

***REGULAR ANDOVER CITY COUNCIL MEETING – SEPTEMBER 21, 2021
MINUTES***

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Sheri Bukkila, September 21, 2021, 7:08 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
City Attorney, Scott Baumgartner
Others

PLEDGE OF ALLEGIANCE

RESIDENT FORUM

Thorin Ott, 14021 Nightingale Street, came forward and asked if there were any updates for the residents on the contamination of wells in the Red Oaks area.

Dean Hildebrandt, 13839 Nightingale Street, came forward and asked what the process or procedure was for addressing the well contamination. He stated he is confused.

Merle Prochniak, 2941 141st Avenue, came forward and said there needs to be more transparency with the well contamination investigation. He stated the topic should have been on the front page of the newsletter. Mr. Prochniak said there should be better communication and more tools used to tell the public, such as the reader board.

City Administrator Dickinson said the MPCA is the state agency investigating the private well contamination. They want to determine the responsible party. He stated the MPCA was not very successful in reaching residents for securing permission to test wells, even when they went door to door. Mr. Dickinson indicated the City sent letters out to the affected area asking them to get their well tested. Mr. Dickinson said one of the solutions is extending City water to these residents. He stated the City has a grant agreement from the State to study bringing City water to the area. Mr. Dickinson stated the City is hosting a meeting on September 30, 2021 and is asking the MPCA to attend. The City will have an in person and virtual option. The City has secured a proposal from an engineering firm to put a feasibility study together in early

September. Mr. Dickinson explained the City received grant confirmation on September 21, 2021.

Mayor Bukkila stated information is slow at trickling in. She stated getting information out is difficult until they know the source and who is affected. Mayor Bukkila noted there are 40 homes with contamination identified as of today. Tests are still being conducted and she encourages people to test their wells through the State. Mr. Dickinson stated the State is conducting a test on 3 different contaminants to determine the source of the contamination, 1,4 Dioxane, PFAS and VOC.

Mayor Bukkila stated the MPCA routinely conducts random well tests. She explained the City did not know it was a problem until the MPCA conducted the test and informed residents. Mr. Dickinson confirmed that letters are going to homes in the problem area or in close proximity to participate in the City's meeting.

Councilmember Holthus asked if the meeting could be recorded and posted on the City's website. Mr. Dickinson stated the MPCA plans on recording and rerunning it on their website. The State is using a different platform than what the City uses. Mayor Bukkila said people can google "MPCA Andover MN" and the link will pop up to direct people to the proper website with contact information. Mr. Dickinson said the MPCA is going through a phased approach to testing. Mayor Bukkila explained the color coding of the project: hot pink indicates wells with contaminants above the limit; orange indicates wells with traces but below the limit; and blue indicates wells that have no contaminant detected. She stated properties that are black and white are ones that have declined testing or have not responded.

Mayor Bukkila stated a member of the audience asked when the City would anticipate getting City water to this area. Mr. Dickinson stated the best-case scenario is summer 2022, the City is pushing for the necessary study and analysis to accomplish that.

AGENDA APPROVAL

City Administrator Dickinson requested the addition of Item #8: Appointment of Planning and Zoning Commission Member.

Motion by Holthus, Seconded by Barthel, to approve the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

September 7, 2021 Regular Meeting

Motion by Barthel, Seconded by Nelson, to approve the September 7, 2021 Regular Meeting minutes as presented. Motion carried unanimously.

CONSENT ITEMS

- Item 2 Approve Payment of Claims
- Item 3 Receive August 2021 City Investment Reports
- Item 4 Receive August 2021 General Fund Budget Progress Report
- Item 5 Approve Declaration of Easement Encroachment/32-144th Ave. NW
- Item 6 Declare Cost/Order Assessment Roll/21-17/2021 Mill & Overlay/SE Corner of City
(See Resolution R068-21)
- Item 7 Accept Member Award for Community Forestry Corps
- Item 8 Appointment of Planning and Zoning Commissioner

Motion by Butler, Seconded by Barthel, to approve the Consent Agenda as read. Motion carried unanimously.

ANOKA COUNTY SHERIFF’S OFFICE MONTHLY REPORT

Commander Lenzmeier provided a monthly report for August 2021, reporting 1,160 calls for service including 22 thefts and 1 burglary. Commander Lenzmeier stated there was not a direct pattern with the thefts. He stated there were 1 felony arrest, 4 misdemeanor arrests, 2 domestic assault arrests, and 3 DWIs. He stated Deputies made 203 traffic stops issuing 42 citations. Commander Lenzmeier explained they are being proactive and being present in problem traffic areas.

CONSIDER CITY CODE AMENDMENT – TITLE 12: ZONING REGULATIONS, CHAPTER 2: RULES AND DEFINITIONS AND CHAPTER 12: RESIDENTIAL PERMITTED, PERMITTED ACCESSORY, CONDITIONAL, INTERIM AND PROHIBITED USES AND SUMMARY ORDINANCE FOR PUBLICATION — CITY CODE REQUIREMENTS FOR KEEPING OF ROOSTERS ON RESIDENTIAL PROPERTIES

The City Council is requested to consider the recommendation of the Planning & Zoning Commission and decide on a proposed Code Amendment regarding roosters. Community Development Director Janish explained the City has received an increase in the number of complaints related to roosters on smaller rural lots. He said existing City Code does not address roosters nor does the noise ordinance. Mr. Janish displayed a map of parcels in the rural area with less than 2.5 acres. He presented existing City Code for poultry and stated staff have been grouping roosters with poultry. Mr. Janish polled neighboring cities and stated most cities prohibit roosters. He said the amendment defines roosters as a male chicken and Code would allow a rooster in the rural area if the parcel were greater than 3 acres. Mr. Janish stated the amendment would apply to new roosters and existing roosters would be grandfathered in according to State Statute for legal nonconformities.

Mr. Janish stated the Planning and Zoning Commission held a public hearing and two residents spoke. He stated the residents were concerned with the noise of existing roosters. The Planning and Zoning Commission recommended denial of the amendment because they felt the noise

issue needed to be addressed through the nuisance ordinance. Mr. Janish explained the ordinance amendment would stop the addition of new roosters on properties less than 3 acres and staff will continue to work with the City Attorney on addressing the noise concern of existing roosters. Councilmember Holthus asked if an existing rooster can be replaced with a new rooster. Mr. Janish stated yes, according to State Statute on legal nonconformities.

Mayor Bukkila explained the Planning and Zoning Commission said the amendment does not solve the problem and does not change anything that is happening today. She asked if the issue is the rooster or the noise they make. Mayor Bukkila stated the City does not regulate the number of chickens a property can have, but by limiting roosters, the City, in turn, limits the number of chickens. Councilmember Holthus explained people can purchase additional hens without using a rooster for breeding.

Councilmember Butler stated he agrees with eliminating roosters on smaller lots. He asked how many complaints the City has received about roosters. Mr. Janish stated there have been around a dozen from within the City and other complaints from properties neighboring the City.

Councilmember Butler asked why staff selected 3-acre properties and not 2.5 acres. Mr. Janish stated most complaints are coming from lots that are 2.5 acres or less. Councilmember Butler asked if there could be an expiration date on the Grandfather Clause. Mayor Bukkila stated any situation that was legal prior to the Code change is grandfathered in for perpetuity based on State Statute unless the property refrains from having a rooster for more than a year.

Councilmember Holthus believes if roosters are regulated, the problem will go away after so many years.

Mayor Bukkila stated she does not see an issue with rural properties of 5 acres and above having roosters.

Councilmember Barthel stated he sees this as a noise issue, not a property size issue. He believes it should be addressed in the noise ordinance.

City Attorney Baumgartner said the issue brings forward a dual track of land use and noise ordinance which cannot be handled in one action. He stated the amendment will limit the number of future issues by limiting the area where a rooster can be housed. Mr. Baumgartner said the nuisance code will address the noise issue. He stated both are important in dealing with the issue.

Councilmember Butler is concerned 3 acres is not a large enough minimum. He would prefer to see a 5-acre minimum. Councilmember Barthel would also like to see the minimum lot size larger and wants to address the noise ordinance as well.

Mayor Bukkila asked if the City is going to develop a rooster tracking system to assist the Sheriff with enforcement. Mr. Baumgartner said the best ally in enforcement is the neighbors.

He said people are good at recording and documenting. Mr. Baumgartner said this is similar to other code enforcement issues and are initiated by resident complaints.

Councilmember Barthel asked if noise was the reason some neighboring rural communities prohibited roosters. Mr. Janish said it was his understanding that noise was the mitigating factor in developing the ordinance to prohibit roosters.

Mr. Dickinson stated complaints will increase when people have their windows open. He said it is difficult to enforce the current noise ordinance with roosters. Mr. Dickinson stated the City is taking a two-prong approach: limiting the areas where roosters can live, and then amending the noise ordinance to include roosters. Mr. Baumgartner stated the Code amendment helps limit the rooster nuisance and does not allow it to grow.

Motion by Barthel, Seconded by Nelson, to adopt Ordinance No. 524 to amend City Code, Title 12, Chapter 2 and Chapter 12 as proposed by staff with the exception of setting the minimum lot size to 5 acres and above.

Mayor Bukkila questioned at which point is the lot large enough to house a rooster. Councilmember Butler said he does not believe 3 acres is large enough and 5 acres is big enough for a hobby farm and is considered more rural.

Mayor Bukkila asked how large a lot needed to be for a horse. Mr. Janish stated he believes it is an acre if the lot can accommodate it. He stated farm animals are allowed at 5 acres.

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.

(Administration) – Mr. Dickinson updated the Council on meetings he has attended. He has participated in development and commercial activities. He is spending a significant amount of time on the private well contamination issue. He reminded Council of the workshop meeting on September 28th. Mr. Dickinson stated the AMI project will begin installation the week of September 27th. He said the end date of the project will likely need to be extended due to the delay in delivery of radios. Mr. Dickinson announced there are 91 new homes and they expect a surge before the end of year. He stated Subway is not renewing their contract in the Community Center and staff will be looking at other options.

(Community Development) – Mr. Janish updated the Council on development projects.

Councilmember Holthus asked if the City was having issues getting building inspections completed on time. Mr. Janish said there have not been any issues.

MAYOR/COUNCIL INPUT

ADJOURNMENT

Motion by Barthel, Seconded by Nelson, to adjourn. Motion carried unanimously. The meeting adjourned at 8:18 p.m.

Respectfully submitted,

Shari Kunza, Recording Secretary
TimeSaver OffSite Secretarial, Inc.

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