



STAFF REPORT

DATE: February 16, 2021
REGULAR

AGENDA ITEM: Consider request to Assess Sanitary Sewer System Costs for the Hamlet on Sunfish Lake 2020 Project and 2021 Project

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Sarah Sonsalla, City Attorney
Marty Powers, Public Works Director
Chad Isakson, Project Engineer

ISSUE BEFORE COUNCIL: Should the City Council agree to assess all, or a portion thereof, of the sanitary sewer related project costs that are to be paid by the Hamlet on Sunfish Lake HOA in accordance with the 2007 Stipulation Agreement, and as outlined in the Feasibility Reports for the Hamlet on Sunfish Lake Sanitary Sewer Improvements (2020 Project) and the Hamlet on Sunfish Lake Street and Utility Improvements (2021 Project)?

BACKGROUND: On July 7, 2020, the Lake Elmo City Council awarded a contract to construct the Hamlet on Sunfish Lake Sanitary Sewer Improvements (2020 Project). The scope of improvements included the extension of City sanitary sewer to the Hamlet on Sunfish Lake subdivision to replace and decommission the community's non-compliant, privately owned wastewater treatment system. The connection to City sewer has been completed and the final completion of the project is expected to occur this spring.

The costs for this project were required to be paid upfront in accordance with the 2007 Stipulation Agreement between the City and Hamlet on Sunfish Lake HOA. Per the agreement, the HOA paid the estimated amount of \$489,500 for the 2020 Project. However, due to a reporting error in the feasibility report cost summary, the HOA actual costs were \$597,623. The HOA requested, and the City Council agreed to defer payment of the 2020 Project cost difference of \$108,123 provided that all of the benefited properties in the subdivision signed a petition and waiver agreement agreeing to individual assessment amounts, so that in the event that the HOA did not pay the 2020 Project difference in 2021, the City will be able to collect it through assessments. The City did receive all required petition and waiver agreements in the amount of \$2,640 per property.

In order for the City to assume ownership and maintenance of the HOA's privately owned sanitary sewer collection system, the City performed sewer televising and inspections to identify conveyance system repair and replacement work that would be required to bring the system up to City standards. This work was recommended to be completed in 2021 together with the neighborhoods watermain extension and street reconstruction improvements.

Again, the costs for the 2021 Project sanitary sewer repairs, in the estimated (pre-bid) amount of \$620,000, are required to be paid upfront in accordance with the 2007 Stipulation Agreement. In May 2019, when the public improvement hearing was held for the 2021 Project, the HOA requested if the 2021 Project sanitary sewer costs could be assessed to the individual properties rather than the HOA making payment in full prior

to the award of contract. As part of this request, the HOA provided signed petition and waiver agreements from each property in the subdivision, agreeing to individual assessments in the amount of \$15,200.

PROPOSAL DETAILS/ANALYSIS: On January 19, 2021 the City Council approved the plans and specifications for the Hamlet on Sunfish Lake Street and Utility Improvements (2021 Project). The City will receive contractor bids on February 24, 2021 and will present a recommendation to award a contract at the March 16, 2021 council meeting. The scope of improvements includes the repair and replacement work for the HOA privately owned sanitary sewer system in preparation of the City assuming ownership and maintenance of the conveyance system once the project is completed.

The City has received, and has on file, petition and waiver agreements from all 41 properties in the Hamlet on Sunfish Lake subdivision, each agreeing to be assessed the amount of \$2,640 for their share of the 2020 Project costs, and each agreeing to be assessed the amount of \$15,200 for their share of the 2021 Project costs, in the event that the City agrees to allow these costs to be assessed against the individual properties. If the City does not agree to assess the individual properties, the HOA will be required to make payment in full to the City prior to the 2021 Project contract award on March 16, 2021, including the balance of the project costs for the 2020 Project, and the estimated \$620,000 sanitary sewer costs for the 2021 Project.

FISCAL IMPACT: In accordance with the 2007 Stipulation Agreement between the City and Hamlet on Sunfish Lake HOA, the HOA is responsible for all sanitary sewer related costs as outlined in the respective Feasibility Reports for the Hamlet on Sunfish Lake Sanitary Sewer Improvements (2020 Project) and the Hamlet on Sunfish Lake Street and Utility Improvements (2021 Project). If the costs or portion thereof, are permitted to be assessed against the benefitting properties, the costs will be financed over 20 years at a rate of 4.50 percent per year.

RECOMMENDATION: Staff is recommending that the City Council approve a Resolution Declaring Costs to be Assessed and Ordering Preparation of Proposed Assessments for the Hamlet on Sunfish Lake Public Improvement Projects (Project 2020 and Project 2021). The suggested motion to approve this action is as follows:

“Move to adopt Resolution No. 2021-019 Declaring Costs to be Assessed and Ordering Preparation of Proposed Assessments for the Hamlet on Sunfish Lake Public Improvement Projects (Project 2020 and Project 2021)”.

ATTACHMENTS:

1. Resolution Declaring Costs to be Assessed and Ordering Preparation of Proposed Assessments for the Hamlet on Sunfish Lake Public Improvement Projects
2. Location Map.
3. Project Schedule.

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

RESOLUTION NO. 2021-019

**A RESOLUTION DECLARING COSTS TO BE ASSESSED AND ORDERING
PREPARATION OF PROPOSED ASSESSEMENTS FOR THE HAMLET ON SUNFISH
LAKE PUBLIC IMPROVEMENT PROJECTS**

WHEREAS, in 2020, the City of Lake Elmo (the “City”) completed the first phase of a public improvement project in the Hamlet of Sunfish Lake development (the “Subdivision”) to connect the Subdivision’s private sanitary sewer collection system to the City’s sanitary sewer system and decommission the Subdivision’s homeowner’s association wastewater treatment system (the “2020 Project”); and

WHEREAS, the Sunfish Lake Homeowners’ Association (the “HOA”) paid the City for the 2020 Project’s estimated costs in the amount of \$489,500; and

WHEREAS, it was later determined by the City that the actual costs for the 2020 Project was \$597,623, which is a difference of \$108,123 (the “2020 Project Difference”); and

WHEREAS, the City agreed to defer payment of the 2020 Project Difference by the HOA to 2021 provided that all of the benefited properties in the Subdivision signed a petition and waiver agreement agreeing to the assessment amount, so that in the event that the HOA did not pay the 2020 Project Difference in 2021, the City will be able to collect it through assessments; and

WHEREAS, the second phase of the project consists of improvements and replacement and repair to the HOA’s sanitary sewer collection system with said work being completed in 2021 (the “2021 Project”); and

WHEREAS, the HOA has requested on behalf of the property owners in the Subdivision that the 2020 Project Difference and the 2021 Project costs be assessed by the City instead of the HOA paying these costs; and

WHEREAS, the City had agreed to consider this request, provided that all of the benefited properties in the Subdivision sign a petition and waiver agreement agreeing to the assessment amounts for both 2020 and 2021; and

WHEREAS, the City has received signed petition and waiver agreements from all benefited property owners in the Subdivision whereby they agreed to be assessed for the 2020 Project Difference and the 2021 Project.

NOW, THEREFORE, BE IT RESOLVED,

1. That up to \$2,640 of the cost of the 2020 Project, which is each property in the Subdivision’s share of the 2020 Project Difference be assessed against each property in the Subdivision.
2. That up to \$15,200 be assessed against each property in the Subdivision for the 2021 Project.

3. Assessments shall be payable in equal annual installments extending over a period of 20 years, the first of the installments to be payable on or before the first Monday in January, 2022, and shall bear interest at the rate of 4.50 percent per annum from the date of adoption of the assessment resolution.
4. The City Clerk, with the assistance of the City Engineer, shall forthwith calculate the proper amount to be specially assessed for the 2020 Project Difference and the 2021 Project against every assessable lot in the Subdivision, without regard to cash valuation, as provided by law, and she shall file a copy of such proposed assessments in her office for public inspection.
5. The City Clerk shall upon the completion of such proposed assessments, notify the City Council thereof.
6. That the City Council will adopt a resolution approving such proposed assessments at a subsequent meeting.
7. That since all of the benefited properties in the Subdivision have signed petition and waiver agreements agreeing to the assessment amounts and waived their rights to the notice of public hearings and public hearings required by Minnesota Statutes Section 429.031 and 429.061, no public hearings on the improvements or the assessments will be necessary and said hearings will not be held.

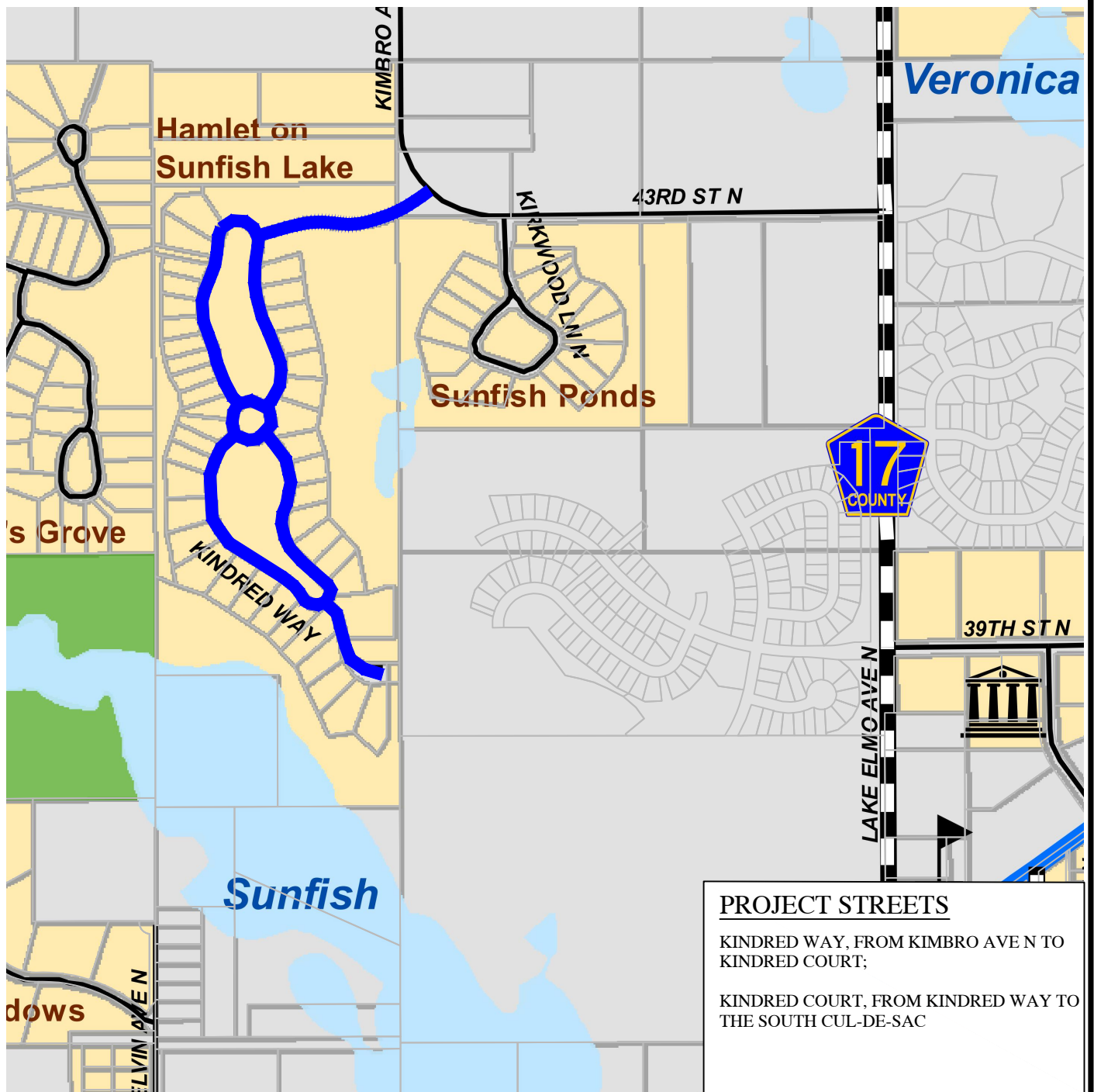
ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE SIXTEENTH DAY OF FEBRUARY, 2021.

CITY OF LAKE ELMO

(Seal)
ATTEST:

Julie Johnson
City Clerk

By: _____
Charles Cadenhead
Mayor



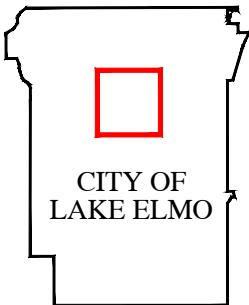
PROJECT STREETS

KINDRED WAY, FROM KIMBRO AVE N TO KINDRED COURT;

KINDRED COURT, FROM KINDRED WAY TO THE SOUTH CUL-DE-SAC

LEGEND

■ HAMLET ON SUNFISH LAKE



PROJECT SCHEDULE CITY OF LAKE ELMO

FOCUS ENGINEERING, inc.

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Jack Griffin, P.E. 651.300.4264
Ryan Stempski, P.E. 651.300.4267
Chad Isakson, P.E. 651.300.4283

HAMLET ON SUNFISH LAKE STREET AND UTILITY IMPROVEMENTS
PROJECT NO. 2019.125

FEBRUARY 4, 2020	Council Approves MPCA Grant Agreement for Hamlet on Sunfish Lake Extension of Muncipal Water.
FEBRUARY 18, 2020	Council orders preparation of Feasibility Report.
APRIL 21, 2020	Presentation of Feasibility Report. Council accepts Report and calls for Improvement Hearing.
MAY 19, 2020	Public Improvement Hearing. Council Orders the Improvement (4/5th Vote) and preparation of Plans and Specifications.
JANUARY 19, 2021	Council approves Plans and Specifications and orders Advertisement for Bids.
FEBRUARY 24, 2021	Project Bid Date: Receive contractor bids.
MARCH 16, 2021	Council accepts Bids and awards Contract.
MAY 25, 2021	Conduct Pre-Construction Meeting and issue Notice to Proceed. <ul style="list-style-type: none">OCTOBER 15, 2021 Substantial Completion.JUNE 30, 2022 Final Completion.