

**From:** [Jonathon Kusa](#)  
**To:** [\\*CI-StPaul\\_Contact-Council](#); [#CI-StPaul\\_Ward3](#)  
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**Subject:** Mill & Overlay Assessment Protest - File# MO2303  
**Date:** Friday, July 21, 2023 4:03:40 PM  
**Attachments:** [Montrose Lane Letter, 23-07-21\\_F.pdf](#)

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On behalf of nineteen residents, please see the attached letter to City Council regarding the proposed Mill & Overlay assessment for Montrose Lane.

Honorable Council Members,

We are writing to protest and object to the proposed assessment for a Mill and Overlay of Montrose Lane. Certain aspects of this proposal have raised concerns regarding Council oversight of the City of St. Paul Public Works and St. Paul Regional Water Services (SPRWS). The following facts clarify our concerns:

- Montrose Lane measures approximately 1,300 feet in length, with a bituminous pavement width of 19'10", approximately 25,800 SF of bituminous pavement.
- In 2018, SPRWS replaced water services on Montrose Lane. SPRWS conducted a full-depth reconstruction of a portion of the bituminous roadway section, spanning 12'4". Additionally, some areas underwent full-width reconstruction for manhole access. It is estimated that only 30% (~7,700 sf) of the road was not reconstructed (please see photos on Pages 3 and 4 of this letter).
- Montrose Lane residents expressed concerns in 2018 that SPRWS was not reconstructing the remaining 7,700sf of pavement. The residents got no response to their concerns.
- The unreconstructed pavement is now deteriorating due to age, excess use by construction equipment from 2018, and increased traffic flow resulting from recent City parking restrictions.
- According to the Minnesota Asphalt Pavement Association, a full-depth reconstruction (as performed by SPRWS in 2018) has a 40-year design life.
- Residents are being asked to pay for Mill & Overlay of pavement that is only five years into its expected 40-year lifespan.

It is our understanding that other residents have objected to their Mill and Overlay projects and have hired Ferdinand F. Peters, Esq., to represent their positions. In May 2022 they successfully argued the following:

- A Mill & Overlay is a general government maintenance function that should be funded out of general tax revenues. Neither Section 14.01.2 of the City Charter, nor Chapter 62 of the St. Paul Administrative Code authorizes that these types of charges be assessed as part of a street maintenance assessment, nor does state law permit it.
- The assessment violates the Minnesota Supreme Court case of First Baptist Church of St. Paul, et al., vs. City of St. Paul (A15-0015), and it also violates the powers of the City of Saint Paul pursuant to its own charter. Furthermore, the assessment violates the Minnesota Constitution, the U.S. Constitution, and Minnesota Statute Section 429.051 and other related statutes.
- Mill & Overlay is a part of street maintenance and should be covered under real estate taxes. Maintaining city streets is a core function of the city that is funded by property taxes.

We have the same concerns and objections as those residents. The residents of Montrose Lane request elimination of the proposed assessment for the Mill & Overlay project. Thank you for your attention to this matter.

Respectfully,

Residents of Montrose Lane

**Attachments:**

Signatories (page 2)  
Photos (pages 3-4)

## **Signatories**

Scott and Julia Moen, 491 Montrose Lane  
Michael and Jennifer Heitzman, 495 Montrose Lane  
John and Meg McGuire, 503 Montrose Lane  
Matt Lading and Seth Tryniewski, 511 Montrose Lane  
Amy and Dan Coughlin, 516 Montrose Lane  
Roger and Donna Kufus, 521 Montrose Lane  
Katie and Mike Daigh, 525 Montrose Lane  
Dan Klucas and Tori Sundholm, 529 Montrose Lane  
Eric Skonnard and Erin Hall, 535 Montrose Lane  
Mike and Molly Goodson, 539 Montrose Lane  
Greg Taube and Susan Maki, 549 Montrose Lane  
Jonathon and Sarah Kusa, 553 Montrose Lane  
Ruth and Ted Johnson, 554 Montrose Lane  
Jennifer Krzmarzick and Craig Farmer, 560 Montrose Lane  
Alison Markowitz Chan and Howie Chan, 563 Montrose Lane  
Dane and Mary Smith, 569 Montrose Lane  
Brett and Mary Olander, 570 Montrose Lane  
Joe Spitzmueller, 587 Montrose Lane  
Brooke Lee, 594 Montrose Lane



**1) View looking south at unreconstructed east lane of pavement (the driving lane), which is full of potholes. Full-width reconstruction is visible at each manhole.**



**2) View looking south at fully reconstructed pavement around manhole in excellent condition, preceded and followed by unreconstructed pavement in poor condition.**



**3) View looking north at unreconstructed east lane of pavement (the driving lane due to parking restrictions), which is full of potholes. Full-width reconstruction is visible at each manhole.**