
**LEVANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
ANGELA M. LUTZ AMANN
KORINE L. LAND
DONALD L. HOEFT
BRIDGET McCAULEY NASON
PETER G. MIKHAIL
SCOTT M. LUCAS
DAVID L. SIENKO
TONA T. DOVE
AARON S. PRICE
CASSANDRA C. WOLFGAM
CASSANDRA J. BAUTISTA
AMANDA J. JOHNSON

MEMO

TO: Sunfish Lake Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: September 29, 2021
RE: Resolution Adopting Special Assessments for City Project No. 2021-02
(Zehnder Road Improvement Project); Agenda Item 5(b)

Section 1. Background. On September 9, 2021, the attached Notice of Hearing on Proposed Special Assessments for City Project No. 2021-02 (Zehnder Road Improvement Project) was mailed to each affected landowner proposed to be assessed. On September 12, 2021 and on September 19, 2021, the attached Notice of Hearing on Proposed Special Assessments was published in the *Pioneer Press*.

On Tuesday, October 5, 2021, the City Council will hold a public hearing to consider, pass upon, adopt and levy the proposed special assessments for the project improvements, as described in the attached Notice of Hearing on Proposed Special Assessments. At the public hearing, the City Council may adopt the proposed assessments.

The total project cost for Project 2021-02 is \$87,412.40. The total amount of the proposed assessments is about 55% thereof, namely, the sum of \$48,500. The Project is proposed to be specially assessed against buildable tax parcels either abutting or served by said improvements. The areas and parcels, as specifically described herein, are subject to said special assessments. The buildable tax parcels abutting or served by the improvements are proposed to be assessed \$9,700 per buildable tax parcel for those tax parcels abutting or served by Zehnder Road.

Section 2. Council Action. At the October 5, 2021, Council meeting, the Council will be asked to consider the attached *Resolution Adopting the Special Assessments for Sunfish Lake City Project No. 2021-02 (Zehnder Road Improvement Project)*.

After the Council meeting, my office will send a memo to each landowner on the assessment roll. The letter will advise the landowner as to the levied amount of the assessment and as to the right to pre-pay the assessment without interest up to November 15, 2021. We will enclose a stamped, self-addressed envelope that may be returned to the City Treasurer with pre-payment.

In terms of the public hearing on October 5, 2021, I suggest the following sequence of events:

- 1.) Declaration by Mayor that the public hearing is open.
- 2.) Overview of the project by the City Engineer.
- 3.) Overview of the proposed assessments by the City Attorney.
- 4.) Citizen questions.
- 5.) Council questions.
- 6.) Motion to close the public hearing.
- 7.) Motion to adopt the attached Resolution Adopting the Special Assessments for Sunfish Lake City Project No. 2021-02.

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

RESOLUTION NO. 21-_____

**RESOLUTION ADOPTING SPECIAL ASSESSMENTS FOR
SUNFISH LAKE CITY PROJECT NO. 2021-02
(ZEHNDER ROAD IMPROVEMENT PROJECT)**

WHEREAS, pursuant to proper notice duly given as required by law, the City Council of Sunfish Lake has met and heard and passed upon all objections to the proposed special assessments for Sunfish Lake City Project No. 2021-02 (Zehnder Road Improvement Project) as more fully described in the attached Notice of Hearing on Proposed Special Assessments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF SUNFISH LAKE, MINNESOTA, AS FOLLOWS:

1. Such proposed special assessments, as set forth in the attached Notice of Hearing on Proposed Special Assessments and Assessment Roll are hereby accepted and levied and shall constitute the special assessments against the parcels named therein and each tract of land therein is hereby found to be benefited by the proposed improvement in at least the amount of the special assessment levied against it.

2. Such special assessments shall be payable in equal annual principal installments extending over a period of ten (10) years payable on the first Monday in January in each year. The first installment shall be payable on the first Monday in January in 2022 and shall bear interest at the rate of 3.0% per year from and after January 1, 2022, until December 31, 2031. To each subsequent installment when due shall be added interest at the rate of 3.0% for one year on all unpaid installments.

The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole of the assessment on such property with interest accrued to the date of payment to the City Treasurer, except that no interest shall be charged if the entire assessment is paid prior to November 15, 2021. At any time thereafter, the landowner may pay to the County Treasurer 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 next year.

3. The Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax list of the county and such assessment shall be collected and paid over in the same manner as other taxes.

Adopted by the City Council of Sunfish Lake the 5th day of October, 2021.

ATTEST:

Dan O'Leary, Mayor

Catherine Iago, City Clerk

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

**NOTICE OF HEARING ON PROPOSED SPECIAL ASSESSMENTS
FOR SUNFISH LAKE CITY PROJECT NO. 2021-02
(ZEHNDER ROAD IMPROVEMENT PROJECT)**

TO WHOM IT MAY CONCERN:

NOTICE is hereby given that the City Council of the City of Sunfish Lake will meet via telephone or other electronic means pursuant to Minn. Stat. § 13D.021, Subd. 1, and will hold a public hearing (via the Zoom teleconferencing instructions set forth below) at **7:00 p.m.** on **Tuesday, October 5, 2021.** The instructions to access the public hearing are as follows:

Zoom Meeting Instructions for the October 5, 2021 Sunfish Lake Council Meeting:

Join Zoom Meeting via the following Zoom link:

<https://wsbeng.zoom.us/j/93390401432>

OR

Call-in phone number: 1-312-626-6799. You will be prompted to enter the Meeting ID#.

Meeting ID# for October 5, 2021: 933 9040 1432

The Zoom access instructions will also be available on the City website at www.sunfishlake.org

The purpose of the public hearing is to consider, pass upon, adopt and levy the proposed special assessments for the project improvements as hereafter described. At the hearing the City Council may adopt the proposed assessments.

SUNFISH LAKE CITY PROJECT NO. 2021-02
(ZEHNDER ROAD IMPROVEMENT PROJECT)

GENERAL NATURE OF IMPROVEMENTS:

The Zehnder Road Improvement Project consists of roadway surface improvements on Zehnder Road from 60th Street West to the end of Zehnder Road. Roadway surface improvements consist of a full depth reclamation and paving. Additionally, existing storm culverts in the project area were reviewed and determined to need maintenance such as jetting out sediment and debris.

AREAS PROPOSED TO BE ASSESSED:

The areas proposed to be assessed for Project 2021-02 are the tax parcels listed below. The proposed assessments are listed below:

Project Parcel Number	Tax Parcel Identification No.	Name and Address of Record Owner	Proposed Assessment Amount
Parcel 1	38-33500-01-060	John A. Metcalf 10 Hamen Court Sunfish Lake, MN 55077	\$9,700
Parcel 2	38-33500-02-050	James B. Naves and Jeannine M. Naves 5900 Zehnder Road Sunfish Lake, MN 55077	\$9,700
Parcel 3	38-33500-02-060	Lai-Ping Tam and Yue-Him Tam 5940 Zehnder Road Sunfish Lake, MN 55077	\$9,700
Parcel 4	38-33500-02-070	Gary D. Sommerland and Judith L. Sommerland and Bryan Sommerland (Trustees) 5960 Zehnder Road Sunfish Lake, MN 55077	\$9,700
Parcel 5	38-33500-02-080	Mary Jo L. Meuleners and Raymond F. Lacroix 5980 Zehnder Road Sunfish Lake, MN 55077	\$9,700
TOTAL ASSESSMENTS			\$48,500

TOTAL AMOUNT OF PROPOSED ASSESSMENT:

The total project cost for Project 2021-02 is \$87,412.40. The total amount of the proposed assessments is about 55% thereof, namely, the sum of \$48,500. The Project is proposed to be specially assessed against buildable tax parcels either abutting or served by said improvements. The areas and parcels, as specifically described herein, are subject to said special assessments. The buildable tax parcels abutting or served by the improvements are proposed to be assessed \$9,700 per buildable tax parcel for those tax parcels abutting or served by Zehnder Road.

ASSESSMENT ROLL AVAILABLE FOR INSPECTION:

The proposed assessment roll is on file with the City Clerk and City Treasurer. The assessment roll is open for public inspection and is being mailed to all the above identified record owners of the parcels proposed to be assessed. The assessment roll will also be available for examination at the hearing.

OBJECTIONS AND APPEALS:

Written and oral objections will be considered at the hearing. Minnesota Statutes § 429.061 states that no appeal may be taken as to the amount of the 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.

An owner may appeal an assessment to the District Court pursuant to Minnesota Statutes § 429.081 by serving notice of appeal upon the Mayor or the City Clerk of the City within thirty (30) days after the adoption of the assessment and filing such notice with the District Court within ten (10) days after service upon the Mayor or the City Clerk.

SENIOR CITIZENS DEFERMENT:

Under Minnesota Statutes § 435.193 to 435.195, the Sunfish Lake City Council may, in its discretion, defer the payment of these special assessments (a) for any homestead property owned by a person 65 years of age or older for whom it would be a hardship to make the payments, (b) for any homestead property owned by a person who is retired by virtue of a total and permanent disability for whom it would be a hardship to make the payments, or (c) for any homestead property owned 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 Minnesota Statutes Section 190.05, subdivision 5(b) or 5(c)], as stated in the person's military order's, for whom it would be a hardship to make the payments. When deferment of the special assessments has been granted and is terminated for any reason provided by law, all amounts accumulated, plus applicable interest, become due. Any assessed property owner meeting the requirements of this law may apply to the City Clerk on the prescribed form for such deferral or payments of these special assessments. If you qualify and wish a deferment, contact the City Clerk.

AUTHORITY TO SPECIALLY ASSESS:

The proposed assessments are to be levied pursuant to Minnesota Statutes, Chapter 429. The improvements are proposed to be assessed against the buildable unit tax parcels abutting or served by the improvements. The areas, parcels, lots and pieces or property, as specifically described herein, are subject to said assessments. The amounts set forth in this Notice are the proposed assessments. The City Council may levy and adopt special assessments that are the same or different than the proposed amounts.

PAYMENT OF SPECIAL ASSESSMENTS:

Once the special assessments are levied and adopted, the special assessments will be certified to the Dakota County Auditor to be extended on the property tax lists for collection with real estate

taxes. Prior to this certification, however, the property owner may prepay the entire amount of the assessments without any interest thereon provided the prepayment is received by November 15, 2021. If the property owner wishes to prepay the special assessments without any interest, then such payment must be made to the City of Sunfish Lake at the City Treasurer's Office, Attention: Ann Lanoue, 8010 Corey Path, Inver Grove Heights, Minnesota 55076. Partial prepayment of the special assessment is not presently allowed under the City ordinances; the prepayment, without interest, must be for the entire amount of the special assessments.

If prepayment is not received by November 15, 2021, then:

- a.) the total principal amount of the special assessments will be divided into an equal number of annual installments. The proposed number of annual installments is ten (10). The number of annual installments will be decided by the City Council when the special assessments are levied.
- b.) The principal amount of the special assessments shall bear interest at the rate determined by the City Council when the special assessments are levied. The proposed interest rate is 3.0%.
- c.) Interest is proposed to begin to accrue from and after January 1, 2022.
- d.) The annual principal installments, together with interest accrued on the unpaid balance, are due and payable together with real estate taxes.
- e.) Interest on the entire special assessments, from January 1, 2022, to December 31, 2022 (the year in which the first installment is payable), is added to the first principal installment. The first installment will be due and payable in 2022.
- f.) If in the future the property owner wishes to pay off the remaining balance of the assessments, then Minnesota Statutes § 429.061, subd. 3 provides that such payment be made to the City Treasurer or to the Dakota County Auditor Treasurer, together with interest accrued to December 31 of the year in which payment is made as long as payment is made prior to November 15th; if the payoff occurs after November 15th, then interest for the next year is also added.

If the adopted special assessments differ from the proposed assessments as to any particular lot, piece or parcel of land, then the City will mail to the owner a notice stating the amount of the adopted assessments. Owners will also be notified, by mail, if the City Council adopts any changes in the interest rate or prepayment requirements from those contained in this Notice of Hearing.

PUBLISH: September 12, 2021 and
September 19, 2021 in *St. Paul Pioneer Press*
(Official Newspaper)

MAIL: September 9, 2021

CITY OF SUNFISH LAKE

/s/
Catherine Iago, City Clerk

ASSESSMENT ROLL FOR CITY PROJECT NO. 2021-02
(ZEHNDER ROAD IMPROVEMENT PROJECT)

Project Parcel Number	Tax Parcel Identification No.	Name and Address of Record Owner	Proposed Assessment Amount
Parcel 1	38-33500-01-060	John A. Metcalf 10 Hamen Court Sunfish Lake, MN 55077	\$9,700
Parcel 2	38-33500-02-050	James B. Naves and Jeannine M. Naves 5900 Zehnder Road Sunfish Lake, MN 55077	\$9,700
Parcel 3	38-33500-02-060	Lai-Ping Tam and Yue-Him Tam 5940 Zehnder Road Sunfish Lake, MN 55077	\$9,700
Parcel 4	38-33500-02-070	Gary D. Sommerland and Judith L. Sommerland and Bryan Sommerland (Trustees) 5960 Zehnder Road Sunfish Lake, MN 55077	\$9,700
Parcel 5	38-33500-02-080	Mary Jo L. Meuleners and Raymond F. Lacroix 5980 Zehnder Road Sunfish Lake, MN 55077	\$9,700
TOTAL ASSESSMENTS			\$48,500