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**WAYZATA CITY COUNCIL  
MEETING MINUTES  
August 3, 2016**

**AGENDA ITEM 1. Call to Order and Roll Call.**

Mayor Willcox called the meeting to order at 7 p.m. Council Members present: Anderson, McCarthy, Mullin, and Tyacke. Also present: City Manager Dahl, City Attorney Schelzel, Police Chief Risvold, City Engineer Kelly, and Director of Planning and Building Thomson.

Mayor Willcox stated the Council met in Workshop prior to the meeting and discussed 2017 budgets and met with the Mill Street Parking Ramp Steering Committee.

**AGENDA ITEM 2. Approve Agenda.**

Mr. Mullin made a motion, seconded by Mr. Tyacke, to approve the agenda. The motion carried 5/0.

**AGENDA ITEM 3. Public Forum – 15 Minutes (3 minutes per person).**

**a. Annual Report from the Parks and Trails Board**

Dan Baasen, Parks and Trails Board Chair, reported on how the board was formed, accomplishments over the past few years, and capital improvements made this year. This year, they introduced programming for all ages and provided park enhancements. He noted that they are in full support of the Lake Effect and integrating their efforts as decisions are made.

Mrs. Anderson encouraged residents to get out and enjoy the enhancements made by the Board. She has witnessed the great turnout with the youth tennis program, the doggie park, and has enjoyed the Adirondack chairs.

Mr. Mullin thanked Kurt Klapprich for implementing all the details of these enhancements.

Mr. Baasen commented that the Public Works staff is fantastic and has saved the City a lot of money. He asked the Council to consider a platform tennis program, improved access to the water for eastern residents, and direction regarding an occasional event that brings people to the parks.

The Council thanked Mr. Baasen and the Parks and Trails Board for their work.

Mr. Willcox asked if there are projected numbers for participation levels with programs in 2017. Mr. Baasen responded they have learned what courses to offer, the audience they serve, and expect an overall increase of 30 to 60 percent. They have learned some things regarding registration and scheduling conflicts with tennis players that they will be aware of for planning in 2017. A preliminary report shows 80 percent of participants were from Wayzata.

Mr. Willcox encouraged Mr. Baasen and the Board to plan ahead regarding their budget needs for planned events.

**b. Police Officer Awards**

Police Chief Risvold thanked everyone who participated in Night to Unite. He recognized Officers Todd Peterson and Dan Lee and presented each with a medal of valor for their actions in apprehending a suspect in a very hostile and dangerous situation.

Mayor Willcox thanked the Officers for their work in keeping the community safe.

**AGENDA ITEM 4. New Agenda Items.**

None.

**AGENDA ITEM 5. Consent Agenda.**

Mr. Tyacke made a motion, seconded by Mr. Mullin, to approve the items on the consent agenda as presented, which were:

- 1 a. Council Workshop Meeting Minutes of July 19, 2016, and City Council Regular Meeting
  - 2 Minutes of July 19, 2016
  - 3 b. Check Register
  - 4 c. Municipal licenses which received administrative approval (informational only)
  - 5 d. Resolution No. 25-2016 Amending City Fee Schedule
  - 6 e. Agreement with Boatworks II, LLC for Parking Lot Alterations
  - 7 f. Resolution No. 28-2016 Adopting Exemption to Minnesota Partition Fence Law
- 8 The motion carried 5/0.
- 9

10 **AGENDA ITEM 6. New Business.**

11 **a. Consider Approval of Resolution No. 29-2016 Lake Effect Scope, Conservancy, and**

12 **Consultant Agreement for Pre-Design and Environmental Assessment**

13 City Manager Dahl introduced this item to the Council.

14 Mayor Willcox commented there has been a lot of citizen input to get to this point in the

15 project, without Council input and direction. He noted the Council will now determine where the

16 focus should be.

17 Mary deLaittre, Lake Effect Project Coordinator, addressed the Council on the several

18 items to be considered. She explained that the Public/Private Partnership Agreement regarding

19 Lake Effect defines the roles and responsibilities around two institutions, the City and the

20 Conservancy, regarding public and private fundraising.

21 Ms. deLaittre commented on the proposed Lake Effect Park Implementation Plan regarding

22 the Scope of the Lake Effect Plan, or Phase One of the plan. This phase includes: 1) Transforming

23 the Lake Edge (estimated cost of \$10,275,800); 2) Pop-Up Park (estimated cost of \$150,000); and,

24 3) Enhancing Lake Street (estimated cost of \$2,551,134). These three recommendations should be

25 done together and address connectivity, safety, ecology, and beauty. Additionally, they will provide

26 an opportunity to privately and publicly fundraise.

27 Ms. deLaittre reported on the pre-design components that need to be considered and

28 approved in order to maintain progress on the Lake Effect Park. These include: 1) Environmental

29 Assessment Worksheet (EAW) (estimated cost of \$74,865); 2) Maintenance and Operations review

30 (estimated cost of \$28,180; and, 3) Transition Period Design Services (estimated cost of \$26,000).

31 Mr. Tyacke inquired about the scope of the agreement with the railroad, and if it included

32 improvements at the Walker Street railroad crossing. Ms. deLaittre stated that based on the

33 discussion with the railroad to date, the impression is that the Walker Street crossing will not be

34 granted but that the crossings and Broadway and Barry will be improved. She noted that the

35 proposed lakewalk would involve property of the City of Wayzata and the Railroad, and that those

36 things will need to be confirmed.

37 Mr. Willcox commented the wording in the Resolution is not accurate regarding the Walker

38 Crossing. It states it is “not recommended for implementation in any future phase”.

39 Mrs. Anderson stated it was not recommended to move forward on the marina and beach,

40 but that those items are included in the EAW. She expressed concern about cost and inquired what

41 the cost savings would be to not have them as part of the worksheet. Director of Planning and

42 Building Thomson stated the first step in the EAW is to define the scope of what will be included.

43 The marina would not be included, but the beach improvements would be included because it is a

44 potential future implementation, and the EAW cost would not increase significantly because of it.

45 Mr. Willcox stated the beach was deferred, but not eliminated, as a possible component of

46 the project, and it would be good to know what the EAW cost would be to include it.

47 Mr. Mullin commented the EAW is needed in the area near the beach for adjusting the

48 holding pond and that is why the entire area was included in the EAW.

49 Ms. deLaittre commented it was discussed that the shape of the marina may need to be

50 looked at in the future if it keeps flooding, and that is why they considered keeping it part of the

51 EAW.

1 Mrs. Anderson inquired if a separate EAW could be considered if and when it was needed  
2 that would focus only on the beach and marina.

3 Mr. Thomson stated the EAW does not expire.

4 Mrs. Anderson commented the words "Section Foreman House" should be included in the  
5 Resolution.

6 City Manager Dahl stated they can look into any potential savings in the cost of the EAW  
7 without the marina included.

8 Mrs. Anderson stated she would like the language in the Resolution to reflect that the Pop-  
9 up Park is not dependent upon the building of the Mill Street Ramp. There is a surplus of parking  
10 in the City and parking could be absorbed in other areas.

11 Mr. Tyacke stated the contingency was put on the Pop-Up Park area because if the ramp is  
12 not built, that space may be needed for additional parking.

13 Mr. Willcox commented if the parking ramp is not built and the Carisch Ramp closes, the  
14 Pop-Up Park area would be a critical area to have parking.

15 Mr. Mullin agreed with Messrs. Tyacke and Willcox.

16 Mr. Mullin made a motion, seconded by Mrs. McCarthy, to adopt Resolution No. 29-2016  
17 Defining the Scope of the Lake Effect Project and Next Steps, as presented, with the inclusion of  
18 the reference to the Section Foreman House in paragraph 16 and strike wording in paragraph 19  
19 that states the Walker Street Railroad Crossing has not been recommended for implementation in  
20 any future phase. The motion carried 5/0.

21 Mr. Mullin made a motion, seconded by Mrs. McCarthy, to approve the proposals from  
22 Braun Intertec and Civitas, as presented, to provide consultant services for drafting the  
23 Environmental Assessment Worksheet, with additional direction to staff to pursue a potential  
24 adjusted fee with the exclusion of the marina from the EAW.

25 Mrs. Anderson commented the cost to the community for these items will be roughly  
26 \$100,000 and it is not being covered by any other entity besides this community.

27 The motion carried 5/0.

28 Mr. Mullin made a motion, seconded by Mr. Tyacke, to approve the proposal from ETM  
29 to provide consultant services for a Maintenance and Operations review.

30 Mrs. Anderson commented this item is costing the community roughly \$30,000.

31 The motion carried 5/0.

32 Mrs. McCarthy suggested the timing of the projects follow and be coordinated with the  
33 construction of the Mill Street Ramp. The Council agreed.

34 City Attorney Schelzel discussed the proposed updated draft of the City's agreement with  
35 the Lake Effect Conservancy, at page 83 of the Council packet, and highlighted changes made to  
36 the draft since last reviewed by the Council.

37 Mr. Tyacke referred to Section IV, Roles and Responsibilities, item B(4) of the Agreement,  
38 and suggested it state, "Council will have the full discretion and approval of the design,  
39 construction, and scheduling of the components."

40 Mr. Tyacke referred to Section V, Constraints, item G, of the agreement and suggested it  
41 state, "both parties recognize that constructing components according to the final design approved  
42 by the Wayzata City Council, as well as programming, operating and maintaining those  
43 components as determined and approved by the Wayzata City Council once open to the public will  
44 impact the ongoing success of public and private fundraising."

45 Mr. Schelzel recommended the changes proposed by Mr. Tyacke be incorporated into the  
46 final draft of the agreement.

47 Mr. Willcox referred to the first page of the agreement, item C and inquired if there was a  
48 legal prohibition against a City doing private fundraising. Mr. Schelzel stated generally cities may  
49 accept gifts but not actively engage in private fundraising, and that is the role the Conservancy will  
50 play.

1 Mr. Willcox referred to Section VI, item A, of the agreement and asked who the two City  
2 representatives would be. Mr. Schelzel stated they would be appointed by Council. Ms. deLaittre  
3 stated it would generally include a member of Council and the City Manager.

4 Mr. Mullin suggested the language read “as appointed by Council.”

5 Mr. Willcox referred to Section VII of the agreement, and inquired who the Lead Staff  
6 Person would be. Ms. deLaittre stated that would be the City Manager for the City and the  
7 Executive Director for the Conservancy, and they would work together. City Manager Dahl stated  
8 in addition, the Conservancy could fund a project consultant to help out in this role.

9 Mrs. Anderson suggested the Council and community receive updates more frequently than  
10 annually, which the current agreement requires. Mrs. McCarthy stated it is important to keep the  
11 community informed. The Council suggested it require quarterly updates.

12 Mrs. Anderson suggested the agreement should state the role of Conservancy is to raise  
13 funds for its operations, as well as the maintenance of sustaining the proposed projects.

14 Ms. deLaittre stated when funds are raised for a project, it also includes administrative  
15 funds to support the Conservancy. It is up to the Council to determine what the maintenance and  
16 operational costs will be and how it will be paid for.

17 After discussion, the Council agreed with Mr. Schelzel’s suggestion of adding language  
18 that the Conservancy fundraising would include funds for its own administrative costs, and the  
19 ongoing operations and maintenance of the project.

20 Mr. Mullin made a motion, seconded by Mr. Tyacke, to approve the draft agreement  
21 between the City of Wayzata and the Lake Effect Conservancy to Financially Support and  
22 Advocate for the Lake Effect Project, with the following additions:

- 23 1. Section IV, item C(1): add clarification on fundraising for maintenance and operations  
24 and the intent to raise funds for administrative fees of Conservancy.
- 25 2. Section V, item G: state “both parties recognize that constructing components  
26 according to the final design approved by the Wayzata City Council, as well as  
27 programming, operating and maintaining those components as determined and  
28 approved by the Wayzata City Council once open to the public will impact the ongoing  
29 success of public and private fundraising.”
- 30 3. Section VI, item A: clarification on representative of the City, with language as  
31 “appointed by the City Council.”
- 32 4. Section VII: add requirement of quarterly updates to the Council and community in  
33 place of annual updates.
- 34 5. Section IV, item B(4): state “Council will have the sole discretion and approval of the  
35 design, construction, and scheduling of the components.”

36 The motion carried 4/1. (Anderson)

37  
38 **b. Consider Resolution No. 27-2016 Approving Subdivision with Variances at 250 and**  
39 **270 Bushaway Road**

40 Director of Planning and Building Thomson reported the applicant, Zev and Kristi Oman and  
41 Robert Bolling, have submitted a development application to subdivide the properties at 250 and  
42 270 Bushaway Rd. The applicant is proposing to subdivide the two existing lots into four single-  
43 family residential lots. The two existing homes would remain and two new single-family homes  
44 would be constructed. The proposal requires preliminary and final plat review with variances. The  
45 Planning Commission recommends approval of the application.

46 Mrs. McCarthy inquired about Lot 4 and the zero-foot width. Mr. Thomson explained Lot  
47 4 does not have any lot width on Bushaway Road, which is what the variance is for.

48 Mr. Tyacke inquired how many people will be accessing their homes via the private  
49 roadway. Mr. Thomson stated ten residences would access the private road, plus a vacant lot.

50 City Attorney Schelzel stated one of the reasons the Planning Commission is comfortable  
51 with the private road is that it would preserve a lot of the trees. If the access is made a public street,

1 it has to conform to current standards. The road would need to be widened and it would take out a  
2 lot of significant trees.

3 Mr. Thomson stated there are two new lots that would take access from the private drive.  
4 Both lots have frontage on Bushaway Road and could pursue access there. This would require  
5 additional impervious surface with longer driveways, more grading, more tree removal, and  
6 additional accesses on to Bushaway Road.

7 Ms. Kristi Oman, 250 Bushaway Road, commented the private drive is a very wooded  
8 driveway and hundreds of trees would be lost if it was made into a public road.

9 Mr. Tyacke asked about the utilities to the new lots. City Engineer Kelly stated they would  
10 both have to be provided with new service. Water and sewer are accessible from Bushaway Road.

11 Mrs. Anderson asked if the final plans for the homes and affected trees would come before  
12 the Planning Commission. Mr. Thomson stated it is not required because the new tree ordinance  
13 can be administered by staff through the building permit process, and because it is not part of a  
14 PUD, the Planning Commission was comfortable that the homes would be consistent with what  
15 was already there.

16 Mrs. McCarthy inquired about the Bushaway Conservation District requirements. Mrs.  
17 Oman stated they previously did not meet the minimum two-acre lot size with an earlier application.  
18 Since then, they have acquired additional land, and now they do meet the minimum requirement in  
19 the current application.

20 Mr. Willcox stated he does not support lots that are nonconforming and does not support  
21 this application.

22 Mr. Peter Benincasa, Executive Real Estate Professionals, 8749 Helswig Trail, Brooklyn  
23 Park, stated the Omans had a curb cut and a road to their garage that was cut off by the  
24 improvements to Bushaway Road, and this loss of entry to the property drove the request for a  
25 private road.

26 Mrs. McCarthy pointed out this request is making Lot 4 nonconforming.

27 Mr. Tyacke made a motion, seconded by Mr. Mullin, to adopt Resolution No. 27-2016, as  
28 presented, Approving Subdivision with Variances at 250 and 270 Bushaway Road.

29 Mr. Tyacke stated the residents have done everything to preserve trees and Bushaway Road  
30 improvements have impacted their property.

31 Mrs. Anderson said the applicants are meeting the standards of the lot size, preserving  
32 trees, and have had challenges with the Bushaway Road improvements.

33 Mrs. McCarthy asked what standards have been met regarding practical difficulty. She  
34 does not support this application due to the non-conforming lots.

35 Mrs. Anderson stated the six lots in Enchanted Woods are all nonconforming. The practical  
36 difficulty is for the use of the private roadway that already exists and they are trying to preserve the  
37 trees. Work has been done to try and find a balance.

38 Mr. Willcox pointed out that Enchanted Woods was a PUD.

39 Mr. Schelzel commented the variances requested are from the subdivision ordinance  
40 standards. It is a slightly different standard that is less stringent than the one for variances under  
41 the zoning ordinance. But it does require a fourth-fifths affirmative vote of Council.

42 Mr. Mullin stated he struggles to hold the homes on Bushaway Road to a standard that the  
43 existing homes do not provide. The practical difficulty is the existing private road is there and  
44 serves other homes.

45 Mr. Willcox stated the lots being created are bizarre and nonconforming. It is being done  
46 so that the applicant can economically maximize the return on the property.

47 The motion failed 3/2. (Willcox and McCarthy)

48 City Attorney Schelzel stated that although the Resolution passed, the request within it for  
49 the variance for the private street did not receive the required four-fifths affirmative vote. Thus, the  
50 private street variance was not granted, and practically speaking, that makes the rest of the  
51 application impossible to implement.

1 Mr. Thomson commented the alternative options for the Applicant with this proposal  
2 include: 1) adding individual driveways for the two lots to Bushaway Road; 2) Upgrading the  
3 private street to a public street; or, 3) represent the project as a PUD, since the private street  
4 prohibition does not apply to a PUD.

5 Mr. Schelzel noted that if the applicant submitted a new application for a PUD for the  
6 project, it would only require a three-fifths vote from the Council.

7  
8 **c. Update on Wayzata Boulevard Sidewalk Connections**

9 City Engineer Kelly reported there are currently three areas that do not have sidewalk on Wayzata  
10 Boulevard between Central Avenue and Bushaway Road. These locations are adjacent to the David  
11 Lee Funeral Home, the Wayzata Home Center, and the KFC. The City currently has the installation  
12 of a sidewalk in this area included in the Parks and Trails Capital Improvement Plan (CIP) for the  
13 year 2020 and the project currently has a budget of \$291,000. There is also an area on the south  
14 side of Wayzata Boulevard between Minnetonka Avenue and MTC Park and Ride which does not  
15 have a sidewalk and this segment is not included in the Parks and Trails CIP and has an estimated  
16 cost of \$125,000.

17 Mr. Kelly stated Public Works staff has a meeting on August 11 with Hennepin County to  
18 discuss the City's long-term vision with CSAH 101 between Bushaway Road and Central Avenue  
19 and how that could align with future County project.

20 Mr. Kelly stated the section in front of the BP was paved and it was originally supposed to  
21 have sidewalk. Three trees will need to be removed before it can be replaced properly.

22 Mrs. Anderson commented there is sidewalk in some of these areas on the other side of the  
23 street. She inquired if the proposed new sidewalks could be put on hold in order to fund a parking  
24 ramp roof.

25 Mr. Mullin stated he requested this report because of the number of people in wheelchairs  
26 that use public transportation along Wayzata Boulevard. There are several transit stops that cannot  
27 be traversed from the boardwalk or the apartments.

28 Mrs. McCarthy stated if the sidewalk projects were moved out a few years, it may relieve  
29 some of the pressures that are currently going on.

30 Mr. Willcox commented this should be discussed at a future date.

31 Mrs. Anderson suggested talking to transit about the condition of the bus stops and  
32 implementing a quick fix until it can be addressed in the future. Mr. Kelly stated they plan to discuss  
33 it with Hennepin County at the scheduled meeting.

34 Mr. Tyacke stated bike traffic is also an issue in that area and he would like more  
35 information on how to address it.

36  
37 **d. Update on Wayzata Boulevard Median Planting Replacement**

38 City Engineer Kelly reported many of the plants in the median were removed or relocated because  
39 they had matured to the point that they were impeding sightlines from adjacent intersections. The  
40 new plants were planted earlier this week.

41 The Council thanked the Parks Department for their work.

42  
43 **e. Accept Dr. J. David McGill's Resignation from the Housing and Redevelopment  
44 Authority, and Charter Commission**

45 City Manager Dahl recommended accepting the letter of resignation from Dr. David McGill, and  
46 Council agreed, given the clear language of the authority's and commission's bylaws. Staff is  
47 preparing a proclamation and award for service to be presented to Dr. McGill at the next Council  
48 meeting.

49  
50 **f. Consider Resolution No. 30-2016 Amending 143 and 151 Westwood Lane  
51 Subdivision Approvals**

1 Director of Planning and Building Thomson reported the City Council previously approved the  
2 MacMillan Place subdivision at 143 and 151 Westwood Lane, which created two single-family  
3 residential lots. The resolution approving the subdivision (Resolution No. 17-2015) included and  
4 specifically referenced the plans for the subdivision as an attachment to the resolution. The plans  
5 included widening the existing driveway to 20 feet and that the driveway would be shared between  
6 the two lots. The final plat has been filed at Hennepin County and the property owner has a purchase  
7 agreement to sell the southern lot (Lot 2) to a buyer that is interested in constructing a home on the  
8 lot. The buyer of the lot is requesting the sole use of the existing driveway on Lot 2. The applicant,  
9 Scott Roe, is requesting an amendment to the approved plans to allow for separate driveways to  
10 serve each of the two lots. The location of the proposed new driveway would not impact any of the  
11 trees on the property. A portion of the existing arborvitae hedge within the City's right of way  
12 would need to be removed for the new curb cut to Westwood Lane.

13 Mr. Thomson advised Council that they received a written letter from Bob and Cori  
14 Mueffelmann, 172 Birch Lane West, regarding this request.

15 Mr. Tyacke stated the original subdivision was specific on approval with a single driveway  
16 as a means to save trees, but that a driveway is required for each property in a subdivision.

17 Mrs. Anderson stated there was a lot of discussion about traffic and being respectful of the  
18 existing neighbors with review of the original application, but the driveways are close together.

19 Mr. Scott Roe, Minneapolis, the applicant, stated he is asking for a new driveway so that  
20 he does not have to drive across his neighbor's lot to have access to Westwood Lane. The current  
21 driveway placement still has him drive across the neighbor's property and creates a limitation to  
22 get on to Westwood from the north lot.

23 Mr. Tyacke inquired if the proposed plan requires moving any utilities. City Engineer Kelly  
24 stated each property would be benefitted by having the utilities on the individual properties.

25 Ken Mcauliffe, 172 Westwood Lane, commented that the single driveway and single cut  
26 through the hedge was the one thing the neighbors wanted with the previously approved  
27 application. Otherwise, there are three driveways in less than 100 feet, which creates safety issues  
28 and new challenges.

29 The majority of the Council stated they do not support the Resolution for safety and  
30 aesthetic reasons.

31 Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to deny Resolution No. 30-  
32 2016 Amending the Approved Plans for the Macmillan Place Subdivision at 143 and 151  
33 Westwood Lane. The motion carried 5/0.

### 34 35 **AGENDA ITEM 7. City Manager's Report and Discussion Items.**

#### 36 **a. Discuss Wayzata Police Sargent James Anderson's Memorial**

37 City Manager Dahl reported there has been discussion about moving Sargent James Anderson's  
38 memorial to a more prominent location. They talked with the City consultants about making it a  
39 part of the Lake Effect and putting together a committee to review what is proposed.

40 Ms. Gayle Wilson, 135 Broadway Avenue North, stated the memorial has not been  
41 maintained properly and it is embarrassing.

42 The Council agreed that the memorial should be part of Lake Effect, but also needs to be  
43 addressed and maintained sooner. It needs to be part of ongoing maintenance so that it does not get  
44 forgotten again. City staff will have a discussion with the Police Department for suggestions on  
45 where the memorial should be located. Mrs. McCarthy commented in the interim she will weed,  
46 plant flowers, and work with Public Works to get the supplies.

47 Mrs. McCarthy stated there was another tragedy in the community this week and they  
48 should be considering how to remember that family as well. City staff will work with City Engineer  
49 Kelly on some ideas.

50 Mr. Jim Wilson, 135 Broadway Avenue North, commented the memorial needs to be  
51 replaced in order to keep his name alive.

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**b. Miscellaneous**

- City Manager Dahl reported absentee ballots are available for the Primary Election, which is on August 8.
- City Manager Dahl commented he received a call from the League of Minnesota Cities requesting Mayor Willcox be on the Governor's Freight Rail Committee and will appoint him next week.
- Mr. Mullin announced the Professional Sailing Race this weekend in Wayzata Bay that is open to the public.
- Mayor Willcox announced the funeral for Gordy Engel's daughter and family will be Saturday morning.
- Mayor Willcox stated the high weeds at the pink building need to be taken care of.

**AGENDA ITEM 8. Public Forum Continued (as necessary).**

There were no comments.

**AGENDA ITEM 9. Adjournment.**

Mr. Tyacke made a motion, seconded by Mr. Mullin to adjourn. There being no further business, Mayor Willcox adjourned the meeting at 9:50 p.m.

Respectfully submitted,

*Becky Malone 08-16-2016*

Becky Malone  
Deputy City Clerk

Drafted by Shannon Schmidt  
*TimeSaver Off Site Secretarial, Inc.*