

**Minutes**  
**Woodbury City Council**  
**Wednesday, January 27, 2021**

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 27<sup>th</sup> day of January 2021.

**Call to Order**

Mayor Anne Burt called the meeting to order at 7:30 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](mailto:council@woodburymn.gov) or call 651-714-3524 and leaving a voicemail message.

**Pledge of the Flag**

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

**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; Janelle Schmitz, Community Development Director; Clinton Gridley, City Administrator; and Chris Hartzell, Engineering Director.

**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.

Collin Hays, 1379 Surrey Street, said that Minnesota had been in the spotlight because of the death of George Floyd. He thought that police brutality was a national problem, including Woodbury, and videos only caught about 1%. He said there was a Federal lawsuit in Woodbury where police officers were accused of using ketamine on unwilling and underserving people. The City Attorney claimed that no records were falsified and Regency Hospitals cleared the police officers; however, a Regency spokesperson said the hospital was never involved and the Emergency Medical Technician said it was not right to inject people. He asked the City to investigate further and do something.

Mayor Burt thanked Mr. Hays for sharing. She said Public Safety was very important to her and the rest of the Council. The lawsuit is under legal review, but there was not any ketamine distributed in that particular instance.

**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 – January 13, 2021

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- Item B To adopt the following resolution **Resolution 21-18**
- Resolution of the City of Woodbury, Washington County, Minnesota amending CD-COMDEV-3.16: Construction and Rehabilitation Standards for Projects Funded by the HOME Program.**
- Item C To approve a motion establishing the high priorities for the 2021 Annual Action Plan as listed in Council Letter 21-20:
- Housing serving 30% - 50% of AMI small- and large-related households;
  - Housing serving 51% - 80% of AMI small- and large-related households;
  - Housing serving seniors earning between 30% and 80% of AMI; and
  - Park and public facility improvements.
- Item D To adopt the following resolution **Resolution 21-19**
- Resolution of the City of Woodbury, Washington County, Minnesota approving the plans and specifications and establishing February 25, 2021, as the bid date for the 2021 Roadway Rehabilitation Project.**
- Item E 2021 Roadway Rehabilitation Project, Amend Letter of Engagement. This item was pulled from the Consent Agenda and moved to discussion.
- Item F To adopt the following resolution **Resolution 21-20**
- Resolution of the City of Woodbury, Washington County, Minnesota amending the assessment roll for the CSAH 19 (Woodbury Drive) and Local Road Capacity and Safety Improvement Project and authorizing the Mayor and City Administrator to execute the Settlement Agreement between the City of Woodbury and Absolute Investments, LLC.**
- Item G To adopt the following resolution **Resolution 21-21**
- Resolution of the City of Woodbury, Washington County, Minnesota accepting South Washington Watershed District Environmental Assistance Funds for the Residential Irrigation Controller Program in the amount of \$25,000 and approving the associated budget amendment.**
- Item H To adopt the following ordinance **Ordinance 1996**
- Ordinance of the City of Woodbury, Washington County, Minnesota providing that the City Code be amended by amending Chapter 2 Administration, Article IV, Departments, Division, Etc.**
- Item I To adopt the following resolution **Resolution 21-22**
- Resolution of the City of Woodbury, Washington County, Minnesota approving applications for Minnesota Lawful Gambling LG214 Premises Permit and Minnesota Lawful Gambling LG215 Lease for Lawful Gambling Activity for Merrick, Inc. to be conducted at Lakes Tavern and Grill located at 9240 Hudson Road.**
- Item J To adopt the following resolution **Resolution 21-23**
- Resolution of the City of Woodbury, Washington County, Minnesota approving applications for Minnesota Lawful Gambling LG214 Premises Permit and Minnesota Lawful Gambling LG215 Lease for Lawful Gambling Activity for Merrick, Inc. at X-Golf Woodbury located at 8150 Coller Way, #500.**
- Item K 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 31, 2020 in the amount of \$635,199.71, January 8, 2021 in the amount of \$1,775,643.51 and January 15, 2021 in the amount of \$1,480,823.64.

Councilmember Date moved, seconded by Councilmember Morris, to approve the Consent Agenda items, with the exception of Item E.

**Voting via voice:**

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

**Public Hearings**

**A. Sham’s Place, Planned Unit Development, Conditional Use Permit and Preliminary Plat, Project No. 10-2020-00421**

Mayor Burt declared the public hearing open and recognized Community Development Director Janelle Schmitz to give the background.

Ms. Schmitz presented the application from Al Shams for a Planned Unit Development, Conditional Use Permit, and Preliminary Plat to subdivide the property located at 1040 Woodbury Drive to be called Sham’s Place. The property is located at the southwest corner of Brookview Road and Woodbury Drive. The property is zoned R-4, Urban Residential District and is guided as Low Density on the Land Use Plan. The existing home located at 1040 Woodbury Drive was constructed in 1890 prior to the development of major roadways within the City. The adjacent Sunrise Meadows development was approved by City Council at their March 28, 1990 meeting which set the access points and lot sizes for the adjacent parcels. This lot was considered an exception parcel to this development.

This Planned Unit Development approval is intended to provide general site layout and to establish subdivision design criteria. The Planned Unit Development application requests flexibility to the Zoning Ordinance for the following requirement: minimum lot depth and access drive. The minimum lot depth standard is intended to ensure the required setback, usable rear yard, and additional screening can be accommodated on each lot. Because the Applicant is proposing a shared driveway, this creates more space for each lot to provide screening adjacent to Woodbury Drive. Additionally, the Applicant has provided an exhibit that shows how each lot can meet the required front yard setback of 50 feet despite the reduced lot depth. In exchange for relaxation to these standards the Applicant shall dedicate Outlot A, part of Markgraf’s Lake, to the City at no cost and relocate the existing driveway away from the Woodbury Drive intersection to meet City and Washington County requirements for safety.

The existing site has over 50 existing mature deciduous and coniferous trees, with 20 proposed to be removed. The removals are under the 30% threshold of allowed removable inches of trees. The Zoning Ordinance requires three per lot for all residential subdivision and the Applicant is proposing to plant three trees per lot, one in the front yards and two in the rear. For screening, the Applicant is proposing to plant 23 arbor vitae shrubs along the new driveway to soften any headlight impact to Woodbury Drive. Lastly, it was identified through the neighborhood meeting process that the plantings along the eastern and southern property lines serve as a noise and privacy buffer for the existing property owner. In order to preserve and enhance this buffer, the Applicant shall conduct a site walk with the neighbor after lot 3 is constructed to determine where appropriate plantings can be placed along the southern property line.

The first neighborhood meeting was held virtually on November 5, 2020 with eight attendees present to review the original proposal. Numerous concerns were raised about compatibility, screening and the driveway being in rear yards. Based on feedback from this meeting, staff and the Applicant reworked the site to move the driveway away from the existing homes. The second neighborhood meeting was held on December 15, 2020 showing the proposed layout which moved the driveway to the east side of the site. Six property owners attended with questions centered on landscaping, timing, and home elevations.

The Planning Commission reviewed this application at their January 11, 2021 meeting and recommended approval by a 5-0 vote.

Mayor Burt moved, seconded by Councilmember Morris, to close the public hearing.

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

Mayor Burt opened opportunity for discussion and questions from the Council.

Councilmember Date said she could see how it would be difficult to create three driveways, but thought she understood that shared driveways did not work very well. She asked about a shared easement and who would be responsible for plowing and repairs. Ms. Schmitz said the maintenance, repair and plowing for the shared driveway will be addressed through the cross-action agreement and reviewed by the City Attorney. She also said shared driveways are not typical, but in some situations, they are the best option available.

Councilmember Date also asked if each home would have its own septic and well system. Mr. Shams explained the existing home is on City sewer, but not City water yet. However, all three properties are planned to be on City sewer and water.

Mayor Burt asked the Applicant to talk more about the landscaping plan and agreement with the neighbor. Mr. Shams said there are ten spruce trees that provide good screening. He said they planned to have a surveyor come out in order to make future plans.

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Councilmember Date moved, seconded by Councilmember Santini,

To adopt the following resolution

**Resolution 21-24**

**Resolution of the City of Woodbury, Washington County, Minnesota adopting findings of fact.**

**Voting via voice:**

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

Councilmember Date moved, seconded by Councilmember Santini, to adopt a motion approving the Sham's Place Planned Unit Development (PUD) and Preliminary Plat, Project No. 10-2020-00421 subject to the conditions as outlined in Council Letter 21-28:

1. The PUD and CUP approval shall expire one year from the date of City Council approval unless a building permit has been requested or a time extension has been granted.
2. The Preliminary Plat approval shall expire six months from the date of the City Council approval unless a Final Plat has been requested or a time extension granted by the City Council.
3. The Final Plat shall be approved by the City Council and released for recording prior to the issuance of a building permit.
4. Upon recording of the Final Plat, the Applicant shall dedicate Outlot A at no cost to the City.
5. The Applicant shall be responsible for obtaining a ROW Permit from the City's Engineering Department prior to the commencement of any site activities as well as any demolition permits.
6. Prior to the issuance of a Right-of-Way (ROW) Permit, the Developer shall provide a recorded cross access easement that memorializes shared access and maintenance for the driveway.
7. Heavy duty silt fence and adequate erosion control around the entire construction site shall be required and maintained by the Developer during construction to ensure that sediment and stormwater does not leave the project site.
8. All disturbed boulevards shall be restored with sod. The Developer/property owner shall maintain to the curb of all public streets.
9. All sanitary sewer, watermain and storm sewer facilities installed to accommodate the site are private and shall be the Developer's responsibility for the design, installation, maintenance, repair, replacements, operation, protection, etc. All utility inspections shall be coordinated with the City's Building Inspections Division.
10. Prior to issuance of a building permit, the Applicant shall submit a plan identifying placement of no less than four (4) inches of an acceptable topsoil mix as determined by the Planning staff.
11. Prior to installation of sod, the Applicant shall provide written verification that a minimum of four (4) inches of topsoil has been placed in the disturbed areas. Prior to installation of the sod, the City shall inspect and approve the placement of the topsoil in writing.
12. The Developer shall be responsible for obtaining any other permits necessary from other agencies, MPCA, Watershed, Washington County etc. prior to the start of any site activities.
13. The Applicant shall be responsible for protecting the proposed on-site storm sewer infrastructure and components and any existing storm sewer from exposure to any and all stormwater runoff, sediments and debris during all construction activities.
14. Prior to the issuance of a ROW Permit, final grading, drainage, utility, irrigation and stormwater plans shall be approved by the Engineering Department.
15. Prior to the issuance of a building permit, the Applicant shall pay all required connection fees and park dedication of \$3,500.00 per lot.
16. The project shall be mass site graded at one time. No stockpiling of soil shall be permitted onsite for a period of longer than six months.
17. All units shall be completed within 24 months of issuance of the first building permit.
18. After the construction of the home on lot 3, the Applicant shall walk the property line with the neighbor to the south to determine appropriate landscaping between the home and the property line. A minimum of six arbor vitae or evergreen trees shall be reserved to be planted in the locations determined by the City.
19. Prior to the issuance of a ROW permit, the Applicant shall provide calculations demonstrating that the 2-, 20- and 100- year rate increases can be accommodated by the CSAH 19 storm sewer system. Additional stormwater management facilities may be needed to mitigate downstream impacts. Said improvements shall be wholly funded by the Applicant.
20. Prior to the approval of the Final Plat, the Applicant shall meet all stormwater requirements for the site. These requirements shall be reviewed and approved by the Engineering Department in writing.

**Voting via voice:**

Kim Wilson – aye  
Andrea Date – aye  
Steve Morris – nay

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Jennifer Santini – aye  
Anne Burt – aye

**Discussion**

**1. Unmanned Aerial System Purchase and Policy**

Mayor Burt recognized Police Commander John Altman to give the background.

Commander Altman explained the Public Safety Department is preparing for the purchase and implementation of an unmanned aerial system (UAS) and is seeking public input on the purchase and draft policy. It is the wish of Woodbury Public Safety to remain transparent in this process and per Minnesota State Statute 626.19 Subdivision 9 and 10, members of the public have been invited to provide input by email, U.S. mail and at the January 27, 2021 Council meeting. Themes identified from the public process included privacy, data retention, use/deployment, purchase cost, public notification, training and partnerships.

Detective Nick Wachal said the Department is looking to purchase a DJI Matrice m300 rtk. The UAS is commercial quality, up to 55 minutes of flight time, improved resistance to weather elements, better payload configurations, waypoint creation, and live mission recording. Commander Altman talked about what it cannot do and what it will not be used for. He said it will not be armed. The cameras and sensors cannot provide a view of the interior of structures. There is restricted use over private property. There would not be random unmanned aerial system patrols.

Sergeant Omar Maklad talked about uses for public safety including natural disasters, as well as police and fire response applications uses for other City departments.

Detective Wachal talked about policy including FAA restrictions, State law guidance and mandates, and operations.

Mayor Burt said there were four comments that came in after the Council packet had been distributed, but Council had received them. The comments came from Rebecca Fuller, Amanda Hemmingsen-Jager, Mariah Neuharth and Pastor Tim Brewington. She also thanked Commander Altman for his thorough responses to all of the questions that came in. She clarified that the purchase was approved during the budget so the Council did not need to take any action.

Mayor Burt asked Detective Wachal to clarify whether the Department already had one unit. Detective Wachal said the Department did have one that was purchased prior to the enactment of the new law in August. It was a smaller unit the Department used for training. Mayor Burt also asked how long it would take to get the new drone in the air when it was needed. Commander Altman said the plan is to have seven to eight trained pilots to have as much coverage as possible on different shifts.

City Clerk Kimberlee Blaeser read a comment from Amanda Hemmingsen-Jager, 583 Eagle Ridge Road. She asked how Woodbury's unmanned aerial system's needs compared to other cities of our size in Minnesota. Commander Altman said the technology had evolved so much in a short period of time that a full understanding of usage isn't quite there. Part of the state law requires Police Departments to report back to the state on an annual basis. Once the State is able to gather data, there will be better answers to those types of questions.

Councilmember Morris talked about the exemption section of the policy addressing authorized use without a search warrant. He asked who made that call. Commander Altman said the call in any deployment will be made by the supervisor.

Councilmember Santini asked about data retention and deletion of data after 7 days. Detective Wachal agreed that it was a short amount of time. However, if the data is related to a crime or active investigation it could be kept longer. Councilmember Santini asked why it was limited to daylight hours. Detective Wachal said the night restrictions were a safety issue and placed by the FAA. However, the City could obtain a waiver. Commander Altman said when the Department became more proficient it could request the waiver.

Councilmember Date thanked all of the residents who provided input. She said a main concern was privacy and asked about warrant service. Commander Altman gave the example of an active arrest warrant for a violent person in a rural area. The UAS could be used to scout the area prior to deploying people into that scenario. Councilmember Drone asked about the plan for the first UAS. Detective Wachal said the Department would continue to use it for training and in conjunction with the new drone. Councilmember Date requested an update about the program to the Council at the end of the year.

Councilmember Wilson asked about the anticipated cost for the training and licensure. Detective Wachal said the FAA test is approximately \$120 and the only other cost is training time.

Councilmember Morris asked if the nine exceptions could be memorialized in the policy including who could authorize. Commander Altman explained that the chain of command is discussed in a separate policy that overshadowed this policy. City Administrator Clinton Gridley explained that the UAS Operations Policy is a Standard Operating Policy not subject to Council approval. He stated the final policy can be provided to Council for information purposes. Councilmember Morris asked how to make it clear to the public that the Officer on scene would not be making those decisions. Mr. Gridley said they would take that under advisement in the policy making stage. He agreed it is important to be clear and consistent, but did not want to overcomplicate things when each second counts.

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**2. Consent Agenda Item E. 2021 Roadway Rehabilitation Project, Amend Letter of Engagement**

Mayor Burt pulled this item for discussion and talked about the section that was planned to be skipped on Hudson Road that she had asked about including. After reviewing all of the information, she thought it was not a good decision to move forward. The construction could be completed in the future with the rest of Hudson Road.

Councilmember Santini said she also had concerns, but after finding out about the additional \$26,000 costs it did not seem worth it.

Councilmember Date asked where a road grade of 66 fell on the City's preferred level of rehabilitation. Engineering Director Chris Hartzell said 70 is the goal for residential and 75 for non-residential. He said this section would typically be tied into the segments to the west. Councilmember Date asked what will be more cost effective in the long run. Mr. Hartzell said the segment in question has a lot of serviceable life left.

Councilmember Morris said if the Director of Engineering says the road has significant life left and it is not cost prohibitive to wait, then he is for saving the taxpayers \$26,000.

Councilmember Wilson said she is not a fan of road assessments and also did not like repeat construction for different businesses. She said it would be nice going forward to combine roads to only disrupt businesses once.

Mayor Burt noted there will still be future construction on Hudson Road to the west. She was also in favor of following the engineer's recommendation and saving taxpayer money.

Mayor Burt asked about the process moving forward. City Administrator Clinton Gridley said the Item would die without a motion. The 2021 project was already approved.

Councilmember Morris noted the cost of staff time and thanked them for their work.

**Additional Virtual Open Forum Comments**

The additional virtual open forum is a portion of the Council meeting where the City Council will allow persons (maximum of three), attending the Council meeting virtually, to address the Council on subjects which are not a part of the meeting agenda. Persons wishing to submit a question or comment virtually via the Q&A chat feature may do so on the right side of the live event screen. Please provide your name and address with your question for the official record.

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

No items scheduled

**Administrative Report**

City Administrator Clinton Gridley gave a verbal update of upcoming City meetings.

**Planning Commission Meeting of February 1, 2021**

1. Commercial Vehicle Ordinance
2. Talamore Woodbury, Conditional Use Permit, Planned Unit Development, Preliminary Plat, Site and Building Plan, Project No. 02-2020-00426
3. Edison Apartments of Woodbury, Conditional Use Permit, Site and Building Plan, Planned Unit Development, Preliminary Plat, Project No. 02-2020-00423

**City Council Meeting of February 10, 2021**

1. Talamore Woodbury, Conditional Use Permit, Planned Unit Development, Preliminary Plat, Site and Building Plan, Project No. 02-2020-00426
2. Edison Apartments of Woodbury, Conditional Use Permit, Site and Building Plan, Planned Unit Development, Preliminary Plat, Project No. 02-2020-00423

**Other Meetings**

1. Council Advisory Commission Kick-off Event, January 28, 6:30 p.m., meeting will be held virtually via the Microsoft Teams Platform
2. Parks and Natural Resources Commission, February 2, 7 p.m., Ash North and South Conference Rooms

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**Adjournment**

Mayor Burt moved, seconded by Councilmember Date, to adjourn the meeting at 8:55 p.m.

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

Respectfully submitted,



Kimberlee K. Blaeser, City Clerk

Approved by the Woodbury City Council on February 10, 2021