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MEMO

TO: Sunfish Lake Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: October 1, 2014
RE: Resolution Expressing Intent By The City Of Sunfish Lake To Implement An SSTS (Subsurface Sewage Treatment System) Program Which Meets The Current Dakota County SSTS Ordinance – October 7, 2014 City Council Meeting, Agenda Item 8(g)

Section 1. Background. On November 9, 2010, the City of Sunfish Lake passed Ordinance No. 2010-13 titled “An Ordinance Amending Chapter 402 of the Sunfish Lake City Code Relating to Subsurface Sewage Treatment Systems” which ordinance repealed the City’s existing septic regulations and enacted new regulations for subsurface sewage treatment systems (SSTS) within the City in conformance with changes to Minnesota statutory and regulatory law. At that time, the Minnesota Pollution Control Agency (MPCA) had revised regulations governing septic systems and state law required that the City adopt the Dakota County ordinance or a stricter ordinance within one year of the adoption of the county ordinance.

The purpose of the SSTS ordinance is to establish minimum requirements for regulation of SSTS for the treatment and dispersal of sewage within the City to protect public health and safety, groundwater quality, and to prevent or eliminate the development of public nuisances.

Ordinance No. 2010-13 largely mirrored Dakota County Ordinance 113, which is Dakota County’s septic ordinance. The City’s ordinance required pumping every two years. Dakota County’s ordinance required pumping every three years. Under the City’s ordinance, the City continues to administer the pumping program, although some cities in Dakota County have contracted with Dakota County to administer the pumping program.

On March 6, 2012, the City of Sunfish Lake passed Ordinance No. 2012-01 titled “An Ordinance Amending Sections 402.2.06, 402.7.06 and 402.7.07(B) of Chapter 402 of the Sunfish Lake City Code Relating to Subsurface Sewage Treatment Systems.” At that time, the City ordinance required septic pumping every two years and the Metropolitan Council changed the septic

pumping requirement to every three years. The Sunfish Lake Building Inspector concurred that the three year requirement was adequate for single-family residences in the City of Sunfish Lake. Accordingly, Ordinance No. 2012-01 changed the pumping regulation from two years to three years.

Section 2. MPCA Requirement. By a memo dated September 19, 2014, the Minnesota Pollution Control Agency (MPCA) advised the City that it must state, in writing, its intention of implementing an SSTS program which meets the current Dakota County ordinance.

Minnesota Statute § 115.55, subd. 2(a) requires all counties to amend their current SSTS ordinance to include the 2014 MPCA SSTS rules by February 4, 2014. Minnesota Rules Chapter 7082 allows cities another year after county adoption to update their ordinances. The year starts on the date the county adopts the ordinance.

It's our understanding that at this time Dakota County has not, as yet, adopted an update to its SSTS ordinance which includes the 2014 MPCA SSTS rules.

The City of Sunfish Lake intends to update its SSTS ordinance to include the 2014 MPCA SSTS rules once Dakota County has updated its SSTS ordinance.

At this time the City (at the request of the MPCA) needs to advise the MPCA of its intention to implement an SSTS program which meets the current Dakota County SSTS ordinance.

Section 3. Council Action. The Council is asked to consider the attached "*Resolution Expressing Intent By The City Of Sunfish Lake To Implement An SSTS (Subsurface Sewage Treatment System) Program Which Meets The Current Dakota County SSTS Ordinance*" at the October 7, 2014 City Council meeting. At a future Council meeting, the Council will be asked to consider an ordinance amendment updating the SSTS ordinance to include the 2014 MPCA SSTS rules.

Attachment

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 14-_____

**RESOLUTION EXPRESSING INTENT BY THE CITY OF SUNFISH LAKE TO
IMPLEMENT AN SSTS (SUBSURFACE SEWAGE TREATMENT SYSTEM)
PROGRAM WHICH MEETS THE CURRENT DAKOTA COUNTY SSTS ORDINANCE**

WHEREAS, on November 9, 2010, the City of Sunfish Lake passed Ordinance No. 2010-13 titled "An Ordinance Amending Chapter 402 of the Sunfish Lake City Code Relating to Subsurface Sewage Treatment Systems" which ordinance repealed the City's existing septic regulations and enacted new regulations for subsurface sewage treatment systems (SSTS) within the City in conformance with changes to Minnesota statutory and regulatory law. At that time, the Minnesota Pollution Control Agency (MPCA) had revised regulations governing septic systems and state law required that the City adopt the Dakota County ordinance or a stricter ordinance within one year of the adoption of the county ordinance.

WHEREAS, the purpose of the SSTS ordinance is to establish minimum requirements for regulation of SSTS for the treatment and dispersal of sewage within the City to protect public health and safety, groundwater quality, and to prevent or eliminate the development of public nuisances. Ordinance No. 2010-13 largely mirrored Dakota County Ordinance 113, which is Dakota County's septic ordinance. The City's ordinance required pumping every two years. Dakota County's ordinance required pumping every three years. Under the City's ordinance, the City continues to administer the pumping program, although some cities in Dakota County have contracted with Dakota County to administer the pumping program.

WHEREAS, on March 6, 2012, the City of Sunfish Lake passed Ordinance No. 2012-01 titled "An Ordinance Amending Sections 402.2.06, 402.7.06 and 402.7.07(B) of Chapter 402 of the Sunfish Lake City Code Relating to Subsurface Sewage Treatment Systems." At that time, the City ordinance required septic pumping every two years and the Metropolitan Council changed the septic pumping requirement to every three years. The Sunfish Lake Building Inspector concurred that the three year requirement was adequate for single-family residences in the City of Sunfish Lake. Accordingly, Ordinance No. 2012-01 changed the pumping regulation from two years to three years.

WHEREAS, by a memo dated September 19, 2014, the Minnesota Pollution Control Agency (MPCA) advised the City that it must state, in writing, its intention of implementing an SSTS program which meets the current Dakota County ordinance.

WHEREAS, Minnesota Statute § 115.55, subd. 2(a) requires all counties to amend their current SSTS ordinance to include the 2014 MPCA SSTS rules by February 4, 2014. Minnesota Rules Chapter 7082 allows cities another year after county adoption to update their ordinances. The year starts on the date the county adopts the ordinance.

WHEREAS, at this time Dakota County has not, as yet, adopted an update to its SSTS ordinance which includes the 2014 MPCA SSTS rules.

WHEREAS, the City of Sunfish Lake intends to update its SSTS ordinance to include the 2014 MPCA SSTS rules once Dakota County has updated its SSTS ordinance.

NOW, THEREFORE, BE IT RESOLVED, as follows:

- 1.) The Council hereby expresses the intent of the City of Sunfish Lake to implement an SSTS Program which meets the current Dakota County ordinance.
- 2.) The Council authorizes the City Clerk to provide a copy of this resolution to the Minnesota Pollution Control Agency as evidence of the City's intent to implement an SSTS Program which meets the current Dakota County ordinance.
- 3.) The City will amend its current SSTS ordinance to include the 2014 MPCA SSTS rules after Dakota County amends its SSTS ordinance.

Passed this 10th day of October, 2014.

Molly Park, Mayor

ATTEST:

Catherine Iago, City Clerk