



NORTHWEST ASSOCIATED CONSULTANTS, INC.

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MEMORANDUM

TO: Sunfish Lake Mayor and City Council
FROM: Ryan Grittmann
DATE: December 27, 2017
RE: Sunfish Lake – Planning Update for January City Council Meeting
NAC FILE: 211.02 - General

**1/2/18 CC
Mtg.
Agenda Item
6a**

December Planning Commission Meeting

The December Planning Commission meeting was cancelled due to a lack of agenda items.

Additional Planning Updates

Tree Removal Guide. Staff has prepared a tree removal guide at the direction of the City Council. Attached to this memo is a draft copy of the guide for Council review and comment.

Joint Powers Agreement. At the last City Council meeting, staff was directed to research the JPA with the City of Sunfish Lake and Mendota Heights regarding the sewer and water connection for the five properties on the west side of the City. Staff has found that the basic maintenance for the sewer is the responsibility of Mendota Heights, and all repairs are the responsibility of Sunfish Lake.

Attachments: Tree Removal Guide
JPA – Sewer and Water with Mendota Heights

c: Catherine Iago, City Clerk
Tim Kuntz, City Attorney
Don Sterna and Eric Eckman, City Engineers
Mike Andrejka, Building Official
Jim Naves, City Forester
Ron Wasmund, Septic System Inspector
Dave Dreelan, Fire Chief

City of *Sunfish Lake* Tree Removal Guide

When do I need a permit? In Sunfish Lake, a permit is required when removing six or more trees in the setback area within two years; or 10 or more trees outside the setback area within two years.

How do I apply for a permit? Permits are processed as a “minor review” by City Staff. Please call the City Planner for an application and fee information.

When do I need Forester approval?

The removal of five or less trees within the setback area within two years.

When can't I remove trees? If the trees were part of the required screening, they cannot be removed. Check with the City Planner to see if the trees are part of the required screening.

When don't I need a permit? If a tree is dead, dying, or diseased, it can be removed without City approval.

What about invasive species? No approval is needed to remove invasive species such as buckthorn.

What's considered a tree? Any tree that measures six inches in diameter or more at a point five feet above the ground and is not dead, dying, or diseased.

Further questions? Please call the City Forester or the City Planner if you need additional information.

JOINT POWERS
AGREEMENT

AGREEMENT, Made this 21 day of October, 1980, by and between THE CITY OF MENDOTA HEIGHTS, hereinafter referred to as "Mendota Heights"; and THE CITY OF SUNFISH LAKE, hereinafter referred to as "Sunfish Lake", both of said parties being municipal corporations lying within the County of Dakota, State of Minnesota.

WHEREAS, Mendota Heights has constructed a public sanitary sewer facility throughout the community and said facility abuts Sunfish Lake at Delaware Avenue and Charlton Street; and

WHEREAS, Mendota Heights and Sunfish Lake have contiguous boundaries in said area; and

WHEREAS, in the Western sector of Sunfish Lake there are five (5) properties, which properties require central sanitary sewer facilities because the private sewage facilities for said properties are for the most part presently failing, thus affecting the health and welfare of the inhabitants of the community; and

WHEREAS, there is no feasible means to supply the necessary public sanitary sewer facilities to the said properties other than through the Mendota Heights system; and

WHEREAS, Mendota Heights has limited capacity with its collection system, and, based upon its anticipated growth projection, the need for its full capacity in the affected sewer system is not likely to be realized prior to the year 2000; and

WHEREAS, Mendota Heights and Sunfish Lake, in an effort to resolve the environmental and health problems of the five in-place dwellings in Sunfish Lake which are in need of sanitary sewer facilities, have determined that if Mendota Heights agrees to furnish Sunfish Lake capacity in its sewer system for the said five in-place dwellings, that said action will conform to the metropolitan sewer system framework and yet will not jeopardize the Mendota Heights system or its future capacity prior to the year 2000; and

WHEREAS, Mendota Heights and Sunfish Lake have come to an agreement subject to approval by the Metropolitan Waste Control Commission to facilitate the construction of a public sanitary sewer facility to serve the five dwellings, which dwellings are identified on Exhibit "A" attached hereto and incorporated herein by reference, which facility will allow the said five dwellings in Sunfish Lake to discharge sewage through and into the Mendota Heights sewage system.

WHEREAS, in conjunction with the above-described sanitary sewer facility project, the owners of said five Sunfish Lake dwellings desire to construct water lines and appurtenances thereto, and to connect said water lines to the existing Mendota Heights water mains; and

WHEREAS, Mendota Heights and Sunfish Lake have come to an agreement, subject to approval by the Saint Paul Water Department, regarding the construction of water mains and appurtenances thereto to serve the subject five dwellings, which water mains will allow the said five dwellings to receive adequate water supply through the Mendota Heights system.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and further in consideration of the recitals which are by this reference incorporated herein, it is agreed as follows:

1. Purpose. It is the purpose of this Agreement to establish the terms under which Sunfish Lake may utilize Mendota Heights' sanitary sewer facilities and water mains for the benefit of the subject five dwellings.

2. Cancellation. This Agreement and all of its terms and conditions as set forth hereinafter are binding upon the parties until cancelled pursuant to the following procedure:

(a) Sunfish Lake may, upon ninety (90) days' notice served in writing upon the Clerk of Mendota Heights, cancel this Agreement at any time.

(b) Mendota Heights may, at any time after the earlier of

(i) the reaching of a level of use of the Mendota Heights sanitary sewer facilities of ninety percent (90%) of full capacity thereof, or

(ii) the 1st day of January, 2000,

cancel this Agreement by serving written notice of such cancellation upon the Clerk of Sunfish Lake; provided, however, that such notice of cancellation shall not take effect until three (3) years from the date of service of said notice upon Sunfish Lake, unless otherwise agreed upon in writing by the parties hereto.

3. Limitation of Agreement. This Agreement is intended to provide for the furnishing of public sanitary sewer facilities and access to Mendota Heights water mains only to the five specific dwellings set forth on Exhibit "A" hereto and shall under no circumstances, without appropriate executed amendment to this Agreement, furnish sewer discharge capacity or water main access to any other properties in Sunfish Lake.

4. Construction and Maintenance of Facility.

(a) Sunfish Lake and/or its agents, contractors, or employees, shall construct all water mains and appurtenances thereto and the sanitary sewer facilities from the connection point near Delaware Avenue and Charlton Street as shown on Exhibit "A" hereto. Sunfish Lake shall provide to Mendota Heights, at the sole cost and expense of Sunfish Lake, two (2) sets of each of the following:

(i) plans and specifications;

(ii) construction drawings, and

(iii) "as-built" drawings.

The plans and specifications shall be approved in writing by both Sunfish Lake and Mendota Heights prior to commencement of construction. Mendota Heights shall so approve, prior to execution thereof, all agreements as to the construction of the subject facilities and may condition such approval upon, among other things, the licensing in Mendota Heights of each contractor performing such work. Mendota Heights shall have the right at any reasonable time during the term of this Agreement to make all reasonable examinations and inspections of the subject

facilities and upon receipt of a notice of a defect or deficiency in construction and/or maintenance of the said facilities, Sunfish Lake shall within a reasonable time, cure the said defect or deficiency. It is intended herein that Mendota Heights shall not expend any capital outlay whatsoever as to the facility which lies east of Delaware Avenue. No final hook-up of said facilities to the Mendota Heights sanitary sewer system and/or water mains shall take place until such time as Mendota Heights has issued final approval in writing to Sunfish Lake for such hook-up. Such final approval by Mendota Heights may be conditioned upon, among other things, receipt of certification from the Sunfish Lake Building Inspector as to the quality of the services and lines extending from each of the subject five dwellings to the main sewer line and/or water mains to be constructed by Sunfish Lake pursuant to the terms of this paragraph 4(a).

(b) After the final hook-up as described above, Mendota Heights shall provide that level of normal maintenance services for that portion of the sanitary sewer facilities lying within Sunfish Lake as is regularly provided to the Mendota Heights sanitary sewer facilities. Any other maintenance, repair, and/or replacement of said Sunfish Lake sanitary sewer facilities in excess of said level of normal maintenance services shall be performed by and at the sole cost of Sunfish Lake.

5. Connection Charge. The owners of each of the subject five dwellings shall pay to Mendota Heights a connection charge for said water and sewer facilities in the amount of \$8,872.54, said amount being equal to 125% of the assessment paid by a Mendota Heights property in an R-1A zone; however, Mendota Heights shall allow the owners of each such dwelling a credit against the aforesaid connection charge, which credit shall not exceed \$7,472.54 per dwelling, for construction costs of the subject water lines and sanitary sewer facility within Sunfish Lake, which costs shall be limited to construction contract costs plus costs for soil-testing and Saint Paul Water Department inspections and services, but which costs shall specifically exclude, among others, costs for engineering, overhead, and right of way.

6. User Charges. In addition to the connection charges referred to above, Mendota Heights will bill the users of the sanitary sewer facility on a quarterly basis a use charge for each of the dwellings which are deemed to be using said sanitary sewer facility. Permits for connection to the said sanitary sewer facility for any of the subject five dwellings are to be issued by appropriate officials in Sunfish Lake. Sunfish Lake shall not permit any of the said parcels to make connection until such time as a permit has been issued. At the time of the issuance of the permit, the property shall be deemed for billing purposes to be connected and using the system. A separate permit shall issue for each separate property being connected. The quarterly use charge made to the respective users by Mendota Heights shall be determined solely by Mendota Heights. Sunfish Lake, upon certification by Mendota Heights of any and all charges, user or otherwise, in relation to the use of the subject facility, guarantees to Mendota Heights the payment thereof within thirty (30) days of the date on which such charges originally become due and payable.

7. Notification of Issuance of Permit. Sunfish Lake shall notify Mendota Heights in writing within ten (10) days after the permit is issued for each of the subject properties to hook up to said facility as to the date of issuance of each such permit.

8. Water Availability Charge. In addition to the connection charge referred to above, the owners of each of the subject five dwellings shall pay to Mendota Heights a one-time water availability charge (WAC) of Two Hundred and 00/100 Dollars (\$200.00) per residence; provided, however, that the amount of said water availability charge may be

increased or decreased in the sole and exclusive discretion of Mendota Heights, which increase or decrease shall be effective upon thirty (30) days advance written notice by Mendota Heights.

9. Service Availability Charges. Service availability charges made by the Metropolitan Waste Control Commission shall be collected by Sunfish Lake at the time a permit is issued and Sunfish Lake shall be responsible for the payment of said charges directly to the Metropolitan Waste Control Commission.

10. Indemnification. Sunfish Lake shall hold harmless, indemnify and defend Mendota Heights from and against all claims, costs and expenses of every kind and nature, including without limitation reasonable attorneys' fees, whether occurring in Sunfish Lake or Mendota Heights or any other place, which claims, costs and/or expenses are incurred by Mendota Heights and which arise directly or indirectly out of the terms of this Agreement and which shall include but not be limited to matters relating to construction, use and/or maintenance of the Sunfish Lake - Mendota Heights sewage facility and/or water system referred to herein.

11. Remedies for Violation. In the event of any substantial, continuing violation of the terms and conditions of this Agreement on the part of Mendota Heights or Sunfish Lake, the aggrieved party, after first giving reasonable written notice and affording reasonable opportunity to correct such violation, may submit said grievance to a board of arbitration which shall be created as follows: the municipality making such written election shall in such written election appoint a referee; the other municipality shall within ten (10) days after such election and appointment also appoint a referee; the two referees shall appoint a third referee, or if they fail for ten days to do so, unless the municipalities mutually extend the time for them to do so, the District Court of Dakota County shall make the appointment of the third referee. A decision of the majority of the board shall be the decision of the board. Each municipality shall pay the compensation of the referee appointed by it and one-half of the compensation of the third referee, such compensation to be at the rate usually charged by such person for services in his profession or occupation. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

Either party, before the completion of impanelment of a board of arbitration may institute such action or proceeding, at law or in equity, as may be considered by it upon advice of counsel to be most effective for the enforcement of this agreement, whether in the nature of mandamus to compel the proper officers to perform duties imposed upon the parties of this agreement, or for such other relief, without limitation, as may be deemed necessary or proper by any court of competent jurisdiction. Timely commencement of such an action will obviate the arbitration provision.

12. Agreement Subject to Redetermination. This Agreement is made pursuant to Section 471.59, Minnesota Statutes and shall be effective until cancelled by one or both of the parties hereto pursuant to the terms of paragraph 2 hereof; provided, however, that this Agreement shall be subject to redetermination of its provisions after the expiration of ten (10) years from the date hereof and thereafter as provided by Minnesota Statutes Section 115.49.

13. Effective Date of Agreement. This Agreement shall take effect and be in force after the date of execution of the same by the proper officers of Mendota Heights and Sunfish Lake, pursuant to a resolution of the governing bodies of the municipalities, excepting and agreeing to abide and be bound by the terms, provisions and conditions hereof and authorizing such execution.

14. Agreement Contingency. This Agreement is contingent upon the parties obtaining the necessary approvals from the Metropolitan Council, the Metropolitan Waste Control Commission, and the Saint Paul Water Department.

Executed by and between the parties hereto the day and year first above written.

THE CITY OF SUNFISH LAKE

By *Duncan Baird*
Its Mayor

And *Myra Hamper*
Its Clerk

THE CITY OF MENDOTA HEIGHTS

By *Robert G. Lockwood*
Robert G. Lockwood, Mayor

And *Kathleen M. Swanson*
Kathleen M. Swanson, City Clerk

STATE OF MINNEOSTA)
COUNTY OF DAKOTA) s.s.

The foregoing instrument was acknowledged before me this 29th day of October, 1980, by Robert G. Lockwood, the Mayor of the City of Mendota Heights, and Kathleen M. Swanson, City Clerk of the City of Mendota Heights, a Minnesota municipal corporation, and Duncan Baird, Mayor of the City of Sunfish Lake, and Myra Hamper, City Clerk of the City of Sunfish Lake, by and on behalf of said municipal corporation.

