

**CITY COUNCIL MEETING
CITY OF FRIDLEY
MARCH 9, 2020**

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

MEMBERS PRESENT: Mayor Lund
Councilmember Ostwald
Councilmember Bolkcom
Councilmember Eggert

MEMBERS ABSENT: Councilmember Tillberry

OTHERS PRESENT: Walter Wysopal, City Manager
Daniel Tienter, Director of Finance/City Treasurer/City Clerk
Andrew Biggerstaff, City Attorney
James and Cindy King, 1505 Ferndale Avenue NE
Nancy Blegen, 1504 Ferndale Avenue NE
Jerry and Mary Holm, 1338 Hillcrest Drive N.E.
Ryan Evenson, 1316 Hillcrest Drive N.E.
Eric Evanson, 5647 Matterhorn Drive N.E.
Thomas Stanec, Developer

APPROVAL OF PROPOSED CONSENT AGENDA:

APPROVAL OF CITY COUNCIL MINUTES:

1. City Council Meeting of February 24, 2020.

APPROVED.

NEW BUSINESS:

2. Receive the Planning Commission Minutes of February 19, 2020.

Councilmember Bolkcom asked for the following corrections to be made:

Page 35, 4th to the last paragraph, ~~soeshe~~ “*so she*” did not get her packages. And the last sentence, “They do not have a lot of traffic so the children play at that dead end where all the snow gets ~~built~~ “*built up.*”

Page 35, 8th paragraph, “The great horned owl and the ~~bar~~ “*barn*” owl. Also spell out ICUN. *International Union for Conservation of Nature.*

RECEIVED.

3. Approve the Preliminary Engineering Services Agreement between the City of Fridley and BNSF Railway Company for the Northtown Rail Yard Overpass Project.

APPROVED.

4. Licenses

APPROVED.

5. Claims (188207 - 188375)

APPROVED.

ADOPTION OF PROPOSED CONSENT AGENDA:

MOTION by Councilmember Eggert to adopt the proposed consent agenda with corrections to the Planning Commission minutes. Seconded by Councilmember Ostwald.

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

OPEN FORUM, VISITORS:

No one from the audience spoke.

ADOPTION OF AGENDA

MOTION by Councilmember Bolkom 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 (Continued February 24, 2020);

and

Adopt Resolution No. 2013 Adopting Reassessment for Street Improvement Project No. 1094-01 Water and Sanitary Sewer Improvement Project No. 145, and Street Improvement Project No. 1989-1.

MOTION by Councilmember Bolcom to waive the reading of the public hearing notice and 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 7:08 P.M.

Dan Tienter, Finance Director/City Treasurer/City Clerk, stated per Minnesota Statute 429 and City Charter, Section 8.03, the City Council may make any type of public improvement and levy a special assessment to pay for all such improvements. The City Council also adopted other policy provisions, including Fridley City Code, Chapter 7, Roadway Major Maintenance Financing Policy and Special Assessment Deferment Resolution No. 14 - 1995. Generally, special assessments must be paid within 30 years of certification unless otherwise deferred. The City Council may defer special assessments under specific circumstances as authorized in Minnesota Statute, Section 426.061 or 425.193, including designating any future year when the special assessment becomes payable, platting or subdividing the property or properties in question, construction of improvements or development, and/or financial hardship for senior citizens, persons with disabilities or military personnel. These deferments are then recorded against the property in question.

Mr. Tienter stated that to date, the City Council has authorized deferred special assessments for the properties listed below:

Property Address	Year	Original Amount	Current Amount
1388 66 th Ave. NE	1984	\$8,972.01	\$97,024.26
7570 Highway 65 NE	1990	\$13,018.52	\$88,127.46
4724 2 nd Street NE	2016	\$2,125.93	\$2,478.65
125 Alden Circle NE	2018	\$204.69	\$220.54

Two of the deferred special assessments were not recorded, in 1984 and 1990, in a manner consistent with Minnesota Statute 429.061. The special assessment on 1388 66th Avenue NE was for the completion of Creek Park Lane and the associate public utilities. Its expiration was upon approval of the subdivision of the parcel. The special assessment on 7570 Hwy 65 NE was for planned improvements and access to the sanitary sewer system. Its expiration was upon the issuance of a building permit related to the redevelopment of the property.

Mr. Tienter said based on the legal analysis prepared by a qualified attorney, staff clarified the capability of the City to collect the deferred special assessments through a reassessment, as authorized by the Minnesota Statute 429.071. Generally, the City reassesses a parcel or property, when the assessments are set aside by the courts, the City Council finds the assessment to be excessive and/or the City Attorney finds the assessment to be invalid. On August 12, 2019, the City Council asked staff to contact both property owners to discuss a possible reassessment.

Mr. Tienter said following a series of discussions with both of the property owners, staff agreed to reduce the outstanding amount of the deferred interest in exchange for the immediate payment of the reassessments. Both property owners remitted payment for the agreed-upon amount, which

the City currently holds in escrow pending City Council approval. The owner of the property at 1388 - 66th Avenue negotiated \$24,000 and the owner of 7570 Hwy 65 NE negotiated \$22,500. In order to reassess the parcels, the City Council must provide a notice of hearing as provided for the original assessment. On January 27, 2020, the City Council declared the costs to be reassessed, ordered the preparation of the proposed reassessment roll and authorized a public hearing for February 24, 2020. On February 24, 2020, the City Council continued the public hearing until today due to a publication error by the Official Newspaper. Staff notified the property owners of the date change and issued the proper notices for the public hearing.

Mr. Tienter stated that based on the process to date, staff recommend the City Council open the public hearing to accept comments regarding the proposed reassessments. Following the public hearing, staff also recommend Council adopt the resolution approving the reassessment for both properties. Upon adoption, the City Clerk will release the funds held in escrow and communicate the same to both property owners. If needed, the City Clerk will also transmit certified copies of the resolution to the County Auditor and County Recorder.

Mayor Lund said he did not think the percentage is correct.

Mr. Tienter said that the correct percentage should be 25.12 instead of 24.12. There is a typo in the presentation.

Mayor Lund said he was surprised the current deferment from 2018 was allowed. Now staff notifies the property owner more often.

Mr. Tienter replied that City staff tried actively to persuade property owners from deferring a special assessment. Currently, the City will send a letter annually, notifying property owners of their outstanding deferment.

Mayor Lund said this public hearing had to be deferred due to an error by the newspaper. This is not the first time this has happened. There is an extra cost to the City to send out another mailing and staff time. He asked if anyone had spoken with the newspaper about getting reimbursed for their errors.

Mr. Tienter replied there are greater costs than what are realized. The property owners have to be notified and attorneys are involved.

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

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED AND THE PUBLIC HEARING CLOSED AT 7:21 P.M.

MOTION by Councilmember Eggert to adopt Resolution No. 2013, Reassessment for Street Improvement Project No. 1094-01 Water and Sanitary Sewer Improvement Project No. 145, and Street Improvement Project No. 1989-1. Seconded by Councilmember Bolkcom.

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

NEW BUSINESS:

7. Resolution No. 2020-13 Approving a Subdivision, Lot Split, LS #20-01, to Create Two Single Family Lots from the Lot Located at 1340 Hillcrest Drive N.E. (Ward 2).

Scott Hickok, Community Development Director, stated Tom and Beth Stanek have requested the City consider a lot split to allow the property at 1340 Hillcrest Drive to accommodate two homes. A previous home had existed on this parcel; however fire claimed that home in February 2019. The home on Parcel A will gain access from Hillcrest Drive, as the previous home. Parcel B, the new home, will gain access from the end of Ferndale Avenue. The apron for Parcel B property will need to be reviewed and approved by City Engineering staff prior to construction. The homeowner is encouraged to save significant trees on the site if possible. Due to some potential wetland characteristics, the property owner will be required to have prepared a wetland delineation prior to permit.

Mr. Hickok said the Planning Commission held a public hearing at their February 19 meeting. They recommended approval with one minor modification to stipulations 4 and 5 making sure they apply Parcel A and B. All the stipulations apply to both lots, except for stipulation #4 and #6, which pertains to park dedication fees and wetland requirements. A park fee has already been collected for the existing SF lot on Hillcrest Drive, so this stipulation would only pertain to the new lot being created, Parcel B. If a wetland exists on site, it would be located on Parcel B. Staff has modified stipulation #4 to specify that Parcel B will be required to pay a park dedication fee at the time of building permit approval.

Mr. Hickok said City staff recommends concurrence with the Planning Commission and approval of Lot Split, LS #20-01, with the following stipulations:

1. All necessary permits shall be obtained prior to construction on new home.
2. Grading and drainage plan to be approved by City's engineering staff prior to the issuance of any building permits, in order to minimize impacts to the surrounding properties.
3. Property owner, at time of building permit application, shall provide proof that any existing wells or individual sewage treatment systems located on the site are properly capped or removed.
4. Property owner, at time of building permit application for the construction of the single-family home, shall pay \$1,500.00 required park dedication fee.
5. Property owner at time, of building permit application for the construction of the single-family home, shall pay all water and sewer connection fees.
6. The landowner must adhere to the requirements of the Wetlands Conservation Act, prior to issuance of a building permit for Parcel B.
7. The petitioner shall prepare and file at Anoka County drainage and utility easements (10 ft. along the front property line, and 5 ft. along the side property lines) prior to issuance of a building permit.

Councilmember Eggert asked with the wetland delineation, if it is wetland, was it noted on the plat.

Mr. Hickok replied an expert will be hired to make that determination and to make sure it is defined, they are staying clear of the wetland area, and the City is following the wetland conservation act.

Mr. Hickok replied that once the determination is made, staff will figure out how to still build on this lot and protect the wetland. This property is in the Rice Creek Watershed District and they are experts and will handle that process.

Councilmember Bolkcom said the petitioner would hire their own expert and then the Rice Creek Watershed District would be the “watch dog” of the development.

Councilmember Eggert said he visited the site and noted lot of different vegetation and mature trees. He asked what the requirement was to preserve trees on this lot.

Mr. Hickok replied it is not spelled out in the stipulations to save a certain number of trees, but staff encourages the petitioner to save significant trees.

Councilmember Eggert asked if there was a requirement to plant new trees.

Mr. Hickok replied yes. They need to plant two trees.

Councilmember Eggert asked about the utility’s connection for these homes.

Mr. Hickok replied 1340 Hillcrest has the benefit of the previous home and utilities are fairly close. It is not as convenient on the other side. All costs of the utility connection are the responsibility of the developer. The City does not allow use of the old utility connection where a home was demolished. All new utilities must be installed.

Councilmember Eggert asked if the street connections would be at no cost to the City.

Mr. Hickok replied those costs will be taken on by the developer.

Councilmember Bolkcom asked how the garbage trucks and snowplows would service that area.

Mr. Hickok replied the Planning Commission discussed this, and it is specific in the staff report for the Engineering Division to concur on how the apron would be done in the street. This is not a perfect solution, but we are not looking for the developer to build a cul-de-sac. A smaller piece of equipment may have to manage the snow on this street. It is also done in other areas of the City.

Jon Lennander, Assistant City Engineer, added there are limited options and staff will figure out how to clear the snow.

Councilmember Bolkcom said she did not want staff to spend additional time plowing snow in that area. There may be a delay in plowing that area.

Mr. Lennander said there are other areas in the City with this type of situation and special equipment is used. Staff will work out the details.

Mr. Hickok said in an ideal situation, a cul-de-sac would be paid for by developer. This is a different situation because it is a dead end. Staff is looking for the best way possible to identify that the driveway is not a public road. Room will be left to pile the snow, but there may be some drifting so shoveling will have to be done by the homeowner.

Councilmember Ostwald thanked the Planning Commission for thoroughly going through this. He visited the site and there are heavy vines entangled and overhead powerlines coming down.

Mr. Hickok replied it may be a benefit of having an area on the corner of the lot not developed. It is not unusual to run electricity from a pole to the property. The property owners plan to stay away from the wetland area and powerlines. Xcel Energy will work around the wetlands and the homeowner will have to bear any costs for the installation.

Mayor Lund noted the weekly garbage pickup will have to turn around or back up.

Mr. Hickok replied that they would drive in one way and back up another.

Cindy King, 1505 Ferndale Avenue NE, said staff is correct on the garbage collection. She noted that half of Ferndale powerlines are underground, and half are above. She has lived there for 30 years and moved there because of the treed lot and privacy. Just because this is given approval, does not mean it is the right thing to do. This is a quiet dead-end street and if this is approved, that privacy and park-like setting will go away. What will be done to alter the street? There is talk about installing a cul-de-sac and that would take a lot of yard from the homeowners in that area. Neighbors are not happy about losing their privacy.

Mayor Lund said he understood Ms. King concerns, but they have been enjoying someone else's property. This meets the requirements of the City as far as setbacks, so he feels obligated to approve it. People resist change and have benefited because a person owned it and did not do anything. There is valuation with the mature trees so they will save whatever they can.

Ms. King said she understands and agrees that the back lot was not taken care of and everything is overgrown. There is a lot to be done, but she is more concerned about what easements will be put in on Ferndale.

Mr. Hickok replied the easements would only be affected if a cul-de-sac were put in.

Mayor Lund said he was surprised the easement is so far into the property, usually it is only 10 to 15 feet.

Mr. Hickok said people become accustomed to using that right-of-way for their yard. If four to six homes were being built, it would make sense to install a cul-de-sac, because it takes a fair amount of money to pay for the infrastructure. Right now, a private driveway would be installed.

Mayor Lund said he would be happy with minimal encroachment for the neighborhood.

Nancy Blegen, 1504 Ferndale, said she was concerned about the cul-de-sac but was told that probably would not happen.

Mayor Lund said they were not talking about making any changes to the roadway right now.

Ms. Blegen said this will look different, but the request is within the guidelines. This will be a disruption to the neighbors with equipment coming in, as it is a pretty narrow street.

Councilmember Eggert said he is aware that children are out and about. The developer needs to be put on notice that there are children in this neighborhood.

Councilmember Bolkcom asked if there could be a neighborhood meeting to talk about what will be happening on this property.

Mr. Hickok said that would be up to the owner once they know where the home will be placed.

Thomas Stanec, Developer, said he is fully aware of the stipulations and what needs to be done. They want to be good neighbors and keep this as easy as possible. They will keep the wetlands together and plan to build as far away as possible from the wetlands. They also want to keep as many mature trees as possible.

Councilmember Bolkcom asked if they were aware of the new stipulation.

Mr. Stanec replied yes, they are fully aware and agree to the new stipulation.

Mayor Lund said in Stipulation #4, Park Dedication Fees, it should be noted that is for lot B.

Mr. Hickok said staff is aware that the dedication fee of \$1,500 is for the newly created parcel.

Mayor Lund asked if Stipulation #5 is for lot A or B.

Mr. Hickok replied that is for both A and B.

Andrew Biggerstaff, City Attorney, said if Council is more comfortable, language can be added to create a clearer record, but it is not a requirement.

Mayor Lund said he was okay with the language, but wanted the discussion as part of the record.

Councilmember Bolkcom asked how the neighborhood would know what is going on.

Mr. Hickok encouraged them to call and check to see where things are at. Once the foundation started, they will know the developer has been through the wetland delineation process and what needs to be done to build on that site. Staff could send out a mailing when the wetland delineation is done.

MOTION by Councilmember Eggert to adopt the Resolution No. 2020-13. Seconded by Councilmember Bolkom.

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

8. First Reading of Ordinance No. 1378 Amending the Fridley City Charter Entitled “Administration of City Affairs,” Section 6.05, Purchases and Contracts;

and

First Reading of Ordinance No. 1379 Amending the Fridley Charter Entitled “Administration of City Affairs,” Section 6.07, Further Purchases and Regulations.

Dan Tienter, Finance Director/City Treasurer/City Clerk, stated the City Charter is the fundamental law that defines the authorities and powers of the City of Fridley. Minnesota Statute §410.05 authorizes the establishment of a Charter Commission comprised of 15 court-appointed residents who meet approximately seven times per year to discuss and refine the Charter. On May 6, 2019, the Commission began a review of Chapter 6, entitled Administration of City Affairs, specifically sections 6.05 (Purchases and Contracts) and 6.07 (Further Purchase Regulations). Generally, the amendments seek to clarify the powers of the City Manager and the role of the City Council. Minnesota Statute §410.12, Subd. 7, allows for an amendment by ordinance upon the recommendation of the Commission.

Mr. Tienter said the recommended amendment to Section 6.05, Purchases and Contracts, proposes to clarify the purchasing authority of the City Manager. Generally, it establishes administrative purchasing authority for anything below the competitive bid requirements outlined in Minnesota Statutes (i.e., under \$175,000). The recommend amendment to Section 6.07, Further Purchase Regulations, proposes to allow the City Council to pass any additional regulations related to purchases and contracts by resolution instead of ordinance. The entire section would be subordinate to Section 6.05. On January 6, 2020, the Charter Commission formally recommended the two Charter amendments, which are attached as Ordinance Nos. 1378 and 1379.

Mr. Tienter noted that per Minnesota Statute §410.12, and Charter §3.05, upon a recommendation of the Charter Commission to amend the Charter by ordinance, the City Council must conduct a public hearing, which occurred on February 24, 2020, hold a first reading on March 9, 2020, hold a second reading on March 23, 2020, adopt the Charter Amendments on March 23, 2020, and publish the Charter Amendments on March 27, 2020. Amendments will take effect 90 days after publication (June 25, 2020). Staff recommends the first reading of Ordinance No. 1378 and Ordinance No. 1379, proposed amendments to the Fridley City Charter, Sections 6.05 and 6.07.

Councilmember Ostwald asked for clarification on the section that states all contacts shall be let by the City Manager.

Andrew Biggerstaff, City Attorney, replied that would be interpreted as executed or fulfilled. The City Manager can go through the process and execute on behalf of the City to create contractual relationships.

Mayor Lund noted on Section 605, second sentence purchase should be *purchases*.

Mr. Tienter would review and the text and consult with the City Attorney regarding a possible clerical modification before the second reading of the recommended amendment, but noted that error does not modify the intent of the recommendation of the Charter Commission.

MOTION by Councilmember Bolkcom to waive the reading of the ordinance and adopt Ordinance No. 1378 on first reading. Seconded by Councilmember Ostwald.

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

MOTION by Councilmember Ostwald to waive the reading of the ordinance and adopt Ordinance No. 1379 on first reading. Seconded by Councilmember Eggert.

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

9. Informal Status Reports.

Mayor Lund said that the Spring Spree was Saturday and the event was sold out. He appreciated the attendees and generosity for supporting Springbrook Nature Center.

Councilmember Bolkcom said that on February 25 there was a neighborhood meeting. She thanked the election judges for their help with the primary election. She extended a heartfelt sympathy to Councilmember Tillberry in the loss of both of his parents this past month.

Councilmember Ostwald announced Coffee with Cops on March 12 from 3-5 in the Fireside Room. On March 14 there is a recycle drop-off at Green Lights Recycling in Blaine from 8-12.

ADJOURN:

MOTION by Councilmember Ostwald to adjourn. Seconded by Councilmember Eggert.

UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE MEETING ADJOURNED AT 8:37 PM.

Respectfully submitted,

Krista Peterson
Recording Secretary

Scott J. Lund
Mayor