



# MAYOR & COUNCIL COMMUNICATION

**DATE: February 5, 2014**  
**REGULAR \$\$**  
**ITEM #: 12**  
**MOTION**

**AGENDA ITEM:** Approval of Agreement to Sunset Memorandum of Understanding with the Metropolitan Council

**SUBMITTED BY:** Dean Zuleger, City Administrator

**THROUGH:** Mayor Mike Pearson

**REVIEWED BY:** Kyle Klatt, Jack Griffin, Dave Snyder

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Administrator
- Report/Presentation.....City Administrator
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** City Administrator / Metropolitan Council

**FISCAL IMPACT:** Elimination of the Wastewater Inefficiency Fee

**SUMMARY AND ACTION REQUESTED:** Adoption of the Terms for Termination of the Memorandum of Understanding between the City of Lake Elmo & the Metropolitan Council (2005, Amended 2010, 2012). The recommended motion for this action is as follows:

***“Move to concur with the terms of termination of the Memorandum of Understanding between the Metropolitan Council and the City of Lake Elmo dated January 14, 2014, and instruct the City Administrator to sign the terms and return the letter as requested.”***

**LEGISLATIVE HISTORY:** In 2005, as a result of a long and protracted legal battle, the City of Lake Elmo entered into a contractual obligation for growth with the Metropolitan Council – the statutory authority for land use planning, transportation, and wastewater in the Twins Cities metroplex. This contract, hereafter referred to as the MOU, mandated specific growth targets for

the City of Lake Elmo with an end purpose of utilizing the Met Council funded WONE Interceptor Sewer Pipe and Cottage Grover Interceptor Pipe for the transmission of wastewater. To achieve that end, the Met Council created a growth matrix that obligated the City of Lake Elmo to grow to 24,000 residents & 6,600 residential equivalent sewer units by 2030, which was deemed a sufficient increase to cash flow the infrastructure investment of the constructed sewer interceptor pipes. The matrix created a performance schedule that targeted population growth and sewer units in five year increments. Failure to meet these targets could result in a Wastewater Inefficiency Fee that could have resulted in penalties exceeding \$1 million. The MOU was amended in 2010 due to the economic decline in the region and again in 2012 to reflect progress made in the City's Comprehensive Planning.

In 2013, the City of Lake Elmo Council committed to constructing three new sewer lines connecting to the City – with specific connections to the WONE Interceptor and the Cottage Grove Interceptor. At the same time the City Council and Staff began working with the Met Council on a recalculation of anticipated City growth by both population and sewer users as part of the Comp Plan approval process and the Met Councils Thrive 2040 initiative. In January 2014, the Met Council and City Staff met to discuss the termination of the formal MOU as a result of the installation of sewer and the completion of a Comp Plan that reflects the proper growth to financially support infrastructure investment. The result is the one page letter of understanding that sets the following terms for the elimination of the MOU:

1. Proof of payment for Section 34 / Lennar Development Improvements including gravity sewer and sanitary sewer forcemain and lift station: retainage and surety bonds notwithstanding.

2. Proof of payment for Lake Elmo Avenue Sewer Infrastructure: including truck gravity improvements between 10<sup>th</sup> Street and I-94 where connection to the regional system occurs, and lift station and forcemain piping along Lake Elmo Avenue between the Village Area and 10<sup>th</sup> Street: retainage and surety bonds notwithstanding.

Is expected that the City would be able to comply with the terms in mid-March of 2014 based on project schedules.

See attached Letter dated January 14, 2014 from the Metropolitan Council.

### **BACKGROUND INFORMATION (SWOT):**

**Strengths** – The City is no longer mandated by contract to grow to 24,000 residents/ 6,600 sewer users and can self-determine growth numbers and pace suitable to finance needed infrastructure.

**Weaknesses** – Not signing the Agreement will place the City under the Metropolitan Councils purview for growth, perhaps quickening the pace and reducing the level of quality development.

**Opportunities** – The City can self-dictate pace and size of development that would emphasize quality and the retention of open space character.

**Threats** – City must not view the elimination of the MOU as an opportunity to stall prudent, thoughtful growth that may result in an inability to cash flow infrastructure investment and financial instability.

**RECOMMENDATION:** The Administrator recommends the concurrence of the terms set forth in the January 14, 2014 correspondence from the Metropolitan Council to terminate the MOU upon proof of payment for the Section 34 and Lake Elmo Avenue Sewer Project.

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