

Nowthen City Council
May 11, 2021
MINUTES

6:15 pm Interview – Planning & Zoning Candidate

Members attended: Mayor Pilon, Councilmember Alders, Councilmember Blake, Councilmember Greenberg & Councilmember Rainville – via phone
Also in attendance: City Clerk, Streich

The final candidate was interviewed for the Planning & Zoning Commission.
Interview adjourned at 6:50 pm.

City Council meeting called to order at 7:00 pm.

Members attended: Mayor Pilon, Councilmember Alders, Councilmember Blake, Councilmember Greenberg & Councilmember Rainville - via phone
Also in attendance: Anoka County Sheriff's Department, Commander Wayne Heath, Asst. Fire Chief, Joe Lawrence, City Planner, Liz Stockman, Auditor, Michael Pofahl and City Clerk, Lori Streich

Motion to approve tonight's amended agenda, adding Floor Items after the Financials, Sheriff's Report to follow. Rainville also adding the Farmer's Market RCA after the Recycle Center and add the shredding option to the Recycling Event and schedule a meeting for Council to schedule the selection of the P&Z Commission Members. Pilon adding to the Greater Good of the Council, LMC Annual Conference in June. Alders added that a date should be scheduled to review some of the discussions they have had with Planning & Zoning issues regarding the last couple lot splits. It's been postponed twice. Item D will be Cell Tower Discussion. Motion by Rainville, 2nd by Blake; all in favor, motion carried.

Consent Agenda

- Approve April 13, 2021 City Council Meeting Minutes
- Approve Treasurer's Report and Claims dated April 7, 2021 thru May 10, 2021.
- Resolution 2021-22 Authorizing the Acceptance of a Donation from the Elk River Youth Hockey Association to the City of Nowthen

Pilon asked about the Resolution on the Consent Agenda for the donation from the Elk River Hockey Association, a note stating that they would like to see the funds be used for the hockey rink improvements, if possible. He doesn't know what improvements would be needed for \$14,000. Typically charitable gambling is given to public safety.

Streich said that in discussions with staff regarding the Elk River Hockey Association's request for the funds to be used towards rink improvements, staff mentioned that surrounding the rink with concrete curbing was an idea that came up, which would help stabilize the boards, and contain the water inside the rink area making it easier for flooding.

Resolution 2021-22 to be pulled for separate voting.

MOTION TO APPROVE CONSENT AGENDA AS AMENDED BY BLAKE; 2ND BY ALDERS; MOTION CARRIED.

MOTION TO ACCEPT RESOLUTION 2021-22 AUTHORIZING THE ACCEPTANCE OF A DONATION FROM THE ELK RIVER YOUTH HOCKEY ASSOCIATION TO THE CITY OF NOWTHEN WITH \$7,000 TO BE USED TOWARDS FIRE DEPARTMENT SCBA'S, \$7,000 TOWARDS RINK IMPROVEMENTS BY ALDERS, 2ND BY BLAKE; ALL IN FAVOR, MOTION CARRIED.

Financial

a) 2020 Audit Report – Mike Pofahl

Auditor Pofahl explained the 2020 Audit Report as presented to council. Council did not have any questions.

MOTION TO APPROVE THE 2020 AUDIT AS PRESENTED BY AUDITOR POFAHL BY GREENBERG, 2ND BY RAINVILLE; ALL IN FAVOR, MOTION CARRIED.

Sheriff's Report

Commander Heath stated that in April, there were 117 calls for service in the city of Nowthen.

They have seen a slight decrease at the Bar-None Facility. In late April, the Department of Human Services issued their findings after an investigation at the Bar-None Facility. After their investigation, they found five determinations of maltreatment by neglect, and five determinations of failing to report the maltreatment to the Department of Human Services, as well as 30 different licensing violations. Bar-None has the ability to appeal the findings by the Department of Human Services.

They have been placed on a conditional license status for a period of two years. That started on April 21, 2021. They were also fined \$14,000.

Heath heard from Bar-None, and they will be reaching out to the Sheriff's Department to talk. He will ask that the city be included. Heath will provide a copy of the report to the council.

He will ask what the conditions are, how will it be monitored, what are the next phases if the findings are not addressed, and what is the best remedy for the city, fire department, or sheriff's office for reporting further issues, and bring the answers back to the council.

Heath also wanted to bring up that there was a news story on Kare 11 regarding the Sheriff's Department and that they served a search warrant with their swat team for the Minneapolis Police Department in the City of Coon Rapids. The background is that they served a high risk warrant in search of a suspect that was wanted in an armed robbery. The warrant was issued to the right house that the suspect had lived in but he had since moved out. What he wanted council to know is that there has been quite a bit of information in the media and some of it is inaccurate and/or false. Some of it was then relayed to other governmental entities in the City of Coon Rapids that their elected officials believed was completely true. They take their job very seriously and are always reviewing things that happened to see if they should change. But the biggest thing is that when something like this happens, to please reach out to Commander Heath and ask. He wants to make sure they have all of the accurate information needed to make decisions for the city and even if its just wanting to understand more about what they do as our law enforcement provider.

Fire Department

a) RCA – SCBA Compressor & Fill Station

Assistant Fire Chief Lawrence explained that they went out for bid for the SCBA Compressor & Fill Station and received (2) quotes. There are not a lot of companies that sell this type of equipment. The lowest bid they received was \$33,427 plus \$1500 for electrical needs, which they may not need

depending on where it is located in the station.

MOTION TO APPROVE THE PURCHASE OF THE SCBA COMPRESSOR AND FILL STATION THROUGH FIRE STATION USA IN THE AMOUNT OF \$33,427, WITH AN ADDITIONAL AMOUNT OF APPROXIMATELY \$1500 FOR ELECTRICAL SERVICE UPGRADES, FOR A TOTAL COST OF \$34,927, USING EXISTING FUNDS AND THE ELK RIVER HOCKEY ASSOCIATION DONATION, 2ND BY ALDERS; ALL IN FAVOR, MOTION CARRIED.

b) Inventory needs
Nothing at this time.

Planning & Zoning

a) 19745 Nowthen Blvd – FX Auto Repair-Conditional Use Permit
Planner Stockman explained the recommendations made by the planning committee.

Pilon asked if the car was going to be used as his sign. He doesn't feel that gives a great image on the main street. Pilon also asked if Rene Perkins has any ownership or is it still Dave Perkins company? If Rene is co-signing with Mr. Froelich, and Mr. Froelich is not an owner, just leasing space, an IUP or CUP on that property, it would to be clarified who owns what.

Who's responsible for the paving behind the house and on the northwest corner there's a bunch of cars parked that are currently on gravel that would need to be paved. There is also a drainage pond that was supposed to be a pre-pond that got used for parking instead of drainage. What are all the vehicles parked out in front of the fence? - they seem to be there day and night.

Greenberg said that if FX Auto Repair wants to keep their car as their sign, is there a way they could do it like the neighboring business has theirs? Make it into a display with edging and trimming and maybe move it into a different area. If they really like the car and want to use that as their sign, put some requirements on it, like it has to be elevated, there has to be edging, it has to sit on rock similar to the neighbor.

Alders said that if that's what he likes, and that's his logo on the car, but agrees that it shouldn't look parked and abandoned. He likes Greenberg's idea that if that's what you want your logo to be, make it be your display and put a light on it.

Pilon said that there are four vehicles over there right now and one of them might be an older collector type vehicle, but the lights are off and the gates are shut, so the question is why would cars be continually out because that's one of the things with Perkins original CUP was everything would be behind the fence until the motorcycle thing came up and they said they could park behind the house for some of that.

Stockman said that the parking out front was shown as parking spaces on the original site plan, and it was what we call proof of parking so they can pave it at a later date if they need it. If you want for the condition, or at this point, more of a code enforcement item, with Mr. Perkins.

Pilon said that the property itself has to be in compliance. The drainage ponds and areas that if they are going to be used for parking had to be paved. FX Auto vehicles all have to be behind the fence. If the property owner needs to get it cleaned up so he can lease out, this is our opportunity to take it and get that done.

The other question Pilon asked is why would this be a conditional use on a secondary lease to a primary commercial operation.

Stockman answered that it was about the auto sales itself. The re-use potential of a shop like that is common.

Rainville said that this is an issue that is obvious that the business is no longer there and they are looking to put another one in. She's also not comfortable with approving a CUP for a business, where that business does not own that property. Are we even clear as to who has ownership or legal authorities. Are there documents showing Rene Perkins special legal authority over that property, or are we accepting a signature from someone that we don't know has legal authority? She would like the attorney to advise whether it would be prudent to move forward.

Alders stated that the applicant is Rene Perkins, who is the owner.

Pilon said that Dave Perkins owns the business.

Stockman said that she was verbally told that Rene Perkins has the decision making power, but she does not have a legal document.

Rainville stated that she could tell you she's the Queen of England too. We are taking the word of a third party and don't know if the owner is in agreeance to this.

Blake asked if we do this to everyone that wants a CUP? Make sure that they are the owners? Why don't we trust this person? We aren't doing this to anyone else, and she would like it made clear to her why we are doing this to this individual.

Pilon said that the property is owned by Dave Perkins and just because Rene has authority to run the business, it doesn't mean he owns the business.

Alders asked if Mr. Froelich is the business owner, and the CUP is to his name, and he doesn't do the upgrades, whether he has an agreement with Dave or Rene or not, you take the CUP away. He's leasing a property. Alder's wife leases a building and she doesn't go to the building owner to decide what she's doing with their business.

Stockman said that is correct – it doesn't go into effect. They have had numerous situations where they've issued CUP's or IUP's to tenants. A tenant can rent or lease the whole building or a portion of the building. It's the use that they are looking at and authorizing. It is always required that the land owner or building owner sign the application. If council would like proof, she can get it. She trusted Rene's word, but would be glad to revisit that.

Stockman recommends that this be tabled until next month and she can get the paperwork needed, address the issues and try to get answers. Regarding the revocation of the CUP that Rainville talked of, she is well aware of that because there are multiple properties in the city where it's very obvious that businesses are no longer present, so we should give the Perkins family the same respect as the others. Rather than charging Perkins for a public hearing notice individually, you could add him in with a group of other businesses during that process.

Alders commented that for the next meeting, the three actions that will occur are, they will clarify what the signage needs to look like, get information on the cars that are parked on the north side of the building, and understand from the city attorney whether Rene can sign off on this or does Dave needs to sign off on it.

The Secretary of State Website lists Rene Perkins as the Chief Executive Officer.

Blake stated that this they just had this big long discussion and Stockman is going to have to go back and ask all of these questions and have more hoops for them to go through, which is right, but let's remember this when people say that she is making it impossible for them to change things in the city. We have to realize that Council is sending her back with more things for them to do which might aggravate them and say how many hoops do I have to jump through before this can pass, but it's starting right here with us. A lot of what Stockman has to do is go back with things that Council is demanding be changed, checked or re-done. Stockman is taking the heat for it because they think its her making it impossible for them to do things.

With the knowledge that Rene Perkins is the Chief Executive Officer, Planner Stockman said that she would recommend just adding a couple conditions regarding that all of the cars in the front need to be licensed and operable and that an intentional sign is placed whether it be the car or a raised sign.

Rainville stated that she is still not comfortable with Rene Perkins signing off on this application without the proper proof that he has authority.

Pilon agrees that even if Rene is listed as the CEO, that may not give him authority to sign the application and they should consult legal. He might have the authority to run the property, but not to sign off on this.

Alders said that Rene is the CEO of the company, Alders signs off on items all the time for Caterpillar as the Facility Manager.

Stockman agreed, and also mentioned that the CEO of Volunteers of America is the one signing off on applications. Nobody is sure who owns Volunteers of America. Sometimes you will have multiple people own the property and only one or two with the authority to sign off on things.

Rainville told Alders that he can do whatever he wants to in his business environment, but government is different and as an elected official our job is to make sure that the city is protected.

Alders responded that he understands that, but Rene the CEO of the company, and we are dragging out a discussion for 40 minutes for a business that has been successfully running for two years and it can easily be voted on with the two conditions and move on vs. waiting another month.

MOTION BY GREENBERG TO TABLE THIS DISCUSSION, HAVE THE APPLICANT PROVIDE THE LEGAL DOCUMENTS THAT RAINVILLE IS ASKING FOR AND PROVIDE A PLAN FOR THE RUSTED CAR OUT FRONT, 2ND BY RAINVILLE; AYES – PILON, RAINVILLE & GREENBERG, NAYES – BLAKE & ALDERS, MOTION CARRIED.

b) Draft Ordinance Regarding Grading/Landscape Escrows

Stockman said that it would be nice to get some input on this from Council. It still needs to go back to Planning & Zoning, and then the Council will be looking at it again. It's basically establishing a grading,

landscaping and construction escrow, so that when you have new residential structures or any new commercial or industrial uses or additions, an escrow is set so that the city can monitor the site related to erosion control and grading. It would be checked periodically throughout the construction process to assure there are no issues. The city has to adopt a new MS4 plan this year, and they are becoming increasingly picky in their details about what needs to be addressed, and we will likely need the City Engineer to assist with some of these erosion control type and grading inspections. Having this escrow available to pay for staff and to have an incentive, especially for the residential homes to get their seeded or sodded lawns in within a reasonable period of time. This will assure that they meet the requirements that were approved as part of the grading plan.

Blake asked if we have ever had this in the past.

Stockman answered that we have not had this in the past and that she's been checking sites before we issue a Certificate of Occupancy. This would take the place of that. This is partly a result of state requirements related to the MS4 requirements and the pollutant discharges. The city is responsible for these mandates.

Alders asked if this could simply be added to the building permit application.

Stockman said that there isn't any way of knowing how many inspections it will take and the building official doesn't want any part of that. The MPCA is requiring that anyone that does the inspections must be trained.

Stockman will try to provide some additional background information and she will talk to the engineer to get some numbers and bring back to Council.

c) Discussion of Architectural Design Guidelines for Commercial/Industrial Districts

Stockman stated that this topic will take longer than what the time allows tonight so this will get moved to another meeting.

d) Cell Town Discussion

The cell tower is located in between the Recycling Center and Fire Station. There's an easement that they want to go 25 feet wider and put a generator along the pathway, near the ball field. With the addition on the fire station, that will need to include a sidewalk to make it handicap accessible and there are questions that need to be answered, like where is the generator going to be, how often might it be running, and what kind of pad will it be on.

Stockman will get the information and this will be added to the meeting on Monday, May 24th after the road improvement public hearings.

7. Recycle Center

a) RCA – Recycling Center Employee

Clerk Streich explained that this position was discussed at the last meeting with the possibility of 20 hours per week, and she proposed the hours she thought would work best. She also received some suggestions from Council member Alders that would be good options. She is recommending an hourly rate of \$15.00/hour. Discussion continued regarding the hours for the Recycle Center.

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Streich will post this position with the hours as follows: Tuesdays & Thursdays, 11:00 am-7:00 pm and Saturdays, 8:00 am – 4:00 pm, at \$15.00/hour.

Greenberg suggested that the person be a minimum of 25 years of age.

Blake said that it may not be that easy to be picky with who they get because of the times we are facing right now and trying to find employees.

MOTION TO APPROVE AS MODIFIED RCA FOR A RECYCLING CENTER EMPLOYEE FOR THE TIMES NOTED WITH THE DISCUSSION FROM THIS COUNCIL BY ALDERS, 2ND BY BLAKE; ALL IN FAVOR, MOTION CARRIED.

8. Farmer's Market RCA

The idea was brought up a couple months ago by Council Member Blake to provide a stipend for the Market Coordinator, the Assistant Coordinator, and the Market Manager. Effective with the 2021 market season, the Market Coordinator be paid a \$500 stipend, and the Assistant Market Coordinator and Market Manager each be provided a \$250 stipend. City staff to add this to the 2022 budget discussions. The Farmer's Market is budgeted \$1600, but they bring in money based on the vendor booth fees.

Alders asked if the Market Coordinator should make more than the Planning & Zoning Team Members. They are only receiving \$20 / meeting.

Rainville believes these dollars are warranted. They spend 14 weeks at a minimum, on-site, and have additional responsibilities like market coordination, obtaining vendors, and advertising. They work almost year round.

Blake asked Alders if he would feel better if the dollar amount was reduced.

Alders answered that if it's a wash, it's fine, but perspective-wise, the Planning & Zoning, which we say are accountable for helping us with all of our ordinances, and if they have 12 meetings, they would make \$240, and there's usually a couple that are cancelled. If we are good with it, that's fine, but then we have to be able to defend it. Rainville has a good argument that if they work 14 Saturdays, and they are there for 7-8 hours, accountable for off-season, and making sure we have vendor relations and people showing up, and it does add value to the community. Outside looking in, the Market Coordinator makes double what we are saying is important from a planning job.

Blake said she sees his point and we should be careful with that and maybe the Planning & Zoning Commission should make a little more money than \$20/meeting.

Rainville said that if they feel that it is unfair to the Planning & Zoning Members, someone should come forward with an RCA. She believes that the dollars being considered here are appropriate for the work that is done for those three market personnel.

Pilon said that it's not an apples to apples comparison.

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MOTION TO APPROVE THE FARMER'S MARKET RCA EFFECTIVE WITH THE 2021 MARKET SEASON, THE MARKET COORDINATOR BE PROVIDED A \$500 STIPEND, AND THE ASSISTANT MARKET COORDINATOR AND MARKET MANAGER BE PROVIDED \$250 STIPENDS AND CITY STAFF ADD THIS AMOUNT INTO THE UPCOMING 2022 FARMERS MARKET BUDGET DISCUSSION BY RAINVILLE, 2ND BY ALDERS; ALL IN FAVOR, MOTION CARRIED.

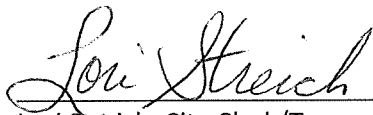
9. For the Greater Good of the Council

The Planning & Zoning Commission Member selection will be on Monday, May 24th after the Road Improvement Public Hearings.

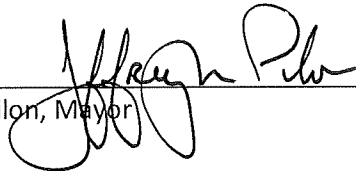
The discussion with Planner Stockman, Council and staff will be rescheduled for Tuesday, June 15th @ 7:00 pm.

Motion to adjourn at 10:25 pm by Pilon; 2nd by Blake . Unanimous. Motion carried.

Respectfully Submitted,



Lori Streich, City Clerk/Treasurer



Jeff Pilon, Mayor