



AGENDA

1. CONVENE CITY COUNCIL SPECIAL SESSION

A. Pledge of Allegiance

B. Roll Call

Mayor Labadie

Councilmember Maddy

Councilmember Sanschagrin

Councilmember Gorham

Councilmember DiGruttolo

C. Review and Adopt Agenda

2. CLOSED SESSION WATTEN PONDS 2ND ADDITION

Shorewood City Council will hold a special meeting to discuss newly threatened litigation by Gravity Investment LLC arising from the City Council's February 23, 2026, decision to approve a petition an Environmental Assessment Worksheet for Watten Ponds 2nd Addition, including the Unrelated Properties identified in the April 17, 2026 litigation threat letter from Gravity Investment LLC and to discuss the litigation matter, "In re Petition for an Environmental Assessment Worksheet for Watten Ponds 2nd Addition Subdivision", Minnesota Court of Appeals Case No. A26-0498. This meeting may be closed pursuant to Minn. Stat. 13D.05, subd. 3(b) for a confidential, attorney-client privileged discussion related to the above subject matter.

A. Newly Threatened Litigation by Gravity Investment, LLC

3. ADJOURN



City Council Work Session Item 2.A.

Title/Subject: Newly Threatened Litigation by Gravity Investment, LLC
Meeting Date: May 28, 2026
Prepared By: Jake Griffiths, Planning Director

Attachments

1. Gravity Inv. Letter 04.17.2026

Background

N/A

Strategic Alignment

N/A

Discussion Requested

The City Council is requested to discuss newly threatened litigation by Gravity Investment, LLC.

April 17, 2026

Justin L. Templin, Esq.
HOFF BARRY, P.A.
100 Prairie Center Drive, Suite 200
Eden Prairie, MN 55344

Via Email
jtemplin@hoffbarry.com

Re: *In re Petition for an Environmental Assessment Worksheet for the Watten Ponds 2nd Addition Subdivision*
Court of Appeals Case No. A26-0498

Dear Mr. Templin:

As the City is aware, Gravity Investment LLC ("Gravity") owns an unaddressed parcel of real property in the City of Shorewood (Property Identification No. 2911723440029) (the "Property"). Gravity applied for a preliminary and final plat to subdivide the Property into two single family residential lots known as Watten Ponds 2nd Addition (the "Project"). Below is a map of the Property on which the entirety of the Project will take place:

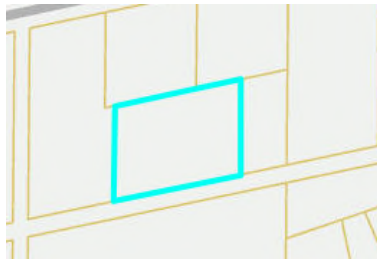


On February 6, 2026, the Minnesota Environmental Quality Board received a petition requesting that an EAW be prepared for the Project (the "EAW Petition"). The EAW Petition specifically stated that "[t]his petition is being submitted to request the preparation of an EAW for the Watten Ponds 2nd Add. Project." While the Watten Ponds 2nd Addition only includes the Property, the EAW Petition claimed that the Project was "part of a larger Common Plan of Development" based on 1) a Wetland Delineation Report referencing a 4.7 acre development site and 2) a notation on the City Engineer's map that "Land owned by same developer and likely a future phase." The EAW Petition does not specifically identify what other properties owned by Gravity are included in the request.

On February 23, 2026, the City Council voted to adopt Resolution 16-15, ordering the preparation of an EAW. Resolution 16-15 references Property Identification No. 2911723440029 as the "Subject Property" and Gravity's request for a preliminary and final plat to subdivide the Property

into two single family residential lots known as Watten Ponds 2nd Addition as the “Project.” Resolution 16-15 does not reference any other parcel owned by Gravity.

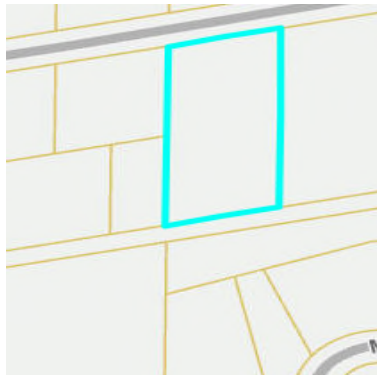
The City appears to be taking the position that additional parcels owned by Gravity, which are not part of the Property or the Project, are subject to the EAW (the “Unrelated Properties”). The Unrelated Properties include the following parcels (Property Identification Nos. 2911723440019, 2911723440024 and 2911723440025):



2911723440024



2911723440025



2911723440019 (25725 Birch Bluff Road)

By deeming the Unrelated Properties subject to the EAW, the City has acted outside its discretionary authority, thereby exceeding its police power. The City, under its discretionary authority, may order the preparation of an EAW for a “project.” *Minn. R. 4410.4500*. “Project” is defined as:

a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project.

Minn. R. 4410.0200, subd. 65. “Government Action” is defined as “activities including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by governmental units, including the federal government.” *Minn. R. 4410.0200, Subp.33*. The Minnesota Court of Appeals has determined that “both definitions imply that an ‘action’ or ‘activity’ – something more than just planning – is required before a governmental action or project may be found to exist.” *Minnesotans for Responsible Recreation v. Department of Natural Resources*, 651 N.W.2d 533, 539 (Minn. App. 2002). The Court held:

Relying on the applicable language of Minnesota rules and statutes and the instructive analysis of related issues in federal court decisions, we hold that a “project” for purposes of the Minnesota Environmental Protection Act is a definite, site-specific, action that contemplates on-the-ground environmental changes, including changes in the nature of the use.

Id. at 540.

Here there is no project, no request for government action, on the Unrelated Properties. The Unrelated Properties are not part of the Project or any request for a governmental action. Gravity has made no proposal to the City which would cause the physical manipulation of the environment on the Unrelated Properties. As Gravity has already explained to the City:

The petition incorrectly references the possibility for future phases of this subdivision stating that it may lead up to 7 lots. This is a false statement. Although Gravity Investment LLC owns the property at 25725 Birch Bluff Road and the two properties north of Clara Avenue those properties will not produce more than two additional lots. The lot at 25725 Birch Bluff Road is planned to be sold as a single lot. The two lots north of Clara Avenue, if developed, will need to be combined per shoreland rules. In addition, due to wetland setbacks there is only room for one home. Neither of the above properties are connected or associated with the Watten Pond 2nd Addition due to the separation created by Clara Avenue.

The City had no authority to require an EAW on parcels of property on which a project did not exist.

In addition, Minnesota Rule 4410.1000 only allows the consideration of other properties owned by the applicant if they are part of multiple projects or multiple stages of a single project “that are connected actions or phased actions.” Minnesota Rule 4410.0200 defines “connection actions” and “phased actions” as follows:

Connected actions. Two projects are “connected actions” if a responsible governmental unit determines they are related in any of the following ways:

- A. one project would directly induce the other;
- B. one project is a prerequisite for the other and the prerequisite project is not justified by itself; or
- C. neither project is justified by itself.

Phased action. “Phased action” means two or more projects to be undertaken by the same proposer that a RGU determines:

- A. will have environmental effects on the same geographic area; and
- B. are substantially certain to be undertaken sequentially over a limited period of time.

Minnesota Rule 4410.0200, Subp. 9c and 60.

Justin L. Templin, Esq.

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In order for either of these definitions to apply, two or more "projects" must exist. Here, as set forth above, only one project exists – the subdivision of the Property into two single family residential lots known as Watten Ponds 2nd Addition. The Unrelated Properties cannot be considered projects simply because they are commonly owned.

The City exceeded its authority when it included separate, unconnected parcels of property owned by Gravity in the EAW despite these parcels being unrelated to the Project and not part of connected or phased actions.

The City's actions outside its police power is now interfering with Gravity's right to use its properties, as secured by the State and Federal Constitutions. Gravity has been attempting to sell the Unrelated Properties. Currently, an offer has been made on 2911723440019 (25725 Birch Bluff Road). However, the potential buyer has been told by City Staff that no grading or building permits can issue on that property until the EAW is complete. Gravity will lose this sale to the potential buyer and any sale to subsequent buyers for any of the Unrelated Parcels. Gravity will be forced to hold the Unrelated Properties and incur all costs in doing so until the Court of Appeals rules that the City's grant of the EAW Petition was based on an error of law.

The City's inclusion of the Unrelated Properties in its grant of the EAW Petition without the legal authority to do so has prevented Gravity's alienation of property and Gravity has and will continue to incur compensable damages. Gravity is requesting that the City Council either 1) direct City Staff that Resolution 16-15 only pertains to the Property (Identification No. 2911723440029), the Property for which Gravity has requested a preliminary and final plat; or 2) remove the Unrelated Properties from its grant of the EAW in Resolution 16-15. If the City continues to unconstitutionally interfere with the Unrelated Properties, Gravity will have no option but to commence a district court action to recover the damages incurred.

Sincerely,



Tamara O'Neill Moreland, for
Larkin Hoffman

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***MSBA Board Certified Specialist in Real Property Law**

cc: Gravity Investment, LLC

4928-5360-5538, v. 1