

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2016-62

*A RESOLUTION AUTHORIZING AND DIRECTING THE CITY'S LEGAL COUNSEL TO
COMMENCE A LAWSUIT IN UNITED STATES DISTRICT COURT AGAINST 3M COMPANY
("3M") RELATING TO THE PRESENCE OF PERFLUOROCHEMICALS ("PFCs") IN THE
CITY'S MUNICIPAL WATER DISTRIBUTION SYSTEM*

WHEREAS, since the 1950's, 3M used PFCs at its Cottage Grove facility in the manufacturing process for many of its consumer and industrial products; and

WHEREAS, during the 1960s and 1970s, 3M disposed of waste products containing PFCs from its manufacturing process at a now-closed Washington County Landfill in Lake Elmo and a now-closed 3M-owned waste disposal facility in Oakdale; and

WHEREAS, in 2002, the City drilled Well #3 to serve future development in the southern portion of the City; and

WHEREAS, in 2006, the Minnesota Department of Health ("MDH") determined that PFCs were present in Well #3; and

WHEREAS, the source of the PFCs in Well #3 is the PFC-containing waste that 3M disposed of at the Washington County Landfill and Oakdale disposal facility; and

WHEREAS, the level of PFCs present in Well #3 has exceeded MDH's Health Hazard Index and far exceeded the recently established United States Environmental Protection Agency's ("EPA") health advisory levels, thresholds that when exceeded trigger a need to take action to protect human health; and

WHEREAS, as a result of the presence of PFCs in Well #3, the City was unable to use Well #3 and therefore adopted and implemented an alternative design for its water distribution system to serve the southern portion of the City; and

WHEREAS, as a result of the presence of PFCs in Well #3, the City has incurred significant design, planning, engineering and construction costs associated with providing an alternative water supply system to serve the southern portion of the City; and

WHEREAS, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") is a federal law that provides for strict, joint and several liability for parties that arrange for the disposal of hazardous substances that are released into groundwater; and

WHEREAS, it is undisputed that 3M arranged for the disposal of PFC-containing waste that was released into the City's drinking water supply; and

WHEREAS, as a direct result of 3M's actions, the City has incurred substantial response costs and other monetary damages; and

WHEREAS, the City has attempted to resolve its dispute over these costs and damages caused by 3M's disposal of its PFC-containing waste through negotiations with 3M, however, to date these efforts have not been successful.

NOW, THEREFORE BE IT RESOLVED, by the City Council that the City's legal counsel is authorized and directed to commence a lawsuit against 3M in the United States District Court for the District of Minnesota for the recovery of the City's response costs and other monetary damages relating to 3M's disposal of PFCs that have reached the City's drinking water supply.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City's legal counsel is authorized and directed to take all appropriate steps to protect the City's interests in this matter.

This resolution was adopted by the City Council of the City of Lake Elmo on this 19th day of July, 2016.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk