

CITY OF FALCON HEIGHTS
Regular Meeting of the City Council
City Hall
2077 West Larpenteur Avenue

MINUTES

April 11, 2018 at 7:00 P.M.

A. CALL TO ORDER: 7:00 pm

1. Mayor Lindstrom made a Motion that the agenda be amended by two items: 1) A presentation by Zane Johnson Eagle Scout Project Request, and 2) add a Right-of-Way Small Wireless Public Hearing.

Council Member Leehy Moved, Approved 3-0

B. ROLL CALL: LINDSTROM X LEEHY X BROWN THUNDER
MIAZGA X GUSTAFSON

STAFF PRESENT: THONGVANH X

C. PRESENTATIONS:

1. Zane Johnson gave a presentation on an Eagle Scout Project he has been planning along with Mayor Lindstrom for the last six months with the City of Falcon Heights as the beneficiary. His project is to build a "pollinator friendly rain garden" on the zero lot off Lindig Avenue. Zane said he has spoken too many in the neighborhood, and they were excited to have the project there, and volunteered to donate tools and work on the day of the project. The project will start in early summer, and the work force will be composed of Boy Scouts, families, friends and anyone else that wants to participate. The project will take only one or two days to complete. It will take a small amount of upkeep for the first few weeks which will be done by Zane Johnson, and then will mainly be self-sufficient. The garden will only contain non-neonicotinoid free plants. Budget for this project is minimal and Zane Johnson is handling all the cost.

Major Lindstrom thanked Zane for his presentation and for upholding his Mayor Pollination Pledge. The property where the garden will be on Lindig street is city owned property, maybe the size of a residential lot, and buried on that lot are some public infrastructure, so it is not a great spot to build a home, nor a park, but it is a perfect place for the garden.

D. APPROVAL OF MINUTES:

1. March 28, 2018 City Council Meeting Minutes

Approved 3-0

E. PUBLIC HEARINGS:

1. Administrative Citations.

City Administrator Thongvanh spoke about the Administrative Citation Ordinance.

Before 2009, both the Offices of the State Auditor's Office and the Minnesota Attorney General's office had taken the position that local government did not have the authority to issue fines for traffic offences. Then in 2009, the Legislature clarified enacted MN Statute, Section 1.66.999. This Statute provided authority to local government to implement an

Administrative Citation Program. In order to do that, the city must pass a resolution that authorizes the police use of Administrative Citations. The difference with these citations is the Administrative Citation is \$60 versus the State Citation at \$120-150, and would not go against the person's permanent record or insurance. In addition, the city would provide a neutral third party for hearings and rulings on challenges to the Administrative Citation. It also bars police officers from issuing Administrative Citations in violation of this law.

Police Officers may issue an Administrative Citation, traffic citation, to a vehicle operator who violates the speed limit by less than 10 miles per hours, fails to obey a stop sign, and operates a vehicle with a cracked windshield or other equipment violations. City officials are not required to issue an Administrative Citation under the law. The process is strictly optional, and the reason why the city is moving in this direction is that we now receive our police services through Ramsey County. We are also part of the six other contracted city groups. If an Administrative Citation is not paid, police in that jurisdiction is authorized to issue a State ticket.

In front of you is Ordinance 18-02 amending Chapter 30, Administrative Citations and also attached is Resolution 18-11 authorizing the use of Administrative Citations. Staff recommends the Ordinance and attached Resolution. The floor was then open for discussion.

Chuck Laszewski of 1713 St. Mary St asked if the city had done financial calculations on this, and what this will cost the city.

Mayor Lindstrom stated that City did have a workshop about Administrative Citations a few months ago. Mayor Lindstrom said "When I initially heard about this, I was concerned that this might be viewed as a revenue raiser for the city, so I wanted to make clear that was not the case. So, the answer to your question is 'no', I have not done the calculation on whether we get more money or lose money."

City Administrator Thongvanh stated the City's portion of a State traffic ticket, of say \$120-130, would be about \$20-30 per ticket, and part of that has to be spent in law enforcement. Therefore, in general fund allocations to the city is less than what we would receive from a State ticket. It would be a wash. However, the benefit is it does not go on a person's driving record, and it does not increase their insurance. The purpose of a ticket, whether state or city is to be a deterrent for the behavior, but the Administrative Citation would not be as harsh a penalty. The majority of the cost for a State citation goes to the court system.

Chuck Laszewski stated, since the "Falcon Heights Can Do Better" organization came up with this suggestion back in September 2016, that he would be hard pressed to be against it. In fact, he said, he was very much in favor of it, and was glad we were doing it. Chuck said, "As I recall the numbers, we came up with at the time, this would cost the city about \$15,000. However, at the time, we did not have an administrative ticket process, so it will probably cost the city a lot less."

Mayor Lindstrom recognized three students from the University of Minnesota who were attending the Council meeting.

There were no further comments, and the Public Hearing was closed.

Ordinance 18-02

Council Member Leehy Moved, Approved 3-0

Resolution 18-11, Section 1.66.999

Council Member Leehy Moved, Approved 3-0

2. Right-of-Way Small Wireless Facilities

This was before the Council on March 28th Agenda as well, however, the hearing date was not properly published in the paper, so it is now back on the Agenda tonight.

State law gives "telecommunications right of way users" the right to install facilities in the public right of way and use the public right of way for delivery of their services. This right is subject to local governmental authority to manage the right of way by permitting. Local governments affirmatively elect to manage the right of way by adopting a right of way ordinance. Under the right of way ordinance, use of the right of way may be conditioned or denied if necessary to protect the public health, safety, or welfare.

In 2017, the state legislature amended the state statutes that authorize local government units ("LGU") to regulate the right of way. The amendments permit wireless providers to deploy "small wireless facilities" and "wireless support structures" in the right of way. A "small wireless facility" is statutorily defined as an antenna that is located inside an enclosure that is no more than six cubic feet in volume with all other associated wireless equipment being no more than 28 cubic feet in volume. A "wireless support structure" is statutorily defined as a new or existing structure (i.e. pole) in the public right of way designed to support or capable of supporting small wireless facilities, as reasonably determined by a LGU.

The new law requires LGU's to approve or deny small wireless facility permit applications within 90 days. The failure to timely act on a permit application results in the permit being "automatically issued." Denial of a permit application must be in writing and state the basis for denial.

Under the new law LGU's are entitled to recover right of way management costs from wireless providers that use the right of way through permit fees.

In pushing for these amendments to state law, one of the wireless industry's goals was to require that poles or similar structures owned by the LGU in the right of way (light poles, for example) be made available for attachment of small wireless facilities. The new law expressly allows the LGU to determine whether a particular pole or other structure in the right of way was designated to support proposed wireless equipment or is capable of doing so. An LGU may deny a wireless provider access to a particular facility based on this determination or other public health, safety, or welfare concerns.

The new law allows LGUs to impose rent of up to \$150 annually plus \$25 for maintenance for each site. Additional fees may be imposed if the wireless provider uses LGU-purchased electricity rather than separately metering its facility.

What you have in front of you is Ordinance 18-01, amending Chapter 42, Article 2, and Right-of-Way Small Wireless Facilities. Staff recommends approval of the Ordinance. The floor was then open for discussion.

Council Member Miagza I think there is a need for local government to keep control over what we can keep control over. There were many bills at the state legislature this

year, probably close to 20 that would prevent local governments from doing things local governments traditionally do.

John Robertson Smith of 1454 Roselawn Avenue, thanked the Council for trying to maintain some local level control. He stated that where he lived there was a large Quest box on the property. It is on the right-of-way, however, he said it is an eye sore, so he was sympathetic to this issue, and wanted to thank the Council for taking this up and doing what we can.

Mayor Lindstrom stated, since there are no further comments, he would close the Public Hearing.

Council Member Miazga Moved, Approved 3-0

F. CONSENT AGENDA:

1. General Disbursements through: 4/05/18 \$85,264.23
Payroll through: 3/31/18 \$19,390.61
2. Ramsey County Emergency and Homeland Security 2018 Grant Project Request for Investment Application
3. Project ChildSafe - Acceptance of a donation of 100 Gun Locks

Mayor Lindstrom spoke about these gun locks, which were provided free of charge to police departments and cities across the nation. Falcon Heights applied through the Sheriff's Department. The Sheriff department received 500 gun locks of which Falcon Heights received 100. In the upcoming days, Falcon Heights' residents can come to City Hall and request one of these gun locks, no questions asked. The Intent here is to insure that we have the safest homes as we possibly can.

Council Member Leehy spoke about prior years, where Falcon Heights had gun locks available to the public. She stated that it went very smoothly.

Council Member Miazga spoke about where these gun locks had come from is funded by the gun manufactures.

Council Member Miazga, Approved 3-0

G: POLICY ITEMS:

1. 1454 Roselawn Ave. Variance Application

City Administrator Thongvanh

Request for a variance from the City of Falcon Heights Zoning Code. Request to decrease front yard setback requirement to 20 feet for the demolition and reconstruction of an accessory, detached garage.

1454 Roselawn Avenue West, Falcon Heights, 55113, PIN 152923310046, is located on the northeast corner of the intersection of Roselawn Avenue and Pascal Street North. The legal description is Ex S 75 Ft The W 24 4/10 Ft Of Lot 2 And Ex S 75 Ft Lot 3; Blk 1 Lot 2 of Block 1 of the Barthel Villas Addition. The parcel is zoned R-1 Residential.

The neighborhood predates most of the present City Code, and the existing primary and accessory structures, which has been in place since in one form or another since 1910, is considered a legally nonconforming use, "grandfathered" at the time the 1993 city code was adopted and later updated.

The applicant wishes to demolish the existing garage and replace it on the same footprint as the current garage. The garage and principle structure is located 20 feet from the front yard setback; the required setback is 30 feet. Therefore, the applicant seeks a setback variance of 10 feet in order to build the ten foot addition.

Notice of a public hearing on this matter was published in the Roseville Review on March 14, 2018. On March 14th, notice was mailed to the owners of all properties within 500 feet as required by statute.

On March 27th, 2018, the Planning Commission convened a hearing on the issue. None spoke in opposition. The Planning Commission voted 4-0 to recommend approval of the application for a variance.

In reference to Section 113-62 Variances, staff finds the following:

a. That the variance would be in harmony with the general purposes and intent of Chapter 113.

Staff finds that the variance requested is in harmony with the purpose and intent of the zoning chapter as stated in Section 113-1.

b. That the variance would be consistent with the comprehensive plan.

Staff finds that the variance requested is consistent with the comprehensive plan and that it will not impair or diminish property values or improvements in the area.

c. That there are practical difficulties in complying with this chapter.

Staff finds that there are practical difficulties in complying with the letter of Section 113-174 R-1 Residential Districts. 1454 Roselawn Ave is unique because the subdivision occurred after the construction of the home and the history of the subdivision and the age of the house provides for a unique circumstance. This house was built in 1910, whereas the Barthel Villa subdivision was established in the late 1940's early 1950's. The lot was divided in a way that was appropriate for the development pattern at that time. The current code was not in place at that time. The current code does not provide adequate flexibility for the type of development that is standard on other lots in the city.

It would be difficult to address the rebuilding of the garage without violating the city code by placing the structure somewhere else on the property. The historical impervious service to the rear of the property, that has been stated to be extremely difficult to remove, would be difficult or impossible to build on. Additionally, if the garage were to be placed legally setback from the required front yard it would cause the garage to then be placed in the required rear yard. This places the garage closer the rear neighbor and would create a conflict were none exists now.

If the garage were to be placed on other parts of the property, it would create an increase in impervious surface as the driveway would need to be extended. This would create a new variance issue as the property would be over the impervious surface requirement. The replacement of the garage at the historical location is the best alternative to all other possible actions.

d. That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.

Staff finds that the variance will not impair an adequate supply of light and air to adjacent properties, will have no effect on traffic on the public street and will not increase the danger of fire or endanger the public safety.

e. That the requested variance is the minimum action required to eliminate the practical difficulties.

Replacing the garage on the original footprint is the minimum action required to eliminate the practical difficulty. All other options would create another need for a variance.

f. The provisions regarding earth-sheltered construction and temporary use stated in Section 113-62(e)(6) do not apply to this variance.

Council Member Leehy Moved, Approved 3-0

2. 1354 California Avenue Court Order Resolution
City Administrator Thongvanh

Over the last three years, the property at 1354 California Avenue has been deteriorating. The current property owner, as we know it, is not inhabiting the residence. The City received a number of calls regarding code violations, which included, but are not limited to, tall grasses, noxious weeds and snow removal. Attached, are two letters from our building official outlining building code violations, and one letter from our City Fire Marshal outlining fire code violations.

The budget impact all depends on the process that will be used for abatement for this property. The City is allowed to assess the property for abatement and legal costs associated for abatement on this property. Attached you will find Resolution 18-13 wherein the correction or removal of hazardous condition or razing or removal of the building. Also, in this packet, are letters that the City Administrator drafted and sent to the property owner, which have been either sent back or not delivered. In addition to all the letters mentioned above, this packet also includes the final abatement notice from the City Administrator.

City Attorney, David Kendall of Campbell Knutson stated that City Administrator was correct about the status of the property at 1354 California Ave. According to the neighbors and City staff, it has been vacant for several years. The City has previously gone out and abated weeds overgrowing the yard, and it has now reached the point that the buildings themselves have started to deteriorate as well. On July 17, the City staff went out and inspected the exterior of the buildings, and in October of 2017 the Fire Marshall and the Building Inspector, inspected the interior of the property. They found numerous fire code violations in the interior. City staff sent out letters and reports detailing their findings, but there was no response from the property owner. Staff sent out a final notice, dated February 27, to the property owners, once again asking them to address the many problems, but there was no response. The City now has the option to proceed with legal action under Minnesota Statutes Chapter 463. Even after pursuing legal action, the City still has the right to

work with the property owner, should they make contact and express a willingness to work with the City on the issues.

The City would be seeking to clean up the house and yard, but demolish the garage, as there is an expert opinion that the building is structurally unsound. The first action would be to get an administrative search warrant, and schedule a hearing with the Court. Attorney Kendall said this hearing had been scheduled for Monday, April 16, 2018. The property owner was sent a notice of this hearing.

It was noted by Council Member Leehy that this has been a long-term problem, which the city has been dealing with for many years, before the City had to get involved with legal action for the safety and well-being of the neighborhood.

City Administrator Thongvanh

Staff recommends approval of the attached resolution authorizing the City's legal counsel, Campbell, Knutson, to draft and serve an order to correct and remove the hazardous conditions in and around the subject building. Council would also authorize the City Administrator to execute all necessary documents.

Council Member Miazga Moved, Approved 3-0

3. East Metro Public Safety Training Facility Use Agreement

City Administrator Thongvanh

The Falcon Heights Fire Department is required, once a year, to have all members participate in live fire training, per the National Fire Protection Agency. Falcon Heights Fire Department has used the same St. Paul training facility for the past 30 years, however recently it was condemned. The only other training facility available to do this is the East Metro Training Center in Maplewood. However, they do require Falcon Heights Fire Department and the City show proof of additional insurance, which is the standard for the fire service. The NFPA, National Fire Protection Agency, has strict standards that the Fire Department has to follow for live fire training. Staff recommended approval of the East Metro Public Safety Training Center Use Agreement before the Council and to authorize the City to execute all necessary documents.

City Council Member Leehy Moved, Approved 3-0

4. Resolution Supporting Local Decision-Making Authority

City Administrator Thongvanh

The League of Minnesota Cities has encouraged cities to pass a resolution supporting local decision making. Nearly a hundred cities have passed this resolution in light of the bill, which continues to move through the legislation process this year, and would preempt city authority. Proposed Legislations in 2017 and 2018, for example, would have the effect of constraining local law enforcement authority, restricting the City's ability to set local ordinances, allow certain business untethered access to right-of-way, which has been shown with the Ordinance we adopted tonight, and restricting the City's ability to use or allow fee structures. Also, reducing local government needs based on factors with no relation to the statutory LGA formula. Also, restricting a city's ability to study a light rail transit project. Budget impact is undetermined.

Attachments were on hand supporting Resolution 18-14, Local Decision-Making Authority: The League of Minnesota Fact Sheet, and a list of the cities supporting local control to the Resolution. Staff recommends approval of attached resolution.

Council Member Miazga stated that he first heard of this at the League of Minnesota Cities Forum a couple weeks ago. In the past year, there has been a big move in many legislatures around the country to try to kill local legislation when certain industries don't like it. Therefore, it does not typically reflect the will of the people when that happens. Therefore, we want to continue to listen to those folks in our neighborhood, as that is the spirit of local decision-making.

Council Member Miazga Moved, Approved 3-0

H. INFORMATION/ANNOUNCEMENTS

Council Member Miazga

Comprehensive planning continues with the Planning Commission. Reminder of the upcoming Sustainability Actions Fair, April 28, from 10:00 am - 2:00 pm in the Community Park and of Dr. Marla Spivak's talk about the 'Bee and Pollinator (new) Research Lab's mission, research activities and discoveries being made there.' Dr. Spivak's talk takes place on April 23 at 7:00 pm at City Hall.

Council Member Leehy

The Park and Rec Commission is working a long side the Community Engagement Commission, to host the 'Spring Together' gathering in Curtiss Park, which will be a potluck neighborhood event on May 12 from 11:00 am - 2:00 pm.

Still waiting to receive the piano for our 'Piano in the Park', which will be at Community Park. This should be taking place in late May, early June, so come and "play your part". Community announcements will be forthcoming.

Mayor Lindstrom

The Environment Commission met and voted on having the city participate in a bulk purchasing program for solar panels for our resident, which will come before the Council soon.

City Administrator Thongvanh

April 10th, Mayor Gustafson and Council Members Miazga and Gustafson participated in the first Ramsey County Mini Academy for Elected Officials, on how to handle critical incidents. There was a very good turn-out. Mayor Gustafson and City Administrator Thongvanh were able to view the Mobile Emergency Unit, which can be deployed for such critical incidents.

Interviews were completed for the Administration Coordinator position. Three qualified candidates were identified.

Ketterling Foundation - Council Members Gustafson and Leehy as well as two representatives from the community will be participating in the second "Shared Learning Experience" - May 20 - May 22.

An update was given regarding the complaints this past winter about the signal crossing lighting at Hamline and Garden, right by the school. There have been some issues with

the lighting itself, but also the solar panel on that pole does not provide enough power to the signal. Replacement with the shared cost between the City of Roseville and the City of Falcon Heights is being considered. This will be brought to a City Council meeting, but will have to wait until the frost is out of the ground. The light will be powered by solar energy, but it will be an LED light this time, which will provide more illumination. The City always look for ways to cut cost, and not have such a burden on the residents, they will be purchasing the materials through vendors, but Roseville and Falcon Heights Public Works have agreed to install this. It will be a savings of about \$3,000.


I. COMMUNITY FORUM:

Students from U of MN from the Department of Civil Environmental and Geo Engineering at the University of Minnesota. He stated they were all currently in a Project Management Course, and as part of the final project for this course, they had been tasked with focusing on a city in the metro area, and specifically looking at any infrastructure projects that are going on this calendar year. The Mayor thought that was a good idea for Sack Thongvanh (City Administrator) to stay after the meeting and talk with these students.

J. ADJOURNMENT: 8:14 P.M.


Peter Lindstrom, Mayor

Dated this 11th day of April, 2018


Sack Thongvanh, City Administrator