



STAFF REPORT

DATE: September 20, 2022

CONSENT

AGENDA ITEM: 38th-39th Street Neighborhood Street and Utility Improvements – Resolution Declaring Costs to be Assessed and Calling for Hearing on Proposed Assessment

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 call a final assessment hearing for the 38th-39th Street Neighborhood Street and Utility Improvements to be held on October 18, 2022?

BACKGROUND: The City of Lake Elmo was approved to receive grant funding from the Minnesota Pollution Control Agency (MPCA) under the 2018 3M Settlement Agreement as an expedited project to extend municipal water and connect each of the 49 homes in the 38th-39th Street Neighborhood. The terms of the grant are outlined in the Grant Agreement between the City of Lake Elmo and the MPCA dated October 14, 2020.

As part of the Grant Agreement with the MPCA, all households in the development, regardless of Health Based Values (HBVs), are eligible to connect to municipal water and all households that connect to city water must have the private wells properly sealed and abandoned as part of the project and within the timeframe of the grant agreement. To implement these State requirements for the project the city adopted preliminary assessments for the public watermain, and the street and storm sewer improvements in accordance with the city's Special Assessment Policy and current practices. Each property that connects to city water must abandon all private wells, unless exempted by the MPCA as a monitoring well, within one year after water service is made available and following written notice from the city to connect. Once the private water service connection improvements and well abandonment are completed the public watermain assessments, and the street and drainage improvement assessments levied for the project will be considered paid in full and removed from the property.

Formal mailed notice, dated November 8, 2021 was sent to each property indicating that the public watermain was available for connection and that the property owner had one year to complete the water service connection and well abandonment work. The allocated one-year timeframe to meet this eligibility and to abate the public improvement assessments will expire on November 8, 2022. A reminder notice was also sent on June 14, 2022.

PROPOSAL DETAILS/ANALYSIS: Pursuant to Minnesota Statutes, Section 429, the Council must declare the amount to be assessed against the benefitting properties and Call the Hearing on the Proposed Assessment for these improvements. The Final Assessment Hearing is proposed for October 18, 2022. The Final Assessment Roll must be certified to the County Auditor by November 30, 2022. ***Properties that provide proof of connection and sealing of the well by the November 8, 2022 deadline will be removed from the assessment roll prior to certifying the assessments to Washington County.***

Staff has enclosed a proposed Final Assessment Roll which has been calculated in accordance with the City's Special Assessment Policy. There are 39 properties to date that have completed the connection to city water and abandoned their well. These properties have been removed from the final assessment roll leaving 10 remaining properties that have not connected. Forty-eight (48) of the forty-nine (49) properties have obtained quotes that have been reviewed by the City, but the work is not yet completed or reimbursement paperwork has not been submitted.

Attached to this agenda report is a summary of the Estimated Total Project Costs showing the cost breakdown by infrastructure component and resulting unit assessment. Based on the Estimated Final Project Cost at completion, the public watermain assessment remains unchanged at \$20,800 per residential property, and the public street and storm sewer assessment is reduced from \$12,300 down to \$11,100 per residential property.

One residential property (8211 Lake Jane Trail North) has no street assessment and a watermain assessment of \$5,800. This is the result of their driveway accessing Lake Jane Trail North and watermain existing in front of their home. They were included in the grant application and noticed connection to city water was available for full reimbursement. The assessment amount is the current lateral benefit charge if they were to connect to city water today.

The street and drainage improvements will be levied over a 15-year period and the watermain assessments will be levied over a 20-year period. Assessments would be charged an interest rate of 4.05%.

FISCAL IMPACT: The estimated total project cost for the public improvements \$3,170,000; including \$1,740,000 for the street, drainage and storm sewer improvements and \$1,430,000 for the water system improvements. Of these costs, \$99,900 will be specially assessed for street and drainage improvements and \$193,000 will be specially assessed for watermain improvements. The remaining costs will be covered by the grant.

RECOMMENDATION: Staff is recommending that the City Council approve, *as part of the consent agenda*, a Resolution Declaring Costs to be Assessed and Calling for the Hearing on the Proposed Assessment. The suggested motion, *if removed from the consent agenda*, to approve this action is as follows:

“Move to approve Resolution No. 2022-084; Declaring Costs to be Assessed and Calling for the Hearing on the Proposed Assessment for the 38th-39th Street Neighborhood Street and Utility Improvements.”

ATTACHMENTS:

1. Resolution Declaring Cost to be Assessed and Calling for Hearing on Proposed Assessment.
2. Notice of Hearing on Proposed Assessment.
3. Total Project Cost Summary.
4. Final Assessment Roll.

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

**RESOLUTION NO. 2022-084
A RESOLUTION DECLARING COST TO BE ASSESSED AND CALLING
HEARING ON PROPOSED ASSESSMENT FOR THE
38TH-39TH STREET NEIGHBORHOOD
STREET AND UTILITY IMPROVEMENTS**

WHEREAS, estimated total project costs have been calculated for the 38th-39th Street Neighborhood Street and Utility Improvements including street and watermain improvements; and

WHEREAS, the total cost of the public improvements will be \$3,170,000.

WHEREAS, the City Clerk and City Engineer have prepared the proposed assessment roll and will maintain said assessment roll on file in the City offices for public inspection.

NOW, THEREFORE, BE IT RESOLVED,

1. The portion of the cost of such street and drainage improvements to be covered by the City is hereby declared to be \$1,740,000 and the portion of the cost to be assessed against benefited property owners is declared to be \$99,900.
2. The portion of the cost of such watermain improvements to be covered by the City is hereby declared to be \$1,430,000 and the portion of the cost to be assessed against benefited property owners is declared to be \$193,000.
3. The City Clerk, with the assistance of the City Engineer, has calculated the proper amount to be specially assessed for such improvements against every assessable lot, piece or parcel of land to be benefited by the improvements, and the Clerk has filed a copy of such proposed assessment in the City offices for public inspection.
4. Assessments shall be payable in equal annual installments extending over 15 years for street and drainage improvements and 20 years for watermain improvements, the first of the installments to be payable on or before the first Monday in January, 2023 and shall bear interest at the rate of 4.05 percent per annum from the date of the adoption of the assessment resolution.
5. A public hearing shall be held on the 18th day of October, 2022, in the Council Chambers of the City Hall at or approximately after 7:00 P.M. to pass upon such proposed assessment. All persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.
6. The City Clerk is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and she shall state in the notice the total cost of the improvement. She shall also cause mailed notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearings.

7. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the entire assessment on such property, with interest accrued to the date of payment, to the City Clerk. No interest shall be charged if the entire assessment is paid within 30 days from the adoption of this assessment. A property owner may at any time thereafter, pay to the City Clerk 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 succeeding year.

ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE TWENTIETH DAY OF SEPTEMBER, 2022.

CITY OF LAKE ELMO

(Seal)
ATTEST:

By: _____
Charles Cadenhead
Mayor

Julie Johnson
City Clerk

**CITY OF LAKE ELMO
NOTICE OF HEARING ON PROPOSED ASSESSMENT
38TH-39TH STREET NEIGHBORHOOD
STREET AND UTILITY IMPROVEMENTS**

Notice is hereby given that the City Council of Lake Elmo will conduct a public hearing on **Tuesday October 18, 2022** at, or approximately after, 7:00 P.M. to consider, and possibly adopt, the proposed assessment against abutting properties for the 38th-39th Street Neighborhood Street and Utility Improvements. Adoption by the Council of the proposed assessment may occur at the hearing. The following describes the proposed improvements and area(s) to be assessed:

The extension of municipal water into the Bordners Garner Farnettes subdivision to provide clean drinking water to each of the 49 homes located along 38th Street North, 39th Street North, Innsdale Avenue North, and Ideal Avenue, including a water service stub to the public right-of-way. Following the watermain installation, the public streets in the subdivision, including 38th Street North, 39th Street North, Innsdale Avenue North, and Ideal Avenue were reconstructed with the installation of drain tile, a new bituminous surface and concrete curb and gutter.

You may at any time prior to certification of the assessment to the county auditor on November 18, 2022, pay the entire assessment on such property to the City Clerk with interest accrued to the date of payment. No interest shall be charged if the entire assessment is paid to the City Clerk prior to November 18, 2022. You may at any time thereafter, pay to the City Clerk 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 (for the assessment to be certified to County Auditor) or interest will be charged through December 31 of the succeeding year. If you decide not to prepay the assessment before the date given above the rate of interest that will apply is 4.05 percent per year.

Once assessments are certified to the County, the assessments are payable in equal annual installments extending over a period of 15 years for street and drainage improvements and 20 years for watermain improvements, the first of the installments to be payable on or before the first Monday in January 2023 and will bear interest at the rate of 4.05 percent per annum from the date of adoption of the assessment resolution. To the first installment shall be added interest on the entire assessment from the date of the assessment resolution until December 31, 2022. To each subsequent installment when due shall be added interest for one year on all unpaid installments.

The proposed assessment roll is on file for public inspection at the City Clerk's office. The total street improvement amount to be assessed is \$99,900. The total watermain amount to be assessed is \$193,000. The total project costs for the public watermain and street reconstruction is \$3,170,000. Written or oral objections will be considered at the meeting. No appeal may be taken as to the amount of an 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. The Council may upon such notice consider any objection to the amount of a proposed individual assessment at an adjourned meeting upon such further notice to the affected property owners as it deems advisable.

An owner may appeal an assessment to district court pursuant to Minnesota Statutes, Section 429.081 by serving notice of the appeal upon the Mayor or Clerk within 30 days after the adoption of the assessment and filing such notice with the district court within ten days after service upon the Mayor or Clerk.

The City Council is authorized in its discretion to defer the payment of an assessment for any homestead property owned by a person for whom it would be a hardship to make payment if the owner is 65 years of age or older and/or the owner is a person retired by virtue of a permanent and total disability or 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 section 190.05 subdivision 5b or 5c, as stated in the person's military orders, for whom it would be a hardship to make the payments. The owner must request a deferment of the assessment at or before the public hearing at which the assessment is adopted and make application on forms prescribed by the City Clerk within 30 days after the adoption.

Notwithstanding the standards and guidelines established by the City for determining a hardship, a deferment of an assessment may be obtained pursuant to Minnesota Statutes Section 435.193.

DATED: September 20, 2022

BY ORDER OF THE LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

(Published in the Stillwater Gazette on September 23, 2022)

CITY OF LAKE ELMO**38TH-39TH STREET NEIGHBORHOOD STREET & UTILITY IMPROVEMENTS**

PROJECT NO. 2020.120

| | Feasibility Report Estimate of Cost | Post Bid Estimate of Cost | FINAL PROJECT Estimate of Cost |
|--|--|------------------------------|-----------------------------------|
| Total Project Cost | \$3,743,000 | \$3,984,000 | \$3,890,000 |
| Street and Storm Sewer | \$1,921,000 | \$1,754,000 | \$1,740,000 |
| <i>Assessable Cost</i> | \$578,100 | \$526,200 | \$522,000 |
| <i>Assessable Parcels</i> | 47 | 47 | 47 |
| <i>Assessment Amount</i> | \$12,300 | \$11,200 | \$11,100 |
| Watermain | \$1,127,000 | \$1,535,000 | \$1,430,000 |
| <i>Trunk Oversize Cost</i> | \$128,600 | \$536,600 | \$431,600 |
| <i>Assessable Cost</i> | \$998,400 | \$998,400 | \$998,400 |
| <i>Assessable Parcels</i> | 48 | 48 | 48 |
| <i>Assessment Amount</i> | \$20,800 | \$20,800 | \$20,800 |
| <i>Lateral Benefit Charge Property</i> | 1 | 1 | 1 |
| <i>Lateral Benefity Charge Assessment Amount</i> | \$5,800.00 | \$5,800.00 | \$5,800.00 |
| Private Water Service Connections | \$695,000 | \$695,000 | \$720,000 |

38TH AND 39TH STREET NEIGHBORHOOD
 STREET AND UTILITY IMPROVEMENTS
 FINAL ASSESSMENT ROLL

| NO. | NAME | ADDRESS | MAILING ADDRESS | | | | | | | | PID | TOTAL ASSESSMENT | STREET & DRAINAGE ASSESSMENT | WATERMAIN ASSESSMENT |
|---------------|----------------------------------|----------------------|-----------------|-----------|-------|-----------|----|-------|---------------|------------------|-----------------|------------------|------------------------------|----------------------|
| 1 | PAULSON LAWRENCE W | 8080 39TH ST N | 8080 | 39TH | ST N | LAKE ELMO | MN | 55042 | 1602921220006 | \$31,900 | \$11,100 | \$20,800 | | |
| 2 | ECHVERRIA LUIS & DANA R | 8140 39TH ST N | 8140 | 39TH | ST N | LAKE ELMO | MN | 55042 | 1602921220008 | \$31,900 | \$11,100 | \$20,800 | | |
| 3 | GEISLER GAYLENE & THOMAS CHARLES | 8268 39TH ST N | 8268 | 39TH | ST N | LAKE ELMO | MN | 55042 | 1602921210001 | \$31,900 | \$11,100 | \$20,800 | | |
| 4 | FRID KEVIN D & KATIE J | 3909 INNSDALE AVE N | 3909 | INNSDALE | AVE N | LAKE ELMO | MN | 55042 | 1602921210008 | \$31,900 | \$11,100 | \$20,800 | | |
| 5 | LAMBERT ROBERT A & LYNN C | 3889 INNSDALE AVE N | 3889 | INNSDALE | AVE N | LAKE ELMO | MN | 55042 | 1602921210006 | \$31,900 | \$11,100 | \$20,800 | | |
| 6 | OLSON DAVID J & KAY | 8089 38TH ST N | 8089 | 38TH | ST N | LAKE ELMO | MN | 55042 | 1602921220015 | \$31,900 | \$11,100 | \$20,800 | | |
| 7 | MORIS RICHARD W | 3797 IDEAL AVE N | 3797 | IDEAL | AVE N | LAKE ELMO | MN | 55042 | 1602921220017 | \$31,900 | \$11,100 | \$20,800 | | |
| 8 | RASSETT JESSE | 8350 38TH ST N | 8350 | 38TH | ST N | LAKE ELMO | MN | 55042 | 1602921210020 | \$31,900 | \$11,100 | \$20,800 | | |
| 9 | RASMUSSEN CARISA & ANDREW | 8312 38TH ST N | 8312 | 38TH | ST N | LAKE ELMO | MN | 55042 | 1602921210022 | \$31,900 | \$11,100 | \$20,800 | | |
| 10 | HEDLUND JASON D & ELIZABETH R | 8211 LAKE JANE TRL N | 8211 | LAKE JANE | TRL N | LAKE ELMO | MN | 55042 | 1602921220010 | \$5,800 | \$0 | \$5,800 | | |
| TOTALS | | | | | | | | | | \$292,900 | \$99,900 | \$193,000 | | |