

**REGULAR ANDOVER CITY COUNCIL MEETING – AUGUST 16, 2016
MINUTES**

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Julie Trude, August 16, 2016, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Councilmembers present: Mike Knight, Sheri Bukkila, Valerie Holthus and James Goodrich

Councilmember absent: None

Also present:

City Administrator, Jim Dickinson
Community Development Director, Dave
Carlberg
Director of Public Works/City Engineer,
David Berkowitz
City Attorney, Scott Baumgartner
Others

PLEDGE OF ALLEGIANCE

PROCLAMATION

Mayor Trude proclaimed the month of October 2016 Domestic Violence Awareness Month. The Mayor and Councilmembers will sign the declaration.

RESIDENT FORUM

No one wished to address the Council.

AGENDA APPROVAL

Supplemental information was provided for:

- Consent Item #7 to include recommended changes to the Amended Park Advertising Policy and Agreement.
- Discussion Item #12 to include the Anoka County Sheriff's Office Monthly Report.

Motion by Goodrich, Seconded by Knight, to approve the Agenda as amended above. Motion carried unanimously.

APPROVAL OF MINUTES

July 26, 2016, Workshop Meeting: Tabled for review.

Mayor Trude proposed edits to page 1, line 44, related to residents paying for a study, and page 4, line 30 to correct “EPA” to state “PCA.”

Motion by Bukkila, Seconded by Knight, to table consideration of the July 26, 2016 Workshop minutes and request staff to review the tape. Motion carried unanimously.

August 1, 2016, Regular Meeting: Correct as amended.

Mayor Trude requested a correction on page 1, line 31, adding to his comments, “because they caused his road to deteriorate and then he has to pay.”

She also requested a correction to page 5, line 14, to state “any homeowner’s associations without insurance covering exteriors.”

Motion by Bukkila, Seconded by Holthus, to approve the minutes as corrected above. Motion carried unanimously.

CONSENT ITEMS

Item 2 Approve Payment of Claims

Item 3 Consider Amended Conditional Use Permit Time Extension Request – Bulk Storage of Liquid Fuels at 14327 7th Avenue NW – CenterPoint Energy

Item 4 Approve Removal of 3 Way Stop Sign/Narcissus Street NW and Orchid Street NW

Item 5 Approve Removal of 3 Way Stop Sign/134th Avenue NW and Poppy Street NW/Narcissus Street NW

Item 6 Approve Removal of 3 Way Stop Sign/Narcissus NW and Marigold Street NW

Item 7 Approve Amended Park Advertising Policy and Agreement

Item 8 Award Bid/12-23/Woodland Creek Wetland Bank (See Resolution R068-16)

Item 9 Approve Extension of Liquor License/Beef O’Brady’s

Item 10 Accept Resignation of David L. Carlberg – Community Development Director

Item 11 Amend Fee Ordinance (See Ordinance 465)

Motion by Holthus, Seconded by Knight, approval of the Consent Agenda as read. Motion carried unanimously.

ANOKA COUNTY SHERIFF’S OFFICE MONTHLY REPORT

Commander Halweg gave the monthly Sherriff’s Report. Next month there will be a new representative giving the report due to Commander Halweg being promoted to Chief Deputy.

CONSIDER PRELIMINARY PLAT AND PUD AMENDMENT CONTINUED – GREY OAKS 4TH ADDITION – RC DEVELOPMENT

Mr. Carlberg explained the City Council tabled this item at the August 1, 2016 meeting and directed the developer to revise the plans to include 4 - 6 parking spaces for guests as well as the construction of a sidewalk along the south and west sides of 156th Lane NW/Hummingbird Street NW. Council also requested the developer include in the association documents restrictions regarding the community being for residents of 55 years of age or older and to include architectural controls to insure any future building revisions meet the approved color and materials. The developer was also asked to address insurance provisions controlled by the association for any damage and replacement of the exterior and roof of the buildings. Horst Graser, representing RC Development, submitted a narrative in response to these items. It is worthy of note that the proposed sidewalk near the shuffle board court along the south side of 156th Lane NW does encroach onto the property controlled by the Grey Oaks Owner's Association to the east as well as the common area property of the Grey Oaks Fourth Addition Association. Easements from both parties will be necessary in favor of the City. In addition, a trail easement will be needed for the trail located to the north of the guest parking lot on 155th Lane NW that is to be constructed outside of the street right-of-way.

Mr. Carlberg reviewed the preliminary drawings highlighting the additional guest parking spaces and changes in the trail that will be needed and associated easements. In addition, he illustrated the seven and five foot sidewalks that are now planned in response to concerns expressed at the previous Council meeting. The responsibility to maintain the sidewalk belongs to the Association. Mr. Carlberg indicated the developer had been responsive to concerns since the previous Council meeting. He also shared new illustrations of the exterior finishes of the structures.

Mr. Carlberg pointed out the Association documents will not be approved at this time and are simply for reference at this point in the process.

City Attorney Baumgartner stated he had reviewed the rough draft of the Association documents specifically the age-related language and insurance provisions. The concept is that the development will be a 55 or older development and that at least one owner must be 55 years of age or older. He commented the difficulty with the current language is that it does not address rental arrangements. The agreement as edited by Mr. Baumgartner does address the owner or occupant must be at least 55 year of age or older meaning the owner or tenant with the exception of a surviving spouse. The documents state no more than six homes can be rented. Mr. Baumgartner noted that similar language was also contained in the Grey Oaks development. Room-by-room leasing would not be permitted. A lease must include the entirety of the house unless it is simultaneously resided in by the owner.

Councilmember Knight asked if grandchildren would be allowed to live in the development. Mr. Baumgartner re-stated that one person must be 55 years of age or older.

Mr. Baumgartner continued by addressing the insurance provisions. Concerns expressed by the Council at the previous meeting were primarily around insuring the exterior portion of the homes in the event of a catastrophe or hail. He described the Association agreement as a “hybrid” giving homeowners flexibility with insurance. He stated there are two ways that homeowners can be covered, and there are pluses and minuses to both. If homeowners have to contribute to a blanket insurance policy for roof and siding they have no control over deductibles or being able to maintain a relationship with their current insurance company. If homeowners cover their own property they can keep their current relationship with their insurance company/agent, insure the exterior and roofing and contents. He recommended including additional language stating all homeowners at all times must maintain policies covering full replacement costs. He expressed requiring full replacement value and requiring homeowners to have proof of insurance should ensure that there is adequate coverage. Mr. Baumgartner then addressed concerns about the exterior in the case of an insurance claim and whether or not homeowners could ‘do what they want (make changes to the exterior finishes).’ In looking at language that governs the Architectural Control Committee (ACC) he stated plans must go through the ACC before it can be approved and that this is one mechanism to control exterior and aesthetics. He further stated if a property owner fails to comply the homeowner’s association can step in and enforce that and if a homeowner was in violation of City Code the City can step in and enforce that. He reminded the Council the final documents will be cleaned up and reviewed before it would come to the Council for final plat approval.

Mayor Trude inquired regarding a situation where a property was being held by an estate and did not make a needed exterior repair. Mr. Baumgartner replied the association could take care of a repair and make an assessment that was due. Furthermore, the homeowner association could take the owner of the property to court and place a lien on the property. He confirmed the developer also provided for due process in the agreement and the association can put a lien the property for non-compliance. He stated he hoped that they would seek voluntary compliance.

Mr. Carlberg noted that homeowner’s association documents will come back for review by the Council at the time of the final plat and noted the modifications on condition #11 of the preliminary plat resolution, indicating approval must occur on the homeowner’s association documents prior to approval of the final plat.

Mayor Trude noted inconsistencies she saw in the documents submitted by the developer including watering responsibilities.

Councilmember Bukkila complimented the developer on coming back with changes above her expectations and expressed her thanks.

Councilmember Goodrich stated he appreciated the great concessions made on the parking, side walk, new elevations shown, oversight, etc. He expressed he is comfortable with homeowners having individual insurance with the additions that the City Attorney discussed.

Mayor Trude expressed different insurance adjusters deal with individuals differently. She noted

after a storm her insurance company covered all of her siding being replaced and her neighbor was covered for one side of their home. This is an ongoing concern for her. Councilmember Goodrich noted the replacement clause would cover that issue and expressed his belief that it would be overreach on the part of the Council to go further with their requirements in the association agreement.

Mayor Trude asked for clarification in the final association documents in regard to who is shoveling sidewalks and driveways and watering the yards. Clarification was made that a second draft had several changes and included snow removal and shrub care language.

Mr. Carlberg confirmed the association documents in final form come at the time of the final plat.

Mayor Trude, referring to the drawing of the exterior, pointed out the concrete sidewalk, driveway and step. Mr. Graser indicated that the driveway would be asphalt and there would not be a step as shown. She asked if there would be a choice of color palette and Mr. Graser replied there would not be a choice and the materials would be low maintenance.

Mayor Trude went on to again express her concern about the insurance issue. Mr. Graser responded by asking the Council not to over govern this aspect of the project. He confirmed the association agreement is a hybrid between a traditional townhome and single family home. He explained insurance companies today would write an insurance policy for \$5M for 19 homes. The policy would be for the exterior only and the deductible would be \$15,000 - \$30,000 per building. He noted in a typical development of 5-6 units a deductible would be \$3,000 and this is the biggest issue. Mr. Graser expressed his belief that homeowners should be allowed to choose their own agent and take credit for multiple “lines,” and the ACC can take action in the event it becomes necessary. Mr. Graser expressed his belief if there was damage to one of the units there would be peer pressure to make sure that proper repair happens. Mr. Graser recounted Mr. Carlberg telling him that he could not recall an issue of this sort in another part of the City. He noted the residents who buy homes in the development are willingly giving up their rights to the association because they do not want to do the work of shoveling and lawn mowing.

Mayor Trude stated over half of the residents in the audience had expressed their concern to her personally that they have a different “product” and want to feel really comfortable with the proposed development. In her conversations with residents they have expressed they are happy with the new parking, sidewalk, and color presentation shared by the developer and the insurance issue is the only thing that is left to address. She asked one person from the adjacent development to speak on behalf of the group.

Mr. Graser interjected he had spoken to a representative of State Farm Insurance and without going through underwriting he was told that insurance costs would be approximately 20-25% more expensive than if done individually.

Councilmember Bukkila stated she is ready to make the motion for approval. Councilmember

Holthus seconded the motion. Mayor Trude stated point of order and she had indicated she would allow someone to speak first.

Allen Luebke, association president of one of the adjacent developments commented the developers new design is more desirable than the first one and his concern is with the Mayor's and if a homeowner does not take care of their place. Councilmember Bukkila responded by stating there is no self-insurance and the homeowners would have to show proof of insurance to the association.

Mr. Luebke expressed further concern if a homeowner would take cash in for a claim and not fix it. Councilmember Bukkila stated in that case the association would step in and take care of the repair.

Mr. Luebke recalled when all of the condominiums were re-roofed there was one contractor and one insurance company to deal with in the repair process. Individual units are required to have their own insurance for their contents. He expressed he would leave the decision in the hands of the City Council to do what is right. He asked if the "bump out" for parking would require tree removal. Mr. Carlberg stated he did not believe so. Mr. Luebke stated he is happy with the extra parking being proposed and noted there are two associations being represented at the meeting with mutual concerns. He also expressed concern about the association documents.

Mr. Baumgartner assured Mr. Luebke there would be no inconsistent statements in the final association documents.

Mayor Trude stated she felt comfortable with the City Attorney's recommendation.

Mr. Luebke stated the proposed sidewalk is a great improvement. He also noted their association has age restrictions under 19 years of age as part of the restrictions and asked if the new development would have the same restrictions.

Mr. Baumgartner stated he had looked at it briefly noting no restrictions on grandchildren and that one owner or occupant must be 55 years of age or older. Mr. Luebke asked the Council be aware of that fact and to consider it. He stated the residents moved in for retirement and he did not know if the Council could impose the same restrictions on the new development. He asked that it be researched.

Councilmember Bukkila noted the 80% restriction of residents 55 years of age and older was removed from the association documents and that 100% is the goal.

Councilmember Bukkila called for the vote. Mayor Trude stated her point of order to allow people to speak was not yet finished.

Mr. Baumgartner stated once the final association documents are presented to the Council they will be available to the public along with the final plat. These materials will be available prior to

the Council meeting when the final plat is considered.

Dennis Alexander stated he lives in a townhome adjacent to the new development. He expressed concern as to what will happen if individuals have their own insurance policy and do not fix them. He expressed a preference for one company insuring the exterior and that owners be responsible for insuring the interior.

Motion by Bukkila, Seconded by Holthus, to approve the preliminary plat and PUD amendment for the Grey Oaks 4th Addition with the amendments updated by Mr. Carlberg (#11), Exhibit E, and age limits as discussed by Mr. Baumgartner. Motion carried unanimously. (See Resolution R070-16)

Mayor Trude thanked residents for their citizenship at the meeting.

SCHEDULE SEPTEMBER COUNCIL WORKSHOP

Mr. Dickinson requested the Council schedule a Workshop Meeting to discuss topics as detailed in the staff report.

The Council discussed the draft agenda and available dates for the annual bus tour. After the tour the Council will come back to City Hall and meet in the conference room.

Motion by Goodrich, Seconded by Holthus, to schedule a Workshop Meeting on September 27, 2016, at 5:00 p.m. Motion carried unanimously.

ADMINISTRATOR'S REPORT

City Staff updated the Council on the administration and city department activities, legislative updates, updates on development/CIP projects, and meeting reminders/community events.

(Primary Election) Mr. Dickinson thanked the judges and specifically City Clerk Michelle Hartner for administering those efforts, commenting that it was good preparation for the General Election.

(Meetings) Mr. Dickinson highlighted his participation in Metro Cities on issues of importance to the City of Andover, metro agencies as it relates to Metropolitan Council governance, and the Youth First Board with a focus on changes to keep the organization financially healthy.

(New Homes) New homes were budgeted for 50 and are now at 67.

(Mr. Carlberg) Mr. Dickinson stated it was Mr. Carlberg's last presentation to the Council.

Mr. Berkowitz expressed his pleasure in working with Mr. Carlberg and called him a "get it done kind of guy."

Mr. Carlberg reminisced about the construction projects that are beginning and have been accomplished. He commented not many staff members get to come back a second time to work for a City, he appreciated the opportunity and wished staff and Councilmembers well.

Councilmembers Knight and Bukkila also expressed their thanks and Mayor Trude expressed appreciation for the progress that has been made, help with economic development, recruiting jobs, improving the tax base, growth of single family homes, and improved customer service.

Councilmember Holthus thanked Mr. Carlberg for all the work with the Planning & Zoning Commission.

Councilmember Goodrich stated he is one of the “sharpest tools” he’s ever worked with.

Councilmember Bukkila expressed her appreciation for Mr. Carlberg’s past efforts for the City.

Mr. Dickinson stated he was grateful for the opportunity to bring Mr. Carlberg back a second time highlighting a great work ethic. He characterized Mr. Carlberg as a great colleague and friend and wished him the best.

ADJOURNMENT

Motion by Bukkila Seconded by Goodrich, to adjourn. Motion carried unanimously. The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Marlene White, Recording Secretary

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