

1 **REQUEST FOR COUNCIL ACTION**

2
3 **Date: 01-26-09**

4 **Item No: 11.b**

5 **Staff Approval:**

6 *P. Trudgeon*

Manager Approval:

W. Mahnen

7
8
9 **Item Description: Public Hearing to Consider a Resolution for the Imposition and**
10 **Collection of Fees in the Housing Improvement Area for Westwood**
11 **Village I (HF0052)**
12

13 **1.0 Requested Action**

14
15 Staff is requesting to open the public hearing to consider the adoption of a resolution
16 establishing the imposition and collection of fees in the Housing Improvement Area (HIA)
17 for Westwood Village I.

18 **2.0 Suggested Council Action:**

19 **2.1 Open Public Hearing and Take public comment** – mailed notice was sent to all of
20 the owners of record within the proposed boundary of the HIA for Westwood
21 Village I. In addition, a public notice was published in the paper.

22 **2.2** Close public hearing.

23
24 Attachment A – Assessment Notices

25 Attachment B - Comments

26
27 Prepared by: Jeanne A. Kelsey, Housing Program Coordinator (651-792-7086)
28



January 7, 2009

Westwood Village I Property Owner
2656 Mackubin St.
Roseville, MN 55113

Dear Property Owner:

Notice is hereby given that the Roseville City Council will meet at 6:00 pm on January 26, 2009 at the City Council Chambers to consider the proposed improvement fees to be imposed and collected for improvements and repairs to Westwood Village I housing units within the Housing Improvement Area pursuant to Minn. Stat. ' 428A.11 through ' 428A.21.

The properties proposed to be subject to the improvement fees are located within the Westwood Village I Housing Improvement Area and are legally described as:

Lots 1 through 3, Block 1, Lots 1 through 8, Block 2, Lots 1 through 7 Block 3, Lots 1 through 4, Block 4, Lots 1 through 6, Block 5, Lots 1 through 5, Block 6, Lots 1 through 8, Block 7, Lots 1 through 6, Block 8 all in Westwood Village Townhouses Plat 1

All interested persons will be given an opportunity to be heard at the public hearing on the proposed fees and written comments will be considered.

The estimated cost to such improvements is \$1,595,336.25. The amount proposed to be assessed to your property is as follows:

Housing Improvements	\$34,950.53
	(\$2,330.04 per year)

Staff recommends the assessments be payable over 15 years at 7.75% interest.

NO ADDITIONAL NOTICE OR BILL WILL BE SENT IN REFERENCE TO THIS ASSESSMENT.

Various options are available to pay the principal amount of the assessment (improvement fee) after the City Council has adopted, by resolution, the assessment roll. They include:

- A. Total or partial payment of the assessment.
- B. Allow the entire assessment to be certified to the County Property Records and Revenue Division for collection with real estate taxes beginning in 2010.

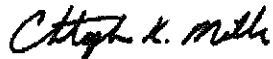
The effective date of the resolution imposing the assessment will be 45 days after City Council's adoption. If payment is received within 30 days of that effective date, no interest will be charged. Payment in full, along with any accrued interest, will be accepted until November 15, 2009.

After November 15, 2009, all remaining principle and accrued interest will be certified to Ramsey County for collection beginning on the following year's taxes. Thereafter, any remaining principle and accrued interest may be paid in full at any time.

If the owners of 35% or more of the residential units subject to the fees file written objections with the City Manager within 45 days after the adoption of the resolution imposing the fee, the resolution will become null and void.

If you would like a detailed explanation as to how the assessment was calculated you can contact me by email at: chris.miller@ci.roseville.mn.us, or by phone at: 651-792-7031.

Sincerely,

A handwritten signature in black ink that reads "Chris Miller". The signature is written in a cursive style.

Chris Miller
Finance Director



January 7, 2009

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The estimated cost to such improvements is \$1,595,336.25. The amount proposed to be assessed to your property is as follows:

Housing Improvements	\$34,119.93
	(\$2,274.66 per year)

Staff recommends the assessments be payable over 15 years at 7.75% interest.

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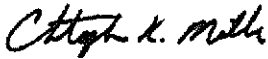
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The estimated cost to such improvements is \$1,595,336.25. The amount proposed to be assessed to your property is as follows:

Housing Improvements	\$33,566.19
	(\$2237.75 per year)

Staff recommends the assessments be payable over 15 years at 7.75% interest.

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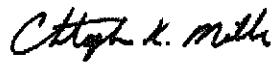
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The estimated cost to such improvements is \$1,595,336.25. The amount proposed to be assessed to your property is as follows:

Housing Improvements	\$32,181.83
	(\$2145.46 per year)

Staff recommends the assessments be payable over 15 years at 7.75% interest.

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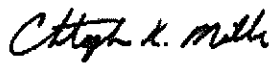
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The estimated cost to such improvements is \$1,595,336.25. The amount proposed to be assessed to your property is as follows:

Housing Improvements	\$31,074.35
	(\$2,071.62 per year)

Staff recommends the assessments be payable over 15 years at 7.75% interest.

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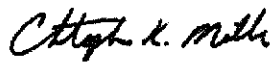
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Sincerely,



Chris Miller
Finance Director

Jeanne Kelsey

From: mpdalnes dalnes [mdalnes@yahoo.com]
Sent: Tuesday, January 20, 2009 12:33 PM
To: Jeanne Kelsey
Subject: WWV 1 Council packet

I inadvertently missed that the assessment for my unit included the 20% contingency.

Please include this with the Council packet.

January 14, 2009

TO: Mayor Klausing and Roseville City Council Members

FROM: Maureen Dalnes, Westwood Village 1 *MD*

RE: Westwood Village Home Improvement Assessment - Hearing Monday,
January 26, 2009 at Roseville City Hall, 6:00 PM

Ramsey County Tax Records show that my townhome contains 796 square feet. Based on this square feet and the loan amount of \$1,500,000.00 from Roseville, my project cost should be no more than \$16,819.50. This week the City of Roseville sent me a notice that my housing improvement will cost \$32,181.83 with a 20% contingency. Therefore, the final cost to me could be as much as \$38,618.19. Please see attached Exhibit A1 - Ramsey County square footage records for our townhomes.

If the total WWV 1 square footage from Ramsey County were divided into the total loan amount of \$1,500,000.00 and divided by 47 units, each unit would pay \$31,914.00 which is less than I am projected to pay. (See Exhibit A2 - Ramsey County Records).

HIA is set up to aid elderly and lower income people. It is supposed to be a "hand up, not a hand out." This project with the cooperation of Roseville City and the Westwood Village Board, the smaller homes will then be giving the "a hand out" to the larger more expensive homes.

For 40 years each member of the Association was responsible to maintain their own home, pursuant to the Covenants they purchased under. Some have done so, while others have been negligent. And, the Board neglected their responsibility to due diligence. The original Covenants were drafted by the contractor who was a lawyer, Ted Glasrud. He understood that some units were different in size and reflected that in the original Covenants.

The current Board drafted a new set of Covenants to change the allocation of exterior maintenance costs and reallocated certain limited common property to common property for this project. Therefore, the new Covenants ask home owners to pay for property they do not own or benefit from. This reallocation cannot be done without a **unanimous written approval of the Association members**, pursuant to Minn Stat 515B.2-118 (3 and (iv)). (See attached Exhibit B) This was not done.

The Board also neglected to provide a formula or a fractional percentage for purposes of allocating costs. This is proscribed by Min. Stat. 515B.2-108 (3) (b) and (e). (See Exhibit C)

The Board of Directors as well as the City of Roseville have the fiduciary duty to **ALL** association members and citizens of Roseville in exercising their duties and in making a good faith effort in allocation of public funds.

N.B. The Board has not been aggressive in protecting the smaller less expensive units (5). All Board members are in larger units (there are 42 large units) except one Board member is in a smaller END unit. This Board was responsible for shepherding thru the change in allocations.

This impact is significant, and the City Council has a chance to correct this (at least for this project). I am asking the City to assess according to benefit to homeowners, as you are obligated to do with other assessments.

In fairness, I suggest using the Ramsey County square footage records to allocation costs of the Home Improvement HIA loan to Westwood Village 1.

ACCORDING TO RAMSEY COUNTY

TOTAL SQUARE FEET FOR WWVI	70989
ESTIMATED COST OF PROJECT	\$1,500,000.00

<u>SQUARE FEET</u>	<u>% PER UNIT</u>	<u>COST PER UNIT</u>	<u>#OF UNITS</u>	<u>TOTAL \$</u>
796	.011213	\$16,819.50	4	\$67,278.00
800	.0112693	\$16,903.95	2	\$33,807.90
1239	.0174534	\$26,180.10	3	\$78,540.30
1448	.0203975	\$30,596.25	1	\$30,596.25
1588	.0223696	\$33,554.40	7	\$23,4880.80
1632	.0229894	\$34,484.10	1	\$34,484.10
1636	.0230458	\$34,568.70	6	\$207,412.20
1664	.0234402	\$35,160.30	21	\$738,366.30
1692	.0238346	\$35,751.90	1	\$35,751.90
1840	.0259195	\$38,879.25	1	<u>\$38,879.25</u>
				\$1,499,996.90

How I arrived at the costs:

square feet divided by 70989 (total sq ft) gave me the %, per unit, multiplied by \$1,500,000.(cost of project) Equals \$per unit.

IF DIVIDED BY 47 each unit would pay \$31,914.00

Exhibit A1

**ACCORDING TO RAMSEY COUNTY - WWV1 ADDRESSES/INDIVIDUAL UNITS
SQUARE FEET AND FOUNDATION SIZE**

<u>ADDRESS</u>	<u>SQUARE FEET PER UNIT</u>	<u>FOUNDATION SIZE</u>
2640	1636	804
2642	1588	808
2644	800	800
2646	1632	816
2648	1239	693
2650	1664	832
2652	1664	832
2654	1840	832
2656	1448	724
2658	1692	846
2660	1664	832
2662	1588	808
2664	796	796
2666	796	796
2668	1664	832
2670	1239	693
2672	1664	832
2674	1636	804
2676	1588	808
2678	1636	832
2680	1588	808
2682	1239	693
2684	800	800
2686	1664	832
2688	1664	832
2690	1664	832
2692	796	796
2694	1664	832
2696	1588	808
2700	1664	832
2702	1636	804
2704	1588	808
2706	1664	832
2708	1664	832
2710	796	796
2712	1588	808
2714	1664	832

Exhibit A2

2716	1664	832
2718	1636	832
2720	1664	832
2722	1664	832
2724	1664	832
2726	1664	832
2728	1664	832
2730	1664	832
2732	1664	832
2734	<u>1664</u>	<u>832</u>

Total square feet 70989

515B.2-118 AMENDMENT OF DECLARATION.

(a) The declaration, including any CIC plat, may be amended only by vote or written agreement of unit owners of units to which at least 67 percent of the votes in the association are allocated, or any greater or other requirement the declaration specifies, subject to the following qualifications:

(1) A declarant may execute supplemental declarations or amendments under section 515B.2-111 or 515B.2-112.

(2) The association and certain unit owners, as applicable, may execute amendments under section 515B.2-107, 515B.2-109, 515B.2-112, 515B.2-113, 515B.2-114, 515B.2-119, 515B.2-122, 515B.2-123, or 515B.2-124.

(3) The unanimous written consent of the unit owners is required for any amendment which (i) creates or increases special declarant rights, (ii) increases the number of units, (iii) changes the boundaries of any unit, (iv) changes the allocated interests of a unit, (v) changes common elements to limited common elements or units, (vi) changes the authorized use of a unit from residential to nonresidential, or conversely, or (vii) changes the characterization of the unit owner's interest in a cooperative from real estate to personal property, or conversely; unless the amendment is expressly permitted or required by other provisions of this chapter. Where the amendment involves the conversion of common elements into a unit or units, the title to the unit or units created shall, upon recording of the amendment, vest in the association free and clear of the interests of the unit owners.

(4) The declaration may specify less than 67 percent for approval of an amendment, but only if all of the units are restricted to nonresidential use.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than two years after the amendment is recorded.

(c) Every amendment to the declaration shall be recorded in every county in which any portion of the common interest community is located and is effective only when recorded. If an amendment (i) changes the number of units, (ii) changes the boundary of a unit, (iii) changes common elements to limited common elements, or conversely, or (iv) makes any other change that affects the CIC plat, then an amendment to the CIC plat reflecting the change shall be recorded.

History: 1993 c 222 art 2 s 18; 1994 c 388 art 4 s 8; 1999 c 11 art 2 s 11; 2005 c 121 s 16

Exhibit B

515B.2-108 ALLOCATION OF INTERESTS.

(a) The declaration shall allocate to each unit:

(1) in a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and a portion of the votes in the association;

(2) in a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association and a portion of the votes in the association; and

(3) in a planned community, a fraction or percentage of the common expenses of the association and a portion of the votes in the association.

(b) The declaration shall state the formulas used to establish allocations of interests. If the fractions or percentages are all equal the declaration may so state in lieu of stating the fractions or percentages. The declaration need not allocate votes to units that are auxiliary to other units, such as garage units or storage units. The allocations shall not discriminate in favor of units owned by the declarant or an affiliate of the declarant, except as provided in sections 515B.2-121 and 515B.3-115.

(c) If units may be added to the common interest community, the formulas used to reallocate the allocated interests among all units included in the common interest community after the addition shall be the formulas stated in the declaration.

(d) The declaration may authorize special allocations: (i) of unit owner votes among certain units or classes of units on particular matters specified in the declaration, or (ii) of common expenses among certain units or classes of units on particular matters specified in the declaration. Special allocations may only be used to address operational, physical or administrative differences within the common interest community. A declarant may not utilize special allocations for the purpose of evading any limitation or obligation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.

(e) The sum of each category of allocated interests allocated at any time to all the units must equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of a discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(f) In a condominium or planned community, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void. The granting of easements, licenses or leases pursuant to section 515B.3-102 shall not constitute a partition.

Exhibit c