

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

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

Councilmembers present: Valerie Holthus and Jamie Barthel

Councilmembers absent: Ted Butler and Randy Nelson

Also present: Public Works Director/City, Engineer David Berkowitz
Community Development Director, Joe Janish
Finance Manager, Lee Brezinka
City Attorney, Scott Baumgartner
Others

PLEDGE OF ALLEGIANCE

RESIDENT FORUM

No one appeared before the Council.

AGENDA APPROVAL

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

APPROVAL OF MINUTES

September 28, 2021 Workshop Meeting

October 5, 2021 Regular Meeting

October 5, 2021 Closed Meeting

Motion by Barthel, Seconded by Holthus, to approve the September 28, 2021 Workshop Meeting, October 5, 2021 Regular Meeting, and October 5, 2021 Closed Meeting minutes as presented. Motion carried unanimously.

CONSENT ITEMS

- Item 2 Approve Payment of Claims
- Item 3 Approve Declaration of Easement Encroachment/4453 – 167th Avenue NW
- Item 4 Accept Outdoor Heritage Fund Grant for Restoration Activities/Strootman Park and Timber Rivers Park
- Item 5 Order Feasibility Report/22-2/2022 Street Reconstruction (See Resolution R072-21)
- Item 6 Approve Application for Exempt Permit
- Item 7 Approve Therapeutic Massage Therapist License
- Item 8 Approve Collective Bargaining Agreement/Public Works

Motion by Holthus, 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 September 2021, reporting 1,137 calls for service including 28 thefts and 1 burglary. Commander Lenzmeier stated Andover averaged just over 1,100 calls per month over the summer. Commander Lenzmeier detailed several significant events, including a domestic assault and a fatal vehicle crash related to road rage. He stated Minnesota is on pace to set a record for motor vehicle fatalities. Mayor Bukkila commented on driving habits and encouraged residents to reduce distractions and focus on driving.

HOLD PUBLIC HEARING/2022-2026 CAPITAL IMPROVEMENT PLAN (CIP)

The City Council is requested to hold a public hearing on the proposed 2022–2026 Capital Improvement Plan. Finance Manager Brezinka presented the CIP and stated 60% is allocated to street improvements. Mr. Brezinka highlighted other large projects, such as City park parking lots and equipment.

Councilmember Holthus explained the Council has held many meetings to develop the CIP and thanked staff for their work.

Mayor Bukkila stated the CIP is a 190-page document and the Council spent many hours discussing and developing it. She said it was well thought out and well planned.

Motion by Holthus, Seconded by Barthel, to open the public hearing at 7:15 p.m. Motion carried unanimously.

No one appeared before the Council.

Motion by Holthus, Seconded by Barthel, to close the public hearing at 7:16 p.m. Motion carried unanimously.

Motion by Holthus, Seconded by Barthel, to adopt Resolution No. R073-21 adopting the 2022-2026 Capital Improvement Plan as presented. Motion carried unanimously.

CALL FOR THE SALE OF BONDS AND CALL FOR A PUBLIC HEARING ON THE PROPOSAL TO ADOPT A STREET RECONSTRUCTION PLAN WITH THE INTENTION TO ISSUE GENERAL OBLIGATION STREET RECONSTRUCTION PLAN BONDS

The City Council is requested to consider the sale of street reconstruction and equipment bonds and call for a public hearing. Manager Director Brezinka stated there are two resolutions with the item and introduced Todd Hagen with Ehlers to present the Pre-Sale Report.

Mr. Hagen stated the street reconstruction bonds are \$7.2 million and the remaining funds are for equipment. He explained the bonds are being issued for an 8-year term. Mr. Hagen presented the debt issuance schedule.

Motion by Holthus, Seconded by Barthel, to adopt Resolution No. R074-21 providing for the sale of \$7,960,000 General Obligation Street Reconstruction and Equipment Bonds, Series 2021A.

Mayor Bukkila asked Public Works Director/City Engineer Berkowitz to explain why the City is using the bond option to invest in the road program. Mr. Berkowitz stated street infrastructure is important to the City. He explained the City has an aggressive overlay program to extend the life of the streets. Mr. Berkowitz stated bonding is needed to pay for the program.

Mayor Bukkila stated the Council had the option of raising taxes or bonding to pay for the roads. She stated if the Council raised taxes, they would not have the upfront funds to pay for the program and the funds are not needed for the long term. Mayor Bukkila noted that Andover has a significant number of roads in poor condition that need reconstruction. Mr. Berkowitz stated the City had a lot of development in the 1990s and those roads are in need repair.

Mayor Bukkila asked Mr. Brezinka when the bonds will be paid off for the street program and the Community Center. Mr. Brezinka stated the street bond will be paid prior to the Community Center. He stated the City is planning to use the debt levy to add to the street levy at that time to help fund the road program.

Motion carried unanimously.

Motion by Holthus, Seconded by Barthel, to adopt Resolution No. R075-21 calling for a public hearing on November 3, 2021 on the intent to issue General Obligation Street Reconstruction Plan Bonds and proposal to adopt a street reconstruction plan. Motion carried unanimously.

HOLD PUBLIC HEARING: VACATION OF EASEMENT – MEADOWS AT NIGHTINGALE – PID# 22-32-24-31-0019

The City Council is requested to hold a public hearing and consider the vacation of easement for the Meadows at Nightingale. Community Development Director Janish explained the City typically vacates the easements prior to adoption of the final plat.

Motion by Holthus, Seconded by Barthel, to open the public hearing at 7:30 p.m. Motion carried unanimously.

No one appeared before the Council.

Motion by Holthus, Seconded by Barthel, to close the public hearing at 7:31 p.m. Motion carried unanimously.

Motion by Barthel, Seconded by Holthus, to adopt Resolution No. R076-21 vacating all drainage and utility easements over, under, and across PIN# 22-32-24-31-0019. Motion carried unanimously.

APPROVE FINAL PLAT – MEADOWS AT NIGHTINGALE

The City Council is requested to consider approval of the final plat for the Meadows at Nightingale. Community Development Director Janish stated final plats are typically on the Consent Agenda, however, the item needed approval after the easements were vacated. Mr. Janish said the develop has 20 single-family lots and is consistent with the preliminary plat with a minor change to a utility location.

Councilmember Barthel asked if the driveway for lot 20 is on 151st Lane or Nightingale Street. Mr. Janish stated the driveway is on 151st Lane. Councilmember Barthel asked where the driveways were for lots 2 and 19. Mr. Janish stated lots 2 and 19 are on Partridge Street and lots 1 and 20 are on 151st Lane.

Councilmember Holthus asked if the trees on the west side of the development will stay. Public Works Director/City Engineer Berkowitz stated the site has been graded and some trees were preserved on the far west side, but others were removed to expand the pond.

Motion by Holthus, Seconded by Barthel, to adopt Resolution No. R077-21 approving the final plat with conditions listed for the Meadows at Nightingale, PID# 22-32-24-31-0019. Motion carried unanimously.

CONSIDER CITY CODE AMENDMENT – TITLE 5: POLICE REGULATIONS, CHAPTER 1E: CARE OF ANIMALS AND SUMMARY ORDINANCE FOR PUBLICATION – CITY CODE REQUIREMENTS FOR NUISANCE ANIMAL NOISE

The City Council is requested to consider amendments to the City Code for nuisance animal noise. Community Development Director Janish stated the Council amended City Code on September 21, 2021 to prohibit roosters on residential properties less than 5 acres. He explained the Council directed staff to bring forth a separate amendment to City Code that addresses noise concerns with existing roosters. Mr. Janish stated Option 1 provides for specific language for repeated animal noise and Option 2 provides for general language regarding animal noise. He

explained the benefits and challenges of each option as written in the staff report. Mr. Janish noted staff worked with the City Attorney to create these options.

Councilmember Barthel stated he is leaning towards Option 1 as it is less subjective and easier to enforce.

Councilmember Holthus stated she prefers Option 2 because it is more flexible. She sees Option 1 as too detailed and specific.

Mayor Bukkila asked the City Attorney to discuss how the ordinance is intended to be enforced; documented by the complainant or documented by a Deputy. City Attorney Baumgartner stated the City enforces ordinances based on complaints from residents. He said the benefit of Option 2 is there is no specific time period, and the Deputy does not have to observe the property for 30 minutes. Mr. Baumgartner noted that Option 2 may be easier to enforce. He agrees it is subjective, but it will be observed by a Deputy who can testify in court.

Mayor Bukkila stated there is a problem of proving ownership of the animal and determining if it is a wild animal or a domestic animal. Mr. Baumgartner stated Option 2 designates the keeping of an animal and the ordinance would not apply to a wild animal.

Councilmember Barthel asked who decides what “frequent or long” means. Mr. Baumgartner stated a commonsense approach should be taken and if a case is brought forth, the complainant and Deputy can testify, and a jury or judge can decide. He noted that Anoka County Deputies use common sense and will take discretion in enforcing the ordinance.

Mayor Bukkila stated her concern is the complainant will request the person get a ticket. Mr. Baumgartner noted there are some residents who are not very tolerant and will be annoyed by things other people are not. He said there is a civil remedy the resident can take if they feel the Deputies and City are not taking the appropriate action.

Mayor Bukkila said she is not seeing a separation for permitted properties and unpermitted. Mr. Baumgartner stated dogs are permitted but they are not permitted to be a nuisance. He noted the Council designated property where roosters can be housed and just because they are permitted does not mean they can be a nuisance.

Councilmember Barthel asked about how the land is classified and what happens if there is a nuisance on a property that is not zoned residential. Mr. Baumgartner stated common sense needs to come into play. If a person buys a house near a farm, there is an expectation that they are aware there will be animals. He said there is no perfect language, all the Council can do is provide tools for law enforcement.

Mayor Bukkila said there are three options: Option 1 with specific language; Option 2 with a reasonableness factor; and Option 3 to change nothing. She said having a deputy sit outside a home for 30 minutes is impractical. She leans toward Option 2 with flexibility for it to be more

specific on the type of animal. Mr. Baumgartner said the ordinance can be amended in the future as the City learns how it works and how the City changes.

Councilmember Barthel asked if Option 2 is adopted, does it change the criteria for a barking dog. Mayor Bukkila responded it is across the board and applies to all animals.

Mr. Baumgartner stated there are many factors and scenarios and the ordinance cannot cover each and every one. He explained the language is intended to allow deputies to do their job in egregious situations yet know they will be mindful and use common sense.

Motion by Barthel, Seconded by Holthus, to adopt Ordinance No. 525 amending City Code Title 5: Police Regulations, Chapter 1: Animal Control, Article E: Care of Animals with the language of Option 2.

Mayor Bukkila asked staff to inform the Council if the ordinance takes up too much staff time and if it is operating as the Council has intended.

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.

(Community Development) – Mr. Janish updated the Council on code enforcement and development projects. The City received a site plan for a multi-family building and staff will begin the review process. Staff is working on aligning City Code with the Comprehensive Plan.

(Public Works) – Mr. Berkowitz stated there are 100 new homes this year, adding to the City's lot inventory. He stated 2022 will be an active construction season. Residents can pick up stakes to mark their curbs at City Hall. Mr. Berkowitz reminded residents there is no overnight parking November 1st to April 15th from 1:00 a.m. – 6:00 a.m. and no parking at any time with 2 inches of snow or more.

Mr. Berkowitz reviewed a letter from the MPCA in response to concerns of the City Council. The MPCA has tested 129 wells for 3 contaminants. As a result, 46 homes are provided with bottled water due to contaminants. The MPCA indicated funding for water to area will be decided by the State in 2022 but the City is moving forward with feasibility and surveying. Mr. Berkowitz stated infrastructure design will be the next step with the hope that the City can begin construction when funding is available.

Mr. Berkowitz outlined the MPCA's response to the City Council's questions and requests.

1. Provide bottled water to all homes in the Red Oaks neighborhood. The MPCA said it will provide water to those above contaminant level only. They will continue to retest

homes with levels below standards. The MPCA has set the standard for contaminants at a very low level and explained the health risk level.

2. Provide a plan to conduct testing on private wells in nearby neighborhoods particularly to the north and west of the investigation area. The MPCA will expand the testing area but have not determined where.
3. Provide laboratories if people wish to have their own well tested. The MPCA provided 4 certified testing laboratories.

Mr. Berkowitz announced that Todd Haas is retiring. He noted that Mr. Haas has been instrumental in development of the City with 35 years of service. There will be an event for Mr. Haas and the Council will be invited.

MAYOR/COUNCIL INPUT

Mayor Bukkila congratulated Todd Haas on his 35 years of service.

ADJOURNMENT

Motion by Holthus, Seconded by Barthel, to adjourn. Motion carried unanimously. The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Shari Kunza, Recording Secretary
TimeSaver Off Site Secretarial, Inc.

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