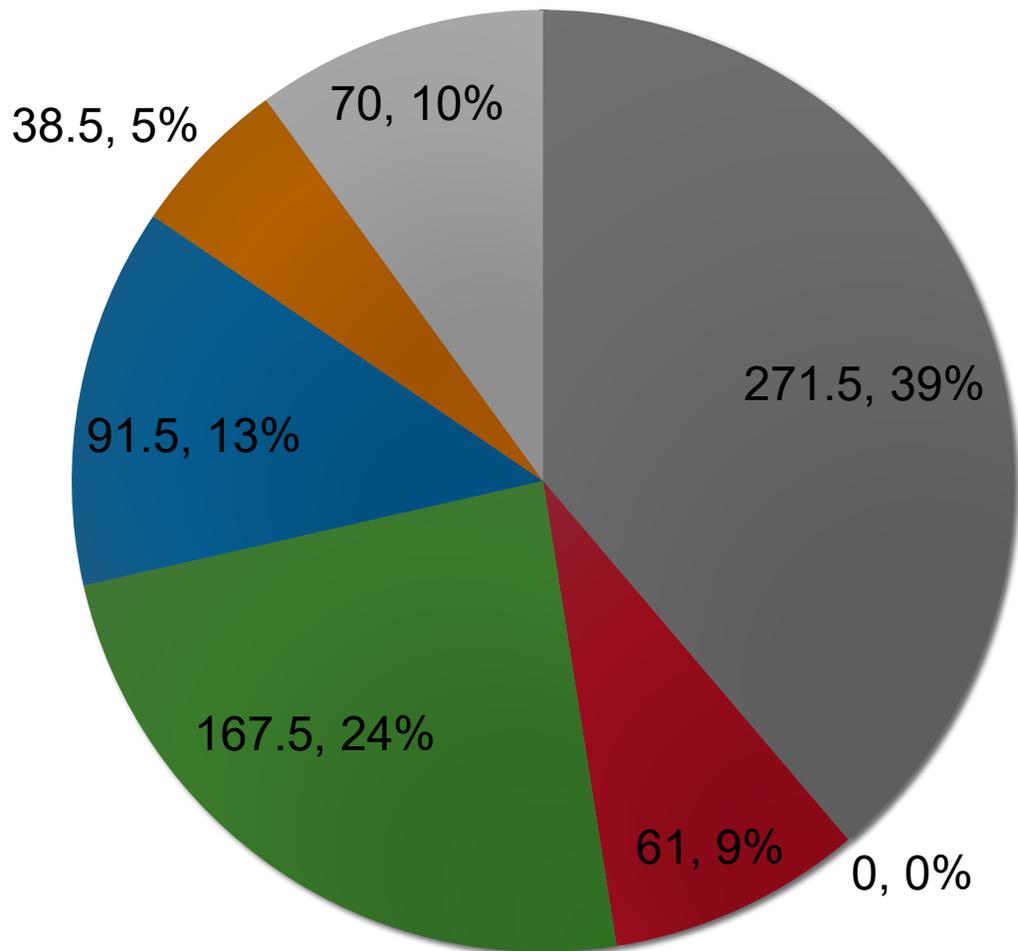
- The Department has been extremely busy in September with all of the projects going on around town. It should be noted that the Department has not seen this much construction activity in many years. These projects take up a significant amount of resources due to utility locates, construction meetings, water turn on/off's, and coordination with the multiple contractors.
- Council may recall, as part of the agreement with New Prague Community Ed, Public Works is responsible for painting the lines at the soccer fields at Eagle View Elementary. Soccer season has started, and Staff will paint the lines roughly every two weeks. Staff will assist with removal of the soccer goals in early October.
- Staff patched in asphalt around the new concrete slab in front of the old shop. As previously reported the black top had to be removed when the drain tile was installed this spring.
- As previously reported, as part of the annual maintenance of the City's sewer system, Staff started to clean and inspect all of the lift stations. During the inspections, the City's vac truck experienced a major breakdown. After further inspection, the walls on the debris body had become very thin from over 20 years of being in service. Staff researched multiple options to repair the debris body. All of options had a significant cost of \$7,500 to over \$25,000. Staff decided on the cheaper option to re line the interior of the body with new steel. The repairs were completed in early September. The repairs will be funded out of the normal fleet maintenance and repair budget. It should be noted that older equipment will have higher costs associated with repairs, but are still much less than purchasing a new truck with a cost of over \$400,000. The repairs have been completed and Staff was able to finish the lift station cleaning.
- Staff finished up placing woodchips throughout all of the play areas in the parks. It should be noted that they are not normal wood chips. Engineered wood fiber is an economical playground surfacing used on nearly ¾'s of all playgrounds in the U.S. because of its high impact absorbing qualities yet firm, slip resistant surface that will meet accessibility guidelines
- Lockout/Tag out and Electrical Safe Work Procedures were the topics this month for of the regional safety group made up of Elko New Market, Lakeville, and Farmington. Staff will continue to attend monthly safety trainings through this group.
- Public Works assisted the County with clearing some plugged culverts.
- As previously reported, Staff has completed the demolition of the "chicken coop" that was used for storage adjacent to the old shop on Williams Street. After completion Staff, graded and seeded the entire property. The property looks much cleaner that it had previously.
- Superintendent Schweich attended project team meetings with the architects that have been contracted to perform the design work associated with the Police Department renovation. There will be more meetings to attend in the coming months.
- Staff constructed a rock driveway to the portable restrooms at Little Windrose Park. Many times there would be ruts in the grass from the truck that comes to service the toilet.

- Staff installed millings on the shoulder of Xerxes after the new pavement was placed. It should be noted that all of the asphalt milling from the mill and overlay project were stockpiled at the shop. Staff will use them for projects in the future.
- The Department has been extremely busy dealing with various minor breakdowns within the Department's fleet. Joe, the Mechanic, continues to do an excellent job juggling projects, depending on equipment needs.

PUBLIC WORKS Combined Time By Department

September 2019

Total Hours:
700



- Public Works
- Buildings
- Water
- Stormwater
- Snow Plowing
- Parks & Grounds
- Sewer

PHOTO ALBUM

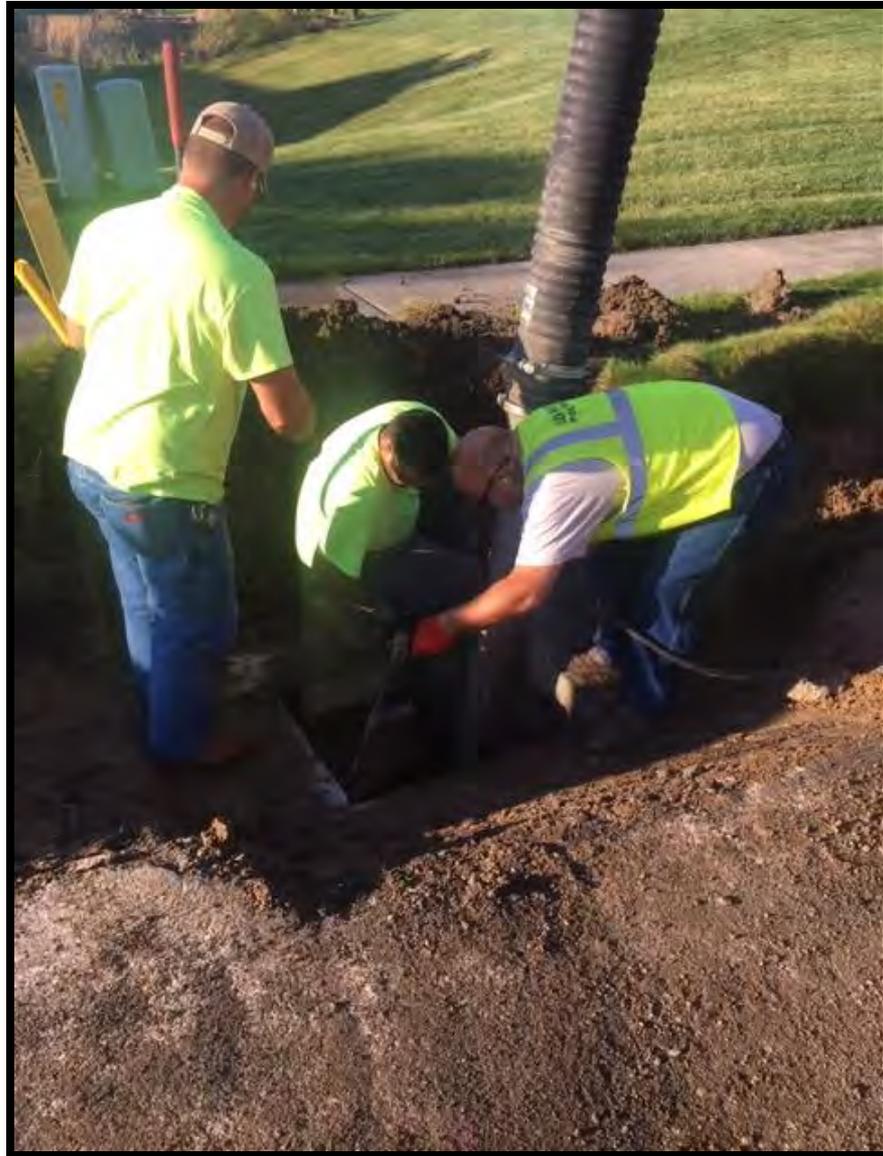
Corey Schweich

Public Works Superintendent













STAFF MEMORANDUM

| | |
|--------------------------|--|
| SUBJECT: | Monthly Police Activity- September, 2019 |
| MEETING DATE: | October 10, 2019 |
| PREPARED BY: | Brady Juell, Chief of Police |
| REQUESTED ACTION: | Information Only |

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
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- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
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- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND:

Staff is presenting a written report to the City Council reporting on Police Department activities for the past month.

DISCUSSION:

On September 7th, Chief Juell and Officer Gareis attended Hostile Event training at SCALE called ASHER. This training was attended by over 50 emergency response personnel. This training covered how to properly respond, assess, evaluate, and evacuate victims of a "Mass Casualty" event. The training lasted 3 hours and many scenarios were completed by students.

On September 10th, Chief Juell attended De-escalation training in Mankato. This one day seminar was put on by the League of MN Cities. This course went over how to recognize different types of mental states of people that are in crisis and methods for diffusing or deescalate them.

On September 10th, Officer Machaby was the guest of honor at a 3 year olds birthday party. His wish was to have an officer present at his party. Officer Machaby was a very big hit and definitely made the party.

On September 14th, Officer Wirtz was one of the judges for the block party rib cook off. This is an annual event that the Police Department has participated in for several years in a row.

On September 19th, Chief Juell paid a visit and was the guest of honor at a daycare on Jean Way. Chief Juell spoke with the children about safety and did some "show and tell" with the children showing them all the different items on his Patrol Belt. The children also got a tour of the patrol car and got to pose for a few pictures.

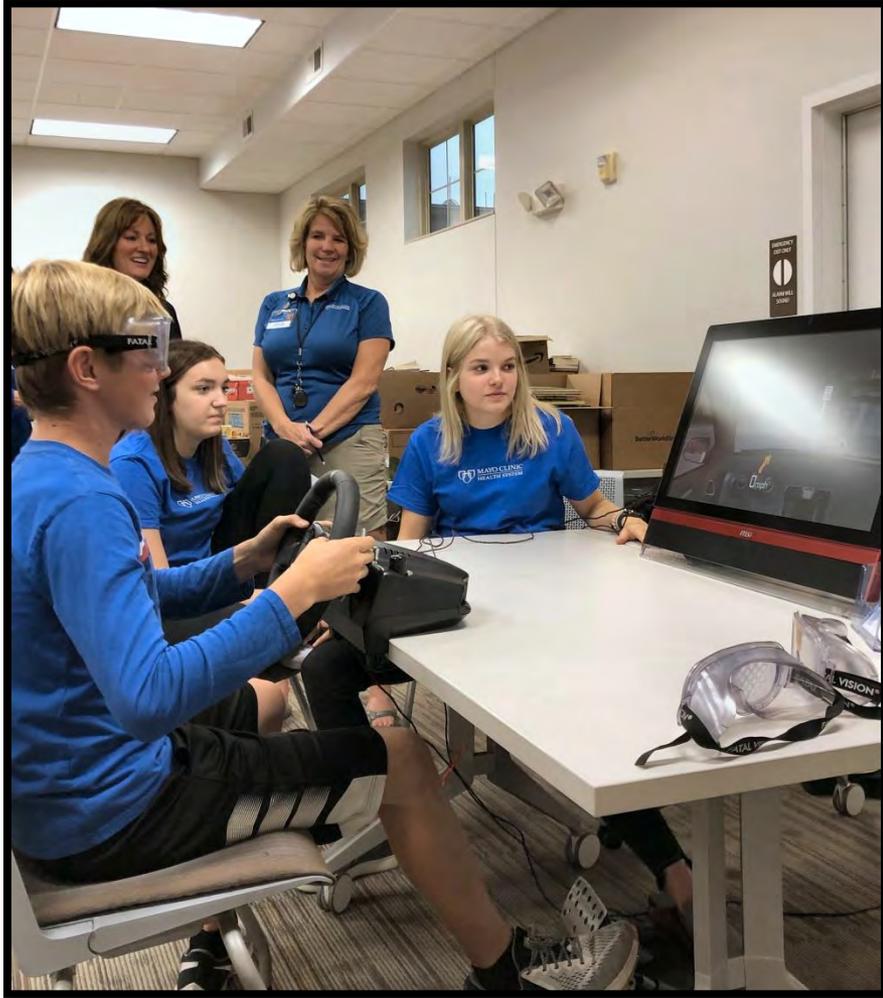
On September 24th, Chief Juell co-presented at the Point of Impact class put on at the Elko New Market Library. This class is hosted and sponsored by the Elko New Market Chamber of Commerce along with other area businesses. This class targets parents of pre-driver's licensed age children and the children themselves. This year's event had a driving simulator brought by the Mayo Clinic Health System. It gave participants an opportunity to see what it was like driving impaired and then went over some of the repercussions that can happen if you were to choose to drive impaired. Gordy Pehrson with the Department of Public Safety stated this was the largest class that he has ever presented at. Organizer's stated that over 130 were present for the event.

On September 28th, Officer Machaby assisted with the Annual "Mollie's Convoy Event." Mollie is a veteran and was tragically killed on Main St in Downtown Elko New Market a few years ago by an intoxicated motorcyclist. Each year a large convoy is formed and drives throughout the area to remember her. Officer Machaby provided traffic assistance while in the city for the large convoy of motorcycles that had assembled for the event.

PHOTO ALBUM

**BRADY JUELL, CHIEF OF POLICE
EMERGENCY MANAGEMENT DIRECTOR**















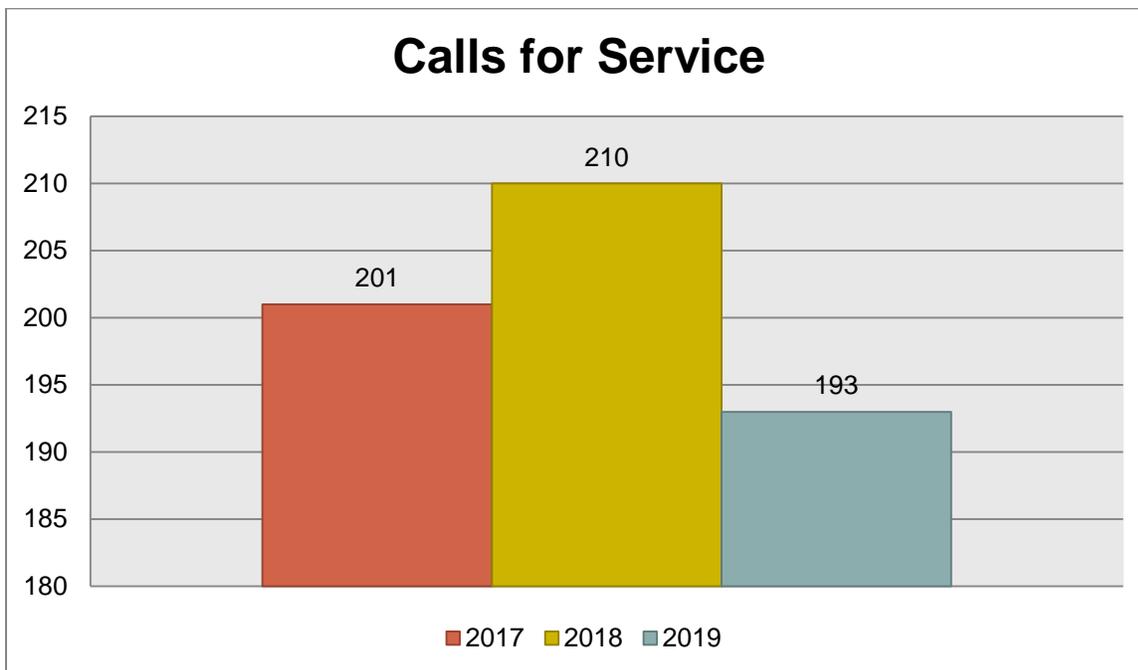




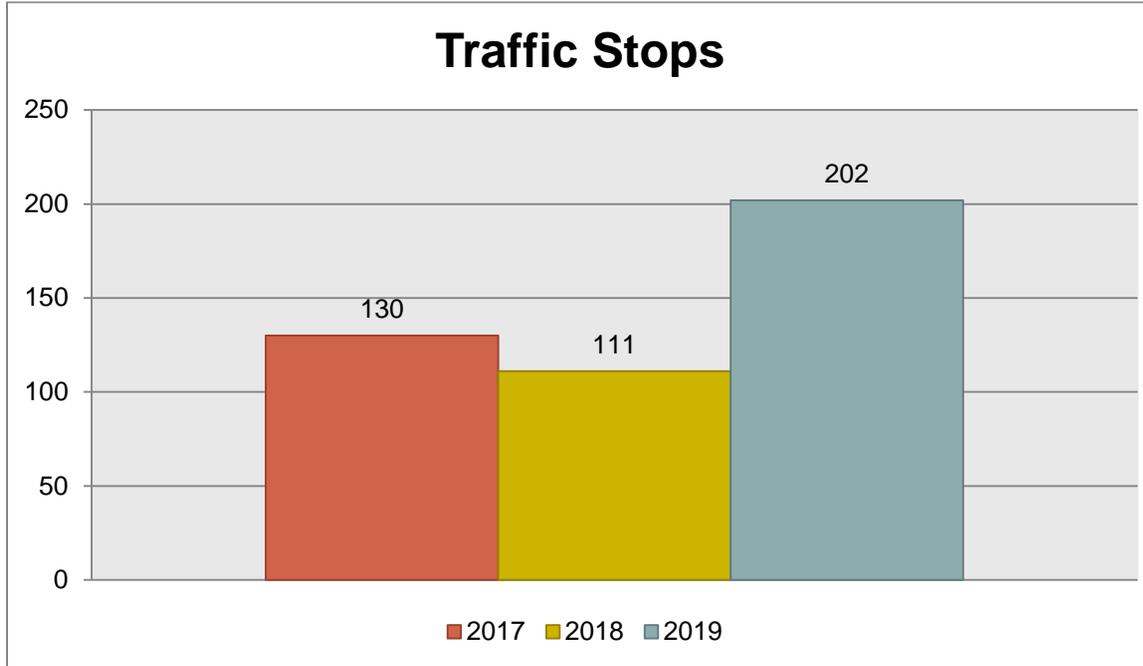
STATISTICAL INFORMATION – September, 2019

| | |
|-----|--|
| 1 | Burglary |
| 1 | Fire Calls |
| 5 | Ordinance reports |
| 2 | Property Damage |
| 2 | Motor vehicle crash |
| 0 | Noise/nuisance complaints |
| 21 | Public Assists |
| 10 | Motorist Assist |
| 0 | Harassment |
| 6 | Hazards |
| 2 | DWI |
| 22 | Administration (Rec. Fire Permits, Records checks, etc.) |
| 21 | Suspicious persons/vehicles/activities |
| 2 | Crimes against family |
| 2 | Theft |
| 0 | Threats |
| 7 | Medicals |
| 4 | Alarms |
| 5 | Lock outs |
| 40 | Assists to other agencies (Agency Assists) |
| 184 | Extra Patrols |
| 3 | Traffic driving complaints |

Calls for Service:

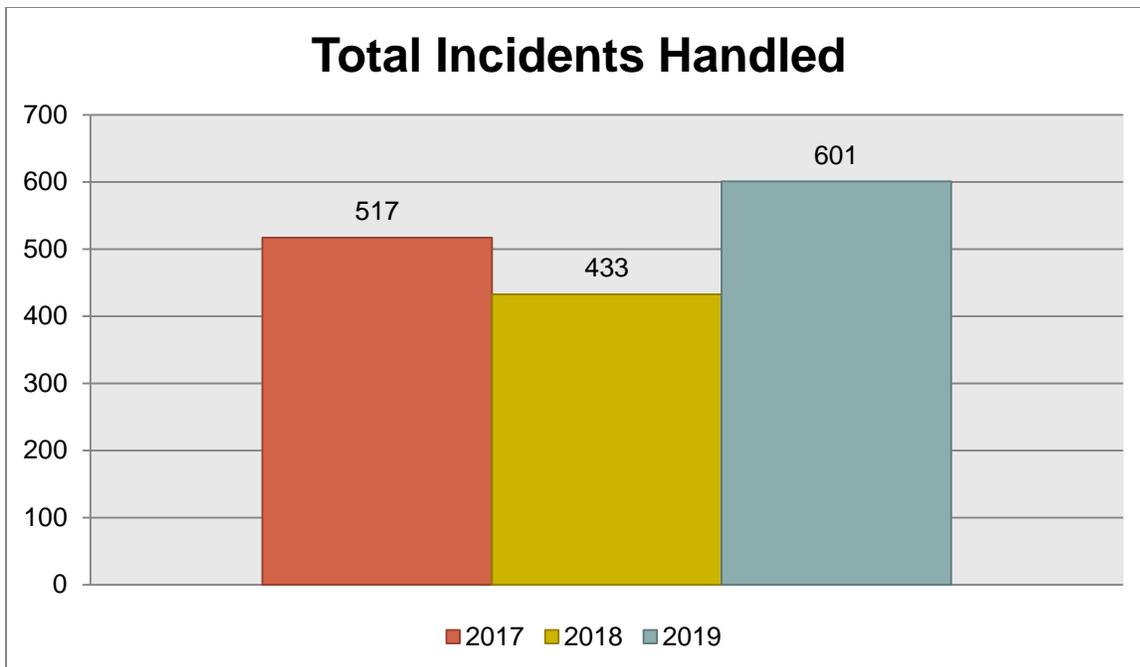


Total Traffic Stops:



202 traffic stops were conducted in September, 2019. **169** verbal and written warnings issued and **15** citations issued for speed, expired registration, no proof of insurance/no insurance, careless driving, and driving after revocation. **0** citations issued for violation of winter parking ordinances on plowing days. **2** citations were issued for DWI.

Total Incidents Handled:



ENM Parks Commission Update

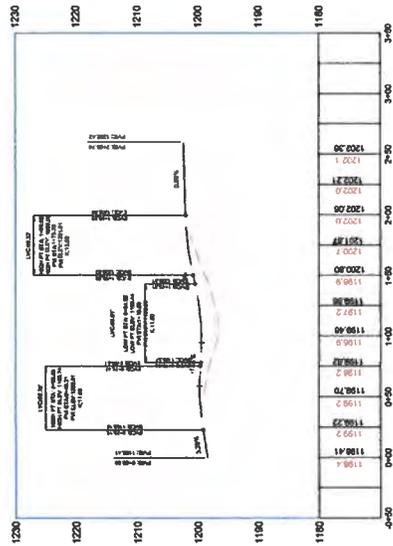
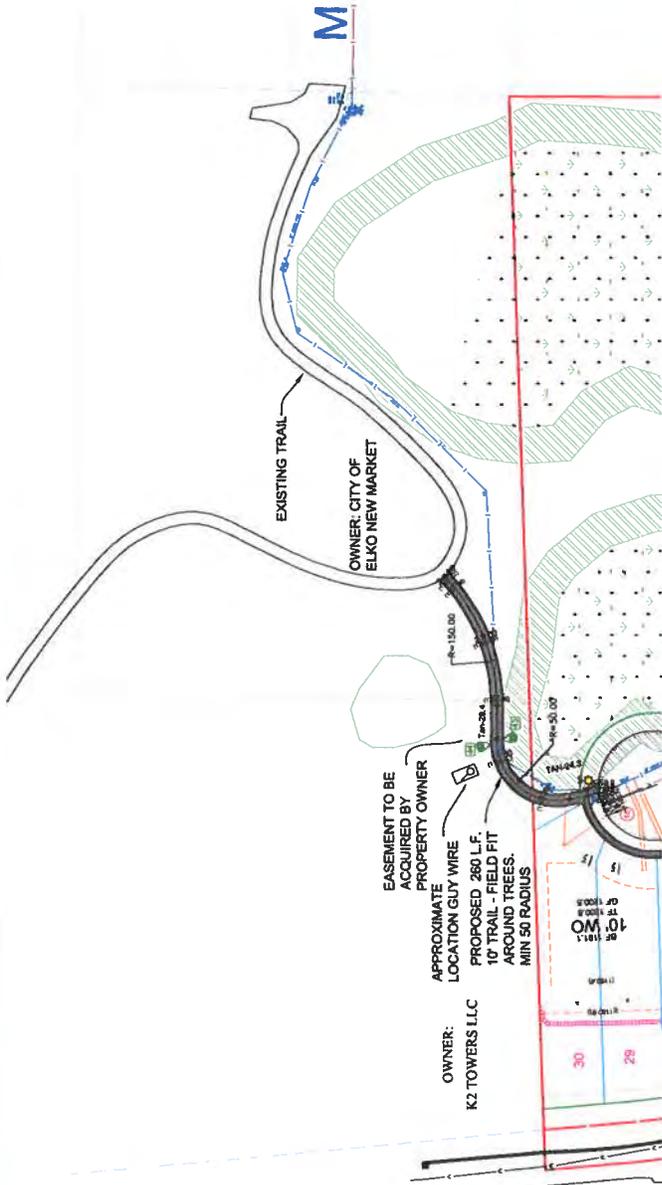
September 30, 2019

1. The construction schedule for the Disc Golf Course has been revised due to the equipment delivery being delayed until Tuesday, September 24th....it is here finally! Prep work, which included brush removal, staking out the course, and utility locates, occurred from 9/25 to 9/27. Construction started on Monday, 9/30 and will be completed by the time you read this Update. It should be ready to use on October 7th.
2. The Wagner Park Shelter will close in Monday, 10/28 for the Winter, as planned. At the September Parks Commission Meeting, there was discussion on heating the shelter for year-round use. The City Administrator, Public Works Superintendent and I met with Food Shelf representatives on Thursday, 9/17 to review possible options for the Winter months. The preferred one seems to be to use space heaters in the current Shelter for this Winter and continue to look for a more permanent home than the Shelter in 2020.
3. I'm hopeful that we'll see the final plans and specs on the Windrose 8th/Woodcrest Trail project at the October Parks Commission meeting. Bolton-Menk, Inc has completed the attached Trail Sketch for the project for your review and information. We are hoping to get it on the list of Fall paving projects in the City.
4. The Rowena Pond Park RePurposing Master Plan is now underway! The Public Works Department has completed the first phase by relocating the playground equipment. Now that the playground equipment has been moved, the next step will be to move the baseball field. I met with the New Market Baseball Association earlier this month to review the details with them. Along with City Engineer, I went over resolution of their current drainage problems and possible options with the 3 neighbors most directly affected by the project on August 8th and August 20th. They were all very positive about the project. Again, the City Engineer is working on final plans and specs for this project.
5. Soccer season is underway! Coaches meeting was July 24th at 6:30 at EagleView. On Monday, July 29th, New Prague Community Ed lined the fields and, with the help of the PW crew, set up the goals for practice starting on Tuesday, July 30th. First games were on Tuesday, August 6th. The City, as per agreement, is doing the mowing and lining on Monday and

Wednesday, throughout the season, which ends on Thursday, September 5th. The “Soccer Jamboree” with 54 teams participating in a tournament at was held on Saturday, September 7th from 9AM to 3 PM with 242 kids showing their skills! Again, thanks to the PW crew for their work in making the soccer program a success!

6. Jessica Davidson, with help from Stephanie Fredrickson, did a great job of planning the Summer Events for 2019! We have not had lot of luck with the weather this Summer, only Mad Science, which had attendance of about 25, as a result of a downpour a ½ hour before it started had fewer than 85 (or more) people. We had some nice weather for our last 2 events – a movie and the inflatable waterslides on August 1st and August 8th – had great weather, so attendance jumped back up to about 85 to 100 people. Jessica will join us at our October meeting to discuss possible improvements to our programming.
7. The Engineered Wood Fiber was ordered from Minnesota/Wisconsin Playground for \$1,799, which is a savings of about \$375 over 2018. It was delivered August 8th. Once received, the parks were “freshened up” with new fiber. Unfortunately, more was needed, so an additional 100 CY was ordered at \$2,035 (still \$139 less than 2018) on August 16th to finish the job. The additional load was received on September 12th and distributed among parks needing it the week of September 16th. You will see the Bill for the additional fiber to make our playgrounds safe at the October Meeting.
8. The RFPs for the swingset replacement at Historic Old Elko City Hall have been sent to 5 local playground equipment companies. The response has been good so far and I hope to have some proposals for you to look over at the November meeting.
9. I am working at expanding our popular Archery Program with New Prague Community Ed. An organization, USA Archery, is providing funding for training instructors, providing equipment for an Intermediate program. Right now, we have beginning program , but not a program for those kids interested in upgrading their skills.
10. I am working with an Eagle Scout candidate, Ryan Huberty, on a project for improving the flagpole area in Wagner Park Shelter. This will be the 14th Eagle Scout project that we’ve done in the parks in the last 10 years!

11. The additional Pet Waste Stations have been on backorder for a couple of months, but I have received word from the company that they will be available by mid-October.
12. See you on Tuesday, October 8th @ 4 PM @ ENM City Hall for our October 8th Parks Commission Meeting. And...it's a good reminder for me to tell how much the City appreciates your service to our parks and recreational programs!



CONTRACTOR SHALL DETECT THE EXACT LOCATION OF ANY AND ALL EXISTING UTILITIES BEFORE COMMENCING WORK. ALL FORCES TO BE FULL RESPONSIBLE FOR ANY AND ALL DAMAGES ARISING OUT OF HIS FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL EXISTING UTILITIES.

| NO. | BY | DATE | REVISIONS |
|-----|-------|------------|---------------------------|
| 01 | DAVID | 11/11/2019 | ISSUED FOR PERMIT |
| 02 | DAVID | 11/11/2019 | REVISED PER CITY COMMENTS |
| 03 | DAVID | 11/11/2019 | REVISED PER CITY COMMENTS |
| 04 | DAVID | 11/11/2019 | REVISED PER CITY COMMENTS |

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PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A duly Licensed Professional Engineer in the State of Minnesota.
 David L. Bergquist
 David L. Bergquist, P.E.
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 ELKO, MINNESOTA