

***REGULAR ANDOVER CITY COUNCIL MEETING – NOVEMBER 1, 2022
MINUTES***

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Sheri Bukkila, November 1, 2022, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

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

Councilmembers absent: None

Also present: Public Works Director/City Engineer, Dave Berkowitz
Finance Director, Lee Brezinka
City Attorney, Scott Baumgartner
Others

PLEDGE OF ALLEGIANCE

RESIDENT FORUM

No one present for open forum.

AGENDA APPROVAL

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

APPROVAL OF MINUTES

October 18, 2022 Regular Meeting Minutes

Councilmember Nelson requested a change to the minutes on page 2, line 11: remove the “s” off the word “wants”.

Motion by Nelson, Seconded by Butler, to approve the October 18, 2022 Regular Meeting minutes as amended. Motion carries 4 ayes, 1 present (Holthus).

CONSENT ITEMS

- Item 2 Approve Payment of Claims
- Item 3 Approve Dental Renewal and Employer Contribution
- Item 4 Approve Health Insurance Contract and Employer Contribution
- Item 5 Approve Appointment - Streets Maintenance Worker
- Item 6 Approve LMCIT Liability Coverage
- Item 7 Award Bid/22-44/Replacement of Dehumidification Unit (See Resolution R080-22)

Motion by Barthel, Seconded by Nelson, to approve the Consent Agenda as read. Motion carries unanimously.

HOLD PUBLIC HEARING – 2022 DELINQUENT SERVICE CHARGES

The Andover City Council is requested to approve the attached resolution adopting the assessment roll for delinquent sewer, water, storm sewer, street lighting charges, false alarm fines, tree removal, mowing fees and miscellaneous abatement fees. Finance Director Brezinka stated the total delinquent service charges were \$289,789.81 as of September 23rd when written notification to the property owners and preparation of the preliminary assessment worksheets began. Payments received prior to October 24th have been applied to the delinquent accounts, reducing the delinquent balance to \$233,645.03. Delinquent balances as of November 2nd are charged an administrative fee of 15% and will carry an 8% interest rate when certified to Anoka County for collection with the 2023 taxes. The total assessment with interest is \$287,383.39.

Motion by Barthel, Seconded by Nelson, to open the public hearing at 7:09 p.m. Motion carries unanimously.

Kevin O'Brien, 421 Constance Boulevard NW, came forward and asked why he is being assessed for delinquent fees. He stated he went to City Hall and was told the City decided to charge all residents, even those in the rural area. Mr. O'Brien said he was told the water from his property goes through his lot, to the wetland, and to a culvert. He explained he has trouble accepting this because he has sandy soil and it doesn't travel to the culvert. Mr. O'Brien asked for a better explanation.

Motion by Butler, Seconded by Nelson, to close the public hearing at 7:14 p.m. Motion carries unanimously.

Public Works Director/City Engineer Berkowitz stated the assessment Mr. O'Brien is referring to is the storm water utility fee. He explained water runs to the culvert from a wide area. Mr. Berkowitz stated the fee goes towards storm water maintenance, culvert replacement, and street sweeping. He noted that every resident is charged the same amount whether they have 14 acres or 1/3 acre.

Councilmember Butler stated all properties in the City are benefiting from storm water management. Mr. Berkowitz stated there are some properties that qualify for an exemption because it is proven that storm water does not leave their property. He stated water does leave Mr. O'Brien's property and through the county ditch and culvert.

Councilmember Holthus stated she has DNR protected wetland on her property and takes in water from all her neighbors. She believed she would be eligible for an exception, however, she lives on a city street. She asked for an exception and found the wetland flows to a larger area. Councilmember Holthus understands she needs to pay the storm water utility fee because she lives on a city street and water does not stay on her lot.

Mayor Bukkila explained the fee is separate from property taxes because property taxes are based on property values and the fee wouldn't be the same for all residents. She stated the fee is the same for all residents and originated in 2003. Mr. Berkowitz stated the fee used to be on the Connexus bill when they provided billing services, but that fee is now collected by our new billing services provider OPUS.

Motion by Butler, Seconded by Nelson, to adopt Resolution No. R081-22 adopting the assessment roll for delinquent sewer, water, storm sewer, street lighting charges, false alarm fines, tree removal, mowing fees and/or miscellaneous abatement fees. Motion carries unanimously.

HOLD PUBLIC HEARING/ADOPT ASSESSMENT ROLL/22-2/2022 STREET RECONSTRUCTION

The City Council was requested to hold a public hearing and approve the resolution adopting the assessment roll for Project 22-2, 2022 Street Reconstruction. Public Works Director/City Engineer Berkowitz identified the location of the project in the Timber River Estates and Rolling Meadows Estates developments. He explained the project details and the assessment method the City Council chose. Mr. Berkowitz stated the actual assessment is lower than the estimated assessment. Mr. Berkowitz displayed before and after photos of the project.

Mr. Berkowitz noted there is one property that can be subdivided into three lots and the property

owner requested a deferral of the assessment on the potential new lots. If the property subdivides within 15 years, they will pay the full assessment increased annually by the Engineering News Record (ENR) index. If the property subdivides after the 15th year, the cost of the assessment declines equally over the next 10 years and will be at zero in 25 years.

Mr. Berkowitz explained residents can pay within 30 days of the public hearing without interest. If the resident chooses not to pay within the month, the assessment is certified to the County and placed on next year's property taxes with interest.

Motion by Nelson, Seconded by Holthus, to open the public hearing at 7:34 p.m. Motion carries unanimously.

No one was present for the public hearing.

Motion by Holthus, Seconded by Barthel, to close the public hearing at 7:35 p.m. Motion carries unanimously.

Motion by Barthel, Seconded by Butler, to adopt Resolution No. R082-22 adopting the assessment roll for the improvement of project no. 22-2, 2022 Street Reconstruction. Motion carries unanimously.

HOLD PUBLIC HEARING/ADOPT ASSESSMENT ROLL/22-15/2022 MILL AND OVERLAY/CHESTERTON COMMONS AREA AND FOX HOLLOW AREA

The City Council was requested to hold a public hearing and approve the resolution adopting the assessment roll for Project 22-15, 2022 Mill & Overlay/Chesterton Commons area & Fox Hollow area. Public Works Director/City Engineer Berkowitz identified all the neighborhoods involved in the project. He explained the mill and overlay project is intended to extend the life of the road. Mr. Berkowitz stated the final assessment amount was lower than the estimated assessment. He displayed photos of the street before and after the project. Mr. Berkowitz stated one property has the potential for 4 potential lot splits. The property owner will be assessed for one unit and will defer the assessment on the potential new lots.

Mr. Berkowitz explained residents can pay within 30 days without interest. If the resident chooses not to pay within the month, the assessment is certified to the County and placed on next year's property taxes with interest.

Councilmember Nelson asked for clarification that the Water Trunk Fund covered the cost of the valve replacement. Mr. Berkowitz stated the Water Trunk Fund picks up the cost of the gate

valve replacement. Councilmember Nelson asked if the Water Trunk Fund should be listed in the budget impact section of the staff report. Mr. Berkowitz explained it was official when the Council approved the assessment roll.

Motion by Barthel, Seconded by Butler, to open the public hearing at 7:45 p.m. Motion carries unanimously.

Sherene Sabet, came forward on behalf of her mother, Hannah Sabet, who resides at 15452 Eagle Street. She stated the 30-day window to pay the assessment without interest seems short. Ms. Sabet stated her mother's cul-de-sac did not seem to need repair. Her mother is retired and on a limited income. She asked if there were options for people who cannot afford to pay the assessment.

Motion by Barthel, Seconded by Nelson, to close the public hearing at 7:47 p.m. Motion carries unanimously.

Mr. Berkowitz stated the City follows the Minnesota 429 Statute and has 30 days to send the assessment roll to the County. He explained the City begins communication with residents about a year in advance of the project and gives them an estimated cost. Mr. Berkowitz stated there is a deferral process for those with lower income. Ms. Sabet can contact the City Clerk to see if her mother qualifies for a deferral until she sells the property.

Mayor Bukkila explained the assessment can go to the County and the resident will have until November 1st of the following year to pay the remainder of the principal without interest.

Motion by Nelson, Seconded by Butler, to adopt Resolution No. R083-22 adopting the assessment roll for the improvement of project no. 22-15, 2022 Mill and Overlay/Chesterton Commons area and Fox Hollow area. Motion carries unanimously.

HOLD PUBLIC HEARING/ADOPT ASSESSMENT ROLL/22-16/2022 MILL AND OVERLAY/ANDOVER BOULEVARD NW

The City Council was requested to hold a public hearing and approve the resolution adopting the assessment roll for Project 22-16, 2022 Mill & Overlay/Andover Boulevard NW. Public Works Director/City Engineer Berkowitz explained this project is on a State Aid road and had different standards than a residential street. Mr. Berkowitz stated the area is unique because it is in the rear yard of many residents and the City Council decided to assess the properties at the same rate as the Chesterton Commons and Fox Hollow project. He displayed photos of the road before and after the project.

Mr. Berkowitz explained residents can pay within 30 days without interest. If the resident chooses not to pay within the month, the assessment is certified to the County and placed on next year's property taxes with interest.

Motion by Nelson, Seconded by Butler, to open the public hearing at 7:56 p.m. Motion carries unanimously.

No one was present for the public hearing.

Motion by Barthel, Seconded by Nelson, to close the public hearing at 7:56 p.m. Motion carries unanimously.

Motion by Barthel, Seconded by Butler, to adopt Resolution No. R084-22 adopting the assessment roll for the improvement of project no. 22-16, 2022 Mill and Overlay/Andover Boulevard NW. Motion carries unanimously.

HOLD PUBLIC HEARING/ADOPT ASSESSMENT ROLL/22-17/2022 MILL AND OVERLAY/BLUEBIRD STREET NW

The City Council was requested to hold a public hearing and approve the resolution adopting the assessment roll for Project 22-17, 2022 Mill & Overlay/Bluebird Street NW. Public Works Director/City Engineer Berkowitz identified the location of the project and stated it is in a commercial area. He stated there is a Post Office parcel which cannot be assessed, and the City pays the assessment for that property. Mr. Berkowitz displayed photos of the road before and after the project. He indicated the actual assessment was slightly higher than the estimate. Mr. Berkowitz explained residents can pay within 30 days without interest. If the resident chooses not to pay within the month, the assessment is certified to the County and placed on next year's property taxes with interest.

Motion by Butler, Seconded by Nelson, to open the public hearing at 8:01 p.m. Motion carries unanimously.

No one was present for the public hearing.

Motion by Barthel, Seconded by Holthus, to close the public hearing at 8:01p.m. Motion carries unanimously.

Motion by Barthel, Seconded by Butler, to adopt Resolution No. R085-22 adopting the

assessment roll for the improvement of project no. 22-17, 2022 Mill and Overlay/Bluebird Street NW. Motion carries unanimously.

DISCUSS APPEAL TO ALLOW FENCE TO REMAIN IN DRAINAGE AND UTILITY EASEMENT/75-144TH LANE NW

The City Council is requested to discuss an appeal to allow a fence to remain in a rear yard drainage and utility easement at 75 144th Lane NW and direct staff on how to proceed. Public Works Director/City Engineer Berkowitz explained the City asked the resident to move their fence that was installed within the rear yard drainage and utility easement. The resident filed an appeal. Mr. Berkowitz stated the permit showed the resident where the fence can and can't go. Staff conducted a routine inspection and noted the fence was not put in the proper location and was encroaching the rear yard drainage and utility easement. Mr. Berkowitz stated staff recommends protecting the drainage system and request the fence be moved. Mr. Berkowitz explained how water drains in the area and how the fence will disrupt the water flow.

Councilmember Nelson stated it is unfortunate that this resident obtained the permit, and the fence was placed in the wrong position. He stated if the resident followed the permit, they would have been fine. Mr. Berkowitz stated it is important to obtain a permit so City staff can help the resident with the location of fencing.

Mayor Bukkila stated residents can raise objections prior to installation.

Motion by Butler, Seconded by Barthel, to deny the appeal of the resident located at 75-144th Lane NW and require relocation of the fence out of the rear yard drainage and utility easement. Motion carries unanimously.

DISCUSS APPEAL TO ALLOW FENCE TO REMAIN IN DRAINAGE AND UTILITY EASEMENT/16079 NORWAY STREET NW

The City Council is requested to discuss an appeal to allow a fence to remain in a rear yard drainage and utility easement at 16079 Norway Street NW and direct staff on how to proceed. Public Works Director/City Engineer Berkowitz stated staff received a call about the fence placement at this residence. Staff inspected the fence and found it was installed in the rear yard drainage and utility easement and the resident did not have a fence permit. Staff asked the resident to apply for a permit and it was not approved due to being on the rear yard drainage and utility easement. Mr. Berkowitz displayed a drawing showing where the fence was placed and where it should go. He explained how water flows through this area. Mr. Berkowitz stated staff recommends the fence be moved outside the drainage and utility easement and that a permit be completed.

Nick Anlauf, 16079 Norway Street NW, came forward and stated he didn't realize they needed a permit. Once they were aware, they immediately applied for one. He stated there is a 4-foot drop from the east property and massive oak trees on that property. Mr. Anlauf asked how a permeable chain link fence stop the process of drainage and the trees don't. He stated the fence does not go all the way to the ground. Mr. Anlauf stated their biggest concern is keeping their children safe. He doesn't feel his specific situation was logically assessed for the fence to be moved.

Councilmember Nelson asked for clarification on the order of permit and the fence, indicating the permit should have been pulled first. City Attorney Baumgartner stated that since the fence is already there, the City Council can determine what will be approved on the permit.

Councilmember Barthel asked for the distance between the house and the easement. Mr. Berkowitz stated there is 4,000 square feet of property outside the easement.

Councilmember Butler stated no one is questioning the homeowner's intent in putting a fence in. He stated the challenge is maintaining a consistent standard throughout the City and allowing an exception will lead to more exceptions.

Mayor Bukkila stated the home was constructed in 2021 and recommended residents investigate their property. She stated land has restrictions such as easements. Mayor Bukkila referred to communication with Micaela Krause-Anlauf and stated the commitment from a property owner to maintain the fence can only be made for as long as they own the property. She stated HOAs can dissolve at any time and their regulations do not supersede the City's ordinances. Mayor Bukkila noted that the area is dry now as a result of drought, but the City needs to plan for wetter conditions. She stated there can be leaf and grass buildup along the fence lines which will block water flow. Mayor Bukkila explained ordinances are in place based on the engineering and design of the water system. She stated the fence permit was put in place in 2006 and fences built prior to that were grandfathered in.

Motion by Nelson, Seconded by Barthel, to deny the appeal of the resident located at 16079 Norway Street NW and require relocation of the fence out of the rear yard drainage and utility easement. Motion carries 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.

(Public Works/City Engineer) Mr. Berkowitz announced the City is at 95 new single home permits. He updated the Council on construction projects. Public Works were able to complete the pothole patching list. Fall street sweeping has begun. He reminded residents to not push leaves into the street. Trucks are ready for snow removal. The Parks Department is winterizing irrigation systems, aerating ball fields, and picking up leaves. The biological pilot plant is activated at the Water Treatment Plant. Staff are preparing for 2023 construction projects.

Mayor Bukkila asked if November 1st was the official day of no parking on City streets from 1:00 a.m. to 6:00 a.m. Mr. Berkowitz confirmed that there is no overnight parking on City streets from November 1st to April 15th for snow removal. He stated if there are two or more inches of snow at any time, vehicles should not be parked on the streets. Mayor Bukkila stated the Sheriff's Office will cite violators.

MAYOR/COUNCIL INPUT

(Voting/Veterans Day) Councilmember Nelson encouraged residents to vote on November 8th. He announced Veterans Day on November 11th and thanked Veterans for their service.

(Walmart) Mr. Baumgartner updated the Council on discussions with Walmart and thefts. He indicated there will need to be discussions with corporate management. Mr. Baumgartner stated Walmart has 23 self-checkout lanes and corporate recommends they have 1 cashier per 4 self-checkout lanes. Walmart is not able to hire enough employees and are only paying \$14 per hour to confront individuals stealing items. He stated the employees do want help and he suggested they go to corporate. If changes aren't made, Mr. Baumgartner recommends charging for excessive use of City services. He stated the next step is for him and Commander Lenzmeier to meet with corporate.

Mayor Bukkila concurred and stated the cost of the hourly response for the level of crime is high. Mr. Baumgartner asked Commander Lenzmeier to run reports to show the amount of staff time spent on thefts from Walmart for 2018 and 2019. Mayor Bukkila asked if this falls into a public nuisance. Mr. Baumgartner stated some cities have ordinances that allow them to bill for excessive use of City resources. Mayor Bukkila stated Walmart pays property taxes, however, this is an excessive burden. The Council reached consensus to review City policies on overuse of City resources. Mr. Baumgartner stated some businesses have hired off-duty police officers to stand at self-checkout lanes. He stated the City wants to work with Walmart and needs their assistance to help them.

Councilmember Barthel stated residents of Andover aren't getting the services they deserve if an officer is frequently going to thefts at Walmart. He asked if there could be a number placed on opportunity costs.

(Catalytic Converter Theft) Mayor Bukkila stated the City of Fridley is exploring an ordinance to address catalytic converter thefts. She said all cities in Anoka County are looking at passing a consistent ordinance. Mr. Baumgartner explained the City is looking into it and having a uniform ordinance throughout the County will stop thieves from going to the next community.

(Joint Law Enforcement Commission) Mayor Bukkila stated they are working on the renewal of the public safety levy and are asking for resolutions from cities. The levy is expected to sunset in 2023.

ADJOURNMENT

Motion by Barthel, Seconded by Nelson, to adjourn. Motion carries unanimously. The meeting adjourned at 8:51 p.m.

Respectfully submitted,

Shari Kunza, Recording Secretary
TimeSaver OffSite Secretarial, Inc.

REGULAR ANDOVER CITY COUNCIL MEETING MINUTES – NOVEMBER 1, 2022
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