

**ELYSIAN CITY COUNCIL  
REGULAR MEETING  
AUGUST 10, 2020**

The Elysian City Council met in regular session on Monday, August 10, 2020 at City Hall at 6:00 pm.

Roll Call: Mayor Tom McBroom; Councilmembers Bobby Houlihan, Mary Opsahl, Dennis Schnoor, Bryan Suemnick; City Administrator Lorri Kopischke; Public Works Director Ron Greenwald; Utility Clerk Nicole Lamont; City Attorney Jason Moran. Absent: None.

On motion by Schnoor, seconded by Houlihan, all voting in favor, to approve the minutes of the July 13, 2020 Regular Meeting and July 27, 2020 Budget Workshop as presented.

On motion by McBroom, seconded by Houlihan, all voting in favor, to approve the agenda of the August 10, 2020 Regular Meeting as presented.

Le Sueur County Chief Deputy Nick Greenig reported all is good in the City.

On motion by McBroom, seconded by Schnoor, all voting in favor, to close the meeting and open the Public Hearing at 6:04 pm.

The purpose of the hearing is to allow public input from citizens on proposed Ordinance #99/20 – An Ordinance Granting a Franchise to Jaguar Communications, Inc. to Maintain a Cable Communications System in the City of Elysian, Minnesota; Setting forth Conditions Accompanying the Grant of the Franchise; Providing for Regulation and Use of the System; and Prescribing Penalties for the Violation of its Provisions.

Jaguar Communications has submitted a franchise agreement to bring service into the City. The first location will be the Cedar Point / Kaplan area. The agreement is non-exclusive and includes a five percent (5%) franchise fee. The agreement provides for installation of one line to City Hall, Tourism Center, and Fire Hall and will provide basic cable service to the same free of charge. The City Attorney has reviewed the proposed franchise agreement.

There were no public comments. No written comments were received.

On motion by McBroom, seconded by Schnoor, all voting in favor, to close the public hearing and open the regular meeting at 6:07 pm.

Public Comment:

Joyce Bohlen, 109 Park Avenue NE, asked if the alley behind her property will be blacktopped. There is a lot of traffic on the alley and there is a lot of problem with gravel being washed onto her grass with the rains.

It was noted that the alley is owned by the adjacent property owners. It is not a dedicated City owned alley.

City Attorney Moran stated it would be up to the individual homeowners to blacktop the alley. He suggested Bohlen contact the neighbors to determine their desire to install the pavement and then come back to the Council.

Jeff Shoobridge, City Administrator, City of Madison Lake, explained that residents of Madison Lake believe there is an issue of potential high speed and traffic on Park Road. Shoobridge requested to

borrow the City of Elysian radar speed sign for a period of seventeen (17) days spanning three (3) weekends in the August to September timeframe. The hard data that is collected by the radar speed sign will help show residents that the traffic is in compliance or show the police when they need to be on site providing enforcement.

Council discussed insurance factors and administrative and hard costs of the radar speed sign. They agreed it would be beneficial to help a neighboring community.

On motion by Schnoor, seconded by Suemnick, all voting in favor, to authorize the City Attorney to draft a Hold Harmless, Indemnification, Responsibility, and Rental Agreement and City Administrator to enter into the agreement with the City of Madison Lake for the rental of the radar speed sign.

The Council then considered Ordinance #99/20 – An Ordinance Granting a Franchise to Jaguar Communications, Inc. to Maintain a Cable Communications System in the City of Elysian, Minnesota.

The Ordinance was presented by Councilmember Schnoor and seconded by Mayor McBroom.

CITY OF ELYSIAN  
LE SUEUR COUNTY MINNESOTA  
ORDINANCE NO. 99/20

AN ORDINANCE GRANTING A FRANCHISE TO JAGUAR COMMUNICATIONS, INC. TO MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF ELYSIAN, MINNESOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS

The City Council of the City of Elysian, Minnesota ("Franchising Authority") ordains:

STATEMENT OF INTENT AND PURPOSE

The City intends, by the adoption of this Franchise, to grant permission to Jaguar Communications, Inc. to construct, operate, and maintain a cable television system in the City.

Adoption of this Franchise is, in the judgment of the Council, in the best interests of the City, its residents, and the community.

SECTION 1.  
SHORT TITLE AND DEFINITIONS

1. Short Title. This Franchise Ordinance shall be known and cited as the Jaguar Franchise.
2. Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.
  - a. "Basic Cable Service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. §543(b)(7).
  - b. "Cable Programming Service" means any Video Programming provided over a Cable

- System, regardless of service tier, including installation or rental of equipment used for the receipt of such Video Programming, other than: Video Programming carried on the Basic Service Tier; Video Programming offered on a pay per channel or pay per program basis; or a combination of multiple channels of pay per channel or pay per program Video Programming offered on a multiplexed or time shifted basis so long as the combined service: consists of commonly identified Video Programming; and is not bundled with any regulated tier of service. Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. §543(l)(2) and 47 C.F.R. 76.901(b).
- c. "Cable Service" means the one-way transmission to Subscribers of Video Programming, or other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.
  - d. "Cable System" or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include: a facility that serves only to retransmit the television signals of one or more television broadcast stations; a facility that serves Subscribers without using any public right-of-way; a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. §541 (c) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; an open video system that complies with 47 U.S.C. §653; or any facilities of any electric utility used solely for operating its electric utility systems.
  - e. "Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the System.
  - f. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
  - g. "Franchise" means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to 47 U.S.C. §546) issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System or an MVPD System.
  - h. "Franchising Authority" means the City of Elysian, Minnesota, or the lawful successor, transferee, or assignee thereof.
  - i. "Grantee" is Jaguar Communications, Inc., its agents and employees, lawful successors, transferees or assignees.
  - j. "Gross Revenue" means all revenue received from Subscribers for Basic Cable Service, Cable Programming Service, and Pay Television directly by the Grantee from the operation of its System within municipal boundaries of the Franchising Authority. The term "Gross Revenues" shall not include Installation fees, disconnection fees, upgrade and downgrade of service fees, fees for telecommunications services, if any, fees for the

sale, leasing, or servicing of equipment, network capacity and facilities rent for the provision of non-cable services (voice or data services), investment income, franchise fees, advertising revenues, late fees, any fees itemized and passed through as a result of franchise imposed requirements, tower rent, or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.

- k. "Installation" means the connection of the System from feeder cable to the point of connection, including Standard Installations and custom installations.
- l. "Lockout Device" means an optional mechanical or electrical accessory to a Subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable System.
- m. "Multichannel Video Program Distributor" or "MVPD" means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, an Open Video Services provider, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.
- n. "Open Video Services or OVS" means any video programming Services provided to any person by a Person certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as may be amended, regardless of the facilities used.
- o. "Pay Television" means the delivery over the System of pay per channel or pay per program audio visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.
- p. "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.
- q. "Standard Installation" means any residential installation which can be completed using a Drop of one hundred twenty-five (125) feet or less.
- r. "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right of way now or hereafter held by Franchising Authority.
- s. "Subscriber" means any Person who lawfully receives Cable Service.
- t. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## SECTION 2.

### GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a Cable System or an MVPD System to provide Cable Service or Video Programming, including OVS, in the Franchising Authority without a Franchise in the form of this Franchise authorizing the same, unless applicable federal or State law prohibits the Franchising Authority's enforcement of such a requirement. The Franchising Authority shall, at all times, comply with the Minnesota level playing field statute at Minn. Stat. Section 238.08 and any other applicable state or federal level playing field requirements.

2. Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.
3. Grant of Nonexclusive Authority. The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the Streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in Franchising Authority, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in Franchising Authority of a Cable System as herein defined. Grantee shall have the right to do direct selling (door to door) and this provision supersedes any applicable peddler or solicitor ordinance. This Franchise shall be nonexclusive, and Franchising Authority reserves the right to grant a similar use of said Streets, alleys, public ways and places, to any Person at any time during the period of this Franchise, provided, however, that any additional Franchise shall include the same substantive terms and conditions as this Franchise. Notwithstanding any provision to the contrary, if another operator, legally authorized by state or federal law, makes available for purchase by Subscribers or customers Cable Service or its functional equivalent (including video programming under 47 U.S.C. § 571(a)(3) or § 573) within the City without a Franchise or other similar lawful authorization granted by the Franchising Authority and the Franchising Authority has the lawful authority to require a franchise from that operator, then Grantee shall have the right to petition the Franchising Authority to modify this Franchise and the parties shall negotiate said modifications within 60 days. All Franchises granted or renewed after the date of this Franchise shall have the same substantive terms and conditions as this Franchise in order that one MVPD not be granted a competitive advantage over another. Nothing in this provision shall be constructed in such a way as to limit the Franchising Authority's authority to enter into other Franchises. (c) In the event a MVPD commences operation without a Franchise or is granted a Franchise or permit to operate by the Franchising Authority, the terms and conditions of which do not comply with this Franchise, Grantee shall notify the Franchising Authority whether it wishes to modify its Franchise (in addition to any rights it may have to modify its Franchise under state or federal law), terminate the Franchise or reduce the term of this Franchise in its sole discretion. The Franchising Authority and the Grantee shall work together in good faith to develop Franchise modifications which address any competitive inequity and the Franchising Authority shall adopt those modifications within ninety (90) days after receiving notice from Grantee. Failure to adopt the modifications shall allow Grantee to unilaterally opt into the competitor's Franchise or to otherwise reduce or eliminate any obligations imposed by this Franchise which are not imposed on a competitor in its sole discretion. A MVPD is not an entity that provides direct broadcast satellite services for purposes of this Section. Notwithstanding any provisions of this Section to the contrary, if the Franchising Authority does not possess authority under applicable laws to require a Franchise from any Person, the provisions of this Section shall not apply.
4. Franchise Term. This Franchise shall be in effect for a period of fifteen (15) years from the date of acceptance by Grantee, unless sooner renewed, revoked, or terminated as provided herein. This Franchise may be renewed for one additional fifteen (15) year period upon mutual agreement of the parties subject to these existing terms and conditions.
5. Compliance with Applicable Laws, Resolutions and Ordinances. The Grantee shall at all times during the term of this Franchise be subject to any lawful, non-discriminatory exercise

of the police power, statutory rights, local ordinance-making authority, and eminent domain rights of the Franchising Authority. This Franchise shall comply with Minnesota franchise standards contained in Minn. Stat. § 238.01 et seq.

6. Conformance with State and Federal Laws and Rules. The Franchising Authority and Grantee shall conform to state laws and rules regarding cable communications no later than one (1) year after they become effective, unless otherwise stated. The Franchising Authority and Grantee shall conform to federal laws and regulations regarding cable services as they become effective. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control.
7. Rules of Grantee. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this Franchise.
1. Territorial Area Involved. This Franchise is granted for the corporate boundaries of Franchising Authority, as it exists from time to time. It shall be the responsibility of the Franchising Authority to notify Grantee of the annexation of new territories into the corporate boundaries. In the event of annexation by Franchising Authority, or as development occurs, any new territory shall become part of the area covered. Grantee shall not be required to initially overbuild the entire City nor to extend service beyond its present System boundaries unless there is a minimum of forty (40) homes per cable mile as measured from the last fiber node or terminating amplifier and sufficient subscriber commitment to render the system extension economically viable. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas, upon written notice from the Franchising Authority that annexation has occurred.
8. Access to Cable Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.
9. Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to Franchising Authority: City of Elysian  
Lorri Kopischke, City Administrator  
110 West Main Street  
Elysian, MN 56028

If to Grantee: Jaguar Communications, Inc.  
Attn: Legal Department

213 South Oak Avenue  
Owatonna, MN 55379

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

10. Drops to Public Buildings. At such time as Grantee's main line passes City Hall, the Franchising Authority's Tourism Center, and the Franchising Authority's Fire Hall, Grantee shall provide standard installation of one (1) cable drop and outlet; and, shall provide monthly Basic Cable Service without charge to the location(s) upon request of the Franchising Authority. Grantee is only required to provide such Drops if the location requesting service is located within one hundred fifty (150) feet of the System. No redistribution of the free Basic Cable Service provided pursuant to this Section shall be allowed. Nothing herein shall be construed as requiring Grantee to extend the System to serve additional institutions as may be designated by Franchising Authority.

### SECTION 3. CONSTRUCTION STANDARDS

1. Construction Codes and Permits.
  - a. Grantee shall obtain all lawful and necessary permits from Franchising Authority before commencing any construction or extension of System, including the opening or disturbance of any Right-of-Way, or private or public property within Franchising Authority. Grantee shall comply with all state and local laws and building and zoning codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the System in the Franchising Authority and give due consideration at all times to the aesthetics of the property.
  - b. Consistent with its Right-of-Way Ordinance, the Franchising Authority shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.
  - c. The Grantee shall install and maintain its System and other equipment and facilities in accordance with the National Electric Safety Code, all other applicable federal, state and local laws and regulations, and in such manner that they will not interfere with private radio, police and fire communications or any installations of Franchising Authority or of any public utility serving Franchising Authority.
  - d. The Grantee shall install and maintain the System and all other equipment and facilities in, over, under and upon the Rights-of-Way, wherever situated or located, in accordance with the Right-of-Way Ordinance, the National Electric Safety Code, all other applicable federal, state and local laws and regulations, and in a condition so that the same shall not endanger public health or safety.
2. Repair of Rights-of-Way and Property. Any and all Rights-of-Way or public or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to the same condition as that prevailing prior to Grantee's work, or reasonably similar condition, as approved by Franchising Authority in the

case of Rights-of-Way and other public property, which approval shall not be unreasonably withheld.

3. Conditions on Right-of-Way Use.

- a. Nothing in this Franchise shall be construed to prevent Franchising Authority from adopting and enforcing requirements for the usage of Rights-of-Way or from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Right-of-Way; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
- b. If at any time during the period of this Franchise City shall elect to alter or change the grade or location of any Right-of-Way, the Grantee shall, upon reasonable notice and in a manner consistent with applicable ordinances, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System. If the Franchising Authority enters into an agreement to reimburse other occupants of the Right-of-Way for such relocation or removal, Grantee shall be likewise reimbursed.
- c. The Grantee shall have the authority to trim any trees upon and overhanging the Rights-of-Way only to the extent necessary to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

SECTION 4  
DESIGN PROVISIONS

2. Operation and Maintenance of System. The Grantee shall render good quality Service, make repairs promptly, and interrupt Service only for good cause and for the shortest time possible.
3. Technical Standards and Construction of Cable System. The Grantee shall install a Cable System, the technical standards of which shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Communications Systems pursuant to the FCC's rules and regulations found at 47 U.S.C. §§ 76.601 - 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. The Grantee shall begin construction within 240 days of the effective date of this Franchise. Construction of the Cable System must proceed at a rate of not less than 50 plant miles constructed per year of the Franchise term until the Franchising Authority, as it exists at the time this Franchise is granted, is overbuilt with energized cable. This Franchise is granted for the corporate boundaries of the Franchising Authority, as it exists from time to time. In the event of annexation by the Franchising Authority, or as development occurs, any new territory shall become part of the area covered. The terms of this provision notwithstanding, Grantee shall not be required to extend service beyond its initial System boundaries unless there is a minimum of forty (40) homes per cable mile as measured from the last fiber node or terminating amplifier and sufficient subscriber commitment to render the system extension economically viable. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas, upon written notice from the Franchising Authority that annexation has occurred.
4. System Testing. The Franchising Authority may engage any consultant, engineer or expert to perform System testing and review as it deems necessary. The Franchising Authority shall

endeavor to so arrange its request for such System testing to minimize hardship or inconvenience to Grantee or to the Subscribers. Where testing is conducted to resolve System performance problems or complaints, the Franchising Authority's costs of such testing shall be reimbursed by the Grantee if, before conducting such tests, the Franchising Authority affords Grantee notice and at least thirty (30) days to cure the problems or complaints and, in Franchising Authority's reasonable determination, such problems or complaints remain unresolved after the cure period.

## SECTION 5. SERVICES PROVISIONS

1. Regulation of Service Rates.
  - a. The Franchising Authority may regulate rates for the provision of Cable Service, equipment, or any other communications service provided over the System to the extent allowed under federal or state law(s).
  - b. A list of Grantee's current Subscriber rates, charges, and contract terms (as established by Grantee) shall be available for public inspection. Grantee shall give the Franchising Authority and Subscribers written notice of any change in a rate or charge no less than thirty (30) days prior to the effective date of the change.
2. Service Complaints. Grantee will maintain an adequate number of local, toll-free or collect call telephone access lines which will be available to its Subscribers 24 hours a day, seven days a week so as to receive Subscriber complaints, requests, and inquiries. During normal business hours, at least 8 a.m. to 5 p.m., and some evening or weekend hours, Grantee shall ensure that trained representatives are available to respond to Subscriber inquiries.
3. Complaint and Other Service Records. Upon request by the Franchising Authority, Grantee shall prepare written records of all written complaints received and the resolution of such complaints, including the date of such resolution. Such written records shall be on file at the office of Grantee. Grantee shall provide the Franchising Authority with a written summary of such complaints and their resolution and in a form mutually agreeable to Franchising Authority and Grantee.
4. Subscriber Contracts. Grantee shall make available for review by the Franchising Authority any standard form Subscriber contract utilized by Grantee.
5. Refunds and Credits. In the event a Subscriber established or terminates Service and receives less than a full month's Service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which Service was rendered to the number of days in the billing.

## SECTION 6. OPERATION AND ADMINISTRATION PROVISIONS

1. Franchise Fee. Grantee will pay Franchising Authority an annual Franchise Fee in the amount of five percent (5%) of its Gross Revenues. Within 60 days of notice from Franchising Authority, Grantee shall begin collecting and paying such Franchise Fee. The fee shall begin Ninety (90) days following the effective date of this ordinance. The Franchise Fee shall be payable monthly. The payment shall be made within thirty (30) days of the end of each of Grantee's fiscal month, together with a brief report showing the basis for the

computation.

2. Access to Records. The Franchising Authority shall have the right to inspect any records maintained by Grantee which relate to this Franchise or System operations including specifically Grantee's accounting and financial records, subject to the privacy provisions of 47 U.S.C. § 521 et seq. Grantee shall provide copies of any such records upon request by Franchising Authority.
3. Franchise Administration. The City Administrator or such other person as may be from time to time designated by the Franchising Authority shall be responsible for the continuing administration of this Franchise.
4. Grantee shall not be required to provide public access channels or equipment.

#### SECTION 7.

#### GENERAL FINANCIAL, INSURANCE AND SECURITY PROVISIONS

1. Indemnification.
  - a. The Franchising Authority and its officers, boards, committees, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System or as to any other action or event with respect to this Franchise.
  - b. Grantee shall indemnify, defend, and hold harmless the Franchising Authority, its officers, boards, committees, elected officials, employees and agents from and against all liability, damages, and penalties which they may legally be required to pay as a result of the actions or omissions of the Grantee operating under this Franchise.
  - c. Nothing in this Franchise relieves a Person, except the Franchising Authority, from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regarding, or changing the line of a Right-of-Way or public place or with the construction or reconstruction of a sewer or water system.
2. Insurance.
  - a. Grantee shall possess at its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy in protection of the Grantee, and the Franchising Authority, its officers, boards, committees, elected officials, employees and agents for any and all damages and penalties which may arise as a result of this Franchise. The policy or policies shall name the Franchising Authority as an additional insured, and in their capacity as such, the City officers, boards, committees, elected officials, employees and agents.
  - b. The policies of insurance shall be in the sum of not less than One Million Dollars (\$1,000,000.00) for personal injury or death of any one Person, and Two Million Dollars (\$2,000,000.00) for personal injury or death of two or more Persons in any one occurrence, One Million Dollars (\$1,000,000.00) for property damage to any one person and Two Million Dollars (\$2,000,000.00) for property damage resulting from any one act or occurrence.

- c. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise.
3. Grantee is not required to provide a bond or other instrument as a condition of this franchise.

#### SECTION 8.

##### SALE, ABANDONMENT, AND TRANSFER OF FRANCHISE

1. Abandonment of Service. Grantee may not abandon the System or any portion thereof without having first given three (3) months written notice to the Franchising Authority.
2. Removal After Abandonment, Termination or Forfeiture. In the event of termination or forfeiture of the Franchise or abandonment of the System, the Franchising Authority shall have the right to require Grantee to remove all or any portion of the System from all Rights-of-Way and public property within the City.
3. Sale or Transfer of Franchise. No sale, transfer, or fundamental corporate change of or in Grantee, or which creates a new controlling interest in Grantee, including, but not limited to, the sale of a majority of Grantee's assets, consolidation, or the creation of a subsidiary or affiliate entity, shall take place until the parties to the sale, transfer, or corporate change file a written request with the Franchising Authority for its approval and such approval is granted by the Franchising Authority, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness. If the Franchise is transferred or sold by Grantee, the Franchising Authority shall have the right to purchase the Cable System, subject to a 60 first right of refusal.

#### SECTION 9.

##### REVOCAION OF FRANCHISE

1. Franchising Authority's Right to Revoke. In addition to all other rights which the Franchising Authority has pursuant to law or equity, the Franchising Authority reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if it is determined that Grantee has violated any material provision of this Franchise, has made intentional misrepresentations to the Franchising Authority, or has practiced fraud or deceit upon the Franchising Authority of a Subscriber. The Franchising Authority may revoke this Franchise immediately if Grantee is adjudged bankrupt.
2. Procedures.
  - a. The Franchising Authority shall provide the Grantee with written notice of the cause for revocation and its intent to revoke and shall allow Grantee sixty (60) days to cure the violation ("the cure period").
  - b. Grantee shall be provided the right to a public hearing affording due process prior to revocation, which public hearing shall follow the cure period. The Franchising Authority shall provide the Grantee with written notice of its decision together with written findings of fact supplementing said decision.
  - c. After such public hearing and release of written findings, the Franchising Authority may revoke the Franchise. Grantee may appeal such revocation to a court or agency of competent jurisdiction.
  - d. During the appeal period, Grantee may continue to operate the System pursuant to the

terms and conditions of the Franchise, unless the term thereof sooner expires.

SECTION 10.  
PROTECTION OF INDIVIDUAL RIGHTS

1. Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference, or disability. Grantee shall comply at all times with all other applicable federal, state, and local laws, and all executive and administrative orders relating to nondiscrimination.
2. Subscriber Privacy.
  - a. Grantee shall comply with the subscriber privacy-related requirements of 47 U.S.C. § 551. No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel activity planned for the purpose of monitoring individual viewing patterns or practices.
  - b. No lists of the names and addresses of Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.
  - c. Written permission from the Subscriber shall not be required for the conducting of System wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in Subparagraph (b) of this Section.

Voting on the Motion: Ayes: Houlihan, McBroom, Opsahl, Schnoor, Suemnick. Nays: None. Motion carried.

Passed and adopted this 10<sup>th</sup> day of August, 2020.

ATTEST:

CITY OF ELYSIAN, MINNESOTA

By:

By:

Its: \_\_\_\_\_

Its: \_\_\_\_\_

ACCEPTED: The undersigned Grantee, Jaguar Communications, Inc., accepts this Franchise and

agrees to be bound by its terms and conditions.

Dated: \_\_\_\_\_ By: \_\_\_\_\_

Staff provided an update on operations in regard to the Coronavirus COVID-19 Pandemic.

As the Governor of Minnesota’s Emergency Executive Order 20-01 declaring a Peacetime Emergency is still in full force and effect, the City Attorney has recommended that the City extend the local Declaration Resolution until February 1, 2021.

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

CITY OF ELYSIAN  
LE SUEUR COUNTY, MINNESOTA  
RESOLUTION NO. 714/20

WHEREAS, the Mayor and the City Council for the City of Elysian, Minnesota (“Mayor”) finds and Resolves that the following local emergency (“Emergency”) exists in the City of Elysian, Minnesota (“City”):

1. The Governor of Minnesota issued Emergency Executive Order 20-01 declaring Peacetime Emergency and Coordinating Minnesota’s Strategy to Protect Minnesotans from COVID-19 on March 13, 2020. This Executive Order has been extended multiple times and is current in effect now; and
2. The City currently has its own Disaster Declaration Resolution in place which is set to expire on September 1, 2020; and
3. It is now necessary to extend the City’s Disaster Declaration Resolution until February 1, 2021 or unless terminated earlier. All of the terms and conditions of that Original Resolution shall continue on in full force and effect.

Upon vote being taken:

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

Councilmembers voting in the negative: None

Adopted by the City Council of the City of Elysian this 10<sup>th</sup> day of August, 2020.

\_\_\_\_\_  
Thomas McBroom Sr.  
Mayor

\_\_\_\_\_  
Lorri Kopischke  
City Administrator

Council considered COVID-19 Preparedness Plan – Amendment 1. As of July 25, 2020, per the Governor of Minnesota’s Executive Order 20-81, people in Minnesota are required to wear a face covering in all indoor businesses and public indoor spaces, unless you are alone. That executive order requires the City to amend its COVID-19 Preparedness Plan to include language regarding the use of face coverings in the workplace.

On motion by Opsahl, seconded by Houlihan, all voting in favor, to approve the COVID-19 Preparedness Plan – Amendment 1 for the City of Elysian, Le Sueur County, Minnesota.

The City has received \$53,642 in Federal Coronavirus Relief Fund (CARES) Act Funding. The monies can be used as follows:

1. Necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID 19).
2. Costs not accounted for in the City's budget most recently approved as of March 27, 2020.
3. Performance or delivery must occur during the covered period, but payment of funds need not be made during that time. For cities, the covered period is March 1, 2020 to November 15, 2020.

The first required expenditure report was submitted to the State of Minnesota today and the City of Elysian has expended \$8,998.69 in COVID-19 expenses. These reported expenses include PPE (hand sanitizer, gloves, masks, disinfectant wipes, sneeze guards), legal fees, additional Council and EDA meetings to address COVID-19 issues, laptop, and sidewalk.

At their August 6, 2020 meeting, the EDA discussed small business grants and will be developing an application to be distributed to local businesses for grant funds. They will evaluate the applications at the September 3, 2020 meeting and will present at the September Council meeting to request CARES Act Funds. Staff will also continue to determine uses for the funds and report at the September meeting. Funds not expended must be returned to the City's home County (Le Sueur).

Ron Greenwald, Public Works Director, presented a quote from Minnesota Pump Works for a duplex painted steel control panel with VFDS to operate 2 – 17.4 hp pumps and a generator receptacle adapter for lift station #2 located at the Pit stop on State Highway 60 in the amount of \$20,660. This purchase, if approved, would occur in the year 2021. This equipment has been recommended by the electrician and City Engineer to provide slower startup of the lift pump to address issues with the starter and damage to the force main.

Jason Draeger, Minnesota Pump Works, was present to explain the function of the Variable Frequency Drive (VFD). The VFDs offer you the ability to engage a soft starting action of the pumps. In the event you do not need to pump at full capacity, there is a means to dial the pump down and can result in great energy savings. The other piece is the in-rush current. When you fire up the pump, the amp draws seven to ten times the running amps. It is only for a nano second, but this is sized to handle that to keep the pump from tripping out.

Draeger stated he had rarely known this to be the cause of a force main failure, but it could be a result of some sort of hammering action. There is a cheaper option than the VFD which would be a soft start, but it would not provide the control or safety features and would only reduce the cost by about \$500.

Draeger encouraged Council and Staff to take a look at a system he installed in the City of Clarks Grove as it has an alarm dialing system. There are many options available depending on what the City wants to accomplish. He is also currently building one for the City of Morristown.

It was noted that lift station #2 was built in 1973. Draeger stated that in his opinion the control panel on this lift station is on borrowed time. He also noted that there is a price increase every year and if the Council votes to include this in next year's budget, they would want to order it in November/December of this year for a 2021 delivery.

Greenwald reported that for the past two years it has been taking a substantially longer amount of time for the water from a large rain event to drain from the area of Lewis Lane. The property owners would like to install some additional tile and hook onto the City tile.

Schnoor noted that entire area south of State Highway 60 is taking a lot of storm sewer water. That will all have to be redesigned when the street project is completed in that area.

It was noted that tile in that area would have to be installed in Gene Lewis' property and that would have to be discussed with Mr. Lewis.

Greenwald presented a revised quote from Pearson Bros., Inc. for seal coating of the streets included in the 2018 Street and Utility Improvement Project. The previous quote approved during the May 11, 2020 Council Meeting was in the amount of \$20,376.24. The previous quote did not include 2<sup>nd</sup> Street NE in front of the City Shop and 2<sup>nd</sup> Street SE cul-de-sac. The revised quote which includes those areas is \$23,199.39.

On motion by Schnoor, seconded by McBroom, all voting in favor, to approve the revised quote from Pearson Bros., Inc. in the amount of \$23,199.39 to sealcoat the streets included in the 2018 Street and Utility Project – Frank Avenue NW, Park Avenue NW, 4<sup>th</sup> Street NW, 3<sup>rd</sup> Street NW, 2<sup>nd</sup> Street NW, and 2<sup>nd</sup> Street SE.

Kopischke reported that Staff had researched a substantial sampling of properties in the City in response to the inquiry made at the July Council meeting regarding Ordinance 73/12A (currently codified as §153.15-22). On 99% of the properties, the right-of-way line and the property line are the same. The boulevard widths (curb line to property line) however, may be different as the street is not always centered in the ROW.

The City Attorney has reviewed the ordinance and stated the ordinance is good as written. Planning and Zoning also looked at the ordinance at their meeting on August 4, 2020, and also agreed the boulevard is the area between the right of way and the curb and that the right-of-way line and property line are generally the same thing. There may be some isolated cases where the right-of-way is different than the property line or the street is not in the correct location and those will need to be handled on a case by case basis.

On motion by Houlihan, seconded by Opsahl, all voting in favor, to approve the 2020 Municipal Maintenance Agreement between Le Sueur County and the City of Elysian in the amount of \$8,463.70.

On motion by Schnoor, seconded by Suemnick, all voting in favor, to schedule the Fall Clean Up for Saturday, October 3, 2020.

Council discussed progress made at the Budget Workshop. There was consensus to present the Preliminary 2020 Budget Payable Year 2021 for certification as discussed at the July 27, 2020 meeting. No further workshops will be held prior to that certification.

Nicole Lamont, Park Board Member, explained that the Park Board would like Tustin Park to become a "dog friendly" park. This is not possible due to City Code §92.01 (c): No animals are permitted in any part of all parks. Leashed animals are allowed in the parking lot area and may be allowed to swim / exercise in the area at the north end of the parking area. Pet owners are responsible for the behavior of their pets and for cleaning up and removing items associated with their pet.

The Park Board is requesting that City Council refer City Code §92.01 to the Planning and Zoning Commission for a recommendation for revision of the Ordinance to allow a “dog-friendly” at Tustin Park.

On motion by McBroom, seconded by Schnoor, all voting in favor, to refer City Code §92.01 Park Ordinance to the Planning and Zoning Commission for recommendation for revision to allow a “dog-friendly” park at Lake Tustin.

Lamont reported the Park Board would like to request park entrance signs for Tustin Park and Lake Frances Park. More information is needed, and Lamont will provide an update at the September Council Meeting.

McBroom questioned payable check #025558 to Kopp Plumbing & Heating, Inc. in the amount of \$349.40 to replace two faucets in the bathrooms at the new concession stand.

Greenwald reported it was the water valves. In the fall the system was shut off and drained. This spring the water valves ran slow. They were totally shot and there was no warranty. That is the item that needed to be replaced.

On motion by McBroom, seconded by Houlihan, all voting in favor, bills, payroll, and transfers were approved in the amount of \$124,908.

Public Comment: None.

On motion by McBroom, seconded by Schnoor, all voting in favor, to adjourn the meeting at 7:07 pm.

Approved:

---

Tom McBroom, Mayor

Attested:

---

Lorri Kopischke, City Administrator