

**CITY COUNCIL MEETING  
CITY OF FRIDLEY  
FEBRUARY 24, 2020**

---

The City Council meeting for the City of Fridley was called to order by Mayor Lund at 7:03 p.m.

**ROLL CALL:**

**MEMBERS PRESENT:** Mayor Lund  
Councilmember-at-Large Ostwald  
Councilmember Tillberry  
Councilmember Eggert  
Councilmember Bolckom

**OTHERS PRESENT:** Wally Wysopal, City Manager  
Andrew Biggerstaff, City Attorney  
Daniel Tienter, Director of Finance/City Treasurer/City Clerk  
Jim Kosluchar, Director of Public Work/City Engineer  
Scott Hickok, Community Development Director  
Rachel Workin, Environmental Planner

**APPROVAL OF PROPOSED CONSENT AGENDA:**

**APPROVAL OF CITY COUNCIL MINUTES:**

1. City Council Meeting of February 10, 2020.

**APPROVED.**

**NEW BUSINESS:**

2. Receive the Planning Commission Minutes of January 15, 2020.

**RECEIVED.**

3. Resolution No. 2020 – 11 Approving Gifts, Donations and Sponsorships for the City of Fridley.

**ADOPTED RESOLUTION NO. 2020 – 11.**

4. Resolution No. 2020 – 12 Approving the Second Addition of Final Plat, P.S. #19-01, by U.S. Home Corporation, d/b/a Lennar, on Behalf of the Property Owner, the City's Housing and Redevelopment Authority, to Accommodate the Construction of a Townhome Development, Generally Located East of 7071 University Avenue (Ward 1).

**ADOPTED RESOLUTION NO. 2020 – 12.**

**5. Claims: (188071 - 188206).**

**APPROVED.**

**ADOPTION OF PROPOSED CONSENT AGENDA:**

**MOTION** by Councilmember Bolkcom to adopt the proposed consent agenda. Seconded by Councilmember Tillberry.

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

**OPEN FORUM, VISITORS:**

No one in audience spoke.

**ADOPTION OF AGENDA:**

**MOTION** by Councilmember Bolkcom to adopt the agenda. Seconded by Councilmember Eggert.

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

**PUBLIC HEARINGS/NEW BUSINESS:**

**6. Public Hearing to Consider Reassessments for Street Improvement Project No. 1984-1, Water and Sanitary Sewer Improvement Project No. 145, and Street Improvement Project No. 1989-1;**

**and**

**Adopt Resolution No. 2013 Adopting Reassessment for Street Improvement Project No. 1984-1, Water and Sanitary Sewer Improvement Project No. 145, and Street Improvement Project No. 1989-1.**

**MOTION** by Councilmember Tillberry to open the public hearing. Seconded by Councilmember Bolkcom.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS OPENED AT 7:06 P.M.**

**Daniel Tienter**, Finance Director/City Clerk, said staff is not prepared to move forward with the public hearing on this item. There was a publication error with the official newspaper; and State law does require a two-week notice in order to proceed to a public hearing. In lieu of a presentation, staff recommends the City Council continue the public hearing until March 9 and table Resolution No. 2020 – 13. In staff’s discussions with the official newspaper, they were quite apologetic and did agree to waive the publication fee as a result.

**MOTION** by Mayor Lund to continue the public hearing until March 9, 2020, and table the Resolution No. 2020 – 13 until that time. Seconded by Councilmember Bolkcom.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS CONTINUED AND RESOLUTION NO. 2020 – 13 WAS TABLED AT 7:09 P.M.**

**7. Public Hearing on an Ordinance Amending the Fridley City Charter Entitled Administration of City Affairs, Section 6.05, Purchases and Contracts.**

**MOTION** by Councilmember Bolkcom to open the public hearing. Seconded by Councilmember Eggert.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS OPENED AT 7:09 P.M.**

**Mr. Tienter** stated this process began several months ago. Last May, staff approached the Charter Commission with a request to clarify some responsibilities of the City Manager and the City Council with respect to purchases and contracts. When the City Council and Charter Commission had considered amendments to Chapter 7, there was some discussion about also amending Chapter 6 but, at the time, the decision was made to prioritize those amendments in the Taxation and Finance portion of the City Charter. Staff is coming back to pick up the last remaining piece of some major modifications to the City Charter.

**Mr. Tienter** said while revising several City policies, staff noticed there were some inconsistencies between certain sections of the City Charter, specifically Section 7.06, which empowers the City Manager to enforce the budget resolution and other financial policies of the City, and Section 2.01, which provides that City Council shall exclusively exercise its control through the City Manager and shall not attempt to perform any administration roles or responsibilities. Under a very broad interpretation of the City Charter, certain City activities may in fact not comply with the City Charter. There was an effort to improve the understandability and ultimately the accountability of the City Charter.

**Mr. Tienter** stated given those challenges, staff and the Charter Commission recommended two amendments to Chapter 6, Section 6.05, which relates specifically to purchases and contracts; and Section 6.07, which is entitled “Further Purchasing Regulations.” The Charter Commission requested comparative research. Staff looked at 18 different communities. They also reviewed applicable sections of State law and consulted with the League of Minnesota Cities, who has significant guidance on City Charter law.

**Mr. Tienter** stated in staffs' research, they found the following cities had the same or similar provisions to what is being recommended, including: Blaine, Columbia Heights, Coon Rapids, Crystal, Hopkins, Moorhead, Richfield, Robbinsdale, St. Louis Park, South St. Paul, West St. Paul and White Bear Lake. The following cities did not have similar types of language: Anoka, Bloomington, Brooklyn Center, Mounds View, Ramsey and Stillwater.

**Mr. Tienter** said the layout between the two amendments may look slightly different when you look at them, and that is because the City Attorney from Levander reviewed Section 6.05, and the City Attorney from Kennedy & Graven reviewed Section 6.07.

**Mr. Tienter** stated On January 6, 2020, the Commission did recommend the two amendments by ordinance per Minnesota Statute. There are a handful of ways you can amend a City Charter and usually the amendment by ordinance is the most typical route. The City Attorney did review both recommended amendments. The Charter Commission adopted each amendment serially, meaning they wanted each considered separately by the City Council and that is why there are two public hearings on the agenda.

**Mr. Tienter** outlined the procurement process for the City, including the following.

1. Policy and Budget Development.
2. Budget Adoption: Proposed by City Manager; reviewed and approved by City Council.
3. Purchasing Authority: Authorized by State law and City Charter; approved by City Council by policy or other action (e.g., grant).
4. Procurement Process: Consistent with State law and procurement policy (e.g., quotes).
5. Claim Approval: Approved by Dept. Head, Finance Dept. and City Manager; approved by City Council.
6. Payment: Released by the Finance Dept. upon approval.
7. External and Internal Audits.

**Mr. Tienter** stated it is worth noting that Section 6.05 really affects the third step in this process relating to the purchasing authority. It will modify the language that is related to thresholds and the responsibilities of the City Manager with purchasing authority. Section 6.07 affects the procurement process whereby it allows City Council to adopt additional purchasing regulations.

**Mr. Tienter** presented the current text of Section 6.05:

The City Manager shall be the Chief Purchasing Agent of the City. The City Manager may designate an individual(s) through the establishment of a policy that may be revised as needed. All purchases on behalf of the city shall be made and all contracts shall be let by the City Manager. All City contracts, bonds, and instruments of every kind to which the City shall be a party shall be signed by the Mayor on behalf of the City, as well as the City Manager or documented designee, and shall be executed in the name of the City."

**Mr. Tienter** stated a question was asked about what constitutes a financial instrument. A financial instrument is cash, evidence of ownership or interest in a company or entity, or a contract that does two things: 1) it either imposes on one entity contractual obligations or 2)

conveys to a second entity a contractual right. It is essentially any type of an arrangement the City may have where contractual rights are conveyed or money is exchanged.

**Mr. Tienter** said the Charter Commission reviewed the following recommended text to Section 6.05 of the City Charter:

[1] The City Manager shall be the Chief Purchasing Agent of the City. All purchases on behalf of the City shall be made and all contracts shall be let by the City Manager, or their designee(s),

[2] provided the City Council appropriated sums necessary for the contractor purchase, and

[3] the amount of the purchase or contract does not exceed that required for competitive bids as established by state statutes.

[4] Except for those purchases or contracts subject to the authority of the City Manager as set forth herein, all bonds, contracts and similar instruments shall be approved by the City Council, and signed by the Mayor and City Manager, and executed in the name of the City.

**Mr. Tienter** stated given this broad interpretation, staff worked with the Charter Commission on this amendment. First, that the City Manager shall be the chief purchasing agent of the City, and all purchases on behalf of the City shall be made and all contracts shall be let by the City Manager or a designee. This establishes the City Manager as the party responsible for letting contracts and any work associated with those things approved and adopted by the City Council and the budget.

**Mr. Tienter** stated then it moves into Item 2, provided the City Council appropriated sums necessary for the contract or purchase. That language reflects language that is included in Chapter 7 related to the budget in addressing appropriated sums for certain purposes, and that the amount of the purchase or contract does not exceed that required for competitive bids established by State Statute. The Uniform Municipal Contracting Law is amended from time-to-time, and it establishes a threshold at which the City is required to go through a competitive purchasing process. This law was recently amended and the threshold was increased to \$175,000. Generally, the Charter Commission and the City have refrained from identifying particular numbers for thresholds because any change over time that would precipitate another amendment by ordinance. In this situation, they have adopted by reference the Statute Statutes that control competitive bidding.

**Mr. Tienter** stated except for those purchases or contracts severed to the authority of the City Manager set forth herein, all bonds, contracts, and similar instruments shall be approved by the City Council and signed by the Mayor and City Manager and executed in the name of the City. Ultimately anything that is outside of that \$175,000 threshold - any of those specific documents, meaning contracts, bonds, or larger projects - will still come before the City Council for approval. Section 6.05 as basically saying that anything below \$175,000 (the amount established in State Statute) is under the purview of the City Manager. Anything above plus some very

specific instruments are then under the purview of the City Council, assuming that anything that was included was appropriated by the City Council in the City's annual budget.

**Mr. Tienter** stated the Commission also reviewed Section 6.07 to clarify the process to create some additional procurement regulations. The one thing staff discussed at some length with the Charter Commission was that this language would conflict with the language that is currently in 6.05, which actually says that the City Manager designates individuals through the establishment of a policy that may be revised as needed. Additionally, the Charter Commission was concerned about using an ordinance versus a resolution.

**Mr. Tienter** stated new language is proposed for Section 6.07: "Subject to the express provision of this City Charter, the City Council may adopt additional administrative rules and regulations regarding purchases and contracts by resolution." The Charter Commission wanted to make sure that Section 6.05 was subordinate to Section 6.07 so the City Council could not adopt any purchasing regulations that would exceed thresholds or other items that were established in Section 6.05.

**Mr. Tienter** said one of the main issues was the difference between a resolution and an ordinance. Staff explained to the Charter Commission that typically administrative rules are promulgated by resolution or through just a written motion of the City Council. That allows them to accommodate changes according to guidance or other applicable laws the staff may receive from City Council.

**Mr. Tienter** stated the League of Minnesota Cities has some guidance around when it is appropriate to use a resolution versus an ordinance. Generally, resolutions are for actions that are for routine or administrative in nature, such as purchasing regulations. An ordinance is for any actions that regulate people or property and provide for a penalty if they should be violated. It is a crime to violate an ordinance promulgated by a City Council. In clarifying with the Charter Commission, staff did not think it was appropriate for an ordinance to continue to be the vehicle to make these purchasing regulations. It is worth noting that at any point in time, the resolution would still have to appear before the City Council who would still have to vote on it and approve it at an open meeting. The transparency still exists. It just removes the second reading requirement, and it also does not establish or attach any criminal liability for a violation.

**Mr. Tienter** stated this evening they are conducting a public hearing for the two amendments. At the next meeting, they will hold the first reading followed by the second reading on March 23. Assuming the City Council adopts those changes on March 23, the City then must publish the amendments which would appear in the newspaper on March 27. State law provides those amendments would not take effect until 90 days after the date of publication or June 25, 2020. State law does indicate that the City Council must adopt these amendments unanimously for them to take effect. Assuming the City Council does, staff plans on presenting revised purchasing regulations to the City Council for adoption that would reflect these modified City Charter rules.

**Mr. Tienter** stated generally the proposed amendments will improve the efficiency of City operations, allow the City to better respond and implement changes in applicable laws and regulations, clarify the role and power of the City Manager and City Council, provide for greater

accountability for the City Manager and staff, and remain consistent with both current City Charter provisions and those of similar communities.

**Mr. Tienter** said staff recommends the City Council conduct the two public hearings for the recommended amendments to Section 6.05 and Section 6.07 and proceed with the process to amend the City Charter by ordinance, per Minnesota Statute §410.12.

**MOTION** by Councilmember Bolkcom to accept the revised ordinance received by staff. Seconded by Councilmember Ostwald.

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

**MOTION** by Councilmember Bolkcom to have Daniel Tienter’s presentation be part of the minutes as Attachment 1. Seconded by Councilmember Tillberry.

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

**MOTION** by Councilmember Bolkcom to close the public hearing. Seconded by Councilmember Eggert.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS CLOSED AT 7:26 P.M.**

**7. Public Hearing on an Ordinance Amending the Fridley City Charter Entitled Administration of City Affairs; Section 6.07, Further Purchase Regulations.**

**MOTION** by Councilmember Eggert to open the public hearing. Seconded by Councilmember Ostwald.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS OPENED AT 7:26 P.M.**

**MOTION** by Councilmember Ostwald to close the public hearing. Seconded by Councilmember Eggert.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS CLOSED AT 7:27 P.M.**

**NEW BUSINESS:**

**8. Approve Preserve at Lock Park 2<sup>nd</sup> Addition Development Contract between the City of Fridley and U.S. Home Corporation, d/b/a Lennar.**

**Scott Hickok**, Community Development Director, stated the petitioner is U.S. Home Corporation, also known as Lennar. The Development Agreement is a contract that ensures development conditions are clearly known and defined for both parties ahead of time so the development, when completed, meets everyone's expectations and leaves no loose ends.

**Mr. Hickok** stated the Development Contract has to do with the 2<sup>nd</sup> Addition, which is 22 units and will be located at the east end of the City's Public Works facility on the new civic campus. Some of the items covered in the Development Agreement include conditions of approval of the plat, official controls, limits changes for a period of time, and defines improvements required for the development. It defines specifics about contractors and subcontractors and their performance. It outlines permits that are required and from what agencies. Also, it defines specific sites, site access, staging plans, grading plans, storm water management plans, etc.

**Mr. Hickok** stated staff recommends approval of the Development Agreement for the Preserve at Lock Park 2<sup>nd</sup> Addition as presented with the summary of development costs.

**Councilmember Eggert** asked if this Agreement mirrors the original agreement outside of some specifics because it is a smaller tract?

**Mr. Hickok** replied, yes, that is correct.

**Councilmember Eggert** asked if this would allow Lennar to close on this property.

**Mr. Hickok** replied, yes. They have closed on the first portion and this will allow them to close the 2<sup>nd</sup> addition. Once the plat is approved and filed, they can sell units in either the 1<sup>st</sup> or 2<sup>nd</sup> Addition.

**Councilmember Eggert** stated by the looks of their progress, they are building these units relatively quickly.

**Councilmember Bolkcom** referred to page 69, she stated there are a lot of blanks in the letter and asked if they could approve it with the blanks.

**Mr. Hickok** replied, yes, that is the Irrevocable Letter of Credit. They will get the original copy for the City's file.

**Councilmember Bolkcom** asked if they would see the final copy of the letter.

**Mr. Hickok** replied, they certainly can if they would like.

**MOTION** by Councilmember Tillberry to approve the Preserve at Lock Park 2<sup>nd</sup> Addition Development Contract between the City of Fridley and U.S. Home Corporation, d/b/a Lennar. Seconded by Councilmember Bolkcom.

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

**9. Approve the Second Edition of the Active Transportation Plan.**

**Rachel Workin**, Environmental Planner, stated this Plan the City's development and maintenance of the infrastructure needed to walk, ride, roll, and participate in assisted mobility and transit for recreation and transportation purposes. It is important to guide staff time and development of grant applications as well as the Capital Investment Program. It is also a necessary document for many of the grants the City applies for to receive investment in this infrastructure.

**Ms. Workin** stated active transportation is important for several reasons, particularly mobility and equity. Many of Fridley's residents do not have access to a car and rely on these modes of transportation to get around, as well as for healthier lifestyles. Walking is one of the fail-proof exercise regimes. It has one of the lowest drop-out rates of all the different forms of exercise. There are studies that show cities that have well-developed trails and sidewalk networks are more desirable, especially in this newest generation of homeowners. Sustainability is also important. As people transition out of their cars and into these other forms of active transportation, the greenhouse gas emissions associated with motor vehicles decreases.

**Ms. Workin** stated the City Council previously approved this plan in 2013. This revision is very similar to the previous version. This document is particularly important in a city such as Fridley that developed at a time when it was much more automobile centric than it is today. Most of the City was developed without sidewalks, trails, or with significant gaps in those networks.

**Ms. Workin** stated the original plan was developed with the assistance of an Active Transportation Plan Committee, and under the guidance of the of the Environmental Quality and Energy Commission and the City's comprehensive plan.

**Ms. Workin** stated the previous version of the Plan produced two very important maps. One was a long-term vision for the City's trail and sidewalk network which is referenced in the City's zoning code. The Plan also prioritized which of those routes were the most important to focus on during that Plan cycle. If you look at that Plan, it is very exciting to see that many of those trails have either been installed, such as West Moore Lake, or funded, such as Seventh Street. The City has made great progress in the past few years completing the goals of the first edition of the Plan.

**Ms. Workin** stated with the 2020 update, they look to advance the Plan to update it to be in line with the 2040 Comprehensive Plan, which schedules an update for this document every five years. The Community Development Department, the Engineering Division, and the Environmental Quality and Energy Commission worked together to do this update and set the vision, which is that Fridley residents and visitors of all ages, abilities, and socio-economic backgrounds feel safe and comfortable using the City's active transportation infrastructure to walk, bike, and roll for transportation and recreation.

**Ms. Workin** stated this vision acknowledges that different users of our trails and sidewalk networks will behave differently. A bicyclist who is using a trail to get to work is going to ride very differently than a child who is walking to school.

**Ms. Workin** stated the Plan is organized around four goals, which are to approve the connectivity of the City by constructing active transportation infrastructure, to design active transportation infrastructure to provide for a comfortable experience for users of all ages and abilities, to integrate living streets concepts within reconstruction and development, and to maintain trails and sidewalks to allow for satisfactory year around use.

**Ms. Workin** stated with respect to the first goal related to improving connectivity, staff would like to acknowledge that trails and sidewalks are not cheap. While in an ideal world, they may be installed on every road, it is not financially feasible. Really being targeted and where the City is applying for grants, and where it is spending that money by identifying focus routes for this Plan cycle, and then prioritizing those based on the current safety levels and the ability to connect with the grid and demand is important. They would be installed through grant funding as well as the City's CIP.

**Ms. Workin** stated Goal No. 2 is focused on designing for use so you cannot just install a trail and sidewalk. You need to make sure it provides a comfortable experience. Otherwise, people will not use it or will choose to walk in the road instead.

**Ms. Workin** stated Goal No. 3 is integrating active transportation within development and construction projects. As part of this plan, staff developed a living streets worksheet which is going to be used by the Engineering Division in upcoming streets projects. This was piloted by the 2020 street project. This worksheet is something that would be filled out at the beginning of the project's development and included in the feasibility report. The Plan also includes an active living checklist which would help staff identify opportunities to increase comfort within development for pedestrians and bicyclists.

**Ms. Workin** stated Goal No. 4, maintaining for satisfactory year-around use, the City conducted outreach related to active transportation as part of the *Finding Your Fun in Fridley* campaign. The City received substantial feedback requesting increased maintenance of its trails and sidewalks. As a result, the City began a bi-annual inspection of its trails and sidewalks, like what is done for roads. The City will use that information to establish a maintenance schedule for the system. This would put our trails and sidewalks on a regular sealing and patching program. Residents would also continue to be able to report problems online or by calling the Public Works Department.

**Ms. Workin** stated the other portion of Goal No. 4 is focusing on year-around use and affirming the City's commitment to a municipal-led snow removal program. Some cities rely on residents to clear trails and sidewalks, but the City believes and acknowledges that these are public infrastructure, so the burden should not fall on the adjacent homeowner. The City has a responsibility to keep its trails and sidewalks clear during the winter months. This is also a requirement for many of the trails that have been installed using grant funding.

**Ms. Workin** stated the Plan is supported by an implementation section which is to install active transportation infrastructure in conformance with the Plan's goals, evaluate the Zoning Code language to ensure conformity with the Plan, implement the living streets policy within street reconstruction projects, coordinate with other agencies who maintain jurisdiction of roads in

Fridley to align their projects with the purpose and goals of the City's plan, develop the maintenance plan to program trail and sidewalk maintenance, perform winter maintenance of trails and sidewalks, and conduct education and outreach.

**Ms. Workin** stated this Plan was recommended to the Planning Commission by the Environmental Quality and Energy Commission as well as the Parks and Recreation Commission and then recommended to the City Council by the Planning Commission. If appropriate, she would like to request City Council approve the Second Edition of the Active Transportation Plan.

**MOTION** by Councilmember Eggert to approve the Second Edition of the Active Transportation Plan. Seconded by Councilmember Bolkcom.

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

**10. Informal Status Reports:** There were no informal status reports.

**ADJOURN:**

**MOTION** by Councilmember Ostwald, seconded by Councilmember Eggert, to adjourn.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE MEETING ADJOURNED AT 7:49 P.M.**

Respectfully submitted by,

Denise M. Johnson  
Recording Secretary

Scott J. Lund  
Mayor