



STAFF REPORT

DATE: September 19, 2023

CONSENT

AGENDA ITEM: Whistling Valley Street and Utility Improvements – Resolution Declaring Costs to be Assessed and Calling for Hearing on Proposed Assessment

SUBMITTED BY: Chad Isakson, Assistant City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Sarah Sonsalla, City Attorney
Clarissa Hadler, Finance Director
Marty Powers, Public Works Director
Jack Griffin, City Engineer

ISSUE BEFORE COUNCIL: Should the City Council call a final assessment hearing for the Whistling Valley Street and Utility Improvements to be held on October 17, 2023?

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 42 properties (3 of which are vacant platted lots). The grant is in the amount of \$3,660,000 and includes the public and private water system improvements, and the street and drainage improvements. The terms of the grant are outlined in the Grant Agreement between the City of Lake Elmo and the MPCA dated April 2, 2021.

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 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 4, 2022 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 4, 2023. A reminder notice was also sent on September 5, 2023.

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 the Whistling Valley Street and Utility Improvements. The Final Assessment Hearing is proposed for October 17, 2023. The Final Assessment Roll must be certified to the County Auditor by November 17, 2023. *Properties that provide proof of connection and sealing of the well by November 17, 2023 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 approved Feasibility Report and the City's Special Assessment Policy. There are 8 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 31 remaining properties that have not connected. Additionally, the feasibility report included 3 platted properties on the assessment roll that are currently undeveloped (9581 Whistling Valley Trail, 9611 Whistling Valley Road, and 9615 Whistling Valley Road). These parcels have been reviewed and are in compliance with the terms of the grant agreement and have been removed from the assessment roll.

Twenty-two (22) additional 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 is reduced from \$31,500 down to \$28,300 per residential property, and the public street and storm sewer assessment is reduced from \$12,400 down to \$12,000 per residential property.

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 4.75%.

FISCAL IMPACT: The estimated total project cost for the public improvements \$2,857,800; including \$1,669,200 for the street, drainage and storm sewer improvements and \$1,188,600 for the water system improvements. Of these costs, \$372,000 will be specially assessed for street and drainage improvements and \$877,300 will be specially assessed for watermain improvements. The remaining costs will be covered by grant funds from the 3M Settlement Grant Agreement for the project.

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. If removed from the *consent agenda*, the suggested motion to approve this action is as follows:

“Move to approve Resolution No. 2023-091; Declaring Costs to be Assessed and Calling for the Hearing on the Proposed Assessment for the Whistling Valley 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. Estimated Total Project Cost Summary.
4. Final Assessment Roll.

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

RESOLUTION NO. 2023-091

**A RESOLUTION DECLARING COST TO BE ASSESSED AND CALLING
HEARING ON PROPOSED ASSESSMENT FOR THE
WHISTLING VALLEY STREET AND UTILITY IMPROVEMENTS**

WHEREAS, estimated total project costs have been calculated for the Whistling Valley Street and Utility Improvements including street and watermain improvements; and

WHEREAS, the total cost of the public improvements will be \$2,857,800.

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 \$1,297,200 and the portion of the cost to be assessed against benefited property owners is declared to be \$311,300.
2. The portion of the cost of such watermain improvements to be covered by the City is hereby declared to be \$311,300 and the portion of the cost to be assessed against benefited property owners is declared to be \$877,300.
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, 2024 and shall bear interest at the rate of 4.75 percent per annum from the date of the adoption of the assessment resolution.
5. A public hearing shall be held on the 17th day of October, 2023, 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 NINETEENTH DAY OF SEPTEMBER, 2023.

CITY OF LAKE ELMO

(Seal)
ATTEST:

By: _____
Charles Cadenhead
Mayor

Julie Johnson
City Clerk

CITY OF LAKE ELMO

NOTICE OF HEARING ON PROPOSED ASSESSMENT WHISTLING VALLEY STREET AND UTILITY IMPROVEMENTS

Notice is hereby given that the City Council of Lake Elmo will conduct a public hearing on **Tuesday October 17, 2023** at, or approximately after, 7:00 P.M. at Lake Elmo City Hall to consider, and possibly adopt, the proposed assessment against abutting properties for the Whistling Valley 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 Whistling Valley subdivision to replace individual private wells along 10th Street Lane North, Whistling Valley Road North, and Whistling Valley Trail North to provide clean drinking water to each of the 42 properties homes adjacent to the new watermain, including a water service stub to the public right-of-way. Following the watermain installation, street and drainage improvements will be completed along the following public streets:

- 10th Street Lane North, from 10th Street (CSAH 10) to Whistling Valley Trail.
- Whistling Valley Road North.
- Whistling Valley Trail North.

You may at any time prior to certification of the assessment to the county auditor on November 17, 2023, 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 17, 2023. 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 4.75 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 2024 and will bear interest at the rate of 4.75 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, 2023. 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 \$372,000. The total watermain amount to be assessed is \$877,300. The total project costs for the public watermain and

street reconstruction is \$2,857,800. 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 19, 2023

BY ORDER OF THE LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

(Published in the Stillwater Gazette on September 22, 2023)

CITY OF LAKE ELMO
WHISTLING VALLEY NEIGHBORHOOD
PROJECT NO. 2020.123

	Feasibility Report Estimate of Cost	Final Project (Estimate at Completion)
Total Project Cost	\$3,664,000	\$3,558,800
Street Improvements	\$1,725,000	\$1,669,200
<i>Assessable Cost</i>	<i>\$517,500</i>	<i>\$504,000</i>
<i>Assessed Parcels</i>	<i>42</i>	<i>42</i>
<i>Assessment Amount</i>	<i>\$12,400</i>	<i>\$12,000</i>
Watermain Improvements	\$1,320,000	\$1,188,600
<i>Assessable Cost</i>	<i>\$1,320,000</i>	<i>\$1,188,600</i>
<i>Assessed Parcels</i>	<i>42</i>	<i>42</i>
<i>Assessment Amount</i>	<i>\$31,500</i>	<i>\$28,300</i>
Private Water Service Connections	\$619,000	\$701,000
*MPCA Grant Amount is \$3,660,000		

NO.	NAME	ADDRESS	MAILING ADDRESS	PID	TOTAL ASSESSMENT	STREET AND DRAINAGE ASSESSMENT	WATERMAIN ASSESSMENT
1	BOYD DIANE J	9520 WHISTLING VALLEY TRL	9520 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921430008	\$40,300	\$12,000	\$28,300
2	LAUMEYER JENNIFER & BRIAN	9525 WHISTLING VALLEY TRL	9525 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921420005	\$40,300	\$12,000	\$28,300
3	PETER JOHN DONOVAN REV TRS	9550 WHISTLING VALLEY TRL	9550 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921430016	\$40,300	\$12,000	\$28,300
4	LAWIN TIMOTHY P & LISA M	9590 WHISTLING VALLEY TRL	9590 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921420012	\$40,300	\$12,000	\$28,300
5	ZHANG HAIYAN & SHEN WEILI	9593 WHISTLING VALLEY TRL	9593 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921420007	\$40,300	\$12,000	\$28,300
6	SCHUMACHER DAVID G & MICHELLE M	9607 WHISTLING VALLEY TRL	9607 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921420008	\$40,300	\$12,000	\$28,300
7	ALLEN GREGORY D & JANE E	9620 WHISTLING VALLEY TRL	9620 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921420011	\$40,300	\$12,000	\$28,300
8	LIVERINGHOUSE JOHN D & SARAH J M	9650 WHISTLING VALLEY TRL	9650 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921420010	\$40,300	\$12,000	\$28,300
9	DIANA LYNN HIPPLE TRS	9682 WHISTLING VALLEY TRL	9682 WHISTLING VALLEY TRL LAKE ELMO MN 55042	2702921420009	\$40,300	\$12,000	\$28,300
10	JOHNSON JOHN R & JULIE M S	9530 10TH ST LN N	9530 10TH ST LN N LAKE ELMO MN 55042	2702921340002	\$40,300	\$12,000	\$28,300
11	EDEBOL JOHANNES & ASHLEY M ZILLES	9605 WHISTLING VALLEY RD	9605 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921430015	\$40,300	\$12,000	\$28,300
12	MYEROFF CHAD & ANDREA GOLDSTEIN	9606 WHISTLING VALLEY RD	9606 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921430009	\$40,300	\$12,000	\$28,300
13	BENNETT COLE A & ELIZABETH E	9621 WHISTLING VALLEY RD	9621 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921430011	\$40,300	\$12,000	\$28,300
14	TANDON ROHIT & MONA	9634 WHISTLING VALLEY RD	9634 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921430010	\$40,300	\$12,000	\$28,300
15	HOLY CHRISTIAN CHURCH INTERNATIONAL	9654 WHISTLING VALLEY RD	125 STEVENS ST W SAINT PAUL MN 55107	2702921420013	\$40,300	\$12,000	\$28,300
16	TORGERSON PAUL M & REBECCA L	9676 WHISTLING VALLEY RD	9676 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921420014	\$40,300	\$12,000	\$28,300
17	ROXANE L BECKEN REV TRS	9703 WHISTLING VALLEY RD	9703 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921410008	\$40,300	\$12,000	\$28,300
18	SANDERS JEFFREY & JULIE	9706 WHISTLING VALLEY RD	9706 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921410009	\$40,300	\$12,000	\$28,300
19	RICHARD WILLIAM P & KAREN R	9714 WHISTLING VALLEY RD	9714 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921410010	\$40,300	\$12,000	\$28,300
20	SEELHAMMER TODD G & CRYSTAL D	9717 WHISTLING VALLEY RD	9717 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921410007	\$40,300	\$12,000	\$28,300
21	ESTER TYSON P & ELIZABETH C	9729 WHISTLING VALLEY RD	9729 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921410006	\$40,300	\$12,000	\$28,300
22	EDER BRIAN J & GRETTA	9740 WHISTLING VALLEY RD	9740 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921410012	\$40,300	\$12,000	\$28,300
23	DEAGAZIO WILLIAM J & MARY G	9745 WHISTLING VALLEY RD	9745 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921410005	\$40,300	\$12,000	\$28,300
24	WESTBY TODD N & HEIDI M	9754 WHISTLING VALLEY RD	9754 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921410013	\$40,300	\$12,000	\$28,300
25	JOHAN E RUST REV TRS & MAGDALENA L RUST REV TRS	9768 WHISTLING VALLEY RD	20816 4TH AVE W CUDJOE KEY FL 33042	2702921410014	\$40,300	\$12,000	\$28,300
26	MATHEWS DONA L	9776 WHISTLING VALLEY RD	1027 LAVERNE AVE N LAKE ELMO MN 55042	2702921410015	\$40,300	\$12,000	\$28,300
27	ST GERMAIN CHAD J	9788 WHISTLING VALLEY RD	9788 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921440016	\$40,300	\$12,000	\$28,300
28	BARBARA J SOLFELT TRS	9811 WHISTLING VALLEY RD	9811 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921440014	\$40,300	\$12,000	\$28,300
29	KURT & SHERRY BARTELS TRS	9819 WHISTLING VALLEY RD	9819 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921440013	\$40,300	\$12,000	\$28,300
30	MANICKA YATHEENDHAR D & NISHA Y	9829 WHISTLING VALLEY RD	10544 HAWTHORN TRL SAINT PAUL MN 55129	2702921440017	\$40,300	\$12,000	\$28,300
31	BRAUN SHARON B & WILLIAM H	9831 WHISTLING VALLEY RD	9831 WHISTLING VALLEY RD LAKE ELMO MN 55042	2702921440012	\$40,300	\$12,000	\$28,300
TOTALS					\$1,249,300	\$372,000	\$877,300