

Nowthen City Council Regular Meeting
Minutes
October 12, 2021

Meeting Opened at 7:00 PM

Members attended: Mayor Pilon, Councilmember Alders, Councilmember Blake, Councilmember Greenberg, Councilmember Rainville

Also in attendance: Deputy Clerk, Ellen Lendt; City Planner, Liz Stockman; Anoka County Sheriff Commander, Wayne Heath

1. Pilon requested to amend the Agenda by adding 8b) a request from RTY Consulting to amend the contract to go through the end of 2021; also removing Consent Agenda Items for discussion: 2c) Ebony & Garnet Assessment, 2d) Rogers Lake Assessment, 2e) JPA and 2g) SCORE Contract. Rainville requested to remove August 23, 2021 Open House Minutes because the Planning & Zoning members in attendance was incorrect, and also remove 2f) Annual Generator Contract because Attachment A, Maintenance Facility was not included as stated in the agreement on page 3.

MOTION BY BLAKE TO APPROVE THE AMENDED AGENDA; 2ND BY GREENBERG. ALL IN FAVOR. MOTION CARRIED.

2. **7:03 PM: Consent Agenda- AMENDED:**

- a) Approve City Council Meeting Minutes of July 13, 2021.
- b) Financial Report: Approve Treasurer's Report, and Claims dated September 8, 2021 through October 5, 2021, and 3rd Quarter Financials.

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

Discussion Items:

c) Resolution 2021-31 Certifying the Assessment for the Ebony & Garnet Road Project
Pilon requested clarification from the City Engineer regarding the \$127,303 in Base Corrections, but he stated that it would not affect the assessment roll adoption.

MOTION BY GREENBERG TO APPROVE RESOLUTION 2021-31 CERTIFYING THE ASSESSMENT FOR EBONY AND GARNET ROAD PROJECT FOR \$7,000 PER PARCEL, WITH CLARIFICATION FROM ENGINEER REGARDING \$127,303 FOR BASE CORRECTION COSTS; 2ND BY RAINVILLE. ALL IN FAVOR. MOTION CARRIED

d) Resolution 2021-32 Certifying the Assessment for the Rogers Lake Area Road Project
Pilon requested clarification from the City Engineer regarding the base preparation and culvert replacement costs of \$199,092 but stated that it would not affect the assessment roll adoption.

MOTION BY GREENBERG TO APPROVE RESOLUTION 2021-32 CERTIFYING THE ASSESSMENT FOR ROGERS LAKE AREA ROAD PROJECT FOR \$5,300 PER PARCEL FOR 52 PARCELS AND \$7,300 PER PARCEL FOR THE 2 PARCELS ON 185TH AVE NW, WITH CLARIFICATION FROM ENGINEER REGARDING \$199,092 FOR CULVERT REPLACEMENT AND BASE PREPARATION COSTS; 2ND BY BLAKE. ALL IN FAVOR. MOTION CARRIED.

e) Resolution 2021-33 Approving the Anoka County Elections Joint Powers Agreement-2021
Pilon asked about items 6.1.1 through 6.1.5, City Expenses and wondered if this was normal. Deputy Clerk Lendt said yes, they are normal Election Administration expenses. Requested that Attorney Ruppe review the contract and they wanted to compare the 2021 JPA with the past JPA. Deputy Clerk mentioned that this is time sensitive for approval by mid-November, and Rainville requested that date and wanted amounts given that the City would be agreeing to pay with this JPA.

MOTION BY RAINVILLE TO TABLE UNTIL ATTORNEY CAN REVIEW AND MORE INFORMATION IS AVAILABLE AS REQUESTED; 2ND BY BLAKE. ALL IN FAVOR. MOTION CARRIED.

- f) Resolution 2021-35 Approving 2022 Anoka County SCORE Contract #C0008795

Pilon questioned what the Master Plan 2018 on the first page of the contract was referring to. Deputy Clerk Lendt explained the SCORE Grant application, the funding requested and the amount that was approved, which was decreased because of the new staffing metric point system limitations. Greenberg requested a copy of the recommendations from Anoka County for earning more points. There are a number of things that Nowthen would not be eligible to earn points for. Pilon asked about the weather protected station that was approved and wondered if those funds could be used for fixing the heater, insulating the Center, and improving lighting. Lendt stated that the 2021 Grant Fund included \$8,000 for Recycle Center improvements, which would cover the heating and lighting issues. Council will discuss what weather protection is best suited for the Center.

MOTION BY BLAKE TO APPROVE RESOLUTION 2021-35 APPROVING THE ANOKA COUNTY 2022 SCORE CONTRACT #C0008795; 2ND BY ALDERS. ALDERS, BLAKE, GREENBERG, RAINVILLE VOTED AYE; PILON VOTED NAY. MOTION CARRIED.

3. **7:05 PM: Floor Items**

Andrea Godwin, 6439 191ST Ave NW

Godwin wanted to notify the Drydens that they shouldn't drain the lake because the DNR would not allow it. She has no problem with the business running there.

4. **7:25 PM: Sheriff's Report**

Commander Heath briefly reviewed the calls for service, noting that there were 137 calls for service in the month. He also mentioned that there were 7 calls to Bar None facility, 3 of them were assaults: 1 – Resident vs Resident; broken tooth. 2 – Resident vs. 2 Staff members; 1 Staff was hit and spit in the face, other Staff was hit in the face. 3 – Resident vs. Staff; Staff had hair torn out of staff member's head. Bar None requested Heath write a letter of commendation about the improvements there, and he politely declined. Fatal crash on 09-11-21 involving a pickup traveling west and turning left vs. motorcycle travelling west is under investigation. Initial report suggesting was that speed was involved. Thanked Heritage Festival for opportunity to build positive relationships between police, fire and the city.

5. **7:45 PM: Engineering**

Toft/CST Development Agreement, Letter of Credit and Road Construction

Planner Stockman stated that she knows a bit about this and stated that things took a turn for the better today with the signed Developers Agreement coming in. The applicant's attorney recommended approval of the City Attorney approved Letter of Credit for the \$690,000 and the \$20,000 in engineering escrow requested by the City. Stockman wanted to know the Council's direction regarding allowing the applicant to bring the Preliminary Plat to the October Planning & Zoning Commission meeting for review. The situation at the CST Project regarding construction of a road that did not pass the initial roll test, without a Developers Agreement in place and Letter of Credit, influenced the Council to not allow the application to move forward until those 3 items are addressed. The 60-day letter to extend this will be needed regardless of what decision is made. The builder has into next year to finish the road, which could wait until Spring. The Council agreed to not allow the Preliminary Plat to come to the Planning & Zoning Commission for approval, even though there may be enough time to get all the information and requirements completed for the Preliminary Plat for Phase 2. Stockman reminded Council of the temporary access permit that was granted to allow construction of the building, so the definition of a driveway was in conflict. Decision was to notice this preliminary plat for the November 23, 2021 Planning Commission meeting to allow Tofts to get things in order.

6. **8:15 PM – Public Hearing OPEN – Amend 2001 CUP for excavating business at 6600 and 6700 Viking Blvd.**

Planner Stockman explained that this Public Hearing was to amend a 2001 CUP due to change in ownership. Signature from Jason Dryden, new owner, has been received. A meeting to get the details nailed down for the Findings of Fact has not been scheduled. Jason will be the responsible party as the new owner; need to identify explicit and specific conditions that are enforceable. Will be a different set of findings than those in this packet; Preliminary Plat can be approved; CUP and Final Plat will be approved in November. Drydens will work with Planner Stockman to work out details of Findings to be presented for approval.

Public Comments:

Peggy Rue – letter mailed to City Office; 6673 Viking Blvd NW

Hello Lori Streich,

My name is Peggy Rue, I live at 6673 Viking Blvd NW. I have received 2 letter now concerning the Dryden Properties across the street from me. I am unable to attend the meetings, also I was going to email you, but my computer is not working properly today, so It's pen and paper.

First of all, what was the result of the first meeting regarding the conditional use permit to establish and pave a cul-de-sac? In the second letter, it appear they wish to amend the conditional use permit to operate an excavating business on the property. But where would this business exactly be located? Behind 6660 or on 6700? And what would an excavating business do to the comparison tax values on the homes in this area? I don't want to see my property value decline because of that business being located there. And what about the surrounding property values in the area too? If our property values decline, do our taxes decline?

*I am against this conditional use permit for an excavation business off of the part of Viking Blvd NW.
Peggy Rue*

Planner Stockman attempted to call and explain the situation to Ms. Rue, but has not been able to reach her yet. Apparently she has not been aware that this business has been in operation for at least 20 years.

Andrea Godwin, 6439 191st Ave NW

Godwin reiterated her concern about draining McCann Lake; and was also concerned that the hours of operation would be too early. She doesn't have an issue with the business being there.

Council and Planner Stockman reassured her that a wetland delineation has been done and they will not be affecting any wetlands. Findings Conditions will address hours of operation, but the current CUP hours stipulate start time as 6:30 AM.

Public Hearing Closed at 8:31 PM

8:31 PM – Public Hearing OPEN – Variance for Zero lot line driveway setback & lot width

Ordinance requires 15 feet off the lot line. Dryden said there is plenty of room to move the driveway and narrow it so that variance is not needed. Drydens were agreeable to this; Variance removed from application.

Public Hearing CLOSED at 8:37 PM.

Approval of Preliminary Plat and CUP for deferral of street paving

Neighboring Property Owner currently out of country, but owner is transferring property rights to his children with the understanding that the 33 feet will be dedicated for a road. Driveway is already in place, but lot needs to be recorded before they can begin building. Building plans, certificate of survey and site plan can be submitted for approval while waiting for the lot to be recorded. Will give input on newly developed checklist for submitting applications. Preliminary Plat has 3 lots, with one outlot and 1 Park Dedication Fee

MOTION BY ALDERS TO APPROVE THE PRELIMINARY PLAT AND CUP TO ALLOW DEFERRAL OF STREET CONSTRUCTION REQUIREMENTS; 2nd BY RAINVILLE. ALL IN FAVOR. MOTION CARRIED.

Recommendation to Table Decision on Requested Amended CUP

Stockman will meet with Drydens to get new Findings of Fact in order to present for approval.

MOTION BY PILON TO TABLE DECISION ON REQUESTED AMENDED CUP; 2ND BY BLAKE. ALL IN FAVOR. MOTION CARRIED.

Ward Preliminary & Final Plat, 6789 Old Viking Blvd. (2 lots on Basalt St.)

Planner Stockman presented her Report and Findings of Fact

Approving two lot Preliminary and Final plat; no changes recommended by Planning & Zoning Commission; no Developer Agreement required with simple lot split.

MOTION BY RAINVILLE TO APPROVE PRELIMINARY AND FINAL PLAT FOR A 2 LOT SPLIT WITH STREET FRONTAGE ON BASALT STREET NW (PID 22-33-25-13-0003); 2ND BY GREENBERG. ALL IN FAVOR. MOTION CARRIED.

Jones IUP Home Extended Business 'Primocraft', 6167 Viking Blvd.

Planner Stockman presented red-lined changes to the Findings of Fact recommended by the Planning & Zoning Commission. Saturday hours changed to 7:00 AM to 5:00 PM; outdoor storage changes, additional screening not necessary as natural vegetation was sufficient.

MOTION BY RAINVILLE TO APPROVE INTERIM USE PERMIT TO ALLOW AN EXTENDED HOME OCCUPATION TO OPERATE PRIMOCRAFT CABINETRY BUSINESS (PID 23-33-25-31-0009); 2ND BY BLAKE. ALL IN FAVOR. MOTION CARRIED.

Rainville pointed out that the video of the September 28, 2021 PZ Meeting was not available on the City YouTube. Deputy Clerk Lendt explained the circumstances and said that the video took all day today to upload to the YouTube channel. Rainville said that she understands that it takes a long time to upload, but she noted the date of the Planning meeting and didn't want to be disrespectful and micro-managing, but – Alders interrupted her and told her to stop; Blake agreed. She persisted. Alders continued to tell her to stop and knock it off, saying that enough people have been driven out of the city by comments like this. Blake said that we don't want to go there again. Rainville attempted to comment again and Alders told her to stop - they were done, and to knock it off. Rainville told him that he could not tell her what to do or say, stating that there have been continuing issues with not getting things done. Alders responded – look what the result were; that's ridiculous. Blake said that Council needs to watch their language and be careful how they address City staff, they need to be respectful and kind, and it needs to be done here in Council meetings. It is not ok to criticize them. Everyone makes mistakes and does things that are not correct, but Council doesn't need to draw attention to everything that goes wrong. Alders said that was crazy.

Accessory Building Ordinance 2021-04

Planner Stockman presented the clean copy of the Ordinance for approval.

MOTION BY RAINVILLE TO APPROVE ORDINANCE 2021-04 AMENDING CHAPTER 11 REGARDING ACCESSORY STRUCTURES IN THE FRONT YARD; 2ND BY GREENBERG.

Planner Stockman explained that small structures like bus shelters and garden sheds are not included in the total accessory structures. **ALL IN FAVOR. MOTION CARRIED.**

Plumbing Code Ordinance 2021-05

Planner Stockman said this was pretty straight forward, allowing the City Building Official to approve commercial plumbing projects.

MOTION BY BLAKE TO APPROVE ORDINANCE 2021-05 AMENDING SECTION 9-1-1 OF THE CITY CODE AND AUTHORIZE THE DRAFT LETTER TO BE SENT TO THE DEPARTMENT OF LABOR AND INDUSTRY; 2ND BY RAINVILLE. ALL IN FAVOR. MOTION CARRIED.

7. 8:45 PM: Public Works

RCA - Sodium Street, walking trail, street improvements

The walking trail located on Sodium Street is an asphalt trail and has some deep potholes in areas, sinking of asphalt, as well as a portion where the asphalt was removed completely. As this is a safety hazard, it needs to be fixed right away. Staff recommends contracting North Valley to take care of these issues. Estimate is \$4,449.65. Expenses to come out of Road Fund and Park Fund, ask North Valley to separate the billing for proper coding.

MOTION BY BLAKE TO AUTHORIZE NORTH VALLEY TO COMPLETE THE REPAIRS OF THE WALKING TRAIL AND THE 3'X3' PATCH ON SODIUM STREET; 2ND BY GREENBERG.

Rainville asked if the City was responsible for this, and Planner Stockman said yes because it is part of the Park & Trail system. Discussion about Trail Plan. **ALL IN FAVOR; MOTION CARRIED.**

8. 9:30 PM: Council

a. Discuss Hiring Committee to fill City Clerk Position

Pilon stated that the first step is to look at an Interim Administrative person to help Admin staff through year end and to help with the process of recruiting a replacement. Typically involves two Council members, work with League of MN Cities, list of individuals qualified for this position and a 9-page checklist of criteria. Deputy Clerk shared with Council the League of MN training she received that recommended including a local business owner on the Hiring Committee. Council will be the final approval of all hiring recommendations from the committee, both Interim and final City Clerk.

Greenberg said that he believed the two individuals most qualified and best equipped for this position are the Mayor and Councilmember Alders, because of experience in leadership positions, have the qualities and skills necessary, and have

rubbed shoulders with leaders and done their share of hiring. Blake agreed. Pilon said he was willing, and would be willing to do the leg work during the day because his schedule is flexible since he is unemployed. Alders asked what kind of time commitment would be involved, and Pilon said the last hire took 4 months to find the Clerk. Liz asked if the LMC list included both administrators and clerks. Discussed Nowthen's hybrid position needed because Council asks the City Clerk/Treasurer to fulfill Administrator responsibilities, and an Administrator would need to be willing to do Clerk responsibilities. Pilon stated that last time the search began as an Administrator position, and the salary is \$20K-\$30K more than a Clerk position.

Planner Stockman asked regarding a public Exit interview for City Clerk/Treasurer, and Pilon stated that it is not required but would be a council decision. She was encouraging Blake to consider being on the Hiring Committee, and Pilon stopped her and said that the Council would decide. She asked when the process would be completed, and the response was sometime after the beginning of the year.

Alders was asked if he would be on the Hiring Committee and he declined, due to his busy work schedule, family commitments and the current level of Council duties. He could not commit to a 4-month process for hiring. He recommended Lynda Blake. Alders also asked if at the October 7th workshop the Council had addressed the hostile work environment claim. Pilon said the attorney advised them that no personnel issues can be discussed in public, as it is a violation of employee right to privacy. The communication meeting scheduled for October 25th would be the place to address what the council wishes in regard to communication.

Pilon said that Blake or Greenberg would need to be on the Hiring Committee, as he would not recommend Rainville. Rainville said that if she were involved in the process, it would be considered tainted. Greenberg was asked if he would be willing, and he said he thinks Alders was the best qualified, but he or Blake could do it as well. He said he is thinking more along Alders line with having a busy life. Blake agreed to be on the hiring committee. Pilon said he will contact the League and get a list of potential interims

MOTION BY RAINVILLE TO HAVE PILON AND BLAKE AS THE HIRING COMMITTEE TO WORK WITH LEAGUE OF MN CITIES AND THE CITY ATTORNEY TO FIND AN INTERIM ADMINISTRATOR AND CITY CLERK; 2ND BY ALDERS. ALL IN FAVOR. MOTION CARRIED.

b. RTY Consulting contract amended or ended with City Clerk's resignation

Makes sense to continue with RTY Consulting through the end of the year, and then discuss continuing her services after that if desired.

MOTION BY PILON TO AMEND RTY CONSULTING CONTRACT TO EXTEND THROUGH YEAR END, AND THEN DISCUSS POSSIBLE NEW CONTRACT FOR 2022; 2ND BY ALDERS. ALL IN FAVOR. MOTION CARRIED.

MOTION BY RAINVILLE TO ADJOURN; 2ND BY BLAKE.

Planner Stockman stated that she had one more quick thing, as she had investigated the Cote billing and verified that the charges were legitimate, as directed by Council at the workshop. Pilon said that he was confused about the billing statement and what was the actual amount due. Stockman and Lendt both stated that the statement was very clear, the amount due was on the bottom line, and all the charges were legitimate. Pilon said this wasn't on the agenda and they were not legal to keep talking about it anyway. He continued saying that based on the discussion on Thursday it wasn't clear to him, and the question was to verify the billing, and the Council will determine if the Cotes would be invoiced.

MEETING ADJOURNED AT 9:27 PM.

Respectfully Submitted,

Ellen Lendt, Deputy Clerk

Jeff Pilon, Mayor