

Mt. Lake City Council
Mt. Lake City Hall
Tuesday, December 2, 2014
6:00 p.m.

AGENDA

1. Meeting called to order by Mayor, Dean Janzen
* Further information on agenda item is attached
2. 2015 Budget Presentation and Discussion – separate packet
3. Approval of Agenda and Consent Agenda
 - a. Bills: Check #'s 9916797-9916843; 368*(1-5)
Payroll: Check #'s 61443-61503
 - b. Approval of Nov. 17 and Nov. 24 Council Minutes*(6-9)
 - c. Approval of Nov. 18/24 Special Assessment Public Hearing Minutes*(10-18)
 - d. Approval of Nov. 13 Utility Commission Minutes*(19)
4. Public – A total of ten (10) minutes is allotted for individuals to briefly discuss a topic of concern with the council.
5. 2012-2014 Utility and Street Project Special Assessments
 - a. Determine ‘undeveloped parcel’
 - b. Mt. Lake Christian School*(20-22)
 - c. 614 11th St.*(23)
 - d. 1315 6th Ave.*(23-25)
 - e. 520 10th St. N.*(26)
6. Administrator
 - a. Request from DesMoines Health and Human Services to Revise Section 6.31 Tobacco Licensing*(27-36)
 - b. League of MN Cities Insurance Trust 2014-15 Coverage Changes, Rates and Dividends*(37-43)
7. Close Meeting, Attorney-Client Privilege, Kuechle v. City of Mt. Lake
8. Adjourn

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December 2, 2014
9916797 to 9916843
368E

November 2014 to December 2014

			Check Amt	Invoice	Comment
10100 United Prairie					
Paid Chk#	9916797	11/14/2014	MIRANDA STOESZ		
E 101-41410-208	Training and Instruction		\$54.24		MILEAGE-ELECTIONS
	Total MIRANDA STOESZ		\$54.24		
Paid Chk#	9916798	11/13/2014	CARCHIOUS RODNEY		
E 412-43100-434	Project Expense		\$15,840.00	249	FRAME AND POUR 1056FT OF SIDEWALKS
	Total CARCHIOUS RODNEY		\$15,840.00		
Paid Chk#	9916799	11/14/2014	FIRE RELIEF ASSOCIATION		
E 221-42200-124	Fire Pension Contributions		\$27,875.76		2014 FIRE STATE AID
E 221-42200-124	Fire Pension Contributions		\$3,548.00		2014 CITY CONTRIBUTION
	Total FIRE RELIEF ASSOCIATION		\$31,423.76		
Paid Chk#	9916800	11/14/2014	LAKER ELECTRIC		
E 235-46340-401	Repairs/Maint Buildings		\$202.12	4134	EDA PORTION-WORK AT HOMETOWN CAFÉ
	Total LAKER ELECTRIC		\$202.12		
Paid Chk#	9916801	11/14/2014	CITY OF MOUNTAIN LAKE		
E 235-46340-401	Repairs/Maint Buildings		\$90.00		EDA PORTION-BLDG PERMIT HOMETOWN CAFÉ
	Total CITY OF MOUNTAIN LAKE		\$90.00		
Paid Chk#	9916802	11/14/2014	JACKSON BUILDING CENTER		
E 235-46340-401	Repairs/Maint Buildings		\$5,196.36		EDA PORTION-MATERIALS HOMETOWN CAFÉ ROOF
	Total JACKSON BUILDING CENTER		\$5,196.36		
Paid Chk#	9916803	11/14/2014	THOMAS HOLTE CONSTRUCTION		
E 235-46340-401	Repairs/Maint Buildings		\$3,413.33		EDA PORTION OF LABOR ON HOMETOWN CAFÉ
	Total THOMAS HOLTE CONSTRUCTION		\$3,413.33		
Paid Chk#	9916804	11/24/2014	COMMISSIONER OF REVENUE		
G 101-21702	State Withholding		\$58.07		
	Total COMMISSIONER OF REVENUE		\$58.07		
Paid Chk#	9916805	11/24/2014	INTERNAL REVENUE SERVICE		
G 101-21703	FICA Tax Withholding		\$2,684.52		
G 101-21701	Federal Withholding		\$47.50		
	Total INTERNAL REVENUE SERVICE		\$2,732.02		
Paid Chk#	9916806	11/18/2014	ROD STENKE		
E 101-43100-550	Motor Vehicles		\$3,000.00		1974 CHEV 2 TON TRUCK-STREET DEPT
	Total ROD STENKE		\$3,000.00		
Paid Chk#	9916807	11/18/2014	TOWNS EDGE AUTO		
E 221-42200-550	Motor Vehicles		\$34,218.44		2015 CHEV 3500 PKUP FOR FIRE DEPT
	Total TOWNS EDGE AUTO		\$34,218.44		
Paid Chk#	9916808	11/24/2014	COUNTRY PRIDE SERVICES		
E 235-46340-401	Repairs/Maint Buildings		\$428.62		DISHWASHER REPAIR-HOMETOWN CAFÉ
	Total COUNTRY PRIDE SERVICES		\$428.62		
Paid Chk#	9916809	11/26/2014	AFLAC		
G 101-21713	AFLAC		\$192.74		
	Total AFLAC		\$192.74		
Paid Chk#	9916810	11/26/2014	AFSCME COUNCIL 65		
G 101-21707	Union Dues		\$153.04		

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November 2014 to December 2014

			Check Amt	Invoice	Comment
Total AFSCME COUNCIL 65			\$153.04		
Paid Chk#	9916811	11/26/2014	BCBS/HSA		
G 101-21714	HSA		\$407.71		
Total BCBS/HSA			\$407.71		
Paid Chk#	9916812	11/26/2014	COMMISSIONER OF REVENUE		
G 101-21702	State Withholding		\$813.07		
Total COMMISSIONER OF REVENUE			\$813.07		
Paid Chk#	9916813	11/26/2014	GISLASON & HUNTER		
G 101-21712	Garnishments		\$331.54		
Total GISLASON & HUNTER			\$331.54		
Paid Chk#	9916814	11/26/2014	INTERNAL REVENUE SERVICE		
G 101-21701	Federal Withholding		\$1,720.61		
G 101-21703	FICA Tax Withholding		\$2,304.80		
Total INTERNAL REVENUE SERVICE			\$4,025.41		
Paid Chk#	9916815	11/26/2014	PERA		
G 101-21704	PERA		\$3,889.13		
Total PERA			\$3,889.13		
Paid Chk#	9916816	11/26/2014	SW/WC SERVICE COOPERATIVES		
G 101-21708	Employee Paid Health Insurance		\$1,091.34		
Total SW/WC SERVICE COOPERATIVES			\$1,091.34		
Paid Chk#	9916817	11/26/2014	VALIC		
G 101-21705	VALIC		\$674.69		
Total VALIC			\$674.69		
Paid Chk#	9916818	12/1/2014	DENNIS HULZEBOS		
E 211-45500-400	Janitor-Repairs/Maint		\$345.00		DEC MAINT AT LIBRARY
E 101-45186-400	Janitor-Repairs/Maint		\$250.00		DEC MAINT AT SR CTR
Total DENNIS HULZEBOS			\$595.00		
Paid Chk#	9916819	12/1/2014	MUNICIPAL UTILITIES		
E 101-43160-381	Electric Utilities		\$3,466.52		AUGUST ST LIGHTING
E 101-43160-381	Electric Utilities		\$3,957.42		OCT ST LIGHTING
E 101-43160-381	Electric Utilities		\$3,280.85		SEPT ST LIGHTING
Total MUNICIPAL UTILITIES			\$10,704.79		
Paid Chk#	9916820	12/1/2014	FRONTIER		
E 211-45500-321	Telephone		\$60.75		LIBRARY PHONE 427-2506
Total FRONTIER			\$60.75		
Paid Chk#	9916821	12/1/2014	AMAZON		
E 211-45500-592	A.V. Materials		\$261.19		LIBRARY AV
E 211-45500-590	Capital Outlay Books		\$220.37		LIBRARY BOOKS
Total AMAZON			\$481.56		
Paid Chk#	9916822	12/1/2014	AMBULANCE FUND		
E 231-42154-430	Miscellaneous		\$20.00		FOOD ON AMB RUN
E 231-42154-430	Miscellaneous		\$26.19	11/24/14	FOOD ON AMBULANCE FUND
Total AMBULANCE FUND			\$46.19		
Paid Chk#	9916823	12/1/2014	AMERIPRIDE		

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November 2014 to December 2014

			Check Amt	Invoice	Comment
E 101-43100-215	Shop Supplies		\$27.67	2800435569	TOWELS FOR ST DEPT
E 101-41400-401	Repairs/Maint Buildings		\$26.72	2800435569	MATS FOR CITY HALL
	Total AMERIPRIDE		\$54.39		
Paid Chk# 9916824	12/1/2014	BARTSCH CONSTRUCTION			
E 101-45200-430	Miscellaneous		\$375.00	156	LABOR & SKIDLOADER DRILL HOES FOR BASKETBALL POLES IN PARK
	Total BARTSCH CONSTRUCTION		\$375.00		
Paid Chk# 9916825	12/1/2014	BORDER STATES ELECTRIC			
E 101-41400-401	Repairs/Maint Buildings		\$33.03	908391381	BATTERIES-CITY HALL LIGHTS
	Total BORDER STATES ELECTRIC		\$33.03		
Paid Chk# 9916826	12/1/2014	DENNIS HULZEBOS			
E 101-45186-220	Repair/Maint Supply		\$30.79		VACUUM CLEANER BELT-COMM CTR
E 211-45500-220	Repair/Maint Supply		\$31.12		VACUUM CLEANER BELT-LIBRARY
	Total DENNIS HULZEBOS		\$61.91		
Paid Chk# 9916827	12/1/2014	DOUG BRISTOL			
E 101-43100-430	Miscellaneous		\$26.96		BATTERIES, CLEANER FOR TABLET SCREENS
	Total DOUG BRISTOL		\$26.96		
Paid Chk# 9916828	12/1/2014	EARL F. ANDERSON			
E 101-43100-226	Sign Repair Materials		\$428.59	0106591-IN	SIGNS
	Total EARL F. ANDERSON		\$428.59		
Paid Chk# 9916829	12/1/2014	FRONTIER			
E 101-45186-321	Telephone		\$56.42		SR CTR PHONE-427-2151
E 101-00000-430	Miscellaneous		\$165.99		UT-PHONE
E 205-46500-321	Telephone		\$37.50		EDA PORTION OF DSL & 427-2999
E 101-43100-321	Telephone		\$65.84		STREET DEPT PHONE-427-2997
E 101-42100-321	Telephone		\$277.74		POLICE DEPT PHONE-427-3403
E 101-41400-321	Telephone		\$328.74		CITY HALL PHONE-427-2999
E 205-46500-321	Telephone		\$7.97		CHAMBER 800#
	Total FRONTIER		\$940.20		
Paid Chk# 9916830	12/1/2014	HEIMAN FIRE EQUIPMENT--USE THI			
E 221-42200-500	Capital Outlay		\$10,999.98		TURN OUT GEAR---6 @\$1833.33
	Total HEIMAN FIRE EQUIPMENT--USE THI		\$10,999.98		
Paid Chk# 9916831	12/1/2014	INDOFF INCORPORATED			
E 101-41400-200	Office Supplies		\$142.07	2538947	BULLETIN BOARD, COLORED PAPER
	Total INDOFF INCORPORATED		\$142.07		
Paid Chk# 9916832	12/1/2014	LEAGUE OF MN CITIES-FINANCE			
E 101-41400-308	Training & Instruction		\$630.00	205010	D.KASS & D.KRUSER-NEW ELECTED CONF REGISTRATION
	Total LEAGUE OF MN CITIES-FINANCE		\$630.00		
Paid Chk# 9916833	12/1/2014	LEAGUE--WC/INS			
E 231-42154-151	Worker s Comp Ins Prem		(\$823.42)		AMBWORK COMP AUDIT 4-1-2013 TO 4-1-2014
E 211-45500-151	Worker s Comp Ins Prem		(\$215.67)		LIB-WORK COMP AUDIT 4-1-2013 TO 4-1-2014
E 101-43100-151	Worker s Comp Ins Prem		\$1,010.36		ST-WORK COMP AUDIT 4-1-2013 TO 4-1-2014
E 101-00000-430	Miscellaneous		\$118.95		ELEC-WORK COMP AUDIT 4-1-2013 TO 4-1-2014
E 101-42100-151	Worker s Comp Ins Prem		\$498.24		PD-WORK COMP AUDIT 4-1-2013 TO 4-1-2014
E 101-41400-151	Worker s Comp Ins Prem		(\$2.48)		OFFICE-WORK COMP AUDIT 4-1-2013 TO 4-1-2014
E 101-45200-151	Worker s Comp Ins Prem		(\$33.90)		PARKS-WORK COMP AUDIT 4-1-2013 TO 4-1-2014

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November 2014 to December 2014

			Check Amt	Invoice	Comment
E 101-00000-430	Miscellaneous		\$144.92		WATER/SEWER-WORK COMP AUDIT 4-1-2013 TO 4-1-2014
Total LEAGUE--WC/INS			\$697.00		
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Paid Chk# 9916834	12/1/2014	MCFOA			
E 101-41400-433	Dues and Subscriptions		\$35.00		7/1/14 - 6/30/15 MEMBERSHIP
Total MCFOA			\$35.00		
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Paid Chk# 9916835	12/1/2014	MILLENNIUM CREDIT CONSULTANTS			
E 231-42154-430	Miscellaneous		\$26.08		AGENCY COMMISSION FOR COLLECTION ON AMB ACCT
Total MILLENNIUM CREDIT CONSULTANTS			\$26.08		
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Paid Chk# 9916836	12/1/2014	MINNESOTA ENERGY RESOURCE CORP			
E 101-45186-383	Gas Utilities		\$128.06		SR CTR GAS-ACCT#4010846-6
E 211-45500-383	Gas Utilities		\$145.15		LIBRARY GAS-ACCT#4134278-3
E 101-43100-383	Gas Utilities		\$233.27		STREET GARAGE GAS-ACCT#4092120-7
E 231-42154-383	Gas Utilities		\$85.28		AMB PORTION OF FIREHALL GAS-ACCT#4296165-6
E 221-42200-383	Gas Utilities		\$173.13		FIRE DEPT PORTION OF FIREHALL GAS-ACCT#4296165-6
E 101-41400-383	Gas Utilities		\$169.50		CITY HALL GAS-ACCT#4346780-2
al MINNESOTA ENERGY RESOURCE CORP			\$934.39		
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Paid Chk# 9916837	12/1/2014	MINNESOTA MUTUAL LIFE			
E 101-42100-134	Employer Paid Life		\$8.00		DEC LIFE INS-POLICE DEPT
G 101-21706	Hospitalization/Medical Ins		\$40.90		DEC LIFE INS-NICK NAXAY
G 101-21706	Hospitalization/Medical Ins		\$7.30		DEC LIFE INS-DARON FRIESEN
G 101-21706	Hospitalization/Medical Ins		\$26.70		DEC LIFE INS-KIM HALL
G 101-21706	Hospitalization/Medical Ins		\$18.10		DEC LIFE INS-ROBB ANDERSON
E 205-46500-134	Employer Paid Life		\$2.00		DEC LIFE INS-EDA
E 101-46200-134	Employer Paid Life		\$1.20		DEC LIFE INS-CEMETERY
E 101-45200-134	Employer Paid Life		\$1.20		DEC LIFE INS-PARKS DEPT
E 101-41400-134	Employer Paid Life		\$4.00		DEC LIFE INS-OFFICE
E 101-43100-134	Employer Paid Life		\$3.60		DEC LIFE INS-ST DEPT
E 101-41400-134	Employer Paid Life		\$2.00		DEC WENDY FAST-LAKER APTS-LIFE INS
E 101-42100-135	Employer Paid Other		\$2.00		DEC BRIAN LUNZ LIFE INSURANCE
E 211-45500-134	Employer Paid Life		\$2.00		DEC LIFE INS-LIBRARY
Total MINNESOTA MUTUAL LIFE			\$119.00		
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Paid Chk# 9916838	12/1/2014	MUNICIPAL UTILITIES			
E 221-42200-380	Elec,Water,Sewer		\$105.99		FIRE DEPT PORTION OF FIREHALL UT
E 101-45171-380	Elec,Water,Sewer		\$518.45		WATER AT ICE RINK
E 101-45200-380	Elec,Water,Sewer		\$130.86		UT AT CITY PARK SHELTERHOUSE
E 101-45183-380	Elec,Water,Sewer		\$396.73		UT AT CAMPGROUND
E 607-46330-380	Elec,Water,Sewer		\$2.24		4-PLEX PORTION OF ST LITE ON HERITAGE DRIVE
E 608-46330-380	Elec,Water,Sewer		\$4.36		8-PLEX PORTION OF ST LITE ON HERITAGE DRIVE
E 101-41400-380	Elec,Water,Sewer		\$313.25		CITY HALL UT
E 231-42154-380	Elec,Water,Sewer		\$54.60		AMB PORTION OF FIREHALL UT
E 101-43100-380	Elec,Water,Sewer		\$186.82		ST DEPT UT
E 101-45186-380	Elec,Water,Sewer		\$228.98		SR CTR UT
E 211-45500-380	Elec,Water,Sewer		\$241.23		LIBRARY UT
E 101-45200-380	Elec,Water,Sewer		\$96.00		CITY PARK RESTROOMS UT
E 101-45200-380	Elec,Water,Sewer		\$102.93		LAWCON PARK LIGHTS
Total MUNICIPAL UTILITIES			\$2,382.44		
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Paid Chk# 9916839	12/1/2014	MUSKE, MUSKE, SURHOFF			
E 101-41400-304	Legal Fees		\$1,400.00		DECEMBER LEGAL RETAINER

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November 2014 to December 2014

		Check Amt	Invoice	Comment
Total MUSKE, MUSKE, SURHOFF		\$1,400.00		
Paid Chk#	9916840	12/1/2014	OUR HOMETOWN CAFE	
E 205-46500-430	Miscellaneous	\$37.14	367731	EDA LUNCH 11-14-14
Total OUR HOMETOWN CAFE		\$37.14		
Paid Chk#	9916841	12/1/2014	PEST PRO	
E 101-41400-401	Repairs/Maint Buildings	\$77.36	1170714	QTRLY SERVICE AT CITY HALL
Total PEST PRO		\$77.36		
Paid Chk#	9916842	12/1/2014	PRAXAIR	
E 231-42154-210	Operating Supplies	\$135.41	50991625	OXYGEN FOR AMB
Total PRAXAIR		\$135.41		
Paid Chk#	9916843	12/1/2014	VERIZON	
E 231-42154-321	Telephone	\$10.68		AMB CELL PHONE
E 101-42100-321	Telephone	\$20.63		PD CELL PHONE
E 101-42100-321	Telephone	\$65.51		DATA-PD TABLET 2
E 101-42100-321	Telephone	\$35.01		PD DATA LINE
E 101-42100-321	Telephone	\$65.51		DATA-PD TABLET 1
Total VERIZON		\$197.34		
10100 United Prairie		\$139,857.21		

Fund Summary

10100 United Prairie	
101 GENERAL FUND	\$37,048.31
205 ECONOMIC DEVELOPMENT AUTHORITY	\$84.61
211 LIBRARY FUND	\$1,091.14
221 FIRE DEPT FUND	\$76,921.30
231 AMBULANCE FUND	(\$465.18)
235 SW HOUSING GRANT	\$9,330.43
412 2012 CITY WIDE PROJECT	\$15,840.00
607 EDA----4 PLEX FUND	\$2.24
608 EDA----8 PLEX FUND	\$4.36
	\$139,857.21

Paid Chk#	000368E	11/17/2014	SELECT ACCOUNT	
E 101-43100-141	Admin Fees-HSA	\$3.80		NOV HSA ADMIN FEES
E 101-41400-141	Admin Fees-HSA	\$4.22		NOV HSA ADMIN FEES
E 101-42100-141	Admin Fees-HSA	\$10.55		NOV HSA ADMIN FEES
E 101-46200-141	Admin Fees-HSA	\$1.26		NOV HSA ADMIN FEES
E 101-45200-141	Admin Fees-HSA	\$1.27		NOV HSA ADMIN FEES
E 211-45500-141	Admin Fees-HSA	\$2.11		NOV HSA ADMIN FEES
E 205-46500-141	Admin Fees-HSA	\$2.11		NOV HSA ADMIN FEES
Total SELECT ACCOUNT		\$25.32		

(5)

DRAFT
Mt. Lake City Council
Mt. Lake City Hall
Monday, November 17, 2014
6:30 p.m.

Members Present: Dean Janzen, Darla Kruser, David Savage, Brian Schultz, Andrew Ysker

Members Absent: None

Staff Present: Maryellen Suhrhoff, Muske, Muske and Suhrhoff, City Attorney; Wendy Meyer, Clerk/Administrator

Others Present: Dana Kass, Council Member Elect; Mike Nelson, Mayor Elect; Tim Janzen, Dennis Siebert, Mt. Lake Ambulance Service; Jason Kruser; Doug Regehr; Andy Kehren, Bolton & Menk, City Engineer

Call to Order and Oath of Office

Mayor Janzen called the meeting to order at 6:30 p.m. Darla Kruser took the Oath of Office and was welcomed by the council.

Agenda and Consent Agenda

Motion by Schultz, seconded by Ysker, to add 2012-2014 Utility and Street Project, Andy Kehren to the agenda. Motion carried unanimously. A question was raised about check # 9916736 and check # 9916737. The administrator will research the matter and notify the council by e-mail. (It was determined on Nov. 18 that the checks were written for the wrong amount, voided, and check #9916756 and check #9916757 for the correct amounts were issued.) Motion by Savage, seconded by Schultz, to adopt the agenda as amended and the consent agenda as presented. Motion carried unanimously.

Bills: Check #'s 9916730-9916696
Payroll: Check #'s 61410-61442
Nov. 3 and Nov. 7 Council Minutes
Oct. 23 and Oct. 30 Utility Commission Minutes
Oct. 8 Library Board Minutes & reports
Oct. 9 Police Commission Minutes
Oct. 10 EDA Minutes
Oct. 13 Lake Commission Minutes

Public

No one presented addressed the council during this portion of the meeting.

2012-2014 Utility and Street Project Special Assessment Roll

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Andy Kehren, Bolton and Menk reviewed the roll with the council. Kehren pointed out that the shorter side of the lot is the front lot and the longer side is the side lot, no matter where the front door is located.

Ambulance Dept. Equipment Purchase

Dennis Siebert discussed the purchase of 12-lead defibrillators and autopulse with the council. The defibrillators would enable the service to do electrocardiograms (EKG) in route to the hospital. Autopulse is an automatic chest compression system that replaces the need for manual compression while performing cardiopulmonary resuscitation (CPR). The service's reserves and purchase of new ambulances was discussed. The Service has located re-certified units and is applying for a Mt. Lake Health Care Foundation grant. The cost of the two 12-lead defibrillators is \$17,000 (\$8500 each) and two autopulse \$9,500 (\$4750 each) Motion by Schultz, seconded by Savage to purchase the units of a not to exceed price of \$26,500. Motion carried unanimously.

Street Dept. Disc Mower and Snow Hauler Purchase

Rick Oeltjenbruns, Street Supt. reviewed the 2015 Capital Improvement Plan, the Street Dept. Sweep Savings Balance and the Street Dept. 2014 Revenues and Expenses to 10/3/14 with the council. The 2005 New Idea disc mower is in need of repairs estimated at \$5,681.91 including repairs. A new New Idea is available for \$8,000 less trade-in of \$1,500. Oeltjenbruns has also located a 1974 Chevrolet truck for a snow hauler. This would replace an older snow hauler. Motion by Schultz, seconded by Ysker, to purchase a new New Idea disc mower and the 1974 truck. Motion carried unanimously.

Maintenance Agreement with Cottonwood County Highway Dept.

The city maintains three miles of county road within the city limits from Nov. through March. Motion by Schultz, seconded by Savage, to adopt the agreement. Motion carried unanimously.

Snow Removal Policy Review

The policy was reviewed. The policy will be reviewed earlier in the future. Motion by Savage, seconded Ysker, to approve the policy as presented. Motion carried unanimously.

Active Living Plan and Planning Team

Ysker and Kass volunteered to serve as council representatives to the team. There has been one volunteer from the community. Three additional community volunteers are needed.

Passport site

The administrator has discussed the matter with Kathy Kretsch, County Recorder and Steve Nasby, Windom City Administrator. No action was taken.

Volunteer Fire Relief Association Investment Report Card

The report was reviewed. No action taken.

Special Assessment Public Hearing, 6 p.m., Tues. Nov. 18, Community Center

The council was reminded about the public hearing.

Adjourn

Motion by Kruser, seconded by Ysker, to adjourn at 8:06 p.m.

ATTEST:

Wendy Meyer, Clerk/Administrator

DRAFT
Special Meeting
Mt. Lake City Council
Mt. Lake City Hall
Monday, November 24, 2014
3:00 p.m.

Members Present: Dean Janzen, Darla Kruser, Brian Schultz, Andrew Ysker

Members Absent: David Savage (participated via telephone)

Staff Present: Maryellen Suhrhoff, Muske, Muske and Suhrhoff, City Attorney; Wendy Meyer, Clerk/Administrator

Others Present: Mike Nelson, Mayor Elect; Andy Kehren, Bolton & Menk, City Engineer; Bryan Bargaen, Utility Commission Chair

Call to Order

Mayor Janzen called the meeting to order at 3:00 p.m.

2012-2014 Utility and Street Project Special Assessment Roll

The council reviewed city and utility financial data. The comments and concerns expressed by those who addressed the council at the Nov. 18 Special Assessment Public Hearing were considered. Discussion was held on meeting the state statute requirement whereby 20% of the project must be special assessed. The council considered what source of revenue, levy increase, utility transfer, or use of reserves, should be used to cover the expected special assessment income shortfall. The merits of revision plans that had been suggested by council members and staff were considered. Establishing a policy to defer special assessments on homestead property owned by a person over 65, permanently disabled for whom it would be a hardship to make payment; or a member of the MN National Guard or other military reserves on active duty was discussed. The policy of the City of Steward was reviewed. A draft of revisions to the special assessment roll was formulated and will receive further consideration at the special assessment hearing to be reconvened at later today.

Adjourn

Mayor Janzen adjourned the meeting at 5:30 p.m.

ATTEST:

Wendy Meyer, Clerk/Administrator

DRAFT
Mt. Lake City Council
Mt. Lake Community Center
Tuesday, November 18, 2014
6:00 p.m.

Members Present: Dean Janzen, Darla Kruser, David Savage, Brian Schultz, Andrew Ysker

Members Absent: None

Members-Elect

Present: Dana Kass, Council Member Elect; Mike Nelson Mayor Elect;

Staff Present: Maryellen Suhrhoff, Muske, Muske and Suhrhoff, City Attorney; Wendy Meyer, Clerk/Administrator, Andy Kehren, Bolton & Menk, City Engineer

Those Present Who

Signed Register: Kristine Hudson, Bryan Bargaen, Nick Naxay, Matt Gohr, Bob Blom, Rodney Fast, Bob Gohr, Ashley Gohr, Alison Kounlabout; Pat Oja, John Carrison, Doug Regehr, Audi Nickel, Kenneth E. Unruh, Dennis and Faye Ratzlaff, Mark and Sharron Hanson, Janice Stadlander, Clifford Netsch, Janine Penner, Mary Penner, Willie Krahn, Brad and Kelly Hanson, Abbie Olson, Willard Friesen, Julia Penner, Burton Stoesz, Walt Beedy, Susie Gohr, Bryce Boldt, Lance and Katelyn Bartel, Myra and High long, Jim and Sharon Speikers, Roger and Joyce Janzen, Julie Brugman, Kim Naas, Lisa Lohrenz, Steve Dick representing Mt. Lake Christian School, Scott Winters, Jay Schied, and one illegible signature

Those Present Who

Did Not Sign

Register: Sarah Roach, Mt. Lake/Butterfield Observer/Advocate, Sharon Friesen, Harvey Buller, Mike Hudson Brett Lohrenz, Karen Stoesz, Arnold harder, Marian Fredin, Brittany Winters, Chad Peterson, and Daintri Christians

Call to Order

Mayor Janzen called the meeting to order and opened the public hearing at 6:00 p.m. The order of the hearing and the procedures to be followed was explained to those present.

Andy Kehren, Bolton and Menk

Kehren, with a slide presentation explained municipal borrowing law and noted that MN Statute Ch. 429 requires that 20% of a project's total cost be assessed to affected property owners immediately. The poor condition of the sanitary sewer system was reviewed. City employees had to by-pass pump during significant rainfalls to prevent sewage from backing up in homeowners' basements. The wastewater treatment ponds routinely were receiving more water each day, some clean, than they are designed to receive. The system has had 25 MN Pollution Control Agency violations. A summary of the project's cost, funding sources, and the city's special assessment policy were reviewed. For the purposes of the special assessment policy, when considering a corner lot, the shorter side of the lot is the front lot and the longer side is the side lot, no matter where the front door is located. Assessment rates, assessment terms, assessment procedures were explained.

Questions and Comments from the Public

Walt Beedy (PIN 22.413.0100, 610 2nd Ave; PIN 22.413.0110, 620 2nd Ave.; PIN 22.413.0180, 2nd Ave.; PIN 22.413.0190, 617 2nd Ave.) asked questions about the project funding source summary slide. It appears that only \$260,000 was spent on street improvement and property owners being billed much more. Did the council check property values before the project? He referred to the special benefits test found in MN Statute 429 and added that the special assessments on some parcels are more than the increased value of the parcel following the project. *The project cost summary slide was reviewed. The project's street improvements totaled \$5,883,000. As much as possible funding for the street improvements came from the Public Facilities Authority loan, which has a 1% interest rate. The funding source for \$260,000 of the street improvements was a general obligation bond with a higher interest rate. Lower interest rates reduce the amount of interest paid over the life of the loan. It was also explained that the city had tried to hire an appraiser to determine by what amount the improvements would increase the value of property, but was unsuccessful.*

Bryan Bargaen, Utilities Commission Chair, said that special benefits test had been explained and discussed at several commission meetings. The utility commission wanted as little assessed as possible and felt that the whole city should pay for the improvements, yet by law a minimum of 20% of the project needed to be special assessed. The special benefits test and the 20% requirement are in conflict. Where the special benefits test is not met property owners have a legitimate appeal. *Suhrhoff stated that the city had attempted to structure the special assessments to have the lowest impact as possible on property owners. The special assessment policy is in place to establish consistency across projects. The value added is different from a traditional appraisal. New streets, new curb and gutter, good drainage, dry basements, improved water quality at the lake and the elimination of sewer back-up in basements have value. She reviewed the appeals process. Kehren suggested discussing the conflict raised by Bargaen with local legislators.*

Abbie Olson, an attorney with Gislason and Hunter, representing group of property owners presented a written objection of the proposed special assessments. Two objections were made. First, the proposed special assessments exceeded the special benefits conferred on the properties and that second, the process used by the city to establish the proposed assessments amounts was invalid because no market analysis was done.

Karen Stoesz (speaking on behalf of property owner Nancy Stoesz, PIN 22.610.181, 1540 2nd Ave.) addressed the council on the poor quality of the concrete repair of her mother's drive-way. *She was told that the work was under warranty and the contractor would need to return until the damage was satisfactorily remediated.* What is the status of the settling issue on 2nd, 5th and 6th Ave. and Prince St. and if, once a determination was made, would special assessment amounts change. *The matter is in litigation, the results will not change special assessment amounts.*

Ken Unruh (PIN 22.610.0750, 1315 6th Ave.) stated that his installation of his sidewalk and driveway was done incorrectly. *Bolton and Menk staff will meet with him at his home to look at the problem.*

Burton Stoesz (PIN 22.610.0790, Prince St.) asked about deferment of the special assessment on farmed land. *He was directed to city hall to complete an Ag deferment request.*

Rod Fast (PIN 22.443.0130, PIN 22.443.0150, PIN 22.443.0160, 1014 9th Ave.) questioned the special assessment on his empty lots. He feels they do not meet the special benefit test and is appealing.

Bryce Boldt (PIN 22.443.0260, PIN 22.443.0270, 911 110th St. N.) stated that he owns an empty lot beside his home valued at \$2400 with a special assessment of \$5000. He asked what the procedure was to give the lot to the city. *He was told that properties could be deeded to the city.*

Jim Speikers discussed his parcel on Prince. St. He feels the whole city could pay for the project through utility rates.

Kristine Hudson (PIN 22.610.0180, 1544 2nd Ave.) asked there is a city law/policy that requires curb and gutter if a gravel road was hard-surfaced. She is not satisfied with her drive-way, or the repairs made. Others on 2nd Ave. are unhappy with their drive-ways. The poor quality driveways reduce property values. The entire community should pay for the project. *It was explained that 25% of the project is being special assessed, the remainder is being paid by the community through property taxes and utility rates.* She asked about the utility bill \$5 infrastructure fee. *Those funds are used for smaller system repairs, ongoing maintenance, and a required reserve for the 2001 SE Sewer Project, and most recently as loan program for property owners in the project area that were required to replace their private sewer lines. About a half dozen low income owners qualified for a grant that paid one-half of the replacement cost.*

Meyer read submitted property owner objections and requests. Lisa Lohrenz (PIN 22.520.2130, 1116 6th Ave.), Myra Aberson (PIN 22.443.0240, 901 11th St. N.), and Amy Nissle Stauffer (PIN 22.356.0010, 1707 6th Ave.) feel the amount of the special assessments exceeds the value added to their properties by the project. The parcel owned by Joel and Verna Stoesz (PIN 22.443.0300, 1025 9th Ave.) runs from 9th Ave. to 10th Ave. They requested the one frontage be considered a side lot. Currently both frontages are front lots. A senior citizen asked the city adopt a hardship deferment policy for homesteaded property owned by a person over 65 or who is permanently disabled.

Kim Nass (PIN 22.520.1330, 1011 4th Ave.; PIN 22.520.1340, 405 11th St. N.) asked for clarification of the process of objection and appeal to district court as outlined in the Public Hearing Notice that all affected property owners received. *Her questions were answered by the city attorney. Objections must be made prior to the adoption of the special assessment roll in order for property owners to appeal to district court.*

Brad Hanson (PIN 22.520.1010, 1050 4th Ave.; PIN 22.520.1910, 509 11th St.; PIN 22.711.0220, 1317 2nd Ave.; PIN 22.520.2090, 510 11th St. N.; PIN 22.520.2080, 506 11th St. N.; PIN 22.520.2070, 1103 5th Ave.) feels the special assessment will cripple the town. The public school needs to upgrade its facilities. The municipal utility should pay for the project. *Schultz reminded Hanson that 20% must be assessed.* Hanson said that not every city project is special assessed. The water treatment plant is being paid for by water rates. The street improvements were not improvements, there was nothing wrong with the streets, they were replaced because of the utility work. The utility 'dreamed up' the project and the utility should pay for it. The special assessments will make it more difficult to buy a house in Mt. Lake. The project cost must be borne by the community but at what point do the costs break a community? As a business owner he does not surcharge his customers to pay for a roof on his building. He asked who had been contacted to do appraisals for the city. *Meyer gave five names she remembered; there were more. Why did they decline? These reasons were given; 1. Lack of time; 2. Not their area of expertise; and 3. Wanted an appraisal used only for the specific parcel appraised and not used to determine values across the project.* Hanson asked Meyer if she thought some of the appraisers were concerned about backing up the special assessment. *None of them had given that as a reason.* Hanson asked if Meyer thought that it could have been a reason. *Meyer is not a licensed appraiser. When contacted, the request to appraise a representative sample of parcels in the project area was made. Appraisers were never given any information about the project or the special assessment; the total amount of the special assessment; neither were any individual parcel assessments discussed.* Savage said the purpose of the assessment was to get honest results and answers to help determine appropriate assessments amounts.

Bryan Bargen, Utility Commission Chair, reminded those present that all infrastructure eventually needs to be replaced. He asked about ways to address the issues raised during the

public hearing and perhaps avoid appeals in district court. *Suhrhoff explained that the council could adopt the roll this evening and thereby start the 30 day pre-payment window. This would get the roll to the county auditor before 12/31/14 the date by which all special assessments must be presented to the county auditor. The council could continue to work with property owners to adjust special assessment amounts until the roll is sent to the county auditor.*

Savage said that appraisals would likely be necessary to adjust special assessments, something the city has been unable to do.

Janzen asked about the consequences of the special assessment roll dropped below 20% of the project as required by law.

Ken Unruh (PIN 22.610.0750, 1315 6th Ave.) stated he wants to avoid court.

Doug Regehr (22.416.0100, 1626 5th Ave.) asked if the city would be in legal trouble if 20% was special assessed but the amount dropped to less than 20% because of successful appeals. *There was further discussion and clarification of these questions by Janzen, Regehr, Schultz and Suhrhoff.*

Kristine Hudson (PIN 22.610.0180, 1544 2nd Ave.) asked questions about the objection and appeal process. She expressed concerns that not all property owners receiving notices had read or understood the objection and appeals process. *Questions were answered by the city attorney, city administrator and council members.*

Karen Stoesz (speaking on behalf of property owner Nancy Stoesz, PIN 22.610.181, 1540 2nd Ave.) stated that the city should have done more to notify residents of the public hearing. She questioned if some residents had even opened the notice. *It was explained that the city had met the requirements of law regarding notification of the public hearing.*

Willie Krahn (22.356.0050, 1615 6th Ave.) questioned why the good sections of curb were not left and only the poor sections replaced. Sixth Ave. is a well-travelled road and the special assessments to property owners are unfair.

Brittany Winters (PIN 22.358.0170, PIN 22.610.0911, 915 11th St. N.) discussed her decision to return to Mt. Lake and buy a house, the cost of housing, and her one-hour commute. She now regrets buying a house in Mt. Lake. She feels the council and the special assessments are tearing the community apart and asked who would want live in community where this is happening.

Abbie Olson, Gislason and Hunter, discussed MN Statute 429.091 with the council. The city can assess less than 20% if an election for the bonds. The bonds were sold at the start of the project. She also suggested that the council table the adoption of the roll and find answers to the issues have been raised.

Kim Nass (PIN 22.520.1330, 1011 4th Ave.; PIN 22.520.1340, 405 11th St. N.) asked additional questions about the approval of the special assessment roll, and the objection and appeal process.

Jim Speikers (PIN 22.443.0370, 1009 9th Ave.; PIN 22.443.0370, 1403 6th Ave.; PIN 22.610.0760, 1403 6th Ave.) said he did not know his property would be special assessed until the public hearing notice and proposed assessment arrived recently in the mail. *A public hearing was held prior to the project; all affected property owners were notified by mail. The notice did not contain a parcel specific total cost; it did give a per linear foot preliminary assessment.* Speikers said he did not receive the preliminary assessment notice. *By law Bolton and Menk prepared and certified a list of all property-owners receiving the preliminary public hearing notice. The list and the accompanying letter can be seen at city hall. Council Member Savage noted that the preliminary assessment by linear foot was greater than the actual cost of the final proposed assessment.*

Janzen suggested that adoption of the roll be tabled until the Dec. 2 council meeting. Objections should be filed before that meeting. Several asked if the county auditor would accept the roll if the 30 day window ran past Dec. 31, 2014. *The administrator will check with the auditor.*

Kim Nass (PIN 22.520.1330, 1011 4th Ave.; PIN 22.520.1340, 405 11th St. N.) told the council that the documents she files with the county auditor on behalf of her employer, the public school, must be filed by Dec. 31.

Janine Penner (PIN 22.610.0791, 1425 6th Ave.) asked what the criteria are that the court uses to raise or lower a special assessment.

Julie Brugman (PIN 22.520.0831, 307 N. 8th St.) encouraged the council to find a ways to stay out of court.

Rod Fast (PIN 22.443.0130, PIN 22.443.0150, PIN 22.443.0160, 1014 9th Ave.) addressed Willie Krahn's question about curb and gutter. It is cheaper, due to labor costs, to remove and replace all curb and gutter. Fast reminded those present of the \$2 equipment replacement plan that the city collected for as part of the utility bill. Funds are available to purchase equipment; the city's equipment is much better today because of the plan. He suggested that the \$5 sewer infrastructure fee be raised to build reserves for the wastewater treatment facility upgrades that will be needed within the next 3-5 years. There are still sewer mains that need to be replaced.

Janzen acknowledged that the waste water treatment facility is the next project the city will need to address. He also suggested the public hearing be continued to another date.

Savage asked the council to determine what information should be gathered prior to the special meeting. He suggested that it may be possible to reduce the special assessment 20% per parcel, dropping the overall rate from 25% to 20%. He asked if city owned parcels can be included in the 20% of the total project costs to be accessed. Suhrhoff will research this and other questions.

Savage reminded those present that funds removed from the special assessment roll will need to be replaced through increased property taxes or some other city revenue source. There was further council discussion on Council Member Savage's proposal.

Meyer thought the biggest issue with falling below the 20% total project assessed might be the city's ability to bond, and at competitive interest rate, in the future.

Brad Hanson (PIN 22.520.1010, 1050 4th Ave.; PIN 22.520.1910, 509 11th St.; PIN 22.711.0220, 1317 2nd Ave.; PIN 22.520.2090, 510 11th St. N.; PIN 22.520.2080, 506 11th St. N.; PIN 22.520.2070, 1103 5th Ave.) acknowledged that property owners should pay some special assessment.

Discussion was held about recessing the public hearing and re-convening at a later date. Motion by Schultz, seconded by Ysker, to continue the public hearing to 6:30 p.m. Mon. Nov. 24 at the Mt. Lake Community Center. Motion carried unanimously.

Special Assessment Continued Public Hearing

Mt. Lake City Council

Mt. Lake Community Center

Monday, November 24, 2014

6:30 p.m.

Members Present: Dean Janzen, Darla Kruser, Brian Schultz, Andrew Ysker

Members Absent: David Savage (via telephone)

Members-Elect Present: Mike Nelson Mayor Elect

Staff Present: Maryellen Suhrhoff, Muske, Muske and Suhrhoff, City Attorney; Wendy Meyer, Clerk/Administrator, Andy Kehren, Bolton & Menk, City Engineer

Those Present Who Signed Register: Susie Gohr, Katelyn Bartel, Ashley Gohr, Alison Kounlabout, Scott Winters, Brittany Winters, Pat Oja, Robert Gohr, Brad Hanson, Kelly Hanson, Abbie Olson, Gisalson & Hunter, Sharron Hanson, Mark Hanson, Michael Marx, Sheila Marx, Clifford Netsch, Charlotte Peters, Jim Speikers, Sharon Speikers, Mary Penner, Brett Lohrenz, Rachel Yoder, Phil Harder, Courtney Wall, Sherry Wall, Emily Bentson, Daryl J. Dick, Myrna Long, High Long, Kim Nass, Ken Unruh, Jason Kruser, Alyssa Nesmoe, Taylor Nesmoe, Julie Brugman, Chad Peterson, James E.

Quiring, Janine Penner, Rod Fast, Karen Stoesz, Daryl Bargen, Steve Dick, and one illegible signature

Those Present Who
Did Not Sign

Register:

Walt Beedy, Mary Penner, Lisa Lohrenz, Kristine Hudson, Mike Hudson
Tim Swoboda

Re-convening of Meeting

Mayor Janzen re-convened the meeting at 6:30 p.m. Property owners who had not had an opportunity to address the council were asked to do so.

Daryl Dick and Myrna Long (PIN 22.520.0021, 22.520.0020, 704 2nd Ave.) believe that the ownership of the parcels is incorrect on the special assessment roll. Dick owns 22.520.0021 and Long owns 22.520.0020). The matter will be investigated. Dick also stated that the special assessment on the parcels does not meet the special benefits requirement.

Emily Bentson (PIN 22.320.0030, 310 12th St.) asked for summary of the Nov. 18 public hearing. Mayor Janzen answered her question.

Kristine Hudson (PIN 22.610.0180, 1544 2nd Ave.) asked if the notices had been translated into other languages for non-English speakers. The notices were not translated. The city is not legally required to do so.

Janzen closed the public hearing at 6:45 p.m.

A draft of revisions to the special assessment roll was formulated at the council's work session earlier in the day was read by Janzen. He asked for questions and comments.

Emily Bentson (22.320.0030, 310 12th St.) asked how the revisions will be made available to the public. *They will be available on the city's website www.mountainlakemn.com.*

Schultz explained the revisions in more detail. Brad Hanson (PIN 22.520.1010, 1050 4th Ave.; PIN 22.520.1910, 509 11th St.; PIN 22.711.0220, 1317 2nd Ave.; PIN 22.520.2090, 510 11th St. N.; PIN 22.520.2080, 506 11th St. N.; PIN 22.520.2070, 1103 5th Ave.) and Kim Nass (PIN 22.520.1330, 1011 4th Ave.; PIN 22.520.1340, 405 11th St. N.) asked questions about the revisions. Sharron Hanson asked if the city would have representative parcels appraised. *She was told no.* Emily Bentson asked for an explanation of Sharron Hanson's question.

Phil Harder (PIN 22.183.0010, 614 11th St. N.) told the council that it appears that the contractor damaged concrete out of the right-of-way and the property owner is now being special assessed for the replacement. He feels the contractor should pay for this. *Bolton & Menk Project Representative Leon Stugelmeyer will meet with him. The matter should be brought to the next council meeting.*

Ken Unruh (PIN 22.610.0750, 1315 6th Ave.) reminded the council about the sidewalk/drive-way issue on his property. He had met with Bolton & Menk Project Representative Leon Stugelmeyer and they agreed on a solution. There is some disagreement on the size of the special assessment reduction. *The matter should be brought to the next council meeting.*

Rachel Yoder (lives outside the city) asked how the funding gap caused by the reduction in special assessments would be filled. *Janzen explained that the council had not determined the exact sources and amounts but property taxes, water and sewer rates, or using reserves will be considered.*

Katelyn Bartel (22.290.0100, 22.290.0101, 1217 Prince St.) asked for clarifying information about the cap for homesteaded properties.

Adoption of Revised Special Assessment Roll

Motion by Schultz, seconded by Ysker, to adopt resolution #-14 adopting the special assessment roll with the revisions as presented. Motion carried unanimously. David Savage did not vote because the requirements of MN Statute 13D.21 were not met.

Adjourn

Motion by Schultz, seconded by Ysker, to adjourn at 7:04 p.m.

ATTEST:

Wendy Meyer, Clerk/Administrator

REGULAR UTILITIES COMMISSION MEETING
THURSDAY, NOVEMBER 13, 2014
7:00 A.M.

PRESENT: Mark Langland
Bryan Bargaen, Chairman
John Carrison
Mike Johnson
David Savage-City Council Liaison
Brett Lohrenz

ABSENT: None

Staff: Lynda Cowell – Utilities Office Manager
Kevin Krahn – Water/Wastewater Supt.
Ron Melson - Electric Supt.
Wendy Meyer - City Administrator
Dave Watkins - Water/Wastewater

Others: None

Bryan Bargaen - Chairman called the regular meeting of the Utilities commission for November 13, 2014 to order at 7:00 a.m.

1. Minutes and Bills: Motion by Mark Langland seconded by Mike Johnson to accept the minutes and bills as presented. Motion carried. Checks #14796-14858.

2. Water/Wastewater Department:

Ken & Kathy Mathistad (sewer work): The Mathistads were required to replace their private sewer line as part of the 2012-14 Utility and Street Project because it did not meet city code. The condition of the line and the need to replace it are now being questioned. The Commission will view the video tape of the inspection at the next meeting and then make a decision.

Well #7 update: The boring is going to start today and the pipe work should be done by Thanksgiving.

Lift Station on Box elder Street: Kevin told the commission that grease has been found in the lift station and the retainage pond in Jennie's Subd. The grease is likely coming from Pop'd Kerns. Kevin and city engineer Andy Kehren will be meeting with Pop'd Kerns to determine what is causing this to happen.

3. Electric Department:

Transformer storage: After investigating the construction or purchase of a building the commission directed staff to get cost estimates of a fence to enclose the transformers.

69KV Switch: The switch between the sub-station north of town and the city's 69Kv line needs repair. Discussion was held on whether only the parts that needed replacement should be replaced, or the entire switch, which is 50-60 years old, should be replaced. The Commission prefers to replace the entire switch but directed Ron to get prices

2016 American Public Power Association's Lineworkers Rodeo: The 2016 event will be held in MN. Mt. Lake Municipal Utilities is being asked to consider making a donation of equipment use, staff time or a cash contribution. The matter was tabled until next meeting.

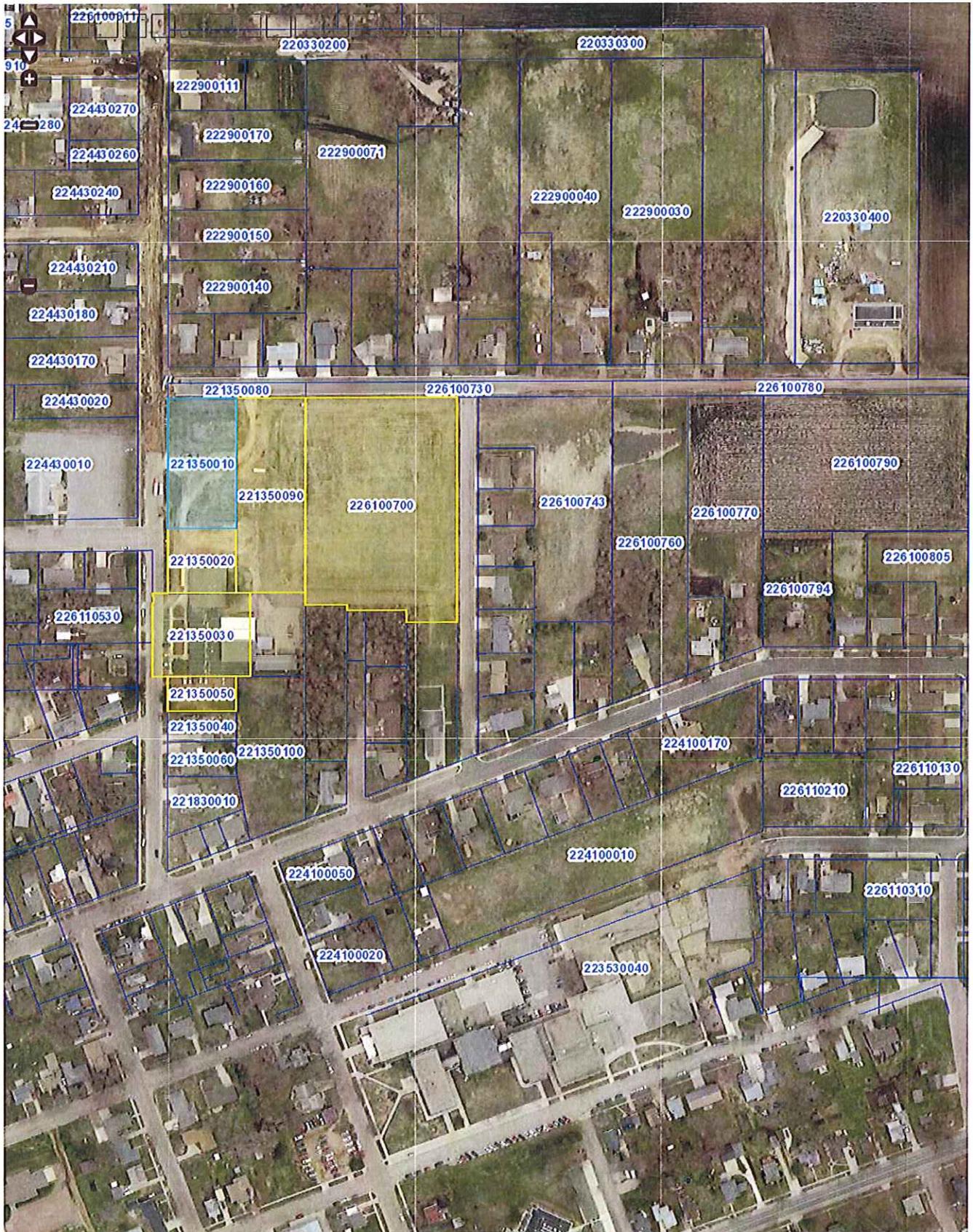
4. Office:

Mt. Lake Chamber of Commerce letter: Motion by Mark Langland seconded by John Carrion to stay active as a Chamber member by paying the platinum dues of \$743.00 and a donation of \$1140.00. Motion carried.

Change of meeting dates: The commission will meet two more times this year, November 26 and December 11th.

Mt. Lake Christian School
Special Assessment

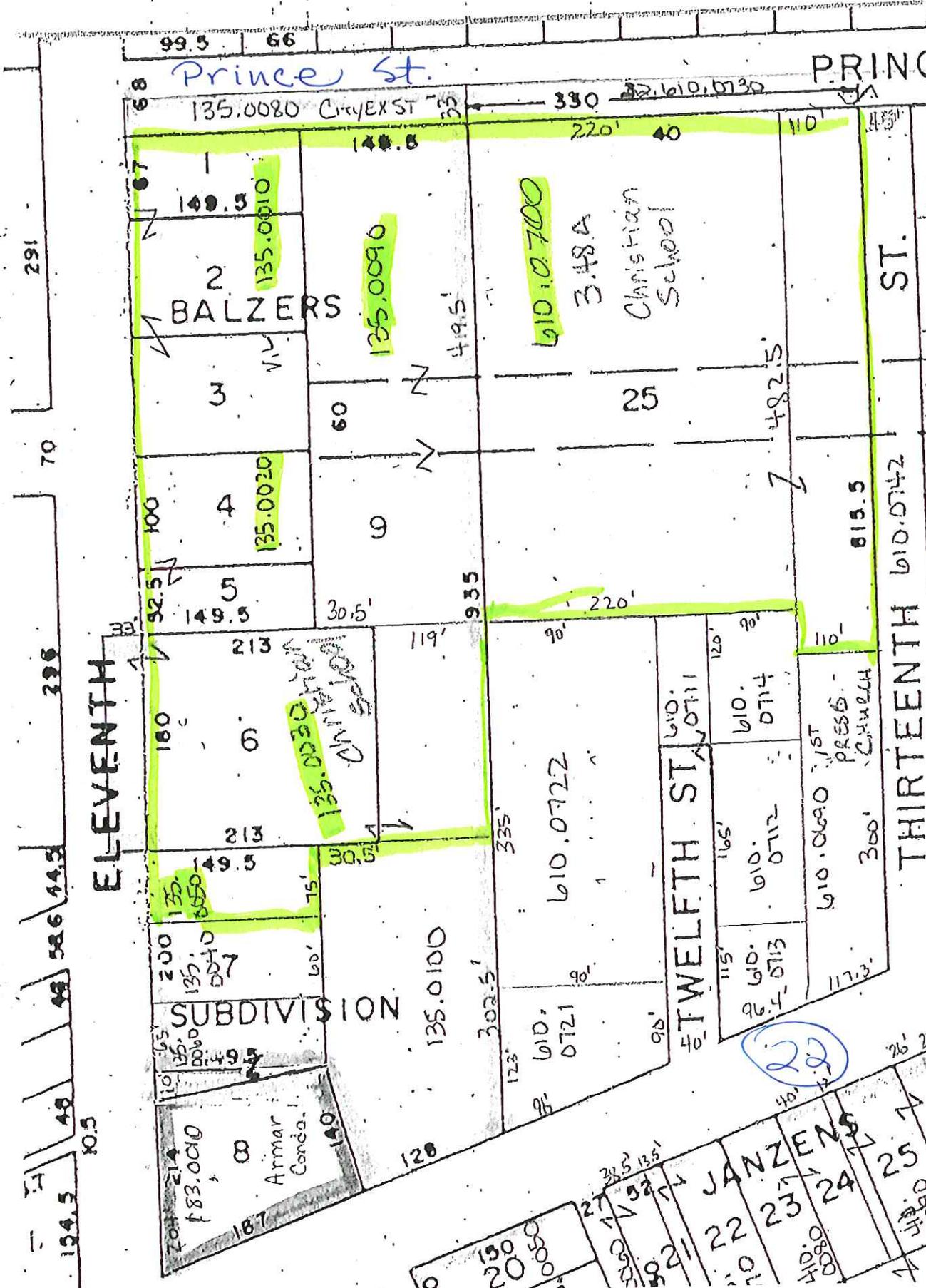
Parcel Identification Number	Abutting Lot Length in linear ft.	Front or Side Lot	Original Special Assessment
22.135.0010	149.5	F	\$10,100.22
22.135.0010	267	S	\$13,232.28
22.135.0020	152.5	F	\$10,302.90
22.135.0030	180	F	\$12,160.80
22.135.0050	75	F	\$6,513.75
22.135.0090	148	F	\$11,464.92
22.610.0700	330	F	\$22,294.80
		Total	\$86,069.67
Does not include \$25,000 reduction for pond			



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614 11th St.

The parcel owner was charged for 106 sq. ft. of driveway outside the right-of-way. The owner thinks this happened because the area was damaged by the contractor when installing water or sewer line.

Bolton & Menk were not made aware of the problem at the time the work was being done.

The owner is asking that the special assessment on the property be reduced by \$555.42 (106sf x \$6.43/sf or \$681.58 less 20% or \$126.16).

This amount should be removed from the Kuechle's final payment.

1315 6th Ave.

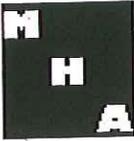
See photos.

The city could add the repair to Kuechle's punch list, have someone else fix the repair and remove the cost from the Kuechle's final payment; or not repair the work and give the owner a special assessment reduction which would then be removed from Kuechle's final payment.



(24)

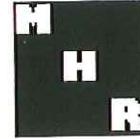




Mark Hanson, Agent
Brad Hanson, Agent

Mark Hanson Agency

P.O. Box 481
Mt. Lake, MN 56159
(507)-427-3500
Fax (507)-427-3501



Mark Hanson, Broker
Sharron Hanson, Sales

Mark Hanson Realty

11-20-14

CITY OF MT LAKE
MT LAKE, MN

WENDY,

AFTER VISITING WITH ANDY THE OTHER NIGHT, HE SUGGESTED I CONTACT YOU OR ONE OF THE COUNCIL PEOPLE. MY PROPERTY AT 520 10TH ST CONSISTS OF 2 PARCELS, HOWEVER, BOTH PARCELS HAVE THE SAME ADDRESS OF 520 10TH STREET. LOOKING AT BOTH PARCELS TOGETHER AS ONE UNIT AND ONE ADDRESS, MY SHORT SIDE IS ON 10TH STREET AND MY LONG SIDE IS ON 6TH AVE.

HE FEL THAT THIS WOULD MAKE 6TH AVE AS A SIDE LOT AND 10TH ST AS THE FRONT LOT.

WILL YOU PLEASE ADDRESS THIS CHANGE?

MARK HANSON

26

CHAPTER 6

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OTHER BUSINESS REGULATION AND LICENSING

SECTION 6.31. TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.

Subdivision 1. Purpose. Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, ~~tobacco products,~~ and tobacco related devices, ~~and electronic delivery devices, and nicotine or lobelia products~~ such sales, possession, and use are violations of both State and Federal laws; and because studies, which are hereby accepted and adopted, including "Accessibility of Tobacco Products to Youths Aged 12 - 17 years - United States, 1989 and 1993" published in the February 16, 1996, issue of the Centers for Disease Control and Prevention's (CDC) Morbidity and Mortality Weekly Report and "Trends in Cigarette Smoking in the United States Projections to the year 2000" published in the Journal of the American Medical Association (JAMA), have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession, and use of tobacco, ~~tobacco products,~~ and tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, ~~tobacco products,~~ and tobacco related devices, electronic delivery products, and nicotine or lobelia delivery devices and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. §144.391.

Comment [1]: This is the new section title found in state law, with the new or expanded terminology added to reflect that the licensing regulations apply to more than just "tobacco." Change probably isn't necessary and/or critical, but something to keep in mind.

Comment [2]: These provisions are - understandably - tobacco focused. As electronic cigarettes are also a topic that is covered, e-cigarette related health concerns are relevant as well and could be added.

Comment [3]: Many ordinances will use and define both "tobacco" and "tobacco products." With the additional terms to add, a city or county could probably remove one or another to shorten the list - even if just a little bit.

Subdivision 2. Definitions and Interpretations. The following terms shall have the definitions given to them:

1. "Child-resistant Packaging" shall mean packaging that meets the definition as set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.
2. "Compliance Checks" shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, ~~tobacco products,~~ and tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, ~~tobacco products,~~ or tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to tobacco, ~~tobacco products,~~ and tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products.

Comment [4]: New requirement in state law. Good idea to have it reflected in city ordinance as well.

3. "Electronic Delivery Devices" shall mean any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose.

Comment [5]: Term and definition used in state law, term used to describe the type of product for which a local license to sell is required.

There are alternative terms and definitions used to describe these things.

"Indoor Area" shall mean all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

Comment [6]: If there is interest in a smoking/sampling ban, important to add a definition of indoor areas.

42. "Loosies" shall mean the common term used to refer to a single or individually packaged cigar or cigarette, or any other tobacco product that has been removed from its packaging and sold individually. The term "loosies" does not include individual cigars with a retail price, before any sales taxes, of more than \$ ___ per cigar.

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Comment [7]: Additional language could be used if there was interest in setting a minimum price for single cigars.

53. "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

64. "Moveable Place of Business" shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

75. "Nicotine or Lobelia Delivery Products" shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Comment [8]: This is – to some degree – semantics. But, perhaps an important one. When the state laws were amended this year, "nicotine or lobelia delivery products" was added to the list of products for which a license is required for their sale. There aren't too many products that would be considered a "nicotine or lobelia delivery device" and not "tobacco" or an "electronic delivery device," it is included in state law. As such, it should probably be included in your ordinance as well.

8. "Retail Establishment" shall mean any place of business where tobacco, ~~tobacco~~ products, or tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, restaurants, bars and lounges.

Using "products" instead of "devices" will mirror what is in state law, reduce the number of times "devices" needs to be used (tobacco-related devices, electronic delivery devices)

96. A "sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

107. "Self-Service Merchandising" shall mean open displays of tobacco, ~~tobacco products, or~~ tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery

products in any manner where any person shall have access to the tobacco, ~~tobacco products, or~~ tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, ~~tobacco product, or~~ tobacco related device, electronic delivery device, and nicotine or lobelia delivery product between the Customer and the licensee or employee. Self-service merchandising shall not include vending machines.

118. "Smoking" shall mean inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product, or inhaling or exhaling vapor from any electronic delivery device. Smoking shall include carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.

Comment [9]: Broad definition that covers both "traditional" smoking as well as "electronic devices."

~~"Tobacco" means and includes tobacco in any form, including but not limited to, cigarettes, cigars, bagged, canned or packaged product.~~

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129. "Tobacco" shall mean cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. or "Tobacco products" shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, fine cut or other chewing tobacco, cheroots, stogies, perique, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff flowers, cavendish, shorts, plug and twist tobaccos, dipping tobaccos, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

Comment [10]: Perhaps this is a typographic error, but there is no need, benefit, or purpose for having a term defined twice.

130. "Tobacco-related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking, or inhalation of vapors of or of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

Comment [11]: Unless the city or county decides to go farther, be more restrictive, there are a number of good reasons why the definition in state law should be used.

141. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, ~~tobacco products, or~~ tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products. Upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to

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purchase the tobacco, ~~tobacco product, or tobacco related device,~~ electronic delivery device, and nicotine or lobelia delivery products.

Subdivision 3. License. No person shall sell or offer to sell any tobacco, ~~tobacco products, or tobacco-related device,~~ electronic delivery device, or nicotine or lobelia delivery product without first having obtained a license to do so from the city.

1. Application. An application for a license to sell tobacco, ~~tobacco products, or tobacco-related devices,~~ electronic delivery devices, or nicotine or lobelia delivery products shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled council meeting. If the City Clerk shall determine that an application is incomplete, the application will be returned to the applicant with notice of the information necessary to make the application complete.
2. Separate licenses shall be issued for the sale of tobacco at each fixed place of business, and no license shall be issued for a movable place of business.
3. Action. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary.
4. Term. All licenses issued under this ordinance shall be valid for one calendar year from the date of issue.
5. Revocations or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.
6. Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid, ~~without the prior approval of the City Council.~~
7. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
8. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license.
9. Issuance as privilege and not a right. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Comment [12]: Stronger language to remove this possible exception.

Comment [13]: Seemingly another typographical error. These are related to "Subdivision 3. License" – not moveable place of business.

10. Proximity to youth-oriented facilities. No license shall be granted pursuant to this section to any person for any retail sales of tobacco, tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products within 1,000 feet of any school, playground, house of worship, or youth-oriented facility, as measured by the shortest line between the space to be occupied by the proposed licensee and the occupied space of the school, playground, house of worship, or youth-oriented facility, unless that person has been in the business of selling such products in that location before the date this section was enacted into law for at least one year. For the purpose of this section, a youth-oriented facility is defined to include any facility with residents, customers, visitors, or inhabitants of which 25 percent or more are regularly under the age of 21 or which primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21.

11. Proximity to other tobacco retailers. No license shall be granted pursuant to this section to any person for any retail sales of tobacco, tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products within two thousand feet of any other establishment holding such a license, as measured by the shortest line between the space to be occupied by the proposed licensee and the occupied space of the nearest existing licensee, unless that person has been in the business of selling such products in that location before the date this section was enacted into law for at least one year.

12. Smoking. Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling tobacco, tobacco related products, or electronic delivery devices is prohibited.

Subdivision 4. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.

1. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

2. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Subdivision 5. Fees. No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be \$25.00.

Subdivision 6. Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.

Comment [14]: The "License" section is often seen as the place or location to add a number of newer or novel tobacco strategies – such as these proximity and smoking restrictions. In alternative, new, stand-alone sections could be created in alternative.

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Comment [15]: Seemingly another typographical error. These are related to "Subdivision 3. License" – not moveable place of business.

Comment [16]: License fees are imposed to cover the approximate cost of administration (such as background checks) and enforcement (such as compliance checks). Providing a financial incentive – a license fee discount – in order to encourage applicants to attend youth access training is a good approach. But the tobacco license fee may not accurately reflect the costs associated properly administering and enforcing the ordinance. Many cities and counties have relatively minimal licensing fees. When this is occurs, a city or county (or its residents) may be:

Subsidizing some of the costs that should be paid by a license holder, or

May not be actively enforcing their regulations.

Cities and counties typically modify their fees through a separate document – typically called a fee schedule or fee ordinance. When a fee schedule is used, the fees can be changed while the ordinance stays the same.

Rather than arbitrarily add a new, higher number, it would might be more effective to work with city officials to brainstorm all of the costs involved.

While a consequence of higher license fees may be that there are less businesses interested in a license, that message is not one that a small-city council wants to hear – they are generally very mindful of the businesses – all of the businesses they have.

Businesses paying their fair share, not subsidizing their efforts, may be a more compelling message.

1. The applicant is under the age of 18 years.
2. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco ~~or tobacco products, or tobacco-related devices,~~ electronic delivery devices, or nicotine or lobelia delivery products.
3. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked or suspended within the preceding twelve months of the date of application.
4. The applicant fails to provide any information required on the application, or provides false or misleading information.
5. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section.

Subdivision 7. Prohibited Sales. It shall be a violation of this ordinance for any person to sell or give away or offer to sell any tobacco, ~~tobacco product, or tobacco-related device,~~ electronic delivery device, or nicotine or lobelia delivery product:

1. To any person under the age of eighteen (18) years.
2. By means of any type of vending machine, except as may otherwise be provided in this ordinance.
3. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, ~~tobacco product, or tobacco-related device,~~ electronic delivery device, or nicotine or lobelia delivery product and whereby there is not a physical exchange of the tobacco, ~~tobacco product, or tobacco-related device,~~ electronic delivery device, and nicotine or lobelia delivery product between the licensee or the licensee's employee, and the customer.
4. By means of loosies as defined in Subdivision 2 of this Section.
5. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
6. By any other means, to any other person, on in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

Subdivision 8. Vending Machines. It shall be unlawful for any person licensed Under this ordinance to allow the sale of tobacco, ~~tobacco products, or tobacco-related devices,~~ electronic delivery devices, or nicotine or lobelia delivery products by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

Comment [17]: State law does allow for vending machine sales in location where minors are not allowed to enter. However, with indoor smoking restrictions, the need and/or use of vending machines has gone down very significantly. It is possible that there are none in the city. If there aren't, this exception – as well as this whole subdivision - could be eliminated.

Subdivision 9. Self – Service Sales. It shall be unlawful for a licensee Under this ordinance to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, ~~tobacco product, or the tobacco-related device,~~ electronic delivery device, or nicotine or lobelia delivery product between the licensee or his or her clerk and the customer. All tobacco, ~~tobacco products, and tobacco-related devices,~~ electronic delivery devices, or nicotine or lobelia delivery products shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage Unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this ordinance is adopted shall comply with this Section within 90 days. This self-serve restriction ~~described in this section 800~~ shall not apply to retail stores which drive at least 90% of their revenue from tobacco and tobacco related products and which cannot be entered at any time by persons younger than 18 years of age.

Comment [18]: Are there any Adult-only, Tobacco-only shops in Mountain Lake. Similar to vending machines, a city or county can be more restrictive than state law and eliminate the exception.

If there aren't any tobacco shops, this may be something city officials will be interested in, and this whole subdivision could be eliminated.

Subdivision 10. Responsibility. All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, ~~tobacco products, or tobacco-related devices,~~ electronic delivery devices, or nicotine or lobelia delivery products on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

Comment [19]: Another typo. Perhaps this was originally copies from another city or county.

Subdivision 11. Compliance Checks and Inspections. All licensed premises shall be open to inspection by local law enforcement or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, ~~tobacco products, or tobacco-related devices,~~ electronic delivery devices, and nicotine or lobelia delivery products. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, ~~tobacco products, or tobacco-related devices,~~ electronic delivery devices, or nicotine or lobelia delivery products when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

Subdivision 12. Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this ordinance.

1. **Illegal Sales.** It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, ~~tobacco product, or tobacco-related device,~~ electronic delivery device, or nicotine or lobelia delivery product to any minor.
2. **Illegal Possession.** It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, ~~tobacco product, or tobacco-related device,~~ electronic delivery device, or nicotine or lobelia delivery product. This subdivision shall not apply to minors lawfully involved in a compliance check.
3. **Illegal Use.** It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, ~~tobacco product, or tobacco-related device,~~ electronic delivery device, or nicotine or lobelia delivery products.
4. **Illegal Procurement.** It shall be a violation of this ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, ~~tobacco product, or tobacco-related device,~~ electronic delivery device, and nicotine or lobelia delivery product and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, ~~tobacco product, or tobacco-related device,~~ electronic delivery device, or nicotine or lobelia delivery product. This subdivision shall not apply to minors lawfully involved in a compliance check.
5. **Use of False Identification.** It shall be a violation of this ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.
6. Liquid Packaging. It shall be a violation of this section for any licensee to sell any liquid, whether or not such liquid contains nicotine, intended for human consumption and use in an electronic device, in packaging that is not child-resistant.

Subdivision 13. Violations.

1. **Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
2. **Hearings.** If a person accused of violating this ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator. If a hearing is not requested by the accused violator within 15 (fifteen) days, the matter shall be submitted to a hearing officer for review to determine if a violation occurred and to determine the appropriate penalty.

3. Hearing Officer. A standing hearing panel consisting of three members shall be appointed by the City Council. The Mayor as the hearing officer shall appoint one of these panel members.
4. Decision. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 1300 of this ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator: Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.
5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the jurisdiction of the city in which the alleged violation occurred.
6. Misdemeanor Prosecution. Nothing in this Section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance.
7. Continued Violation. Each violation, and every day in which a violation occurs or continues, may constitute a separate offense.

Subdivision 14. Penalties.

1. Licensees. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75 for a first violation of this ordinance; \$200 for a second offense at the same licensed premises within a twenty-four month period; and \$250 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.
3. Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, ~~tobacco products, or tobacco related~~ tobacco-related devices, shall be charged an administrative fee of \$50.00 or complete ten hours of community service, said penalty to be determined by the hearing officer. Minors found in violation of this ordinance for a second time within a twelve month period shall be charged an administrative fee of \$100.00 or complete 20 hours of community service, said penalty to be determined by the hearing officer. Minors found in violation of this ordinance for a third time within a twelve month period shall be charged an administrative fee of \$200.00 or complete 40 hours of community service, said penalty to be determined by the hearing officer.
4. Misdemeanor. Nothing in this Section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this ordinance.

Comment [20]: Under this structure, minors have the possibility for greater penalties than the people who illegal sold (or otherwise provided) those products.

Subdivision 15. Exceptions and Defenses. Nothing in this ordinance shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a

lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.

Subdivision 16. ~~Sevarability~~Severability and Savings Clause. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or effect the validity and enforceability of any other section or provision of this ordinance.

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November 12, 2014

To: LMCIT Members and Agents
From: Pete Tritz, LMCIT Administrator
Dan Greensweig, LMCIT Assistant Administrator
Liam Bieber, LMCIT Underwriting Manager
RE: **2014-15 Coverage Changes, Rates, and Dividends**

The League of Minnesota Cities Insurance Trust (LMCIT) Board has approved rates and several coverage changes for the upcoming underwriting year. In addition, the Board approved returning a \$9.5 million dividend to members of the property/casualty program this year. Following is a summary.

Dividend

- Property/casualty members will share in a \$9.5 million dividend. The dividend will be distributed mid-December to those who are property/casualty members as of Dec. 1, 2014.

Property/Casualty Rates, Effective Nov. 15, 2014

- Liability rates will decrease 4%.
- Property rates will decrease 4%.
- Auto physical damage will decrease 6%.
- Auto liability and bond rates will be unchanged.
- Rates for LMCIT's optional coverages will change as follows: liquor liability will be unchanged, machinery breakdown will decrease 5%, and excess liability will decrease 12%.

Workers' Compensation Rates, Effective Jan. 1, 2015

- Overall premium rates will increase 5%.
- Rates for volunteer firefighters will increase an additional 2%. These rates are based on population served, rather than payroll, and therefore need to be adjusted to account for inflation. This slight increase will allow volunteer firefighter rates to stay in line with other job classes.
- Volunteer accident rates, an optional coverage, will decrease 10%.

Coverage Changes

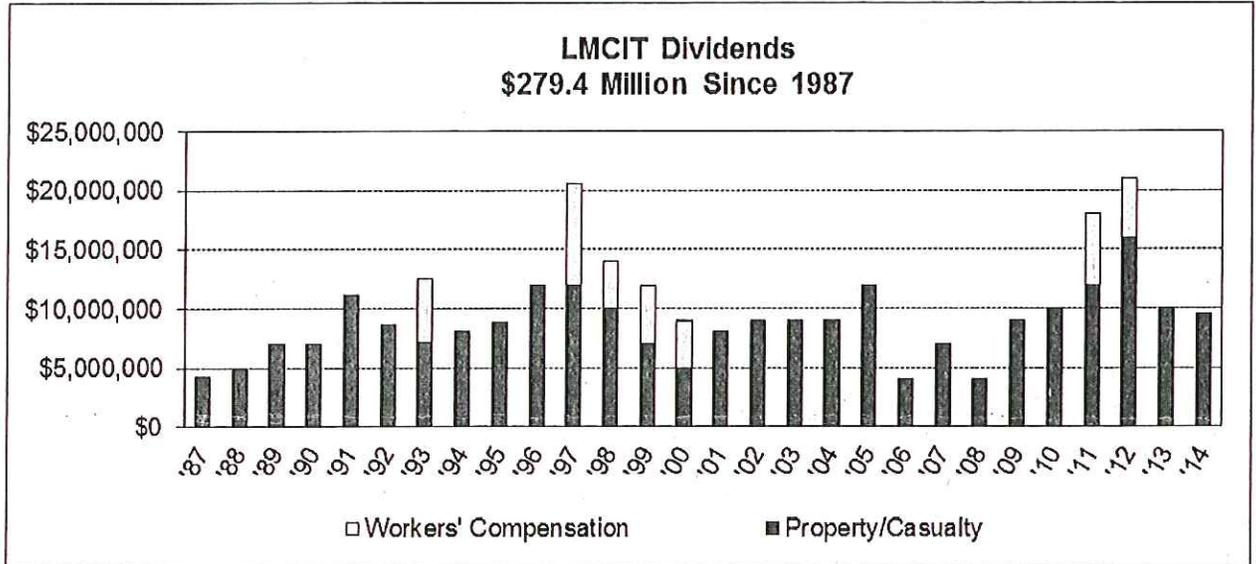
See pages 3-5 to learn more about the coverage changes that will take effect for property/casualty renewals written or renewed on or after Nov. 15, 2014.

Premium Rates

The rate reductions for the coming year don't necessarily mean your premiums will decrease by that amount. In fact, some cities' premiums could still increase. That's because actual premiums are also affected by changes in city expenditures, property values, payrolls, experience rating, the third year of transition to the new liability rating system for some members, and other exposure measures.

Dividend

Members of the property/casualty program will share in a \$9.5 million dividend this year, bringing the total amount of returned dividends since 1987 to \$279.4 million. The dividend will be distributed, along with a detailed explanation of the dividend formula and calculation, in mid-December to those who are property/casualty members as of December 1, 2014.



The dividend amount this year is possible because of some continued good experience in some of LMCIT's more significant loss areas, but it's worth noting that over the past two years there have been a very large number of claims against LMCIT member cities for alleged violations related to the Drivers Privacy Protection Act (DPPA). Because it's very uncertain what these claims might ultimately cost, the LMCIT Board has decided to retain a significant amount of extra funds as a hedge against this potential cost. Hopefully these funds won't be needed to resolve these claims and can be returned to members in the future.

Property/Casualty Rates

Members with renewals on or after November 15, 2014 will see a decrease in rates for most lines of coverage. Auto liability, bond and liquor liability rates will remain flat.

When LMCIT sets premiums rates, the average experience over the past several years is used to project how much loss to expect in the future. The reductions in property, auto physical damage, and machinery breakdown are possible this year because of lower reinsurance costs in these areas of coverage. The reduction in municipal liability rates reflects improved loss experience on land use and steady losses in the areas of sewer backups, auto liability, and other minor liability loss areas. Excluding the effect of claims related to the DPPA, police liability has also been positive.

Rate Setting

LMCIT's practice is to incorporate a solid contingency margin into the premium rates. That margin is meant to cover the extra cost in case losses turn out to be more than what LMCIT projected. By doing so (and then returning the extra funds afterwards if it turns out the fund aren't needed), LMCIT is able to keep premium rates much more stable from year to year. In other words, it helps keep premium rate changes in the range of a few percent up or down each year, rather than the much larger year-to-year premium rate changes that would be seen if LMCIT set lower rates with a much smaller contingency margin.

Changes to the New Liability Premium Rating System

Over the last couple years, some members saw their liability, auto liability and no-fault sewer backup premiums go up while others saw decreases. This was the result of the new liability system's more equitable allocation of premium costs among all members.

To provide a gradual transition to the premium changes, LMCIT has applied a transition mechanism to avoid shock increases for individual members. For the 2014-15 underwriting year, which is the third year of transition to the new system, members will see:

- General liability and auto liability premium increases capped at 15% (50% for drug task forces; 30% for no-fault sewer backup).
- General liability decreases constrained at 15%, with no constraints on all other lines of coverage.

Workers' Compensation Rates

Members with renewals on or after January 1, 2015 will see a 5% increase in overall rate levels. One of the main reasons for this year's rate increase is because of rising medical costs, which now make up 60% of LMCIT's total workers' compensation loss costs. Rates for 2015 assume that medical costs will continue to increase at a rate of about 9% annually, which significantly outpaces the increase in wage levels.

In addition to the overall rate increase, rates for volunteer firefighters will increase an additional 2%. These rates are based on population served, rather than payroll, and therefore lag all other class rates essentially by the amount of annual wage inflation. This slight increase will allow volunteer firefighter rates to stay in line with other job classes.

The LMCIT Board also decided to decrease rates for LMCIT's optional volunteer accident coverage by 10% because of the very low loss experience and the growth in member participation for this line of coverage. The volunteer accident coverage provides disability, death, and impairment benefits to city volunteers who are injured while performing volunteer services for the city. Cities can also add a limited medical benefit as an extra cost option. At the new rate, the basic charge is \$.05 per capita, subject to a minimum premium of \$75 and a maximum premium of \$750.

Coverage Changes

The following coverage changes will take effect for property/casualty coverages renewing on or after November 15, 2014.

Liability Coverage

Liability coverage limits increase

Beginning with renewals on or after November 15, 2014, LMCIT will increase the per-occurrence liability coverage limit from \$1.5 million to \$2 million. The annual aggregate liability limits will also increase from \$2 million to \$3 million for most of the exposures where annual aggregate limits apply, including products liability, failure to supply utilities, data security breaches, electric magnetic fields (EMF), limited pollution, and mold. The only exposures where the annual aggregate will not change is for LMCIT's land use/special risk litigation coverage (\$1 million) and on coverage for claims arising from activities of outside organizations (\$100,000).

New Liability Rating System

LMCIT projects it will be nearly fully transitioned to the new liability rating method by the start of the 2015-16 underwriting year. To learn more about the specifics of the new liability system and the changes made to it over the last three years, go to www.lmc.org/rating.

For those members that carry LMCIT's excess liability coverage, there will be \$500,000 more in coverage limits. If you carry \$1 million of excess coverage, you currently have \$2.5 million of total limits available - \$1.5 million under the primary coverage plus \$1 million of excess coverage. When the liability limits increase on November 15, you'll have \$3 million of total limits - \$2 million of primary coverage plus \$1 million of excess coverage.

Airport operations exclusion - helipads

The existing LMCIT liability coverage contains an exclusion for damages arising out of a city's ownership, operation, or maintenance of any airport. It has been clarified to state that this exclusion does not apply to heliports that are not open for public use (i.e. medical facility/public safety-type heliports).

Covered parties – independent contractor exclusion

Coverage has been clarified that reinforces that independent contractors are generally not considered covered parties. The only exceptions are 1) independent contractors acting in the administrative capacity of medical director or medical advisor to the city ambulance service; and 2) independent contractors serving as a member of, or representing the city as a member of, a committee, subcommittee, board, or commission. This exclusion also applies to the Defense Cost Reimbursement Coverage.

Daycare operations

The LMCIT liability coverage contains an exclusion for a number of specialty type operations, including medical facilities and nursing homes. The coverage has been revised to include licensed daycare operations to the list of operation types subject to this exclusion. Note, however, there is an exception - "drop-in" daycare operations (e.g. community centers/gyms) and park and rec summer day camp or holiday camp type operations are covered.

Hazardous stunting activities

The LMCIT liability coverage contains an exclusion for damages arising out of a number of high-risk special event type activities, including motorized amusement devices, vehicle racing and stunting, and rodeos if the city is the owner, sponsor or operator of those activities. The definition of an excluded "stunting activity" has been revised to include any pre-arranged stunting activity or event that involves a significant risk of serious injury to the participant, performer, or others. Common traditional athletic events such as hockey, baseball, softball, basketball, soccer, gymnastics, or track and field events are not subject to this exclusion. Coverage has also been expanded to exclude stunting events or activities like high-wire acts, base or bungee jumping, skydiving, circus type acts, and acts involving dangerous animals.

Data security breach definition

There is a very slight change to the definition of "data security breach". The change entails broadening the definition so that it applies not only to the *actual* unauthorized acquisition of confidential data, but also the *potential* unauthorized acquisition of confidential data. As a result, the \$3 million annual aggregate limit for claims arising out of data security breaches will also apply to these types of claims even if it's not certain whether the security, confidentiality, or integrity of personal information has actually been compromised.

**Liability Coverage
Limit Increase**

A *Questions and Answers* section is attached at the end of this letter explaining why LMCIT is making a change to the liability coverage limits, what the higher limits mean in practice, and how the change will affect those members that carry LMCIT's optional excess liability coverage.

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No-fault sewer back up coverage

LMCIT offers member cities an optional no-fault sewer backup (NFSB) coverage. This coverage pays for a property owner's damage caused by a sewer backup or water main break, regardless of whether the city was negligent or legally liable for those damages. This year there are several changes to the NFSB coverage. A separate letter detailing the specifics will be sent to those cities that currently purchase this coverage option. Briefly, the two major changes this year incorporate the following:

- 1) The exclusion for FEMA-declared disasters has been reworded to exclude NFSB coverage in *any weather-related or other event which has been declared by the President of the United States to be a major disaster pursuant to 42 U.S.C. §§ 5121-5206, commonly known as the Stafford Act*. In other words, the NFSB coverage will not apply in any situation which has been declared a disaster by FEMA.
- 2) The exclusion for heavy rainfall events has been revised to apply to any situation in which rainfall or precipitation exceeds the following amounts:

2.0 inches in a 1-hour period; or
2.5 inches in a 3-hour period; or
3.0 inches in a 6-hour period; or
3.5 inches in a 12-hour period; or
4.0 inches in a 24-hour period; or
4.5 inches in a 72-hour period; or
5.5 inches in a 168-hour period.

If rainfall exceeds these amounts, the NFSB coverage will not apply. Formerly, the NFSB coverage excluded events where rainfall exceeded the 100-year rainfall amount. The new provisions are more restrictive.

Property Coverage

Mobile property rental reimbursement limit

The annual aggregate limit for rental reimbursement expenses needed to sustain operations in the event of a covered loss to mobile property will increase from \$25,000 to \$250,000.

Data security breach definition

The definition of "data security breach" has been slightly changed to reflect the same wording as noted above for the liability coverage (i.e. broadening of the definition so it applies to both actual *and potential* unauthorized acquisition of confidential data). The change results in a slight broadening of coverage for the first-party data security breach coverage, which provides coverage for things like legal and information technology consulting, notice to affected persons, credit monitoring and identity theft services, and similar things.

More Information

If you have additional questions about the rate changes, coverage changes, and dividend amount being returned this year, contact your underwriter at 651.281.1200 or 800.925.1122.

Questions and Answers Liability Coverage Limit Increase

What's being changed in the LMCIT liability coverage limits?

There are two changes.

- 1) The basic liability coverage limit is increased from \$1.5 million to \$2 million per occurrence.
- 2) The annual aggregate limits that apply to several specific types of liability are increased from \$2 million to \$3 million per year. This affects coverage for claims for products liability, failure to supply utilities, data security breaches, damage caused by electromagnetic fields, limited pollution, and mold. There are also annual aggregate limits on the land use / special risk coverage (\$1 million), and on coverage for claims arising from activities of outside organizations (\$100,000). These annual aggregate limits don't change.

More Information

Read more about LMCIT's
Liability Coverage Options
at <http://lmc.org/page/1/P-C-Coverages.jsp>.

When do the changes take effect?

The changes will apply at the city's first renewal after November 15, 2014.

Why did the LMCIT Board decide to make these changes?

The reason is to give member cities better protection. The statutory liability limit caps the city's liability for many types of claims. But some liability claims aren't covered by the statutory limit, so the city's potential liability is unlimited. Claims under the federal civil rights laws are probably the biggest example, but there are a few others as well. The new \$2 million per occurrence coverage limit gives the city better protection for these types of claims, and makes it less likely the city could end up with liability exceeding its coverage limit.

That's also why the various aggregate limits were increased – to give member cities better protection. The higher limits make it less likely the city could run out of coverage if there were a major incident in which many people were injured.

Do the higher coverage limits mean that the city can now be sued for larger amounts?

For the vast majority of LMCIT members, the answer is no. This is because for LMCIT members the statutory liability limits remain in effect unless the city has explicitly chosen to waive the statutory limits. Only about 18% of LMCIT members do so. So for most member cities, even though the city's liability coverage now has a \$2 million limit, the city's liability is still limited by the statute to no more than \$500,000 per claimant and \$1.5 million per occurrence. In other words, the new, higher coverage limits would only come into play on those types of claims that aren't covered by the statutory liability limit.

For cities that do choose to waive the statutory limits, the change will mean the city can now be sued for greater dollar amounts. When the city chooses the "waiver" option, the city waives the protection of the statutory limits, up to the amount of coverage the city has. So someone with a claim against a city that has waived the statutory limits would now be able to recover up to \$2 million. Of course, that claimant would have to show that s/he actually did suffer that much damage.

Our city carries the optional excess liability coverage. How does this change affect us?

There are three effects, all of them positive, for the city that carries the optional excess liability coverage.

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- 1) The total coverage limit the city has available will now be greater. For example, suppose the city carries \$1 million of excess coverage. Formerly, that \$1 million of coverage would sit on top of the old \$1.5 million primary limit, so the total limit available was \$2.5 million. Now that \$1 million of excess coverage will sit above the \$2 million per occurrence primary limit, for a total of \$3 million.
- 2) The city will now have better protection for claims relating to mold or to failure to supply utilities. The excess liability coverage doesn't apply to those types of claims, so under the old coverage even if the city carries the excess liability coverage, the city still only had \$2 million of coverage for those claims per year. Now the city will have \$3 million of coverage per year for those claims.
- 3) The excess coverage is now less expensive. Formerly, the excess coverage would come into play on a claim that exceeds \$1.5 million; now, a claim would need to exceed \$2 million for the excess coverage to come into play. That means there's less risk that a claim will hit the excess coverage; and because the risk is less, the cost is less.

So our premium for excess liability coverage will go down at our next renewal?

For many cities it will, but not necessarily for all. The premiums for excess liability coverage are based on the city's premium for the primary liability coverage. Even though premium rates for the primary liability coverage are decreasing 4%, an individual city's primary liability coverage premium could still increase for any of several reasons: if the city's exposures (gross expenditures, number of employees, number of police officers, number of households, number of sewer connections) have increased; if the city's experience rating has increased; or if the city's liability premium is still increasing because of the transition to the new rating system. If the city's primary liability premium increases for any of these reasons, it's possible the excess liability premium could increase as well.

LMCIT Liability Coverage Options
Coverage Written or Renewed On or After November 15, 2014

Coverage structure if the city:	On a liability claim to which the statutory limits apply:		On a liability claim to which the statutory limits do not apply:
	This is the maximum amount a single claimant could recover on an occurrence.	This is the maximum total amount that all claimants could recover on a single occurrence.	This is the maximum amount of damages which LMCIT would pay on the city's behalf for a single occurrence, regardless of the number of claimants.
Does not have excess coverage & Does not waive the statutory limits	\$500,000	\$1,500,000	\$2,000,000
Does not have excess coverage & Waives the statutory limits	\$2,000,000	\$2,000,000	\$2,000,000
Has \$1,000,000 of excess coverage & Does not waive the statutory limits	\$500,000	\$1,500,000	\$3,000,000
Has \$1,000,000 of excess coverage & Waives the statutory limits	\$3,000,000	\$3,000,000	\$3,000,000