



CITY COUNCIL MEETING

April 26, 2021

7:00 PM

Fridley Civic Campus, 7071 University Avenue N.E.

MINUTES

CALL TO ORDER

PRESENT:

Scott Lund
Ann Bolkcom
Stephen Eggert
Dave Ostwald
Tom Tillberry

OTHERS PRESENT:

Wally Wysopal, City Manager
Deb Dahl, Community Services and Employee Resources Director
Scott Hickok, Community Development Director
Ryan George, Deputy Director of Public Safety
Andrew Biggerstaff, City Attorney
Rod Trocke, 280 Rice Creek Terrace
Bruce Brotten, 270 Rice Creek Terrace
Bee Thao, Fridley resident
James Tracy, 250 Rice Cree Terrace
Marney Tracy, 250 Rice Creek Terrace
Tom Robb, Happy Tails Rescue Foundation
Laura Westphall, Happy Tails Rescue Foundation

PLEDGE OF ALLEGIANCE

PROCLAMATIONS/PRESENTATIONS

1. Proclamation for Malcolm Mitchell
2. Proclamation for Annette Mitchell
3. Arbor Month Proclamation

APPROVAL OF PROPOSED CONSENT AGENDA

Councilmember Tillberry asked that Item Nos. 7 and 8 be removed and placed on the Regular Consent Agenda.

Motion made by Councilmember Bolkcom to adopt the proposed Consent Agenda with the removal of Item Nos. 7 and 8. Seconded by Councilmember Tillberry.

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

APPROVAL OF MINUTES

4. Approve the Minutes from the Special City Council Meeting of April 16, 2021.

OLD BUSINESS

5. Ordinance No. 1388, Amending Fridley City Code Chapter 101, Animal Control, Second Reading.
6. Ordinance No. 1389, Amending Fridley City Code Chapter 11, Fees, Second Reading.
7. Ordinance No. 1390, Amending Fridley City Code Chapter 205.17, Uses Allowed with a Special Permit, Petitioned by Happy Tails Rescue Foundation (Ward 2), Second Reading.

THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA AND PLACED ON THE REGULAR AGENDA.

NEW BUSINESS

8. Resolution No. 2021-26, Approving Special Use Permit, SP #21-02 petitioned by Happy Tails Rescue Foundation (Ward 2).

THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA AND PLACED ON THE REGULAR AGENDA.

9. Resolution No. 2021-35, Approving Gifts, Donations and Sponsorships received between March 13, 2021 and April 19, 2021.

LICENSES

10. Resolution No. 2021-33, Approving 2021-2022 Business License Renewals

CLAIMS

11. Approve Claim Nos. 192476 – 192598

ADOPTION OF REGULAR AGENDA

Motion made by Councilmember Bolkcom, Seconded by Councilmember Ostwald, to adopt the Regular Agenda with the addition of Item Nos. 7 and 8.

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.

Rod Trocke, 280 Rice Creek Terrace, stated last week they received some mail and basically, the City wants to convert the Service Drive to one-way for motor traffic with the other half being used by bicycles. They had a pretty good turnout at the meeting, and it does not appear anybody in the neighborhood is really for this. He for one does not quite understand it because the Service Drive ends at the road that goes down to the City's lift station down by the creek, and then there is no place to go.

Mayor Lund stated a bridge would most likely be built to continue the trail.

Mr. Trocke asked why they had to have it when there is a nice bike path and bridge on the other side of University Avenue. After he had his heart attack, he used it every day, and it worked great.

Mr. Trocke said he also did not think anybody addressed what are you going to do with the postal service. You are going to have to move mailboxes. The other issue is the snowplows. Granted with all of his complaining about the snowplowing in the City of Fridley, they do have talented drivers, but they are not that talented to make U-turns there.

Mr. Trocke stated he has no idea if this thing is on the agenda to keep it in the process and asked what they needed to do to get it cancelled.

Mayor Lund replied they are in the discussion stage. He said staff has not had the time to take all the input and determine alternatives. They will be looking at those alternatives in the near future. A date has not been set. Comments are being taken. He said he heard two additional comments—the one about postal service and snowplowing. What transpires here tonight and what happened at Tuesday night's meeting will be put together and hopefully they can come up with something that works for everyone. As he told the audience on Tuesday night, safety is of paramount importance. Image is important to him and he assumes it is for most people in Fridley. They need to keep up their house and therefore, they keep up their neighborhood. Collectively they all try to improve the image of their community.

Mayor Lund stated this came as a result of many people coming to meetings on three different nights about two years ago. A lot of comments were made about the changes they would like to see along University and Highway 65—the prevalent one being University Avenue. He said they were starting to see some of the results of those conversations. Last summer they saw the beginnings of image and improvements trying to beautify the corridor. It is not the final result, and this is only a continuation of some of the things they were looking at doing. They are trying to give people ample notification of this, get your involvement so they can make these comments, but he is also asking for people to keep an open mind. Mr. Trocke is right, at the meeting about 98 percent of the people said they wanted a fence. No decisions have been made and will not be made tonight.

Mr. Trocke stated with respect to fences, Mayor Lund knows the difficulty they have in that area communicating because of the noise. He said he always wondered why they put the noise barrier down in the south part of University, and not on their side.

Councilmember Bolkcom replied, as was discussed at that meeting that night there is not enough room there to put up a road barrier fence like that. It is pretty close to the highway.

Mr. Trocke replied, there was a fence there for years.

Councilmember Bolkcom replied, there was a fence but not a road one like Mr. Trocke is talking about.

Mr. Trocke stated the difference is probably a foot in thickness between.

Councilmember Bolkcom stated there were three additional meetings so there were many meetings where a lot of people who attended here over two years ago discussed Highway 65 and 47 and concerns about safety, traffic, and noise. Not everyone has a car and not everyone feels safe going across. As a matter of fact, if you are on Mississippi, you have to run to get across the traffic light. You are barely through there with a car.

Councilmember Bolkcom stated there were three additional meetings at City Hall. In the neighborhood Mr. Trocke lived in, there were also three different meetings about this whole area, from there all the way down to 57th Avenue. Unfortunately, not everyone was able to attend those meetings.

Mr. Trocke asked if there were minutes from those meetings.

Councilmember Bolkcom stated there were presentations. Mr. Hickok would be able to get them for him.

Mr. Trocke stated it would be fun to review them and see who really wanted a bike path in that little strip.

Councilmember Bolkcom stated they have a lot of minutes from the Highway 47 discussion.

Mr. Trocke asked where he would get them.

Mayor Lund asked Mr. Trocke to sign in on the sign-up sheet so staff could respond to him.

Councilmember Bolkcom stated they did talk about having another meeting about the noise.

Mr. Trocke asked if the road that went down the Service Drive into Holly Center was still going to be there.

Mayor Lund said as he recalled, it was only going to be into the new apartment buildings. He is not sure if that remains.

Scott Hickok, Community Development Director, replied the slip coming into what was the Holly Center and what is now the new apartment complex will provide access probably primarily for fire. Some residents may choose to take that as an access, but the road between the neighborhood and there will be discontinued. There will be a pathway that will connect.

Bruce Brotten, 270 Rice Creek Terrace, said he thought Mr. Trocke was talking about the little strip that goes right in front of that. The little one-way in between 67th and then it goes into the Holly Shopping Center.

Mayor Lund stated to Mr. Brotten he is talking about his neighborhood going into what used to be the Holly Center. That would go away. However, the little road coming off of University and going into the apartment complex would remain.

Mr. Brotten said the guy who lives in the corner house cannot get into his garage from that little road.

Mayor Lund stated City staff on Tuesday night indicated they wanted to take a look at that.

Mr. Brotten said he is also concerned about the fence for safety. They like beautification but safety should come first. Also, he talked to the garbage hauler. He said there was a concern that if they made it just a one-way, they would have to go down the block and then kind of back in and back out and then come down the other side of the block. He said they would not have the room to do that. He would have to back all the way down the block with his garbage truck.

Mayor Lund said they received an email earlier today.

Mr. Trocke said after living in this area for quite a while and having been on the Fire Department for 20 years, he has yet to see anybody who wanted to cross University Avenue who did not have to run.

Bee Thao, Fridley resident, stated he wanted to reiterate his concerns about safety which is paramount for the children and neighbors. He said he was for putting a barrier up. He understands with the plans in place there has to be give and take. Above all that is safety. Also, too, if they are going to make it a one-way road and there will be no parking, he is concerned about visitors and how that will affect them.

James Tracy, 250 Rice Cree Terrace, stated they have been in the neighborhood for about 35 years or so. The primary issue he would like considered is the roadway services for not only people directly adjacent to where the construction is but also the remaining people within that plat. The design factor for the current Rice Creek Place South Addition does not appear to have consideration for changing the directional flow of the traffic. His primary concern is the services that are going to be rendered for the residents. Fire, life safety, ambulance service, the ability to maintain the streets not only from the Public Works standpoint which would be the plowing and from the opportunities that have been arising from water main breaks but also for the ability for navigating that particular segment of the City. That is a concern that needs to be addressed or at least taken into consideration as the planning process moves forward. He said he believed the road is managed by the state or the county.

Mayor Lund replied, it is maintained by the State.

Mr. Tracy stated he is uncertain as to where the priorities sit regarding being able to maintain a fence for wildlife protection which was done with a new black barrier fence. There seems to be a limited ability to address the potential safety for the individuals and their pets. They had an earlier discussion in relationship to what other options there are, and he knows Mr. Brotten is working on evaluating that along with the rest of the City people for alternative potentials for that pathway.

Marney Tracy, 250 Rice Creek Terrace, stated her question the other night to them was it is Rice Creek Plaza South Addition, and it is a whole platted area. She said she would like a legal opinion from the legal department about the taking of that road and turning it into what she believed was 12 feet. Lack of ability to even back up a car with a trailer on it is important to consider, and it does not fit the neighborhood because it does not function properly without a two-way road on that outside perimeter. That is very important to the complete function of the plat. She wants that considered. She hopes they can find an alternative because she does like walking on paths and they are an important part of the City, but it has to work for everybody. Denying access for people who have been there is not good. This is something they can figure.

Mayor Lund stated they would look into that.

Councilmember Bolkcom stated the discussion at that meeting and again tonight is it would be a while yet. There are a lot of other people who have provided input who live in the neighborhood. This is not just a plan with the City, it is a plan with the State. The City has an agreement with the State on some of these improvements that have already taken place and continue to take place. That will all factor into a plan. They will invite them to another meeting.

REGULAR AGENDA ITEMS

PUBLIC HEARING(S)

12. Public Hearing to Consider On-Sale Liquor License by Jeremy Stiner for The Original Malt Shop Express and Resolution No. 2021-34, Approving On-Sale Liquor License for The Original Malt Shop Express

Motion made by Councilmember Bolkcom to open the public hearing. Seconded by Tillberry.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY, AND THE PUBLIC HEARING WAS OPENED AT 7:33 P.M.

Ryan George, Deputy Director of Public Safety, stated Jeremy Stiner has applied for an on-sale liquor license for the Original Malt Shop Express at 8300 University Avenue NE. There has not been a liquor establishment at this location before, since the building is new. This is on the south end of where Dunkin Donuts is. Another establishment, Broadway Pizza, was located immediately adjacent to there, just south of that location, but it closed in May 2019. The Original Malt Shop currently operates a restaurant at 1125 Larpenteur Avenue West in Roseville which will remain open, and the applicant has previously operated that Roseville location.

Deputy Director George stated they conducted a background investigation for the applicant and found no outstanding issues or reasons to deny the license. The applicant did apply for this on-sale liquor license on April 6, 2021. A food license was issued separately administratively on April 6, 2021; and the restaurant opened for food sales on April 20. The applicant is seeking the liquor license for the 2021-2022 license year which will start on May 1, 2021, and end on April 30, 2022.

Deputy Director George stated Fridley City Code Section 603.07.1 requires the City Council to conduct a public hearing to consider the approval of an on-sale liquor license. Also, a notice of public hearing regarding that license application shall be published in the official newspaper at least ten days in advance of the public hearing. The Notice of Public Hearing was published in the Star Tribune on April 16, 2021.

Deputy Director George stated recommendation at this time is to hold the public hearing regarding the on-sale liquor license application for Jeremy Stiner, applicant, to operate the Original Malt Shop Express at 8300 University Avenue NE and, second, approve Resolution No. 2021-34 approving the on-sale liquor license for the Original Malt Shop Express.

Councilmember Bolkcom stated she did not see the applicant in the room and asked if there was a reason he was not present.

Deputy Director George replied, he did not know his reason.

Councilmember Bolkcom asked if the applicant was aware of the food-to-liquor ratio.

Deputy Director George replied, yes.

Mayor Lund asked if the applicant talked about the size of the building and the physical limitations?

Councilmember Bolkcom said she has been there. She thinks a lot of their stuff will be take-out. There are about four or five spots to sit.

Deputy Director George stated he did actually go there for lunch last week. They do have a full menu, and he knows their menu will include beer and things like that. It is about 800 square feet inside. It does have ample sitting for people to eat and have a few beers.

Mayor Lund asked if they were talking about beer, wine, and alcohol.

Deputy Director George replied this liquor license will allow them to have everything.

Mayor Lund stated he did not really have any issues with it especially as the Police Department has done their review and found no issues to deny.

Councilmember Eggert asked Deputy Director George if the applicant has a liquor license at the Roseville location.

Deputy Director George replied, they have had other licenses at the Roseville location in the past. They did operate under a different name, Snuffy's, until about two years ago. Right now, their menu does not include bottle beer or anything like that, but this is something that their current menu at the express location in Fridley would have.

Councilmember Eggert asked if they would be Mr. Stiner's first liquor license.

Deputy Director George replied, this would be his first in Fridley, but he has worked in the restaurant business before. There is a partner who is also part owner of this business, and they have operated restaurants in the past.

Councilmember Ostwald asked Deputy Director George if he knew the what the operating hours were and when they would stop serving liquor?

Deputy Director George replied, the liquor license would allow them to stay open until 1 a.m. assuming they do not see a 2 a.m. endorsement. He knows they are operating regular hours like a typical restaurant would operate so probably closing about 9 to 10 as they kind of get up and running. They just opened and he knows they typically close around 9 p.m.

Councilmember Ostwald stated they do not expect them to go to 2 a.m.

Deputy Director George replied, there was no interest in seeking a 2 a.m. endorsement.

Councilmember Bolkcom stated that would have to be separate anyways.

Deputy Director George replied, yes, it would have to be separate. They also did not elect to have a holiday endorsement so they would not be open Christmas Eve and Christmas. They do have a Sunday endorsement, but no entertainment endorsement either.

Councilmember Bolkcom stated she wants to know Mr. Stiner knows the rules and a letter gets sent to him. In all her time on the Council, she has never seen someone not at the meeting for their liquor license. She said she knows he was notified. She is sure he will operate a very good business, but it is a new business; and there is a little bit of concern with someone coming in new.

Councilmember Eggert stated he feels strongly about that, too. This is a public hearing, and they can leave it at that and move it to the next meeting.

Deputy Director George replied he did make the applicant aware the public hearing was tonight and did go over some things in advance. He is not sure of the reason the applicant is not at the meeting, but if there are any concerns, he can certainly relay those to him.

Councilmember Bolkcom stated they could continue the public hearing until the next meeting.

Mayor Lund stated and that is the Council's prerogative. He said he did not hear any concerns because the applicant has had some past history.

Councilmember Bolkcom stated normally they have an opportunity to ask the applicant questions.

Mayor Lund stated he suspects the Police Department has advised him of the ordinances. The biggest one that usually comes into play is the 60/40 rule. He asked if there are any issues if Council would like to continue the public hearing.

Andrew Biggerstaff, City Attorney, stated if Council wants to continue the public hearing, they can certainly do that by motion and they can continue the questioning at the next meeting.

Councilmember Bolkcom stated her whole point is they are setting a precedent by not having the petitioner at the meeting. It is nothing against the officer's ability. He is very detailed-oriented, and she knows he has done all the necessary work on this.

Councilmember Eggert asked Attorney Biggerstaff if the applicant usually shows up.

Attorney Biggerstaff replied, yes, he would say by and large the applicants are usually there. It would not be the first time he would see a liquor license be issued or renewed without the applicant present, but he would say in his experience it is more common than not for applicants for licenses to be available to answer questions.

Councilmember Ostwald asked if it was a requirement that the applicant had to be present.

Deputy Director George replied there is nothing in the City of Fridley liquor license code that requires the applicant to be present at the public hearing.

Councilmember Bolkcom stated she never thought there was but in all her time she has been here there has never not been an applicant in front of them to talk about it.

Councilmember Eggert stated to Deputy Director George he is representing the applicant, but he is not the applicant.

Deputy Director George replied, correct, he is not the applicant. He is simply acting as the licensing coordinator for the liquor licenses for the City of Fridley.

Motion by Bolkcom to continue the public hearing to May 10 and to send a letter and contact the applicant by phone. Seconded by Councilmember Eggert.

Mayor Lund asked if they really need to meet with the applicant, especially if the applicant wanted to start on May 1 when the licenses typically start. He said he would vote to close the public hearing.

Seconded by Councilmember Eggert.

UPON A VOICE VOTE COUNCILMEMBER BOLKCOM AND COUNCILMEMBER VOTING AYE AND MAYOR LUND, COUNCILMEMBER OSTWALD AND COUNCILMEMBER TILLBERRY VOTING NAY, THE MAYOR DECLARED THE MOTION FAILED.

Motion made by Councilmember Ostwald to close the public hearing. Seconded by Councilmember Tillberry.

UPON A VOICE VOTE, MAYOR LUND, COUNCILMEMBER OSTWALD AND COUNCILMEMBER TILLBERRY VOTING AYE AND COUNCILMEMBER BOLKCOM AND COUNCILMEMBER EGGERT VOTING NAY, THE MAYOR DECLARED THE MOTION CARRIED AND THE PUBLIC HEARING WAS CLOSED AT 7:34 P.M.

Motion by Councilmember Bolkcom to adopt Resolution No. 2021-34, approving an On-Sale Liquor License for The Original Malt Shop Express. Seconded by Councilmember Tillberry.

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

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

Mayor Lund stated Council asked that the items be removed as somebody made a negative comment on social media about Happy Tails Rescue. He wanted to give the applicant an opportunity to address those comments.

Laura Westphall, the Director of Happy Tails Rescue Foundation, stated the online bullying is never fun with the half-stories and the angry mob who speak louder than the happy people. She said they had 3,500 adoptions last year; and 300 reviews over 15 years. It is not a big percentage. They like to think most cases go great. Unfortunately, they are animals, so they are not perfect. They can get sick. They can bark. They can pee on people's couches. They can do things that make people angry.

Mayor Lund stated it kind of goes with the territory of taking on rescue animals.

Ms. Westphall stated it does, and the post on the front of the Friendly Fridley Pages was made at the beginning of April. It did stir up a lot of basement warriors where none came tonight to talk about it or have come to their facility to talk about it. They did add a whole new page to their contract to try and be

as perfectly clear as they could that these are rescue animals. They do everything in their power to ensure they are healthy and they get their temperament tested. They want it to work out. Dealing with angry people on Facebook is not fun. It just is not always easy, because they are animals.

Tom Robb, Happy Tails Rescue Foundation, stated he did not have a lot to add to that other than what Ms. Westphall said. Unfortunately, they have had a lot of very positive reviews as well, 3.6 maybe is not stellar. The City of Fridley is 3.9 so you get people who are angry and they take it out on social media. Happy Tails has been operating for a long time, and has saved a lot of animals over that period of time. He said there were a lot of 5-star reviews. Unfortunately, a lot of times people do not work with them to resolve any issues.

Councilmember Bolkcom asked if they had a new veterinarian on staff who may help to resolve some of the issues.

Ms. Westphall replied, yes, last August/September they brought a vet on who comes 1 to 2 days a week. Next month she will be starting full-time. They have a very small veterinary space right now and this new building will allow them bigger space to get the x-ray equipment and the in-house testing they do not have right now. That will also help with continuing to see animals once they leave.

Councilmember Bolkcom stated plus if the animal goes home with them, because they have a vet on staff every day of the week, they can always bring them back. There is probably a little more flexibility with some of those appointments.

Mr. Robb replied, more opportunity for that, absolutely.

Ms. Westphall stated when COVID hit, the vet clinics almost completely closed down for a while except for emergencies. When they reopened there was a six to eight weeks' wait to get a vaccine appointment and that was not okay with them. The Board of Health helped them find a vet to hire.

Councilmember Bolkcom stated she believed there is a difference between ratings you would see on social media because this is actually a special use permit. She asked Mr. Hickok to explain a special use permit and what you can and cannot deny a special use permit on.

Mr. Hickok replied there are those things that are allowed by right and those things that are allowed by special use permit. A special use permit typically has stipulations that are put in place to mitigate any anticipated issues there might be. For example, from a land use perspective, you might be concerned about dogs barking or you might be concerned with a kennel being too close to a property line. Typically, on a special use permit, the City does not get into the operation of their business, such as whether a dog has been wormed. There are items that would fall into the category of stipulations for a special use permit. They did not have the language precisely for an operation like this.

Mayor Lund stated this does not happen all the time. He personally is very happy to see the work Happy Tails does because without those services, how many more animals would be treated inhumanely than already are. The fact that one facility found homes for 3,500 animals last year is amazing.

Councilmember Tillberry stated they are doing their due diligence to test and see what is happening with this and that is why he brought it back onto the agenda just to discuss. However, with Mr. Hickok's definition, it is very clear to him, and he does not have any difficulty with this.

Ms. Westphall stated she is happy to answer any questions.

Mr. Robb stated they appreciate the opportunity to come back and address Council. Unfortunately, it is something a business has to deal with.

Mayor Lund stated he is confident they are going to continue to be good neighbors in their community.

Mr. Robb replied, yes, absolutely.

Motion made by Councilmember Ostwald. Seconded by Councilmember Eggert.

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

8. Resolution No. 2021-26, Approving Special Use Permit, SP #21-02 petitioned by Happy Tails Rescue Foundation (Ward 2)

Motion made by Councilmember Ostwald. Seconded by Councilmember Eggert.

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

INFORMAL STATUS REPORTS – None.

ADJOURN

Motion made by Councilmember Ostwald. Seconded by Councilmember Eggert.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE MEETING ADJOURNED AT 8:16 P.M.

Respectfully Submitted,

Denise M. Johnson
Recording Secretary

Scott J. Lund
Mayor