

Minutes
Woodbury City Council
Wednesday, September 27, 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 27th day of September 2023.

Call to Order

Mayor Anne Burt called the meeting to order at 7:06 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.

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; Jason Posel, Public Safety Director; Tony Kutzke, City Engineer; Annie Coyle, Assistant to the City Administrator/Deputy Clerk; Jamie Fritts, Housing and Economic Development Coordinator; Chris Hartzell, Engineering Director and Michael Hejna, Principal Engineer.

Special Order of Business

A. Stillwater Area Public Schools ISD 834 Referendum Presentation

ISD 834 Superintendent Dr. Michael Funk noted out of the 8,000 students, about 1,600 are from Woodbury. He reviewed the three priorities which are: 1. Provide the best educational environment that meets the needs of our students and staff, 2. Prepare the district for future growth, and 3. Operate in a fiscally responsible manner balancing student need with taxpayer support.

Dr. Funk stated the district is projected to grow by about 1,000 students in the next 10 years. The bond request would provide more learning spaces for the growing enrollment, replace the 100-year-old facilities, and improve safety and security. The projects that would be included in the bond proposal would be to replace Lake Elmo Elementary and Andersen Elementary, expand and remodel Oak-Land Middle School, and improve safety and security with the high school.

Dr. Funk explained that Lake Elmo Elementary was originally built in 1920 with a capacity of 675 students. The opportunities with having a new facility include:

- Increased capacity to address future growth within the community (up to 1,1000 students)
- Room to expand Amigos Unidos Dual Language Spanish Immersion
- Located further south; closer to population center
- Fully American Disabilities Act accessible
- Designated specialist spaces for art, music, media, physical education
- Larger gymnasium, cafeteria and other community/gathering spaces
- Flexible learning spaces and modern learning environments
- Improved/safer traffic flow on campus and roadways

Dr. Funk reviewed the concept of Lake Elmo Elementary replacement and the proposed area of the new site.

Dr. Funk noted that Andersen Elementary was originally built in 1919 with a capacity of 375. The opportunities with a new facility include relieving pressure at Aftron-Lakeland since they will reach capacity soon. It will have designated specialists spaces for art, music, media, physical education, and include additional green spaces.

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Dr. Funk mentioned that the Minnesota Department of Education guidelines identify an elementary school site is to be 10-15 usable acres, plus 1 acre for each 100 students of enrollment. Andersen Elementary should have 14-19 acres and currently sits on 1.4 acres. Lake Elmo Elementary School should have 17-22 acres and currently sits on 12.8 acres.

Dr. Funk explained by expanding Oak-Land Middle School is would allow the building capacity to handle the increase in enrollment, improve the building's core functionality and would add a gym space to provide adequate teaching spaces for physical education and extracurricular activities and community use. The remodel of the entry at Stillwater High School would create a larger space to meet the volume of students, staff, and community that enter the building and improve security. He noted the districtwide security improvements include security strobe lights for high noise areas and security glazing at additional points of the entry and building separation.

Dr. Funk stated the Election Day is November 7, 2023 with one-question on the ballot. If approved, it would be a \$17 per month increase for median-priced homes. He added that Stillwater Area School residents pay less in school taxes than those in comparable districts. If the bond does not pass, there will be overcrowding in the schools, security improvements would not be addressed, and they would continue to have inadequate learning spaces.

B. South Washington County Schools ISD 833 Referendum Presentation

Superintendent ISD 833 Julie Nielsen introduced the Director of Finance and Operations, Dan Pyan. She noted the priorities that were going to be presented were based off of community engagement feedback. There will be three questions on the November 7, 2023 ballot:

1. Safety and security enhancements; expansions and renovations at secondary schools
2. Addresses elementary school space at schools projected to exceed capacity; additional of a second set of bathrooms at five elementary schools
3. Addresses infrastructure, safety and security relating to technology.

Ms. Nielsen reviewed the projected enrollment. The cost estimate is \$200 million for the bonds for the buildings which would be a \$6 increase per month on each median value home in the district. She noted there is a tax impact calculator where residents can see the impact for each question on the ballot. She explained that bonds are for building, which is the only method to raise enough funds for new construction and extensive remodeling. The first two questions on the ballot will be related to bonds. The first question will list the priorities of the projects proposed. If the first question related to bonds fails then renovations will be put on hold, the overcrowding will continue and question two related to bonds will also fail.

Ms. Nielsen explained that question two relates to elementary school additions and bathroom renovations and would include a \$1 monthly increase on median home value. If bond question two fails, attendance boundary changes would occur at the elementary level for the 2024-2024 school year, the middle school boundaries would be adjusted to keep the elementary school cohorts together, and Crestview, Hillside, Pine Hill, Pullman and Royal Oaks would continue with one set of bathrooms.

Mr. Pyan added that the new boundaries would affect 420 students. There is a boundary tool that can help show what the new boundaries would be. He explained that the third question on the ballot include a technology project levy. He showed a graph of how the school district compares to others in regard to capital project levy amounts among the top 10 school district by student population. He encouraged residents to visit sowashco.org/facilityplanning to learn more information.

C. Report on September 6, 2023 closed session regarding potential litigation strategy regarding the contract with ISD 833 to provide School Resource Officer services

City Attorney Kevin Sandstrom reviewed that the Council went into a closed session at the end of its September 6, 2023 meeting to discuss potential litigation between the City and ISD 833 in relation to a contract dispute and issue with the School Resource Officers (SRO) contract. He had advised and recommended to the Council to go into a closed session to discuss the issue. He summarized that the Council was informed during closed session about the SRO issue and provided direction to Staff but that no official action was taken by the Council. .

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.

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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 – September 6, 2023

Item B To adopt the following resolution **Resolution 23-153**

Resolution of the City of Woodbury, Washington County, Minnesota authorizing the acceptance of a \$4,337 grant by the Minnesota Department of Health Statewide Health Improvement Partnership through Washington County to the City of Woodbury.

Item C Meadowood Villas, Extension of Approvals, Project Nos. 06-2019-00342 and 06-2021-00466. **This item was removed the Consent Agenda and moved to the Discussion portion of the meeting.**

Item D To adopt the following resolution **Resolution 23-154**

Resolution of the City of Woodbury, Washington County, Minnesota to approve and record a new drainage and utility easement along the south property line of the City's Public Works West Facility.

Item E To adopt a motion approving issuing a Cannabinoid Products License to Legacy, Corp., 9891 Hudson Place.

Item F 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 September 1, 2023 in the amount of \$1,966,959.67, September 8, 2023 in the amount of \$1,697,213.77 and September 15, 2023 in the amount of \$1,350,912.92.

Councilmember Date moved, seconded by Councilmember Santini, to approve the Consent Agenda items with the exception of item 6C.

Voting via voice:

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

Discussion

Consent Agenda Item 6C. Meadowood Villas, Extension of Approvals, Project Nos. 06-2019-00342 and 06-2021-00466

Developer Randy Zejdlik, 7374 Kirkwood Court, Maple Grove, explained he pulled this item for discussion to request an extension on the Meadowood Villas due to health conditions he experienced over the year. He stated he had cancer and explained the treatment he received and additional health conditions throughout the year.

Mayor Burt expressed her condolences and asked Community Development Director Janelle Schmitz to share additional information about the project. Ms. Schmitz explained that the project is located east of Century Avenue. The project was originally approved in 2019 for 13 detached townhome lots. There was an extension on the preliminary plat and the final plat was approved in 2021. Last year there was a request for an extension to the final plat. At that time, the Council discussed concerns regarding the length of time the project has taken and added a condition that it would be the last extension allowed.

Mayor Burt asked what a normal time period was for a project like Meadowood Villas. Ms. Schmitz replied that it is difficult to say what is normal but the City requires that there is construction activity within the year.

Mayor Burt asked what the process would look like if the extension was denied. Ms. Schmitz explained that the applicant can resubmit but Staff would be viewing the plan through the lens of current codes.

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Mayor Burt asked how long the application process would take. Ms. Schmitz replied that it would take about 90 days.

Councilmember Santini asked if there were issues with the roads in the proposal for the project. Councilmember Morris replied that he recalled that there was concerns on construction vehicles driving through residential roads which had recently been redone. Ms. Schmitz added that the plat approval had conditions regarding construction traffic.

Councilmember Date asked how the resolution on limiting growth would impact whether the applicant could reapply if the extension was denied. Ms. Schmitz replied that it would not be affected since it is not a part of Phase 2.

Councilmember Santini asked what the financial impact would be if the project was denied and the applicant had to reapply. Ms. Schmitz replied that she does not know the application fee but there is also an escrow that helps pay for any consulting time in reviewing the application.

Councilmember Morris mentioned that he had a strong opinion during the discussion last time of not having any more extension. He noted his empathy for the situation and that he would like to see things built to the current standards. He added that if the project was approved, the project would likely not begin until next year due to the winter. He stated he would like to recommend a denial. Councilmember Wilson agreed.

Councilmember Morris moved, seconded by Councilmember Wilson, to deny the extension of project approvals for Meadowood Villas, Project Nos. 06-2019-00342 and 06-2021-00466 due to significant time having passed since the project was approved and no neighborhood engagement since 2019.

Councilmember Date stated the Council is empathetic towards the situation and noted a large aspect for denial is the stakeholder engagement being it was approved five years ago and there could be new residents in the area that should be communicated to.

Councilmember Santini suggested having a reduction or to waive the application fee. Councilmember Morris replied that he would be amenable to a waiver of the application fee but not the escrow. Mayor Burt added that the fee waiver should only apply to the applicant and not someone new if the property were to sell.

Councilmember Santini moved, seconded by Councilmember Morris to amend to motion to include the waiving of the application fee.

Voting via voice:

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

A. School Resource Officers Services

Mayor Burt explained that the new law is complex and continues to be the subject of debate. She added that she would like to hear clear perspectives that are rational. She noted it is untrue that SRO officers are refusing to show up to work on the first day of school unless they can do a “George Floyd choke hold on kids that don’t want to follow the rules that every school employee has to follow.” She added that the Council, Staff, and Public Safety Department want the same thing the community wants, which is safety for the schools and students and staff. She mentioned that the desire is to collaborate with the school.

Public Safety Director Jason Posel explained that it has been a difficult time due to the new legislation. He emphasized the importance of keeping students safe and enabling officers to do their job by protecting them from undue liability. Woodbury has partnered with the district to provide a School Resource Officer Program. The program provides safety for students and educators and has helped the Police Department to foster meaningful connections with young individuals.

Mr. Posel stated SROs are fully trained, uniformed, and armed licensed officers working inside of the schools. The three responsibilities of an SRO is law enforcement, law related counselor, and law related educator. All SROs receive communication and de-escalation training specific to children. SROs spend the majority of their time building relationships and de-escalating issues. They currently have a contract at 833 to provide one SRO at Woodbury High School, one SRO at East Ridge High School, and one SRO at Lake Middle School and Woodbury Junior High. The district pays for 75% of the burden rate for each of the officers. In 2020, the district unilaterally chose to suspend the junior high SRO program and continues to do so, without any specific amendment to the SRO contract having been made.

City Attorney Kevin Sandstrom stated existing State law outlines the “use-of-force” rules for all police officers statewide and has been in effect since 2020. The reasonable force rules have changed and been amended over the years especially after the George Floyd tragedy. Regarding the 2023 amendments, the legislative changes were surprising and accomplished without any input from cities or police

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agencies during the process. While the legislative changes occurred last spring, municipal communities did not know about it until August 2023 when the law came into effect. The new law put significant new limits on SROs and prevents any use of force except in limited circumstances. SROs were concerned about being subject to liability or adverse license action by not being able to use the training that they receive.

Mayor Burt asked to clarify how officers address de-escalation. Mr. Posel replied that having relationships in the schools can have an impact on de-escalation. He added the SROs have an emphasis on building relationships and looking for additional preventative measures.

Mr. Sandstrom reviewed the timeline of SRO-related events that occurred statewide in August and September. He noted most cities first became aware of the legislative change on August 9, 2023 when the League of Minnesota Cities issued its first memo updating cities and law enforcement agencies on the issue. The MPPOA was informed on the issue and put out a letter to its members on August 14, 2023. A number of entities that represent police officers, attorneys, and school districts came together to discuss possible options and outcomes. Meetings occurred mid-August with the Attorney General and the Governor's Office to try to amend the law. The Attorney General issued his first legal opinion letter August 22, 2023 that left police officers with unanswered questions. The letter mentioned that the legislature needs to address the issue. Minnesota League of Cities issued a new memo on August 28, 2023 that noted that SROs cannot use any bodily force whatsoever unless there is an imminent threat of bodily harm or death. Therefore, due to the new legislation an officer would hypothetically not be allowed to touch or arrest a child who was committing a nonviolent crime. The memo made officers concerned and many agencies decided to pull SROs out of schools during the new school year. At the time, the City decided to wait to see if there would be any changes. During the last week of August, Staff decided input from the Council on the issue was needed. Director Posel reached out to the school district on or about September 1, 2023 to let them know that they would most likely pull the SROs out of the school. The school district's response was that they demanded ongoing compliance with the SRO contract and to have SROs remain in the schools. Therefore, Staff believed since there was a real potential for litigation, the Council could go into a closed session to discuss this.

Mayor Burt clarified that if there is potential for litigation then there is reason to be able to go into a closed session.

Mr. Sandstrom stated a closed session was held on September 6, 2023 where Council provided direction that was supportive of SROs not being in the schools noting that 40-50 school districts had already pulled out their SROs by the first day of school. On September 8, 2023 the school district officials met with Mr. Posel, Mr. Gridley and Mr. Sandstrom and were informed that SROs would be pulled from the schools starting the following week and discussed other ways to provide law enforcement services such as having officers patrolling in the immediate area of the schools free of charge. If the officer was in the area and was called in, they would be able to use whatever force necessary and make arrests.

Mayor Burt explained that it was her understanding that there was an express offer by the City that the Police Department would provide someone to be able to go into the school. Mr. Sandstrom agreed and added that it would have been intended be an existing SRO who would patrol the surrounding area and be available if needed.

Mr. Sandstrom noted the Governor announced on September 8, 2023 that he was not going to call a special session. On September 20, 2023 the Attorney General's office released a new opinion and provided new guidance such as the previous use of force law would still apply to allow arresting any student who was committing a crime. Under the new law, according to the new attorney general opinion, officers would be able to use force to effectuate an arrest if a crime is occurring. The interpretation of the Attorney General is binding until a court says otherwise. A new letter from the MPPOA's attorney was released stating it is a significant new development that may warrant SROs to go back to the schools. The League of Minnesota Cities also released a memo that agreed with what the 9/20/23 Attorney General Opinion said and provided additional guidance.

City Administrator Clinton Gridley added that when they met with the school district staff, they elected to go to their board which occurred on September 14, 2023. The school district board discussed if they would like to take up the offer from the City to receive non-SRO patrolling services free of charge. The school district board voted 5-2 to reject the offer of the City to provide the alternative patrolling services at no cost.

Mr. Posel explained during that time, the department was continuing to figure out what everything meant while being operational. The issue was not on what types of interventions were allowed but when they could intervene at all. During the suspension of the contract, the Public Safety team met with local representatives and MCPA and MPPOA and attorneys to seek clarification. The command team met with the current SROs to discuss how they were feeling. Concerns were raised by the current SROs.

Mayor Burt asked if an officer is contracted to work at a school activity, are they considered an SRO. Mr. Posel stated they are considered an agent of the school. While the school district board declined the offer to have a patrol officer, they accepted the offer to have officers at school activities at no cost to the school district.

Mr. Sandstrom stated the one outstanding issue and grey issue for SROs is if a student is engaged in something that is non-violent and is a school rule issue. According to the Attorney General's guidance, an SRO would not be entitled to physically intervene if it is not a crime.

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Councilmember Wilson noted that she was at the school board special meeting and was surprised to find out that things considered crimes outside of school are items that SROs should not be intervening on inside of the school. She added that there seems to be a difference on what the school expects an SRO to do and what the officers expect of it.

Mr. Posel explained that the SROs and school staff have a good working relationship and does not have much concern moving forward with that relationship. He reviewed the fiscal implications. It is \$140,000 between the two SROs and is split between 2023 and 2024 in the school year. There is a loss of \$11,000 revenue for officer's services at school activities in 2023 in the suspension is continued. If the contract is continued, there would be a financial impact which would be determined based on the date of reinstatement and would not be any impact on the 2024 budget. The resolution would empower Mr. Posel and Mr. Gridley to continue to evaluate the situation and work with the district to reinstate the SRO program if it is appropriate.

Mayor Burt stated that the City and the school need to be clear on the role of the SRO. She asked if the school does not want any force at all, then why they would want a licensed patrol officer and suggested having an additional social worker.

The Council read through the resolution in its entirety.

Mayor Burt opened opportunity for the public to provide input and feedback.

Carlo Subrina Montgomery, 7591 Springbrook Lane, stated she has been in the area since 1976 and had many interactions with SRO's. She added that she had the privilege to speak with the Minneapolis City Council last year regarding the proclamation of George Floyd. She met with Mayor Burt the day after George Floyd was murdered where she learned that George Floyd was his second cousin. She noted that Mayor Burt suggested that she become a member of the Woodbury Police Multicultural Advisory Committee. She added that the police have done an exemplary job to make sure they are public servants. She expressed her happiness that the City became a Public Safety City instead of a Police Department. She added that she is proud of Woodbury and the work the police officers have done. She explained that the whole world saw what happened in our State and having ideas that police could put a knee on a child or beat them up is not a good look. She mentioned that SRO's are needed in the school but officers should not be putting knees on anyone's neck.

Mr. Sandstrom stated there is no concern about force in the portion of the law since it already existed already but it was more about the inability to arrest someone on a non-violent issue.

Morgan Casner, 8975 Sequoia Road, stated according to the Minnesota open meeting law, all governing bodies must hold open public meetings. Any closed door meetings must make a particular statement and record the session. For the attorney-client privilege exemption there must be a case that already exists or the threat of litigation. None of these existed, therefore the closed door meeting did not meet the exemption. She added that she would be curious to see the record of the closed door session.

Mr. Sandstrom replied the City was under a threat of litigation since the district's top official indicated to the City that they were not going to be supportive in withdrawing the SRO's from the schools. This information was known in advanced before the closed door meeting. He added that he had a discussion with the school's attorney and he mentioned the same thing.

Ms. Nielsen added that the notice for the closed session was posted on Friday. There was no communication with the school district official until the following Tuesday at 12:07 p.m. There was no case of litigation since no one had spoken with the head official in the school district.

Mayor Burt thanked Ms. Nielsen for her perspective and noted that while there may not have been discussion at the superintendent level, there was discussion with the school administration. Mr. Posel added that there have been ongoing discussions and really came to light in early August. The commander and head of the SRO program has been in contact with school officials and has been an ongoing evaluation.

Councilmember Wilson asked what the timeline was in discussing with school staff. Mr. Gridley replied that at the lower commander levels and the school levels there were discussions. Mr. Sandstrom added that putting the item on the agenda in advance of the meeting was a Staff decision. Councilmember Wilson asked if Staff had discussion with the school district staff before the closed door session. Mr. Sandstrom replied that they did. Mr. Gridley noted that it was an ongoing conversation and that they received correspondence from the school's attorney which confirmed the concerns about a potential litigation.

Mayor Burt explained that everyone is in agreement that the goal is to provide a safe environment for the school and to figure out how to get there.

Senator Nicole Mitchell, 3033 Leyland Trail, stated that she represents Woodbury. She noted that she was surprised by the closed meeting because it is a narrow ability to have a closed session. As clarified by the Minnesota Supreme Court and *Star Tribune* versus Board of Education, the attorney-client privilege exception does not apply to a mere request for general legal advice nor does it apply when a governing body seeks to discuss with his attorney. Strengths and weaknesses of proposed enactments may lead to future lawsuits because it is still considered general legal advice. She added that it needs to be an active lawsuit or a specific current threat of a

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lawsuit. She noted that there has to be notice of the requirement and statute number and she did not see that in the Council notes. She stated the City should reconsider if that should have been a closed meeting and release the information from the meeting.

Senator Mitchell reviewed the timeline and noted that it is about protecting children and allowing them to breathe. She added that there has been a lot of discussion about choke holds but noted that George Floyd was not killed due to a choke hold but with a knee on his neck. She explained that a few years ago, a law was put into place that even prisoners get the benefit of the kind of protection that is discussed in the schools. During the 2021-2022 school year, there were over 10,000 restraints used on children in Minnesota. The new law was a general law about employees and schools and happens to catch SRO's into it. The law seeks to address the number of restraints as well as to not cause harm to children. Even though there were protections in place for disability students, most force is disproportionately used against disability students who are male, a minority and ages 6-10.

Councilmember Morris asked how many of those were centered in ritual in the commission of a crime. Senator Mitchell replied that she was only speaking on restraints. Councilmember Morris replied that he was addressing what the law is doing for the City and for the licensed peace officers. Senator Mitchell explained that she did not have the exact numbers but was explaining how the law got put into place.

Senator Mitchell explained the law went through the House and began in the Senate in February. She added that it went through the schools since it was related to school discipline, and procedures. Anytime, anyone could have asked for it to be seen in Public Safety Committee. Councilmember Wilson asked if that is the procedure that should have been taken. Senator Mitchell replied no since it was related to school discipline.

Senator Mitchell noted that the law was seen by Republicans and Democrats and not a single amendment was offered. She added that a Councilmember said to a constituent that lawmakers are targeting law enforcement. She explained that they are not doing that and that by saying differently creates a tone of finger pointing. She mentioned that the City explained that they did not take action until August since it did not go into effect until then but the law went into effect in July. Mr. Sandstrom replied that no one from law enforcement was made aware until August.

Senator Mitchell stated there were other cities within Washington County that did not pull their SRO's from the schools. The reason there were multiple clarifications from the Attorney General was because the officer felt like the ball was being moved. She added that she did not know it was a concern for Woodbury until after the closed door meeting when a meeting was requested from the City to meet. By the time the meeting was scheduled, the SRO's had already been pulled. She mentioned she would have desired to be more collaborative in order to provide more guidance and understanding.

Councilmember Wilson asked Senator Mitchell who she met with from the City on August 11. Senator Mitchell replied Mayor Burt, Administrator Gridley, and Ms. Schafer.

Senator Mitchell noted during the meeting, she asked what language the City would like to see fixed and how to bring clarity to the ambiguity. The answer she received was to pause it, which frustrated her.

Councilmember Wilson asked if Senator Mitchell worked on the law. Senator Mitchell replied that she is not a part of the education committee but read it as it went through.

Councilmember Wilson asked Senator Mitchell what her interpretation of the law was since there are many grey areas on what SRO's can and cannot do. Senator Mitchell replied that the law is explaining the lack of students able to breathe and lack of students who are able to communicate distress. Mayor Burt explained that the language states that officers cannot apply pressure.

Senator Mitchell explained that if there had been more collaboration and communication earlier, it could have decreased the temperature in the community. She added that the situation got political when it did not and that the request for a special session made it more political. Mayor Burt noted that the City was seeking to get resolution on the language and seeking to work with the district to determine what is going to work best.

Mr. Gridley stated the City is hoping to turn the page and move forward. He added it is not profitable to say what the City should and should not have done since it is done and over. He explained that the City values the relationship with the school and Senator. He noted the path forward is to figure out the role of the SRO in light of the new law. Senator Mitchell agreed and explained that she felt like she needed to say something since she felt some of the timeline was misleading to the larger situation.

Councilmember Wilson stated the SROs also need to be protected and it is the City's role to do so as well as protecting students.

Representative Amanda Hemmingsen-Jaeger, State Representative 47A, stated she reached out to a variety of people and noted that there are inconsistent interpretations. Even with additional guidance, cities are interpreting the law differently. She clarified the timeline that the educational committees were communicated to. The reason it was not heard in public safety or judiciary statue was because it does not address them. Reasonable force is defined in Minnesota Statute 609.06 and none of the language has changed. She highlighted that the Attorney General did not release a revised or changed opinion but a supplemental opinion to further clarify that

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first opinion. The focus should be on keeping employees, staff, kids, and officers safe. She explained the ways that public safety has been supported.

Councilmember Wilson asked if the Attorney General's opinion is binding until it is tested in the law with the court getting involved. Representative Hemmingsen-Jaeger replied that she is not at liberty to discuss that since she is not an Attorney General.

Mr. Sandstrom noted the statute states that the Attorney General's opinion is binding but if a court decides to overturn it, then it is overturned. Councilmember Wilson asked if the issue would go to court if it was a civil or criminal case. Mr. Sandstrom agreed.

Karen Bauman, 7894 Dunmore Road, stated that during the school board meeting, they clearly said that they allow kids to beat up on things and simply remove them from the scene. She mentioned that the school district went as far as to say that teachers have their glasses broken by other students. She asked why the schools would want an SRO in the building if they cannot do anything. She stated she was appalled by South Washington County schools. She noted the issue is that there are many interpretations about the law and added that they cannot put the SRO's back into the schools until there is clarity on the law and not interpretation. She explained that there needs to be a new contract with the school since it has been broken. The bigger issue is that they cannot put kids on the ground, which is an issue if there is a fight that needs to be broken up. She mentioned that if legislation cared about the children, then they would hold a special session.

City Clerk Kim Blaeser read a question online from Walter Dobgima, 2166 Woodcrest Drive, that read "Is the City's decision to end the contract with 833 dependent on the fact that 40 other districts have done so or is it based about the clarity of the law? I have heard both of these mentioned in the resolution and am struggling to understand how the City's decision was arrived without solid data suggesting the law put police at risk of legal jeopardy."

Mayor Burt stated she did not know how to answer the question. Councilmember Wilson explained that the resolution was outlining facts.

Councilmember Wilson stated she did not understand what the "therefore" was or and what Staff was asking for. Mr. Gridley replied that a discussion needed to begin in order to provide vision for the SRO services as well as review the SRO job description. If there are differences in the job description that are significant then the contract would be reviewed to see if it would be broken or cancelled at a later date. The resolution is to continue to meet with the public safety department and superintendent office in order to come to a solution. The new agreement would come before the Council and school board.

Councilmember Date asked if the school district already agreed and were willing to meet. Mr. Gridley stated that the resolution passing would be the first step and he has briefly discussed with the superintendent about meeting.

Councilmember Wilson stated that she was not comfortable with the SRO's being put back into the school without going to the Council first. She added that she has received some phone calls about an elected official who is under the understanding that there is already an agreement to put the SRO's back into the schools. She asked if that was true. Mr. Gridley replied that it was not true.

Mayor Burt asked what should be the duties of an SRO and if it is the right option to put into schools. She noted it was an opportunity to re-envision what makes most sense in the school. She apologized for those who have been frustrated and felt harm in the decisions that the Council has made. She explained that she would like to move forward together to figure out what makes most sense.

Mr. Gridley explained that the most effective method would be to allow him and Mr. Posel to have the discussions with the school district. Councilmember Wilson stated that she did not believe it was an appropriate thing to do. She explained that the Minnesota House Research has a document on what SRO's are. She stated she wanted it to come back to Council since it is their job to make sure that it is handled appropriately. She added that she would like to edit the "therefore" section in the resolution by striking out the part that says "evaluate and make appropriate decisions on behalf of the City section."

Councilmember Santini explained she thought that the Council was going to vote on allowing the SRO's back into the schools with the current contract. She agreed that there needed to be an assessment of the contract and what the relationship was. She expressed her concern of the law being strictly about education and making licensed officers have to change roles.

Councilmember Date agreed with Councilmember Santini and added that a number of items are confusing and while it is not an SRO law, it impacts them. The only concern that has been raised for the Council is the SRO portion and believes that the Attorney General provides enough clarification and does not want to fight with the school board about it. The SRO program should be re-envisioned moving forward.

Councilmember Morris recommended Councilmember's Wilson's suggestion of striking the sentence where it says "make appropriate decisions" and changing it to read "evaluate and make recommendations to the Council." He agreed with Councilmember Wilson's comments and stated that the item is too politically charged and does not feel that it is appropriate for City Staff to take the responsibility. He recommended changing the second paragraph to finish reading "and give notice that the agreement as agreed to in

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2008 will not be renewed.” He stated that he wanted to make it clear that the City has zero intention of taking this contract past the next school year. Councilmember Wilson agreed. Councilmember Morris stated that both parties were not adhering to the contract.

Mayor Burt agreed with Councilmember Santini’s and Councilmember Date’s comments regarding there being enough clarity from the Attorney General to put SRO’s back into schools. She added she would be in favor of putting SRO’s back into the school while ensuring that the contract moving forward is cancelled.

Councilmember Morris explained that the relationship between the school district and City would need to start over since it is extremely strained. He believes that the Attorney General’s opinion is going to be tested and the Council is obligated to defend the City and is cautious in putting the SRO’s back in. Councilmember Wilson agreed and added that she would rather have the contract tested instead of putting SRO’s in a position that there could be litigation. She stated that she was not comfortable putting the SRO’s back into the schools. Councilmember Morris stated that the relationship between the City and school board is so poor that he does not have the confidence that they would be operating in good faith. Councilmember Wilson expressed the importance of the City and school district working to salvage a working relationship.

Mr. Gridley explained that the relationship with the school covers a variety of topics and not just SROs. He expressed looking forward to speaking about the future with the school. He added that it is an opportunity to level set the expectations and visions for the future.

Councilmember Morris agreed and stated he does not feel comfortable putting the SRO’s back into the school until the discussion occurs with the City and the school district with clear expectations of the SRO’s. Councilmember Wilson added that it should not be up to the City Administrator or Public Safety Department to put them back in.

Councilmember Date noted that there are three people who are comfortable with the Attorney General’s guidance and that a compromise should come in so a re-vision could come in.

Mayor Burt asked when the contract begins and ends. Mr. Sandstrom replied it would end December 2024 if notice was provided.

Councilmember Morris stated that he would like language in the resolution about providing notice that the contract would not be renewed.

Councilmember Morris explained his proposed changes as, the last sentence would give notice to the parties that the agreement as written and executed in 2008 would not be renewed. Councilmember Date added the language “for the purposes of re-envisioning the program.”

Councilmember Morris moved, seconded by Mayor Burt,

To adopt the following resolution

Resolution 23-155

Resolution of the City of Woodbury, Washington County, Minnesota regarding School Resource Officer (SRO) services with ISD 833 with amendments, on Page 2 and 3 of the Resolution as follows:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Woodbury, Washington County, Minnesota based on the new direction provided by the Attorney General and Minnesota POST Board, directs the City Administrator, Public Safety Director, and with the input from City Attorney and ISD 833, to continue to evaluate and make recommendations to the City Council on SRO issues; and

BE IT FURTHER RESOLVED that the Public Safety Director and City Administrator, are authorized to review the efficacy of SRO services as currently constructed, and engage with ISD 833, as well as with other community stakeholders as may be appropriate, on updates to the 2008 contract for policing services for the 2023-2024 school year. The City Council further directs City staff to provide to ISD 833 a notice of nonrenewal of the 2008 SRO contract in order to end that contract, to facilitate and promote discussions for a re-envisioned contract for 2024 and beyond.

City Clerk Blaeser reviewed the resolution language changes.

Voting via voice:

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

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After passage of the Resolution and as a supplemental action to the Resolution, Councilmember Santini moved, seconded by Councilmember Date, to reinstate the SRO activities under the current contract as soon as practical.

Mr. Gridley explained that the Public Safety Department trusts the City Council and values the relationship with the school district.

Councilmember Wilson noted that earlier when she asked if the SRO's were going to be reinstated the answer was no. She mentioned that the person who had heard the SRO's were going back to the schools soon was correct. Mr. Posel replied that there is no agreement in place and that the conversations were internal. Mr. Gridley added that he has not had discussions with the schools superintendent because he needed to have a discussion with the Council first.

Councilmember Wilson asked if anyone was informed of the possibility of the SRO's going back to the schools. Councilmember Santini replied that the Council raised the question.

Councilmember Wilson pointed out that the Staff do not need a resolution to be able to speak with the school district since they have always had that ability. Mr. Gridley explained with the changes that were happening, he was unsure what the correct direction was and wanted to get direction from the Council.

Councilmember Wilson stated that she is not willing to put the SRO's in a position that they could be the test case for the law. The law is not clear. Councilmember Morris added that he thinks through the worst and are exposing the City's employees to a difficult situation. He added they would be putting the officers in a legal and personal liability and the officers could lose their licenses. He asked the Council to reconsider their position.

Councilmember Date stated that the Attorney General's interpretation is enough information for her to feel comfortable moving forward. She asked when the contract is rewritten that there would be full stakeholder engagement and speak to all of the impacted parties.

Mayor Burt agreed that she was comfortable with the Attorney General's statement and added that all of the various police officer associations and the City's attorney felt comfortable moving in this direction.

Councilmember Wilson made an amendment to the motion for SRO's to have additional de-escalation training and have a meeting where they fully understand the new guidance before they go back into schools.

Mr. Posel replied that they already completed the recent new de-escalation training and had a meeting to fully understand the new law. Councilmember Wilson withdrew her amendment motion.

Voting via voice:

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

Mayor Burt recessed the meeting at approximately 10:03 p.m., and reconvened at approximately 10:18 p.m.

In consideration of Mr. Gridley, Mayor Burt asked that the agenda be reordered to next consider Public Hearings, Item 8A.

Public Hearings

A. Meadowlawn Restaurants, LLC, dba Northern Taphouse Woodbury, 7325 Currell Boulevard, On Sale Intoxicating Liquor License including Sunday and Patio Sales

Mayor Burt declared the public hearing open.

Assistant to the City Administrator/Deputy Clerk Annie Coyle stated Meadowlawn Restaurants, LLC, dba Northern Taphouse Woodbury has submitted an application for an On Sale Intoxicating Liquor License including Sunday and Patio sales for their new restaurant to be located at 7325 Currell Boulevard. All application requirements have been submitted and reviewed by Staff and the City Attorney and is recommended for approval by the Council. The owners are Kent and Matthew Letnes.

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

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

Councilmember Date moved, seconded by Councilmember Morris, to approve an On Sale Intoxicating Liquor License including Sunday and Patio Sales to Meadowlawn Restaurants, LLC, dba Northern Taphouse Woodbury located at 7325 Currell Boulevard.

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

B. Compliance Date Extension of the Kindeva Minnesota Investment Fund Agreement

Mayor Burt declared the public hearing open.

Housing and Economic Development Coordinator Jamie Fitts stated that the City of Woodbury was awarded a \$515,000 grant from the Department of Employment and Economic Development. The City loaned that money to Kindeva to help with their new facility at 11200 Hudson Road. The loan is structured as a forgivable loan if they meet the wage and job goals conditions outlined in the loan agreement. Kindeva agreed to create 35 new jobs with a prevailing wage amount. To date, they have achieved 32 new jobs and all of them are well above the prevailing wage. The compliance day to meet that goal of 35 jobs was September 1, 2023. In the agreement, if the borrower fails to meet the job creation goal by the compliance date, it triggers repayment of the loan principal with interest. The loan agreement allows for a one year extension of the goal compliance date. Kindeva is requesting an extension to September 1, 2024. Staff is recommending to approve the extension request.

Councilmember Wilson asked to clarify that the \$515,000 was not from tax payers but from a grant the City received. Mr. Fitts explained that the City applied for the grant on Kindeva's behalf. The grant was awarded to the City and then the City entered into a loan agreement with Kindeva.

Councilmember Morris asked if the position needed to be offered or filled to meet the requirements of the agreement. Mr. Fitts replied they have to show a level of base employment of filled positions throughout the loan agreement period. In addition, they are required to meet whatever goal they set which was 35 people employed in the new positions.

Robby McGarry, Kindeva's Chief Business Operations and Strategy Officer explained that Kindeva has multiple global deals with global pharmaceutical companies. Some services include pharmaceutical development for inhalers, trans-dermal patches, and micro needle systems that are developed within the Woodbury facility. They expect to fill the positions within the year.

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 moved, seconded by Councilmember Santini,

To adopt the following resolution

Resolution 23-162

Resolution of the City of Woodbury, Washington County, Minnesota approving an amendment to Kindeva Drug Delivery LP Minnesota Investment Fund Loan Agreement, and Authorizing the Execution and Delivery of Amendment #4 for Grant Contract Agreement #CDAP-20-0011-H-FY21

Voting via voice:

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

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C. 2024 Roadway Rehabilitation Project; Approve Preliminary Report; Order Project; Authorize Preparation of Plans and Specifications; Authorize Preparation, Acquisition and if Necessary, Condemnation of Easements

Principle Engineer Mike Hejna presented the public improvement hearing for the 2024 Roadway Rehabilitation Project. There are four different project areas that are a part of the 2024 Roadway Rehabilitation project which include Orchard Ridge, Salem Meadows, Boulder Ridge Petition area, and Erin Court. Public engagement began in 2016 in the Salem Meadows and Erin Court neighborhoods. The project was delayed and more feedback was collected in 2021. Based on the feedback, it was brought back to the neighborhood including Orchard Ridge in 2023 to share the scope of the project. The Boulder Ridge neighborhood petitioned to have their neighborhood included in the 2024 Road Rehabilitation project.

Mr. Hejna explained that the Council authorized preparation of preliminary reports for Salem Meadows, Erin Court and Orchard Ridge on January 11, 2023. On August 9, 2023 the Council authorized preparation of the preliminary report for the Boulder Ridge area and on September 6, 2023 a public hearing date was set. The need for the project is based on the pavement condition of all of the neighborhoods. The general scope of the project is for pavement removal and replacement with spot curb repairs, minor storm water and storm water quality improvements and trail construction from Dorchester Drive to Highcroft Park.

Mr. Hejna reviewed the proposed the Dorchester Drive trail connection and showed the Council maps of the trail connection. The arborist provided feedback of having the trail 60 feet away from the oak trees but it was not possible. The recommendation was 30 feet away from the trees with no impact. A fence would be placed around the trees for there to be no impact from construction. The proposed trail would run between Dorchester Drive and Highcroft Park. Based on the bicycle and pedestrian plan, a paved trail would be recommended. The most common concern that was expressed was challenges using the existing gaps. When asked what the preferred destinations were, residents mentioned it was parks and trails.

Mr. Hejna stated the scope of the Erin Court project is pavement removal and replacement with spot curb repairs, and storm sewer construction and drainage improvements. The Orchard Ridge general project scope is pavement removal and replacement with spot curb repairs and minor storm water and storm water quality improvements. The Boulder Ridge general project scope is pavement removal and replacement with spot curb repairs, minor water and sewer utility repairs, drain tile for sump discharges and stormwater quality improvements.

Mr. Hejna explained that the project was funded through several different funds with the majority coming from the Street Reconstruction and Maintenance Fund. \$500,000 will come from the Stormwater Utility. Assessments are paying for about 27% of the project. Park dedication funds will be paying for the trail connection from Dorchester Drive to Highcroft Park.

Mr. Hejna noted that special assessments are a charge imposed on properties for a certain improvement. It benefits the owners of those selected properties. It is also a levy the City uses to finance or partially finance a certain public improvement. A separate assessment hearing will be held prior to the project award. The assessment will be due in 30 days with a no-interest payment period. Payments can be made over 15 years with the first payment being due with the first half of the property tax payment in 2025. Interest rate will be determined prior to the assessment hearing and is based on a number of factors, including City bond rating.

Mr. Hejna stated the estimated assessments for Salem Meadows is \$11,115, Erin Court is \$10,640, Orchard Ridge is \$10,070 and Boulder Ridge is \$4,357.13 for a single-family and \$2,990.17 for a multi-family. The proposed schedule is to open bids in January 2024, have a neighborhood meeting in February 2024, have an assessment hearing and award the contract in March 2024 and have a neighborhood meeting in April 2024. The construction would tentatively begin in May 2024 and be completed in October 2024.

Mayor Burt declared the public hearing open.

Jeff Wilford, 4434 Dorchester Drive, stated he was in opposition to the paved trail due to the likely damage to the oak trees. The oak trees are about 150 years old and some of the last remaining Oak Savannah within Woodbury. He asked that a non-paved soft surface trail be installed instead. He noted that he was at the meeting with Mr. Hejna and the arborist and the arborist mentioned that if the trees were healthy and there were no issues, the City could maybe get away with 30 feet. But, the trees are under tremendous stress due to being in a drought the last three years. There are a number of soft surface paths in Woodbury.

John Jorgensen, 9408 Erin Court, stated that the curb was assessed to be replaced but then reassessed to see that it only needed to partially be replaced. However, the assessment is still at the same amount. He noted he did not understand why they had to pay the same amount for a partial replacement. He explained that he owns two lots and that they have had a lot of water run off of them. The City had originally talked about putting rip rap down there or a pipe to eliminate some of the erosion. The City mentioned that it would cost \$60,000-\$80,000 and does not believe that the lot will be depreciated any and would not spend the money on it. Mr. Hejna told him that the erosion was stable. He added that he disagreed with the assessment of the erosion and that it depreciates the property.

Tyler Halva, 2275 Timberlea Drive, stated he was not one of the people who petitioned. He asked if the properties in Boulder Ridge were impacted by the sump pump assessed differently than those who have a sump pump. Mr. Hejna replied that all of the properties would be assessed equally and that providing the sump pump connection would not change what the assessments are. Mayor Burt added that it is because of written policy that the City follows.

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Councilmember Date asked if it was because of water and sewer which comes from a different fund. Mr. Hejna replied that the properties are assessed equally and are looking at the entire project cost instead of individual units.

Mayor Burt asked to explain what funds the money comes from. Mr. Hejna replied that it comes out of the storm water fund. The water and sanitary funds are not assessed but the storm water is assessed.

Councilmember Wilson asked if all houses were being hooked up to the system. Mr. Hejna replied that they were hooking up the lots that were problematic.

Mr. Halva stated that his house does not need the sump pump and is not receiving any special benefit from the sump pumps. He asked why the assessments were different and varied if all houses are being assessed equally. Mr. Hejna replied that the costs were based on the number of units and the project cost. Engineering Director Chris Hartzell added that it is split by the number of lots but Salem Meadows, Erin Court and Orchard Ridge are all based on the special benefit appraisal which is the lower amount.

Mr. Halva asked what the difference was between the special benefit and the calculated assessment. Mr. Hejna replied that it was somewhere between \$12,000-\$13,000. Mr. Hartzell added that with a special benefit, the City hires a third party independent appraiser. Mr. Hova expressed his concern that it was a non-uniform tax on equal benefit and noted that the number seem high relative to previous tax years.

Bill Wiley, 4197 Salem Drive, who asked a question via the on-line chat, asked if the roadway assessment would include or cover repairs to damage to tress landscape and irrigation systems impacted by the work. Mr. Hejna replied that any private features that are within City right-of-way that are damaged during the project are the responsibility of the property owners. The City would repair the turf.

Jolene Fasching, 4468 Dorchester Drive, expressed her concerns regarding the environmental impact that the proposed trail would have on the oak trees. She noted a safety concern of the trail intersecting with a gas pipeline. She explained that there have been some surveyors out to their property and they mentioned that the pipe would need to be lowered in order to excavate the area. She added that she does not see the benefit to the proposed trail. There is currently trash and dog feces in the area and by putting in a proposed trail, it could invite foot traffic to the area. She asked the Council to reconsider the proposal.

Larry Wilford, 10656 Water Lily Lane, explained that one of the draws to the Salem Meadows area is the mature trees. While he lived in the area in 1986-1988, there were drought years so he and his family put in the work to water them. Over the years, arborist have been out to check on the trees, treat them, and prune them.

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 noted there were a number of questions regarding the assessments and suggested that Staff engage in conversations with individuals on assessments. He asked the Council to appreciate the Staff's recommendation and that the Council has precedent on both sides. He added that he would like to see the trail unpaved.

Mayor Burt added that the original plan was going to be a road cut through. Mr. Wilford stated that when the development came up, there was discussion about having the road cut through and discussion about the gas line that was in place.

Councilmember Wilson agreed with Councilmember Morris and added that she would not want to do a gravel trail but would leave it grass. Councilmember Santini agreed and noted that easement would not go away and that it was still accessible.

Mayor Burt stated if they were to keep the trail unpaved, to have some markings or a sign so people would know they can go through it. Councilmember Wilson noted that the trail would only go to one road on Dorchester.

Mayor Burt asked if they could put up signs and have the area mowed. Mr. Hartzell stated that they are not the Parks Maintenance Staff and asked if the Council could give some time to speak with the Parks Maintenance Staff and come up with a plan to bring back to the Council. He asked what kind of soft surface the Council would like.

Councilmember Date stated she would be fine with turf if that is what the Council wanted but emphasized that by putting in grass, it could allow a paved trail sometime in the future if the neighborhood changed.

Mayor Burt asked if it was an option to sacrifice two of the trees to ensure the other four would survive. Councilmember Date noted that some of the trees may die naturally and could provide an opportunity for a paved trail.

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Mr. Hartzell stated he was certain that Parks Maintenance Staff would say that they would not maintain the trail in the winter. If it was a paved trail, they would plow it and make it accessible all year round. Councilmember Morris explained that not many people would be using the trail to go to the park in the winter.

Councilmember Morris asked if the Council direction was to mow or turf the trail. Councilmember Wilson stated she would prefer to turf the area and leave it as it is.

Mayor Burt asked if the sump pump assessment issue needed to be addressed. Councilmember Date replied that it would be addressed by having Staff follow-up with the individuals who have questions.

Councilmember Santini moved, seconded by Councilmember Morris,

To adopt the following resolution

Resolution 23-159

Resolution of the City of Woodbury, Washington County, Minnesota approving the preliminary reports, ordering the project, authorizing preparation of plans and specifications as the Council has directed and authorizing preparation, acquisition and, if necessary, condemnation of easements for the 2024 Roadway Rehabilitation project.

Voting via voice:

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

D. Cottage Grove Drive Pavement Rehabilitation Project; Approve Preliminary Report; Order Project; Authorize Preparation of Plans and Specifications; Authorize Preparation, Acquisition and if Necessary, Condemnation of Easements

Mayor Burt declared the public hearing open.

Mr. Hejna stated the project is located on Cottage Grove Drive to Dale Road to the City limit. There was a neighborhood meeting on May 23, 2023. On May 10, 2023, the Council authorized the consultant selection and the preparation of the preliminary report. On August 23, 2023, the public hearing date was set. The recommended scope is to remove and replace the pavement and minor storm sewer replacement. The total project costs are \$883,200 with 2% of the project being assessments. He reviewed what special assessment was and assessment payments. The majority of parcels that are being assessed are agricultural properties. A benefit appraisal was conducted and it came back that the only properties that benefit are the three single family homes.

Mr. Hejna reviewed the proposed schedule and stated bids would begin January 2024, a neighborhood meeting would be held February 2024, an assessment hearing and awarding of the contract would occur in March 2024 and a neighborhood meeting would be held in the summer 2024. The construction would tentatively begin and be completed in the summer of 2024.

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 asked why the 3M Company and surrounding companies are not being assessed since they are accessing the road. Mr. Hejna replied that it was based on the opinion of the special benefit appraiser who concluded agricultural and commercial properties do not benefit if it is a gravel or paved road.

Councilmember Wilson asked if the properties were assessed by frontage or acreage. Mr. Hejna replied they were assessed based on acreage.

Councilmember Wilson asked how many acres there are. She noted she found it in the report.

Councilmember Wilson asked if an appraisal was done on the agricultural land. Mr. Hejna replied that it was and came back a \$0.

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Councilmember Santini asked if there was work occurring north of the project area. Mr. Hartzell replied that the work was already completed.

Councilmember Wilson asked why the acreage lots were assessed by acreage by not Erin Court, Salem Meadows, and Orchard Ridge. Mr. Hejna replied that they do not assess based on acreage for parcels that are outside of the MUSA that are on collector or arterial roads. The difference between Erin Court, Salem Meadows, and Orchard Ridge is that they are on residential roads. Councilmember Wilson pointed out that they were outside of the MUSA. Mr. Hejna agreed are mentioned that policy states residential roads as one. He added that the road was considered collector.

Councilmember Wilson asked if MSA money would be used on the project. Mr. Hejna replied that the MSA fund does not necessarily need to be an MSA Road Project.

Councilmember Morris moved, seconded by Councilmember Santini,

To adopt the following resolution

Resolution 23-160

Resolution of the City of Woodbury, Washington County, Minnesota approving the preliminary report, ordering the project, authorizing preparation of plans and specifications, and authorizing preparation, acquisition and, if necessary, condemnation of easements for the Cottage Grove Drive Pavement Rehabilitation Project.

Voting via voice:

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

E. Lake Road 4-3 Lane Conversion and Pavement Management Project; Approve Preliminary Report; Order Project; Authorize Preparation of Plans and Specifications; Authorize Preparation, Acquisition and if Necessary, Condemnation of Easements

Mayor Burt declared the public hearing open.

Mr. Hejna provided background on the project. In 2016, a consultant started studying the Lake Road corridor recommended to convert Lake Road from a four-lane section to a three-lane sections east of Woodbury Drive. In the summer of 2022, the four to three lane conversion project was completed on Lake Road between Woodland Drive and Pioneer Drive. The project is to continue it to the east. He reviewed the Council actions and noted on February 17, 2016 the draft study was presented at the Council workshop, on October 26, 2017 the Council authorized the preliminary report, on August 23, 2023 the public hearing date was set and on September 27, 2023 the public improvement hearing occurred.

Mr. Hejna explained the public engagement timeline and noted on May 2023, a mailing was sent to all assessed property owners and a website was created. On June 12, 2023 there was a neighborhood meeting and on July 17, 2023 there was a meeting with ISD 833. The project is using guidance from the 2040 Comprehensive Plan, Roadway Corridor Design Principles and Bicycle and Pedestrian Plan.

Mr. Hejna noted that there were 20 residents in attendance at the neighborhood meeting. The most common concerns that were raised were about speeding, right turn lanes, sightline reviews, and additional crosswalks. The project scope includes a pavement mill and overlay, spot curb replacement, pedestrian ramp replacement, restriping from 4-3 lanes between Blue Ridge Drive and Cherry Lane, crosswalk enhancements, and implement consistent speed limit on Lake Road to 35 mph. The benefits to the road project includes providing shoulder for bikes, reduces speeds, fewer accidents, and fewer lanes to cross for vehicles and pedestrians which will eliminate double lane threat. The potential drawbacks include reduction of vehicle capacity, delays for vehicles turning onto Lake Road from the side streets and redirect traffic to alternate routes.

Councilmember Wilson asked where the traffic would be redirected to. Mr. Hejna replied people would likely go Valley Creek Road or Bailey Road but they do not anticipate that capacity will be reached out Lake Road. There were questions and concerns regarding Lake Road and Wimbledon Drive. He noted he met with the school district about the intersection and they expressed concerns about not having a right turn lane. They put up cameras throughout the school year to have a better understanding on what the traffic is like. They have not observed any traffic backing out onto Lake Road so far this fall, but expect more parents dropping off students in winter when it is colder out. The most common concerns at the intersection is speeding. By providing a right turn lane it would most likely increase speeding. Another benefit of not having a turn lane is being able to put in the shoulders to further separate pedestrians at crossings. Staff are recommending not having a turn lane in order to increase safety measures.

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Councilmember Wilson stated that people are asking for a right turn lane going eastbound on Lake Road. Mr. Hejna explained that the through traffic would need to be shifted to the north and would not be able to include the shoulder.

Councilmember Santini asked if there was a crosswalk on the east side. Councilmember Wilson replied that students cross over to the east side and do not cross over to the west side.

Mr. Hejna explained that they are working on creating enhanced crosswalks. He showed on a map where the new crosswalks would be. Project costs are \$3,396,402 with \$2,074,855 are coming from the Municipal State Aid Roadway Construction Fund. Also, \$1,149,433 will be coming from a Highway Safety Improvement Program (HSIP) Grant and \$172,114 will be from assessments. Assessments are about 5% of the total project costs.

Mr. Hejna explained what special assessments are and showed a map of the benefited properties.

Councilmember Wilson asked if the benefit was based off the frontage. Mr. Hejna replied that they look at what the lots can be divided into. If the lots were bigger, it would be based on an equivalent resident unit but they are all only big enough for one lot. They are all based on the lots. Since the road is a bit bigger, residents pay the same amount as if it were a 32-foot residential road. They take the total frontage of the single family homes and figure out what the cost per foot is and divide it among the number of units. Single family units are assessed at \$2,983 based on minimum assessment, and multi-family units are assessed at \$202.22 per unit based on calculated assessment. The commercial and semi-public properties were a combination of calculated and minimum assessments.

Mr. Hejna explained that the assessment hearing will be held prior to the project award. There will be a 30 day no-interest payment period. Payments can be made over 15 years. The first payment would be due with the first half property tax payment in 2025. The interest rate will be determined prior to the assessment hearing and is based on a number of factors, including City bond rating.

Mr. Hejna reviewed the proposed schedule. Open bids would occur in January 2024. In February 2024, there would be a neighborhood meeting. In March 2024, there would be an assessment hearing and the contract would be awarded. In April 2024, a neighborhood meeting would occur. Construction would begin in June 2024 and end in August 2024.

David Collins, 3213 Countryside Court, asked why other people who use the road were not assessed and noted that his unit was being assessed but was a block away from Lake Road. Mr. Hejna explained the reason that the multi-family units were being assessed was because they have access via a private road. Based on the policy, if there is frontage from a private road or direct driveway frontage, it falls into the assessment policy. Mr. Collins asked if an assessment specialist went through to come up with the amount of the benefit to different properties. Mr. Hejna agreed that benefit appraisals occurred for this project. Mr. Collins asked if there was a benefit for the properties that were not assessed. Mr. Hejna replied that they only looked at the properties that were being assessed.

Councilmember Date noted that just like with Salem Meadows, if there are specific questions regarding the assessment, Staff could reach out and navigate each individual's questions.

Lavinia Finnerty, 9393 Lake Road, expressed her concern about speeding on the road and Middleton Elementary School not having a right turn lane. She noted the most dangerous time is when kids leave school and cars back out onto Lake Road as they are leaving the school. If the middle lane becomes a left turn lane on Wimbledon Drive from the school, then Lake Road will be impassable. Woodbury Drive will also get backed up due to the school traffic.

Stephanie Sadowski, 9550 Lake Road, asked how to reach out to people to discuss the assessments. Councilmember Morris stated to contract engineering at woodburymn.gov. Mr. Hartzell replied that Mr. Hejna's information is at the end of his presentation and she can get the information at the end of the Council meeting. Ms. Sadowski asked Staff to explain what an enhanced crosswalk is. Mr. Hejna replied that it is an island in the middle of the road so they can cross one light at a time. Ms. Sadowski asked what the plan was for the Colby Lake Trail and noted that it is in front of their yard and what the repair would be for any damage to their property. Mr. Hejna replied that they plan to repave the trail along Lake Road as a separate project and would be in 2024. Ms. Sadowski asked what would happen to their yard. Mr. Hejna replied that if it was in the City's right-of-way the responsibility would be on the property owner but will reseed any damage to the driveway.

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.

Mayor Burt noted that with the proposed enhanced crossing there was going to be a crosswalk signal and asked if that was still being considered. Mr. Hejna replied that it was not included with the project at this point. Mayor Burt asked if it could be considered. Mr. Hartzell replied that he believed Mayor Burt was referring to the rapid rectangular flashing beacons and would do additional studies to assess.

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Councilmember Wilson noted that the right turn lane going eastbound on Lake Road into the school is detrimental to traffic in the area. Mayor Burt added that there is a similar issue happening at Red Rock Elementary with traffic backing up.

City Engineer Tony Kutzke replied that they are meeting with the schools on a regular basis. There are conflicting priorities with the turn lane and some of the project goals. If the turn lane was included, there is a trail that is adjacent to it with a number of utility boxes in the way. Adding a turn lane would have significant impacts to the area and a complete signal reconstruction in order to do so. They looked at the pros and cons of adding a turn lane and realized that it would not add much benefit in the future.

Councilmember Wilson asked how people will be able to get through if someone is turning left and in the middle lane. Mr. Kutzke replied that they do not anticipate people having to wait long. Councilmember Wilson noted that it would be a problem.

Councilmember Wilson asked if the east side crosswalk could be moved up a little bit into the intersection since the cars barrel up close to the crosswalk. She also noted on the northwest corner, there are two poles that change the crosswalk signs. They are so close together that they do not end up getting plowed and the City needs to take care of them. Mr. Kutzke replied that the signals are required to be installed and Staff will review the current standards. He added that the law requires the signs to be installed in a certain way but Staff will come up with a design that can help improve the area. Councilmember Morris noted that the plowing is a public works issue and will need to be addressed to them.

Councilmember Wilson asked how the residents' concerns and comments were considered in the design on Lake Road. Mr. Hejna replied that the speeding concerns will be helped by the three-lane conversion. The speed limit will be reduced in the area. He noted one of the challenges with right turn lanes is that it eliminates shoulders and crossing distances. Based on the volumes that are turning into neighborhoods, they are not necessary and Staff does not see it as a safety issue. The shoulder will allow sight lines to be better so people can pull out and see better. Staff looked at the additional crosswalk but was unable to address it due to the placement of it.

Councilmember Wilson asked if the trail was a part of this project. Mr. Hejna replied that it was not. Councilmember Wilson asked if there would be an opportunity to address the trails at some point. Mr. Hejna replied that there would be.

Councilmember Morris moved, seconded by Councilmember Santini,

To adopt the following resolution

Resolution 23-161

Resolution of the City of Woodbury, Washington County, Minnesota approving the preliminary report, ordering the project, authorizing preparation of plans and specifications and authorizing preparation, acquisition and, if necessary, condemnation of easements for the Lake Road 4-3 Lane Conversion and Pavement Management Project.

Voting via voice:

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

Discussion (continued)

B. Approving the Preliminary 2024 Property Tax Levy; Authorizing the Cancellation or Changes to Certain Debt Levies; Establishing the Date for the Public Meeting for the Property Tax Levy and Budget Adoption

Mr. Gridley stated that it was not required to go through the entire presentation.

Mayor Burt asked if the item should be on a future meeting so that the public would be able to hear the presentation even after it is approved. Mr. Gridley replied that there would be a virtual opportunity and could be included in a listening session.

Mr. Gridley shared the levies in Washington County. The average in Washington County is 9.6% with Woodbury at 8.2%.

Councilmember Santini moved, seconded by Councilmember Morris,

To adopt the following resolution

Resolution 23-156

Resolution of the City of Woodbury, Washington County, Minnesota approving a preliminary tax levy and budget for 2024.

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Voting via voice:

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

Councilmember Santini moved, seconded by Councilmember Morris,

To adopt the following resolution

Resolution 23-157

Resolution of the City of Woodbury, Washington County, Minnesota authorizing the County Auditor of Washington County to cancel or change certain ad valorem debt levies for 2024

Voting via voice:

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

Councilmember Santini moved, seconded by Councilmember Morris,

To adopt the following resolution

Resolution 23-158

Resolution of the City of Woodbury, Washington County, Minnesota approving the preliminary Housing and Redevelopment Authority's (HRA) tax levy of a Special Benefit Tax within the Authority's Area of Operation for 2024.

Voting via voice:

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

Councilmember Santini moved, seconded by Councilmember Morris, to confirm that the Truth-in-Taxation public meeting is scheduled for Wednesday, December 13, 2023, at 7:00 p.m.

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

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

Mr. Hartzell stated he would like to skip most of his presentation and bring it to the next meeting. He noted One Woodbury event has been accommodated as part of the Royal Oaks neighborhood project. Construction is going on and there is going to be some slight detours. Everything is on time and on budget. Construction continues to be a mess on I-94. He encouraged the community to support the environmental division. The final names for the sweeper are "Sweep Caroline", "Meryl Sweep", "Les Algae", "Lil Bo Sweep", "Obi-Wan Cleanobi", "Taylor Swept", "Sweepachu", and "Ope! Let Me Sweep Past Ya".

City Administrator's Report

No items scheduled

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Adjournment

Mayor Burt moved, seconded by Councilmember Morris, to adjourn the meeting at 12:06 a.m.

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

Respectfully submitted,

Kimberlee K. Blaese

Kimberlee K. Blaese, City Clerk

Approved by the Woodbury City Council on October 25, 2023.