

***REGULAR ANDOVER CITY COUNCIL MEETING – MAY 2, 2023  
MINUTES***

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Bukkila, May 2, 2023, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Councilmembers present:     Jamie Barthel, Rick Engelhardt, and Randy Nelson

Councilmembers absent:     Ted Butler

Also present:                     City Administrator, Jim Dickinson  
  Community Development Director, Joe Janish  
  City Attorney, Scott Baumgartner  
  Others

***PLEDGE OF ALLEGIANCE***

***ARBOR MONTH PROCLAMATION***

Mayor Bukkila read a proclamation declaring May 2023, is Arbor Month in Minnesota.

***RESIDENT FORUM***

Scott Foyt, 14424 Prairie Road, shared he was directed by staff to address the Council about assessing all fourteen mill and overall projects at 25%, specifically Prairie Road, project 23-15. He stated it has been assessed incorrectly, and it is not a standard City street so it shouldn't be assessed as one. He noted it provides easy access across the City to all residents benefitting from it. Prairie Road has a daily traffic count of 5,600, which nearly triples the assessment manual's determination that as a State Aid street it benefits the community at large. He requested the Council review and take steps to avoid litigation in court. He pointed out the Minnesota statutes that are violated by the improper assessment. He stated city legal counsel should review the city of St. Paul loss in court of \$640,000 related to assessments. Mr. Foyt stated his attorney believes the situation should resolve easily as it appears it was overlooked on the preliminary assessment. He said a timely written response to Prairie Road property owners would be appropriate and appreciated.

***AGENDA APPROVAL***

No changes were made to the agenda.

**Motion** by Nelson, Seconded by Barthel, to approve the Agenda as presented. Motion carried unanimously.

**APPROVAL OF MINUTES**

*April 17, 2023, Board of Review Meeting: Correct as written*

*April 18, 2023, Regular Meeting: Correct as written*

*April 18, 2023, Closed Meeting: Correct as written*

**Motion** by Barthel, Seconded by Nelson, to approve the above meeting minutes as presented. Motion carried unanimously.

**CONSENT ITEMS**

- Item 2 Approve Payment of Claims
- Item 3 Approve Plans & Specs/Order Ad for Bids/22-40 Kelsey Round Lake Park Boardwalk Replacement (See Resolution R036-22)
- Item 4 Award Bid/23-11A Through 23-11L/23-15/Prairie Rd. NW & 23-16/Andover Blvd. NW/2023 Mill & Overlay (See Resolution R037-23)
- Item 5 Approve Consultant/23-18, Nightingale St. NW & Crosstown Blvd. NW Roundabout & 23-19, Nightingale St. NW & Veterans Memorial Blvd. NW Roundabout
- Item 6 Approve Expenditure for Water Treatment Plant Filter Evaluation
- Item 7 Approve Massage Therapist License
- Item 8 Approve Used Vehicle Sales License
- Item 9 Approve City Code Amendments Relative to Plumbing Plan Review Delegation, Summary Ordinance for Publication and Contract with Rum River Construction Consultant, LLC (See Ordinance 551)
- Item 10 Accept Resignation/Retirement of Steve Thran, Parks Maintenance Worker

**Motion** by Nelson, Seconded by Barthel, to approve of the Consent Agenda as read. Motion carried unanimously.

**VARIANCE REQUEST – LOT 9, BLOCK 7, LAKERIDGE; PID#20-32-24-14-0006 – ED FIELDS AND SONS (APPLICANTS)**

Ed Fields and Sons is requesting a variance to City Code 12-3-5: Minimum District Requirements; variance to minimum lot size. The subject property is located within the R-1, Single-Family Rural Residential District and City Code 12-3-5 establishes a minimum lot size of 2.5 acres. The applicant is requesting a variance to allow a minimum lot size of 1.62 acres. The City Council is requested to consider the Planning and Zoning Commission’s recommendation of approval.

Community Development Director Janish stated the Planning and Zoning Commission held a public hearing at their April 25, 2023 meeting and no public comments were received. The Planning Commissioners noted the applicant did not request the roadway project and a general public benefit exists for the project. He explained the Planning Commissioners questioned the ability of future screening by the lot owner while noting the lot size will accommodate a home. The Commissioners also questioned if a home existed on the lot today, would a variance be needed. After discussion, the Planning and Zoning Commission provided a recommendation for approval of the draft resolution with support on a 6 yes, 0 no, 1 absent vote.

Mayor Bukkila asked if it would meet the 2.5 acre minimum, but for the sake of a roadway improvement to improve safety in the area, the applicant is asking for a deviation to go down to 1.62 acres. Mr. Janish confirmed.

Councilmember Nelson asked if a house was built on the property, how would they access it. Mr. Janish shared they would access their home from the future alignment of 154<sup>th</sup> Lane NW. They wouldn't have direct access to Round Lake Boulevard.

Mayor Bukkila asked if it alters the access point on the southwest side. Mr. Janish said it would slightly. He showed on the map where the driveway currently ends. He explained the driveway would be longer with the 154<sup>th</sup> Lane realignment.

Mayor Bukkila asked if the additional land would be covered by an easement or if they would own the property. Mr. Janish explained that is still being discussed and negotiated. The City would prefer to return it to the property owner.

Mayor Bukkila asked if the property owner would be at risk for Right-of-Access. City Attorney Baumgartner stated the County would have to grant access one way or another, whether through an easement or a land swap.

City Administrator Dickinson stated technically it's a City street, so the City would have to grant access.

Mr. Janish said if it was not turned back to the property owner, they would have a longer segment of driveway within that right-of-way.

**Motion** by Barthel, Seconded by Nelson, to adopt Resolution No. R038-23 approving a variance for the property located at PID #20-32-24-14-0006. Motion carried unanimously.

***CITY CODE AMENDMENT – CITY CODE 12-11: COMMERCIAL/INDUSTRIAL PERMITTED, PERMITTED ACCESSORY, CONDITIONAL, INTERIM AND PROHIBITED USES – LIQUOR SALES IN NEIGHBORHOOD BUSINESS ZONING DISTRICT – CITY OF ANDOVER (APPLICANT)***

City Code 12-11 currently prohibits liquor licenses and off-sale liquor stores within the NB-

Neighborhood Business zoning district. The proposed amendment to City Code 12-11, if approved, would allow liquor licenses and off-sale liquor stores as a conditional use within NB-Neighborhood Business zoning districts that are contiguous and at least five acres in size. The City Council is requested to consider the Planning and Zoning Commission's recommendation of approval.

Community Development Director Janish reviewed the information with the Council and highlighted what the request is. He stated the Planning and Zoning Commission reviewed the City Code amendment and held a public hearing at their April 25, 2023 meeting. During the public hearing, one resident addressed the Planning Commission looking for clarification on the five-acre minimum district size requirement. Staff responded that if a single property, or a grouping of properties that border each other, within the NB zoning district are at least five acres in size, then they should meet the requirement. He stated the Commission noted the option of having liquor would entice the possibility of a restaurant to locate at one of the two sites. Mr. Janish said the Planning and Zoning Commission recommended approval, on a 5 yes, 1 no, 1 absent vote.

Councilmember Nelson asked if the current liquor stores grandfathered this in. Mr. Janish said other liquor store locations tend to be in general business or shopping center districts, which are separate zoning districts. There aren't any in the Neighborhood Business district area currently.

Councilmember Barthel asked if they only have 1 off-sale liquor license left. Mr. Dickinson stated there are 2, since one closed down and is now Muddy Paws Doggy Daycare.

Mayor Bukkila stated she has no concerns, and asked what the 1 Planning Commissioner who voted no was concerned with. Mr. Janish stated he believes it was because the Commissioner didn't have a full understanding of the Conditional Use Permit (CUP) process. The amendment is to allow for a liquor store or a restaurant through a CUP. There would still be another step if someone wanted to open a business. The Planning Commission and Council will have the opportunity to review specific requests.

Mayor Bukkila asked if a CUP is for making sure the proposed business remains to be used for what it said it would be used for, which rides with the property. The Council and staff would run through a site plan to see if a proposed business would work in the space. If there are any concerns like traffic movement, lighting, turning, etc. they would work through any challenges. Mr. Janish confirmed and said Council would have the chance to work with any potential applicants to minimize the impact to surrounding properties. If the applicant can't meet the modifications, it would have potential for denial.

**Motion** by Barthel, Seconded by Nelson, to adopt Ordinance No. 552 an amendment to City Code Title 12: Zoning Regulations, Chapter 11: Commercial/Industrial Permitted, Permitted Accessory, Conditional, Interim and Prohibited Uses. Motion carried unanimously.

***CONFIRMING EXPIRATION OF APPROVALS FOR THE LOT SPLIT AT 3415 163<sup>RD</sup> LN.***

### ***NW & HUMNICKS GROVE PRELIMINARY PLAT***

On March 1, 2022, the City Council approved a lot split for the property at 3415 163<sup>rd</sup> Lane NW and a Preliminary Plat to be known as Humnicks Grove. The lot split as intended to split off the southern portion of the parcel, which would then be divided into two new residential lots by the Preliminary Plat. In addition to the land subdivision, the development would have required that 162<sup>nd</sup> Lane NW be extended to provide a permanent cul-de-sac on the property to provide the required access and street frontage for the proposed lots. Unfortunately, the timing of the planned subdivision coincided with a period of increases in road construction prices, which prevented the applicants from moving forward with the planned subdivision. The City Council is requested to approve a resolution confirming the expiration of the approvals for the lot split for 3415 163<sup>rd</sup> Lane NW and Humnicks Grove Preliminary Plat.

Community Development Director Janish reviewed the information with the Council and explained details of the proposed resolutions, both of which need approval.

Mr. Dickinson clarified that one resolution revokes the preliminary plat and the other revokes the lot split.

***Motion*** by Nelson, Seconded by Barthel, to adopt Resolution Nos. R039-23 and R040-23 declaring the Preliminary Plat of “Humnicks Grove” null and void for the Property PID #17-32-24-13-0007. 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.

***(Administrative Staff Report)*** Mr. Dickinson shared they are monitoring the legislative session activities funding for the Red Oaks Projects. They are as far as they can go as far as getting funding, and they are focusing on keeping legislatures attentive. He shared that budget development activity started for 2024. The City’s audit firm will make a presentation at the first meeting in June. In regards to a Building Department update, he shared there are 21 new homes being built, and 4 in process. They are halfway to their budget goal of 50. Taco Bell will open June 1<sup>st</sup>. Westgate Assisted living will also open June 1<sup>st</sup>. A new apartment building project is moving along. He shared that Recycling Day will be on May 13<sup>th</sup> from 9:00 a.m. - 1:00 p.m. At the Community Center, the turf is out and ice is in. There will be a tournament this weekend.

***(Public Works/Engineering Department Report)*** Mr. Dickinson shared that pre-construction meetings were held for upcoming projects. Projects were awarded to North Valley Inc. Council approved bids for the mill and overlay project. It is well under the engineer's estimate, which will be good for the assessment timeframe. They are working on two projects for bid, which are the Sunshine Park and Fire Station #2 parking lots. They are hoping for favorable bids.

**(Community Development Department Report)** Mr. Janish shared about the Andover Home Improvement Program. He stated there is more information on the City’s website, and explained how residents can determine the value to use for their property.

***MAYOR/COUNCIL INPUT***

Councilmember Nelson thanked the Utilities, Fire and Highway Departments for fixing a recent water main break so quickly. Mr. Dickinson explained they were doing some flushing which can point out weak spots in the system.

Councilmember Engelhardt asked if any other weak spots were found during the flushing. Mr. Dickinson said no, things went well otherwise. He shared they sometimes see pressure changes throughout the community when they do flushing.

Councilmember Engelhardt asked for an update about the City’s flooding issues. Mr. Dickinson said they monitored several locations for flooding. One location adjacent to the Rum River was more significant than others. They partnered with the Sheriff’s department so public safety access could be made and Public Works delivered sand to residents who needed it.

***ADJOURNMENT***

***Motion*** by Barthel, Seconded by Nelson, to adjourn. Motion carried unanimously. The meeting adjourned at 7:39 p.m.

Respectfully submitted,

Kristina Haas, Recording Secretary

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