

City of Columbus
Regular City Council Meeting
Alternative Meeting Format
MN Statute, Section 13D.021

02.09.2022

The 02.09.2022 meeting of the City of Columbus City Council was called to order at 6:30 p.m. by Mayor Jesse Preiner at the City Hall. Present were Council Members Robert Busch, Janet Hegland, Shelly Logren (via teleconference) and Sue Wagamon; City Administrator Elizabeth Mursko, City Engineer Kevin Bittner (via teleconference), City Attorney Bill Griffith, Public Works Director Jim Windingstad and Assistant to the City Administrator Jessica Hughes (via teleconference).

Also in attendance were: Kris King, Alex Guggenberger, Ron Hanegraaf, Dan Kelly, Bob Berens, Candace Berens, David Murphy, Cindy Angel, Myron Angel, Julie Eddington (via teleconference), Tracy Reimann (via teleconference).

1. **CITY COUNCIL REGULAR MEETING**
 1. **Call to Order – Regular Meeting – 6:30 p.m.**
 2. **Pledge of Allegiance**
2. **CONSENT AGENDA**
 3. **Motion – Agenda Approval with Additions**
 4. **Motion – Approval of the 11.10.2021 City Council Meeting Minutes**
 5. ~~**Motion – Approval of the 11.22.2021 City Council Meeting Minutes**~~
 6. ~~**Motion – Approval of the 07.28.2021 City Council Meeting Minutes**~~
 7. ~~**Motion – Assistant to City Administrator Job Description**~~
 8. **Motion – Pay Bills as Posted**

Motion by Hegland to approve Consent Agenda items 3, 4 with amendments and 8. Seconded by Wagamon. Roll call vote: Wagamon – aye; Busch – aye; Hegland – aye; Logren – aye; Preiner – aye. Motion carries.

3. **PRESENTATION**
 9. **Public Open Forum**

No participation.

10. Public Hearing – Conduit Bonding – Blake School

On behalf of Kennedy & Graven, Julie Eddington reviewed the request for a public hearing and the request to approve a resolution with respect to the issuance of conduit bonds for The Blake School. The bonds will be used to refund a bond issued in 2015 and build an early-learning center in Hopkins. The City of Hopkins has provided host approval to the City of Columbus. Eddington shared that if the City approved this bond, it would not be able to issue any more bank-qualified bonds this year, but could still issue general obligation bonds that aren't bank qualified.

Preiner requested confirmation that the City had no plans to issue bond for the rest of the year. Mursko confirmed the City does not have any plans for bond issuance in 2022.

Kelly, the chief financial officer for the Blake School, a Pre-K through 12th grade, provided further information about the use of the bond funds, saying the LEED-certified early-learning center in Hopkins will serve approximately 165 Pre-K through first grade students and is scheduled to open in August 2023.

Preiner opened a public hearing for public input relating to the conduit bonding request for The Blake School at 6:39 p.m. Hearing no comments, Preiner closed the public hearing at 6:40 p.m.

Motion by Preiner to approve Resolution 22-02 authorizing the issuance of revenue obligation bonds to benefit The Blake School. Seconded by Wagamon. Roll call vote: Wagamon – aye; Busch – aye; Hegland – aye; Logren – aye; Preiner – aye. Motion carries.

11. Public Hearing – 16658 Iverson Street Abatement Order

Hughes drew the Council's attention to a memo in their packets explaining the background leading up to the abatement order. In December 2021, the Council made the decision to set a public hearing on the issuance of an abatement order on the property located at 16658 Iverson Street to enforce the construction of a security fence around a swimming pool that is required by city code. MNSPECT and the City have been working with the property owner since May 2020 to have the security fence installed but no progress has been made.

Reimann, Building Official for MNSPECT, confirmed that he sent an activity summary to the Council with the background on the situation, going back eight to 10 months. He shared that there have been numerous emails, phone calls and letters with the property owner, as well as one face-to-face meeting he was able to have with one of the property owners, and confirmed no progress has been made to get the pool in compliance. Reinmann says he does not detect any intent by the property owner to build the fence, which is why the issue of abatement order has come before the Council.

Preiner opened a public hearing at 6:47 p.m. regarding the issuance of an abatement order at 16658 Iverson Street.

Bob Berens presented to the Council that there has been a temporary fencing constructed around the pool, but that it gets knocked over and trashes up the property. He also shared that the shape of the property is a nuisance to the neighborhood as it impacts his property value when realtors, appraisers and neighbors must see the mess. He believes the pool fencing is a part of a larger issue.

Candace Berens says the property is littered not only with garbage, but also tow trucks, straight trucks, pickup trucks that give the appearance of a junkyard.

Preiner closed the public hearing at 6:49 p.m. with no further participation from the public.

Motion by Wagamon to approve the issuance of an abatement order to the property owner at 16658 Iverson Street as written.

Busch inquired if the City would be hiring a contractor to construct a security fence around the pool. Griffith clarified that this is a process under code that allows for the City to affirmatively act and address the fencing, as well as allowing the City to assess the cost against the property. Before that can be done,

a final abatement order is issued to the property owner giving them a specific deadline to address the fencing issue. The City hopes not to have to go onto the property and correct the fence, but that authority exists under Minnesota statutes and city code and would be the ultimate remedy and would allow the city to collect costs including the cost of the work that's been done to date.

Hegland clarified that the deadline in the abatement order to have the fence erected is March 31, 2022, and if it had to be so far in the future. Griffith said it isn't necessarily a requirement, but that it would be a reasonable time under the circumstances of the season and delays in contracting.

Seconded by Hegland. Roll call vote: Wagamon – aye; Busch – aye; Hegland – aye; Logren – aye; Preiner – aye. Motion carries.

Hughes informed the Council that if the deadline passes without any action, the situation would be presented to Council again to discuss logistics for how the abatement would occur.

Busch inquired about the steps moving forward with the rest that is going on with the property. Griffith indicated the City is aware of the other issues brought up by the Berens. He said the neighbors are free to make a specific complaint to the City as that's often how other code enforcement actions begin.

Hughes said she has received complaints regarding the vehicles that are being stored on the property and that the issue has gone to court with charges pending. Hughes shared that the original court date was 02.08.2022, but it was postponed to mid-April.

12. Planning Commission Report

Bob Berens provide an update from the Planning Commission's February 2nd meeting, indicating it featured a public hearing and discussion to consider a variance request made by E&R Investments for a Caribou Coffee Cabin at the NE Quad 35 Second Addition. Bob Berens indicated that City Staff had reviewed the variance request and recommended the Planning Commission approve the requests as presented. Greg Hayes of E&R participated in the meeting, providing further information and answering questions from the Planning Commission. Bob Berens reported the Planning Commission motioned to approve the variance request based on adopting City Staff's Findings of Fact 1-6, dated February 1, 2022. The Planning Commission also made a motion to request the City Council provide the Planning Commission direction to investigate ordinance concerns regarding defining and developing a better interpretation of which masonry products will be allowed for building design requirements and the required percentage of masonry for building design allowed and standards for corporate colors, and guidance on the light ordinance interpretation and building size requirements in the commercial zoning districts.

Motion by Busch to approve E&R Investments' variance application as outlined in the staff report dated 02-01-2022 for Lot One Block One NE Quad 35 Second Addition adopting the Findings of 1-6 subject to Conditions 1-3 of the staff report dated 02-01-2022. Seconded by Wagamon.

Logren stated that from her research the Caribou Cabin is a coffee stand and not a coffee shop and that the original parcel to be sold to E&R Investments was in conjunction with another project on the east side of the NE corner. The land sale for that particular project did not go through, but the parcel was kept subdivided for the Caribou Cabin in the configuration it stands now. Logren feels this configuration detracts from the Eastern portion of the NE corner, as it creates a dogleg for the piece that's remaining

that's not in the City's best interest if the land sale is not completed. Logren says the original E&R Investments project presented to a Closed Meeting of the Council to buy the parcel stated it was for a coffee shop, not a coffee stand. The City did not find out the developers' intentions were for a Caribou Cabin until it started assigning the purchase agreement. City representatives indicated they were disappointed with the decision, but continued with the transaction even though the Council sanctioned a coffee shop. Logren feels that this decision for a drive-thru exclusive location should have been brought before the Council, as she feels a Caribou Chalet or Lodge would be more in line with the zoning and design standards for the area.

Logren says when the plan was brought before the Planning Commission, Associate Planner Ben Gutknecht offered changes to the design to conform with the standards of the area. The Planning Commission agreed, but recommended consideration by the Council for the cabin design anyways despite it requiring several variances, of which her biggest concern is that the cabin design is a stick construction that does not conform to the majority requirement of brick-and-mortar. Logren also feels that the cabin design will alter the essential character of the neighborhood, which was intended to be a mixed-use environment, and goes against the Comprehensive Plan. Finally, Logren said she did not appreciate the "strong-arm" tactics by the applicant and their representatives with the developer in dealing with the Planning Commission and the Columbus Council.

Wagamon stated it's her job as a councilmember to adhere to ordinances and look at them when a variance request is submitted, saying variances are granted if they are reasonable requests, if they don't change the character of the area, if they're in the harmony of the purpose of the ordinance and if they're consistent with the comprehensive plan. Wagamon feels the Caribou Cabin met all the requirements. She says she reached out to the planner to see how the project connected to the Comprehensive Plan, and she found out the Plan is vague and there's nothing specific about this type of business.

Hegland asked Caribou's representative if the coffee industry consider their Cabin concept as a coffee stand or shop. Ebert Construction's representative replied that he wasn't aware of the definition, but that at the December Planning Commission and City Council meetings Caribou's Director of Real Estate went over those specifics. He said the only corporate definitions Caribou uses is their types of stores: a "chalet" and a "cabin."

Hegland asked Logren for clarification about why she felt the project was inconsistent with the Comprehensive Plan. Logren said work was put into defining zones, their land uses, property specifications and design standards and that this project is not consistent with design standards and land use, thus it cannot fit into the Comprehensive Plan.

Griffith indicated that when a City is reviewing whether an application is consistent with its code, when an applicant comes in and makes the case for a variance and it is granted, it is then consistent with city code by approval of the variance. Ultimately, it is up to the councilmembers to determine if this project is what they envisioned in that district.

Busch shared he'd seen a lot of the cabin concepts around the Twin Cities and that the businesses do a lot of business. He agrees with Logren that he would've preferred a sit-down operation, but holds optimism for future development of the location.

Roll call vote: Wagamon – aye; Busch – aye; Hegland – aye; Logren – nay; Preiner – aye. Motion carries.

Lot 1, Block 1 Quad 35 Second Addition Variance Findings of Fact:

1. The applicant proposes to use the property in a reasonable manner.
2. The plight of the applicant is due to circumstances unique to the property and is not created by the landowner.
3. Granting the variance is in harmony with the purpose and intent of the Zoning Ordinance.
4. Granting the variance is consistent with the City’s Comprehensive Plan.
5. The variance, if granted, will not alter the essential character of the neighborhood or City.
6. The practical difficulty is not created solely by economic considerations.

Lot 1, Block 1 Quad 35 Second Addition Variance Conditions:

1. The architectural design shall be consistent in appearance and material as proposed in Architectural Plans dated January 3, 2022.
2. The site lighting, including decorative lights, shall not exceed one foot-candle at the lot lines nor cause a nuisance to neighboring properties.
3. The decorative lighting shall be turned off during non-business hours.

Mursko drew the Council’s attention to a memo from Gutknecht on page 29 of their agenda packets, saying the Planning Commission identified five questions and concerns they would like to address since the new ordinance has only been in use for a short period of time. City Staff requested 60 more days to see if more concerns would become apparent before making an ordinance amendment to avoid making multiple small amendments.

Motion by Preiner to direct the City Staff to continue to review the current Chapter 7a, which includes the five questions on page 29, through the administration of said ordinance for 90 days to determine if there are additional points to add to add to the Planning Commission’s five points of concern as outlined on page 29. Seconded by Hegland.

Hegland requested clarification for how much time was being granted to the City Staff for review, as Mursko had said 60 days while their paperwork indicated 90. Mursko said that if the paperwork submitted by Gutknecht said 90 days, she would prefer to grant him his request as made.

Logren inquired if, once the 90 days had passed, the Council would be ready to pass an ordinance. Mursko indicated that once the 90 days are complete is when the City would begin working on creating the ordinances.

Preiner inquired how much time would be needed to draft ordinances after this 90-day period. Mursko said there shouldn’t be much delay since some issues have already been identified and work has commenced. With that in mind, Logren indicated that she’d prefer the discovery process be limited to 60 days. Hegland agreed with Logren, as she felt adjustments to ordinance is a never-ending process and would prefer to start getting amendments codified.

Motion by Preiner to amend his previous motion to direct the City Staff to continue to review the current Chapter 7a through administration of said ordinance for 60 days to determine if there are additional points to add to the Planning Commission's five points of concern as outlined on page 29. Hegland seconded. Roll call vote: Wagamon – aye; Busch – aye; Hegland – aye; Logren – aye; Preiner – aye. Motion carries.

Mursko introduced Hanegraaf to the Council, indicating that the Planning Commission unanimously voted to nominate him as the chair for another year but needed the Council to approve the appointment.

Motion by Hegland to accept the Planning Commission's recommendation and approve Ron Hanegraaf as the Planning Commission's chair. Busch seconded.

Logren lauded Hanegraaf, saying he is a great face for the City.

Roll call vote: Wagamon – aye; Busch – aye; Hegland – aye; Logren – aye; Preiner – aye. Motion carries.

13. Anoka County Assessment Report

Guggenberger provided an update on the county's assessment for the City of Columbus, highlighting the process by which it was conducted, the impact on property values and the impact on the county's assessment and taxes and what it means for the future.

Hegland inquired about the number of abatements the County had to do during assessment. Since abatements are allowed only in the case of a clerical error in which the resolution would benefit the property owner, less than 10 abatements were completed. Hegland asked how many records needed attention due to being out of date. Guggenberger said more than 75 percent of the parcels in the 2022 assessment needed significant changes, mostly in regards to missing or modified buildings/additions, home stylings and effective age changes.

Busch inquired about the 16 denials of access requests and how the County reached its appraisal for those properties. Guggenberger shared that the County consults aerial photography conducted every other year, building permit records and existing records. Guggenberger continued, saying those that declined entry buy want to appeal their valuation must allow an assessor entry to the property.

King inquired about what happens to properties whose owners were unavailable when the assessor visited. Guggenberger said COVID-19 protocols prevented interior inspections, but that assessors were making exterior reviews and taking front-facing photos when appropriate, and leaving door tags.

Logren inquired if properties without buildings were noted to be under commercial jurisdiction or not. Guggenberger indicated those notes were taken and that some of those commercial segments were removed.

14. 2022 Recycling Events

Motion by Preiner to approve the 2022 recycling events as listed. Seconded by Hegland. Roll call vote: Wagamon – aye; Hegland – aye; Busch – aye; Logren – aye; Preiner – aye. Motion carries.

15. Coon Creek Watershed District Appointments

Motion by Preiner to send information to residents in the Coon Creek Watershed District of the current vacancy. Seconded by Wagamon.

Logren inquired how many mailers advertising the district vacancies would be sent out. Mursko indicated it would be approximately 45 letters.

Roll call vote: Wagamon – aye; Hegland – aye; Busch – aye; Logren – aye; Preiner – aye. Motion carries.

4. STAFF & CONSULTANT REPORTS

16. Engineer Report

Bittner discussed the 182nd Lane cul-de-sac project. While he and Windingstad would normally prefer a 100-foot turnaround with a 120-foot easement, he felt a turnaround with a diameter of 80-90 feet would be adequate given the existing lots constricting the room to work with compared to a new development. Bittner referenced a few options in the Councilmembers' packets that utilized the smaller footprints – one with an 80-foot diameter and another utilizing 90 feet – within the current 120-foot easement but shifted easterly and not centered in the easement to limit the impact on the abutting property owners in the north and south. Referencing the 80-foot option, he estimated \$40,000 for construction and recommended its execution.

Windingstad also recommended the 80-foot option, indicating it had the least impact on the property owners.

Wagamon inquired how much extra property the cul-de-sac would require in addition to what was already being used by the hammerhead. Griffith indicated that the property owners that would be impacted by this cul-de-sac plan bought their property subject to an easement for a rounded cul-de-sac, not the hammerhead that currently exists to the east.

Busch inquired if any big trucks were utilizing the hammerhead and if the City was maintaining it. Windingstad indicated that the City had been maintaining the hammerhead during his entire tenure and likely 30-40 years prior to that. Busch inquired if, since the City has been maintaining it for so long, if the area is the City's property now. Griffith indicated a statute gives a City the underlying right to property its maintained for roadway purposes, but that the challenge is officially determining what has and hasn't been maintained and what those limits are, and then reconstructing a hammerhead within that property. Griffith also indicated pushback from property owners as to what those rights mean, hence the attempts to stay within the easement rights the City existing easements.

Busch inquired if this new 80-foot proposal impacted the southwestern property owner's 70-foot setback from the road. Mursko indicated setbacks are taken from improved easements, so since it was legal-conforming before the construction of this cul-de-sac, it would stand as legal non-conforming after the fact. Griffith added on, saying it would be the property owner's election to request a variance since the change is not of their making to make it legal-conforming.

Hegland inquired if the City Council was approving the request to allow the property owners a couple weeks to discuss the plan, or if the Council was approving a plan beforehand. Mursko indicated that she had already received one email from the Stroms indicating they were unwilling to voluntarily dedicate easement and that research had been conducted considering their concerns, but that the Council could make their own decision on waiting two weeks or not. Wagamon indicated that the Council should stick to their word since two weeks were promised at the Workshop the night before.

Windingstad inquired if the City Council wanted any action taken on this project, such as staking or painting. Wagamon inquired if it was possible to paint or stake the cul-de-sac's footprint without surveying. Bittner said a survey crew would be necessary to properly locate property corners to ensure they were within the right-of-way, but it wouldn't have to be extensive just to mark a circle.

Hegland inquired about how quickly a survey could be scheduled. Bittner said it could happen in the next week. Since it was so quick a turnaround, Hegland said she wanted to go forward with marking the driving surface and waiting two weeks for the neighbors.

Windingstad inquired if option was surveyed and marked now, if it would have to be surveyed again in the future. Bittner confirmed it would, but that mobilizing twice would not be as cost effective but would still fit within the estimated budget of \$40,000.

Hegland motioned to direct the City Engineer to conduct a survey to mark the approximate limits of the 80 and 90-foot option and to include the cost of construction for the 182nd Lane cul-de-sac. Seconded by Wagamon.

Logren indicated that the original estimate was for over \$38,000 with an added on \$5000, yet now the estimate is \$40,000 for a smaller cul-de-sac. She inquired why the price didn't drop with a smaller project. Bittner said that he was only providing an estimate and that the project could end up costing something different than the projection depending on the final bid. He said he tried to provide an estimate on the high side of a potential budget.

Hegland inquired if Bittner would have a better estimate after the survey. Bittner said he would, estimating six weeks would be needed from the time this plan was displayed if it is the one that the Council moves forward with.

Roll call vote: Wagamon – aye; Busch – aye; Hegland – aye; Logren – aye; Preiner – aye. Motion carries.

17. Attorney Report

Griffith shared that there will be a commissioner's hearing regarding the southwest sewer project on the Swanson-Cleary Property tomorrow.

18. Mayor & City Council Member Report

Wagamon had no report.

Busch had no report.

Hegland shared she'd met with Robert Benson, a staffer for U.S. Congressman Tom Emmer in regards to directing funds for expanding broadband infrastructure to Columbus. Benson agreed to look into the possibility of earmarks and also encouraged Columbus to reach out to Senators Amy Klobuchar and Tina Smith's offices.

Logren had no report.

Preiner had no report.

19. Public Works Report

Windingstad updated the Council on the City's ARPA spending, indicating he had four projects (two sewer, two water) he would like to fund with those monies. Since those four projects would have spent the entire allotment and leave none for a broadband effort, he whittled his list to two, selecting a \$100,000 refurbishment for Well No. 3 as it has been pumping sand, and a generator for Lift Station No. 4 given its proximity to Love's Travel Plaza and the area it services, costing between approximately \$35,000 to \$40,000. Another refurbishment for the City's first well, which would cost approximately \$25,000, and a generator for Lift Station No. 1, the City's main lift, which would cost approximately \$55,000 can be delayed.

Hegland inquired if there was enough ARPA money for these two projects, the broadband initiative and IT improvements. Mursko said that all four of the Public Works projects would have exceeded those funds, which is why Windingstad was pared down to two to leave \$300,000 for broadband and \$15,000 to Mursko for cybersecurity improvements.

Logen inquired if the sand issue with Well No. 3 would resurface in the future and require another repair. Windingstad said it was likely to need to happen again, leading Logren to wonder if a plan for a permanent fix should be created. Windingstad said that while a water tower would eliminate the cause of the problem creating the sand in the well, the City's water supply usage does not necessitate a water tower because of the cost. Mursko added that this was the first time in 15 years that this well needed to be refurbished. Windingstad continued, saying a capital fund is already being funded to future water concerns, and it will grow exponentially as more users tap into it.

20. Assistant to City Administrator Report

No report.

21. City Administrator Report

Mursko shared the Local Board of Appeals and Equalization hearing was scheduled that day for April 28, 2022 at 6:30 p.m.

5. ANNOUNCEMENTS & REMINDERS

22. City Council & Planning Commission Joint Meeting 02.16.2022 at 6 p.m.

23. Planning Commission Meeting 03.02.2022 at 6:30 p.m.

24. City Council Workshop Meeting 03.08.2022 at 5:30 p.m.

25. City Council Meeting 03.09.2022 at 6:30 p.m.

26. Calendar of Meetings

6. ADJOURNMENT

Motion by Hegland to adjourn. Seconded by Wagamon. Roll call vote: Wagamon – aye; Busch – aye; Hegland – aye; Logren – aye; Preiner – aye. Motion passed.

Meeting adjourned at 8:39 p.m.

Respectfully submitted:

Connor Keith, Public Communications Coordinator