

***REGULAR ANDOVER CITY COUNCIL MEETING – JANUARY 19, 2021
MINUTES***

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Sheri Bukkila, January 19, 2021, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Councilmembers present: Valerie Holthus (remote), Jamie Barthel, Ted Butler, and Randy Nelson

Councilmember absent: None

Also present: City Administrator, Jim Dickinson
Public Works Director/City Engineer, David Berkowitz
Associate Planner, Jake Griffiths
City Attorney, Scott Baumgartner
Others

PLEDGE OF ALLEGIANCE

RESIDENT FORUM

Bel Tosah, 1705 148th Lane, came forward and stated he has concerns about things that are happening in the community. He stated it took courage for him to come and speak before Council. Mr. Tosah is part of the Cameroon community, African American community, a member of Westminster Presbyterian Church and a resident of Andover. He told the Council he is a human research subject, writer, actor, comedian, and musician. He stated he is involved in a few community projects that are unethical and degrading to his community. He stated he is forced to disrespect, shock, confuse, and creep people out and because of this, his family wants nothing to do with him. He said these groups have given him social restrictions and have not allowed him to share the truth with reality tv and media. Mr. Tosah stated it is time for him to address the media. He has friends and fans who are concerned for him and he is concerned for his mental health. Mr. Tosah is looking for a support team, resources, and a job. He stated he needs help to get rid of the groups that are following him, threatening him, and studying him.

Mayor Bukkila stated she and Mr. Dickinson met with Mr. Tosah prior to the meeting and they gave Mr. Tosah their business cards. She stated they will connect Mr. Tosah with resources.

AGENDA APPROVAL

Motion by Barthel, Seconded by Nelson, to approve the Agenda as presented. Motion taken by roll call:

Councilmember Barthel - aye
Councilmember Butler – aye
Councilmember Holthus - aye
Councilmember Nelson - aye
Mayor Bukkila - aye
Motion carried unanimously.

APPROVAL OF MINUTES

January 5, 2021 Regular Meeting: Correct as written.

Motion by Butler, Seconded by Barthel, to approve the January 5, 2021 Regular meeting minutes as presented. Motion taken by roll call:

Councilmember Barthel – aye
Councilmember Butler - aye
Councilmember Holthus - aye
Councilmember Nelson - aye
Mayor Bukkila - aye
Motion carried unanimously.

CONSENT ITEMS

- Item 2 Approve Payment of Claims
- Item 3 Approve Debt Service Payments
- Item 4 Receive December 2020 City Investment Reports
- Item 5 Receive December 2020 (pre-audit) General Fund Budget Progress Report
- Item 6 Receive Annual Building Department Report
- Item 7 Accept Dedication of Drainage and Utility Easement – Lot 4 Block 1, Shaws Glenn Second Addition – 1946 157th Lane NW – Andrew Homich
- Item 8 Accept Dedication of Drainage and Utility Easement – Lot 3 Block 1, Shaws Glenn Second Addition – 1950 157th Lane NW – Dave and Nicole Wallin
- Item 9 Approve Massage Therapy Establishment License
- Item 10 Approve Resolution Revoking Farm Winery Conditional Use Permit - 3482 165th Lane NW (See Resolution R008-21)
- Item 11 Approve Amendment to City Code Title 5: Police Regulations, Regulating Targeted Picketing in Residential Neighborhoods & Summary Ordinance for Publication (See Ordinance 514)

Motion by Barthel, Seconded by Nelson, to approve the Consent Agenda as read. Motion taken by roll call:

Councilmember Barthel - aye
Councilmember Butler - aye
Councilmember Holthus - aye

Councilmember Nelson - aye
Mayor Bukkila - aye
Motion carried unanimously.

ANOKA COUNTY SHERIFF'S OFFICE MONTHLY REPORT

Commander Lenzmeier provided a monthly report for December 2020, reporting 1,092 calls for service with 14,080 calls for service year-to-date. He stated there were 22 burglaries in 2020 and 17 in 2019. He reported thefts were down by over 100 from 2019 to 2020. Commander Lenzmeier stated the Sheriff's Office made 3 DWI arrests, 2 felony arrests, 2 gross misdemeanor arrests, and 5 misdemeanor arrests and 50 traffic violation arrests. Commander Lenzmeier noted significant events for the month: personal injury accident/stolen vehicle, a house fire, drug arrest, theft from Speedway, and 3 DWIs.

HOLD PUBLIC HEARING/ORDER PLANS & SPECS/21-17/2021 MILL & OVERLAY/SE CORNER OF CITY

The City Council is requested to hold a public hearing and order plans and specifications for Project 21-17, 2021 Mill & Overlay/SE Corner of City.

Public Works Director/City Engineer Berkowitz identified the location of the project and displayed it on a map. He explained the improvements consist of milling the top inch of bituminous, inspecting gate valves, replacing, and repairing sections of curb as needed, and replacing pedestrian ramps if they do not meet ADA requirements. The final step is to lay down 1.5 inches of black top. Mr. Berkowitz stated the estimated project cost is \$2,851,000 with the City covering 75% of the costs and the remainder covered by assessments at an average of \$750 per lot.

Mr. Berkowitz displayed photos of the existing road conditions and examples of what it will look like when completed. He presented a project schedule starting in March and completing in late summer. Mr. Berkowitz detailed the assessment process and options for payment.

Councilmember Butler asked Mr. Berkowitz to talk about how long the 25% assessment policy has been in place. Mr. Dickinson replied it has been in place over 20 years. He stated it was first used for street reconstruction, and mill and overlay projects were added 15 years ago.

Mayor Bukkila asked Mr. Berkowitz to explain why the City has decided to have a mill and overlay program instead of a full street reconstruction. Mr. Berkowitz stated the Council has identified the concern from the public about the road conditions in Andover. He stated more funds were allocated to a large mill and overlay project in 2021, allowing the City to catch up on street maintenance, and then the City would select one area for an overlay per year thereafter. Mr. Berkowitz stated the roadway is analyzed for surface and underlying wear. He stated if there are large amounts of cracking, the road is no longer a candidate for a mill and overlay.

Mayor Bukkila asked Mr. Berkowitz to explain which roads would have a mill and overlay. Mr. Berkowitz replied roads that are “alligator cracked” are beyond the condition for a mill and overlay and require a full reconstruction. Mayor Bukkila stated the assessment for a full reconstruction in the rural area could be around \$2,000-\$2,500 per lot and by performing a mill and overlay, the assessment is \$750 and extends the life of the road. Mr. Berkowitz stated a full reconstruction in the rural area would be \$3,000-\$4,000 per unit and as high as \$6,000-\$10,000 depending on the size of the lot. He said the mill and overlay will extend the life of the road 10-15 years. Mayor Bukkila stated by using this process, it reduces the tax burden on the property owner (25% assessment) and reduces the tax burden on all residents of Andover (75% budgeted amount).

Motion by Barthel, Seconded by Butler, to open the public hearing at 7:28 p.m. Motion taken by roll call:

Councilmember Barthel - aye
Councilmember Butler - aye
Councilmember Holthus - aye
Councilmember Nelson - aye
Mayor Bukkila - aye
Motion carried unanimously.

No one appeared before the Council.

Motion by Barthel, Seconded by Butler, to close the public hearing at 7:29 p.m. Motion taken by roll call:

Councilmember Barthel - aye
Councilmember Butler - aye
Councilmember Holthus - aye
Councilmember Nelson - aye
Mayor Bukkila - aye
Motion carried unanimously.

Motion by Butler, Seconded by Barthel, to adopt Resolution No. R009-21 ordering the improvement of Project 21-17, 2021 Mill and Overlay/southeast corner of the City and directing preparation of final plans and specifications. Motion taken by roll call:

Councilmember Barthel - aye
Councilmember Butler - aye
Councilmember Holthus - aye
Councilmember Nelson - aye
Mayor Bukkila - aye
Motion carried unanimously.

***HOLD PUBLIC HEARING: VACATION OF DRAINAGE AND UTILITY EASEMENT –
LOT 2 BLOCK 1 HICKORY MEADOWS 2ND ADDITION – 297 143RD AVENUE NW –
JIM WEAVER***

The City Council is requested to conduct a public hearing on the vacation of a drainage and utility easement at 297 143rd Avenue. Associate Planner Griffiths stated the City discovered that a retaining wall was constructed within the rear yard portion of the Drainage and Utility Easement at 297 143rd Avenue NW. He stated the homeowner has worked with staff to see if it would be possible to vacate the portion of the retaining wall encroachment.

Mr. Griffiths stated staff has not received any comments from the public on this issue.

Councilmember Barthel asked if staff approved of the vacation of the easement. Mr. Griffiths replied City staff has looked at it and has no issue with the vacation.

Motion by Barthel, Seconded by Nelson, to open the public hearing at 7:32 p.m. Motion taken by roll call:

Councilmember Barthel - aye

Councilmember Butler - aye

Councilmember Holthus - aye

Councilmember Nelson - aye

Mayor Bukkila - aye

Motion carried unanimously.

No one appeared before the Council.

Motion by Barthel, Seconded by Nelson, to close the public hearing at 7:33 p.m. Motion taken by roll call:

Councilmember Barthel - aye

Councilmember Butler - aye

Councilmember Holthus - aye

Councilmember Nelson - aye

Mayor Bukkila - aye

Motion carried unanimously.

Motion by Barthel, Seconded by Nelson, to adopt Resolution No. R010-21 granting the vacation of a drainage and utility easement at 297 143rd Avenue NW, PIN 25-32-24-42-0081.

Motion taken by roll call:

Councilmember Barthel - aye

Councilmember Butler - aye

Councilmember Holthus - aye

Councilmember Nelson - aye

Mayor Bukkila - aye

Motion carried unanimously.

HOLD PUBLIC HEARING: CONSIDER NUISANCE DOG/DANGEROUS DOG

The City Council is requested to receive a presentation, open public hearing to gather testimony and to consider classifying a Pitbull, named Petey a nuisance dog, dangerous

dog, and require abatement.

City Administrator Dickinson referred to documents provided to Council, including police reports and City correspondence. Mr. Dickinson stated the City Administrator's opinion is to declare the dog a dangerous dog and a nuisance based on the number of attacks and severity of the attacks.

Mr. Dickinson reviewed the definition of a dangerous dog as written in the staff report and stated item A pertained to this dog: "Without provocation, inflicted substantial bodily harm on a human being on public or private property". Mr. Dickinson described the declaration of a dog nuisance and require abatement and stated item A pertained to this dog: "To bite, attack or endanger the safety of humans or domestic animals".

Mr. Dickinson stated Administration recommends following option 5-1A-6, E-4-a requiring the dog to be confiscated and destroyed in a proper and humane manner with the cost being paid by the owner.

Mr. Dickinson outlined the chronology of the events and written in the staff report. Mr. Dickinson stated the dog attacked his owner unprovoked requiring the owner to be transported to the hospital. Mr. Dickinson explained the dog had bitten his owner three previous times. Mr. Dickinson stated the dog was quarantined at the North Metro Animal Care and Control and was reported to have "fear aggression" and it is unusual for a dog to attack its owner.

Motion by Holthus, Seconded by Butler, to open the public hearing at 7:39 p.m. Motion taken by roll call:

Councilmember Barthel - aye
Councilmember Butler - aye
Councilmember Holthus - aye
Councilmember Nelson - aye
Mayor Bukkila - aye
Motion carried unanimously.

Michael Spiegelberg, 2623 138th Avenue NW, came forward and stated he was the one who got bit. He stated he has health issues and lost another dog to a heart attack. He said his life has been going downhill. He said his dog is not dangerous. He said his dog is overprotective to him. He said he loves his dog and needs him.

Aaron Cook, 2619 138th Avenue NW, came forward and stated he lives next door to Mr. Spiegelberg. He said the dog is a nice and caring dog and has never seen him get angry at people. Mr. Cook stated he would like to get the dog fixed and seek help for training. He said Petey is a nice dog and he has never seen him violent.

Natalie Leach, 6838 139th Lane, Unit 4, Ramsey, came forward and stated she is the aunt to the owners. Ms. Leach stated Petey gets excited and she has not had issues other than him trying to lick her to death. She stated he has not had aggression towards anyone. She stated

he needs training. Ms. Leach stated she does not want to see him put down because of this incident.

James Olson, 2619 138th Avenue NW, came forward and said Petey is a good dog. He stated he has three kids, and he does not fear for them when they play with Petey.

Amber Olson, 259 141st Avenue NW, girlfriend of one of the owners stated she is over every day and spends a lot of time with the dog. She stated she sleeps with the dog and he is the best pet she has ever met. Ms. Olson stated he is protective but not aggressive. She said he gets scared and needs training.

Cassandra Borla, 2605 138th Avenue NW, Apt 201, said she is neighbors with the owners. She said her neighbors are friendly and Petey is sweet. She said her dog gets along well with Petey. Ms. Borla said she has taken her dog to a canine coach and recommended Petey see one as well. She does not think Petey is a threat to the community and feels he can benefit from training. She said the owners have her support.

Jake Hanson, 2605 138th Avenue NW, came forward and stated he agrees with everything Cassandra said. He sees Petey daily and interactions go well. He stated the owners are willing to do whatever it takes to keep Petey in the home. Mr. Hanson stated Mr. Dickinson was worried about the neighbors in his presentation. Mr. Hanson stated it is clear the neighbors are supportive and have daily interactions with Petey.

Heather Sankey, 2623 138th Avenue NW, came forward and states she lives with Mr. Spiegelberg. Ms. Sankey stated Petey has been around several children and on walks and has never shown aggression. She believes it is a dominance thing he is trying with Mr. Spiegelberg. She stated Petey needs training and she is willing to do anything to save her dog.

Aaron Cook, 2619 138th Avenue NW, came forward and stated Mike has health issues, and he is disabled. Mr. Cook believes this has given Mr. Spiegelberg physical and financial challenges with training the dog.

Motion by Barthel, Seconded by Butler, to close the public hearing at 7:56 p.m. Motion taken by roll call:

Councilmember Barthel - aye
Councilmember Butler - aye
Councilmember Holthus - aye
Councilmember Nelson - aye
Mayor Bukkila - aye
Motion carried unanimously.

Mr. Dickinson stated the requirements of a dangerous dog label include a proper enclosure, visible warning signs, and a Surety Bond in the amount of \$300,000. He stated the cost of this is \$1,600-\$2,000 a year. He said the dog would need to be annually registered, microchipped, neutered, and the enclosure inspected by the City. Mr. Dickinson stated if the dog were to

leave the home, it would need to be muzzled and leashed. He stated this is a rental property and the owner of the property would need to be notified. Mr. Dickinson stated the insurance policy would need to be in place before the dog is released.

City Attorney Baumgartner asked to question the residents who testified during the public hearing. Mr. Baumgartner asked the residents how many of them knew the dog attacked Mr. Spiegelberg three separate times prior to this incident. Mr. Baumgartner asked how many of them thought the dog should have had training at that time.

Mayor Bukkila stated no one responded that they knew the dog attacked the owner previously and one raised their hand that they thought the dog should be trained.

Councilmember Barthel stated he would like to separate nuisance dog from dangerous dog and treat them separately. Mr. Dickinson replied they are separate resolutions.

Councilmember Barthel stated Council has the duty to protect all residents of the community. He stated he believes Petey is a dangerous dog. Councilmember Barthel stated the dog owner can take steps to remove the classification from the dog, but it takes time, training, and money. He said he appreciates all the people who spoke but the dog bit unprovoked and sent someone to the hospital.

Councilmember Holthus quoted the police report “Tate stated that after every incident, Michael states he is going to get rid of the dog but never follows through with it. Nothing changes and the dog continues with the same behavior”. Councilmember Holthus stated she is worried that no matter what the Council does, the dog is going to continue with its same behavior. She stated personally she is worried about having this dog out there if he has bitten his owner 4 times already. She stated the owner knows it is not appropriate, has thought of getting rid of the dog, and the dog continues the same behavior. Councilmember Holthus stated it is clear it is a dangerous dog and potentially a nuisance dog.

Councilmember Nelson stated the costs are extensive for a dangerous dog and asked if the owner can commit to it.

Michael Spiegelberg, 2623 138th Avenue, said Petey was scheduled to be neutered but COVID delayed it. Mr. Spiegelberg stated if the dog was fixed, he would not be so aggressive.

Councilmember Butler stated the Council has a duty to protect the community and it is hard because everyone loves their pets. Councilmember Butler said that after reading the police report he is concerned about the community, the neighbors, and Mr. Spiegelberg. He stated he will be supporting a dangerous dog declaration tonight.

Mayor Bukkila stated the police report is included with the dangerous dog resolution. She stated Heather and Tate witnessed the attack and they were not able to stop the attack. Mayor Bukkila stated the injuries to Mr. Spiegelberg were serious which were described as cuts from a knife. She stated the information in the report and the testimony given tonight are

contradictory. Mayor Bukkila stated she has been on the Council for 12 years and this is one of the most severe cases she has seen. She stated it is concerning that people in the household do not recognize the level of risk to everyone in the home.

Mayor Bukkila stated it only takes one incident to declare a dog potentially dangerous. She said there are 4 instances where the adults have failed to respond to the needs of the household and the dog. She stated being a responsible dog owner is recognizing something should be altered for the care and management of the dog after the first incident. Mayor Bukkila stated she supports the resolution declaring Petey a dangerous dog.

Motion by Barthel, Seconded by Butler, to adopt Resolution No. R011-21 declaring a dog owned by Michael Spiegelberg, 2623 138th Avenue NW, Andover, MN 55304 as a Dangerous Dog pursuant to City Code Title 5, Chapter 1, Section 5-1A-8.

Mr. Baumgartner stated the resolution includes the destruction of the dog and wanted Council to understand they were taking action on both a dangerous dog and abatement.

Councilmember Barthel amended his motion to strike the phrase “and require its destruction to Minnesota Statute 347.56”.

Councilmember Barthel stated he would like the destruction of the animal and declaring the dog dangerous as separate items.

Mr. Baumgartner stated it is not common where a dangerous dog declaration and a nuisance dog are placed together. He stated declaring the dog dangerous provides tools to microchip and requires an insurance policy. He said a nuisance dog does not carry the same weight.

Councilmember Butler stated if this was reported earlier and the dog declared a potentially dangerous dog after the first attack, followed by dangerous dog designation after the second attack, he asked what the Council would have done after the third and fourth attacks. Councilmember Butler stated he is concerned about the precedence it sets by the fact the attacks were not brought forward.

Councilmember Barthel stated he is leaning towards not abating because the four bites have been on the owner. He said if one of the bites were on another individual, he would have no problem abating.

Mr. Baumgartner asked Council if they wanted to put criteria on returning the dog to the owner and if so, what is the timeframe the Council wants to set. Mr. Baumgartner asked who covers the cost of boarding the dog until it is returned to the owner.

Councilmember Nelson stated if the dog is not abated, how is Council going to enforce the dangerous dog follow through. He stated he would like further conversation.

Mayor Bukkila stated typically dog on dog bites are what comes before Council, not dog on human. She stated Statute does not separate them, but she does. She values human life and

the amount of substantial injury the owner received unprovoked.

Heather Sankey, 2623 138th Avenue NW, came forward and said the dog is afraid of bath time. She said the only one who can give Petey a shower is Tate. She stated Mr. Spiegelberg was going into the shower and took off his shirt. She said Petey got mad and attacked.

Mr. Baumgartner read from the police report Ms. Sankey's comment "Michael had just taken a shower and was walking out of the bathroom when their dog attacked. The attack was completely unprovoked." He stated that is contrary to what Ms. Sankey just said.

Ms. Sankey replied the real answer sounds bizarre. Mr. Baumgartner asked why she made the statement to the police. Ms. Sankey said it was adrenaline. She said she was able to pull Petey off of Mr. Spiegelberg but did scream for her kids. She said it was scary and she will always yell for help if she needs it, but she did not need it.

Mayor Bukkila read a passage from the police report: "Sankey stated that Michael had just taken a shower and was walking out of the bathroom when their dog attacked him; the attack was completely unprovoked. Sankey was unable to stop the attack, so she screamed for help. Her two sons, one of them being Tate Spiegelberg, assisted by getting the dog off Michael and containing it in a bedroom... Michael's wounds were covered with bandages, so pictures were not taken. Per Andover Rescue, Michael had a large laceration on each wrist and multiple fingers on both hands were bitten. Sankey stated the wounds looked like cuts from a knife."

Motion taken by roll call:

Councilmember Barthel - nay

Councilmember Butler - aye

Councilmember Holthus - aye

Councilmember Nelson - aye

Mayor Bukkila - aye

Motion carried 4 ayes, 1 nay (Barthel).

Councilmember Butler asked if the Council still needed to address the nuisance issue. Mr. Baumgartner recommended the Council goes through the nuisance process to be complete.

Motion by Holthus, Seconded by Butler, to adopt Resolution No. R012-21 declaring a dog owned by Michael Spiegelberg, 2623 138th Avenue NW, Andover, MN 55304 as a nuisance requiring abatement pursuant to City Code Title 5, Chapter 1, Section 5-1A-6.

Motion taken by roll call:

Councilmember Barthel - nay

Councilmember Butler - aye

Councilmember Holthus - aye

Councilmember Nelson - aye

Mayor Bukkila - aye

Motion carried 4 ayes, 1 nay (Barthel).

Mayor Bukkila stated the dog has been declared dangerous, a nuisance and requires abatement. She stated the dog will not be returned to the owner.

Natalie Leach asked if Tate could be present when the dog is euthanized. Mayor Bukkila asked staff to discuss it with animal control and get in touch with the owner.

COVID 19 UPDATE

City Administrator Dickinson updated the Council on the primary changes to the COVID-19 response since the last meeting. He stated the Governor's Executive Order is in effect until the end of January. He said staff has been working on the audit of the CARES dollars. City staff are promoting the Anoka County Business Assistance Program through email blasts, website, and answering questions as they come in. The City has been working with the School District to prepare for the increase of parents driving their kids to school. The Community Center is open for many activities. High School games have started, and the sports organizations have been very helpful in working within COVID guidelines. The North Suburban Home Show has been canceled. Mr. Dickinson stated he will bring an item to end the City's Emergency Order to the next meeting.

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.

(Administrative Staff Activities) - Mr. Dickinson said the City has issued 2 new home permits. Staff in the Building and Development Departments are attending professional development courses to continue their licenses. The City is tending to the streets and putting down salt to reduce the iciness. He said the City is mixing salt with calcium chloride to make it green so it can be seen. Staff are working on project startups and closeouts, and auditing. Engineering and Public Works are focusing on preparing for spring and summer projects.

Councilmember Barthel noticed the main stairs of the Community Center are carpeted and it looks beautiful. He said there are a few small areas that are not carpeted (under the coat rack) and asked if they would finish those areas. Mr. Dickinson stated he did not know the answer and will follow-up with Mr. Barthel.

ADJOURNMENT

Mayor Bukkila declared the meeting adjourned at 8:44 p.m.

Respectfully submitted,

Shari Kunza, Recording Secretary

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