

***REGULAR ANDOVER CITY COUNCIL MEETING – AUGUST 4, 2020  
MINUTES***

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Julie Trude, August 4, 2020, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Councilmembers present: Sheri Bukkila, Jamie Barthel, and Ted Butler

Councilmember absent: Valerie Holthus

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

***PLEDGE OF ALLEGIANCE***

Mayor Trude asked City Attorney Baumgartner to explain the face mask rule and how it pertains to the Council meeting. Mr. Baumgartner read a section of the Governor's Executive order and summarized that face coverings are not mandated for Council during the meeting while the Council is maintaining social distancing. He also stated audience members in the Council Chambers listening, but not speaking, would be required to wear face coverings. The face covering may be temporarily removed if the audience member approaches Council to speak or give testimony. Mayor Trude announced City Administrator Dickinson is taking names of residents who want to speak to Council as part of the resident forum and public hearings on the agenda.

***RESIDENT FORUM***

Julie Tweit, 2606 138<sup>th</sup> Avenue NW, came forward and spoke to Council about property the City owns at 2526 138<sup>th</sup> Avenue and other neighboring properties. She stated she has been working with Associate Planner Jake Griffiths on this issue. Ms. Tweit showed pictures of the property with broken windows, doors, and fence. Ms. Tweit stated the City is not taking care of the empty lot which is infested with moles which also damage her yard. Ms. Tweit stated Mr. Griffiths has been responsive and has made sure the lawn is mowed. Ms. Tweit stated another property owned by Inventure Properties is not being taken care of either. Ms. Tweit displayed photos of 6 properties around her neighborhood that have junk, chicken and pigeon coops, and other debris around the yards. Mayor Trude apologized to Ms. Tweit that the City has not been a good neighbor. Mayor Trude stated the neighborhood is in transition and may be having more vacant lots. City Administrator Dickinson said the City has a

contract for mowing and will have the Parks Department take a look at the moles. Mr. Dickinson said people try to break into the vacant property and the City does monitor the property regularly. Mayor Trude told Ms. Tweit the area will eventually be redeveloped. Mr. Dickinson stated the City has active code enforcement files on several of the properties mentioned and will continue to address the conditions.

Joanna Fleigelman approached Council and spoke about a pen pal project for senior citizens and those in assisted living facilities. The project is called Dear Doris and Arnold. She has received several requests for letters, pictures, and artwork. She said the project has been very positive. She has a Facebook page with details, updates, and pictures. She stated Andover has been highly active and supportive of the project. Mayor Trude stated anyone can be a pen pal at any age.

### ***AGENDA APPROVAL***

Mayor Trude announced the addition of supplemental materials for items on the agenda and two additional items on the Consent Agenda:

Item 8A Approve an Application for Exempt Permit for Ducks Unlimited

Item 8B Approve a Declaration of Encroachment/Easement Conditions and Covenants at  
2377 Veterans Memorial Boulevard NW

Councilmember Butler asked Item 8 be removed from Consent Agenda for discussion.

***Motion*** by Barthel, Seconded by Bukkila, to approve the Agenda as amended. Motion carried 4 ayes, 0 nays, and 1 absent (Holthus).

### ***APPROVAL OF MINUTES***

*July 21, 2020 Regular Meeting:*

Mayor Trude requested a change to page 6, lines 12 and 13. She stated she was referring to the Joint Law Enforcement Council and not the Sheriff's Department.

***Motion*** by Butler, Seconded by Barthel, to approve the July 21, 2020 Regular meeting minutes as amended. Motion carried 4 ayes, 0 nays, and 1 absent (Holthus).

### ***CONSENT ITEMS***

- Item 2 Approve Payment of Claims
- Item 3 Approve Plans & Specs/Order Advertisement for Bids/20-17/Public Works Pavement Reconstruction (See Resolution R053-20)
- Item 4 Accept Resignation/Joy Faherty/Appoint Ryan Ingebritson to Vice Chairperson/Open Space Advisory Commission (OSAC)
- Item 5 Approve Change Order #1/20-3/2020 Crack Sealing (See Resolution R054-20)
- Item 6 Approve Extension of Liquor License
- Item 7 Approve COVID Grant Program
- Item 8A Approve an Application for Exempt Permit for Ducks Unlimited
- Item 8B Approve a Declaration of Encroachment/Easement Conditions and Covenants at 2377 Veterans Memorial Boulevard NW

**Motion** by Barthel, Seconded by Bukkila, to approve the Consent Agenda as read. Motion carried 4 ayes, 0 nays, and 1 absent (Holthus).

***PUBLIC HEARING - CONSIDER CLASSIFYING DANGEROUS DOG/ 13934 IVYWOOD STREET***

Mayor Trude explained the public hearing gives residents an opportunity to speak including the dog owner and people who are affected by the incidents. She stated the City Attorney will run the hearing to keep it objective. She explained after the hearing, the Council will discuss the matter and make a decision.

City Administrator Dickinson introduced the item stating Council is asked to consider classifying a dangerous dog at 13934 Ivywood Street, named Max. Mr. Dickinson stated staff reached a conclusion the dog owner did not take reasonable steps to ensure the dog did not harm the public. Mr. Dickinson explained the Dangerous Dog Code and the requirements put on the dog owner. Mr. Dickinson outlined the timeline and summarized the incidents which led staff to request Max be labeled as a dangerous dog.

Mr. Baumgartner opened public comment and invited the dog owners to the podium.

Jamie Gangaware, owner of the dog, Max, came forward and spoke. She stated she provided Council with a letter, support statements from neighbors and veterinarians, and a letter from a trainer. She stated Max's behavior was very out of character and asked Council to give her the opportunity to figure out why Max is behaving this way before he is classified as a dangerous dog. Ms. Gangaware stated she took steps after the first incident to correct Max's behavior by putting him in an obedience camp. She explained after the second incident she realized it was more than an obedience issue and she reached out to the rescue organization and has arranged services for a dog behavior and trainer specialist. Ms. Gangaware explained there has been a lot of changes in her home including COVID, construction, and stress. Ms. Gangaware stated she takes responsibility for these incidents and is focusing on making her home safe with Max. She explained she is planning on installing a fence and has made changes to her house so Max cannot escape out the front door. She described Max as a

submissive dog and well loved by neighbors and schoolchildren. She stated there is an explanation for his behavior and she is committed to figuring it out. She asked that Council does not classify Max as a dangerous dog and give her family the opportunity to correct his behavior.

Anthony Apus came forward and stated he is a longtime friend of Max and his humans. He said Max has spent a lot of time with his dog, his family, and small children. He stated he has never seen any concerning behavior.

Tim Miriam came forward and said mistakes were made and two people were bit. He said the family is taking responsibility and is taking steps to correct the behavior and prevent future incidents from occurring.

RJ Gangaware came forward and stated his friends have come over many times and Max has never hurt them, and he has no idea why he is acting up like this.

Barbara Godding, owner of Dog Talk Training MN, came forward and stated Max is not a dangerous dog. She stated Max was fearful and that was why he reacted in the way he did. She said if Max meant to cause harm, he would have caused more harm. Ms. Godding also stated Max is ill and is in the beginning stages of kidney failure. She said the best thing for Max is to go home and go through behavior modification. She stated the family has acted so Max can't access exterior doors.

Peggy Johnson came forward and stated she is the victim of Max's biting. Ms. Johnson explained the incident where she was attacked by Max. She said she received a tetanus shot, antibiotics, and sustained bruises. She stated her opinion is that Max is a dangerous dog. Mr. Dickinson showed photos of Ms. Johnson's wound received from Max.

Maggi Mortensen came forward and stated she is a victim of Max's biting on July 22<sup>nd</sup>. She explained she was attacked by Max without warning or provocation. She said she received 2 stitches, a tetanus shot, antibiotics, and significant bruising. She said she is still healing and swollen from the bite. She said Jamie had to pull the dog off of her. Mr. Dickinson showed photos of Ms. Mortensen's wounds received from Max.

Valerie Pender, a neighbor of the Gangawares, came forward and stated she has observed Max and witnessed Ms. Mortensen being attacked. She said she is afraid of what would happen if Max attacked a young child.

Mr. Baumgartner closed public comment.

Mr. Baumgartner thanked all parties for their comments. Mr. Baumgartner stated all parties spoke highly of the Gangawares. He stated no matter the outcome, the Gangawares are well thought of and the hearing is not personal nor a reflection of the Gangawares' character.

Mr. Baumgartner stated the intent of the Dangerous Dog Ordinance is not to determine if Max

is a bad dog or if the owners are bad owners. He explained the Gangawares have taken responsibility. He said the purpose of the ordinance is to preserve public safety. He said he appreciates the professional opinion of Ms. Godding and explained the legal definition of determining a dangerous dog.

Mr. Baumgartner stated there is no dispute the incidents happened, and the City is using a tool at its disposal, the Dangerous Dog Ordinance, to keep the community safe. He explained it is admirable the dog owner is taking voluntary steps to keep the community safe, but the City must still follow State Statute and do its part in keeping the community safe.

Mr. Baumgartner explained Minnesota State Statute affords dog owners an opportunity for review after steps have been taken and the designation of dangerous dog could be removed.

Mayor Trude explained the Council has all the information from testimony, police reports, victim statements, support statements, and City Code. Mr. Dickinson displayed the definition of a dangerous dog on the screen. Mayor Trude stated the question before Council is whether Max meets the definition of a dangerous dog and explained he meets the definition under items A and C.

Councilmember Bukkila said Ms. Gangaware was well prepared for the hearing and is willing to protect the community. Councilmember Bukkila said she is inclined to apply the code and label Max dangerous because Max bit two humans within a short period of time.

Councilmember Barthel said these hearings are never easy and applauded the family for taking steps to correct Max's behavior. He stated he understands this may be out of character for Max. He said the Council must follow code.

Councilmember Butler said he understands illness may change dog behavior and agrees that Council must ensure public safety and follow the ordinance. He stated the criteria of applying the dangerous dog label has been met.

Mayor Trude explained Council's role is applying code and protecting the community. She said she supports the ruling of a dangerous dog and City staff will go over the requirements with the Gangawares.

**Motion** by Bukkila, Seconded by Barthel, approving Resolution No. R055-20 classifying Max, an American Terrier/Boxer located at 13934 Ivywood Street a dangerous dog. Motion carried 4 ayes, 0 nays, and 1 absent (Holthus).

Mr. Dickinson summarized that staff would present the owner with a letter which gives them 14 days to comply with the code. Mayor Trude said the public can contact the City if they have any concerns.

***PUBLIC HEARING - CONSIDER VACATION OF DRAINAGE AND UTILITY EASEMENTS AND ACCEPTANCE OF NEW DRAINAGE AND UTILITY EASEMENTS***

**- 16523 ORCHID STREET NW/3290 165<sup>th</sup> LANE NW**

Community Development Director Janish explained the property owners of 16523 Orchid Street NW are in the process of selling their home and are working with the neighboring property to resolve the issue of a tennis court which encroaches approximately 19 feet onto the property. The property owners have proposed a Lot Line Adjustment to go around the tennis court cleaning up the encroachment issue for both properties. Mr. Janish explained that moving that lot line would also trigger the vacation of the drainage and utility easements along the existing property line and dedication of new drainage and utility easements along the proposed property line. Mr. Janish stated the Engineering Department and the City Attorney have reviewed the proposal and are comfortable recommending approval.

Councilmember Barthel asked if both property owners agree and are 100% on board. Mr. Janish confirmed that the property owners agree.

**Motion** by Bukkila, Seconded by Barthel, to open the public hearing at 8:11 p.m. Motion carried unanimously.

No one appeared before the Council.

**Motion** by Barthel, Seconded by Butler, to close the public hearing at 8:12 p.m. Motion carried unanimously.

**Motion** by Bukkila, Seconded by Barthel, to approve Resolution No. R056-20 granting the vacation of drainage and utility easement at 16523 Orchid Street NW and 3290 165<sup>th</sup> Lane NW. Motion carried 4 ayes, 0 nays, and 1 absent (Holthus).

***APPROVE FUNDS TRANSFER & BUDGET AMENDMENTS/ROAD & BRIDGE CAPITAL PROJECTS FUNDS (CPF)***

City Administrator Dickinson said as part of the 2021 budget preparation discussions, Council has indicated support of transferring 2019 surplus funds to Road & Bridge Capital Projects Funds.

Councilmember Butler stated he asked for the item to be pulled from the Consent Agenda because he thought it was a significant shift and wanted a public discussion explaining the reason. He said \$1 million will be dedicated to mill and overlay projects and leaves the City with an ample budget reserve. Councilmember Butler asked what projects would be completed with these funds. Mr. Dickinson stated the 2021 projects include Crownpoint East, Hills of Bunker Lake, Cherrywood Estates and Shadowbrook.

**Motion** by Butler, Seconded by Barthel, approving funds transfer and budget amendments for the Road & Bridge Capital Projects Fund. Motion carried unanimously.

### ***COVID 19 UPDATE***

City Administrator Dickinson updated the Council on the primary changes to the COVID-19 response since the last meeting. He stated the major change is the mask requirement. He said the City is not providing masks at City Hall and is focusing on education. He said the Chamber of Commerce has assisted businesses with providing masks. Mr. Dickinson said staff are working on rolling out the COVID Business Grant Program. He said if a business was shut down due to COVID, they qualify for the grant. He encouraged essential businesses that were impacted by COVID to look at the grant program as well. Mr. Dickinson stated businesses can review the grant on the website or call for more information.

Mayor Trude asked if a business that needs to install shields or separation of spaces can apply for the grant. Mr. Dickinson stated that is a qualifying expense and would require the business to move swiftly to get it done.

Mayor Trude asked if high school sports being shifted to the spring has any impact on the Andover community for space. Mr. Dickinson stated spring is going to be extremely busy with multiple sports wanting the same space. He said staff will be proactive in planning the use of space to accommodate the needs of the community.

Councilmember Butler stated youth sports may continue on their regular schedule depending on what their governing bodies decide to do.

Mayor Trude asked if the Community Center can provide support to families that will be adapting to the new way of schooling. Mr. Dickinson stated the Community Center Advisory Committee will be looking at that and adapting to the State and MDH guidelines.

Councilmember Bukkila thought planning for youth activities in the spring is best to wait until October and see the outcome of the education plan. She said the City should focus on advertising opportunities to assist families.

### ***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 Activities)* – Mr. Dickinson stated staff is working on the budget and CIP. He stated Andover has 65 new homes this year. The WDE project is completing turf establishment and will provide a final report at the end of August.

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

*(Pothole Thank You)* Mayor Trude shared a thank you letter from a resident for filling the potholes and the resident shared candy with the maintenance workers. Mayor Trude explained

that the City sets the priority for filling potholes by addressing the busiest roads first and working their way down to the less busy roads. She assured residents the City will get to them all.

**(Beef O’Brady’s)** Mayor Trude stated Council approved a permit for Beef O’Brady’s to hold a September 12<sup>th</sup> outdoor barbecue with social distancing.

**(Code Enforcement)** Mayor Trude announced a lot of people are working on their yards and some are doing nothing. She stated staff will be following through with complaints and addressing code enforcement issues.

**(City Attorney Appreciation)** Councilmember Barthel thanked Mr. Baumgartner for how he handled the dangerous dog hearing. Mayor Trude stated Mr. Baumgartner brought a lot of empathy to the family.

***ADJOURNMENT***

**Motion** by Bukkila, Seconded by Barthel, to adjourn. Motion carried unanimously. The meeting adjourned at 8:36 p.m.

Respectfully submitted,

Shari Kunza, Recording Secretary

**REGULAR ANDOVER CITY COUNCIL MEETING MINUTES – AUGUST 4, 2020**  
**TABLE OF CONTENTS**

PLEDGE OF ALLEGIANCE..... 1  
RESIDENT FORUM..... 1  
AGENDA APPROVAL..... 2  
APPROVAL OF MINUTES..... 2  
CONSENT ITEMS..... 2  
Item 2 Approve Payment of Claims..... 2  
Item 3 Approve Plans & Specs/Order Advertisement for Bids/20-17/Public Works Pavement  
Reconstruction (R053-20)..... 2  
Item 4 Accept Resignation/Joy Faherty/Appoint Ryan Ingebritson to Vice Chairperson/Open  
Space Advisory Commission (OSAC)..... 2  
Item 5 Approve Change Order #1/20-3/2020 Crack Sealing (R054-20)..... 3  
Item 6 Approve Extension of Liquor License..... 3  
Item 7 Approve COVID Grant Program..... 3  
Item 8A Approve an Application for Exempt Permit for Ducks Unlimited..... 3  
Item 8B Approve a Declaration of Encroachment/Easement Conditions and Covenants at 2377  
Veterans Memorial Boulevard ..... 3  
PUBLIC HEARING - CONSIDER CLASSIFYING DANGEROUS DOG/ 13934 IVYWOOD  
STREET (R055-20)..... 3  
PUBLIC HEARING - CONSIDER VACATION OF DRAINAGE AND UTILITY  
EASEMENTS AND ACCEPTANCE OF NEW DRAINAGE AND UTILITY  
EASEMENTS - 16523 ORCHID STREET NW/3290 165<sup>th</sup> LANE NW (R056-20)..... 5  
APPROVE FUNDS TRANSFER & BUDGET AMENDMENTS/ROAD & BRIDGE CAPITAL  
PROJECTS FUNDS (CPF)..... 6  
COVID 19 UPDATE..... 6  
ADMINISTRATOR’S REPORT..... 7  
(Administrative Staff Activities)..... 7  
MAYOR/COUNCIL INPUT..... 7  
(Pothole Thank You)..... 7  
(Beef O’Brady’s) ..... 8  
(Code Enforcement)..... 8  
(City Attorney Appreciation)..... 8  
ADJOURNMENT..... 8