

**REGULAR ANDOVER CITY COUNCIL MEETING – SEPTEMBER 20, 2022  
MINUTES**

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Bukkila, September 20, 2022, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

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

Councilmember absent: None

Also present: City Administrator, Jim Dickinson  
Community Development Director, Joe Janish  
Natural Resources Technician, Kameron Kytönen  
Director of Public Works/City Engineer, David Berkowitz  
City Attorney, Scott Baumgartner  
Others

***PLEDGE OF ALLEGIANCE***

***RESIDENT FORUM***

No one came forward to address the Council.

***AGENDA APPROVAL***

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

***APPROVAL OF MINUTES***

*September 6, 2022, Regular Meeting*

***Motion*** by Barthel, Seconded by Nelson, to approve the September 6, 2022, Regular meeting minutes as presented. Motion carried unanimously.

***CONSENT ITEMS***

- Item 2 Approve Payment of Claims
- Item 3 Approve Expenditures for Sanitary Sewer Trunk Cleaning & Televising Inspection
- Item 4 Declare Cost/Order Assessment Roll/22-2/2022 Street Reconstruction (See Resolution R067-22)
- Item 5 Declare Cost/Order Assessment Roll/22-15, 2022 Mill & Overlay: Chesterton Commons Area & Fox Hollow/22-16, 2022 Mill & Overlay: Andover Boulevard NW/22-17, 2022 Mill & Overlay: Bluebird Street NW (See Resolution R068-22)
- Item 6 Receive August 2022 City Investment Reports
- Item 7 Receive August 2022 General Fund Progress Report
- Item 8 Initiate the Replacement of the SCBA's
- Item 9 Accept Part-time Employee as a Member of the Public Employees Policy and Fire Plan (See Resolution R069-22)
- Item 10 Approve Contribution to the Andover Firefighters' Relief Association Pension

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

#### ***ANOKA COUNTY SHERIFF'S OFFICE MONTHLY REPORT***

Commander Paul Lenzmeier provided a monthly report including 1,146 calls for service. He reviewed the nine burglary calls received year to date and reminded homeowners to secure their garage doors. He reported 252 year to date thefts, noting the majority take place at retail stores such as Walmart. He also provided details on driving citations with a focus on speed and distracted drivers. He reported the seven-week citizen academy starts the following day and provided an update on staffing.

Mayor Bukkila referenced the Walmart theft cases and asked if there are repeat offenders.

City Attorney Baumgartner replied he does not track repeat offenders as much. He stated when they implemented the arrest versus citation process, that helps to deter that behavior. He stated they try to make it as inconvenient as possible. He stated there is an uptick in theft across the board and does not believe it is unique to Andover, but they will continue to make it as inconvenient as possible.

#### ***HOLD PUBLIC HEARING/2023-2027 CAPITAL IMPROVEMENT PLAN (CIP)***

The City Council is requested to hold a Public Hearing to give the public the opportunity to comment on the proposed 2023-2027 Capital Improvement Plan (CIP). City Administrator Dickinson stated the 2023-2027 Capital Improvement Plan (CIP) summarizes many hours of meetings and planning. He provided an overview of the CIP, the projects within, and potential funding sources.

**Motion** by Barthel, Seconded by Nelson, to open the public hearing at 7:14 p.m. Motion carried unanimously.

No comments made.

**Motion** by Holthus, Seconded by Butler, to close the public hearing at 7:15 p.m. Motion carried unanimously.

Councilmember Holthus thanked staff for the hours they have put into developing this document.

Mr. Dickinson stated this document is shared with other entities and that information is used to potentially coordinate on future projects.

**Motion** by Butler, Seconded by Nelson, to adopt Resolution No. R070-22 Adopting the City of Andover 2023-2027 Capital Improvement Plan.

Further discussion: Mayor Bukkila commented there has been a degrade in the roads over the past several years and this is an attempt to respond to that problem. She stated they attempted to pace out those repairs and prioritize the worst areas in the community. She asked residents to be patient as they attempt to address the problem over the next several years.

Motion carried unanimously.

***CONSIDER APPEAL OF DECISION OF ARCHITECTURAL DESIGN CONTROL – 1695  
148<sup>TH</sup> AVE. NW***

The City Council is requested to consider the appeal of the decision of architectural design control made by the Andover Review Committee (ARC) and decide if the use of standing seam metal roofing is consistent with Code requirements. Community Development Director Janish referenced Code language related to roofing materials and explained the City received a building permit application to re-roof the dwelling at 1695-148<sup>th</sup> Avenue NW with standing seam metal roofing. After review by the Building Official and ARC, a determination was made that the proposed roofing material was not a shingle or tile and, therefore, was inconsistent with Code requirements.

Councilmember Butler asked for background information on why this type of roof is not currently allowed.

Mr. Janish replied the City Code was adopted in the 1970s and only allowed shingles and tiles.

Mayor Bukkila commented the Council recently revisited this topic related to steel sided structures in the rural areas, noting that changes were then made to the Code to make it work better for homeowners and allowed them to work with products that are now available. She stated as new products become available in the retail market, the City needs to examine them to determine if they are suitable for residential properties.

Councilmember Holthus agreed this would not be shingles or tiles. She stated if metal roofing were to be allowed, the City Code would need to be changed to allow that.

City Administrator Dickinson stated to do so would be a Zoning Code change and therefore would require a public hearing at the Planning and Zoning Commission before it would be considered by the City Council.

Mayor Bukkila stated it only takes one person to ask. She stated she does not have an issue reviewing this for a potential Code amendment but could not make that decision right now. She stated typically the applicant would bring enough information to support the change but felt that was lacking in this case. She noted the only argument was that the product is available for residential use. She stated there are many items that are available on the retail market which are not allowed.

Councilmember Holthus proposed to discuss this topic at a workshop, perhaps reviewing what is allowed in other communities as well.

Mayor Bukkila stated she would like information on the impact to insurance, fire suppression, advantages, and disadvantages. She stated she went to Menards today and noticed 40-year warranties on the paint, but that does not prevent fading or peeling.

Councilmember Nelson stated in looking at the application it would appear the current home has asphalt shingles with solar panels attached. He asked how the solar panels would be attached to a metal roof.

Robert Niemann, 1695 – 148<sup>th</sup> Avenue NW, applicant, replied the solar panels would be clamped on to the standing seams rather than putting protrusions through the roof. He stated the ridge caps would act as ventilation and therefore they would not need dormer caps. He stated there are products that can be applied if the roofing color fades, noting that he is a painter. He stated his insurance company was excited about the change in roof material as they would not need to cover aesthetic improvements as hail would not compromise the integrity of the roof. He stated the proposed material also has a higher fire rating than asphalt shingles.

Mayor Bukkila commented on the length of this process to further review the material and potential Code amendment.

Mr. Niemann stated he is at the mercy of the Council and City because without a variance he would not be allowed to use his requested material.

Councilmember Barthel stated he is aware of the benefits of a metal roof, and he believes it could be the way of the future, he would support review of the Code.

Mr. Dickinson stated this topic would need to go through the Planning and Zoning Commission and asked if it would be desired as a Council initiative. He explained if they followed that process, staff would complete the research and present that to the Planning and Zoning Commission, which would allow the process to move more quickly than an applicant driven process.

Mayor Bukkila agreed that would be a preferred process. She also believed this would be the proper path so that if there were a change, it would benefit the entire community rather than just one resident.

City Attorney Baumgartner asked if there is any review deadline for the appeal that the Council must vote on, and if so, would the applicant be willing to waive those time requirements.

Mr. Janish replied the Code does not provide a specific timeline for that review. He stated the Council has responded that they are willing to review the Code to determine if the material could be added, but at this time the Council is agreeing with the comments of staff and ARC that the material is not currently allowed under Code.

Mr. Baumgartner asked that the applicant acknowledge that they are waiving any time requirements that may apply as the matter is being further researched as desired. He noted the item is on the agenda and therefore action should be taken, noting that the item could be tabled until the decision on the Code is reviewed. He confirmed the Council could also choose to uphold the decision of ARC and continue on the process to potentially amend the Code.

Mr. Dickinson stated he would prefer that the Council uphold the decision of ARC and direct review of the Code as a Council initiative.

Mayor Bukkila asked the applicant for additional input on his preference.

Mr. Niemann stated both actions seem to end in the same place and therefore he does not have a preference. He noted his roof will last until spring and therefore is open to the process.

Councilmember Barthel noted varying degree of colors available for steel but noted that shingles also come in multiple colors.

Mayor Bukkila stated they make paint for any type of surface as well.

**Motion** by Butler, Seconded by Nelson, to deny the appeal and uphold the Andover Review Committee's decision on architectural design control that the use of standing seam metal roofing is not consistent with Code requirements and request that staff begin the process of Code review related to roofing materials. Motion carried unanimously.

***DISCUSS GRANT APPROVAL/22-19/DALSKE WOODLANDS PRESERVE PEDESTRIAN CROSSING***

The City Council is requested to discuss grant approval for the Dalske Woodlands Preserve Pedestrian Crossing Grant. Natural Resources Technician Kytonen explained the City applied for a grant under the DNR Outdoor Recreation Grant Program for installation of a boardwalk and Class V ADA accessible trail in Dalske Woodlands Preserve. The DNR notified the City it was awarded the \$73,750 grant contingent on a Phase 1 Archaeological Survey as requested by the State Historic Preservation Office (SHPO). He reported the survey was complete, and no

archaeological findings were reported, therefore the City could move forward if it accepts the grant. He explained the grant would be a 50/50 cost-share by the City, noting the City's portion could be provided through City Capital Project funds or in-kind services/work provided by the City. He stated the Nature Preserve Commission reviewed the grant and recommended denial because of the project dollar amount and because it did not feel the scale of the boardwalk would fit within the preserve.

Nature Preserve Commission Vice Chair Ingebritson commended Mr. Kytonen for the work and time he spent on this process. He noted the Nature Preserve Commission crossed the ditch area during the dryer conditions to determine if it would be worth getting across in order to explore the other side. He stated the Commission believed that there is value in gaining access to the other side of the preserve, but they did not want the project to be spooled out of control in terms of price and scale of the project. He noted Dalske Woodlands Preserve is the least used and smallest preserve. He noted a small Minnesota community that became infamous for building an overpriced pier on a small lake because of grant/stimulus funds received. He stated the Commission researched alternate options for a floating boardwalk and hoped to use that style for a crossing, noting the cost would range from \$50,000 to \$75,000. He noted the boardwalk style proposed would have a cost of about \$150,000. He noted the Commission would like the preserves to stay as natural as possible and the scale of this boardwalk would have a huge impact on the preserve, as compared to a floating style crossing. He acknowledged that work has been put into this process and funds have been awarded, but the Commission did not feel that this cost and scale of crossing should be approved.

Mayor Bukkila stated it is not often that a Commission completes due diligence and then pulls back an award. She applauded the Commission for taking the time to review the request and determine if it would be appropriate. She stated although they do desire to have a connection, they are limited in what they can do because of the limitations and regulations placed upon them by other entities because of the ditch.

Commissioner Ingebritson stated the vote of the Commission to reject the grant was based upon this scale and cost of the crossing. He stated if the Council would be willing to revisit a scaled down version of the crossing, the Commission would support that.

Mayor Bukkila commented that she did receive a phone call from Nature Preserve Chair Kovich about this topic as he was not able to attend. She stated he mentioned that people are able to cross in dryer conditions or with proper footwear (such as boots), and therefore this did not seem to be a good use of dollars for the use it would receive. She stated if the Commission can bring forward other ideas or solutions, they could continue to explore those down the road.

Councilmember Holthus commented she visits Dalske quite often and therefore has run the trails and has snowshoed as well. She stated in other communities there are wooden bridges to get over swampy areas and wondered if that type of crossing could be used. She noted the bridges on the spirit trails are built by volunteers and asked if that would be an option. She stated building a bridge of this nature in this preserve would not only be expensive but would be detrimental to that environment.

Councilmember Barthel reiterated this is not a failure and did not believe the matter is off the table just because this option does not work. He acknowledged the hard work of the Commission and their ability to review this offer and reject it because it does not fit. Councilmember Bulter asked the timeframe the City has to accept or reject the grant funds.

Mr. Kytonen was unsure of the timeframe for acceptance of the grant funds. He noted the project would need to be completed by June 2024 if the funds were accepted. He confirmed they would not be able to significantly change the project design and still remain eligible for the funds.

City Administrator Dickinson reiterated the City does not have control over the ditch and therefore has to meet the requirements from other oversight entities, which is why the project had to be designed in this manner. He stated he does not want to give false hope that a different type of bridge would be allowed as this is the type of bridge that would be required to meet the requirements of the other entities involved.

Mayor Bukkila commented there is a responsibility to see this as a not now venture, whether that is based on the design or timing, and reject the grant funds so that they may become eligible for another project.

Councilmember Holthus commented this is a beautiful area because of the adjacent natural area that also has trails.

Councilmember Nelson thanked the Commission and Mr. Kytonen for the work it took to apply for the grant. He noted his greatest concern is that every resident should have full access to the preserves. He asked for more information on the potential fund that the City could use for its portion of the funding.

Mr. Dickinson provided additional details on the capital equipment reserve fund.

Councilmember Nelson commented there is a creative way to fund the project.

***Motion*** by Holthus, Seconded by Barthel, to deny or reject the grant for Dalske Woodlands Preserve. Motion carried unanimously.

Councilmember Holthus commented she believes that class five material would ruin the character of the area.

Mr. Kytonen stated that was a requirement of the grant, to have ADA compliance, therefore if the grant is not accepted the gravel will not be required.

***DISCUSS/CONSIDER CANNABINOID PRODUCTS REGULATORY ORDINANCE***

The City Council is requested to receive a presentation from the City Attorney and City

Administrator regarding a proposed Cannabinoid Products Regulatory Ordinance. City Administrator Dickinson stated the information presented is based on the previous workshop discussions.

City Attorney Baumgartner presented the draft version of the ordinance which is based on the previous input of the Council in workshop discussion. He provided background information on the State law that was passed which falls short in regulation which means that falls to cities. He stated he attempts to make ordinances more restrictive as it is easier to pull back in the future if desired, than it would be to make it stronger. He reviewed the previous questions of the Council and explained how those were addressed through the draft ordinance as well as the enforcement measures that were included.

Mayor Bukkila stated she would like to see “commercial” added to daycare to make that clear to the reader. She also explained why the City felt that these measures would be necessary, even though not specified by the State. She clarified the enforcement portion and penalties that would be attached.

Mr. Baumgartner stated he is a firm believer that there must be a method for enforcement, even though the State pushed this through without the proper regulations. He stated the City is responsible to its residents, whether or not this is eventually addressed by the State.

Mayor Bukkila acknowledged that things are missed when packaged together in a huge bill that is not fully being read, and therefore this creates a situation of reaction rather than proactive action.

Councilmember Barthel referenced the map provided and noted there are churches on the map without a buffer zone, although that was included in the language.

Mayor Bukkila clarified that churches themselves were excluded but churches with a childcare center were provided a buffer. She asked for clarification from the Council.

Councilmember Nelson agreed the intent was only to preclude the churches if there was a daycare being operated.

Councilmember Holthus stated she could understand that there are groups of children meeting at a church a few days per week, but did not think the intention was to include churches in the buffer.

Councilmember Barthel stated although he wanted churches included in the buffer zone, he recalls that the consensus at the workshop was not to include churches, therefore the map would be correct and Section K would need to be corrected.

Councilmember Butler noted churches are most often found in residential zoning and the clarification was made that the buffer would apply to commercial daycare operations. He asked if a daycare operating on the site of a church would be a commercial daycare.

Mr. Baumgartner replied there would be a difference between a church operating in a church versus inside of a home. He stated he would consider it to be a commercial daycare.

Mr. Dickinson stated park would also need to be stricken from K1.

Mr. Baumgartner confirmed he could make those changes and the Council can still take action tonight.

Councilmember Barthel expressed concern that the buffer would not apply to parks.

Mr. Baumgartner replied with all of the parks, this would essentially not allow the sale within the city. He noted as drafted, the ordinance would only allow sales of the product to establishments which only serve those 21 and older, which would solve the issue of a child walking in.

Mayor Bukkila commented if parks were included, there could be an argument that the City is zoning this out. She commented there are kids everywhere in the city and they should be protected where they are the majority of the day outside of the home, which occurs at the schools and daycares. She stated once the kids leave the schools or daycare, it is upon the responsibility of parents to supervise their children. She noted there would also be enforcement if there is an issue. She would caution against going further than the regulations against alcohol and tobacco sales.

Councilmember Barthel stated he would be willing to exclude parks, as after review of the map there are limited areas where commercial opportunity would exist next to a park.

Mr. Baumgartner stated the true value of the licensure is a mechanism the City can put in place to ensure that those selling the product are responsible.

**Motion** by Holthus, Seconded by Nelson, to adopt Ordinance No. 542 Adding Title 3, Chapter 9, of the City Code Relating to and Regulating Cannabinoid Products in the City of Andover with the noted changes as stated by the City Attorney. Motion carried unanimously.

**Motion** by Butler, Seconded by Barthel, to authorize summary publication of Ordinance No. 542 Adding Title 3, Chapter 9, of the City Code Relating to and Regulating Cannabinoid Products in the City of Andover. 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 highlighted upcoming items the Council and staff will discuss in workshop setting. He reported the building department has had 71 new permits and anticipate another 10 to 15 permits before the end of the year. He also provided an update

on ongoing development projects and highlighted upcoming meetings that he will attend.

***(Community Development Department Report)*** Mr. Janish reported the department continues to work on code enforcement and review of commercial site plans. He stated they continue to meet with developers to discuss potential development concepts.

***(Public Works/Engineering Department Report)*** Mr. Berkowitz provided an update on road improvement projects and other development project progress. He stated staff is working on easement agreements for the Crosstown trail and preparation for 2023 projects. He provided additional explanation on the plan for pavement management. He provided an update on the City Hall parking lot project, noting that anticipated completion is mid-October.

Councilmember Nelson commented residents should be aware that access is only provided through the Community Center and is no longer available from Crosstown Boulevard.

#### ***MAYOR/COUNCIL INPUT***

Councilmember Nelson commented the Anoka County Sheriff Department open house event was awesome and well attended. He noted the Andover Fire Department open house was also a great event.

#### ***ADJOURNMENT***

***Motion*** by Holthus, Seconded by Barthel, to adjourn. Motion carried unanimously. The meeting adjourned at 8:31 p.m.

Respectfully submitted,

Amanda Staple, Recording Secretary

**REGULAR ANDOVER CITY COUNCIL MEETING MINUTES – SEPTEMBER 20, 2022**  
**TABLE OF CONTENTS**

PLEDGE OF ALLEGIANCE..... 1  
RESIDENT FORUM..... 1  
AGENDA APPROVAL..... 1  
APPROVAL OF MINUTES..... 1  
CONSENT ITEMS..... 1  
Item 2 Approve Payment of Claims..... 1  
Item 3 Approve Expenditures for Sanitary Sewer Trunk Cleaning & Televising Inspection..... 1  
Item 4 Declare Cost/Order Assessment Roll/22-2/2022 Street Reconstruction (R067-22)..... 1  
Item 5 Declare Cost/Order Assessment Roll/22-15, 2022 Mill & Overlay: Chesterton  
Commons Area & Fox Hollow/22-16, 2022 Mill & Overlay: Andover Boulevard NW/22-17,  
2022 Mill & Overlay: Bluebird Street NW (R068-22)..... 2  
Item 6 Receive August 2022 City Investment Reports..... 2  
Item 7 Receive August 2022 General Fund Progress Report..... 2  
Item 8 Initiate the Replacement of the SCBA’s..... 2  
Item 9 Accept Part-time Employee as a Member of the Public Employees Policy and Fire Plan  
(R069-22)..... 2  
Item 10 Approve Contribution to the Andover Firefighters’ Relief Association Pension..... 2  
ANOKA COUNTY SHERIFF’S OFFICE MONTHLY REPORT..... 2  
HOLD PUBLIC HEARING/2023-2027 CAPITAL IMPROVEMENT PLAN (CIP) (R070-22).. 2  
CONSIDER APPEAL OF DECISION OF ARCHITECTURAL DESIGN CONTROL – 1695  
148<sup>TH</sup> AVE. NW..... 3  
DISCUSS GRANT APPROVAL/22-19/DALSKE WOODLANDS PRESERVE PEDESTRIAN  
CROSSING..... 5  
DISCUSS/CONSIDER CANNABINOID PRODUCTS REGULATORY ORDINANCE (Ord.  
542)..... 7  
ADMINISTRATOR’S REPORT..... 9  
(Administrative Staff Report)..... 9  
(Community Development Department Report)..... 9  
(Public Works/Engineering Department Report)..... 9  
MAYOR/COUNCIL INPUT..... 10  
ADJOURNMENT..... 10