

Nowthen City Council Workshop
Minutes
October 7, 2021

Meeting Opened at 6:00 PM

Members attended: Mayor Pilon, Councilmember Blake, Councilmember Greenberg, Councilmember Rainville
Also in attendance: City Planner, Liz Stockman; Administrative Assistant, Lisa Lorensen; City Attorney, Bob Ruppe
Absent: Councilmember Alders

Pilon requested to amend the Agenda by removing from tonight's Agenda Planning & Zoning Items 3.a, b, c, and move 3.i to the top of the agenda. Rainville also requested that 3.e and h be removed from the Agenda to be discussed at the City Council Meeting.

**MOTION BY PILON TO APPROVE THE AMENDED AGENDA; 2ND BY RAINVILLE. ALL IN FAVOR.
MOTION CARRIED.**

Attorney Ruppe was stuck in traffic, so the Council agreed to start discussion on the Cote invoice.

6:05 PM – Item 3.i. Cote Invoice

Pilon said he was having trouble following Lorensen's email and the invoice, balance due \$282.50. That is the balance due that staff intended to send to Cotes for payment. Lorensen explained in detail the invoice and the Hakanson Anderson invoice. On 06-03-21 HAA emailed to the City Office outstanding billings so that Cote's would be able to pay the current balance due at that time to get their Deeds recorded. This email included charges for services rendered 05-28-21 \$113.00 and 06-01-21 \$113.00, which were included in the PZ Statement and paid by Cotes on 06-03-21. Hakanson Anderson monthly Invoice was received at the City Office 07-27-21, which included two more billings for Cotes that were not included in their PZ Statement: HAA billing for services rendered on 05-10-21 \$56.50 and 05-11-21 \$226.00, equaling \$282.50 balance due.

Pilon said he was still confused. Pilon suggested that Lorensen was going to write off the \$56.50, but she responded that she needed clarification, so she outlined and explained it in her email to Council. She explained the timeline of receiving the 07-27-21 HAA invoice after the Cote payment was received and realized there were still outstanding services rendered that were not paid, total due \$282.50. The billing PZ statement that is sent out by the City of Nowthen has a standard disclaimer that states: *This statement may not include charges for which the City of Nowthen has yet to be billed for by the Contractors and/or work yet to be completed.* There was never a PAID in FULL, Statement CLOSED, issued for this Zoning Statement. Pilon was confused because it seemed to him that all of this took place before the Cotes paid their current balance sum and picked up their Deeds. Lorensen responded that the Cotes came in 06-03-21, and the HAA invoice was received 07-27-21 and paid by the City with the 08-13-21 Claims approved by Council. Cotes owe the City of Nowthen \$282.50 for services rendered by HAA, according to all of the billing, in the processing and approval of their zoning applications. The statement is broken down by specific dates and the subject that the contractor billed. Lorensen took the information in the statement verbatim from the contractor invoice and did as she was instructed. A review of all of the invoices, dates, and services provided reveal that it's just a matter of math. Stockman verified that Lorensen followed everything just as she is supposed to do, and it is very common for all applications, especially lot splits, to get delayed billing from contractors. She will double check with Hakanson to confirm that it is not a double billing, and then it would be a legitimate billing. Pilon reiterated his confusion, stating that all of the HAA billing is dated before 06-03-21 and should have been included on the 06-02-21 invoice. Lorensen agreed, but those charges were not included until the 07-28-21 HAA billing, which is not uncommon as contractor billing is processed. Pilon agreed that Stockman should verify the charges were not double billed, and Council agreed.

6:20 PM – City Clerk Resignation

Pilon addressed Attorney Ruppe and said that the question was posed why the attorney was attending this meeting. He had responded that when Clerk Streich's resignation letter was received, he contacted the League of MN Cities, and the League contacted Ruppe to advise him that he needed to attend this meeting. Ruppe stated that he had gotten a call from LMC Human Resources Department saying that they had consulted with the litigation attorneys at the League, and they had strongly recommended that he be in attendance at this meeting when the staff resignation was being considered. He believed that their concern was that someone may speak out of turn. In other words, the issue before the council tonight is that Clerk Streich has submitted her resignation, and she will work 30 days, pursuant to the terms of her contract to give the City 30 days' notice. Council needs to accept her resignation, and the League insurance trust was concerned that if

there was any discussion relating to the letter of resignation, any of the terms or factual allegations contained therein, that the City may be violating certain rights that Clerk Streich may have as an employee. She is still an employee for 30 days, and therefore the League has recommended in these situations to have the City Attorney present. This is so that if someone starts to make a comment that may violate the employee rights for privacy, the Attorney can step in and prevent any violation and potential lawsuits in the future. Ruppe contacted the Mayor that he would attend that meeting if Pilon wanted him there, and Pilon agreed. He explained his reasons for being late due to traffic and road construction.

The issue before the Council is accepting Clerk Streich's resignation. It is a requirement that Council acknowledge receipt and accept it by motion. Streich has agreed to the 30 days required by contract, which Ruppe said is great because it gives the Council some leeway. The other thing to be considered at this meeting or at the October 12, 2021 City Council meeting is to determine the next steps forward. Time is of the essence.

The last time the Council was in this situation, the City had to use the services of an interim administrator. Ruppe encouraged Council to discuss next steps, stating that this was something that was just done a couple years ago, but now it needs to be redone. The job description needs to be reviewed, a committee should be appointed to do some of the initial legwork. No decision will be made by the committee, but they invest the time to find an interim person to come in and help the City to present to the Council for approval to fill Clerk Streich's shoes until a qualified individual is found to take over the Administrative leadership. This is a Yes/No motion, and the details the letter expressed cannot be discussed in this meeting, as that goes into Employee Review.

Pilon stated that there is a meeting that has been scheduled for October 25, 2021 with the intention of talking about the communication between Council and Staff. In that discussion, if Council is not getting into specifics of employee performance, but what the Council sees as deficiencies that need to be cleaned up, improvements that need to be made as we go forward, is it appropriate then, as long as Council is not talking about specific personnel? Ruppe asked if this was some sort of workshop talking about how to have better communication between Council and Staff, and Pilon said yes. Ruppe said that going forward that is an appropriate discussion to have, especially in light of the statements given in the letter of resignation. It is something that Council should always consider because that would always benefit everybody. If at that time Council begins to talk about deficiencies in any certain employee, then he would not recommend that. Council is an employer, but not a private employer. As a government employer, all employees have certain rights under the Data Practices Act and the Open Meeting Law, so Council must comply with those. If Council wants to discuss the Clerk's performance, that should be looked at as an employee review, and Council would need to give the Clerk opportunity to have that closed. If she wants it open, that is her right and the Statute allows that, and then it would be an open session.

Pilon asked if the Council could use that work session to discuss systematic or system deficiencies and improvements without discussing personnel. Discussion about appropriate topics and example policies that would be acceptable to be discussed. Ruppe said that even though Council may not agree with the staff members' viewpoint, it is something worth considering and trying to see if there is a way to address it because everyone has something to bring to the table. Council needs to clearly identify expectations of the staff and consultants. Under the rules of Professional Responsibility, he as the Attorney works for the Council not the residents, as do other staff. Planner Stockman asked if the Clerk requested that her review be public, wouldn't the personnel issues be discussed then? Ruppe said in a closed meeting, a summary of what was discussed should be published without going into specifics, and it is tape recorded as insurance that the Council is not discussing things not germane to the employee review. The only time a meeting is not recorded is when Council is conferring with the attorney, attorney/client privilege.

The item before Council tonight is the Clerk's Resignation. Council should also consider as soon as Tuesday's meeting steps for moving forward.

RAINVILLE MADE THE MOTION TO ACCEPT THE RESIGNATION OF THE CITY CLERK, LORI STREICH, AND IF APPROVED, THEN THE ITEM BE REMOVED FROM THE TUESDAY, OCTOBER 12, 2021 AGENDA; 2ND BY PILON. ALL IN FAVOR. MOTION CARRIED.

Pilon explained that last time this happened a few years ago (2018-19), the City engaged the services of an Interim Administrator from a list provided by the League of MN Cities (LMC). A hiring committee was selected to work with the Interim to find a replacement for City Clerk. Ruppe suggested a committee of no more than two councilmembers, in order to not violate the Open Meeting Laws. Once applicants are finalists, then the information becomes public and goes to Council for approval.

Blake requested that the selection of this committee wait until the regular Council meeting on October 12th, when the full Council will be present. Everyone should be present for that important decision, and it isn't that long to wait until Tuesday.

Ruppe said that at Tuesday's meeting the process needs to be started, because time is of the essence. Greenberg agreed with Blake, so it was to be added to the Council section of the Agenda for Tuesday, October 12th meeting, and at that point the next steps will be discussed.

6:50 PM – Ordinance 2021-04 Accessory Buildings

Planner Stockman stated that at some point in the past the intention was to allow a smaller accessory structure closer to the road. Currently the only time that is allowed is if your house is more than 300 feet back from the road. The intention of this ordinance is to clarify and create an Ordinance that Council wants and likes, but she did leave the option for a smaller structure in the front of the property, presently referencing an 800 sq ft structure in front of the home closer to the road. The confusing part was that the current language states that the accessory structure shall comply with the minimum setback requirements for the principal structure, which is very confusing. It cannot be closer to the road and comply with the minimum setback requirement.

Discussed the best way to make this clear. Stockman tentatively worded it: *One accessory structure may be located in the front yard or side yard in case of corner lots, but not both, closer to the front or side lot line than the principal structure, provided the structure is not closer than 35 feet from the front property line or the side property lot line in the case of corner lots, or 70 feet from the street center line whichever is greater.*

Planner Stockman does get requests for that sort of thing. If the structure is in front of the home, it needs to match the home in the color of siding and roofing as close as possible, as opposed to coordinating colors. Discussed why the language has a separation limitation between the house and the structure in front of the house, not more than 60 ft nor directly in front of the principal structure. Pilon said if there haven't been inquiries regarding this, then leave well enough alone. Discussed matching language. One additional garden shed or play structure is allowed and is not included in the total accessory building totals.

Discussed adding under #6 adding an exclusion for bus shelters for children at the end of driveways.

7:10 PM – Planning Fees in Similar Communities

Blake expressed appreciation for all the work evident by Administrative Assistant, Lisa Lorensen in this comparison. Planner Stockman explained her fees and how they affected zoning applications. The fees presented are just Planning fees, not including engineering or legal fees incurred with applications. Generally the larger the land area, the more expensive it gets. The Cote billing was not out of the ballpark, nor was the easement vacation for Mr. Jim Hazeman.

Blake asked regarding the goal Council was looking for by asking for this comparison. Accusations have been made that it is too expensive to develop in Nowthen, so this comparison would be good to show those individuals. Blake said this is quite valuable for that purpose. Pilon asked about the checklist, and Lorensen explained that Council had directed Stockman to develop a checklist, so Lorensen asked other comparable cities if they had checklists. The intent is to have checklists for everything, so applicants have a good idea what they are getting into when they begin the process of zoning applications.

With the comparison done, the cities of our size and makeup are doing Planning services like Nowthen, as consulting services. The cities that were not were losing money right and left and are in the process of looking for a planning consultant.

Process Diagram and Checklists

Blake complimented Stockman and Lorensen on the great job that was done in putting together the checklists presented. It will be very helpful, and it is very straightforward and clear. Recommendations from Council:

- Allow residents to evaluate checklists; recommended current Developers and current zoning applicants
- Options that property owners could do themselves to reduce costs; separate page added to present those things; but may complicate the timeline - Who would be responsible to have needed documents ready to meet application timeline and processing; delayed actions and incomplete information complicate 60-day review
- PZ only is a recommendation, but Council makes final decision
- Property taxes must be paid before deeds can be recorded
- Attorney Ruppe provided Planner Stockman with a one-line disclaimer that would be included on all IUP permits, and places for notarization have been added to the IUP approval documents.
- Font recommendations
- This checklist is going a long way toward remedying the concerns of residents recently.

Council told Planner Stockman and Admin Asst Lorensen that they did a good job with the diagrams and checklists.

RAINVILLE MADE THE MOTION TO ADJOURN; 2ND BY BLAKE. MEETING ADJOURNED AT 8:02 PM.

Respectfully Submitted,

City Clerk

Jeff Pilon, Mayor

UNOFFICIAL