

***REGULAR ANDOVER CITY COUNCIL MEETING – AUGUST 5, 2019  
MINUTES***

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Julie Trude, August 5, 2019, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Councilmembers present: Mike Knight, Valerie Holthus and Jamie Barthel

Councilmember absent: Sheri Bukkila

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

***PLEDGE OF ALLEGIANCE***

***RESIDENT FORUM***

Arlene Elin, 137 Andover Boulevard, spoke for the neighborhood and followed up on a letter she sent to Community Development Director Janish. Ms. Elin expressed concern about construction in the neighborhood and trucks hauling dirt without being covered causing dirt to be blown in her neighborhood and damaging property. Ms. Elin stated she is uninformed about the start and end dates and hours of hauling. Ms. Elin stated she and her neighbors are putting the City of Andover on notice for liability and negligence. Ms. Elin stated an ordinance regarding loads needed to be covered. Ms. Elin wanted to know whose jurisdiction it is to make sure the trucks are tarped.

Mayor Trude informed Ms. Elin that the Sheriff's department is responsible for enforcement. Mayor Trude instructed staff to respond to Ms. Elin in writing. Mayor Trude explained the area is being built by several builders and not a developer making it more difficult to enforce. Mayor Trude requested Ms. Elin schedule a meeting with Mr. Dickinson to discuss the issue and options for resolution.

City Attorney Scott Baumgartner responded that the police are responsible for enforcement. State Patrol handles commercial vehicles. Ms. Elin indicated Commander Lenzmeier is in contact with the State Patrol who have already been out once and will come back in 2-3 weeks.

**AGENDA APPROVAL**

Mayor Trude noted the supplemental information received:  
Item #12 – Additional information provided by resident.

**Motion** by Holthus, Seconded by Knight, to approve the Agenda as amended above. Motion carried unanimously.

**CONSENT ITEMS**

- Item 2 Approve Payment of Claims
- Item 3 Approve Ordinance Amendment Changing/Renaming of Street/Country Oaks North 3rd Addition (See Ordinance 212G)
- Item 4 Approve Resolution/Request MnDOT to Conduct Speed Study/Veterans Memorial Boulevard NW (between Nightingale Street NW and Tower Drive NW) (See Resolution R062-19)
- Item 5 Approve Resolution/Request MnDOT to Conduct Speed Study/Nightingale Street NW (between Crosstown Boulevard NW and 161st Avenue NW) (See Resolution R063-19)
- Item 6 Approve Extension of Liquor License/Beef O' Brady's
- Item 7 Accept Resignation City Planner
- Item 8 Approve Code Amendment/Title 7 Fire Department Chapter 3 Open Burning (See Ordinance 495)
- Item 9 Approve Tobacco License/13650 Hanson Boulevard NW
- Item 10 Approve 2020 Anoka County Sheriff Contract

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

**APPROVAL OF MINUTES**

*July 16, 2019, Regular Meeting:* Correct as written.

**Motion** by Barthel, Seconded by Knight, to approve the July 16, 2019, Regular meeting minutes as presented. Motion carried unanimously.

**CONSIDER REZONING REQUEST – REZONE PROPERTIES FROM RR - RURAL RESIDENTIAL TO R4 - SINGLE FAMILY URBAN PIN 13-32-24-32-0003; 680 CONSTANCE BLVD.; 16019 CONSTANCE BLVD. – NATHAN FAIR (APPLICANT – VILLAS AT CROSSTOWN WOODS, LLC)**

The City Council is requested to review the proposed request to rezone the parcels located at 680 Constance Boulevard, 16019 Constance Boulevard, and PIN 13-32-24-32-0003 from R-1 Single-Family Rural to R-4 Single-Family Urban as requested by Nathan Fair.

Community Development Director Janish reviewed the staff report with the Council. Mr. Janish stated that rezoning may occur if the City finds one of the two following findings that are provided by State Statute: the original zoning was in error, or the character of the area or times and conditions have changed to such an extent to warrant the rezoning. Times and conditions have changed with the extension of municipal sewer and water into this area of the city. The Andover Comprehensive Plan has the properties guided as Transitional Residential; which contains properties within the MUSA currently zoned rural but guided for urban development. It has been requested by the applicant to rezone the properties so the land can be developed into urban residential lots for the proposed development known as The Villas at Crosstown Woods. On July 23, 2019, the Planning and Zoning Commission held a public hearing to gather public input. There were no public comments. The Planning and Zoning Commission recommended approval to rezone the parcels on a 6 - 0 vote (1 absent).

Mayor Trude discussed the MUSA Line, the impact of the end of the line, and that the end of the line means that the sewer system is at capacity.

***Motion*** by Holthus, Seconded by Barthel, to approve Ordinance 496, Rezone Properties from R-R-Rural Residential to R-4-Single-Family Urban. PIN 13-32-24-32-0003; 680 Constance Boulevard; 16019 Constance Boulevard-Nathan Fair (Applicant-Villas at Crosstown Woods, LLC). Motion carried unanimously.

***CONSIDER PRELIMINARY PLAT AND PLANNED UNIT DEVELOPMENT - THE VILLAS AT CROSSTOWN WOODS-PIN 13-32-24-32-0003; 680 CONSTANCE BLVD. 16019 CONSTANCE BLVD. - NATHAN FAIR (APPLICANT - VILLAS AT CROSSTOWN WOODS, LLC)***

The City Council is asked to review a Preliminary Plat/Planned Unit Development (PUD) known as The Villas at Crosstown Woods. The development consists of twelve (12) single family homes on the eastern portion of the plat and thirty- six (36) villa style units centrally located and on the western portion of the plat. The applicant submitted a narrative of the proposed PUD.

Community Development Director Janish reviewed the staff report with the Council. A sketch plan was reviewed at the Planning and Zoning Commission meeting on January 22, 2019. City Council reviewed the sketch plan on February 19, 2019, and provided recommendations to the applicant which included the following: enhance architectural standards, including a variety of materials to be utilized on the exterior of each home; internal trails and a trail connection to Crosstown Boulevard, as recommended by the Park and Recreation Commission; recommend a gazebo, grills and tables to provide the common gathering place; and tree preservation plan and buffering to provide separation from Miller's Woods development.

Mr. Janish explained that a PUD is allowed for development flexibility and is part of City Code and the PUD approval is determined by the City Council. Janish went through the PUD and reasons for the request. On July 23, 2019, the Planning and Zoning Commission held a public hearing to gather public comments. The Planning and Zoning Commission recommended

approval with modifications to the conditions on a 6 - 0 vote (1 absent). Janish went through the public and Planning and Zoning Commission comments:

- Concerns with location of preserved trees and how much buffer there will be from Miller' s Woods
- Resident wants a road easement to the east for future rural development
- Size of recreation area and price range of villas
- Safety concerns (speeding) with the extension of Norway Street and option for a 3-way stop
- Update to the Landscape Plan to include Villa foundation plantings
- Noise mitigation, as mentioned by Anoka County Highway Department
- Which house plan will fit on Lot 8 (Developer stated the Aspen and Ellingwood house models)
- Concerns with the 16.5-foot front yard setback
- HOA - regulations of structures constructed within Outlot A
- Recommended developer to update narrative to better support the PUD request

Mr. Janish reviewed the supporting attachments with the Council.

Councilmember Holthus asked about Lot 8 and what models would fit there. Mr. Janish responded the Aspen and Ellingwood. Councilmember Barthel asked the size of Lot 8. Mr. Janish identified the lot as 15,729 square feet, larger than the average Andover lot size.

Mayor Trude asked about the landscaping plan and pointed out that an HOA has a higher level of landscaping and is well maintained.

Councilmember Barthel asked about the cost of the houses. Nathan Fair with Landmark Development responded the low end is \$340,000 and the high end \$475,000. Most of the villa lots will support a third stall garage. The homes are customizable with many variations available. Mayor Trude commented on the high architectural standard and the flexibility in the design that will appeal to Andover residents.

Councilmember Holthus stated the purpose of issuing a PUD is to offer an additional benefit to the residents. Councilmember Holthus would like to see plans for an unpaved nature trail going through the trees, making a loop, without taking out trees.

Councilmember Knight concurred noting staff identified issues with a trail as it would take land away from lot sizes. Mr. Fair said reducing the lot sizes would limit the models that could be built there. Mr. Fair stated the amenity is Outlot A which would be decided by the HOA, with potentially a gazebo and other amenities.

Mayor Trude asked staff about the trail easement. Public Works Director Berkowitz responded that the trail is developed as the development is built and that this section of trail is in the CIP connecting it to Crosstown Boulevard.

Councilmember Barthel stated he is not a big fan of the development as the villas go below Andover standards, there are more lots than normally allowed, and the city isn't getting anything back such as parks and trails. Mayor Trude addressed Councilmember Barthel's concerns and explained precedence and the need for this type of product in Andover. Mayor Trude stated that when Andover has changed standards and it's good for Andover, it has resulted in being a benefit. Mayor Trude thought this would add \$20,000,000 in value to the community.

**Motion** by Knight, Seconded by Trude, to adopt Resolution No. R064-19 approving the Preliminary Plat and Planned Unit Development for "The Villas at Crosstown Woods." Motion carried 3 ayes, 1 nay (Barthel).

***RECESS & RECONVENE***

Mayor Trude recessed the Regular City Council meeting at 8:04 p.m. The City Council reconvened at 8:10 p.m.

***CONSIDER CLASSIFYING DANGEROUS DOG/13693 HIDDEN CREEK DRIVE***

The City Council is requested to receive a presentation, gather testimony, and consider adopting a resolution declaring a Shih Tzu Mix, named Jasper, a dangerous dog.

City Administrator Dickinson noted the owner of the dog has been informed of the time and place of this meeting and is present to provide testimony. Mr. Dickinson stated the dog was previously declared potentially dangerous and it appears that the dog owner is not taking reasonable attempts to properly control/restrain a "potentially dangerous dog". Based on a second incident on July 26<sup>th</sup>, Council is asked to consider declaring the dog dangerous. Mr. Dickinson explained a "dangerous dog" declaration will require the dog owner to comply with the dangerous dog ordinance provisions including requiring a proper enclosure, a clearly visible warning sign, and an insurance bond. The owner would pay a fee to register the dog with the City and have microchip identification. The dog, when it leaves the property, would need to be muzzled, restrained by the owner with a substantive chain or leash and always be under the physical restraint of a responsible individual. If the dog were to leave the community it would need to register as a dangerous dog in the new community.

Mr. Dickinson explained the definition of a Dangerous Dog/Cat:

- A. Without provocation, inflicted substantial bodily harm on a human being on public or private property; or
- B. Without provocation, killed or inflicted substantial bodily harm on a domestic animal while off the owner's property; or
- C. Been found potentially dangerous, and after the owner has been notified that the dog/cat is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Mr. Dickinson explained that A and C apply in this situation. He stated that on July 8<sup>th</sup>, a police report was received at City Hall stating that the dog bit a home healthcare nurse. On July 9<sup>th</sup>, a "potentially dangerous" dog notification was sent to the owner, Ms. Olson. Ms. Olson obtained a license for the dog on July 18<sup>th</sup>. Then on July 26<sup>th</sup>, the City received a police report stating the dog was running at large and bit a pizza delivery person at a neighboring house. At that point, a "dangerous dog" hearing notification for Jasper was sent to dog owner Ms. Olson. Mr. Dickinson informed Council that the two victims were present to present testimony.

Mayor Trude recognized both victims, Allison Wilson and Richard Matlock, and the dog owner, Cheryl Olson. Mayor Trude asked City Attorney Baumgartner to conduct the hearing on behalf of the Council.

Mr. Baumgartner explained he would be conducting the hearing in chronological order since in order to find the dog dangerous, it must first be declared potentially dangerous. Mr. Baumgartner called Allison Wilson to the podium for testimony.

Ms. Wilson, a home healthcare nurse, explained she was making a visit to the home on July 9<sup>th</sup>. She stated she was able to get away from the dog but was concerned about the outcome if a child was attacked by the dog. Ms. Wilson stated she wasn't to the door of the house yet and was bitten five times. Ms. Olson views Jasper as a dangerous dog as he bit unprovoked.

Councilmember Knight asked the breed of the dog. Mr. Dickinson stated the dog is a Shih Tzu, a small lap dog.

Mr. Baumgartner asked Ms. Wilson which dog bit her. Ms. Wilson said both dogs bit her. Mr. Baumgartner asked if Ms. Wilson had been to the home before and how many times. Ms. Wilson stated yes, approximately two or three times. Mr. Baumgartner asked if she had any previous interactions with the dogs and Ms. Wilson said no. Mr. Baumgartner asked if the dogs were put away while she visited, and Ms. Wilson responded yes. Mr. Baumgartner asked if she was bit by both dogs and Ms. Wilson said yes and that the Shih Tzu was the first one that came out of the house and bit her knee. Mr. Baumgartner asked what Ms. Wilson was doing at the time and Ms. Wilson stated she was walking up to the owner's door and the dog came out.

Mayor Trude asked for clarification regarding both dogs being declared potentially dangerous as they both bit Ms. Wilson. Mr. Dickinson clarified that both dogs received a potentially dangerous letter but the hearing is for the Shih Tzu since it was involved in a second incident.

Mr. Baumgartner asked for clarification as to where Ms. Wilson was when she was bitten. Ms. Wilson stated she was outside of the home about 10-15 feet from the door.

Mr. Baumgartner called Richard Matlock to the podium. Mr. Matlock stated he was delivering pizza to the next-door neighbor when the Boxer and the Shih Tzu rushed him and he immediately went back into his car. Mr. Matlock explained that the dogs were called back to the garage and he got out of the car to get the pizza. The dogs then returned and one bit him on the back of the

leg. He expressed concern about the dog biting twice in two weeks.

Mayor Trude asked for clarification as to where he was standing when he was attacked. Mr. Matlock said he was parked at the curb and his feet were on the grass with his back to the property.

Mr. Baumgartner asked the date of the incident and Mr. Matlock stated it was July 26<sup>th</sup>. Mr. Baumgartner asked which dog bit him. Mr. Matlock stated that both dogs rushed him but he did not know which actually bit him at the time. Mr. Baumgartner asked for clarification as to where Mr. Matlock was standing at the time of the attack. Mr. Matlock stated he was on the neighbor's property.

Mayor Trude asked about the police report stating the smaller dog bit Mr. Matlock when Mr. Matlock couldn't identify which dog bit him. Mr. Matlock stated the urgent care nurse noted the size of the bite and it corresponded with a smaller dog. Mr. Dickinson stated that the dog doesn't actually have to bite to be declared dangerous, it can act aggressively to aggressively endanger the safety of humans after the dog have been declared potentially dangerous.

Councilmember Knight asked if the dogs had rabies shots. Mr. Baumgartner stated the Shih Tzu had the shot and the Boxer received its shots after the first incident. Mr. Baumgartner also explained that there was a witness who saw the smaller dog bite Mr. Matlock and it was reflected in the police report.

Councilmember Barthel asked for clarification on where Mr. Matlock was standing when he was bit. Mr. Matlock stated he parked in the cul-de-sac, parallel to the driveway of the neighbor's home.

Mayor Trude thanked both victims and invited the dog owners to speak at the podium.

Cheryl Olson explained that Jaspar turned a year old in July and is a loveable dog who doesn't like strangers. Both dogs usually stay in the back yard. On the day Mr. Matlock was bitten, Ms. Olson stated that her grandson didn't shut the door to the garage completely and the dogs came out. Ms. Olson said she apologized to the pizzaman and put the dogs back into the house as soon as they could.

Mr. Baumgartner asked what Ms. Olson was doing at the time. Ms. Olson stated she was in the garage with friends celebrating her birthday with the garage door open. Mr. Baumgartner asked if both dogs were with her in the garage. Ms. Olson stated the dogs were in the house and came out when her grandson didn't shut the door properly. Ms. Olson said the dogs saw Mr. Matlock through the window of the house. She explained that neighbors have come over to her house and have never been bitten. Ms. Olson stated that the dogs bit Ms. Wilson because she was hitting them with her briefcase. Mr. Baumgartner asked if the dog was provoked prior to biting Ms. Wilson and Ms. Olson responded no.

Mr. Baumgartner explained that two instances in a short period of time when the owners didn't realize the dogs weren't in the kennel or the grandson let the dogs out, and the demonstrated inability to control a dog through verbal commands are cause for concern.

Mr. Baumgartner asked what steps Ms. Olson took after receiving the letter about the potentially dangerous dogs to make sure the dogs were leashed, tied up, or restrained. Ms. Olson responded that they always put the dogs in the fenced backyard. Mr. Baumgartner asked if it was an issue of not being able to control the dogs. Ms. Olson responded that the dogs are very well behaved, and they have no problems controlling them but Jasper is a hyper little puppy.

Mr. Baumgartner stated he understands hyper puppies but two incidents, within a very short period of time, doesn't sound like they were able to be controlled: the door opened and they got out; the dogs leave the garage and called back, they don't come. Mr. Baumgartner asked Ms. Olson if she could understand the concern that neighbors and people utilizing the neighborhood would have. Ms. Olson responded no.

Mayor Trude recognized Mr. Olson at the podium. Mr. Olson apologized to Ms. Wilson and Mr. Matlock. Mr. Olson explained that he always has the dogs locked in the kennel when Ms. Wilson comes over. In this situation, as he went into the house to lock them up, the dogs ran out of the house. Mr. Olson explained that Jasper is easily excitable and that the Boxer follows him around and does what Jasper does. Mr. Olson stated his dogs are not dangerous dogs, they are in the back-yard 99.9 percent of the time inside an 8-foot-tall privacy fence. Mr. Olson stated the dogs hardly go out the front door or the garage unless it's safe, but in these two instances, the dogs were out before anyone knew it and got in trouble.

Councilmember Holthus stated that is the trouble, she doesn't see where Mr. Olson had control over the dogs. If they bite twice in the same month and they didn't return when Mr. Olson called them, she doesn't see where Mr. Olson had control over the dogs.

**Motion** by Holthus to adopt Resolution R065-19 declaring a dog owned by Cheryl Olson, 13693 Hidden Creek Drive NW, as a Dangerous Dog pursuant to City Code Title 5, Chapter 1, Section 5-1A-11.

Mr. Olson asked if they should have had them on a leash in the garage, tied up in the garage, because normally the garage door is shut when they are out there.

Mayor Trude asked Mr. Olson to sit down as the Council is done hearing the comments and there is a motion on the dog, Jasper, by Councilmember Holthus.

Councilmember Barthel stated he would second the motion.

Mayor Trude stated the motion has been seconded by Councilmember Barthel and asked if there are any comments or discussion on the motion.

Councilmember Barthel expressed concern that children are at risk if the dogs are leaving the



property with aggressive behavior.

Mayor Trude stated a letter was sent after the first incident explaining what the Olsons needed to do, including having the dog on a leash all the time. Mayor Trude explained how she has her dog on a leash when visitors come over until the dog gets accustomed to them. Mayor Trude noted the dog is now going to be very expensive for the Olsons to keep due to being declared dangerous. Mayor Trude stated the seriousness of the situation and the fact that one of the dogs didn't have its rabies shots. Mayor Trude noted the responsibility of the Council is to protect the public health.

Mayor Trude provided information to the dog owners about their other dog who has been declared potentially dangerous and recommended the owners talk to their vet or contact a dog obedience business. Mr. Dickinson will provide further information and follow code regarding dangerous dog notification to the dog owners.

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 stated staff is working on next year's budget and Capital Improvement Plan. The City has 75 new home starts this year. The WDE hazardous waste pit excavation has started. Mayor Trude stated updates and information about the hazardous waste pit are provided to the public on the website and Facebook. Mayor Trude added that the City water has not been affected by this. Mr. Dickinson informed the Council that emergency response has developed a plan if an issue were to occur. Mr. Dickinson updated the Council on the City Campus, Community Center, and Public Works building projects. The YMCA has provided some information about their expansion plans and are working on a construction plan. Mr. Dickinson reported on his involvement in meetings with QCTV, Youth First Board, and Metro Cities Committees.

***(Public Works/Engineering Department Report)*** Mr. Berkowitz provided project updates on Veterans Memorial Boulevard, development projects, street reconstruction, and Hanson Boulevard.

***(Community Development Department Report)*** Mr. Janish reported staff is working on filling the City Planner position, code enforcement, and rental inspections. Mr. Janish thanked Stephanie Hanson, City Planner, for her service to the City of Andover.

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

***(City Campus/Community Center Information)*** Mayor Trude reflected on the Community

Center project, the cost, staying within budget, and listed several amenities in the project.

*(Welcoming State Leaders)* Mayor Trude and Councilmember Holthus welcomed Governor Walz, Senator Abeler, Representative Urdahl, and PCA Commissioner Bishop in a visit to the hazardous waste dump.

*(Night to Unite)* Mayor Trude stated Council will be out and about on Night to Unite.

*(Fun Fest)* Councilmember Knight asked about Fun Fest. Mr. Dickinson replied he received positive feedback.

***ADJOURNMENT***

***Motion*** by Holthus, Seconded by Barthel, to adjourn. Motion carried unanimously. The meeting adjourned at 8:57 p.m.

Respectfully submitted,

Shari Kunza, Recording Secretary

**REGULAR ANDOVER CITY COUNCIL MEETING MINUTES – AUGUST 5, 2019**  
**TABLE OF CONTENTS**

PLEDGE OF ALLEGIANCE.....1  
 RESIDENT FORUM.....1  
 AGENDA APPROVAL.....1  
 CONSENT ITEMS.....2  
   Item 2 Approve Payment of Claims.....2  
   Item 3 Approve Ordinance Amendment Changing/Renaming of Street/Country Oaks North  
     3rd Addition (Ord. 212G).....2  
   Item 4 Approve Resolution/Request MnDOT to Conduct Speed Study/Veterans Memorial  
     Boulevard NW (between Nightingale Street NW and Tower Drive NW) (R062-19).....2  
   Item 5 Approve Resolution/Request MnDOT to Conduct Speed Study/Nightingale Street  
     NW (between Crosstown Boulevard NW and 161<sup>st</sup> Avenue NW) (R063-19).....2  
   Item 6 Approve Extension of Liquor License/Beef O' Brady's.....2  
   Item 7 Accept Resignation City Planner.....2  
   Item 8 Approve Code Amendment/Title 7 Fire Department Chapter 3 Open Burning (Ord.  
     495).....2  
   Item 9 Approve Tobacco License/13650 Hanson Boulevard NW.....2  
   Item 10 Approve 2020 Anoka County Sheriff Contract.....2  
 APPROVAL OF MINUTES.....2  
 CONSIDER REZONING REQUEST – REZONE PROPERTIES FROM RR - RURAL  
 RESIDENTIAL TO R4 – SINGLE-FAMILY URBAN-PIN 13-32-24-32-0003; 680  
 CONSTANCE BLVD.; 16019 CONSTANCE BLVD. – NATHAN FAIR (APPLICANT –  
 VILLAS AT CROSSTOWN WOODS, LLC) (Ord. 496).....2  
 CONSIDER PRELIMINARY PLAT AND PLANNED UNIT DEVELOPMENT - THE  
 VILLAS AT CROSSTOWN WOODS - PIN 13-32-24-32-0003; 680 CONSTANCE BLVD.  
 16019 CONSTANCE BLVD. - NATHAN FAIR (APPLICANT - VILLAS AT  
 CROSSTOWN WOODS, LLC) (R064-19).....3  
 RECESS & RECONVENE.....5  
 CONSIDER CLASSIFYING DANGEROUS DOG/13693 HIDDEN CREEK DRIVE (R065-19)  
 .....5  
 ADMINISTRATOR’S REPORT.....9  
   (Administrative Staff Report).....9  
   (Public Works/Engineering Department Report).....9  
   (Community Development Department Report).....9  
 MAYOR/COUNCIL INPUT.....9  
   (City Campus/Community Center Information).....9  
   (Welcoming State Leaders).....9  
   (Night to Unite).....10  
   (Fun Fest).....10  
 ADJOURNMENT.....10