

Minutes
Woodbury City Council
Wednesday, January 11, 2023

Pursuant to the due call and notice thereof, a regular meeting was duly held virtually and at the Woodbury City Hall, 8301 Valley Creek Road, on the 11th day of January 2023.

Call to Order

Mayor Anne Burt called the meeting to order at 7:00 p.m.

Mayor Burt welcomed those listening and attending. She said members of the public may attend the meeting but will be required to comply with social distancing parameters as determined by the City. Members of the public may also join the meeting using a PC, Mac, iPad, iPhone or Android device. Public comments will be accepted during the meeting both in person and by using the link to the virtual meeting to join the meeting and then submit your questions via the online Q&A feature within the meeting. Questions regarding the meeting will also be taken between the hours of 8:00 a.m. to 4:30 p.m. via email council@woodburymn.gov or call 651-714-3524 and leaving a voicemail message.

Pledge to Flag

Audience, staff, and Council pledged allegiance to the flag of the United States of America.

Oath of Office

Councilmember Date, acting as Mayor Pro Tem, administered the Oath of Office to re-elect Mayor Anne Burt.

Mayor Burt administered the Oaths of Office to re-elect Councilmember Jennifer Santini and Councilmember Steve Morris.

Roll Call

Upon roll call the following were present: Mayor Anne Burt, Councilmembers: Kim Wilson, Andrea Date, Steve Morris, and Jennifer Santini. Absent: None

Others Present: Kimberlee K. Blaeser, City Clerk; Kevin Sandstrom, City Attorney; Clinton Gridley, City Administrator; Janelle Schmitz, Community Development Director; Jennifer McLoughlin, Senior Environmental Resources Coordinator; and Chris Hartzell, Engineering Director.

There was approximately two (2) members of the public in attendance and six (6) members of the public attending virtually.

Special Order of Business

No Items Scheduled

Open Forum

The Open Forum is a portion of the Council meeting where a maximum of three persons will be allowed to address the Council on subjects, which are not a part of the meeting agenda. Persons wishing to speak must complete a sign-up sheet prior to the start of the meeting. Give the sign-up sheet to any staff person. Speakers are limited to two minutes each. The Council will listen attentively to comments but, in most instances, will not respond at the meeting. Typically, replies to the concerns expressed will be made via letter or phone call within a week.

Steve Sandell, 4639 Wild Canyon Trail, stated he would like an extension of the review of the Environmental Assessment Worksheet (EAW) regarding the Westwind Development. He stated the period of residential response to the EAW was compromised by limited public announcement. He reviewed the purposed of an EAW or EIS and stated it is to identify how the proposed land use would affect environmental stewardship, it would suggest alternative methods, and would pursue the stated goals. He stated after reading the EAW for the Westwind Development, the document did not identify issues which should be investigated further, alternative approaches considered, or how further plans would strengthen the City's commitment to reduce a negative environmental impact. He addressed the positive work the Council has done towards their commitment to reduce negative environmental impact.

Mr. Sandell offered a few suggestions for future new developers including a detailed plan on how they would support the City's commitment to the environment. He also suggested that any plan for development should be accompanied with an independent analysis of the environmental impact of the proposal with unanimous approval from the Council. He stated the City should consider establishing a Citizens Water Review Commission in order to study commercial and residential quality of water resources. He stated the

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City should require any new development to equip all buildings with the latest technology in heating and cooling. He stated other suggestions which included, installing solar panels, installing electric appliances, providing high capacity hook-ups to charge electric vehicles, using the most efficient water softeners, utilizing construction methods and architecture design to support reducing negative environmental impact, reducing tree cover by no more than 10% and providing a 20 year plan for removal of waste approved by the EQB. He stated the implications of the project has lasting impact. He encouraged the Council to postpone their vote to adopt the current EAW draft without considering more analysis and broader discussion.

Consent Agenda

All items listed under the consent agenda are considered to be routine by the City Council and will be enacted by one motion and an affirmative vote by roll call of a majority of the members present. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event, the items will be removed from the consent agenda and considered a separate subject of discussion by the Council.

Item A Approval of Council Minutes – December 14, 2022

Item B To adopt the following resolution **Resolution 23-01**

Resolution of the City of Woodbury, Washington County, Minnesota authorizing the following applications for funding; Minnesota Department of Natural Resources, Natural and Scenic Areas Grant/Outdoor Recreation Grants; and Washington County Land and Water Legacy Program participation request.

Item C Westwind Residential Development EAW; Negative Declaration of Need for an Environmental Impact Statement. This item was pulled from the Consent Agenda and added to Discussion.

Item D To adopt the following resolution **Resolution 23-02**

Resolution of the City of Woodbury, Washington County, Minnesota authorizing Bolton and Menk, Inc., as the engineering consultant for the 2024 Roadway Rehabilitation Project and authorizing the preparation of preliminary reports.

Item E To adopt the following resolution **Resolution 23-03**

Resolution of the City of Woodbury, Washington County, Minnesota authorizing acceptance of the Minnesota First Responder AED Grant from the Center of Resuscitation Medicine at the University of Minnesota.

Item F To adopt the following resolution **Resolution 23-04**

Resolution of the City of Woodbury, Washington County, Minnesota authorizing acceptance of the Walmart Community Grant of \$4,555 and approval of the budget amendment to the 2023 General Fund.

Item G To adopt a motion designating CorTrust Bank as the City's depository of public funds for the year 2023.

Item H To adopt a motion approving Cannabinoid Products License for Woodbury Tobacco & Cigar Depot Plus Inc, 7060 Valley Creek Plaza #115

Item I The abstract of bills includes payments made from the operating or project budgets for expenses of the city. The expenditures are from all funds of the city. Any purchased contracts requiring signature of the mayor and City Administrator is hereby approved. Staff recommends approval of the abstract of bills for December 9, 2022 in the amount of \$1,908,812.01, December 16, 2022, in the amount of \$2,777,170.07, December 22, 2022 in the amount of \$1,587,992.82, and December 30, 2022 in the amount of \$881,394.67.

Councilmember Santini moved, seconded by Councilmember Date, to approve the Consent Agenda items with the exception of 7C.

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Voting via voice:

Kim Wilson – aye
Andrea Date – aye
Steve Morris – aye
Jennifer Santini – aye
Anne Burt – aye

Public Hearings

No Items Scheduled

Discussion

A. Consent Agenda Item 7C. Westwind Residential Development EAW; Negative Declaration of Need for an Environmental Impact Statement

Councilmember Date pulled this item from the Consent Agenda to discussion and stated she heard from a number of residents questioning the EAW for the Westwind development and asked if there could be more discussion and education from Staff.

Jennifer McLoughlin, Senior Environmental Resources Coordinator, stated the Minnesota Environmental Quality Board (EQB) is the regulating agency for Minnesota Environmental Review. She reviewed the 3 applicable environmental assessment types for residential development, which is an Environmental Assessment Worksheet (EAW), Alternative Urban Areawide Review (AUAR), and Environmental Impact Statement (EIS). She stated an EAW is required when a project is large enough to cross over one or more mandatory thresholds, lays out basic facts and necessary permit approvals, it is not meant to approve or deny a project, and it ensures that applicants and the City go through consistent due diligence at a state-wide level. She stated the Westwind development was triggered the need for an EAW because it is proposed to have 446 unites with 250 unattached units and 375 attached units. Mayor Burt asked if the EQB reviews the EAW. Ms. McLoughlin stated they do with the developer being a part of the process by laying the ground work of the EAW. She stated City Staff thoroughly reviews the process before it is submitted to the EQB. She stated after submission, the EQB publishes it in their publication and the City provides the notice to a local newspaper. She stated she sends the submission to a list of EAW reviewing agencies. She stated reviewing agencies have various specialties and will make requests and suggestions based on their expertise. She provided a specific example of a reviewing agency making a request to the EAW on the Woodwind development.

Mayor Burt asked who the EQB board was made up of. Ms. McLoughlin stated she did not know. Councilmember Date stated it comprised of the commissioner of the DNR, PCA, Health, Attorney General and some citizen representatives. She stated it is a State agency.

Ms. McLoughlin stated the EAW reviews items such as geography, soils, topography, water resources, contamination/hazardous waste/waste, fish, wildlife, historic properties, visual impacts, air, noise, transportation, and other potential environmental impacts. She stated the recent EAWs in Woodbury include the Burandt, Wozniak and Westwind EAW.

Ms. McLoughlin reviewed the purpose of an AUAR and stated it addresses the same issues as an EAW and EIS but is not specifically triggered by anything. She stated it is a planning tool to understand development at a larger, more regional scale; it is completed before development details are known and it must be updated every five years until all areas are developed. She stated there are two different ways to get to an EIS stage. She explained the first way for residential development is a mandatory stage of having 1,000 unattached units or 1,500 attached units. She stated the second option is the discretionary stage which is determined by the RGU and is based on the EAW and any additional comments or information that is received during the EAW comment period. She stated none of the commenting agencies recommended an EIS for Westwind.

Councilmember Morris asked if these were State mandated standards. Ms. McLoughlin confirmed it is State standard.

Councilmember Santini asked if resident comments were included in the EAW comment period. Ms. McLoughlin agreed, and stated not all comments regarded the EAW but highlighted other aspects.

Ms. McLoughlin reviewed the EAW distribution list she has sent the documents to. She stated there were fewer comments by the agencies than other developments and there has not been a recommendation to go to the EIS. She stated there were no big concerns that could not be resolved through a regular development process. Ms. McLoughlin gave a specific example of a request the DNR gave in order to protect bees in the area; she stated the City has been diligent to comply with the requests and continue pursuing a solution for the future.

Mayor Burt asked what the EAW commenting process is. Ms. McLoughlin stated the distribution list is updated regularly on the EQB website. She stated if there are no comments the agency will not reach out. She stated the distribution list is up to date on the correct people to contact.

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Ms. McLoughlin stated the recommendation is to not pursue the preparation of an EIS since commenting agencies did not recommend it; the project does not have potential for significant environmental impacts based on the findings from the EAW, and the Council should take this step if they find no other significant environmental impacts that have not been explored in the EAW.

Wallace Wadd, 2530 Queensport Road, stated he is a member of the Parks and Natural Resources Commission but would be speaking as a citizen. He stated he submitted comments in the EAW with concerns including demand on the ground water and potential contamination of ground water, storm water management, loss of wooded acres and loss of habitat of native species, the need for more park space, and assessment of greenhouse gases. He stated after the comment period closed on the EAW the EQB decided to add an assessment of greenhouse gases to the State's EAW requirement. He stated in December 2022 the EQB had questions about climate adaptation and resilience and quantification of those greenhouse gases for all developments moving forward. He stated it would be reasonable to obtain responses to the new questions in the EAW before a need for an environmental impact statement on Westwinds is made.

Mayor Burt asked Ms. McLoughlin to explain the timeline of the application and when the EQB determined higher standards. Ms. McLoughlin stated the project was not affected since the process had begun before the EQB adopted higher standards in December. Mayor Burt asked if anything moving forward would have to adhere to the new standards. Ms. McLoughlin stated anything that would trigger an EAW would need to adhere. She stated she isn't familiar with a residential development that has triggered an EIS. She is more familiar with EISs associated with industrial development.

Mayor Burt stated she is hearing Mr. Wadd ask to consider looking into the greenhouse gas and an adaptation and resilience from the developer on the project in the EAW. Ms. McLoughlin stated the City would need to decide if they would like to evaluate the development and go through the EAW again; she stated she would need to look into this since the EAW process has already been completed.

City Attorney, Kevin Sandstrom stated even if the development moved to an EIS, the legal standard states the application applies when the application is submitted. He stated if any standards change during the process, they would not retroactively make the applicant do something different and would not be subjected to new rules or processes. Councilmember Morris gave an example of receiving fire permits in order to build his home, but if the permits changed after he received his permit he would not need to receive new ones since he already has permits. Mr. Sandstrom stated the Minnesota Supreme Court has determined cities should not move from an EAW to an EIS on speculative concerns. He stated there needs to be a significant and concrete potential environmental impact in order to move to an EIS. He stated there is not much out of ordinary with the project.

Councilmember Morris stated the comments raised by Mr. Wadd and Mr. Sandell are helpful as part of the environmental stewardship strategic initiative because it helps frame for the Council what standards and expectations they should think through. He expressed the desire for fairness for property owners and developers and believes it is important to continue discussing environmental stewardship but does not believe the discussion is to complete an EIS versus an EAW. He stated the Council has an obligation for environmental stewardship and believes it should be handled in the strategic initiative. He stated he wrote down the questions the public has brought to the Council and stated the Council should address those questions through the strategic initiative.

Councilmember Date asked why the watershed districts were not listed in the distribution list. Ms. McLoughlin stated they send it to them as a courtesy but it is not on the State list. She stated they do that out of a good relationship with them. Councilmember Date asked if they responded. Ms. McLoughlin stated they did not but they will work closely with them in the development process.

Councilmember Date asked what the development would do regarding tree coverage. Ms. McLoughlin stated she has not been involved in the development process, but stated there is a tree farm on the property. She stated tree farms are exempt from the tree protection ordinance. She stated the ordinance allows 30% of tree removal, before replacement is required. She stated when there is a situation where there is a large tree population involved they have the Forestry Staff assess which areas are high quality and which areas to try to preserve. She stated when land is privately owned, the City cannot tell landowners to not remove trees; however, the City increased the tree replacement requirements through recent ordinance updates. She stated if a landowner cannot fit enough replacement trees on the property, they are required to pay a fee so the City can replace trees in other areas of the City. City Engineer, Chris Hartzell stated while the tree farm is exempt, it has still been assessed and found that most of the trees are in poor quality. He stated most of the land is in an agricultural area and not tree coverage. Ms. McLoughlin stated there were some trees found on the southern boarder that were identified as higher priority and are working to preserve them.

Councilmember Date asked to clarify the tree replacement policy. Ms. McLoughlin stated all developers are required three trees per property on a residential development, on top of the tree replacement policy. She stated they are working closely with the developer to have some ash trees removed due to infestations in the trees.

Councilmember Date agreed with Councilmember Morris' previous comments and stated an ordinance is already in place with the developer following the guidelines provided. She stated moving forward with the environmental stewardship program, the tree replacement ordinance would be a good candidate for the Parks and Natural Resources Commission to reevaluate.

Councilmember Date asked what environmental items were explored during the phase 2 master plan. Ms. McLoughlin stated phase 2 would have more than 1,000 units but is only developed property by property. Chris Hartzell stated moving toward an AUAR is not

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recommended and suggested during the master planning process they did much of the studying that an EAW would complete. He stated there could be an official process but a more specific process would be done when each EAW occurs or a continuous development triggers requirements. He stated AUARs typically occur when it is a speculative development. He stated in this scenario, it is known that it is a residential development so the AUAR would not be a typical tool to use in the scenario. Councilmember Date stated the development is a good example of why master planning an entire area instead of just the development is important. She stated during the process it was important to address park space and adequate trails which would serve as wildlife corridors. She expressed the importance of including an environmental section in future master plans. She stated her appreciation to residents who have made comments. She agreed with Councilmember Morris' comments regarding the continued work of committing to reducing negative environmental impacts in the community. She stated she would like to see developments more friendly towards solar panels, developers more thoughtful to be more sustainable and climate friendly and would like to see this happening through the environmental stewardship plan. Ms. McLoughlin agreed and stated they have had conversations with residents including Mr. Sandell, and stated there are many future opportunities to address concerns. She added that ordinances need to be updated through the process, and continued conversations will need to occur. She stated there will be a robust community engagement plan in order to help through the process to hear from the community. Mayor Burt stated the conversation has been helpful and clarified that the decision is based on moving toward an EIS or not.

Councilmember Wilson asked if the process cost the City money. Ms. McLoughlin stated it does not cost the City money and is on the developer. Councilmember Morris added that Staff time does cost the City money. Councilmember Date stated there are developer fees that are included. Councilmember Morris asked if there is a fee for the EAW application. Mr. Hartzell stated he does not know but there are engineering fees that the developer pays upfront for Staff and consultant time for any development that has come forward. Councilmember Morris asked if costs for Staff time in an EAW gets compensated at some point since an EAW is not always used. City Manager, Clint Gridley stated it was a great question to be addressed at a later date and would get back to the Council with an email to the collective.

Councilmember Wilson asked how many current lots were available. Mayor Burt asked if it had something to do with the EAW or EIS for the current project. Councilmember Wilson stated it did since it was the first step to get the development approved. Mr. Sandstrom clarified the timeline stating it is a step that was triggered in order to form an EAW. He stated once the comment period is completed the Council has 30 days to render a decision on the EAW. He stated it is not any different than any other aspect or point in the process.

Councilmember Wilson asked if drinking water was considered in environmental impact and how it is assessed. Mayor Burt asked if that was a part of the EAW. Mr. Hartzell stated drinking water is a part of the EAW process with an extensive section in it. He stated a study was directed by the Council in 2021 to look at water capacity and developments with the master plan. He stated phase 2c was included in the analysis and stated there is some discussion on the health-based standards, but agreed with Mr. Sandstrom's comment on looking at what is fact today instead of speculation. He stated if there are changes in the process and have found changes to the environment and cannot serve or have capacity the Council has the ability to make sure the phases are done at a different time. He stated developments take years to complete and Staff do not currently see an issue. He stated if health-based standards change, that would be a discussion and decision for the Council at that time. Councilmember Morris referenced section 11, pages 10 through 17 in the EAW which references water capacity and quality. Councilmember Wilson stated none of the data includes the new health based standards. Councilmember Morris stated the EAW specifically mentions pfas and pfos. Councilmember Wilson asked if it addressed the new health-based standards. Councilmember Morris stated they did not because they have not been adopted yet. Councilmember Wilson stated new federal standards have been adopted. Councilmember Morris and Mayor Burt disagreed and stated they are speculative.

City Clerk, Kimberlee Blaeser stated Community Development Director, Janelle Schmitz, answered the previous question regarding how many current lots were available stating the December lot inventory was 860.

Councilmember Wilson referenced the 2040 Comprehensive Plan and stated she is concerned with water capacity and quality. She stated the City newsletter alluded to the possibility of new pfas levels coming which would restrict current residents in terms of water supply. She stated the 2040 Comprehensive Plan explains the need to make sure the community needs are met for sanitary sewer, water, storm sewer and transportation. She stated she is concerned that the City is developing too fast with not enough infrastructure in place. She stated her belief that environmental impact happen to a community by going forward with another housing development. Mayor Burt clarified that the decision before the Council was not a question of moving forward with the housing development, but it is a decision on if the EAW triggers a need for an EIS.

Councilmember Morris stated page 15 of the EAW specifically includes Staff experts, agency experts and scientific fact items that confirm what the development would bring in terms of use of water and water capacity. He agreed with Mayor Burt's comments and stated the EAW has confirmed that it does not see a need for an EIS. Councilmember Wilson stated the study was not completed with new health-based values in place and stated the Council Perspective states an anticipation of standards changing.

Mayor Burt gave Mr. Sandell an opportunity to speak. Mr. Sandell stated the members of the EQB include all agency heads appointed by the Governor. He stated the meetings are called once a month and agency heads typically send a representative rather than themselves. He stated the EQB would not ask the City if the houses that go into the Woodwinds have quality or water control but instead will simply ask if the requirements of the EAW and EIS are met. He stated the recommendations from an EAW, EIS or AUAR are not

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binding. He stated the Council makes the final decision. He stated when he met Mayor Burt he expressed his desire for Woodbury to be a leader in environmental and climate. He reiterated that the EAW and EIS are not binding and that it is up to the Council.

Mayor Burt stated the Council is enthusiastic to look into more improvements to environmental stewardship, and love the environment and desire to maintain and improve things moving forward. She stated by using the environmental stewardship strategic initiative, they will be able to continue to move things forward. She stated she is happy the EQB will be requiring greenhouse gases to be studied further in the future.

Mayor Burt moved, seconded by Councilmember Morris,

To adopt the following resolution

Resolution 23-05

Resolution of the City of Woodbury, Washington County, Minnesota making a Negative Declaration of Need for an Environmental Impact Statement for the Westwind Residential Development.

Voting via voice:

Kim Wilson – nay
Andrea Date – aye
Steve Morris – aye
Jennifer Santini – aye
Anne Burt – aye

Transportation Report (2nd meeting of the month, May-October)

No items scheduled

City Administrator's Report

City Administrator Clinton Gridley gave a verbal update of upcoming City meetings. He stated there would be a number of community workshops regarding the Central Park renovation.

- January 12, 2023 – Community Workshop for Adult Senior Programming, 1:00-2:30 p.m., Valley Creek Rooms at Central Park, 8595 Central Park Place
- January 12, 2023— Community Workshop for Adult Senior Programming, 6:30-8:00 p.m., Valley Creek Rooms at Central Park, 8595 Central Park Place
- January 18, 2023— Virtual Workshop 10:00-11:00 a.m., The Virtual link can be found at woodburymn.gov/centralparkproject
- January 24, 2023— Economic Development Commission, 7:30 a.m., Ash North and South Conference Room
- January 25, 2023—Economic Development Authority and Housing and Redevelopment Authority, after the City Council meeting, Council Chambers

He stated there was a good turnout for the New Year's events. He stated 352 participants attended the New Year's Eve Matinee and 880 participants attended the New Year's Eve Family Celebration.

He announced Parks and Recreation, Michelle Okada has been elected President elect for the Minnesota Parks and Recreation Association Board of Governors.

He stated Recreation Manager, Reed Smidt has been awarded the Jack Niles Award from the Minnesota Recreation and Parks Association. He stated the Jack Niles Award recognizes a male professional member of the association with more than 10 years of professional experience and outstanding service to the parks and recreation field, and to the association. He stated Reed also completed his second term in 2022, as the East Metro Representative for the board of directors.

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Adjournment

Mayor Burt moved, seconded by Councilmember Morris, to adjourn the meeting at 8:04 p.m.

Voting in Favor: Wilson, Date, Morris, Santini, Burt
Absent: None

Respectfully submitted,



Kimberlee K. Blaaser, City Clerk

Approved by the Woodbury City Council on January 25, 2023