

Environment Committee

Meeting date: May 13, 2014

Community Development Committee

Meeting date: May 19, 2014

For the Metropolitan Council meeting of May 28, 2014

Subject: Authorization to Adopt Council Resolution 2014-8, which authorizes the Regional Administrator to Negotiate and Execute Termination of the Memorandum of Understanding (MOU) between the City of Lake Elmo and the Metropolitan Council

District(s), Member(s): District 12, Council Member Harry Melander

Policy/Legal Reference: Minnesota Statute Section 473.175

Staff Prepared/Presented: Kyle Colvin, (651) 602-1151; Lisa Barajas, (651) 602-1895.

Division/Department: MCES c/o Leisa Thompson, 651-602-8101, Guy Peterson, 651-602-1418

Proposed Action

That the Metropolitan Council adopts attached Resolution No. 2014-8, which authorizes the Regional Administrator to negotiate and execute termination of the Memorandum of Understanding (MOU) between the City of Lake Elmo and the Council after the City submits documentation that confirms local infrastructure improvements have been substantially completed.

Background

In September 2002, the Council completed its review of the City's 1998 Comprehensive Plan and found the City's plan was not consistent with the Council's Regional Growth Strategy and that the plan may substantially depart from and may have substantial impact on the metropolitan system plan for wastewater. Following the legal decisions on this case, the Council and the City entered into an MOU in January 2005, establishing a framework for the City comprehensive plan revision that focused on planning future urban development that would conform with metropolitan system plans, particularly wastewater. The MOU was subsequently amended to address planning time extensions, wastewater inefficiency fees, and other comprehensive planning issues.

The City is nearing completion of local infrastructure improvements necessary to fulfill its commitment to accommodate its assigned share of regional urban development and utilize regional wastewater investments provided to it. In addition, the City has completed the local planning needed to support sewered growth and satisfy planning requirements. The City has amended its local plan to reflect in-depth planning processes for the areas to be served for sanitary sewer, the Village Area (Business Item 2013-320) and the I-94 Corridor (Business Item 2013-28). These amendments also included re-guiding land uses to conform to the Council's 2030 Regional Parks Policy Plan, revising the Housing Plan to be consistent with regional policy, and updating the local wastewater plan. The City has notified the Council it is nearing completion of its local infrastructure improvements and has requested the MOU be terminated.

The City will soon satisfy the conditions underlying the MOU and its accompanying resolutions and memoranda related to accommodating planned urban growth within the City and utilizing regional services provided to the City.

The City expects to submit documentation to the Council that its local infrastructure improvements are substantially completed, and have estimated that this documentation will be provided within the next 60 days.

Rationale

The proposed Council resolution for the termination of the MOU recognizes that the City will soon complete the local infrastructure improvements necessary to provide sewer growth and utilize the regional wastewater investments provided to the City. This infrastructure completion, along with the City's completed planning updates, will fulfill the intent of the original MOU.

Known Support / Opposition

The City of Lake Elmo understands and supports the need to officially terminate the MOU to recognize the original intent of the MOU has been satisfied.

METROPOLITAN COUNCIL

390 Robert Street North, Saint Paul, Minnesota 55101

RESOLUTION NO. 2014-8

AUTHORIZING THE REGIONAL ADMINISTRATOR TO NEGOTIATE AND EXECUTE TERMINATION OF THE MEMORANDUM OF UNDERSTANDING, AND ALL AMENDMENTS THERETO, BETWEEN THE CITY OF LAKE ELMO AND THE METROPOLITAN COUNCIL

WHEREAS, in September 2002, the Metropolitan Council (Council) found that a proposed comprehensive plan update submitted by the City of Lake Elmo (City) may have substantially departed from and may have had a substantial impact on metropolitan system plans, and subsequently required the City to modify its proposed plan update to ensure the City's proposed plan update did not have a substantial impact on or contain a substantial departure from metropolitan system plans; and

WHEREAS, in August 2004, the Minnesota Supreme Court concluded the Council has the statutory authority to require modifications to the City's proposed plan update and affirmed the Council's "final decision"; and resolved certain local and regional comprehensive planning issues raised by the City during the 1998 decennial local comprehensive plan review and update process required by Minnesota Statutes section 473.864; and

WHEREAS, various local and regional comprehensive planning issues that arose after the Supreme Court's decision have been addressed by the Council and the City through formal resolutions and binding memoranda of understanding, including:

- *Memorandum of Understanding between the City of Lake Elmo and the Metropolitan Council* (Jan. 27, 2005) outlining criteria to be considered in preparation of City comprehensive plan;
- *Metropolitan Council Resolution No. 2005-04* (adopted Feb. 9, 2005) ratifying the January 27, 2005, Memorandum of Understanding between the City of Lake Elmo and the Metropolitan Council outlining criteria to be considered in preparing a modified comprehensive plan;
- *Metropolitan Council Resolution No. 2005-20* (adopted July 27, 2006) granting the City's request to extend the time within which the City must adopt a local comprehensive plan with required modifications and attaching reasonable requirements and conditions to the extension;
- *Metropolitan Council Resolution 2010-08* (adopted Mar. 24, 2010) granting the City's request for temporary relief from the "Wastewater Inefficiency Fee" imposed under Metropolitan Council Resolution No. 2005-20;
- *City of Lake Elmo Resolution No. 2010-065* (adopted Nov. 16, 2010) acknowledging modification to the Wastewater Inefficiency Free provisions and stating the City's continued agreement to comply with the terms and conditions stated in Metropolitan Council Resolution No. 2005-20;
- *Memorandum of Understanding between the City of Lake Elmo and the Metropolitan Council* (Dec. 30, 2010) regarding Wastewater Inefficiency Fees;
- *Memorandum of Understanding between the City of Lake Elmo and the Metropolitan Council* (June 14, 2013) regarding Comprehensive Planning Issues; and

WHEREAS, the City has prepared and proposed amendments to its comprehensive plan for South of 10th Street Area and the Village Area, both of which are planned to received regional wastewater conveyance and treatment services, and these amendments reflect the City's efforts to plan consistent with Council resolutions and memoranda of understanding listed above, the Metropolitan Land Planning Act, as well as the Council's policy plans and metropolitan system plans; and

WHEREAS, the City has committed local resources to construct the local wastewater collection system needed to support sewered development in the aforementioned areas, comprising the Section 34 Improvements of gravity sanitary sewer, sanitary sewer forcemain, and lift station; and the Lake Elmo Avenue Sewer Infrastructure Project including trunk gravity improvements between 10th Street and I-94 where connection to the regional system occurs, and lift station and forcemain piping along Lake Elmo Avenue between the Village Area and 10th Street; and

WHEREAS, the City expects to submit documentation of payment for substantial completion for these main components of the City's local wastewater collection system in the near term; and

WHEREAS, the Metropolitan Council is updating its metropolitan development guide, and in that process, is examining forecasted growth through 2040 and will continue dialog with the City regarding the long-term forecasted growth and pace of growth for the City.

NOW THEREFORE, BE IT RESOLVED:

1. The Council finds that the City has satisfied the conditions underlying the Memorandum of Understanding and Metropolitan Council resolutions and related memoranda and that the City is planning for sewered, urban growth in the City that uses the regional services which have been or will be provided to the City.
2. Based on the City's commitment to plan and prepare for its share of the region's growth and development conforming to and consistent with the Council's comprehensive development guide and policy plans as required by the Metropolitan Land Planning Act, the Council agrees that the prior memoranda and resolutions described above will be terminated and of no further force and effect.
3. The memoranda will be terminated upon execution of an agreement by the Council and the City after receipt of the documentation of payment for substantial completion of the main components of the local wastewater collection system. The Regional Administrator is authorized to execute that termination agreement on behalf of the Council.

Adopted this 28th day of May, 2014.

Susan Haigh, Chair

Emily Getty, Recording Secretary