



CITY COUNCIL SPECIAL MEETING

April 16, 2021

5:30 PM

Fridley Civic Campus, 7071 University Avenue N.E.

MINUTES

The April 12, 2021 Fridley City Council meeting was cancelled due to Minnesota Executive Order 21-18, which established a temporary nighttime curfew in Anoka, Dakota, Hennepin and Ramsey Counties. Pursuant to Minnesota Statute § 13.04D, subd. 2, a Special Meeting of the Fridley City Council was scheduled for April 16, 2021 at 5:30 p.m. at Fridley City Hall to conduct the business previously scheduled on its April 12, 2021 agenda.

CALL TO ORDER

PRESENT

Scott Lund
Ann Bolkcom
Stephen Eggert
Dave Ostwald
Tom Tillberry

Wally Wysopal, City Manager
Scott Hickok, Community Development Director
Jim Kosluchar, Public Works Director
Andrew Biggerstaff, City Attorney

PLEDGE OF ALLEGIANCE

PROCLAMATIONS/PRESENTATIONS

1. Fair Housing Month - April 2021

APPROVAL OF PROPOSED CONSENT AGENDA

Motion made by Councilmember Ostwald. Seconded by Councilmember Bolkcom.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

APPROVAL OF MINUTES

2. Approve the Minutes from the City Council Meeting of March 22, 2021.

OLD BUSINESS

3. Ordinance No. 1387, Amending the Fridley City Code Chapter 6, Commissions, Second Reading

NEW BUSINESS

4. Receive the Minutes from the Planning Commission Meeting of March 17, 2021.
5. Resolution No. 2021-24, Approving Joint Powers Agreement with the State of Minnesota.
6. Resolution No. 2021-25, Scheduling a Public Hearing on May 10, 2021 for a Recommended Amendment to the Fridley City Charter Chapter 12 (Miscellaneous Provisions).
7. Resolution No. 2021-27, Approving Lot Split #21-02 Petitioned by B & D Mathews Investments LLC (Ward 1).
8. Resolution No. 2021-28, Approving Variance #21-03 petitioned by B & D Mathews Investments LLC (Ward 1).
9. Resolution No. 2021-30, Approving Change Order No. 3 (Final) for 2019 Street Rehabilitation Project No. ST2019-01.

CLAIMS

10. Approve Claims Nos. 192302 – 192475.

ADOPTION OF REGULAR AGENDA

Motion made by Councilmember Bolkcom. Seconded by Tillberry.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

OPEN FORUM, VISITORS: Consideration of Items not on Agenda – 15 minutes.

No one from the audience spoke.

REGULAR AGENDA ITEMS**NEW BUSINESS**

11. Resolution No. 2021-29, Authorizing a Scope of Engineering Services for the 53rd Avenue Turnabout Project ST2021-521.

Jim Kosluchar, Public Works Director, said the City of Fridley has been cooperatively working with the City of Columbia Heights to improve safety for vehicular traffic on 53rd Avenue just west of Central Avenue (Trunk Highway 65). There is a Joint Powers agreement between the two cities that establishes Fridley as project lead. The scope of services was received from Bolton & Menk for the final design. Bolton & Menk have provided technical assistance to date and are familiar with the project.

The Highway Safety Improvement Program grant is a competitive grant, and the metro and federal funding is administered by MnDOT. The proposal would control access, provide for safe access to businesses and safe U-turn movements. The concept for 2021 includes engagement, design, permitting

and authority to bid. The construction would take place in 2022-2023. The next steps include permitting, communications plan and project open house in early summer. For questions visit FridleyMN.gov/Projects or call 763-572-3554.

Councilmember Eggert asked if the MTC would relocate the bus stop, and if so, where the new location would be.

Mr. Kosluchar said he was not sure what the disposition would be. He said Fridley would coordinate improvements and location of bus stops with the Met Council.

Councilmember Eggert noted that there is a lot of pedestrian traffic going to Target in that intersection.

Mr. Kosluchar said there is a sidewalk and plans for a trail on the south side that will not be part of this project. There may be another project coming to coordinate trail access. They are hoping to get another round of funding for future projects.

Councilmember Eggert asked if the timeline for this project is 2022-2025.

Mr. Kosluchar replied correct, and the construction on the sewer lift station that is near the Target entrance will be constructed in 2021.

Councilmember Tillberry asked what the likelihood was for getting funding for the street.

Mr. Kosluchar replied the solicitation for federal funding is every two years. He said they are fairly competitive and the regional bicycle connection they are planning on incorporating in this route may give them more of a competitive edge. It all depends on the number of applicants and how much funding is available. This is a standalone project and will be improving safety in a different way. Having this segment done may help with future projects.

Councilmember Bolkcom asked if this project would help in the next funding request.

Mr. Kosluchar replied no, these are different sources of funding.

Councilmember Bolkcom asked if staff received comments from anyone besides the agencies involved.

Mr. Kosluchar said they advised businesses in the area of this project and they have seen the concepts. There are a few new businesses under construction, and they are also aware of the development activities happening.

Motion made by Councilmember Tillberry. Seconded by Councilmember Eggert.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

12. Resolution No. 2021-31, Authorizing the Execution of a Coon Creek Watershed District Water Quality Cost-Share Agreement.

Jim Kosluchar, Public Works Director, stated that Craig Park is a neighborhood park located at the northwest section of Fridley in Ward 3. It is comprised of primarily an open space/non-programmed ball field, steep hill, two tennis courts, half basketball court, playground (20 years old), and a grove of trees. It is near Riverview Heights Park and the on-road section of MRT. There have been drainage issues in this area. The regional low area - historic wetland is built in a bowl with poor soils and a high groundwater table. The existing storm sewer is deficient. There are opportunities for improvement with under-utilized space.

Mr. Kosluchar said the drainage plan is to convey and manage the water via shallow swales and basins vegetated with native plants. They would use excavated material to build up the open play area, and integrate the water quality by treating water from the three-acre neighborhood north of 79th Way to improve the water quality of the Mississippi River. The park design concepts include updated amenities, improved play equipment that is more accessible and appeal to a wider audience. They would increase connectivity, environmental stewardship and consider maintenance impacts. Public outreach resulted in 50 responses and 90% were satisfied. The most common comments were to add more garbage/recycling containers, more habitat improvements and add a skating rink.

Mr. Kosluchar said the initial project estimates for drainage improvements is \$147,126. Staff applied for and received a Coon Creek Watershed District grant for \$50,000. A match is budgeted within the CIP through Stormwater Utility Fund Reserves for Water Quality Improvements. The project supports the Local Water Plan, 2040 Comprehensive Plan, Parks Chapter, Pollinator Friendly Fridley resolution and Upper Mississippi River Bacteria TMDL and Mississippi River TSS TMDL. Staff recommends council approve Resolution 2021-31 authorizing the CCWD grant.

Mr. Kosluchar indicated the next steps include developing final plans, holding the project open house in early summer, providing updates and collecting feedback on the rest of the parks on the park system story map. For details visit FridleyMN.gov/FindingYourFun-Updates.

Councilmember Bolkcom asked staff to summarize the difference between the two plans.

Mr. Kosluchar replied that the trail routing is different between the two concepts. The stormwater system will be built and expand with the trails and improvements. There is a change to the tennis courts in both plans, reducing them from two courts to one. Resurface of the basketball court is in both plans. The biggest difference is the play areas and trail routing.

Councilmember Bolkcom asked if the tennis court could be used to play pickleball.

Mr. Kosluchar replied that idea is in the plans, but the tennis court is a larger area. The stormwater improvements will take place regardless of what happens to the park.

Councilmember Ostwald asked about the pollinator area and if that was a separate program or if it fell under the stormwater improvement.

Mr. Kosluchar replied it is not funded out of this particular funding but there will be dry infiltration areas that will be used to our advantage for planting. He said they will take the best areas for pollinator installation, about a fraction of an acre. The pollinator area will need to be cleared out and weeded occasionally.

Councilmember Eggert asked about the \$147,000 cost and if the \$50,000 from Coon Creek was for the stormwater portion only.

Mr. Kosluchar replied yes, the grant is not contingent on park improvements and is only for stormwater improvement.

Councilmember Eggert asked if a final plan and new budget would be developed for the amenities coming to the park.

Mr. Kosluchar replied they will establish the drainage first and then move on to the next steps.

Councilmember Eggert noted that this is a good example of a concept plan with input from the residents. He encouraged people to go to Finding Your Fun in Fridley and share their comments.

Mr. Kosluchar agreed that providing comments will have a big impact on the park plan. The time is now to put in comments to see if some can be incorporated into the plan.

Councilmember Bolkcom asked what the timeline is for construction if approved tonight.

Mr. Kosluchar replied the plan is for this to be completed in the 2021 construction season.

Councilmember Eggert asked with all the construction activity this season if there was concern with finding contractors.

Mr. Kosluchar replied that the general availability of contractors is not saturated yet. This is a modest size project, so staff anticipate several contractors will be interested.

Councilmember Bolkcom asked if the park would be out of commission this summer.

Mr. Kosluchar replied it would for the later part of the summer.

Motion made by Councilmember Bolkcom. Seconded by Ostwald.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

13. Ordinance No. 1388, Amending Fridley City Code Chapter 101, Animal Control.

Jeff Guest, Lieutenant, stated that Ordinance No. 1388 proposes a revision to Fridley City Code (Code) Chapter 101, Animal Control. The amendment will update, revise, and add language to the existing code. Fridley City Code, Chapter 101, regulates many aspects related to animals within the City. Minnesota Statutes, sections 347.50 through 347.565, address the regulation of dangerous dogs. Ordinance No. 1388 proposes declaration, appeals process, registration and requirements, exemptions, reviews and notifications. Staff recommend Council approve the first reading of Ordinance No. 1388. Assuming the City Council approves the first reading, the City Council would consider the second reading of the ordinance at their meeting on April 26, 2021.

Councilmember Bolkcom noted that throughout ordinance it refers to the number 12 and it is also spelled out. She asked if that could be consistent throughout the ordinance. Also, the ordinance mentions repetitive barking. She asked what that meant and how it would be enforced.

Lieutenant Guest replied that the standard by the city prosecutor is to observe the dog from at least 100 feet for a period of 10 minutes. The educational process will be tried first to educate the dog owners and then if needed, enforcement will be used.

Councilmember Bolkcom asked if the total ownership of dogs and cats or combination is 3 total.

Lieutenant Guest replied that is correct--no more than 3 dogs or cats or any combination without having a multiple pet license. Multiple pet license applications are available on the City's website. A site plan and site inspection to make sure the facility can house more pets is needed. A multiple pet license is in addition to having a lifetime license per animal over 6 months of age.

Councilmember Bolkcom asked with respect to bees, if someone wants to get a license and their neighbor is allergic to bees, if the person gets a letter from a physician, the bee license may not be approved.

Scott Hickok, Community Development Director, replied that a license has been denied because a neighbor indicated they were allergic to bees and submitted a doctor's note. That is the intent, and it is already in place.

Lieutenant Guest noted that spelling out numbers is part of the stylistic changes that were made and handed out to Council tonight. The chickens and bee content was moved to the beginning of the ordinance.

Councilmember Ostwald noted that bodily harm and biting was referenced about humans but asked if there was any reference to biting or attacking other dogs.

Lieutenant Guest replied that definition is in the section that would fit under "killed another animal off the owner's property."

Councilmember Ostwald asked about the five-day retainment and what happens if the animal is not claimed.

Lieutenant Guest replied that if the animal is not claimed after five days, there is a contract with Dover Kennels in Andover, and they will rehome or donate the animal to rescue. Dangerous or unhealthy animals would be euthanized.

Councilmember Ostwald said animals that were provoked by being teased through the fence and reacting would not be considered dangerous.

Lieutenant Guest replied correct.

Councilmember Ostwald asked about page 206 where it says no more than four dogs/cats or a combination of both and other areas it says no more than three.

Lieutenant Guest replied a multiple pet license is required for three or more. In Section 101.06, it is referencing animal nuisance, where four or more are kept without a multiple pet license.

Councilmember Eggert said in the past Fridley encountered dangerous dogs and worked with residents and eventually the dangerous dogs were relocated and taken out of the City. Today, people are more resistant to giving up their animals. This may cause problems.

Lieutenant Guest replied that they are trying to adopt the State Statute into Fridley's ordinance. He said they want to add specific language, and the State Statute allows us to become more restrictive to make people feel safe.

Councilmember Eggert agreed that it is easier to reference City Code rather than looking for it in State Statute.

Lieutenant Guest replied correct. It is also an easy reference for people wanting to move into Fridley and want to know what the City Code is.

Councilmember Tillberry asked what type of class people need to take if they want to be licensed to have chickens on their property.

Mr. Hickok replied the University of Minnesota has classes along with other resources.

Councilmember Tillberry asked how much investment it takes to have chickens.

Mr. Hickok replied that urban farming is very popular and encouraged. It is meant to be affordable. The expense is to purchase the chickens and building materials. The class would be the smallest expense.

Councilmember Bolkcom asked if the liability of \$300,000 is from State Statute.

Lieutenant Guest replied yes.

Councilmember Bolkcom asked when State Statute changes, do we get notification.

Lieutenant Guest replied that the reference to State Statue is amended from time to time to cover changes that may happen.

Attorney Biggerstaff added that they tried to define this by saying if State Statute changes, we will continue to rely on State Statute. Overall, the goal is to provide consistency between state law and Fridley's city code.

Councilmember Ostwald asked with the lifetime dog license, do people notify the City upon the death of their dog.

Lieutenant Guest replied that in some cases people do notify us.

Motion made by Councilmember Eggert. Seconded by Councilmember Bolkcom.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

14. Ordinance No. 1389, Amending Fridley City Code Chapter 11, Fees.

Lieutenant Guest said the City Council may set fees and other charges to recoup the costs associated with certain City activities. Chapter 7 of the City Charter requires the City to charge fees that are "designed to cover the cost of the service." Earlier today at recent meetings, Council considered changes to the City Code Chapter 101 (Animal Control) requiring an amendment to Chapter 11. A \$500 Potentially Dangerous Dog registration was added to Chapter 11. The fee is the same for Dangerous Dog registration. A maximum allowable fee for Dangerous Dog registration is pursuant to Minnesota Statute 347.41, subd. 2. This aligns the Potentially Dangerous Dogs registration fee with Dangerous Dog registration fee. Fees assessed are used to recoup staff time required to administer registration and inspection processes.

Based on the process to date, staff recommends Council approve the first reading of Ordinance No. 1389, amending the Fridley City Code Chapter 11, Fees, Adding Potentially Dangerous Dog Registration Fee. Assuming the City Council approves the first reading, the City Council would consider a second reading and final adoption at their meeting on April 26, 2021.

Councilmember Bolkcom asked what the difference was between a potentially dangerous dog and dangerous dog.

Lieutenant Guest replied that a dangerous dog means any dog that has without provocation, inflicted substantial bodily harm, as defined by Minnesota Statutes 609.02, subd. 7(a), on a human being on public or private property; killed a domestic animal without provocation while off the owner's property; or been found to be potentially dangerous, and after the owner has noticed the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals. A potentially dangerous dog means any dog that when unprovoked, inflicts bites on a human or domestic animal on public or private property; when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Motion made by Councilmember Eggert. Seconded by Councilmember Bolkcom.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

15. Ordinance No. 1390, Amending Fridley City Code Chapter 205.17, Uses Allowed with a Special Permit, Petitioned by Happy Tails Rescue Foundation, Public Hearing and First Reading (Ward 2)

Scott Hickok, Community Development Director, stated the petitioner is requesting a text amendment to add the language "Animal Rescue Facility" as a special use in the M-1, Light Industrial Zoning District. The property is located on Baker Street, just north of 73rd Avenue. It is zoned M-1, Light Industrial, as are the properties to the north and south. The properties across Baker Street are zoned R-2, Two Family Units, and the properties to the east are zoned R-4, Manufactured Homes.

Happy Tails Rescue's mission is to support animals in need. They focus on rescuing homeless and abandoned animals from high-kill shelters and Indian Reservations. Animals typically arrive a few times

a week. Once they arrive, they review their paperwork, add them to their system, get their basic vetting up-to-date, and coordinate with foster homes to have them picked up for temporary care. Most dogs head to their foster homes within hours of arrival, while the cats and small animals (bunnies, ferrets, guinea pigs, and birds) are kept on-site.

The 13,500 square foot building will be used for their office space, a veterinary suite, adoption center space, training space, and boarding and storage space. They also plan to fence in an outdoor play area for the dogs on the green space south of the existing building. The petitioner currently operates their business from 7920 University Avenue, multi-tenant building. They have been in this location since 2005 and have seen significant growth, which is the reason they were looking for a larger building and a property they could own.

The petitioner and staff have drafted an ordinance that would allow an "Animal Rescue Facility" contingent upon approval for a special use permit provided the following conditions are met:

- a) Animal Rescue use shall be inspected and licensed by the Minnesota Board of Animal Health on an annual basis.
- b) An eight-foot solid fence must be constructed to enclose outdoor play area for the safety of the animals and the general public.
- c) All animals shall be kept inside overnight for the safety of the animals and the general public.
- d) Animal waste shall be picked up and properly disposed of daily for the safety of the animals and the general public.
- e) Animal Rescue use shall comply with and meet all code requirements for noise, odor, and manure removal.

Staff has determined that if those conditions can be met, with the issuance of a special use permit, the proposed request would meet the purpose and intent of the comprehensive plan and zoning ordinance and would not create any adverse effects beyond what a typical industry may impose. If the first reading of the ordinance is approved, the special use permit to allow this use will be on the Council agenda on April 26. City Staff recommends concurrence with the Planning Commission and that Council approve the first reading of Ordinance #1390.

Councilmember Eggert asked what kind of fence would be installed in the animal pick-up and drop-off area.

Mr. Hickok replied that it would be a solid fence to keep the animals from being distracted and overly excited.

Councilmember Bolkcom asked how many dogs can be outside at one time and how many other dogs could be on-site.

Mr. Hickok replied that there will be an annual review of the site, and it is a requirement that they meet the terms for short-term boarding. Dogs will not be outside without a handler. This business has been in operation for many years and staff have not had a complaint from any adjacent business.

Tom Robb, Happy Tails Rescue President, said that they have a Hogan Heroes program where trained dogs are given to Purple Heart veterans at no cost in an effort to give back to the community. The other animals like birds and rabbits, have been found or given up and they find homes for them.

Laura Westphal, Happy Tails Director, added that most animals come from impound facilities. They do not look for other animals but will help out with a rabbit or bird if impound asks them for help. The intent is to take care of the animals and find them a home. The fenced in area will be used for training classes in the summer. They have never had any issues with barking and all animals are on a leash when outside. One dog will go outside at a time unless there are dogs from one household or the same shelter that have a relationship.

Mr. Robb said that right now their facility is located in a strip mall and he is not aware of any issues from neighboring businesses. They added a vet clinic which is how they ran out of space. The clinic is not open to the public.

Councilmember Ostwald said he is familiar with the program and agrees this service is needed.

Councilmember Eggert agreed they are doing wonderful things for our community. He asked if this was a 24-hour operation.

Ms. Westphal replied that normal business hours are 7 a.m. to 9 p.m., but they are open on the weekends until midnight. Sometimes dogs arrive late depending on where they are coming from. This new space is nice because two garage doors are available to unload dogs inside so the dogs will not be able to run. The animals are not outside for a long period of time except when training sessions take place.

Councilmember Eggert said that now the facility will be bordering a residential area, so he wanted to understand the process and how the facility would operate.

Councilmember Bolkcom asked how many dogs they received in one year.

Ms. Westphal replied that last year they found homes for 3,700 dogs.

Wally Wysopal, City Manager, asked how they identify dangerous dogs or potentially dangerous dogs before they are fostered into the community.

Ms. Westphal replied that there are requirements for animals they take in and they are not an open drop-off facility like the Humane Society. Dogs have to go through an evaluation with a trainer and be considered dog and people safe. The sending shelter also does an evaluation process on the dogs with a trainer before they are sent to their facility.

Councilmember Eggert asked if a neighbor passes away, for example, and leaves their dog could, it be dropped off at Happy Tails.

Ms. Westphal replied that they are not contracted with the City to take in strays. They would have to go through animal control.

Mayor Lund asked if they ever had trouble finding enough dogs for people or have more problems finding people to foster the dogs.

Ms. Westphal replied that Minnesota is an amazing state for animal care. The shelter in Houston has 400 animals and Minnesota animal control has six dogs. Other states want to send animals to Minnesota because of our great animal care. If they had more volunteers, they could save more animals.

Motion made by Councilmember Tillberry. Seconded by Councilmember Bolkcom.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

INFORMAL STATUS REPORTS

Mr. Wysopal noted that the dangerous dog ordinance is something staff discovered that needed to be corrected to add administrative procedures. Many people suffered because of the deficiency in the code, and staff wanted to get that changed as soon as possible. He thanked staff and Lieutenant Guest who worked on the details of the proposed changes. He said Lieutenant Guest is retiring at the end of the month, and this is an example of his commitment to the City.

Mr. Wysopal said the Parks Master Plan planning remains in place. He encouraged people to go to the City's website and submit their feedback. It will be discussed at the Town Hall meeting in June. Community parks that are not receiving a lot of input will have pop-up events for feedback.

Councilmember Bolkcom said there is a meeting on Tuesday night about the service road off University Avenue to see what it will look like. Letters have been sent out to residents.

Mr. Wysopal said the meeting will be behind the old Holly Center. Two more meetings will be held. One will be on the north side of Mississippi on the west side and one near the Walgreen's on the east side of University. The intention of the first meeting is to demonstrate how one-way traffic will work and how they will utilize the other half of the roadway for landscaping and a trail.

Mayor Lund said the Fridley Historical Society Museum has been closed for over a year and are having a re-grand opening on May 8 from 10 a.m. to 4 p.m. The museum is located at 611 Mississippi. Updates are available on the website at www.fridleyhistory.org.

ADJOURN

Motion made by Councilmember Ostwald. Seconded by Councilmember Eggert.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.

Respectfully Submitted,

Krista Peterson
Recording Secretary

Scott J. Lund
Mayor