

Minutes
Woodbury City Council
Wednesday, June 23, 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 23rd day of June 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 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; Scott Riggs, City Attorney; Clinton Gridley, City Administrator; Janelle Schmitz, Community Development Director; Jim Westerman, Assistant Public Works Director; and Chris Hartzell, Engineering Director

Special Order of Business

A. John Wallgren Retirement Proclamation

Mayor Burt read in full a Proclamation recognizing John Wallgren for 31 years of service to the City of Woodbury. She added an appreciation event will be held June 30, 2021. She declared June 30, 2021, to be John Wallgren Day in the City of Woodbury. She presented a plaque to Mr. Wallgren.

Mr. Wallgren thanked City staff and the City Council for their tremendous support. He thanked Mr. Gridley for all the opportunities and support he has received over the past few years.

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.

There were no Open Forum comments

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 – June 9, 2021

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Item B Amending the Tax Increment Financing Policy. This item was pulled from the Consent Agenda and moved to Discussion.

Item C To approve Hiway Federal Credit Union; Final Plat; Project No. 07-2021-00449 subject to the conditions as outlined in Council Letter 21-152:

1. The Conditional Use Permit, Preliminary Plat and Site and Building Plan approvals remains in full force and effect.
2. Prior to the release of the Final Plat, all permanent easements and rights-of-way (R-O-W) necessary for existing and proposed street and utility improvements shall be granted to the City at no cost.
3. The Applicant shall be financially responsible for 100 percent of all storm sewer, sanitary sewer and water main area and connection charges applicable to the property.
4. Prior to the release of the Final Plat, the Developer shall provide documentation that the Operations and Maintenance Agreement has been recorded.
5. Plat approval and release shall be conditional on adherence to all requirements of the city attorney, including, but not necessarily limited to, any express requirements contained in the city attorney's plat opinion.

Item D To approve Dundalk Green; Final Plat and Development Agreement; Project No. 12-2021-004532 and to authorize the Mayor and City Administrator to execute the Development Agreement with all approvals subject to the conditions as outlined in Council Letter 21-153:

1. All conditions of Planned Unit Development and Preliminary Plat approval shall remain in full force and effect.
2. The Final Plat shall include all necessary easements to match the utility plans being prepared by the City's consultant engineer.
3. The final street names shall be reviewed and approved by the Chief Building Official.
4. This Final Plat approval shall be contingent on meeting all required findings of Section 21-16 of the Woodbury City Code.
5. Prior to the release of the Final Plat, the Developer shall provide a recordable document that, to the full satisfaction of the City, memorializes permanent maintenance obligations by the HOA for snow removal, lawn and landscape maintenance and exterior building and grounds maintenance for all required lots in the subdivision.
6. Prior to the release of the Final Plat, staff shall review and approve the private covenants for the development including HOA snow removal, lawn and landscape maintenance and exterior building and grounds maintenance.
7. Prior to the release of the Final Plat, the Developer shall provide documentation that the Operations and Maintenance Agreement has been recorded and supported by the HOA covenants.
8. Prior to the release of the Final Plat, a Developer Agreement shall be executed.
9. The Developer shall be financially responsible for 100 percent of all storm sewer, sanitary sewer and water main area and connection charges applicable to the property. These charges are identified in a preliminary report prepared for the project and shall be in the Development Agreement.
10. Plat approval and release shall be conditional on adherence to all requirements of the city attorney, including, but not necessarily limited to, any express requirements contained in the city attorney's plat opinion
11. All permanent easements and rights-of-way (ROW) necessary for existing and proposed street and utility improvements within the plat boundary shall be granted to the City at no cost or paid for by the Developer.
12. All standard front, rear and side yard lot easements shall be shown on the plat. Standard front and rear yard easements are 10 feet and side yard easements are five (5) feet. Where public utilities are adjacent to side or rear lot lines, easements shall be a minimum of 10 feet wide on each side of the lot line. If the utilities are deeper than 10 feet, the easement width for each lot is calculated at a 1:1 depth-to-width ratio from the centerline of the utility. The easement width must then be adjusted to the nearest five-foot increment. If additional easements are not provided, then the layout of the watermain shall be adjusted.
13. Outlots A and B shall be dedicated to the City at no cost and free of encumbrances.
14. The Developer shall receive written approval that all obligations have been completed prior to dedicating all outlots. Any and all future tax obligations shall be paid by the Developer.
15. The Final Plat shall be recorded prior to issuance of a building permit.

Item E To adopt the following resolution

Resolution 21-116

Resolution of the City of Woodbury, Washington County, Minnesota authorizing the Mayor and City Administrator to execute an engineering consulting services contract with Bolton & Menk, Inc., for construction administration services for the Arbor Ridge 2nd Addition Utility & Street Improvements Project (Private Construction).

Item F To adopt the following resolution

Resolution 21-117

Resolution of the City of Woodbury, Washington County, Minnesota authorizing use of Phase 2 – Major Roadway Special Assessment Fund for the Dale Road One-Eighth Mile East of CSAH 19 (Woodbury Drive) Project.

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- Item G To adopt the following resolution **Resolution 21-118**
Resolution of the City of Woodbury, Washington County, Minnesota approving the Xcel Energy Fleet Electrification Advisory Program service agreement and approving a budget amendment for payment to Sawatch Labs, in addition to accepting a rebate from Xcel Energy for the full project cost.
- Item H To adopt the following resolution **Resolution 21-119**
Resolution of the City of Woodbury, Washington County, Minnesota authorizing Consultant Contract for Engineering and Architectural Service for Expedited Construction of New Municipal Well No. 20 and Pumping Facility.
- Item I 1. To adopt the following resolution **Resolution 21-120**
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 Oakdale Athletic Association at Acapulco Mexican Restaurant located at 1795 Radio Drive, Suite A.
- Item J To adopt the following resolution **Resolution 21-121**
Resolution of the City of Woodbury, Washington County, Minnesota creating the Public Works Technician position, placing the position in the Grade 3 of the Woodbury Classification Plan and appointing Sandra Beecher to the non-exempt, full-time position of Public Works Technician effective July 4, 2021.
- Item K To approve the abstract of bills for June 4, 2021, in the amount of \$821,934.47 and June 11, 2021, in the amount of \$720,165.47.

Councilmember Wilson requested that Item 6B be removed from the Consent Agenda and added to the Regular Agenda.

Councilmember Date moved, seconded by Councilmember Santini, to approve Consent Agenda Items A-K with the exception of Item B.

Voting via voice:

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

Public Hearings

A. WJB Holdings, LLC dba X-Golf Woodbury; 8150 Coller Way, Suite 500; On Sale Intoxicating Liquor License including Sunday and Patio Sales

Mayor Burt declared the public hearing open and recognized City Clerk Kimberlee Blaeser to give the background.

City Clerk Kim Blaeser reviewed an application from WJB Holdings LLC dba X-Golf Woodbury for an on-sale intoxicating liquor license including Sunday and patio sales at 8150 Coller Way, Suite 500. As required by City Code, a criminal history check related to liquor licensing was conducted on WJB's owners and managing partners, and no violations were found. All required fees have been submitted, and a meeting will be scheduled with the owners to discuss the City's "Protect Your Business" manual, outlining City Ordinances and Alcohol Violation Policy. The application has been reviewed and approved by the City Attorney.

Ms. Blaeser stated staff recommends Council approval of an on-sale intoxicating liquor license including Sundays and patio sales to WJB Holdings LLC dba as X-Golf for establishment at 8160 Coller Way Suite 500.

Ben Ferret, 408 No. 1st Street, Minneapolis, stated he is the owner of WJB Holdings. He added WJB Holdings is excited to expand X-Golf into Woodbury. He added there are currently X-Golf locations in Champlain and Blaine.

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

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

Ms. Blaeser stated staff recommends Council approval of an On Sale Intoxicating Liquor License including Sunday and Patio Sales to WJB Holdings, LLC dba X-Golf Woodbury.

Councilmember Date moved, seconded by Councilmember Morris, to approve an On Sale Intoxicating Liquor License including Sunday and Patio Sales to WJB Holdings, LLC dba X-Golf Woodbury for their establishment located at 8150 Collier Way, Suite 500.

Voting via voice:

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

B. Cub Stores Holdings, LLC dba Cub Wine & Spirits; 8452 Tamarack Village; Off Sale Intoxicating Liquor License

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

Ms. Blaeser reviewed an application from Cub Stores Holdings, LLC dba Cub Wine & Spirits, for an off-sale intoxicating liquor license at 8452 Tamarack Village. As required by City Code, a criminal history check related to liquor licensing was conducted on Cub Stores' owners and managing partners, and no violations were found. City Staff will provide the "Protect Your Business" manual, outlining City Ordinances and Alcohol Violation Policy. The application has been reviewed and approved by the City Attorney.

Ms. Blaeser stated staff recommends Council approval of an off-sale intoxicating liquor license to Cub Stores Holdings LLC dba as Cub Wine & Spirits at 8452 Tamarack Village.

Ms. Blaeser recommended that the tobacco license be included as part of this recommendation process, if the City Council chooses to approve the liquor license.

Jim Hornicker, 421 South 3rd Street, Stillwater, stated he is Director of Cub Stores, and he is accompanied by Bridget Birkland, Vice President of Adult Beverages. He added the proposed Cub Wine & Spirits would be located in the former Pier One space across the parking lot from the existing Cub Foods Store, which is a great location for expanding the brand, which has been very popular with Cub customers.

Mayor Burt asked how many liquor stores Cub has. Mr. Hornicker stated there are 27 liquor stores, some of which are branded Cub Liquors, and some are Wine & Spirits. He added proposed Wine & Spirits store in Woodbury will have a tasting area.

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 Santini stated she likes the idea of repurposing the Pier One space. She thanked Mr. Hornicker and Cub Stores for entering the Woodbury market.

Councilmember Santini moved, seconded by Councilmember Morris, to approve an Off Sale Intoxicating Liquor License to Cub Stores Holdings, LLC dba Cub Wine & Spirits for their location at 8452 Tamarack Village.

Voting via voice:

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

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C. Approval of Tobacco Sales for Cub Stores Holdings, LLC dba Cub Wine & Spirits; 8452 Tamarack Village (Item is not a public hearing - Council action needed after close of Cub Stores Holdings LLC Public Hearing)

Councilmember Santini moved, seconded by Councilmember Morris, to approve a Tobacco Sales License to Cub Stores Holdings, LLC dba Cub Wine & Spirits for their location at 8452 Tamarack Village.

Voting via voice:

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

Mayor Burt asked whether there is a time frame for opening the new store. Mr. Hornicker stated the plan is to have the store ready to open in late September 2021.

D. Public Hearing- Cancelled: Our Happy Place Adult Daycare, Conditional Use Permit, Project No. 06-2021-00444

Mayor Burt moved, seconded by Councilmember Morris, to cancel the Public Hearing for Our Happy Place Adult Daycare, Project No. 06-2021-00444.

Voting via voice:

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

E. 9089 Hidden Meadow Variance; Project No. 10-2020-00425

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

Ms. Schmitz reviewed an application for a variance to encroach into the 5-foot side yard setback at 9068 Hidden Meadow Road from applicant Tony Robinette. The property is zoned R-4 and guided Low Density on the City's Land Use Plan. The applicant's garage was destroyed in a fire, and plans were made to replace the garage and increase the size from 2.5 stalls to 3 stalls, resulting in an expansion of 4.5 feet into the side yard. The applicant applied for a building permit, using the original 1989 pre-construction surveyor's certificate from the City's building records, which showed that the setback between the garage and the property line was either "9 feet plus or minus" or "9.5 feet".

Ms. Schmitz stated the initial application requested a 4-foot extension, which brought the addition to the edge of the 5-foot setback required by City Code. The applicant began construction following the issuance of the building permit. City Staff received a complaint regarding the proximity of the new garage to the side property line, and the City requested that the property line be verified by a licensed surveyor. The applicant hired a surveyor who confirmed that the new garage encroaches 22 inches into the 5-foot side yard setback, as well as the side yard drainage and utility easement. The partially completed garage addition is approximately 3 feet 2 inches from the side yard property line whereas 5 feet is required by City Ordinance Section 24-134.

Ms. Schmitz stated the 5-foot setback is the absolute minimum that the City allows between a garage and side yard lot line, which coincides with typical drainage and utility easements that surround platted lots. The encroachment into the 5-foot setback would change the character of the neighborhood and necessitate the vacation of the drainage easement.

Ms. Schmitz stated the applicant relied on information from the 1989 surveyor's certificate for his building permit application. City Code does not require an applicant to provide an updated survey completed by a licensed surveyor as part of the building process. However, by not hiring a surveyor, the applicant assumed the risk that the property lines are not accurate. This assumption does not constitute a rationale for a variance.

Ms. Schmitz stated the intent of the variance process is to address practical difficulties in complying with zoning Ordinances, and not to correct a situation caused by an error on the part of the applicant. A more effective tool would be to amend the Ordinance unless circumstances are unique to the application, in which case a variance would be appropriate.

Ms. Schmitz stated, according to Comprehensive Plan guidelines, encroachment into the 5-foot side yard setback would compromise the essential character of the neighborhood, and cause precedent that is concerning and could be detrimental to the neighborhoods.

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Ms. Schmitz reviewed the practical difficulties in this case:

1. The proposed lot extension into the 5-foot side yard setback is to the detriment of adjacent properties in terms of reasonable separation of homes. The 5-foot setback is a minimum setback that has been utilized for thousands of properties in Woodbury. City Staff does not feel it would be reasonable to establish an alternate standard for a single property due to an error in the identification of the property line and would create concerns related to precedent. Additionally, the City would be required to vacate a portion of the utility easement surrounding the property, and there is no known precedent for vacating the utility easement.
2. The landowner selected, at their discretion, not to use the services of a licensed surveyor in advance of planning and building the garage addition. While this is unfortunate, the erroneous identification of the property line does not create a unique circumstance as this situation was created by the landowner. The inability to have a 3-car garage is not unique to Woodbury lots, and it is not a practical difficulty.
3. The granting of a reduced setback would create a precedent for the variance process; modify garage setback standards in Woodbury; and alter the essential character of the neighborhood.
4. Economic considerations. The request for flexibility in the variance process is due to the cost to remedy the situation, and the City has empathy for the homeowner. The variance is not consistent with the intent of the Zoning Ordinance or Comprehensive Plan and does not meet the practical difficulty finding.

Ms. Schmitz stated a neighborhood meeting was held on March 18, 2021, at which there were 12 attendees. The general feedback related to questions about what would happen if the variance request were to be denied or improved. Emails were received from adjacent property owners, and 3 phone calls were received, requesting clarification.

Ms. Schmitz stated the Planning Commission, after reviewing this request at their June 12, 2021, meeting, have recommended City Council denial of the variance request.

Planning Commissioner Avin Kallenbach stated the Planning Commission reviewed this request and discussed the 5-foot setback requirement. Some Commissioners went on site to look at the location. The Planning Commission recommended City Council denial of the request based on findings of fact, not only for this project, but for future projects, for which this would set a precedent.

Tony Robinette, 9068 Hidden Meadow Road, stated this has put him in a terrible situation, which is not the City's fault. He added he came to the City in good faith and did everything that was asked of him. He noted the City does not have any other way to deal with this situation, other than the variance. He asked whether the City has any liability or responsibility.

Mr. Robinette stated he hopes that some other solution can be found. He thanked the City for their help and support after his garage burned down. He requested consideration of a 30-day extension to the 60-day requirement to remove the encroachment and obtain a survey, bringing the total to 90 days, as it will be difficult to get a surveyor back out in that timeframe.

Ms. Schmitz stated staff recommends that the City Council adopt a resolution denying the variance to the side yard setback for 9068 Hidden Meadow Road.

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

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

City Attorney Scott Riggs stated he did not attend the Planning Commission meeting, but his colleague, Dave Anderson, was there. He added the short answer is that there is no liability for the City in this matter, as both City Staff and the Planning Commission have done what is necessary. He noted the City Council's decision should be based on findings of fact and analysis of the Ordinance.

Mayor Burt stated this is a challenging and heartbreaking situation that could potentially be very costly for the applicant. She asked whether the City should consider changing the process to avoid this situation in future.

Ms. Schmitz stated City Staff is currently reviewing the permit review process to ensure that all areas are covered. She added for the majority of properties seeking additions, a survey is likely not needed as they can find their corner pins from a previous property surveys. Requiring all additions to obtain a survey would be an added expense, and may not be necessary for all residents. She said staff is reviewing this process to determine what circumstances or threshold could be identified that would trigger a survey.

Councilmember Morris asked whether this is a State requirement. Ms. Schmitz stated the building code does not require a survey. She added the goal will be to find a balance point for those that do not need a survey, and to ensure that those that are close to the setback do not end up replicating this situation, which has been difficult for the Robinette family, as well as City Staff, the Planning Commission and the City Council.

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Councilmember Morris stated he attended the Planning Commission meeting at which the public hearing was held, and City Staff worked very closely with the applicant to try to figure out how to fix this. He added the Planning Commission took considerable time and effort to find a solution, but the variance process is the only tool in the toolbox, from a culpability standpoint.

Councilmember Date stated this is a heartbreaking situation, and the City Council empathizes with the applicant. She stressed the importance of learning from this situation, regardless of outcome, and coming up with a more appropriate process so this does not happen again.

Councilmember Wilson asked whether final surveys will be required. Ms. Schmitz stated a certificate of grading has been required for the past 15 years or so, which sometimes shows the location of where the house was actually built. She added, in this case, the initial surveyor's certificate showed "9± feet" or "9.5 feet", although the actual measurement is 7 feet 8 inches.

Councilmember Wilson stated, going forward, the City should not provide surveys upon request that were completed over 15 years ago, and hold the surveys out as correct.

Ms. Schmitz stated staff receives requests for surveys all the time, and not just for building permit applications for additions. She added, in this case, the document was a surveyor's certificate. She noted staff typically sends a copy of the document via email.

Councilmember Wilson asked about the amount of the encroachment. Ms. Schmitz stated the amount is 22 inches, or just under 2 feet, which might not be exact as there is no official survey. She added the extension also encroaches into the 5-foot drainage and utility easement. She noted the garage extension has a 2nd floor, which makes the addition seem bigger and closer from a visual perspective.

Councilmember Morris moved, seconded by Councilmember Santini,

To adopt the following resolution to include the amendment to Condition No. 1 by replacing "two (2) months" with "90 days"

Resolution 21-122

Resolution of the City of Woodbury, Washington County, Minnesota to deny a variance to the side yard setback for 9068 Hidden Meadow Road, Project No. 10-2020- 00425, based on the findings of fact in Resolution No. 21-122, subject to the amended conditions as listed below:

1. The building encroachment within the 5-foot setback will be required to be removed within 90 days of the denial of this variance.
2. If the applicant decides to rebuild the addition, an updated survey by a licensed surveyor will be required to confirm the appropriate setbacks of the house and garage.

Voting via voice:

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

Mayor Burt expressed her apologies to Mr. Robinette. She thanked him for his professionalism in dealing with this situation.

F. Woodbury Baptist Church Digital Sign, Interim Conditional Use Permit, Project No. 07-2021-00442

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

Ms. Schmitz reviewed a request from Woodbury Baptist Church for an interim Conditional Use Permit to remove an existing sign and install a new sign with an electronic message center at 6695 Upper Afton Road. The existing sign was constructed in 1977 with wood planks and is proposed to be replaced with a digital sign in the same location. The proposed sign will meet the 15-foot setback requirement from the property line.

Ms. Schmitz stated the City's sign Ordinance allows one freestanding sign for institutional uses with a maximum size of 60 square feet and 8 feet in height. The proposed sign will be these exact specifications. The sign will be designed to be dimmed, and a proposed condition of approval would require that the sign be dimmed during evening hours and turned off between 11:00 p.m. – 5:00 a.m.

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Ms. Schmitz stated a virtual neighborhood meeting was held on May 18, 2021, with 3 attendees, and no questions or comments were received. The Planning Commission reviewed the request at their recent meeting. Pastor Greg Cooper and Jack Givens from Woodbury Baptist Church were at the meeting to answer questions, as well as Robert Sherlock from Sign Art, who was attending virtually.

Planning Commissioner Kallenbach stated all requirements were met with regard to this request. She added the applicant will design and install power to the sign and a new foundation as well as new landscaping. She noted the Planning Commission recommended City Council approval of the request.

City Staff recommends City Council approval of Woodbury Baptist Church Digital Sign, Interim Conditional Use Permit, Project No. 07-2021-00442.

Councilmember Morris moved, seconded by Councilmember Date, 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 Morris stated the Interim Conditional Use Permit process may not be necessary for this type of project, from a staff efficiency standpoint, since the City does many of them and they are fairly straightforward. He added a more efficient process could be explored.

Ms. Schmitz stated staff can look into it. She added an ordinance amendment would be necessary, as the ICUP process is identified in the City Code of Ordinances. She noted an ICUP may not be required if the property is not adjacent to a residential area.

Councilmember Morris moved, seconded by Councilmember Date,

To adopt the following resolution

Resolution 21-123

Resolution of the City of Woodbury, Washington County, Minnesota approving the Woodbury Baptist Church Sign Interim Conditional Use Permit based on the Findings of Fact, Project No. 07-2021-00442 subject to the following conditions as outlined in Council Letter 21-165 and listed below:

1. The Interim Conditional Use Permit shall terminate upon a change in zoning regulations which would prohibit the use or upon violation of the conditions under which the permit was issued.
2. The electronic display sign shall meet all requirements of the Sign Ordinance including location, area, materials and height. Electronic display sign messages shall not change more than what is permitted in the Sign Ordinance.
3. Upon the occurrence of the date or of the criteria for termination set forth in the Interim Conditional Use Permit, the city shall notify the Permittee in writing that the Interim Conditional Use Permit shall terminate not later than 30 days after the date of such notice.
4. The Interim Conditional Use Permit shall be reviewed annually but may be reviewed at any time if the City Council is of the opinion that the terms and conditions of the permit have been violated or if one of the criteria for termination has been met.
5. A sign permit is required before installation of the electronic display sign.
6. The Interim Conditional Use Permit shall be executed prior to the issuance of a sign permit for the electronic display sign.
7. The electronic sign shall be dimmed during evening hours and turned off from 11:00 p.m. to 5:00 a.m.

Voting via voice:

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

G. Amended Ordinance; Chapter 24, Zoning Ordinance, Article V, Supplemental District Regulations, Division 2, Off-street parking and loading, Section 24-245, Commercial equipment parking in residential areas; Project No. 2021-00441.

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

Ms. Schmitz reviewed an ordinance amendment for parking of commercial equipment in residential areas, under Chapter 24 of the Zoning Ordinance. The City Council amended this section of the Ordinance in 2019 and was intended to clarify which commercial vehicles are allowed or prohibited from being parked in residential zones. The Ordinance amendment at that time reduced the maximum size of commercial vehicles from ¾ ton to ½ ton for modified pickup trucks and vans; prohibited dump trucks and food trucks; and established

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a maximum height of 8 feet for modified pick-up trucks and vans. The City Council requested that City Staff report back on the impacts of the 2019 Ordinance amendment after a year or two.

Ms. Schmitz stated staff reviewed current regulations compared to how other cities approach this issue, in terms of height, type and weight requirements. She added Woodbury is the height requirement is unique to Woodbury. The Planning Commission reviewed the Ordinance amendment at a workshop in February 2021 and affirmed that it would not be appropriate to regulate color and signage on trucks. They requested further evaluation of additional height for racks and ladders, beyond the 8 foot requirement.

Ms. Schmitz stated the amendment was reviewed by the City Council at its February 10, 2021, workshop, with comments and recommendations from the Planning Commission. She added the City Council agreed that the height of 8 feet without attachments was appropriate. She noted the goal has been to broaden the City's ability to allow residents to bring commercial vehicles home, but also respect the rights of their neighbors.

Ms. Schmitz stated trucks are recommended to be regulated by type and height rather than tonnage or towing capacity. She added another addition is allowance for attachments up to 9 feet, or 1 extra foot for attachments.

Planning Commissioner Kallenbach stated this request was reviewed at length by the Planning Commission. She added she works in the construction industry, and many workers expressed appreciation for the 8-foot maximum height with the extra foot for attachments, which is helpful for people who have to bring their work vehicles home at night.

Ms. Schmitz stated staff recommends Council approval of Amended Ordinance; Chapter 24, Zoning Ordinance, Article V, Supplemental District Regulations, Division 2, Off-street parking and loading, Section 24-245, Commercial equipment parking in residential areas; Project No. 2021-00441.

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 Wilson stated she has received a few phone calls, maybe from the same person, regarding a semi-truck that has been parked on a particular road that is not totally residential. Ms. Schmitz stated the zoning of the area is more of a determining factor than the road itself. She added residents can contact City Staff for more information and assistance with a code violation.

Councilmember Morris asked whether Walmart is allowed to have overnight parking of recreational vehicles and semi-trucks in their parking lot. Ms. Schmitz stated she would have to look into that, but Walmart is not located in a residential zone.

Councilmember Date stated she is pleased that so much time has been spent on this Ordinance amendment, as this is an equity and inclusion issue. She added many residents need to park their work vehicle in their driveway to get to and from work, and it would be a major hardship for them to find another parking location. She noted the modifications are reasonable, and she hopes they will make it easier for residents to live and work in Woodbury.

Councilmember Morris moved, seconded by Councilmember Date,

To adopt the following ordinance

Ordinance 2000

Ordinance of the City of Woodbury, Washington County, Minnesota, amending Chapter 24, Zoning Ordinance, Article V, Supplemental District Regulations, Division 2, Off-street parking and loading, Section 24-245, Prohibited vehicles and equipment within residential zones.

Voting via voice:

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

Discussion

A. Additional Emergency Actions to be Taken to Address Water Treatment Issues in the City Caused by PFAS Contamination

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Assistant Public Works Director Jim Westerman reviewed the request for authority for additional emergency actions to be taken by the City of Woodbury, supplementing the January 8, 2021, Declaration of Local Emergency. The request for a continued and supplemented emergency declaration, related to water quality testing completed by the Minnesota Department of Health, was based on data showing an increasing trend in detected levels of PFAS in multiple municipal water supply wells.

Mr. Westerman stated 7 of the City's 19 water supply wells have health advisories, of which 4 have been returned to service, with temporary treatment. Of the 7 wells with health advisories, 3 remain off-line. PFAS levels are trending upwards in several additional wells, and the Minnesota Department of Health makes a determination on wells that will receive health advisories. There are significant long lead times for equipment and construction needed to address additional wells that may receive health advisories in the future.

Mr. Westerman stated additional actions are necessary to ensure the integrity of the City's water system while providing support for City Staff to address changes in the city's water supply system caused by this emergency, until a long-term solution is in place, public health and safety are no longer at risk, and emergency actions are no longer needed.

Mayor Burt asked whether the Minnesota Department of Health has issued additional advisories. Mr. Westerman stated that is correct, Woodbury has not received additional health advisories; it is anticipated that there may be additional advisories in the future, which increases the need for increased treatment capacity. He added, in his opinion, it is likely that the City may receive additional health advisories in the next 6-12 months on one or more municipal supply wells.

Mayor Burt requested clarification regarding the financial implications of addressing water quality issues. She asked where the funding will come from.

Mr. Westerman stated all funding for the temporary water treatment plant has been provided by State of Minnesota through grant payments through the settlement agreement, a 2007 SACO agreement, to this point. City Staff will pursue having future projects funded in a similar way. Additional vessels have been ordered through a commitment from the State.

Mr. Gridley asked about the additional well, and how it will be handled.

Mr. Westerman stated wells with health advisories are addressed through implementation of treatment or taking them out of service. He added the temporary water treatment plant has the additional capacity of 1 well, but, based on a review of results, there is a potential need for additional action. He noted City Staff supports the implementation and construction of Well #20, which was originally scheduled to be constructed in 2023 regardless of PFAS impacts and is proposed to be constructed on an accelerated time frame.

Mr. Westerman stated the proposed Well #20 will require a rigorous process from the Minnesota Department of Natural Resources as well as the Department of Health, including construction pre-approval. He added City Staff is not recommending construction for any increased appropriation, but rather for replacement of existing lost capacity and potentially replacement of future lost capacity.

Mayor Burt requested clarification regarding additional emergency actions.

Mr. Westerman stated City Staff is not requesting any additional action at this time. He added the existing Declaration of Emergency gives the Mayor and City Staff the capacity to respond in a timely manner to any future actions that may be necessary.

Mr. Gridley stated this is a precautionary measure, recommended by the City Attorney, to reduce uncertainty as to the City's ability to use the Declaration for various actions as reviewed by Mr. Westerman. He added the temporary water treatment plant has shown that an expedited process is helpful in responding as quickly as possible, to get the system online in record time and get the best value.

Councilmember Morris stated City Staff has noted that water usage in Woodbury, regardless of our continued development, is actually less than it was 4 years ago. Mr. Gridley confirmed that water usage was 24 million gallons per day in 2007. Mr. Westerman stated the recent hot weather has been a great trial period, with a plateau at 20 million gallons. He added this is a positive reflection of the community listening to the City's messaging on water efficiency and irrigation control programs.

Mr. Westerman stated 3 wells will continue to be off-line until further notice, which has affected capacity, especially with recent hot, dry weather. He added Saturday was a busy day for staff as Well 18, our highest producing well, went down due to major electrical issues. He noted City Staff have been working around the clock to troubleshoot and solve the problems but Well 18 will not be back on-line for at least a few weeks. He added additional mechanical failures or an increase beyond 20 million gallons per day production will result in the necessity of additional action.

Councilmember Morris asked whether the off-line wells are being tested. Mr. Westerman stated the wells are being tested according to Minnesota Department of Health testing protocols. He added they will not be coming back online unless they continue to test above health value for all 3 wells.

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Councilmember Morris moved, seconded by Councilmember Date,

To adopt the following resolution

Resolution 21-124

Resolution of the City of Woodbury, Washington County, Minnesota authorizing additional emergency actions to be taken to address water treatment and capacity issues in the City caused by PFAS contamination

Voting via voice:

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

B. Consent Agenda Item B - Amending Tax Increment Financing Policy

Councilmember Date moved, seconded by Councilmember Morris,

To adopt the following resolution

Resolution 21-125

Resolution of the City of Woodbury, Washington County, Minnesota amending City Council Directive CD-COMDEV-3.5 Tax Increment Financing Policy

Voting via voice:

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

Staff Reports

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

Engineering Director Chris Hartzell reviewed ongoing transportation projects.

The 2021 Roadway Rehabilitation project area in the Preserve area will have 5 phases, of which 1st and 2nd are currently under construction. Concrete curb replacement for Phase 2 is scheduled for June 24 or 25, 2021. The 3rd phase of the project is scheduled to begin June 24, 2021.

The Hudson Road mill and overlay project began earlier in June and is scheduled to be complete the week of June 28, 2021. The trail on the south side of Hudson Road has already been repaved with other pavement completed by today and markings placed by July 5, 2021.

The remainder of Tamarack Road will be constructed as part of the Woodbury Drive and Local Roads Project. New trails will be constructed along Commerce Drive and Hudson Road. The intersection of Tamarack Road and Hudson Road remains closed while the contractor completes widening on Tamarack Drive. The next phase will begin on July 6, 2021, with intermittent closures along Commerce Drive, but business access will be maintained. The project is scheduled for completion by mid-September.

CSAH 19 Corridor Management and Safety Improvement Project includes the expansion of Woodbury Drive to a 4-lane divided roadway between Bailey and Dale, with new trails on both the east and west sides of Woodbury Drive, and a roundabout at Woodbury Drive and Dale Road. Traffic is down to 1 lane in each direction along the west side of Woodbury Drive, and Dale Road east of Woodbury Drive has been closed and will remain so until the roundabout is complete. The project is scheduled to be completed by mid to late October.

A temporary roundabout is in place, which is the first time in the State of Minnesota that a temporary roundabout has been used as a traffic control device during a construction project. The temporary roundabout appears to be working very well.

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Hudson Road and Settlers Ridge Parkway roadway and intersection improvements – grading is being done to accommodate new turn lanes for a new traffic signal at the intersection. Both roadways have been closed, and a detour route was established. The project is scheduled to be completed as early as October 1, 2021.

The 2021 Rejuvenator Project is nearly completion, with a few streets still remaining, due to driveway paving that occurred along the way with cars parked in the street. The project is scheduled to be completed the week of July 19, 2021. Residents will be notified about which areas will be affected.

A median landscaping project is being completed on Bailey Road, with perennial plantings and other landscaping items. Tree installation will not occur until this fall as weather allows.

The City is coordinating with Met Council on the L73 tunnel maintenance project along Woodbury Drive, to recondition and maintain a sanitary sewer and tunnel system. Woodbury Drive is down to 1 lane at this location. The project is scheduled to be completed in the fall.

Residents interested in the City's ongoing streets reconstruction projects can find additional information in the online interactive transportation CIP on the City website and sign up for in-touch updates to get latest news on construction activities.

B. Administrative Report

Mr. Gridley stated there are no neighborhood meetings to report. He added the Planning Commission's July 12 meeting will include a Washington County environmental review, as well as a site and building plan review for 1976 Wooddale Drive. No public hearings are scheduled for the City Council's July 14, 2021, meeting.

Mr. Gridley stated the Audit Investment Commission is scheduled to meet June 28, 2021, at 7:30 a.m. in the Ash North and South Conference Rooms, at which the annual audit will be delivered. He added the Parks & Natural Resources Commission is scheduled to meet July 13, 2021, at 7:00 p.m. in the Ash North and south Conference Rooms. He noted a short Housing & Redevelopment Authority meeting is planned for the July 14, 2021 just before the regular City Council meeting.

Mayor Burt stated there will be a Fourth of July celebration with fireworks this year. She added it will be exciting to have a community event and welcomed everyone to attend.

Mr. Gridley stated a table will be set up for the City Council to answer residents' questions and comments.

Adjourn to Council Workshop

Councilmember Morris moved, seconded by Mayor Burt, to adjourn the meeting to a Council Workshop session at 9:15 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 July 14, 2021