

CITY OF FALCON HEIGHTS
Regular Meeting of the City Council
City Hall
2077 West Larpenteur Avenue
MINUTES
March 22, 2023 at 7:00 P.M.

- A. CALL TO ORDER: 7:02 p.m.
- B. ROLL CALL: GUSTAFSON__X__ LEEHY_X__ MEYER_X__
WASSENBERG __X__ WEHYEE __X__

STAFF PRESENT: LINEHAN_X__

- C. APPROVAL OF AGENDA

The amended agenda was approved
4-0
(Wehyee was not yet present)

- D. PRESENTATION

1. Proclamation Recognizing Public Works Director Tim Pittman's Contribution to the City of Falcon Heights

Pittman says he can't think of a better place to finish out his career in and thanks all.

Mayor Gustafson says it will be a big hole and thanks Tim Pittman.

Councilmember Leehy says it's been a delight to interact with and work with Tim. His kindness and hard work will be greatly missed.

Councilmember Wehyee adds that it's been a delight to work with Tim over the years and we'll miss having him here.

Councilmember Meyer thanks Tim for also being the interim City Administrator at one time as well as the other many great things he's done for the City.

2. Center for Values-Based Initiatives - Police Contract Consultant Study

Administrator Linehan says that the process started last summer, at a City Council Retreat, where it was discussed what the City's long-term options would be for policing and it was decided that the City would seek outside help with the process. After an RFP was issued for a consultant, the winning bidder was the Center for Values-Based Initiatives and Matt Bostrom. Matt Bostrom is a former Ramsey County Sheriff and has significant law enforcement experience in Ramsey County and knows the City well, making him a logical choice. To gain further public feedback, we set out 100 surveys to a random sample and got approximately 30 of those back. Matt Bostrom will present the highlights but the full 120+ page document can be found on our website and Administrator Linehan recommends people view it. Later on in this meeting, the City Council will consider formally approving this study.

Matt Bostrom says there are five sections when looking at the full document and those sections are associated with the City's scope of service; what were the core things they wanted me to accomplish? The five sections are meant to stand on their own when reading the full document so there is some repetition. Bostrom didn't want readers to have to go back through the document to find a figure or table.

Section 1: Community Value and Satisfaction: Take a look at current value of police services and what types and levels of services the community desires and expects. Then, if that's what you expect, then what is current level of satisfaction? What is at the core of trust? From a Falcon Heights' perspective, what is it that generates trust? What came out of the discussions was four things. If we want trust in community police, we need to see honesty, leadership, respect and service. There was such a level of detail, Bostrom says that they were able to come up with a glossary of terms.

Section 2: Workload Analysis

The Ramsey County Communications Center was able to forward five years of data to the City and the City then shared it with Bostrom. This allowed a deeper analysis of how many calls per year, per day, etc. From a resident's perspective, when do we need the police? We have a five-year spectrum of what that looked like. Then, from the police's perspective, how many times did they see something that needed to be documented, that they had to write a report? Bostrom shares that this is a great community. It's a very safe City...remarkably safe.

Section 3: Contract Analysis

What does our current contract look like and what do we really need for services? Bostrom said that he put what our current workload is next to what our contract says side by side to make decisions from.

Section 4: Future Service Recommendations

What can we do in the future? Taking what we know so far, Bostrom looked at what nearby agencies are doing, looking specifically at similarly-sized cities within the metro area, either geographically or by population. Bostrom said this was interesting to him because the geographical size of Falcon Heights is 2.2. But, when you look at how much police are actually responsible for, for policing services, and you take away the State Fair and you take away the University of Minnesota's property, you have one square mile. That's what the citizens are asking for you to protect. Next, he looked at similar costs and the services that particular city was receiving at that cost. Finally, Bostrom looked into what the City really needs for services

Section 5: Task Force on Inclusion and Policing

Bostrom looked at City Task Force recommendations since 2017 and looked into how many of them we have accomplished. Is there still work needing to be done and if so, is there something we should be thinking about as we continue our policing services? To the best of Bostrom's ability, he looked at that and highlighted our opportunities to align recommendations. Taking what we learned and from the recommendations from the community in 2016 and 2017, came three big things. The first was a preamble. Who are we as a community? In 2017, the Council adopted part of that statement as the Culture and Values. Within the Culture and Values there's four main sections: anti-discrimination culture, respect for life, community values and anti-profiling. That became fundamental to everything that happened after that. If you take the Culture and Values statement, you can see that if you have honest people, who are courageous leaders, showing respect and providing selfless service, you will have a culture of anti-discrimination; they will respect life, they will share your community values and it's not in their nature to profile. So, the community actually gave us a pathway to move toward and measure what was hoped for in

2017. Part of the discussion was a statement of values that was approved back then. In that statement of values for the City were the following attributes:

- Leadership
- Trust, transparency and accountability
- Equity, justice, and anti-discrimination
- Welcome and inclusion
- Awareness
- Courageous action
- Safety

Bostrom said if he went back to what the community talked about and said caused the trust in the police, this (above) will sound familiar.

Bostrom said there were four main components of policing recommendations from 2017.

- Police-Community Relationships (mutual trust)
- Training and Capacity (cultural competency)
- Data and Transparency (open communication)
- Priorities for Policing Activity (respect for all)

Bostrom said that the feedback that was provided in 2017 and in 2023 point to one another. It's a unique opportunity to look back to the goals and recommendations back in 2017 and then bring it together with what the community feels generates trust.

Councilmember Wehyee pointed out that he was critical early on but he's delighted with the results and is very impressed with the outcome. Wehyee feels residents have been greatly served by Mr. Bostrom.

Councilmember Wassenberg appreciated the transparency and the mechanism for how Bostrom can take the values and recommendations from the community and put them into measurable elements within a contract to help ensure their fulfillment.

Councilmember Leehy said that Bostrom has made things tangible for them. She thanked him for his time and thoroughness.

Mayor Gustafson thanked Bostrom for generating the community input again and explained how he co-chaired the task force in 2017. From the 2017 values that were established and through the work of the community, we got the 2018 City of Excellence Award; this is a continuation of that.

City Administrator Linehan reminded the Council that they will discuss this later as the final approval after the Ruggles public hearing.

E. APPROVAL OF MINUTES:

1. February 22, 2023 Regular Meeting Agenda
2. March 8, 2023 Regular Meeting Agenda

Mayor Gustafson explained that the March 8th meeting did not have quorum but they were still able to receive a presentation on the annual fire services report by the St. Paul Fire Deputy Chief. Councilmember Leehy motions to approve the minutes; approved 5-0

F. PUBLIC HEARINGS:

1. Ruggles Pathway Easement Vacation

City Administrator Linehan stated he will give a history on the topic and then says that Stephanie Smith, Interim City Engineer will provide a brief presentation. He said,

“Thank you, Mayor and City Council.

Before we open the public hearing, staff will briefly go over the history of the topic and then Interim City Engineer Stephanie Smith will provide a brief presentation on the proposal. The Ruggles Pathway easement was originally dedicated in the Barthel Villas subdivision plat, adopted in 1947. Reading through early minutes at the time, it was a compromise by the developer to meet the City’s requirement of maintaining the city block structure. The City did not have intentions to maintain the full easement to allow for the eventual cut through of Ruggles Avenue at that time as a through street.

In 1960, homeowners adjacent to the path petitioned the City Council to abandon the easement. Issues cited were concerns of crime, “peeping toms”, and dog waste being thrown in to yards. The City Council voted against vacating the easement. In 1966 a second petition was received, this time instigated by concerns over motor bikes being used on the pathway. This also was denied, with the City agreeing at the time to install posts preventing motor vehicles and signage as such.

In 2008, the City was notified by our contracted Roseville Engineers that the pathway was not compliant with the provisions in ADA, specifically the U.S. Access Boards updated Public Rights-of-Way Accessibility Guidelines that requires all government units to upgrade “pedestrian circulation paths”. Then City Administrator Justin Miller sent a letter to the four adjacent property owners, indicating the City’s intent to pave the pathway. Neighbors opposed the proposal, and it was determined it would be tabled until Ruggles Avenue would be repaved, which would save on the costs of paving the pathway.

Ruggles Avenue is included in the City’s 2023 Pavement Management Program, or PMP, for repaving. Beginning in early 2022, the City hosted a series of open houses and community meetings on the 2023 PMP including the Ruggles Pathway. The City initially included in plans the proposal to pave the Ruggles Pathway to comply with the ADA guidelines, and later revising the proposals to include drainage improvements. The City agreed to begin maintaining the pathway in the event we paved it, including snow removal during the winter to meet ADA requirements. All mowing and maintenance of the pathway is currently done by the adjacent neighbors. This is similar to the requirement of residents being responsible for mowing their boulevards, which is adjacent right-of-way.

The following meetings occurred leading up to tonight’s public hearing:

- 1) April 5, 2022 - City hosted an open house at Falcon Heights Elementary on the 2023 Pavement Management Program (PMP).
- 2) July 20, 2022 - City hosted a second open house at FHE on the 2023 PMP and had a board for residents to comment on the Ruggles Pathway.
- 3) October 5, 2022 - City hosted a third open house, this time at City Hall, and the 2023 PMP semi-final plans were presented including options on Ruggles Pathway.
- 4) October 26, 2022 - City Council meeting discussing 2023 PMP and ordered a public hearing on November 9th.
- 5) October 27, 2022 - Northeast Quadrant Neighborhood Liaisons organized a meeting with myself and the closest neighbors to the pathway at Falcon Heights Church. It was attended by approximately 25 neighbors, including all four adjacent neighbors.

The group voted to unofficially to support the neighbors request for vacation of easement.

- 6) November 2, 2022 – The City received a signed formal vacation of easement request from all four adjacent property owners.
- 7) November 9, 2022 – Public Hearing for the 2023 PMP project. This public hearing letter was sent to all residents on impacted streets in NE Quadrant. The public hearing and presentation included discussion of vacation of right-of-way for Ruggles Pathway. It was determined to table the issue to Spring to allow additional time to study. It needs to be decided now with the approval of 2023 PMP plans tonight as it will impact our bid documents and budget if included.

All motions of a public hearing are in the affirmative. The City Council tonight is requesting public comment on the proposal to vacate the Ruggles pathway. The City Council's authority to vacate a dedicated right-of-way easement is prescribed in MN Statute Sec. 462.358, and further defined in 462.358 subd. 7. If tonight's resolution is approved, the City will record the vacation of easement with the Ramsey County Recorder's Office. Once recorded, the easement will be rescinded and the property will be returned to the neighbors, who currently own the land under the easement. The decision to maintain the land as a pathway will be up to the landowners.

I'll now turn over the presentation to Interim Engineer Stephanie Smith."

Stephanie Smith says that doing mill and overlay on Ruggles has brought the pathway question to the surface. The pathway area connects from Pascal to Holton. Ruggles Pathway is an unimproved surface. A curb cut was made so that you don't have to step over the curb to get through there but it still does not meet PROWAG requirements for surfacing or cross slope. What we're looking at tonight is the public hearing and proposal for vacation. The existing right of way (ROW) is twelve feet and was platted originally with the surrounding area. This was discussed at the November 9th improvement hearing, which was also a public hearing, allowing the neighbors to comment. What was discussed at that hearing was whether to vacate or if there would be a proposed improvement of this pathway to meet the Americans with Disabilities Act and bringing it up to PROWAG standards. At that time, Council directed Staff to begin the vacation process, taking a look at turning the right-of-way back to adjacent properties. If that is done, that would eliminate the pathway as a public way.

The requested Council actions tonight are to hold the public hearing, read written comments from residents and there's option for action on the resolution.

Mayor Gustafson reads the following written comments from residents:

Irene and Art Kato from 1857 Holton Street-

We received a letter from the city of Falcon Heights regarding the vacation of the Ruggles pathway. We were out of the state during February and was not aware of this being discussed at the February 22nd council meeting. I am hoping you could let me know if I understand what the proposed resolution is. It's hard to work around the formal "legal" wording. In a nutshell, does this mean that the city has decided not to do anything with the pathway and leave it as it has been since the properties were developed? And that if we, the adjacent property owners, choose to maintain it as we have in the past that is fine and that no one would be liable for any incidents since this would not be a designated "Walk" or pathway. Thank you in advance for your help in interpreting this for us. I will not be able to go to the meeting on the 22nd, but we believe the City Council is making a wise choice.

Barbara Brokapp from 1849 Holton Street -

- *I am writing to you today in regards to the proposed resolution for the vacation of the Ruggles Pathway, right of way, (between Pascal Street and Holton Street).*
- *Right off the bat, I am for Pathway and against vacating it.*
- *The original issue was whether to pave the Pathway to meet ADA standards, however now the question is whether to vacate it. I am wondering what has happened with the original issue and why does the council want to vacate the Pathway?*
- *In 1947 the Barthel family "dedicated to the public and for the public use forever all the roads and walks" as shown on Exhibit A which was included in the packet of papers I received on the issue. At the time to plats were set up, the Pathway was in place. It was an excellent decision and it needs to be honored.*
- *There has been contention in the past and petitions were filed in 1960 and 1966 by the four families on the Pathway to vacate it, both times the petitions failed. In the minutes from the July 6, 1966 Public Hearing meeting, Falcon Heights Trustee Warkentien stated: "I think it has been demonstrated that the Walkway serves a useful purpose and based on Minnesota Statutes, Laws of Minnesota Chapter 412.851 which provides in part no such vacation shall be made unless it appears for the interest of the public to do so".*
- *The Pathway does serve a useful purpose to our neighborhood. It provides access to our neighbors from the east to the west and to Falcon Heights Elementary School. It is a lovely path where one can enjoy beautiful gardens, the majestic white pines, friendly dogs and wonderful sunset vistas. An oasis. Vacating the Pathway would create a barrier, a wall, cutting neighbors off from each other. Have you walked through the Pathway on a nice summer day? Today you will need your ice skates!*
- *This decision affects the entire Northeast quadrant of Falcon Heights, not just the four households on the Pathway.*
- *I recommend to pave and maintain the Pathway and let's move on.*

Mike Wilmes of 1847 Pascal Street-

- *Mike Wilmes from 1847 Pascal. My wife and I agree with these comments.*
- *We would like the Ruggles path to be vacated by the city and to be maintained by the property owners. We know all 4 property owners and trust that they will share the maintenance of the passway. I don't see how making this part of the city concrete is beneficial to many people, leaving it as part of nature would be preferable.*
- *If it was concrete it would allow wheelchairs and perhaps some older people to navigate the pathway, but I just don't see that need. It is not very close to the school and they would still need to traverse all the way down Holton.*
- *We vote keep it as a part of nature and hope the city would vacate the land.*
- *Thanks for listening, and thank you for your service to our city.*

Jane Savage of 1880 Simpson Street-

- *I have lived in the neighborhood since 1989 and strongly oppose changing the trail. It has always been a charming piece of our area. My kids used the trail every day growing up, and now I walk my dog through there every day. It always feels like a little bit of a sanctuary amongst the paved roads. It is my understanding that the neighbors directly*

adjacent are also opposed to it being changed. I'm confident that you will take the wishes of those most impacted into account.

Julie Dempsey of 1848 Pascal Street-

- *Ruggles Walkway is part of the charm that drew us to buy a home in this neighborhood. In nice weather we use it many times a week to get to the field to run, play, & fly kites. En route my children and I explore pine cones, animal footprints, and bunny poop. Ruggles Walkway is the only natural public space in the NorthEast Quadrant. If the issue is the title "walkway", I suggest it be retitled as a "trail system" segment or "green space". It should not be paved, nor vacated, and if it must be renamed to keep it as is, so be it.*
- *Two quick asides:*
 - *1) I am concerned that paving the walkway would require removing mature trees, or that it might kill them by damaging their roots.*
 - *2) When I needed to move quickly with my kids in a stroller, I did not expect Ruggles Walkway to get us through without incident. The longer way around was the smarter option, and that's OK.*
- *Thanks for your consideration.*

Nathaniel Dempsey of 1848 Pascal Street-

- *I am a resident on Pascal Street who is getting up to speed on a proposal to vacate public land that many residents love using for walking between Pascal and Holton.*
- *The letter that was sent to residents doesn't address why this is a good idea, and I cannot easily locate any information on the city website explaining why this is a good idea. So I am reaching out to you directly to understand the reasoning.*
- *I appreciate any light you can shed on this. We are relatively new, and I'm not understanding several items. In the absence of other information, I would respectfully ask that you preserve the walkway as it is.*
 - *1) I'm hearing that this involves the ADA. The ADA is 33 years old. Even the ADAAAA is several years old now. Why the urgency to vacate? Why not instead take some time to do meaningful community engagement on this? Is there a court order or something time sensitive?*
 - *2) Why wasn't any information about the reason for proposing this in the letter to property owners in the area?*
 - *3) Who is pushing for the city to vacate the land? Who doesn't like the walkway as it is? Clearly residents use that walkway on a regular basis. This isn't an issue of it not having any value. The city even redid the curb during the street resurfacing project. The letter uses only passive voice, never identifying who supports the proposal, and the public hearing notice doesn't say anything about who is proposing this either.*
 - *4) How does this affect other parts of public land that are not paved? As a quick example, my toddler and preschooler love running through the unpaved land in community park between the playground and the adjoining private property to the east. Why is it okay for that land to exist in its state, but not the Ruggles walkway which exists in a similar condition?*
 - *5) Why can't it stay like it is? Or be designated some other designation like a green space or park or something? There is nothing on the city's website that*

says anything about ADA, liability, or any concern or reason at all why there is any benefit to changing anything. The public hearing notice plainly acknowledges that this is currently a walk that is "dedicated to the public". The Barthel Villas plat itself is the entity that dedicated the land to the public, right?

- *6) If the city vacates the land, will there be monetary compensation paid to property owners in the area who would be deprived of a public right of way that existed at the time of purchasing their property?*
- *While I realize this is a lengthy email to receive, if answers to these kinds of questions had been included in communication with property owners or posted publicly on the website, or if a lengthier community engagement process had been established, then it would be much easier to understand the pros and cons of vacation of a public walk.*

Mary Osmon of 1715 Arona Street-

- *My name is Mary Osmon I live at 1715 Arona St. in Falcon Heights. I just wanted to take a moment to express my opinion on the pathway on Ruggles. This piece of land is an asset to our Falcon Heights community and should be maintained for use by all residents of our community. As for the homeowners on either side of the pathway, this land has always been there, and should not become part of their property, but should be kept, as again, an asset to the community for the enrichment of all of our and our children lives that live in Falcon Heights.*
- *I will not be able to attend the meeting on this topic but please do not take my "non-appearance" as any sign that I do not have a strong conviction on this matter. Thank you for your time.*

Jeffrey and Annika Wills of 1905 Arona-

- *We are in favor of finding a way to keep the Ruggles pathway in some way. Our reasons are:*
 - *We are new to falcon heights and our child will be attending Falcon Heights elementary. The route from our home to the school would lead our child through there 2x daily. We are not in the bussing zone. If she did not take the Ruggles pathway, she would need to go down to Garden to cross over and that is currently not in a safe condition. Even with the proposed updates to Garden, I would not feel comfortable sending her down there with the amount of traffic the school peak times produce.*
 - *Depending on the surrounding neighbors (4 neighbors most impacted) thoughts, I would like to hear if they have objections- have the neighbors using that path been disrespectful of that space?*
 - *We are in favor of making the path ADA compliant so our friends and neighbors who use those accommodations are able to enjoy that blissful path in the way we do.*
- *If you could please send a recap on the conversation this evening, I would appreciate that.*

Mayor Gustafson says those are the written comments that were received by the Council and he would like to open the public hearing at this point, at 7:57 PM.

Councilmember Leehy asks for clarification on whether the Council is to respond to them. Mayor Gustafson says they will not respond back and forth during a public hearing. If there are questions asked of the Council, they will address those following the close of the public hearing when it's opened to Council action.

Sheri Langevin of 1865 Holton:

Langevin says that they are one of the adjacent property owners since 1998 and they are vehemently opposed to any paving of the pathway. There's beautiful flowers and mature trees and they are all for preserving it, as it is. They strongly oppose taking away of what would be green space.

Joon Kiaw Fong of 1864 Pascal Street N.:

In the past, she took care of the easement but received complaints from a passerby regarding dog poop. She's too old to work. For some years, Joon hand shoveled. Then, a neighbor got a tractor and took over. But, last year, no one did it. Joon complained to Stephanie (Smith) that the City needed to take responsibility.

Joon says that property belongs to them and not to the public. We pay property tax for it, we suffer and they use it. Joon mentions how she has to remove poop before mowing, that her house has been vandalized more than once and her house was egged.

Nathaniel Dempsey of 1848 Pascal Street-

Nathaniel shares that he submitted a written statement but was unsure if his family could make it and if his letter would be read or not. He adds that he's a newer resident on Pascal and that his understanding is that this is an opportunity to say "yes" to green space, to open space, to unimproved, undeveloped, unpaved, un-messed with land. What he's a little confused with is how to make that happen. If we vacate the dedication to public use, it's no longer public, which mean the future owners of that property determine what to do with it. That's the beauty of private property. But, the beauty in having a little bit of public property is that we can make collective decisions about how best to do that. Why are there only two options? Why has this been framed over the past year as either:

- 1). We have to do expensive ADA accommodations that destroy the green space.

- 2). Or, we have to vacate public use of the land. I reject that choice. I hope you have the opportunity to both say vacating the property AND do something else about it.

Dempsey mentions that if there are issues those neighbors are facing by how the space is used, let's solve the problems.

Julie Dempsey of 1848 Pascal Street-

Dempsey acknowledges that the Council can't answer questions now, but wonders if the Council has considered anything beyond either vacating the property or paving the property. She feels there's room for creativity and problem-solving. A problem is not always a problem, a problem is an opportunity to make something new.

Sara Bancroft of 1878 Pascal Street-

Bancroft states she's sensitive to the adjacent property owners and wants them to feel like we're taking them into account. She doesn't support paving the walkway but thinks we should keep it.

Mike Wilmes of 1847 Pascal Street-

Wilmes emailed the City but wanted to follow up. Wilmes says he's getting a feeling that the neighbors enjoy the space and would put in the work to help maintain it. Wilmes would like to chat with those neighbors to see if they would be willing to keep this as a collective space. If we

vacate the land, it becomes a bit of a risk. What if they move? Then, what happens? I am pro keeping it as nature.

Laura Gerde of 1881 Holton Street-

Gerde lives just north of the pathway and gives a sincere thank you to the adjacent owners. She uses the pathway and asks that we keep the pathway as-is. If the pathway is turned over to the neighbors, she would appreciate it if they kept it open.

Paula Mielke of 1868 Arona Street-

Mielke asks the Council to clarify if the four adjacent properties pay property taxes on the pathway.

Mayor Gustafson does three final calls for the public to speak. The public hearing is closed at 8:11. At this time, Gustafson says the Council will address the questions that were raised as part of the discussion. Mayor Gustafson asks, in regards to the four property owners that are paying property taxes, "They're not separately deeded pieces of land, is that correct?"

Administrator Linehan says that it's largely correct. Essentially, it's part of the four properties' land total. Linehan explains that when we're talking about public land like a park, that's dedicated to the City; we'd have ownership, access and control. This is an easement, similar to a utility easement that allows a utility company to go into your backyard by right. Technically, yes, this would calculate into their property tax for the land versus a public-owned parcel.

Councilmember Wassenberg asks if the easement includes the ability to cross the land as it was laid out in the original plat.

Administrator Linehan says that the walkway was installed as a compromise when the houses were being built in the neighborhood and there were no plans to punch Ruggles through.

Mayor Gustafson asks if Ruggles was even platted as a street at the time of the plat.

Administrator Linehan says yes.

Mayor Gustafson asks for confirmation that at the time of that development Ruggles existed east and west of the property.

Administrator Linehan says yes.

Interim Engineer Stephanie Smith adds that it specifically says on the plat that it is "walk," which speaks to what the rights are of the City to use that easement.

Mayor Gustafson addresses the next question brought up during the public hearing and asks whether there is a choice other than to vacate or to pave. He says that he knows they talked about this quite a bit at each one of the hearings and at each one of the community sessions at the school and at City Hall. If the City were to establish a policy on the property or establish a walk and maintain a walk, it would need to be at ADA standards. That's just the law. If we were to not have it at ADA standards, then that puts the City at risk of liability. Mayor Gustafson says that this is his understanding from those various discussions over the past three years.

Administrator Linehan confirms this. As the easement currently stands, it does not meet the ADA accessibility guidelines, or, as Stephanie mentioned, the PROWAG. The primary concern for this walkway is the surface. It's a grass surface that's been worn down. Initial guidelines allowed for the use of wood chips to meet ADA guidelines but that has shifted. You need to have a hard surface. Generally, it must be planar and smooth. The answer is also that concrete or asphalt are

not the only options. The City could do something like an aglime like we have at Community Park. That does meet ADA. There are significant drawbacks of aglime. Aglime deteriorates over time so it would go into their properties over time. It also creates a significant amount of dust over time. We looked at that as an option but it doesn't make sense that close to homes. We also looked at permeable pavers and got pricing on that. Permeable pavers are a bit more expensive but that could be an option that we could explore and include in the bid as well. Those are some of the options we looked at.

Councilmember Wassenberg asks Linehan a clarification question to follow. "So, it's not City property, but City is still potentially liable?"

Administrator Linehan says that this is correct because it's a City easement.

Councilmember Wassenberg asks for confirmation that the City is responsible for what occurs within easements.

Councilmember Leehy asks if it's City and resident as far as easements are concerned.

Administrator Linehan says that Stephanie (Smith) might be able to speak more on this as it gets into the legal, but the easement is over the property. Linehan gives the example of a tree falling and hitting a car along a boulevard. In that case, it's our tree and our liability even though there is shared responsibility with the resident. The resident has to mow and maintain to a general standard. If they don't mow and there's legal standing, the City could issue a violation to them. Hopefully, that explains it. Yes, the City has responsibility and ownership over this but the general liability would fall to the City; their attorneys would go to the City.

Interim City Engineer, Stephanie Smith, says that she believes that has more to do with it being a public walkway rather than the land itself.

Councilmember Meyer wonders if there are other options here. For one, it doesn't seem right that the adjacent property owners have to pay taxes on it. Is there something within our power to rezone it as a park so they don't have to pay taxes for it and then we wouldn't have this weird hybrid, where it's partially their land, but they can't do anything for it, but they're expected to maintain it? It's putting a lot on them and I feel that. Would rezoning that parcel be a possibility?

Administrator Linehan says that would be eminent domain. The City could take it over and take ownership of it. Generally, that's taking of property; there's a lot of negative to the residents that would be impacted by that. The City would have to pave it that way as well.

Councilmember Meyer says that they wouldn't have to pay property tax on that area though and asks what the negatives would be.

Administrator Linehan says that the area is calculated in their property taxes but it's one of the smallest portions. If the easement is lifted, their parcel lines would go towards the end of it. It's a minimal amount of property tax.

Councilmember Meyer asks if that small amount is along the lines of twenty or forty bucks a year, for example.

Administrator Linehan says he can't comment.

Mayor Gustafson gives an example of a vacated right of way he purchased that's part of his residence; it's a small piece of land approximately 25 feet wide by 125 feet long and he pays \$58 per year.

Councilmember Wehyee says that he understands what the risk is to not do anything with the easement but points out the pathway has been around for a long time and no violations have been filed. So, why are we suddenly concerned? What's the urgency?

Administrator Linehan says it's a long story but it first came to the City's attention as a possible liability in 2008. It was documented and the idea at the time was to table it until the Ruggles project took place. Originally, it was scheduled to be just a few years later. It's been on engineering's radar to do the easement when Ruggles was done.

Councilmember Wehyee asks what the likelihood of ADA violating us would be since there's a history of them not doing so yet.

Administrator Linehan says we're at about twelve years of non-compliance. We are also under additional risk now that there's been more attention placed on the pathway. ADA wouldn't necessarily come out, it would be disability advocates that would document it. There's also a chance we'd go another thirty or forty years without being sued. Both are equal chances. But, ADA is not just a law, it's a fairness act for all. As a City, we have to consider accessibility for all residents. We have to consider not only the law but the guiding principles of the Americans With Disabilities Act and our support of the federal policy.

Councilmember Leehy says that it also seems that there was a change; we used to be able to put woodchips down and we cannot do that now. The League of Women Voters also did a recent study on being ADA compliant for our City, so it's on the radar right now. As we want to be a welcoming and inclusive City, it's important to be mindful of these things. We need to keep others in mind. We need to do something and can't just leave it. Leehy says that she appreciates neighbors' willingness to help the four adjacent homeowners but gives the example of Northhome neighbors, coming together to coordinate a plan for snow removal in their alley. It goes well for about five years and then falls to one person to do it and becomes burdensome. This has become burdensome for these four adjacent homeowners.

Councilmember Wassenberg says we are asked to do creative problem-solving and that we haven't answered all of the questions asked of the residents. One question was about ADA compliance. Wassenberg says that accessibility isn't something to strive for from just a legal standpoint but from a moral standpoint as well. Is it the designation of the space that is the issue? Would a "trail" not fall under ADA rules?

Administrator Linehan says that legal would have to advise. But, from his understanding, it's not just a definition. We could investigate further what it would require to change that but Linehan hasn't seen anything to say that it could be done.

Councilmember Wassenberg says he can't reconcile two things in his mind. We've heard that the trail maintenance and presence of the trail are a burden to the four adjacent property owners. We've also heard people say that if the easement was turned over and the pathway vacated, people feel that the adjacent property owners would still maintain the pathway, even though they feel it's a burden. Those two seem incongruent to me. It seems more likely that, given that it's expressed as a burden by the four adjacent property owners, that the trail would just go away if the City vacates it. Wassenberg wonders if anyone else felt different.

Councilmember Leehy says that was her assumption as well.

Councilmember Wassenberg says we've heard from people that they trust the adjacent property owners to keep the trail and that doesn't seem likely.

Administrator Linehan adds a comment and says he did reach out to the City attorney. If the property was turned over to the adjacent property owners and someone got injured, who would

be responsible. It's a long answer but they likely would. But, it also depends a bit on the use. If someone walked into your backyard and broke their leg, you wouldn't be liable in MN; it's different in every state. If a child trespassed and fell into your unguarded pool and drowned, you'd be responsible because that's an attractor to children. The second test is if it's clear of what the purpose of it is. The City would have to make it seem like it wasn't a trail. But, there's no guarantee that the resident would be safe from a lawsuit. They wouldn't be responsible for ADA but could have some liability. They would need to check with their own insurance and attorney on that.

Regarding the adjacent property owners keeping it as a pathway (if the City vacated the pathway), Linehan says that if one of the four adjacent property owners came to City Hall and applied for a fencing permit, if it met all of our definitions of it, it could be approved over the counter and they could build a fence the next day.

Councilmember Wassenberg says that if the easement were vacated, then people would no longer have the right to walk there because it's private property.

Administrator Linehan says it would be private property but it would need to be made clear that there's no trespassing allowed and up to the homeowners in how they do that.

Councilmember Wehyee says that Administrator Linehan mentioned that it is a possibility to look at how the pathway is designated and how that could impact its usability. Would voting to vacate preclude the City from engaging in that research and then looking into other options that might be out there.

Administrator Linehan says yes. If this resolution is passed, it would be recorded with the Ramsey County Recorder's Office. The odds I'd give it for finding another definition that would not require ADA and paving is under 1%.

Interim City Engineer Stephanie Smith adds that that is in part to this being in an urban area. This isn't a natural area such as a forest where you could have different definitions.

Councilmember Wehyee asks for confirmation that a different definition would not make a substantive difference.

Administrator Linehan says it's looking at how you can legally dedicate a pathway as something other than a pathway. Linehan says that he doesn't know the answer but he's also saying the odds are very unlikely. Linehan states that the Council doesn't have to approve the resolution tonight. We have to approve the bids tonight; we have to get the construction project going. We could include this an optional project. Linehan would have to ask attorneys if it would then require a second public hearing and it could recycle the process for another month or two. I'll leave that to the Council.

Councilmember Wassenberg summarizes that it's clear that the non-adjacent homeowners want the trail to be maintained, they don't want it paved and certainly not with concrete. Wassenberg says they should consider other options such as crosshatch pavers or something like that. Wassenberg says that he also reviewed the City's Comprehensive Plan and we state that we are going to seek to maintain and expand walkways, sidewalks and connections between and within neighborhoods for foot traffic for lots of reasons, such as the health and wellbeing of our residents. Councilmember Meyer wonders if there would be a possibility to have a neighborhood organization and if that organization would have any legal standing to have the pathway vacated to the organization.

Administrator Linehan says he doesn't believe they could dedicate the easement under Minnesota State Law.

Councilmember Leehy asks if pavers are an option and wonders why they haven't discussed those previously.

Mayor Gustafson says they have talked about pavers but it was referred to as permeable surfaces.

Councilmember Leehy then asks if the maintenance cost of pavers is more than concrete.

Mayor Gustafson says yes.

Interim City Engineer Stephanie Smith says that at the improvement hearing on November 9th, permeable pavers were included in the material costs and discussed as an option. The cost for installing a permeable paver pathway was estimated at \$55,000, which is \$2,000 more than the concrete estimate. That does not take into consideration the future maintenance of it, only the construction of it. But, it would meet the ADA standards and the different surface may address concerns for water runoff.

Mayor Gustafson states that permeable pavers are still a paved surface and he doesn't think he's heard anyone during community comments say that they want a paved surface.

Councilmember Meyer says residents may not be aware of different options.

Mayor Gustafson points out that maintenance is more; there is a section of permeable pavement outside of City Hall and it requires more maintenance.

Councilmember Leehy says they would need to hear from Public Works about the upkeep costs because it has to be maintained throughout the winter as well.

Mayor Gustafson talks about tabling the discussion but then also states that a decision would have to be made in two weeks.

Administrator Linehan says they did not include the specs for Ruggles path in the proposal with the idea that it be vacated. If the vacation was approved tonight, we'd continue that path. If the vacation was tabled or denied, we'd include that as an optional bid to get pricing. Linehan says he isn't sure if they'd need a second public hearing or not and the process takes over a month. Linehan says the public hearing would likely be in May.

Councilmember Meyer says the pathway has been an asset for our community for 75 years and we owe it to the community to take our time. He doesn't want to rush into a mistake.

Councilmember Wassenberg says that residents probably learned a lot more about the options tonight. And, although they have said they don't want the path paved, I'd have to assume they'd accept a paved pathway rather than no pathway.

Councilmember Wehyee says he thinks there are still lingering questions that he advises the Administrator to get answers from the lawyers on and bring back to the Council. Yes, there are a few residents interested in vacating, but there is an overwhelming amount of public support for maintaining the pathway. The answer seems clear that we should keep this pathway in some capacity. Wehyee says he's in favor of tabling the discussion.

Mayor Gustafson says that the City has been kicking this down the road since at least 2008; we've been working at this for a long time. It's a tough thing to vote on but we're going to have to make a decision on this soon. We have to make a decision in two weeks. We can't ignore it and we can't rely on the four residents to continue to maintain it.

Councilmember Wassenberg says he agrees and they have the options before them. It's either to vacate the easement and have the path go away. Or, keep the path with some type of surface at a cost to the City. I would be in favor of voting.

Mayor Gustafson says they will either put forth the resolution to vacate the pathway between Pascal and Holton. If we vote to NOT vacate, we are voting to pave it, in essence. If we don't vacate it, we have to pave it. If we don't pave it, we're opening the City up to legal risk.

Administrator Linehan says the next step is a motion to approve, whether any of the Council supports it. From there, three things could happen. One, the Council could approve the resolution to vacate the property. Two, the majority of Council could vote against it. That would cancel this process and the request to vacate would then end. Three, after a motion is introduced, there could be a secondary motion to table the debate.

Councilmember Wehyee says he's ready to vote.

Administrator Linehan says, as Stephanie pointed out as well, that any approval of a right of way easement vacancy requires a 4/5 vote of the Council.

Councilmember Wehyee
motions to approve the Resolution for
the Vacation of Ruggles Pathway;

ROLL CALL TO APPROVE (to vacate):
GUSTAFSON LEEHY MEYER
WASSENBERG WEHYEE
Motion fails 2 to 3.

G. CONSENT AGENDA:

1. General Disbursements through 3/3/23: \$75,645.95 and through 3/16/23: \$1,348,755.95
Payroll through 2/28/23: \$24,319.54 and through 3/15/23: \$18,773.71
Wire Payments through 2/28/23: \$16,148.38 and through 3/15/23: \$13,710.83
2. City License(s)
3. Amendments to the Mounds Park Academy Revenue Refunding Note Series 2014
4. Commission Assignment Adjustment
5. Joint Powers Agreement & Court Subscriber Amendment with the Bureau of Criminal Apprehension
6. Met Council TBRA Grant Funds Release
7. Commonwealth Terrace Cooperative Indemnification Agreement
8. Minnesota Department of Recreation Outdoor Recreation Grant Application
9. Updated Ramsey County Polling Place Agreement
10. Surplus Property: Air Compressor for SCBA Units (Fire Equipment)
11. Appointment of Stephanie Skarolid to the Environment Commission
- ~~12. Authorization of Funds for Retirement Celebration~~
13. Pay Request 3-5 for Center for Values-Based Initiatives
14. Appointment of Elke van der Werff as Administrative & Communications Coordinator
15. 2022 Sanitary Sewer Lining Payment
16. Ramsey County Critical Corridors Pre-Development Planning Grant Application

Council Member Leehy motions to
approve the consent agenda;
approved 5-0

Administrator Linehan comments that the large check for the 1.3 million includes the \$962,000 that is going to Buhl; it is a pass through of the Grant. Linehan thanks the Council for the appointment of our new Administrative and Communications Coordinator. The City did an extensive search and had fantastic applications but Elke was the perfect candidate.

Elke introduces herself and says she's excited to get started. She thanks the Council.

Mayor Gustafson says that Councilmember Wehyee is going to switch over to the Community Engagement Commission and he will switch to the Planning Commission.

H: POLICY ITEMS:

1. Approval of Center for Values-Based Initiatives' Study

Mayor Gustafson says they saw the quick presentation and overview of the Center for Values-Based Initiatives' Study. He suggests taking a look at the full 112-page document.

Administrator Linehan reminds Council that they've done previous sessions, including spending three and a half hours on it at the Council Retreat. We are seeking formal approval from the Council tonight. It could be tabled if there were changes but I have not heard that. Once approved, it will be published on our website.

Councilmember Leehy asks where it will be published on the website.

Administrator Linehan says it will be under our Law Enforcement section (under Government and then Law Enforcement) and also under Residents (under Cultivating Our Caring Community).

Councilmember Wassenberg motions to approve the CVBI Study; approved 5-0

2. Law Enforcement Contract Discussion

Administrator Linehan says this is follow-up from this year's retreat and the previous year's retreat. Linehan wants to make it clear that they don't have issue with the Sheriff's office or the services the City receives. We are in a contract that could better suit our needs. The discussion at this time is whether the City wishes to take the action, as outlined in the contract. There is an action item outlined in the contract (Action C2) that allows either party to notify the other in writing, nine calendar months prior to the end of the contract term. "If either party is not approved a successor agreement at the end of the term, the County will continue to provide law enforcement services in accordance with this agreement." The idea tonight is for the Council to provide direction if this is something they wish to execute based on the findings on the contract study.

Mayor Gustafson says he will abstain from voting to avoid a conflict of interest since he is employed by Ramsey County Sheriff.

Administrator Linehan just wants to make it clear that they aren't deciding where they want to go tonight; we don't have those answers yet. This is the first required step if that is what the City Council desires.

Councilmember Wehyee wants the public to know that we got to this particular point because law enforcement had told us they've been spread thin and to research alternatives.

Councilmember Meyer says all of Bostrom's work, the community outreach and focus groups have given us a really clear blueprint of what our community wants.

Administrator Linehan says that based on that, what we'd be seeking is a motion directing the City Administrator to send a letter to Sheriff Fletcher and the six other contracted cities by March 31st, notifying of our intent to execute C2 in our contract with the intent to explore other police partners in 2024.

Councilmember Meyer motions to approve the intent to execute Action C2 in our contract to explore other police partners in 2024; approved 4-0-1, with Mayor Gustafson abstaining from the vote.

3. Accepting Plans Specifications and Ordering Advertisement for Bids for the 2023 Pavement Management Project

Mayor Gustafson says that we held this public hearing last year, had the initial assessment hearing last fall and we put the funds into the capital budget. We need to approve these plan's specifications so we can get the bids in. Once the bids are in, then we can accept a bid and start construction once school is out because it will have a major impact on Garden Avenue. We did our last pavement management job in 2021 because we do them in the odd years.

Councilmember Wassenberg wants to just get clarification that they are able to approve this with the understanding that there could be an additional add on.

Administrator Linehan says that is correct. He is seeking three additional alternates that he's adding on to this motion. He will read them off, and if they make the motion, it's assumed by the Council that you support it with the three additional items.

Additional Items:

1. To include an additional bid for roadway striping. Engineering strongly recommends we stripe. We've heard from residents that they don't want a stripe. It currently has a center line stripe that's long disappeared to weathering. It makes sense from an engineering perspective but there hasn't been full input yet. This will allow the Council to discuss it. Cost is \$8,000.
2. To include a price quote for Ruggles Pathway with concrete pavement.
3. To include a price quote for Ruggles Pathway with permeable pavers.

Linehan says again, none of these commits us to doing these. It just gets us pricing as we go out to bid. As soon as this is approved, then on Monday, engineering will release our bid to contractors. They came in with their initial estimates from the primary feasibility study in November and got updated numbers once they finalized the plans. Super minor. We come back near the end of April with the final bids. We'll approve it then. That's enough time to mobilize a contractor by June 8th or when school is out. The contractor would be required to finish by the time the State Fair starts. The price went down a little bit from what we initially anticipated in November. We're hoping the bids will come in lower but it's a market where no one can estimate where the bids are going. It's tough to determine.

Councilmember Wassenberg wonders if the wording of Additional Item 3 above should be stated as “permeable pavers” and wonders if it should just be stated as an “ADA-compliant surface” to allow those submitting bids to make use of their knowledge and expertise. They may be able to suggest a creative solution that we haven’t thought of.

Administrator Linehan asks if that should be added as a fourth item.

Councilmember Wassenberg says sure.

Administrator Linehan says that Item 4 will be to include alternative materials that are ADA-compliant. He says that some contractors may choose to bid on the optional items or not. The City could always hire the contractor with the lowest bid and then hire a third party for the optional items.

Councilmember Wehyee motions to approve the advertisement for bids with four additional provisions added; approved 5-0 .

4. Recommendation to Approve Final Survey for Division of an Existing Lot – Community Park (2050 Roselawn Avenue)

Administrator Linehan says that it’s been a long process in the making; some might say decades. This is the final step in the purchase of Community Park. The City is fully dividing the parcel and there could be two separate addresses. We’ve modified our schedule per our attorney’s advice. This is a preliminary and final review of the subdivision by the City Council. Upon approval of this, we’ll be able to close with the University of Minnesota, provided they agree with the ALTA survey. They may still have their own modifications but that doesn’t impact accepting the survey and recording it by the City. The one part still missing right now is that the dividing line is not the fence. A fence currently exists between the two properties but it’s not linear, making it nearly impossible to write a legal description; there is a reason most property lines are square or rectangular. So, the final part is that the City will accept an agreement that we will maintain the woods north of the fence, even though it’s not our property. We currently maintain the woods despite it not being our property, so there’s no change to maintenance. What look like coordinates on the ALTA survey are not coordinates. They are explaining the direction of the lines and the distance.

Councilmember Leehy motions to approve the Final Survey for Division of an Existing Lot-Community Park; approved 5-0 .

I. INFORMATION/ANNOUNCEMENTS:

Councilmember Wassenberg has no announcements.

Councilmember Leehy says that she and the City Administrator attended the League of Minnesota Cities’ City on the Hill Day. They were able to meet with our representatives and have one-on-one time with them. They also had the opportunity to meet with other

councilmembers and mayors, including Lauderdale. So, they got to know their neighbors a bit more.

Councilmember Wehyee has no announcements.

Councilmember Meyer has no announcements.

Mayor Gustafson says he's looking forward to his first meeting as liaison to the Planning Commission. It brings him back full circle to what got him into City government. He thanks everyone for last Saturday's retreat. And, he reminds everyone to save the date of May 20th for the Spring Together event at Curtiss Field.

Administrator Linehan mentions that we'll have a public hearing on March 28th for the Planning Commission. We have a petition from Buhl (the developer of Amber Union) to develop a 650 square foot drive-through eating establishment. It's a coffee shop drive-through with outdoor seating but no indoor seating. It requires a couple of changes to code to allow it to occur. Primarily, to change our definition of drive-through. Traditionally, the City has only allowed drive-throughs at banking establishments. The petitioner is requesting the code to be changed to allow an eating establishment to have a drive-through if it's attached to a PUD (Planned Unit Development). Amber Union is a PUD. It's a separate agreement that is spelled out in code. It's fairly restrictive and not everyone can do it; they have to have been approved as a PUD. It allows more scrutiny as every plan has to go through the Planning Commission. The other requested change to code is to the requirements for the time of drive-throughs. It's currently 7:00 AM to 8:00 PM and they are requesting a 6:00 AM start time. That information, including traffic study, plans, stormwater management and the notice are all on our website as part of the agenda. Notice was in the paper. This process has gone quickly; the applicant has gone quickly. We're following our timeline but our intent is not to take anyone by surprise.

Linehan then personally thanks the Council for recognizing Tim Pittman. Tim always goes above and beyond to help someone and takes great care of the City. And, he thanks them for appointing Elke to Staff.

J. COMMUNITY FORUM:

Please limit comments to 3 minutes per person. Items brought before the Council will be referred for consideration. Council may ask questions for clarification, but no council action or discussion will be held on these items.

Nathaniel Dempsey of 1848 Pascal Street-

Dempsey thanks the Council for the substantive discussion tonight. On the law enforcement discussion, Dempsey shares he's grateful for the service that Ramsey County Sheriff has provided. Dempsey then has a couple of questions since the public hearing closed. He wonders what the ADA difference is between the easement between property lots like Ruggles and then boulevards that the public has access to that aren't paved anywhere. Why can't we have natural areas in the NE quadrant? Dempsey says there was a material misstatement listed in the 2023 PMP Feasibility Report. On page 12, it specifically mentions land not on the tax roll currently. "A vacation process would remove the City's right of way easement over the property, turning back the property to the underlying property at no cost to them. The property would then be available for their use and enjoyment. The property would also then be returned to the tax roll." The authors may not have known about the tax details currently.

Dempsey said that all the previous conversation in the evening was whether the City vacate a public easement. Either way, it doesn't matter; people who use mobility devices will not have paved access along that road. So, why can't we have public access in that area that is unpaved?

If our back-pocket option is to deny public access and make it private property, then no one with a mobility impairment would have public right to that property anyway. Our only choice, if we're really centering people with disabilities, our only choice is making that ADA compliant.

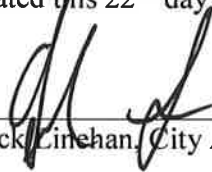
K. ADJOURNMENT: 9:42 p.m.

Councilmember Wehyee motions to adjourn; approved 5-0



Randall C. Gustafson, Mayor

Dated this 22nd day of March, 2023



Jack Linahan, City Administrator