

**ANDOVER CITY COUNCIL WORKSHOP MEETING – FEBRUARY 23, 2016
MINUTES**

The Workshop Meeting of the Andover City Council was called to order by Mayor Julie Trude, February 23, 2016, 6:03 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Councilmembers present: Mike Knight, Valerie Holthus and James Goodrich
Councilmember absent: Sheri Bukkila
Also present: City Administrator, Jim Dickinson
Community Development Director, Dave Carlberg
Natural Resource Technician, Kameron Kytonen
Chief Building Official, Fred Patch
Others

DISCUSS EMERALD ASH BORER MANAGEMENT / 15-28

Mr. Kytonen described how Emerald Ash Borer (EAB) attacks all species of ash trees and stated the City has an EAB Management Plan that has been on standby for the last few years. However, now EAB has been found in Ham Lake so it's necessary to plan for the eventual appearance in Andover. The City Ordinance is being updated to include procedures in the event EAB arrives.

Mayor Trude suggested the following changes in the City Code, Chapter 3:

Section 4-3-6, J: Change “has a target that would be compromised” to “imposes a risk to another”.

Remove all acronyms and spell them out.

Section 4-3-8, B: Change “enter upon private premises at any reasonable time” to “enter upon private premises in the least intrusive way during the business day”.

Section 4-3-9, B number 7: Possibly remove this paragraph. Mayor Trude commented the other treatment methods as noted have not been defined yet. She suggested this paragraph may be duplicating what was already said in the B, paragraph above. She suggested changing the last sentence in paragraph B from “Abatement procedures are as follows” to “Abatement procedures include”.

Consensus was to remove Number 7 under paragraph B.

Councilmember Knight questioned whether the spray used to treat nuisances is hazardous to animals. Mr. Kytonen responded it is rare that any spray would even be used. He said it is important to keep this wording in the Code in case sprays are used. He added if the instructions are followed on the spray for dilution and with proper application there should not be any issues.

Mr. Kytonen directed attention to the Diseased Tree Removal/Sanitation Enforcement Policy, under General Enforcement Process Number 2. He noted Mayor Trude suggested changing the words “will visit site from the street but will not enter property” to “will view the tree from a public location or from private property with permission of owner”.

Mr. Kytonen explained the procedure would be that staff would first view the tree from a public location. If a disease is suspected, they will send a note or call the homeowner. Once staff receives permission, they will visit the premises to check on the situation. They will mark the tree and give a designated amount of time to have the tree brought into compliance.

Councilmember Knight asked what spray would be used. Mr. Kytonen explained the spray is not a common treatment anymore. He explained other methods of treatment. Councilmember Knight commented he is concerned about the possibility of lawsuits. Mr. Dickinson noted the work would be hired out to a licensed contractor; therefore, the City would likely not be involved in a lawsuit. Mr. Kytonen added staff would need to review any spray, if that is being used.

Mayor Trude clarified if people don't respond to a request for the staff to enter their property, or deny entry, then the police would be called. Mr. Kytonen confirmed that would be the procedure.

Mr. Kytonen referred to the City of Andover Ash Injection Program and noted this is a draft program. He said he pulled information from other cities' programs and drafted this program for Andover. He said it would be a starting point to create a program if and when the ash borer gets to Andover.

Councilmember Knight asked what the chances are of the ash borer getting to Andover. Mr. Kytonen responded it is a 100% chance.

Mr. Dickinson asked whether the City should require the removal and proper treatment of infected ash trees.

Councilmember Goodrich asked how devastating affected ash trees would be and posed the question of how much investment the City should put into it.

Mr. Kytonen noted the City requires removal of infected oak and elm trees on private property. Any trees that die along the Rum River will not be removed by the City. Removing infected ash trees may not be effective. The numbers of dead trees could end up being an eyesore or a hazardous situation.

Councilmember Knight noted many people may not recognize an ash tree. Possibly some type of education could be offered.

Mr. Dickinson suggested that requiring removal can be handled on a case-by-case basis. If the issue becomes large, the City may have to intervene, but would only do so with Council authorization.

Councilmember Knight asked if there will be a penalty for those that ignore the Code. Mr. Kytonen responded the resident would be given a deadline to treat or remove the tree. If they don't take care of it, the City will take proper action and ultimately work with contractors to remove it, and bill the homeowner.

Discussion took place on whether language should be revised to include steps that will be taken to remove an affected tree, or use the words “case by case basis”, and which ordinance or policy this language would be in. Consensus was to conduct removal based on the Hazardous Tree Policy. If the case becomes burdensome or troublesome, it will come back to the Council for discussion.

Mr. Dickinson asked whether the City should provide financial assistance to residents for chemical treatments.

Councilmember Goodrich questioned how many other cities provide assistance. Mr. Kytonen replied two or three. He said that will probably rise with the incidence of ash borer.

Discussion took place on how much assistance can and should be provided. Mr. Dickinson stated assistance for treatment in some instances would be up to \$75.00.

Mr. Kytonen explained it costs \$150.00 for a fungicide injection. Councilmember Holthus asked if the injections work. Mr. Kytonen replied they are 80% to 90% effective. They have to be given every two years. Mayor Trude commented financial assistance could be incentive for people to get it taken care of. Mr. Kytonen advised staff would seek a vendor to give a volume discount.

Councilmember Goodrich said he is leaning to say no to financial assistance. If people want to take care of their diseased trees, they can. It should not be a government obligation.

Mr. Dickinson agreed staff should seek out a contractor that could give a group discount. He noted staff could search for grants as well. If one is secured, the question of how much assistance the City can give can be revisited.

Councilmember Holthus stated she is in favor of providing assistance for residents for fungicide injections, especially if they are in a neighborhood with a lot of ash trees.

Councilmember Goodrich asked if the City helps with oak wilt. Mr. Kytonen responded it currently does not, but the City has in the past.

Mayor Trude said she would be in favor of giving an initial incentive for the injections. People might take the incentive and decide if they would like to go further. She suggested starting out with a small budget, and when the money is gone, it is gone.

Mr. Kytonen noted the policy states \$5,000 per year will be designated for this purpose. Grants can be sought after as well.

Councilmember Knight asked whether oak wilt travels faster than ash borer. Mr. Kytonen replied not necessarily. The beetle can fly about a half mile.

Mr. Dickinson stated the assistance would be first come, first served.

Consensus was reached to set up a budget and offer financial assistance within budgetary constraints.

Mr. Dickinson asked whether the City should chemically treat selected ash trees on public property. He suggested targeted planting in high profile areas where the ash trees may provide shade. To plan for these trees to die, new trees should be planted in those high profile areas. Councilmember Holthus suggested speaking with Park and Recreation Commission to see if there are preferred parks to work with.

DISCUSS HAZARDOUS TREE POLICY

Mr. Kytonen explained the City has a Diseased Tree Ordinance and a Diseased Tree Removal/Sanitation Enforcement Policy that outlines the process to inspect, diagnose, mark trees, notify property owners, issue deadlines, and document trees. Currently, staff only considers trees that have the potential to spread insect and diseases as public nuisances. Mr. Kytonen asked the City Council to provide direction on whether or not the Diseased Tree Ordinance and Diseased Tree Removal/Sanitation Enforcement Policy should be revised to include hazardous trees.

Mr. Kytonen advised there may be trees with no disease, but for example could have a crack in it. These would need to be removed.

Consensus was reached to direct staff to include hazardous trees in the above mentioned policy.

DISCUSS SUBORDINATE CLASSROOM STRUCTURES

Mr. Carlberg reviewed the City Council's past discussion of subordinate classroom structures and the recommendation of the Planning and Zoning Commission that the City take a stronger position on these structures by only allowing an additional five-year extension with possibility of

an additional two-year extension if the property owner has plans in place to remove the structure or create a permanent structure. Mr. Carlberg discussed the churches in the city that now have subordinate classrooms. Grace Lutheran Church on Bunker Lake Boulevard and Round Lake Boulevard has an expiration date of December 31, 2019 for their subordinate classrooms. Meadow Creek Church asked for a two-year extension, which now expires December 31, 2019. The staff at Meadow Creek Church wants to upgrade the building and create better space. They hope to have the temporary classrooms gone within two years. As long as they are showing progress with building, they could come back to Council and request another 2 years. Mr. Dickinson pointed out part of the current Meadow Creek Church project removing subordinate structures was also to create a new soccer field.

Mr. Carlberg said questions of inspections have come up and the City did inspect in 2014 and will again in 2016. The inspections will be looking more at life safety issues. Both the Fire Department and the Building Department will be involved in inspections.

Mr. Carlberg asked the City Council to provide direction on whether or not the City should regulate these structures.

Mayor Trude said she has been in the subordinate classrooms and they are usually not warm, the windows can be leaky, and the heat is an issue in some of them. She pointed out the floors can be unsafe.

Mr. Carlberg stated Andover High School is the only school in the city that has subordinate classroom structures. They were added in 2004. At the time, it was permitted to have classroom structures. They are existing structures so they are grandfathered into the current rule to have an Interim Use Permit (IUP). Restrictions are strong for schools. Generally the Building Department has been hands-off with schools but the Fire Marshall inspects annually. Schools also have their own inspections through their Facility Management Department.

Mr. Fred Patch, Chief Building Official commented the students have to go outside, unprotected, to the subordinate classroom structure. The structures are ADA accessible and they do have restrooms. The ramp can be slick in the rain or snow. Councilmember Holthus commented there are portable classrooms at Sand Creek Elementary in Coon Rapids and there is a split in them. The snow sometimes comes through.

Mr. Carlberg advised any new portable classrooms must have an Interim Use Permit. He noted the last extension grant for a portable classroom was given in 2013 to Andover Christian Church. Their permit expires August 21, 2018. There are two classrooms connected at that church.

Mr. Patch noted there were electrical hazards, broken outlets, and rats nesting underneath these structures and these have all been corrected. He said the Fire Department primarily inspects for fire safety. His department will inspect for most everything. Both departments should conduct inspections.

Mayor Trude asked what the portable classrooms are on for a foundation. Mr. Patch replied they are usually on concrete blocks. If rodents get in, they can tear up the under flooring. If they are well maintained, and cared for, these buildings could last indefinitely.

Councilmember Holthus asked at what point are these structures deemed uninhabitable. Mr. Patch responded the structural integrity would have to be severely compromised.

Councilmember Goodrich stated he does not want the government telling them what to do, if it is not needed. If the classrooms are not an eyesore, they are safe, and they are taken care of, he doesn't think the City should get involved.

Mr. Patch suggested the Building and Fire Departments look further into whether the classrooms are property anchored. If they are not, they may not be able to withstand high wind speeds. Mr. Patch stated they do need to be inspected thoroughly.

Mayor Trude stated these types of structures are typically built with low quality materials. They are not allowed to be constructed to be used as garages, but they are allowed to put people in. She raised the issue that it costs money to have staff perform inspections. However, if they are brought up to code, that would be more acceptable.

Councilmember Holthus agreed she is concerned about the general condition of the units.

Mr. Carlberg noted any unsafe situations need to be a violation of City Code to be considered whether it is hazardous under State Code. If the carpet is worn out, that is just appearance, which is not covered under Code.

Mayor Trude pointed out staff does not usually visit these properties, so this is a fine line.

Mr. Carlberg said with an IUP, it allows a chance to get in and inspect if that is a condition for approval. The City has control with an IUP.

Mr. Patch commented visits are generally allowed because they are temporary structures.

Mr. Dickinson noted Anoka Hennepin School District has indicated they would like to phase out subordinate classrooms in all locations and will likely be asking for capital funds in a future bond referendum.

Councilmember Holthus stated she understands they are a necessary evil. The space is needed.

Councilmember Knight and Mayor Trude voiced their opinion that they would like the portable classrooms phased out.

Mr. Patch suggested the portable units be evaluated over the course of a couple years. The cost to maintain the structures could outweigh the cost of replacing the structure.

Mayor Trude pointed out the Code states the property owner must have an alternate plan in case the license is not renewed. This message needs to be given to the property owners in time for them to create an alternate plan.

Councilmember Knight suggested the property owners be informed of what to expect when staff arrives for inspections. He said student health should be emphasized.

It was the consensus of the Council to direct staff to conduct both Building and Fire inspections. Safety criteria will be drawn up in regard to rodents, mold and health.

DISCUSS ACCESSORY DWELLING UNITS

Mr. Carlberg explained the City Council's past discussion relating to Accessory Dwelling Units (ADU) and recommendation of the Planning & Zoning Commission to allow ADUs in the R-1, Single-Family Rural Zoning District as a detached accessory structure by the granting of a Conditional Use Permit (CUP). He stated the property must be 2.5 acres, and the property owner must reside there. Two off-street parking spaces would be required. There would be no common entrance into both homes. An ADU shall have a permanent foundation, which means no tiny homes are allowed.

Mr. Carlberg asked the City Council to provide direction on whether or not the City should amend the City Code to allow ADUs as recommended.

Discussion took place on Number 11 in the draft ordinance amendment on whether the ADU could be licensed for rental. The Code allows for rental of the primary unit, or the ADU, as long as the property owner lives in one, and obtains a rental license.

Councilmember Knight asked if someone lived in an ADU, could they also have a home occupation there.

Mr. Carlberg said there are provisions for home occupations. However, they would need to be in the principal structure. Home businesses should not be in the accessory structure.

Mayor Trude advised it should be made clear that an ADU cannot be converted to commercial use. In a principal structure, 20% of it can be dedicated to a home business.

The Council reached consensus to leave Number 11 as written.

Councilmember Goodrich commented the fact of renting these at all is unique. He asked if it is common to rent second buildings. Mr. Patch answered any portion of a principal home can be rented. In addition, there can be up to five unrelated people living in a home.

Mr. Carlberg stated a Conditional Use Permit goes with the land.

Councilmember Holthus asked how many “granny flats” are in the City. Mr. Patch answered he is aware of four. They are considered a guest cottage, which is not allowed to have a full kitchen.

Councilmember Holthus questioned the cost of a small granny flat. Mr. Patch responded it could reach \$100,000.

Councilmember Goodrich asked what the Council thought of the 2.5 acre requirement. Mr. Carlberg noted 2.5 acres is the minimum in rural R-1 zoning. If it is not rural R-1, there is not a 2.5 acre minimum. A separate ADU cannot be constructed if it is only 1 acre, even if it is R-1 zoned. An attached structure could be added on, however.

Mayor Trude stated she would be willing to drop the acreage requirement from 2.5 to 2. Councilmember Goodrich said he thought there is room to put a small 400 square foot building on a 1 acre lot, depending on the configuration of the lot. Mr. Patch stated a small ADU could possibly be constructed for around \$60,000. If it is constructed with a permit, it can be evaluated along the way with a CUP. Mr. Carlberg noted the easements and lot configuration would have a large bearing on whether it could work.

It was the consensus of the Council to direct staff to omit the 2.5 acre requirement, and leave the requirement of R-1 zoning in.

DISCUSS SOLAR ENERGY SYSTEM REGULATIONS

Mr. Carlberg explained the City has received a request to install a freestanding solar energy system on a residential property, which prompted staff to investigate the regulations of other cities. He presented the regulations used by other cities.

Mr. Carlberg asked if the Council would like to incorporate provisions such as the City of Lakeville has, or if they would like to consider just roof top, stand-alone type solar panels. He noted more research should be conducted.

Mayor Trude stated the bigger systems should be reviewed by the Planning and Zoning Commission.

Councilmember Knight stated if the systems have not been used for one year, they must be removed.

Mr. Carlberg suggested looking at the lighting code to see if it addresses glare. He stated he will show the Planning and Zoning Commission the codes from the cities of Lakeville and Rosemount. He added the focus for this item will be primarily on residential.

It was the consensus of the Council to direct staff to take the item to the Planning and Zoning Commission for further discussion.

DISCUSS ANIMAL REGULATIONS

Mr. Carlberg explained the City was recently contacted by a resident regarding a neighboring property that kept chickens that were allowed to roam freely across property lines and into the adjacent roadways and properties. Staff researched City Code and determined there are no ordinances that restrict animals, beyond cats and dogs, from running at large.

Mr. Carlberg asked the City Council to provide direction on whether or not staff should draft a new section of City Code addressing the general care of animals.

Councilmember Holthus asked what a person should do if a chicken ends up in their yard. Mr. Carlberg replied the homeowner should call the City and the animal owner would be cited. There is a section of the proposed draft code that refers to proper care, shelter, and control of animals.

Discussion took place on whether roosters should be allowed, and the definition of wild versus domesticated animals.

Councilmember Knight pointed out chickens can fly out of fenced areas, and language may need to be added to the Code to provide covered, fenced areas for chickens. Mr. Carlberg responded that will be researched.

Consensus was reached by the Council to further discuss the draft document with the Planning and Zoning Commission.

DISCUSS FOUR COUNTIES' METRO GOVERNANCE PROPOSAL

Mr. Dickinson presented the Four Counties' Governance Proposal supporting principles for reforming the Metropolitan Council. He stated the Governor has shown some interest in staggered terms for the members.

Mr. Dickinson reviewed the creation of the proposal. He presented the Twin Cities' Local Government Coalition - Statement of Objectives and Principles. Paragraph 4 reads it is necessary to provide strong County representation. Currently, the members of the Council are non-elected individuals, answerable only to the Governor. The proposal indicates the Met Council should be answerable to the citizens and taxpayers of the area it represents and should be elected officials.

Councilmember Holthus stated based on new criteria for projects we are losing our ability to access revenue in different streams. She asked if any of the road dollars that are going to all the counties affect Andover in a negative way. Mr. Dickinson explained this would because the focused areas that meet the new criteria are not present in Andover. This area is competing for those dollars with 494 and 35 verses Highway 10.

Mayor Trude stated she would rather consider Representative Mark Uglem's bill. This resolution has too much County influence. She said she would prefer to support a bill from someone who is working at the local level before being elected to the Legislature.

Councilmember Goodrich commented he didn't think this should be approved as presented.

Mayor Trude said the region should be considered for planning instead of city boundaries. For example, Coon Rapids has public transportation, and Andover doesn't. People from Andover can drive to Coon Rapids to use public transportation. Planning should be a regional concern.

The Council discussed the proposal, and no consensus was reached.

General discussion took place regarding Met Council transportation funding allocation.

JANUARY 2016 BUDGET PROGRESS REPORT

Mr. Dickinson presented a progress report of the January 2016 budget. He encourages Department Heads to find creative ways to use their budget. There are some small 2015 budget carry forwards, these will be addressed further in the February report. He reviewed several line items in detail.

Discussion took place on staffing related to the retirement of the Parks Maintenance Supervisor. Mr. Dickinson noted there is a request for continuing with a Parks Maintenance Supervisor, focusing primarily on just maintenance. He is looking at moving some of the recreation management tasks around to other positions. Also, he said parks scheduling may be handled a little differently now with electronic records.

JANUARY 2016 CITY INVESTMENTS REVIEW

Mr. Dickinson reviewed the January 2016 City investment portfolio.

OTHER BUSINESS

Mayor Trude reviewed the policy for naming and re-naming parks. Any Andover resident can make a request. She explained when there was a contest for "Name the Pond", there were a lot of requests to name it after Lyle Bradley, a retired Biology teacher. He has been in the local news, and is well loved. She proposed a small canoe launch within Strootman Park be named after him. She suggested it be called Bradley Launch. She asked that staff take this recommendation to the Park and Recreation Commission for consideration. Mr. Dickinson said after a background investigation is done, and the Park and Recreation Commission has discussed, the item will come back to the Council for further consideration.

Consensus was reached to move this request forward.

ADJOURNMENT

Motion by Councilmember Holthus, Seconded by Councilmember Knight, to adjourn. Motion carried unanimously. The meeting adjourned at 9:04 p.m.

Respectfully submitted,

Chris Moksnes, Recording Secretary