

***REGULAR ANDOVER CITY COUNCIL MEETING – OCTOBER 3, 2023
MINUTES***

The Regular Bi-Monthly Meeting of the Andover City Council was called to order by Mayor Bukkila, October 3, 2023, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Councilmembers present: Jamie Barthel, Ted Butler, Rick Engelhardt, and Randy Nelson

Councilmembers absent: None

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

PLEDGE OF ALLEGIANCE

RESIDENT FORUM

No one came forward to address the Council.

AGENDA APPROVAL

Mayor Bukkila noted the supplemental information received:

Item #13 – Public Hearing – Consider Vacation & Re-Dedication of Easement – 3370 170th Lane NW; PID# 08-32-24-14-0012

Item #14 – Consider Variance Request – 17337 Roanoke St. NW; PID# 06-32-24-33-0016 – Samantha Hauptert & Colin Anderson (Applicants)

Mayor Bukkila requested the addition of an agenda item:

Item #15A – Review Letter of Support to City of Anoka for Rum River Dam

Motion by Nelson, Seconded by Butler, to approve the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

September 19, 2023, Regular Meeting

Motion by Butler, Seconded by Nelson, to approve the September 19, 2023, Regular meeting

minutes as presented. Motion carried unanimously.

CONSENT ITEMS

- Item 2 Approve Payment of Claims
- Item 3 Approve Therapeutic Massage License
- Item 4 Authorize Initiating 2024 Equipment Proposals
- Item 5 Declare Costs/Order Assessment Roll/21-39/Tulip St. NW & 161st Ave. NW Reconstruction (See Resolution R063-23)
- Item 6 Declare Costs/Order Assessment Roll/23-2/2023 Street Reconstruction (See Resolution R064-23)
- Item 7 Declare Costs/Order Assessment Roll/23-17/2023 Full Depth Reclamation (See Resolution R065-23)
- Item 8 Declare Costs/Order Assessment Roll/23-11A Through 23-11L, 23-15 Prairie Rd. NW & 23-16 Andover Blvd. NW/2023 Mill & Overlay (See Resolution R066-23)
- Item 9 Approve Collective Bargaining Agreement/Public Works
- Item 10 Order Improvement/Order Plans & Specs/23-13, WM Improvements - Crosstown Blvd. NW (RR Tracks to 158th Ave. NW) - Andover Blvd. NW (Vale St. NW to Prairie Rd. NW) - Prairie Rd. NW (Andover Blvd. NW to 157th Ave. NW) & 23-12A, Crosstown Blvd. NW Trail - Xeon St. NW to Prairie Rd. NW (See Resolution R067-23)
- Item 11 Approve Support Letter to ACHD for Funding Proposed Interchange at TH 65 and Bunker Lake Boulevard
- Item 12 Approve 2024 Residential Recycling Agreement with Anoka County

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

***PUBLIC HEARING - CONSIDER VACATION & RE-DEDICATION OF EASEMENT -
3310 17TH LANE NW; PID# 08-32-24-14-0012***

The City Council is requested to hold a public hearing and make a decision on the vacation of easement request.

Mr. Janish reviewed the information with the Council concerning the request to vacate and re-dedicate drainage and utility easement. He shared that the City Engineers have reviewed this request and are in support.

Motion by Butler, Seconded by Nelson, to open the public hearing at 7:06 p.m. Motion carried unanimously.

Motion by Nelson, Seconded by Butler, to close the public hearing at 7:06 p.m. Motion carried unanimously.

Motion by Barthel, Seconded by Nelson, to approve Resolution No. R068-23 a resolution granting

the vacation of a drainage and utility easement at 3310 170th Lane NW, PID# 08-32-24-14-0012. Motion carried unanimously.

CONSIDER VARIANCE REQUEST - 17337 ROANOKE ST. NW; PID# 06-32-24-33-0016 – SAMANTHA HAUPERT & COLIN ANDERSON (APPLICANTS)

The City Council is requested to consider the recommendation of the Planning & Zoning Commission, compare the variance requests with the review criteria of City Code 12-15-9, and make a decision based on findings of fact on the variance request.

Mr. Janish reviewed the information with the Council in regard to the variance request at 17337 Roanoke Street NW. Mr. Janish noted additional information was provided as a supplemental, which was received after the Planning & Zoning Commission public hearing. He shared the Planning & Zoning Commission's recommendation of denial of this variance as it would alter the character of the neighborhood.

The applicants, Colin Anderson and Samantha Haupt Anderson, came forward and shared that this property used to be two separate lots when it was a part of Burns Township. He stated he is just trying to get this property back to its original state to add another lot to build an accessible home as they have friends and family who are handicapped and cannot come into their home. He noted their neighbors also do not have the required lot width frontage at their property. He added more than 50% of every property in the R-2 zone does not have the 300 feet of frontage.

Mayor Bukkila stated a township is not a city, but rather a rural designation before the city is incorporated. She noted that once Andover was created as a statutory city, then it fell under other government guidance. She explained the City has evolved and grown since it was established nearly 50 years ago. She noted the rules that were a part of the early stages have been changed.

Mr. Janish reviewed the R-2 district's purpose and zoning map.

Councilmember Engelhardt noted the minutes for the Planning & Zoning Commission meeting showed that there was discussion on the R-2 district also being designated for historical or heritage lands and properties. He asked if there are any historical ties for this property lot split. Mr. Janish stated they are not aware of any historical impacts to this lot.

Mayor Bukkila shared that in her time dealing with variances, usually they are only for a few feet and not 50% of the requirement. She noted that some of these have more to do with geography or topography, or some type of wetland area. She said typically once a parcel is identified, the designations are made by the property owner or developer. She asked if there has been any deviations from this in the R-2 district. Mr. Janish said no.

Mayor Bukkila asked about the long term impact of awarding a variance of this amount. Mr. Janish stated if this variance were granted then it would allow the applicants to move forward with the lot split. He noted that they have not looked at how this would relate to other parcels in the community.

He stated the Council would want to evaluate this particular parcel on its merits and what the applicants have provided to determine if this would warrant the variance.

Councilmember Barthel stated the applicant shared that this used to be two properties but is now one. He asked what year the properties became one. Mr. Janish stated it was in the late 1980s.

Councilmember Barthel asked if this lot was non-compliant to the R-2 district before it was made into one lot. Mr. Janish said that is correct as they combined two legal non-conforming parcels into one conforming parcel.

Mayor Bukkila asked if anyone in the R-2 district with less than the current requirements are considered non-conforming. Mr. Janish stated it would be considered conforming because they met the requirements at the time and the City changed the Code. He noted that past Councils kept this in consideration as they created the R-2 and R-3 districts.

Mayor Bukkila asked if this is similar to a grandfather clause. Mr. Janish said yes.

Councilmember Engelhardt noted that one of the Commissioners in the Planning & Zoning meeting made a comment on remediation of this land. He asked if there was any environmental remediation that would fall into place if this was allowed. Mr. Janish stated he does not believe that the applicant has included this information. He noted that it is up to the applicant to prove that they meet the requirements.

Councilmember Nelson asked if the R-2 district has been in place since 1978. Mr. Janish said yes.

Dan Gregerson, the attorney for applicants, came forward and shared his appreciation for the Council's consideration of this variance. He stated the Council has the authority to say yea or nay tonight, what the Council decides this evening does not pigeonhole the Council going forward as each application is different. He noted that with respect to the alteration of the character there was concern from the Planning & Zoning Commission. He added that regardless of where the Anderson's draw a line for the property split it will necessitate a variance. He shared that the lots to the north and south of this lot do not meet the 300 foot frontage and it all looks the same. He noted that the character would not be altered as the geography of the land is the same regardless of whether the lot is split or not. He reiterated the Anderson's want to have this second building for family and friends and is not an economic consideration. He shared that it is his opinion that if the property meets every other dimension that is necessary to do a lot split then this is what a variance was for.

Mr. Anderson stated they are the only property in the R-2 district of Andover where they have two separate frontages that are not conjoined together. He added both of their neighbors are in support of this happening.

Mayor Bukkila stated not all lots are meant to be split and just because the acreage exists on the property does not mean that it would fit the criteria of a split. She added that road frontage and

access are not the only issues. She noted that the neighboring properties would benefit from this decision as it would provide them an access point to do the same and return it to the original state of four individual minimized frontages. She explained this area is different from the other R-2 sections as the other areas have a different type of uniformity with smaller frontages and they have consistency regardless of their age. She stated she has not heard anything compelling or persuasive to alter the current standards. She acknowledged that this property is unique with the two access points; however, this alone is not persuasive enough to split this lot and allow the road frontage to be minimized by more than 50%. She noted that she has seen leniency in this where roads have widened and taken portions of the property. She stated these lot lines were still done by a property owner.

Councilmember Barthel shared that he understands that the lot split is to have two houses with the second house being for family. He noted that he has only been on the Council for five years; however, in this time he has had people come forward and share that when they split their property it will be staying in the family and then down the line things change and it ends up different. He explained when he looks at this project, he judges it as if a developer had bought the property and wanted two properties out of it. He stated if a developer bought this property and tried to split it to get the maximum number of homes, he would not be in support of that. He said in order to be fair he would not be able to support a variance of the lot split if he would not do it in a different situation. He noted that in his five years on the Council he has always stuck by following the Code.

Councilmember Nelson agreed and added that they do weigh heavily on the Planning & Zoning Commission and their recommendations. He noted that when he looks at this and the variance of over 50%, he is leaning towards not supporting this as they would be taking a compliant property to make it non-compliant.

Councilmember Butler stated he tends to want to try to defer to residents for the best use of their properties while still following the rules in place. He agreed with Councilmember Nelson and Barthel that there is not anything compelling enough to grant this variance. He shared that he understands the situation and would like to help; however, this property is not conducive to granting a variance for this lot split. He acknowledged that each application and request is different and should be looked at as such; however, they still need to remain internally consistent in applying the City's philosophies. He noted that this is too significant of a variance request for him to support.

Mr. Anderson shared that there is more than 136 feet of frontage as there is frontage on 173rd that was never applied. He noted that the 136 feet of frontage is only the frontage on Roanoke Street. He added the frontage is based off of the setbacks for the right-of-way. He stated if this additional frontage is applied it would add 35-40 feet to the frontage.

Mayor Bukkila stated without the variance getting approved they cannot get to the lot split; however, if they do consider this, the frontage that he is pointing out is what makes her find this lot split not favorable as it would create a more awkward property.

Councilmember Barthel reiterated his understanding of what the Anderson's are trying to do. He

added that he also sympathizes with what they are trying to do. He noted that they have to follow the standards that they would follow with anyone else who would buy this property and try to split it.

Motion by Barthel, Seconded by Butler, to deny a variance request at 17337 Roanoke Street NW.

Mr. Baumgartner stated he would like the Council to address the four criteria for a variance and identify which of the criteria is most lacking resulting in the denial so that the applicants can have a clear understanding of why this is being denied.

Mayor Bukkila stated when they look at the request, the economic considerations alone are enough for denial. She noted that if the purpose of this split is to divide the property to allow for two homes for guests to stay in or rent, the solution is to build a bigger house that would accommodate a greater square footage or footprint. She referenced criteria number 2 that the plight of the landowner is due to a circumstance unique to their property not created by the landowner and stated whoever designated these property lines created this situation to begin with.

Mr. Baumgartner stated the ‘landowner’ addressed in this criteria only refers to the applicants for the variance. He noted that this criteria is the one that bothered him. He explained these were two non-conforming parcels that were combined into a conforming parcel and now the request is to take a conforming parcel and create a non-conforming parcel which would necessitate the variance in order to build. He stated the split to the two parcels is what necessitates the variance. He noted that the goal of having non-conformities is to get properties back into conformity.

Councilmember Butler thanked Mr. Baumgartner for the clarification and explanation. He added the request to split the lot and create a non-conforming lot seems to be an issue created by the landowner.

Mayor Bukkila stated one thing she thinks about is how much people learn by owning properties. She noted that if this was the intention of the land, then before it was purchased the property owners could have come to the City to ask about the allowable uses and restrictions.

Mr. Baumgartner noted that there was an attempt to reach out to the Council as this was a foreclosure purchase. He stated he did not know the timing between having to purchase the property and trying to reach out to the City.

Mayor Bukkila stated this burden falls to the applicant to be persuasive and she is not hearing anything to get past this criteria.

Motion carried unanimously.

Mayor Bukkila shared that they would like to direct Staff to create the criteria for the denial based on Council discussion this evening.

DECLARE COSTS/ORDER ASSESSMENT ROLL/SCHEDULE PUBLIC HEARING/2023

***DELINQUENT UTILITY SERVICE CHARGES, MOWING FEES, TREE REMOVAL,
FALSE ALARM FINES AND MISC. ABATEMENT FEE COLLECTION***

The City Council is requested to approve the resolution declaring costs and ordering the assessment roll for the purpose of certifying the delinquent sewer, water, storm sewer, street lighting services charges, mowing fees, tree removal, false alarm fines, and miscellaneous abatement fees.

Mr. Dickinson reviewed the information with the Council. He shared that the total delinquent services charges that are going through this process is \$341,069.82.

Motion by Barthel, Seconded by Nelson, to adopt Resolution No. R070-23, declaring costs/ordering assessment roll/schedule Public Hearing/2023 Delinquent Utility Service Charges, Mowing Fees, Tree Removal, False Alarm Fines and Misc. Abatement Fees Collection. Motion carried unanimously.

REVIEW LETTER OF SUPPORT TO CITY OF ANOKA FOR RUM RIVER DAM

Mr. Dickinson shared that the City of Anoka is requesting letters of support from those who deem benefit from the Anoka Rum River Dam, including the City of Andover. He shared a draft letter of support. He reviewed the projects that Anoka would like to do for the Rum River Dam.

Mayor Bukkila noted that she often has caution with writing a letter of support when someone is going to the State for money not knowing what the end will look like. She added there is a note that this would support recreational expansion and those ideas can come very expansive. She stated she is in favor of supporting the items that Mr. Dickinson has listed specifically. She shared that she is hopeful that someone will notice that this is a limited support.

Councilmember Barthel agreed and stated he is not interested in writing letters of support for some of the requests that Anoka is adding. He noted that what was written in the letter is very important to the Andover residents.

Motion by Butler, Seconded by Barthel, to approve the letter of support to the City of Anoka in support of dam improvements. 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 reviewed the Administrative Staff report highlighting there are 51 new homes in the City. He stated the County 911 center is starting to do work internally. He shared that they are working with development projects in the City that will be coming forward to the Council in the future. He noted that the November 8th meeting will be a very busy meeting for assessments. He noted that there are 1,200 notices that went out just for

road improvement projects. He added they are gearing up for next year's projects. He stated they are continuing to work with the Red Oaks project and shared that they are working with a private contractor to work on the connections to the homes. He shared that the letters went out last week and they are already receiving letters back.

(Community Development Department Report) Mr. Janish reviewed the Community Development Department report, highlighting there is some tree removal and grading going on at Legacy at Petersen Farms. He noted that they sent out letters to Fields at Winslow Cove indicating that the developer would be cutting down some trees and doing some grading. He added they are continuing to work on code enforcement. He stated the Fire Department has been conducting training in one of the fourplexes in the redevelopment area.

MAYOR/COUNCIL INPUT

Councilmember Nelson shared that the Anoka County Sheriff's Open House was a wonderful event.

ADJOURNMENT

Motion by Barthel, Seconded by Nelson, to adjourn. Motion carried unanimously. The meeting adjourned at 8:13 p.m.

Respectfully submitted,

Ava Rokosz, Recording Secretary

REGULAR ANDOVER CITY COUNCIL MEETING MINUTES – OCTOBER 3, 2023
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