LEVANDER, GILLEN & MILLER, P.A.
ATTORNEYS AT LAW

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DAVID S. KENDALL
BRIDGET McCAULEY NASON
ELIZABETH HALL MURTHY
DAVID B. GATES

HAROLD LEVANDER
1910-1992

ARTHUR GILLEN
1919-2005

• ROGER C. MILLER
RETIRED

*ALSO ADMITTED IN WISCONSIN
+ALSO ADMITTED IN NORTH DAKOTA
oALSO ADMITTED IN MASSACHUSETTS
□ALSO ADMITTED IN OKLAHOMA

MEMO

TO: **Sunfish Lake Mayor, Councilmembers and Consultants**
FROM: **Timothy J. Kuntz, City Attorney**
DATE: **September 25, 2019**
RE: **Special Assessment Hearing for Sunfish Lake City Project No. 2018-02 (Sunfish Lake Outlet Improvements)**
October 1, 2019 Council Meeting; Agenda Item 5(b)

Section 1. Background. On September 5, 2019, the attached Notice of Hearing on Proposed Special Assessments for City Project No. 2018-02 (Sunfish Lake Outlet Improvements) was mailed to each affected landowner proposed to be assessed. On September 8, 2019 and on September 15, 2019, the attached Notice of Hearing on Proposed Special Assessments was published in the *South-West Review*.

On Tuesday, October 1, 2019, the City will hold a public hearing to consider, pass upon, adopt and levy the proposed special assessments for the project improvements, as described in the attached Notice of Hearing on Proposed Special Assessments. At the public hearing, the City Council may adopt the proposed assessments.

The total project cost for Project 2018-02 is $85,734. The total amount of the proposed assessments is 100% thereof, namely, the sum of $85,734. The Project is proposed to be specially assessed against buildable tax parcels either abutting or served by said improvements. The areas and parcels, as specifically described herein, are subject to said special assessments. The buildable tax parcels abutting or served by the improvements are proposed to be assessed $2,598 per buildable tax parcel for those tax parcels abutting or served by Project 2018-02.

Section 2. Council Action. At the October 1, 2019, Council meeting, the Council will be asked to consider the attached *Resolution Adopting the Special Assessments for Sunfish Lake City Project No. 2018-02 (Sunfish Lake Outlet Improvements)*.

After the Council meeting, my office will send a letter to each landowner on the assessment roll. The letter will advise the landowner as to the levied amount of the assessment and as to the right to pre-pay the assessment without interest up to November 15, 2019. We will enclose a stamped, self-addressed envelope that may be returned to the City Treasurer with pre-payment.

In terms of the public hearing on October 1, 2019, I suggest the following sequence of events:

1.) Declaration by Mayor that the public hearing is open.
2.) Overview of the project by the City Engineer.
3.) Overview of the proposed assessments by the City Attorney.
4.) Citizen questions.
5.) Council questions.
6.) Motion to close the public hearing.
7.) Motion to adopt the attached *Resolution Adopting the Special Assessments for Sunfish Lake City Project No. 2018-02 (Sunfish Lake Outlet Improvements).*

Attachments

CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA

NOTICE OF HEARING ON PROPOSED SPECIAL ASSESSMENTS FOR SUNFISH LAKE CITY PROJECT NO. 2018-02 (SUNFISH LAKE OUTLET IMPROVEMENTS)

TO WHOM IT MAY CONCERN:

NOTICE is hereby given that the City Council of Sunfish Lake, Minnesota, will hold a public hearing at St. Anne's Episcopal Church located at 2035 Charlton Road (Highway 62 and Charlton Road), Sunfish Lake, Minnesota, at **7:00 p.m. on Tuesday, October 1, 2019**, to consider, pass upon, adopt and levy the proposed special assessments for the project improvements as hereafter described. At the hearing the City Council may adopt the proposed assessments.

SUNFISH LAKE CITY PROJECT NO. 2018-02
(SUNFISH LAKE OUTLET IMPROVEMENTS)

GENERAL NATURE OF IMPROVEMENTS:

City Project No. 2018-02 relates to improvements to the existing outlet control pipe from Sunfish Lake and installation of a new storm sewer pipe along Charlton Road. The Sunfish Lake Outlet Improvements needed under City Project No. 2018-02 arise from high maintenance costs and to improve the outlet capacity of the system to better regulate the lake levels and improve the drawdown efficiencies. City Project No. 2018-02 includes:

- Removal of the existing outlet control pipe
- Replacement and realignment of the outlet control pipe and appurtenances
- Stormwater control improvements
- Grading and drainage
- Outlet discharge improvements and appurtenances

AREAS PROPOSED TO BE ASSESSED:

The areas proposed to be assessed for Project 2018-02 are the tax parcels listed below. The proposed assessments are listed below:

Project Parcel No.	Name and Address of Record Owner	Tax Parcel Identification Number	Proposed Assessment Amount
100	[redacted]	38-84200-01-020	$2,598
101	Charlton Road, L.L.C. Property Address: 2150 Charlton Road Sunfish Lake, MN 55118-4737 Mailing Address: 7645 Lyndale Ave. S. Minneapolis, MN 55423	38-13300-01-040	$2,598
102	Karin J. Klarer and John P. Prange 2144 Charlton Road Sunfish Lake, MN 55118	38-13300-01-030	$2,598
103	John Johannson 1 Sunfish Lane Sunfish Lake, MN 55118-4722	38-11850-01-020	$2,598
104	Linval Joseph 2 Sunfish Lane Sunfish Lake, MN 55118-4721	38-03000-83-020	$2,598

105		38-42600-01-021	$2,598
106	H. William Park and Mary J. Park 15 Sunnyside Lane Sunfish Lake, MN 55118-4723	38-42600-01-031	$2,598
107	Michael F. McFadden and Mary Kate McFadden 25 Sunnyside Lane Sunfish Lake, MN 55118-4723	38-42600-01-060	$2,598
108	Thomas P. Hurley and Julie K. Hurley 27 Sunnyside Lane Sunfish Lake, MN 55118	38-42600-01-070	$2,598
109	Daniel K. Halvorsen II and Kay O. Halvorsen 37 Sunnyside Lane Sunfish Lake, MN 55118-4723	38-42600-01-080	$2,598
110	David Libertini and Pamela Libertini 25 Windy Hill Road Inver Grove Heights, MN 55077 Kurt L. Larson and Katherine A. Larson 11 Salem Lane Sunfish Lake, MN 55118-4700	38-73202-01-010	$2,598
111	James H. O'Hagan and Ann H. O'Hagan 35 Windy Hill Road Inver Grove Heights, MN 55077-1424	38-73202-01-020	$2,598
112	James H. O'Hagan and Ann H. O'Hagan 35 Windy Hill Road Inver Grove Heights, MN 55077-1424	38-73202-01-030	$2,598

113	John D. Lamey Jr. and Frances Lamey 55 Windy Hill Road Sunfish Lake, MN 55077-1424	38-84300-01-010	$2,598
114	Janet C. Riley, Trustee of Janet C. Riley Revocable Trust U/A dated October 24, 2012 75 Windy Hill Road Sunfish Lake, MN 55118	38-03100-03-012	$2,598
115	Deborah B. Bancroft 100 Windy Hill Road Sunfish Lake, MN 55077-1425	38-03100-01-010	$2,598
116	Deborah B. Bancroft 100 Windy Hill Road Sunfish Lake, MN 55077-1425	38-03800-06-013	$2,598
117	Thomas Schlehuber and Michelle Schlehuber 325 Salem Church Road Sunfish Lake, MN 55118	38-45400-01-030	$2,598
118	Sena A. Kihtir 331 Salem Church Road Sunfish Lake, MN 55118	38-03100-26-015	$2,598
119	Sarah Pennie Thompson 335 Salem Church Road Sunfish Lake, MN 55118-4720	38-03700-02-014	$2,598
120	Robert J. Riesberg 343 Salem Church Road West St. Paul, MN 55118	38-32000-01-020	$2,598
121	Joseph M. Schaefer and Linda A. Schaefer 345 Salem Church Road Sunfish Lake, MN 55118	38-32000-01-010	$2,598
122	Shannon M. Nelson, Trustee of the Shannon M. Nelson Revocable Trust dated January 3, 2013 357 Salem Church Road Sunfish Lake, MN 55118	38-03700-05-051	$2,598

123	James K. Adams and Sharon A. Adams Property Address: 369 Salem Church Road West St. Paul, MN 55118 Mailing Address: 607 Watersedge Terrace Mendota Heights, MN 55120	38-03700-05-010	$2,598
124	James C. Stowell and Stephanie M. McDaniel 389 Salem Church Road Sunfish Lake, MN 55118	38-03700-05-020	$2,598
125	2250 Delaware LLC 2250 Delaware Avenue Sunfish Lake, MN 55118	38-11750-01-011	$2,598
126	Bryan Robert Harper 2190 Charlton Road Sunfish Lake, MN 55118	38-03100-27-060	$2,598
127	Michael S. MacDonald and Suzanne MacDonald 2184 Charlton Road Sunfish Lake, MN 55118	38-03100-27-075	$2,598
128	Joel A. Barker and Susan K. Barker Property Address: 2180 Charlton Road Sunfish Lake, MN 55118 Mailing Address: P.O. Box 7037 St. Paul, MN 55107	38-03100-27-040	$2,598
129	Rebecca Ann Debertin 2166 Charlton Road Sunfish Lake, MN 55118	38-03000-54-011	$2,598

130	David L. Smith and Wendy Smith 2162 Charlton Road Sunfish Lake, MN 55118-4737	38-03000-54-021	$2,598
131	Stephen Ettinger and Jennifer Ettinger 2158 Charlton Road Sunfish Lake, MN 55118	38-03000-54-031	$2,598
132	Shannon M. Nelson and John J. Nelson, Jr., as Trustees of the Shannon M. Nelson Revocable Trust 2154 Charlton Road Sunfish Lake, MN 55118	38-84200-01-030	$2,598
TOTAL			**$85,734**

TOTAL AMOUNT OF PROPOSED ASSESSMENT:

The total project cost for Project 2018-02 is $85,734. The total amount of the proposed assessments is 100% thereof, namely, the sum of $85,734. The Project is proposed to be specially assessed against buildable tax parcels either abutting or served by said improvements. The areas and parcels, as specifically described herein, are subject to said special assessments. The buildable tax parcels abutting or served by the improvements are proposed to be assessed $2,598 per buildable tax parcel for those tax parcels abutting or served by the Project.

ASSESSMENT ROLL AVAILABLE FOR INSPECTION:

The proposed assessment roll is now on file with the City Clerk and City Treasurer and is open for public inspection at St. Anne's Episcopal Church at 2035 Charlton Road (Highway 62 and Charlton Road), Sunfish Lake, Minnesota. The assessment roll is open for public inspection and is being mailed to all the above identified record owners of the parcels proposed to be assessed. The assessment roll will also be available for examination at the hearing.

OBJECTIONS AND APPEALS:

Written and oral objections will be considered at the hearing. Minnesota Statutes § 429.061 states that no appeal may be taken as to the amount of the assessment unless a written objection signed by the affected property owner is filed with the municipal clerk prior to the assessment hearing or presented to the presiding officer at the hearing.

An owner may appeal an assessment to the District Court pursuant to Minnesota Statutes § 429.081 by serving notice of appeal upon the Mayor or the City Clerk of the City within thirty

(30) days after the adoption of the assessment and filing such notice with the District Court within ten (10) days after service upon the Mayor or the City Clerk.

SENIOR CITIZENS DEFERMENT:

Under Minnesota Statutes § 435.193 to 435.195, the Sunfish Lake City Council may, in its discretion, defer the payment of these special assessments (a) for any homestead property owned by a person 65 years of age or older for whom it would be a hardship to make the payments, (b) for any homestead property owned by a person who is retired by virtue of a total and permanent disability for whom it would be a hardship to make the payments, or (c) for any homestead property owned by a person who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service [as defined in Minnesota Statutes Section 190.05, subdivision 5(b) or 5(c)], as stated in the person's military order's, for whom it would be a hardship to make the payments. When deferment of the special assessments has been granted and is terminated for any reason provided by law, all amounts accumulated, plus applicable interest, become due. Any assessed property owner meeting the requirements of this law may apply to the City Clerk on the prescribed form for such deferral or payments of these special assessments. If you qualify and wish a deferment, contact the City Clerk.

AUTHORITY TO SPECIALLY ASSESS:

The proposed assessments are to be levied pursuant to Minnesota Statutes, Chapter 429. The improvements are proposed to be assessed against the buildable unit tax parcels abutting or served by the improvements. The areas, parcels, lots and pieces or property, as specifically described herein, are subject to said assessments. The amounts set forth in this Notice are the proposed assessments. The City Council may levy and adopt special assessments that are the same or different than the proposed amounts.

PAYMENT OF SPECIAL ASSESSMENTS:

Once the special assessments are levied and adopted, the special assessments will be certified to the Dakota County Auditor to be extended on the property tax lists for collection with real estate taxes. Prior to this certification, however, the property owner may prepay the entire amount of the assessments without any interest thereon provided the prepayment is received by November 15, 2019. If the property owner wishes to prepay the special assessments without any interest, then such payment must be made to the City of Sunfish Lake at the City Treasurer's Office, Attention: Ann Lanoue, 8010 Corey Path, Inver Grove Heights, Minnesota 55076. Partial pre-payment of the special assessment is not presently allowed under the City ordinances; the prepayment, without interest, must be for the entire amount of the special assessments.

If prepayment is not received by November 15, 2019, then:

a.) the total principal amount of the special assessments will be divided into an equal number of annual installments. The proposed number of annual installments is ten (10). The number of annual installments will be decided by the City Council when the special assessments are levied.

b.) The principal amount of the special assessments shall bear interest at the rate determined by the City Council when the special assessments are levied. The proposed interest rate is 4.2%.

c.) Interest is proposed to begin to accrue from and after January 1, 2020.

d.) The annual principal installments, together with interest accrued on the unpaid balance, are due and payable together with real estate taxes.

e.) Interest on the entire special assessments, from January 1, 2020, to December 31, 2020 (the year in which the first installment is payable), is added to the first principal installment. The first installment will be due and payable in 2020.

f.) If in the future the property owner wishes to pay off the remaining balance of the assessments, then Minnesota Statutes § 429.061, subd. 3 provides that such payment be made to the City Treasurer or to the Dakota County Auditor Treasurer, together with interest accrued to December 31 of the year in which payment is made as long as payment is made prior to November 15th; if the payoff occurs after November 15th, then interest for the next year is also added.

If the adopted special assessments differ from the proposed assessments as to any particular lot, piece or parcel of land, then the City will mail to the owner a notice stating the amount of the adopted assessments. Owners will also be notified, by mail, if the City Council adopts any changes in the interest rate or prepayment requirements from those contained in this NOTICE OF HEARING.

PUBLISH: **September 8, 2019 and**
September 15, 2019 in *South-West Review*
(Official Newspaper)

MAIL: **September 5, 2019**

CITY OF SUNFISH LAKE

/s/_____
Catherine Iago, City Clerk

CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 19-_____

RESOLUTION ADOPTING SPECIAL ASSESSMENTS FOR SUNFISH LAKE CITY PROJECT NO. 2018-02 (SUNFISH LAKE OUTLET IMPROVEMENTS)

WHEREAS, pursuant to proper notice duly given as required by law, the City Council of Sunfish Lake has met and heard and passed upon all objections to the proposed special assessments for Sunfish Lake City Project No. 2018-02 (Sunfish Lake Outlet Improvements) as more fully described in the attached Notice of Hearing on Proposed Special Assessments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF SUNFISH LAKE, MINNESOTA, AS FOLLOWS:

1. Such proposed special assessments, as set forth in the attached Notice of Hearing on Proposed Special Assessments and Assessment Roll are hereby accepted and levied and shall constitute the special assessments against the parcels named therein and each tract of land therein is hereby found to be benefited by the proposed improvement in at least the amount of the special assessment levied against it.

2. Such special assessments shall be payable in equal annual principal installments extending over a period of ten (10) years payable on the first Monday in January in each year. The first installment shall be payable on the first Monday in January in 2020 and shall bear interest at the rate of 4.2% per year from and after January 1, 2020, until December 31, 2020. To each subsequent installment when due shall be added interest at the rate of 4.2% for one year on all unpaid installments.

The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole of the assessment on such property with interest accrued to the date of payment to the City Treasurer, except that no interest shall be charged if the entire assessment is paid prior to November 15, 2019. At any time thereafter, the landowner may pay to the County Treasurer the entire amount of the assessment remaining unpaid with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the next year.

3. The Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax list of the county and such assessment shall be collected and paid over in the same manner as other taxes.

Adopted by the City Council of Sunfish Lake the 1st day of October, 2019.

ATTEST: _____
Dan O'Leary, Mayor

_____
Catherine Iago, City Clerk

ASSESSMENT ROLL FOR CITY PROJECT NO. 2018-02
(SUNFISH LAKE OUTLET IMPROVEMENTS)

Project Parcel No.	Name and Address of Record Owner	Tax Parcel Identification Number	Proposed Assessment Amount
100	Dennis J. Tursso and Jacqueline M. Tursso Property Address: 2152 Charlton Road Sunfish Lake, MN 55118 Mailing Address: 223 Plato Blvd. E. St. Paul, MN 55107	38-84200-01-020	$2,598
101	Charlton Road, L.L.C. Property Address: 2150 Charlton Road Sunfish Lake, MN 55118-4737 Mailing Address: 7645 Lyndale Ave. S. Minneapolis, MN 55423	38-13300-01-040	$2,598
102	Karin J. Klarer and John P. Prange 2144 Charlton Road Sunfish Lake, MN 55118	38-13300-01-030	$2,598
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