



City of Blaine

City Council

April 17, 2023 | 7:00 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

MINUTES

1. Call to Order by the Mayor

The meeting was called to order at 7:00PM by Mayor Sanders followed by the Pledge of Allegiance and the Roll Call.

2. Pledge of Allegiance

3. Roll Call

PRESENT: Mayor Tim Sanders, Councilmembers Terra Fleming (attending remotely from 11211 Commercial Centre Loop in Yuma, Arizona 85367), Chris Massoglia, Tom Newland, Jess Robertson, and Lori Saroya.

ABSENT: None.

Quorum Present.

ALSO PRESENT: City Manager Michelle Wolfe; Community Development Director Eric Thorvig; Safety Services Director/Police Chief Brian Podany; Finance Director Joe Huss; Deputy Finance Director Ali Bong; Director of Engineering Dan Schluender; Director of Public Works Nick Fleischhacker; City Attorney Tom Loonan; Communications Manager Ben Hayle; and City Clerk Catherine Sorensen

4. Awards - Presentations - Organizational Business

5. Communications

6. Open Forum

Open Forum is an opportunity for the public to present an issue or concern to City Council. There is a maximum of fifteen minutes set aside for open forum. Each presentation should be limited to no more than three minutes. If your item needs follow-up from the City, staff will arrange for that follow-up and will contact you to let you know what is being done. Thank you for coming this evening.

Kresha Omay, a resident of St. Paul, discussed concerns she had regarding Four Paws and a Tail. She noted she purchased a puppy for her daughter from Four Paws last summer. She stated she was not here as an activist, but rather as a consumer. She reported at the last Council meeting she heard the owner of Four Paws speak. She commented further on her terrible experience with Four Paws noting she spent thousands of dollars and her puppy died. She urged the Council to hear the voices of the public and to take action to ensure the business owner could no longer purchase from puppy mills.

Karen, a resident of Blaine, reported she purchased a puppy from Four Paws years ago and she had this dog for 10 years. She explained this dog came from a puppy mill and had a lot of health issues. She indicated she now works with rescue dogs and stated she would like to see the pet store removed from the mall.

Wayne Kendall, a resident of Blaine, stated he was concerned about the proposed car wash and recommended the Council not rezone the property to allow this use. He reported this property was never zoned for a car wash and questioned why the Council would consider the rezoning. He discussed how traffic was already bad at this corner and noted the car wash would add to this concern. He indicated the vast majority of the residents that live in this area are opposed to the car wash. He suggested the car wash be considered for another location in Blaine.

Another resident of Blaine discussed his experience with Four Paws noting he purchased a puppy for his daughter. He commented on the amount of money he spent to purchase the dog and on vet bills. He reported the puppy had an infection at the time of purchase and after speaking with the owner of Four Paws was offered no help. He explained within three days he had spent \$3,000. He stated there are many stories that were like his and he recommended the City Council adopt a humane pet store ordinance.

Wendy Pilot, resident of St. Paul, encouraged the Council to adopt a humane pet store ordinance. She commented on the humane pet store ordinance that was passed by St. Paul and Cloquet. She introduced the Council to her dog, Gracie, who was from a puppy mill breeder dog. She discussed the conditions her dog was rescued from after seven years, noting she was bred two times per year and was never allowed to walk on grass, to visit a vet or played with a toy. She noted after seven years she was auctioned off for \$35. She pleaded with the Council to pass a humane pet store ordinance to ensure dogs like Gracie are not being sold in Blaine.

Brian Mules, 3892 97th Avenue, expressed concern with the special assessment for the road construction that was completed in 2022. He believed the assessment amount was excessive and the manner in which he was to pay it off was extreme.

Mayor Sanders encouraged Mr. Mules to speak to this matter during the public hearing.

Tim Sieber, 12169 Hupp Street NE, stated he has lived in Blaine nearly his entire life. He reported he was disappointed with the fact the Council was considering the installation of a car wash at the end of the Park Side North development. He commented on the amount of trash in his neighborhood from Kwik Trip. He anticipated the Tommy's Car Wash would bring down the value of his property. He expressed concern with the noise and traffic that would be created by the car wash. He discussed how difficult traffic was in his neighborhood and stated the car wash would compound this. He recommended a dead end be installed at Kwik Trip to keep the commercial traffic out of his neighborhood. He urged the Council to not approve the rezoning for the car wash, but rather to pursue a local business for this property.

Adam Bahr, 116 91st Lane NE, requested the Council adopt a humane pet store ordinance. He explained his wife has been working on a humane pet store ordinance for the past five years and expressed concern with the fact the Council had yet to act. He reported the owner of Four Paws was the only pet store owner in Minnesota that was still receiving puppies from puppy mills. He stated his heart breaks for the puppies at Four Paws and urged the Council to adopt a human pet store ordinance.

Nathan of 122nd Circle, reported he recently moved to Blaine from northeast Minneapolis to get away from the noise. He commented on how the Tommy's Car Wash would disrupt the quiet enjoyment of his property, along with his neighbors. He discussed how close the car wash would be to his backyard. He understood Tommy's would be using state of the art equipment, but there would still be a tunnel car wash with outdoor vacuums in his backyard. He noted he could already hear the Kwik Trip car wash from his property, and this was pointed away from the neighborhood. He anticipated the Tommy's Car Wash would be even louder due to the fact it was pointed towards the neighborhood and had eight outdoor vacuum stalls. He reported the activity from this use would be heard from his property all day, every day, all year long. He commented on how the noise and traffic would impact the adjacent homeowners, noting his property value would also be adversely impacted. He stated he has already heard of neighbors who are interested in selling because of the car wash. He reported there were five hundred homes with a 15-minute walk from this property. He stated nobody walks to a car wash. He urged the Council to consider another use for this property that would benefit the neighbors, such as a coffee shop or sandwich shop because a tunnel car wash does not belong next to a residential neighborhood.

There being no input, Mayor Sanders closed the Open Forum at 7:26PM.

7. Adoption of Agenda

8. Approval of Consent Agenda:

All items listed under the "Consent Agenda" are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these

items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

Moved by Councilmember Newland, seconded by Councilmember Robertson, that the following be approved. Approved unanimously.

Approved unanimously.

- 8.1.** 2023-114 Schedule of Bills Paid
Sponsors: Joe Huss, Finance Director/Asst. City Manager
- 8.2.** 2023-136 Approval of Minutes
Sponsors: Cathy Sorensen, City Clerk
- 8.3.** RES 23-70 Resolution Granting Final Plat Approval to Develop 10.31 Acres into One Lot to be Known as Renovation Church 2nd Addition at 12390 Fraizer Street NE. Renovation Church (Case File No. 23-0034/SLK)
Sponsors: Sheila Sellman, City Planner
- 8.4.** RES 23-64 Resolution Granting a Final Plat to Subdivide Approximately 13.42 acres into 39 Single Family Lots and Two Outlots to be Known as Lexington Waters Second Addition at 129th Avenue NE and Ghia Street NE. MN Landco AREP Lexington Waters, LP (Case File No. 23-0037/SLK)
Sponsors: Sheila Sellman, City Planner
- 8.5.** R-67-2023 Receive Petition and Order Public Hearing for Vacation of Drainage and Utility Easement, Lot 1, Block 1, Renovation Church 1st Addition, Vacation No. V23-01
Sponsors: Daniel Schluender, Director of Engineering
- 8.6.** 2023-112 Authorize an Amended Professional Services Contract with Bolton & Menk for the Ulysses Street and 117th Avenue Roundabout, Improvement Project No. 23-09
Sponsors: Daniel Schluender, Director of Engineering

- 8.7.** RES 23-74 Resolution Authorizing the Mayor and City Manager to Enter into a Settlement Agreement with the Mass Automotive Group, LLC to Acquire Easements for Improvement Project No. 23-01, 99th Avenue and Baltimore Street Roundabout
Sponsors: Daniel Schluender, Director of Engineering
- 8.8.** RES 23-75 Resolution to Receive Petition and Order Public Hearing for Vacation of Right-of-Way Easement, southwest portion of Sunset Oaks West, along the southern property line for Outlot A and east property line of Outlots D and E of St Andrews Village; Vacation No. V23-02
Sponsors: Daniel Schluender, Director of Engineering
- 8.9.** 2023-119 Approve Carnival License for Amusement Attractions at Northtown Mall
Sponsors: Cathy Sorensen, City Clerk
- 8.10.** 2023-123 Approve New Vending Truck License for O'Neil Amusements LLC
Sponsors: Cathy Sorensen, City Clerk
- 8.11.** 2023-124 Approve 2023-2024 Kennel Licenses
Sponsors: Cathy Sorensen, City Clerk
- 8.12.** 2023-125 Approve 2023-2024 Vending Truck Licenses
Sponsors: Cathy Sorensen, City Clerk
- 8.13.** 2023-126 Consider Special Event License for the 8th Annual Hendrickson Foundation Hockey Tournament located at the National Sports Center from June 1, 2023 - June 4, 2023
Sponsors: Cathy Sorensen, City Clerk
- 8.14.** 2023-103 Approve an Agreement with Jacobson, Magnuson, Anderson & Holloran for Government Relations for April 2023-April 2024.
Sponsors: Michelle Wolfe, City Manager

- 8.15.** 2023-147 Motion to Approve a Separation Agreement with an Employee
Sponsors: Michelle Wolfe, City Manager

9. 7:30 P.M. - Public Hearing and Items Published for a Certain Time

- 9.1.** 2023-77R- Resolution Adopting Assessment for Hidden Oaks Area Street
61-2023 Reconstructions, Improvement Project No. 22-06
Sponsors: Daniel Schluender, Director of Engineering

Director of Engineering Schluender stated Improvement Project No. 22-06 was ordered by the City Council on February 7, 2022, with Resolution 22-019. A construction contract was awarded to Douglas-Kerr Underground, LLC by the City Council on June 6, 2022, with Resolution No. 22-101 and construction was completed in the fall of 2022. He commented further on the work that was completed on the streets within the project area noting the total cost for the project was \$3.4 million. He discussed how the project would be funded, noting a portion would be assessed. Staff recommended the Council hold a public hearing and adopt a resolution declaring the costs that would be levied against the benefiting parcels.

Mayor Sanders opened the public hearing at 7:28PM.

Kathy Peterson, 9905 Wake Court NE, stated she was part of the reconstruction area. She explained when Wake Court was completed the grade of the road was lowered more than it should be and understood this was a mistake by the City engineer. She reported her driveway was now at a steeper pitch which was a concern to her. She commented something had to be done to address the concerns on her street and driveway. She stated she would pay her assessment but did not believe it was fair for the City to ask her to pay until her concerns were addressed.

Brian Mules, 3892 97th Avenue, explained he was concerned with the cost of his assessment and believed the amount was excessive.

A resident of 99th Avenue NE stated she spoke to a City employee about the concerns she had with the pitch of her driveway. She explained she did not object to paying the \$4,400 assessment but would like her driveway addressed because it now had a steeper pitch with water pooling at the bottom. John Schafhauser, 9917 Wake Court NE, reported the steep pitch of his driveway was a concern to him. He indicated he could no longer snow blow his driveway because of the steep pitch. He explained he spent a lot of money on a new driveway and was

extremely disappointed. He questioned why the City lowered the cul-de-sac and roadway when the water table was so high. He indicated he would pay his assessment, but he would like to see his driveway fixed.

Hannah Sorenson, 99th Lane NE, explained she was concerned with the price for the assessment. She noted she was a new homeowner and moved in two weeks before the project began. She questioned why the project expense was not charged prior to the work being done. She reported the \$4,000 expense was not disclosed to her prior to closing, which would be a tremendous burden on her family.

Tim Puckett, resident, noted he was an original owner that has grown with the neighborhood. He asked who developed the assessment policy.

Mr. Schluender discussed the bidding process and assessment policy that was followed by the City. He reported a unit assessment was charged to benefiting parcels.

Mr. Puckett commented on the deficiencies that were found in the aggregate under his roadway. He discussed the history of his street noting there has been floods and catch basins that do not work properly. He questioned if there was an opportunity to put blame or accountability to the developer for these deficiencies.

Mr. Schluender stated each development, as it is created, had to meet certain City standards. He explained the standards have changed over the course of time which meant the underlayments may not meet current standards.

Mr. Puckett stated he is concerned the original installation of his roadway was faulty.

Mr. Schluender reported typical streets were designed to last 20 years and these streets were 30 years old. He understood an overlay of the street was completed 10 years ago to extend the life of the street.

Mr. Puckett indicated he was not disputing the amount he was being assessed but believed there should be some examination on the history of the roadway and the work that was needed. He encouraged the Council consider other ways to reduce the assessment burden on the residents.

Age Ergette, 3930 99th Avenue, stated she had concerns regarding the price of the assessment. She wished the City had told her ahead of time the amount she would be assessed to prepare for this expense. She discussed how her brand new driveway was dug up and it was not the same as it used to be. She indicated she also

had issues with the fact she did not have a hole for her sump pump. She asked that this be addressed by the City.

Dave Peterson, 9905 Wake Court NE, questioned why the level of the cul-de-sac and roadway was reduced. He expressed concern with the fact he was being asked to pay a \$4,400 assessment when the roadway and cul-de-sac were not where they should be.

Lynn Bradac, 9906 Wake Court, stated she had the same concerns as her neighbors that live on Wake Court. She understood there was no way to resolve the situation at this time, but she felt bad for her neighbors who now had driveways with steep pitches.

Mr. Puckett asked if there was a warranty in place for the street work.

Mr. Schluender reported there was a one-year warranty in place by the contractor after acceptance by the City.

John Bradac, 9906 Wake Court, questioned where the accountability was for the dropping his roadway twelve inches. He asked why this was not caught by staff. He stated he thought the area would be filled back in with good fill, but this did not occur. He inquired who pays for the mistakes the contractor makes. He questioned who came up with the 30-day payment period for assessments and suggested the City allow residents to make payments over the next six months and still be able to avoid interest.

Further discussion ensued regarding the bidding and contractor selection process.

Mayor Sanders closed the public hearing at 7:52PM.

Mayor Sanders requested further comment from the city attorney regarding the assessment process that had to be followed per state statute. City Attorney Loonan explained the per state statute chapter 429 the City is entitled to adopt policy regarding street improvement projects and setting assessments with shared costs between the benefiting parcels and the City itself. He reported there was criteria and a formula that was followed per state statute. He stated for those concerned with the cost, there were different statutory criteria regarding hardship that residents may be able to spell out. He indicated there was also an appeal process under state statute that allowed owners to challenge the assessment within 30 days of adoption. He reiterated that the procedures the City follows for these projects was all dictated within state statute.

Mayor Sanders requested the city attorney speak further to the remedies available to residents if they would like to file an appeal. Mr. Loonan discussed the appeal process in further detail with the Council. He noted appeals were typically for senior citizens, those serving in the military or those with disabilities. He noted all appeals would go to court for further consideration.

Mayor Sanders stated he does not recall a time when the City has had so many residents willing to pay the assessment but had concerns with the work. He indicated there was clearly an issue with this project and suggested staff take another look at the concerns that have been voiced. Mr. Schluender suggested he be allowed to review the course of events to better understand the slope of the driveways and see what the design features were that led to the lowering of the roadway. He noted the homeowner who just purchased her home may have legal recourse because this property would have had a pending assessment since February and should have been disclosed when purchasing the property. He noted there was a public hearing on this project in February which outlined all the costs and property owners were given notice of this hearing. He stated a list of probable costs were listed within this notice.

Mayor Sanders requested staff look at Wake Court and 99th Avenue. He stated he wanted to make sure the work was done correctly. Mr. Schluender explained the assessments could be levied and any defective work could be corrected by the contractor, noting the assessment amounts would not be impacted. He reported a second course of action would be to delay action on the assessments until staff has had time to look at the roadways.

Mr. Loonan recommended the Council approve the assessment roll tonight. He explained the City has specifications and requirements the contractor must adhere to and indicated the City can review the concerns to see if the contractor has fulfilled the project requirements. He reported either way, the assessment roll would not change. He supported the Council directing staff to review these two roadways to ensure they were constructed to spec and to follow up with the contractor if this was not the case.

Mayor Sanders spoke to all residents and encouraged them to contact the City if they believe there were concerns with their streets or driveways.

Mr. Schluender recommended the Council move the assessment roll forward as is with the understanding the engineering staff would report back to the Council on May 1 if there were any substandard design issues on the project.

Councilmember Saroya commented she supported delaying the assessments, noting this was mostly a Ward 1 issue. She stated on February 6 the Council held a

workshop where assessments were discussed. She noted residents are currently paying 35% of the project costs and in 2012, residents paid 25%. She understood the City was bound by state statute, but the City had options. She questioned why the Council was moving forward with this project, when it was discussing assessment options. She discussed the numerous hardships facing Ward 1 residents, noting this was the older part of Blaine and stated it was not possible for these residents to pay a \$4,400 assessment in the next 30 days. She recommended the assessments be held off until a future date until the Council can further discuss its assessment policy. She stated she lived on 101st Avenue and had a sink hole on her street. She discussed how the City had to go with the low bidder, which may be impacting the quality of the street projects within the community. She wanted to better understand who was doing work on the City's streets and the wages and practices they were imposing on their employees.

Mr. Schluender reported this project was brought forward with the policy in place and the recommended split per the policy. He explained the Council could choose to change the policy, but this project was locked into the specific cost share as outlined when the feasibility report was adopted. He stated the contractor was licensed in the state of Minnesota to perform work of this nature. He indicated the Council could have another process in place to vet contractors, but this would have to be further described to staff.

Mr. Loonan commented while the Council has been discussing its assessment policy, this project had to move forward under the previously approved split. In addition, he noted the 30-day pay requirement would allow residents to pay up front to avoid interest. If residents could not pay the assessment in full, the amount would be assessed to the property for homeowners to make payments over the next 15 years.

Councilmember Robertson clarified for the record this project was in Ward 2 then indicated this was not the ideal way to deal with infrastructure in the City. She understood nobody likes assessments. She explained she was uncomfortable approving the assessments given the fact there were unresolved issues with the project. She stated in her time on the Council this was the most complaints received on a street project. She did not support moving forward with the assessments until the issues with the residents had been addressed. She hoped the City would be able to resolve this situation with the residents within this project area.

Mayor Sanders stated he supported tabling action on this item to May 1 and asked that staff investigate the situation on Wake Court and 99th Avenue over the next two weeks.

Moved by Mayor Sanders, seconded by Councilmember Massoglia, to table action on this item to the May 1, 2023, City Council meeting.

A roll call vote was taken. Motion adopted unanimously.

10. Development Business

10.1. O-2523-2023 Second Reading Adopting an Ordinance Granting a Rezoning from PBD (Planned Business District) to B-2 (Community Commercial) at 4252 122nd Avenue NE. Tommy's Express Car Wash (PWS Holdings 23, LLC) (Case File No. 22-0082/SAS)

Sponsors: Sheila Sellman, City Planner

City Planner Sellman reported the applicant is requesting the rezoning of 1.67 acres from Planned Business District to B-2 Community Commercial. The subject site is zoned PBD (Planned Business District). The applicant is requesting to rezone to (B-2) Community Commercial. Staff commented further on the proposed request and reported the planning commission recommended approval of the rezoning.

Moved by Councilmember Massoglia, seconded by Councilmember Newland, that Ordinance No. 23-2523, "Adopting an Ordinance Granting a Rezoning from PBD (Planned Business District) to B-2 (Community Commercial) at 4252 122nd Avenue NE," be approved.

Councilmember Robertson commented the Council has been bound by the Comprehensive Plan and zoning to approve a number of requests this year. However, she noted this opportunity could be envisioned differently. She explained she found value in developers who wanted to invest in the Blaine. She stated she had no problem with Tommy's Car Wash but wanted the Council to do better for this property. She explained if the car wash were not approved, another use would come to this site which would also bring traffic and noise. She discussed how challenging the site was but wanted the City to consider a better use for this site that was more in keeping with the neighborhood. She indicated she would not be supporting the rezoning of this property.

Steve Warner, 4508 St. Andrews Court, explained Tommy's Car Wash was already announcing they would be opening at 122nd and Lexington Avenue in Blaine on their website. He reviewed the notification area for this project and stated only a small portion of the neighbors were notified. He encouraged the City to do better to include neighbors who would be most impacted. He stated in speaking with his neighbors, they did not want a car wash on this property but rather would like to see a small retail operation. He reported his neighbors purchased their homes with the understanding a small retail operation may locate on this property someday and not

a car wash. He implored the Council to not approve the rezoning because it would adversely impact the neighbors.

Councilmember Saroya commented she would be opposing this request. She indicated she received over 30 emails from the neighborhood regarding the car wash. She did not support the rezoning of this property because it would be unfair to the neighbors. She explained she supported Tommy's Car Wash locating in Blaine but recommended this be at a different location.

Councilmember Newland stated this project was discussed last year at a workshop and there were a lot of concerns brought up but believed these concerns have been addressed by the developer. He stated Lexington was a major north/south road in the community. He was of the opinion a car wash of this caliber would do well along Lexington Avenue. He indicated this site did not bother him for the car wash and noted a restaurant would not fit on this property, due to the number of wetlands. He discussed how the traffic from a car wash would flow in and out nicely, without a large amount of stacking, except on nice days. He explained he visited the Tommy's Car Wash in Mounds View and noted this was the nicest car wash he has had the pleasure of visiting. He discussed the buffering and landscaping that would be in place between the car wash and the neighborhood.

Councilmember Massoglia indicated he supported Councilmember Newland's comments. He believed this was a good spot for a car wash. He noted he has heard from some neighbors who were excited to have a car wash in this location. He agreed Tommy's Car Wash would provide a nice service for Blaine residents and was of the opinion the B-2 zoning district made more sense for this property than PBD. He stated he would be supporting the rezoning request.

Councilmember Fleming commented she has read the emails sent to her and understood the comments were split. She noted she met with the applicant and reported after visiting the site learned there would be an area equal to one and a half football fields between the car wash and the neighborhood. She explained she appreciated the fact the applicant was proposing to install 23 trees along the property line to provide a buffer. She liked that the use would not have a right-in/right-out from Lexington Avenue. She stated she understood the concerns of the residents but believed their concerns would be mitigated. She noted this property has been vacant for over 20 years and she appreciated the fact that a resident from Blaine wanted to invest in Blaine. She believed the car wash was a good fit and she would be supporting the rezoning.

Mayor Sanders commented on the amount of time Council spent working to bring amenities to Blaine that residents want. He discussed how the Lexington Avenue corridor was being developed. He indicated with this parcel he believed the

proposed use was fitting. He stated he appreciated the landscaping and buffering the applicant would be installing to minimize the impact on the neighbors. He explained this was not just a franchise, but rather Blaine residents wanting to invest and give back to the community. He discussed how restaurants and retail would be coming to this area of Blaine. He indicated the property owner has been trying to sell this parcel for years and years and it was his understanding a restaurant would not fit with due to parking and he believed this was the best use for the space. He stated no matter what comes to this property, it was going to bring traffic then stated he would be supporting this request.

Councilmember Saroya shared there were safety concerns and asked what the ramifications would be for the developer not changing direction of the building and flipping as recommended by the Planning Commission. Ms. Sellman explained flipping the building was not a safety concern but rather a noise concern. She discussed how safety concerns were created when the building was flipped.

Councilmember Saroya stated if the building was not flipped how were the noise concerns being addressed. Ms. Sellman reported item before the Council was a rezoning. She indicated the next action would be the conditional use permit which included site plan review. She stated the applicant has indicated if the condition to flip the building remained in the conditional use permit they would not be able to develop the property.

Councilmember Fleming requested the applicant come forward to speak about the decibel levels that would be generated by the car wash.

Tanner Brandt, Christianson Companies, explained the project would not be able to move forward if the building had to be flipped. He explained it was 366 feet from the end of the tunnel to the property line. He stated at the property line, based on rough estimates, the noise would be at 64 decibels which would be similar to people having a conversation. He stated the MPCA noise requirement was 65 decibels. He reported he would be willing to have a noise study conducted to ensure the property was meeting the MPCA noise standards.

Councilmember Robertson said this was a chance for the City Council to wait for another opportunity for this property. She noted she drives by this property often and did not believe rezoning the property for a car wash was the right decision. While she was not anti-car wash, she believed there was another amenity that would better suit the neighborhood on this parcel.

Mayor Sanders stated with the way this corridor would be developing, he believed the car wash made sense. He noted restaurants and retail have been tried on this site and they did not fit.

Councilmember Saroya commented on how the car wash from Kwik Trip was already impacting these neighbors. She indicated she believed this area of Blaine did not make sense for the car wash. She encouraged the Council to consider whose voice mattered more, the residents or the developers.

Mr. Brandt commented further on the decibel levels that would be generated by the car wash and discussed how the trees planted at the property line would assist in screening and buffering the sound.

Councilmember Fleming explained she understood there were residents who did not want the car wash but indicated she has also heard from residents who supported the request.

A roll call vote was taken. Motion adopted 4-2 (Councilmembers Robertson and Saroya opposed).

- 10.2.** RES 23-66 Resolution Granting a Conditional Use Permit for a Stand alone Car Wash in a B-2 Zoning District at 4252 122nd Avenue NE. Tommy's Express Car Wash (Case File No. 22-0082/SAS)
Sponsors: Sheila Sellman, City Planner

Ms. Sellman stated the applicant is requesting a conditional use permit to operate a stand-alone tunnel carwash in the B-2 district. She commented further on the proposed request, noting one of the conditions for approval was for the building to be flipped. She explained the applicant has stated if the building were flipped, the project could not be completed.

Moved by Councilmember Newland, seconded by Councilmember Massoglia, that Resolution No. 23-66, "Resolution Granting a Conditional Use Permit for a Stand-Alone Car Wash in a B-2 Zoning District at 4252 122nd Avenue NE," be approved.

Councilmember Massoglia asked if a wall, privacy fence or barrier has been considered by the applicant, given the fact the building could not be flipped.

Tanner Brandt, Christianson Companies, explained the landscaping plan had been enhanced to ensure a proper buffer was in place. He reported if a noise study were completed and the property was over the 65-decibel level, further sound mitigation measures would be taken.

Councilmember Massoglia recommended a sound barrier be installed as a part of the building construction and not wait until a noise study was completed. He noted this property was adjacent to residential homes and this would assist with addressing the neighbors' concerns.

Mayor Sanders supported the vacuums having noise mufflers as well. Mr. Brandt asked that these requirements not be required until after the noise study had been completed. He reported he has worked with a noise engineer on six other projects and would like to go by his recommendations on how to best address the noise on the site.

Ms. Sellman explained condition six would require the applicant to complete a noise study and if noise limits are not met, measures would be taken to meet the threshold. If the threshold were not met, the CUP could be revoked.

Mayor Sanders asked what condition required the building to be flipped. Ms. Sellman stated this was condition seven.

Mayor Sanders questioned if the applicant has validity to the statement the building could not be flipped safely. Ms. Sellman indicated the Planning Commission and staff has recommended the building be flipped. She reported the applicant has provided an alternative as to why flipping the building would not be safe. She commented further on how vehicles would not be able to properly ingress and egress the car wash if the building were flipped. In addition, there would be impacts to the wetlands.

Councilmember Robertson asked if staff has verified that the vehicular maneuvers could not be completed if the building were flipped. Ms. Sellman stated the applicant presented this information and the City's project engineer reviewed this information. The project engineer concurred that the maneuvers could not be completed unless the building were shifted, which would require the wetlands to be impacted.

Mr. Brandt commented further on how the flipped version of the site plan would not work. He discussed how the radius on the east side would not allow vehicles to enter the tunnel car wash, vehicles would be crossing in numerous locations on the property, and noted there would be impacts to the wetlands.

Councilmember Saroya questioned why the City was bending over backwards when the applicant could not meet all the conditions. She reported one of the conditions from staff and the Planning Commission was to flip the building to assist with addressing the noise concerns. She indicated the applicant cannot meet this condition. She stated she did not understand why the Council was so eager to approve this request when the conditions from staff could not be met. She reiterated that the Council did not have to approve this request, but rather the car wash could be located on another property in Blaine. She did not believe this project was a good fit for this parcel.

Mayor Sanders clarified that staff reviewed the plans and found it was not feasible to flip the building. Ms. Sellman reported this was correct.

Mr. Brandt commented he would be more than willing to addressing the noise concerns through a noise study.

Councilmember Fleming explained the conditions for approval would require the applicant to complete a noise study and mitigate any noise concerns if they occur. She stated flipping the building was not the issue, rather the noise was, and this would be addressed through the noise study.

Mayor Sanders asked what action the Council should take to remove condition seven.

Amended motion by Mayor Sanders, seconded by Councilmember Newland, to remove condition seven from the conditional use permit.

A roll call vote was taken. Amendment passed 4-2 (Councilmembers Robertson and Saroya opposed).

A roll call vote was taken. Amended motion passed 4-2 (Councilmembers Robertson and Saroya opposed).

- 10.3.** RES 23-71 Resolution Granting Final Plat Approval for One Lot to be Known as Rise Addition at 4252 122nd Avenue NE. Christianson Companies (PC23-0024)
Sponsors: Sheila Sellman, City Planner

Ms. Sellman stated the applicant is requesting final plat approval to create one lot previously platted as Oulot C, Parkside North.

Moved by Councilmember Massoglia, seconded by Councilmember Newland, that Resolution No. 23-71, "Resolution Granting Final Plat Approval for One Lot to be Known as Rise Addition at 4252 122nd Avenue NE," be approved.

A roll call vote was taken. Motion adopted 4-2 (Councilmembers Robertson and Saroya opposed).

- 10.4.** ORD 23-2524 First Reading
Adopt An Interim Ordinance for a Moratorium for the Northtown Area. City of Blaine (Case File No. 23-0040/SAS)
Sponsors: Sheila Sellman, City Planner

Ms. Sellman stated the interim ordinance is for a moratorium on development to study zoning and land uses as part of the Northtown redevelopment plan. She noted the moratorium would be in place for six months. She reviewed the comments received from the property owners in the Northtown Area noting one property owner requested to be excluded from the moratorium. Staff recommends the Council hold the first reading of this ordinance.

Councilmember Newland requested further information regarding the property that asked to be excluded from the moratorium. Ms. Sellman explained the property making the request was the Spire Credit Union.

Dixon Diebold, property owner of 8700 University Avenue, commented on his history with the property and explained he spoke with staff regarding how his property was being governed beyond the Comprehensive Plan through the visioning for the Northtown Mall area. He stated he closed and purchased 8700 University Avenue in December and got to work on procuring a tenant for the property. He commented on how he was working with the City on landscaping and setback issues. He reported in late March he was contacted by the City to see if he would be interested in selling the property. He indicated he was now being told a moratorium would be in place and he would not be able to finish developing his property. He stated the moratorium would stop his proposed development opportunity and put it on hold for at least a year. He discussed how the future vision for his property within the Northtown plan was to turn it into a pond. He asked that if the moratorium had to be approved, that it not be issued to the properties north of University Avenue. However, if the moratorium were put in place, he needed to have his expenses covered, because his project would be canceled. Mayor Sanders thanked Mr. Diebold for coming forward with his comments.

Declared by Mayor Sanders that Ordinance No. 23-2524, "Adopt An Interim Ordinance for a Moratorium for the Northtown Area," be introduced and placed on file for second reading at the May 1, 2023, Council meeting.

- 10.5.** ORD 23-2525 First Reading
Adopt Ordinance for an Amendment to the 105th Avenue
Redevelopment District to Allow Drive-thru's on the South Side of
105th Avenue Limited to One Drive-thru Per Parcel, as a Conditional
Use Permit. South Side Entertainment District (Case File No. 23-
0032/SAS)
Sponsors: Sheila Sellman, City Planner

Ms. Sellman stated the proposed ordinance amendment to the 105th Avenue Redevelopment District would allow drive-thrus on the southside of 105th Avenue, limited to one drive-thru per parcel, with a conditional use permit.

Councilmember Robertson asked if the entire zoning code would be changed. Ms. Sellman stated it changes the code for the 105th Avenue Redevelopment District, however, it was very specific to only allow drive-thrus on the south side of 105th Avenue.

Councilmember Robertson stated she did not believe it was a good idea to change the language. She explained the Council spent a great deal of time vetting the language to make it appropriate for this area. She stated there was a reason drive-thrus were not included. She reported this area was not to be drive-thru establishments. She was of the opinion this request was too vague and for this reason she would not be supporting the ordinance amendment.

Councilmember Newland agreed with Councilmember Robertson. He explained the discussion to not allow drive-thrus was put in place for a reason. He indicated he was not comfortable with this ordinance amendment.

Declared by Mayor Sanders that Ordinance No. 23-2525, "Adopt Ordinance for an Amendment to the 105th Avenue Redevelopment District to Allow Drive-Thrus on the South Side of 105th Avenue Limited to One Drive-thru Per Parcel, as a Conditional Use Permit," be introduced and placed on file for second reading at the May 1, 2023, Council meeting.

11. Administration

- 11.1. R-62-2023** Resolution Accepting a Bid from Douglas-Kerr Underground, LLC in the Amount of \$2,903,301.70 for the 2023 Northwest Area Street Reconstructions, Improvement Project No. 23-06
Sponsors: Daniel Schluender, Director of Engineering

Mr. Schluender stated the City Council approved plans and specifications and ordered advertisement for bids for the 2023 Northwest Area Street Reconstructions project on March 6, 2023, with Resolution 23-29. Staff reviewed the streets included in the project area. It was noted bids were received electronically on April 11. A total of six bids were received ranging from \$2,903,301.70 to \$3,290,587.15. Bids have been checked and tabulated, and it has been determined that Douglas-Kerr Underground, LLC of Mora, Minnesota is the lowest bidder. The Engineering Department has worked with Douglas-Kerr Underground, LLC on previous contracts and recommends that the low bid be accepted, and a contract entered with Douglas-Kerr Underground, LLC. City Council is also asked to approve a 10% contingency to bring the total project budget to \$3,193,630.00. The funding sources for this project are the Pavement Management Fund, Public Utility Funds, and Special Assessments and there are sufficient funds budgeted to cover these costs.

Moved by Councilmember Robertson, seconded by Councilmember Massoglia, that Resolution No. 23-62, "Resolution Accepting a Bid from Douglas-Kerr Underground, LLC in the Amount of \$2,903,301.70 for the 2023 Northwest Area Street Reconstructions," be approved.

Councilmember Robertson asked if the City must take the lowest bid or could the Council opt to take the next highest bidder. Mr. Schluender recommended the City take the low bidder then explained the City would then have to make findings that the low bid contractor was not a responsible bidder.

Councilmember Robertson stated she wanted to ensure the concerns from last year's street improvement project were not repeated in 2023. Mr. Schluender stated he understood this concern and noted staff would be addressing the concerns with the contractor.

Councilmember Massoglia asked when this project would begin. Mr. Schluender reported this project would begin in late May or early June.

A roll call vote was taken. Motion adopted 5-1 (Councilmember Saroya opposed).

- 11.2. R-63-2023** Resolution Accepting a Bid from Lino Lakes Landscaping, LLC in the Amount of \$911,750.00 for the 2023 Sod Replacement Project, Improvement Project No. 22-62
Sponsors: Daniel Schluender, Director of Engineering

Mr. Schluender stated the City Council ordered the preparation of plans and specifications and advertisement for bids for the 2023 Sod Replacement Program on July 6, 2022, with Motion 22-126. Bids were received on April 10, 2023, and Lino Lakes Landscaping, LLC was the low bidder with a bid of \$911,750.00. The project will replace dead boulevard sod within the City right-of-way in front of 375 properties that had property abutting a road reconstruction project on one of the 2019, 2020, or 2021 City of Blaine Pavement Management Program street reconstruction projects. Staff commented further on the sod replacement project and requested the Council accept the bid from Lino Lakes Landscaping with a 25% contingency.

Moved by Councilmember Massoglia, seconded by Councilmember Fleming, to reject all bids for the 2023 Sod Replacement Project.

Councilmember Massoglia stated after seeing how high these bids came in at, he believed it would be irresponsible for the City to pay for the sod replacement. He understood the intention of the program, but when this was previously discussed he thought it would only be the homes along Jefferson Street. He was of the opinion it was not wise or fair for all Blaine residents to have to pay for sod replacement that

died during a drought. He did not support the paying nearly \$1 million to replace the sod that died. He recommended this project be discussed further at a future workshop and that other options be considered.

Councilmember Newland explained he saw how bad the sod looked last year and supported the City taking action to replace the damaged and lost sod. He stated an offer has been extended to residents and he did not believe it would be right to now take this offer away. He supported the City moving forward with the sod replacement program.

Councilmember Robertson agreed this was a tough decision but that sometimes government had to spend money differently. She stated the City made a commitment to this neighborhood to right a wrong and for this reason would be supporting the sod replacement.

Councilmember Massoglia indicated this was not just one neighborhood, but rather the City was going back four years to 2019 to replace sod that did not take. He believed this was ridiculous, especially given the fact costs came back three and four times higher than anticipated.

Councilmember Fleming questioned if the residents would have any responsibility in maintaining the sod. Mr. Schluender explained the sod would be warranted for 30 days and the contractor would be responsible for watering the grass for 30 days. After that time, staff reviews the sod to ensure it is rooted and residents are given information on how to properly care for the grass.

Councilmember Fleming expressed concern with the fact the City was holding themselves responsible for the replacement of sod that was not properly maintained by residents.

Mayor Sanders indicated the price for the sod was much higher than the City anticipated. He reported when he visited Jefferson Street it was obvious that there was a sod problem. He stated he was surprised by the fact this letter went out across the City as he understood the letter would be sent to residents within a specific project area. He questioned if the City had a problem City-wide with the sod vendor. Mr. Schluender reported the City completed three different projects in three different years with three different sod contractors. He discussed how some of the sod within these project areas was thriving while others sod was dead.

Councilmember Massoglia explained he was concerned with the fact the sod was being going back to 2019.

A roll call vote was taken. Motion failed 2-4 (Councilmembers Newland, Robertson, Saroya, and Mayor Sanders opposed).

Moved by Councilmember Newland, seconded by Mayor Sanders, that Resolution No. 23-63, "Resolution Accepting a Bid from Lino Lakes Landscaping, LLC in the Amount of \$911,750.00 for the 2023 Sod Replacement Project," be approved.

A roll call vote was taken. Motion adopted 4-2 (Councilmembers Fleming and Massoglia opposed).

- 11.3.** RES 23-59 Resolution Accepting a Bid from Warning Lites in the Amount of \$90,757.71 for the 2023 Pavement Markings, Improvement Project No. 23-03

Sponsors: Daniel Schluender, Director of Engineering

Mr. Schluender stated this is an annual project that the City contracts for to keep the pavement markings in a highly visible condition to meet the current reflectivity standards. Staff commented further on the proposed project and recommended approval with a 5% contingency.

Moved by Councilmember Newland, seconded by Councilmember Robertson, that Resolution No. 23-59, "Resolution Accepting a Bid from Warning Lites in the Amount of \$90,757.71 for the 2023 Pavement Markings," be approved.

A roll call vote was taken. Motion adopted unanimously.

- 11.4.** 2023-120 Canvass of April 11, 2023, Special Election for Ward 2 Councilmember Vacancy

Sponsors: Cathy Sorensen, City Clerk

City Clerk Sorensen stated Council was asked to canvass the results of the April 11, 2023, Special Election for Ward 2 Councilmember vacancy. A summary of the 2023 special election results for the office of Ward 2 Councilmember was shared with the Council, including voting statistics and voting results. Upon review of all canvass materials, Council will be asked by motion to accept and certify the results that Leslie Larson was the successful candidate and to notify all candidates of the results.

Moved by Councilmember Newland, seconded by Councilmember Massoglia, that Motion 2023-120, "Canvass of April 11, 2023, Special Election for Ward 2 Councilmember Vacancy," be approved.

A roll call vote was taken. Motion adopted unanimously.

12. Other Business

Councilmember Saroya commented on the Fire Board application process and thanked staff for their efforts on this. She noted applications were open at this time and would be accepted through May 15.

13. Adjournment

Moved by Councilmember Robertson, seconded by Councilmember Massoglia, to adjourn the meeting at 9:50PM.

A roll call vote was taken. Motion adopted unanimously.