

CITY OF SHOREWOOD  
CITY COUNCIL REGULAR MEETING  
MONDAY, OCTOBER 25, 2021

5755 COUNTRY CLUB ROAD  
COUNCIL CHAMBERS  
7:00 P.M.

## MINUTES

### **1. CONVENE CITY COUNCIL REGULAR MEETING**

Mayor Labadie called the meeting to order at 7:01 P.M.

#### **A. Roll Call**

Present. Mayor Labadie; Councilmembers Siakel and Gorham; City Attorney Keane; City Administrator Lerud; City Clerk/HR Director Thone; Finance Director Rigdon; Planning Director Darling; Director of Public Works Brown; and, City Engineer Budde

Absent: Councilmember Johnson and Councilmember Callies

#### **B. Review Agenda**

**Gorham moved, Siakel seconded, approving the agenda as presented. All in favor, motion passed.**

### **2. CONSENT AGENDA**

Mayor Labadie reviewed the items on the Consent Agenda.

**Gorham moved, Siakel seconded, Approving the Motions Contained on the Consent Agenda and Adopting the Resolutions Therein.**

- A. City Council Regular Meeting Minutes of October 12, 2021**
- B. Approval of the Verified Claims List**
- C. Approve Master Subscriber Agreement for MN Court Data Services for Prosecutor, Adopting RESOLUTION NO. 21-117, "A Resolution Approving Master Subscriber Agreement for Minnesota Court Data Services for Government Agencies."**
- D. Approve Quote for Municipal Well Inspection – Boulder Bridge Well, City Project 21-10, Adopting RESOLUTION NO. 21-118, "A Resolution Approving Quote for Municipal Well Inspection at the Boulder Bridge Well Facility."**
- E. Approve Change Order for Lake Linden Drive Culvert Repair, City Project 21-03, Adopting RESOLUTION NO. 21-119, "A Resolution to Approve Change Order #1 for Lake Linden Culvert Repair Project, City Project 21-03."**

**All in favor, motion passed.**

**3. MATTERS FROM THE FLOOR**

No one appeared before the Council.

**4. PUBLIC HEARING**

**A. Vacate Easement (See Related Item 7E)  
5530 Howard's Point Road**

Mayor Labadie opened the public hearing at 7:04 p.m. There being no one appearing for the public hearing, Mayor Labadie closed the public hearing.

Mayor Labadie explained that this item would be discussed in greater detail under agenda item number 7E.

**5. REPORTS AND PRESENTATIONS**

**A. Hennepin County Commissioner Chris LaTondresse**

Commissioner LaTondresse gave a presentation highlighting some of the work happening in Hennepin County. He stated that he intends to continue the tradition started by former County Commissioner Callison and attend at least one Council meeting a year for each City in the County that he represents. He gave an overview of his past experience serving as chair of the Hopkins School Board and reviewed the County's public health response to the COVID 19 pandemic and how some of the CARES Act funds and American Rescue Act funds have been used. He noted that the American Rescue Act funds can continue to be utilized for things like rent assistance and support of the small business community. He stated that the County has heard loud and clear from the residents about the importance of the intersection of public safety and mental health and have partnered with local law enforcement and the Hennepin County Sheriff's Office on the 'embedded social worker' program which places a social worker within local police departments. Earlier this year, the County adopted their first ever climate action plan which is a comprehensive look at County policies in the context of the changing climate and offers a road map for how we can all play a part in mitigating the impacts of climate change. He noted that more details were available on the County website. He stated that a huge priority for him is affordable housing and noted that he serves as the Chair of the Housing and Redevelopment Authority.

Councilmember Siakel stated that when the phrase 'affordable housing' is used what immediately comes to mind for most people in cramped apartment buildings that are being subsidized by the government. She stated that she believes affordable housing is really more about diversity in housing. She asked what Commissioner LaTondresse defined as affordable housing because she thinks it varies by community.

Commissioner LaTondresse stated that when talking about affordable housing they are specifically referring to houses that are available in the region and the need, based on where people are within the income spectrum. He noted that people deeply burdened are those that spend more than 30% of their income on housing.

Councilmember Siakel stated that County Road 19 has been on the agenda between the cities in the area and the County. She stated that she thinks this needs to be revisited and the whole corridor should be looked at again, because there are a lot of bikers and pedestrians and thinks

there could be collaboration to make this is a win/win to make it safer. Commissioner LaTondresse thanked Councilmember Siakel for her thoughts and shared his contact information for future input.

**6. PARKS**

**7. PLANNING**

**A. Report by Commissioner Riedel on October 5, 2021 Planning Commission Meeting**

Planning Commissioner Riedel gave an overview of the October 5, 2021 Planning Commission meeting as reflected in the minutes.

**B. Registered Land Survey, Variance and Special Home Occupation  
Location: 21265 and 212285 Radisson Road**

Planning Director Darling explained the request for a Registered Land Survey and variances to lot area and width as well as a Special Home Occupation permit for the subject properties. The applicant is proposing to adjust the lot line between two properties to create two roughly equal parcels that would each be around 20,000 square feet each. She stated that the parcels would be non-conforming to both lot area and width. She stated that there are 4 buildings on these lots including three small homes that were used for cabin rental in the past. The applicant is proposing to remove the most southerly cabin and use the middle cabin as a home office and make permanent changes to the home so it could not be considered habitable. Staff and Planning Commission recommended approval.

Peter Lehman, 21285 Radisson Road, expressed his appreciation to City staff for answering his questions and helping him work through this process. He explained that they have lived in Shorewood since 1986 and gave an overview of some of the history surrounding this property. He noted that there are currently no easements on these parcels, but with this change, they will be granting a ten-foot utility easement to the City.

Councilmember Siakel asked about deeded access to the lake. Mr. Lehman stated that there was a deeded access that was granted in the 1930s for the small parcel to basically cross over the other property for the purpose of ingress and egress from the lake.

Councilmember Siakel explained that she asked this question because she would like to think about what could happen down the road if Mr. Lehman sold the property. She stated that she thinks the request before the Council seems very reasonable. Mr. Lehman stated that his understanding is that the easement go with the land so nothing should change.

Councilmember Gorham stated that this is an unusual request and he can understand why the Planning Commission had a split decision on this item. He stated that he is in favor of the request because this decreases the non-conforming conditions.

**Siakel moved, Labadie seconded, Adopting RESOLUTION NO. 21-120, "A Resolution Approving AN RLS for a Lot Line Adjustment and Variances for Peter Lehman for Property Located at 21265 and 21285 Radisson Road."; AND, Adopting RESOLUTION NO. 21-121, "A Resolution Approving a Special Home Occupation Permit for a Software Engineering**

**Business to be Conducted out of a Detached Accessory Building at 21285 Radisson Road.” All in favor, motion passed.**

**C. Conditional Use Permit for Multiple Accessory Buildings  
6180 Cathcart Drive**

Planning Director Darling stated that this application is a request for a Conditional Use Permit (C.U.P.) to allow two detached garages where one is permitted without a C.U.P. The applicant is proposing to remove all the existing structures from the site and build a new home with two detached garages that they would use to store their personal vehicles and equipment. The home and the two garages will have stained cedar lap siding. Staff and Planning Commission recommended approval subject to the Conditions as listed.

Councilmember Gorham clarified that the reason this is in front of the Council was that anything beyond one garage requires a Conditional Use Permit and this proposal would meet the conditions in the code. Planning Director Darling stated that the Zoning Ordinance requires a Conditional Use Permit if you have more than one detached garage.

**Gorham moved, Siakel seconded, Adopting RESOLUTION NO. 21-122, “A Resolution Granting a Conditional use Permit for Two Detached Garages at 6180 Cathcart Drive.” All in favor, motion passed.**

**D. Variance to Side-Yard Setback  
26020 Birch Bluff Road**

Planning Director Darling stated that this application is a request for a variance to side-yard setback to allow the property owner to construct an attached garage at five point four feet closer to the west property line than what would otherwise be permitted. This variance is due to the required combination of thirty feet on both side yards together. The property currently does not have a garage. Staff and Planning Commission recommend approval, subject to the conditions included in the resolution. She reviewed the conditions to ensure that the Council understands what they are being asked to approve.

Councilmember Siakel asked if there were any objections by the applicant to the suggested conditions. Planning Director Darling stated that she thinks the applicant would prefer to keep those items, but staff is recommending removal as currently the property has thirty-three percent impervious surface coverage where 25 is permitted. She stated that they are also adding a three-car garage with living area above and extra storage space. She reiterated that staff recommends removal of the shed as a further reduction in impervious surface coverage.

Councilmember Siakel asked if there was a deck on the back of the home. She explained that she lived up the street and was asking because removal of the patio makes her question whether that will leave the property owner with nothing on the back of their house for them to have enjoyment of the lake. She stated that this is a very tight property. Planning Director Darling explained that there is a deck on the back of the house and showed aerial photos of the property. Councilmember Siakel stated that it is important for someone who purchases a property on the lake to have somewhere to enjoy the lake.

Councilmember Gorham stated that this situation reminds him of a past situation where there was a garage that was encroaching on a side yard setback, but it was storage and the City had allowed

it because there was a shed that they would be removing in the future. Planning Director Darling stated that the situation he was referencing sounded familiar but she could not place the property or the details off the top of her head.

Councilmember Gorham noted that the big thing for him is not to increase the non-conformity and the shed and the storage portion is what is encroaching.

**Gorham moved, Labadie seconded, Adopting RESOLUTION NO. 21-123, “A Resolution Approving Variances to Side-Yard Setbacks for Property Located at 26020 Birch Bluff Road.” All in favor, motion passed.**

**E. Vacation of Easement (See related item 4A)  
5530 Howards Point Road**

Planning Director Darling explained that this item is a request to vacate an existing fifteen-foot sewer easement that is not over the existing sewer main. The applicants are in the process of building a new home and staff discovered this issue during the building permit review process. The easement was acquired in 1972 around the time municipal sewer was installed throughout much of Shorewood. The vacation of the easement affects only this property and not any others. The City Engineer has reviewed this application and has no concerns. The City has notified the DNR and their sixty-day comment period has elapsed with no comments given and noted that staff also placed publication of two legal notices in the official newspaper as required by statute. Staff recommends approval and noted that the homeowner’s representative is available via Zoom if the Council had any questions.

Councilmember Gorham asked if the easements on the adjacent properties were correct. Planning Director Darling stated that she cannot guarantee it is correct on all of the adjacent properties but would be for this property and the property to the north.

**Siakel moved, Gorham seconded, Adopting RESOLUTION NO. 21-124, “A Resolution Vacating Sewer Easement for Property Located at 5530 Howards Point Road.” All in favor, motion passed.**

**F. Comprehensive Plan 2040  
Amendments to the Land Use Map**

Planning Director Darling stated that this item is for amendments to the Comprehensive Plan to complete the City’s submission to the Metropolitan Council. She stated that included in the amendments are several strategies designed to meet the most impactful of the comments the City received which is the need for an additional opportunity area to create one-hundred and fifty-five housing units at a density of at least five units per acre and forty-eight of those units to be at a density of greater than eight units per acre. She gave an overview of the three opportunity areas that staff has identified. She explained that the Planning Commission reviewed the proposed amendments at a public hearing on October 5, 2021 and recommended approval. She noted that they also recommended that staff research a means to allow the existing uses to continue as conforming uses until such time as they are redeveloped on their own. Staff has looked at two options, either revising the Zoning Ordinance to allow some non-conforming uses to expand by Conditional Use Permit, or amending the Zoning Regulations to allow the existing uses to continue as interim uses within a high density residential district. Staff has outlined some concerns they had with those options and recommend that the Council take one of three possible

approaches: leave the commercial properties guided commercial but include a statement in the Comprehensive Plan that high density residential may be an appropriate redevelopment use in the future, but noted that the City will not get any credit for this option with the Met Council; leave the properties commercial without any notes at all; or amend the land use for high density. At the Planning Commission public hearing, about a dozen people spoke and several submitted letters with comments. She stated that she has attempted to address each of the concerns in the staff report. She stated that there is an error in the staff report because it indicated that the Comprehensive Plan amendments could be approved by a simple majority, but noted that it will actually take a super-majority so with only three Councilmembers present tonight, staff recommends that the Council take public testimony but continue the item to the next Council meeting. She introduced Nate Sparks who is representing the City's consultants and asked him to give a summary of the Mixed-Use Land Use designation that is proposed.

Nate Sparks gave an overview of the Mixed-Use land use designation and explained that it is a new concept that was added during the discussion due to the attempt to get to the required amount of units and density to be in conformance with the Met Council policy. He stated that the reason why it is called Commercial Mixed Use is that the idea is that the properties are supposed to maintain their primary use as being commercial because those are the City's commercial corridors and the goal was to keep that integrity of the commercial areas as the primary focus while allowing some residential use to be added at a density that would allow it to count for both affordable housing and just the general density requirements that are required. He stated that at least fifty percent of the property would have to be maintained as commercial either horizontally or vertically and a minimum of forty percent as residential. He noted that this land use designation already exists in other area cities.

Councilmember Gorham asked if the Met Council could come back to the City and ask for different percentages of commercial and residential use. Mr. Sparks explained that the way it was set up and reviewed by the Planning Commission, the numbers were made to hit a specific number of units that conformed with what the Met Council was looking for, so he thinks it is unlikely that they would ask for anything different.

Councilmember Siakel asked for more detail on why this may be a disadvantage to the current business owners. Mr. Sparks stated that first and foremost, when discussing the Commercial Mixed-Use areas, it is important to remember that it is still primarily a commercial land use, so if the property owner wanted to stay just as commercial use, that would be fine and the introduction of units would be done on a redevelopment basis. He stated that it should not disadvantage anyone, unless they wanted to do all residential or had some other idea. He stated that it will also depend on the structure of the zoning that is created.

Planning Director Darling stated that she wants to make sure the Council understands that the three areas that are proposed to be amended do not all include the Mixed-Use land use designation. She explained that the Mixed Use was proposed over the two shopping center areas and not the Smithtown Road area which would just be high density residential.

Mayor Labadie noted that the public hearing has already been held for this issue, but the Council is open to listening to the input from the residents that are in attendance at the meeting. She noted that if anyone already gave testimony at the public hearing held by the Planning Commission or sent in an e-mail, the Council has received a copy of those comments. She asked that the residents not just continue to repeat the same comments over and over but assured the residents that it was important to the Council to hear from the residents. She stated that the City

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is considering these amendments because the Met Council determined that the plan the City had submitted was 'incomplete'.

Councilmember Siakel reiterated that there is a super majority needed to vote on this issue, so they will not be making a decision tonight.

Paul Christopher, Waterford Court, stated that he attended the last meeting and the information provided tonight was accurate except for one point. He stated that everyone here from Waterford Court is totally against the Mixed Use. He stated that in looking at the population growth over the next twenty years, it will only increase by four hundred people so to him, there is no need for high density housing. He stated that there were a few words and phrases he heard at the Planning Commission meeting that concerned him. They were 'forced', 'directed', 'satisfy the Met Council'. He stated that is hoping that the Council are worried about satisfying the residents of Shorewood and not the Met Council and reiterated that they are against the Mixed-Use designation.

Councilmember Siakel stated that she would like to respond to questions and comments as they happen and would like for this to be a discussion and not just the Council sitting and listening. She stated that she agrees with Mr. Christopher, Shorewood is a community that is all built up and there are only a few corridors along County Road 19 and Highway 7. She stated that when they approached the Comprehensive Plan it was really more about redevelopment and places that may be able to accommodate higher density that helps the City get closer to working with the Met Council. She stated that for much of this, the City does not have a choice because they have to comply with the law and their mandate. She stated that the City had tried to push back but the Met Council said it was not good enough and the City had to do more to satisfy having more density in the City. She stated that she wants the residents to understand that the Council did not create this situation and are simply responding to what they are obligated to do.

Mayor Labadie asked City Attorney Keane to highlight what would happen if the City does not conform to the Met Council requirements.

City Attorney Keane stated that the two main tools in use are 'carrots' and 'sticks'. He stated that the carrots piece is that the Met Council is the reviewing agency for allocation of State and Federal resources for infrastructure such as road improvements, sanitary system modifications, and park improvements. He stated that the Met Council has review authority and comment authority, so they may find that the City is out of conformity with their plans and adversely comment on a system improvement that the City would like. He stated that for the stick, the only case in his career where he witnessed the Met Council engage its enforcement authority imposing its will on a community, was the City of Lake Elmo and the I-94 corridor where the Met Council said that was a major metropolitan investment and the corridor should be developed with public services, including sewer. He stated that this case went to the Minnesota Supreme Court and the judgement was upheld for the jurisdiction of the Met Council to impose that system-wide decision. He stated that there has not been a similar imposition of the will of the Met Council as it relates to things like land use designation. He stated that the Met Council tries to stitch the communities together in terms of the review authority, but it is essentially uncharted waters in terms of how forcefully the Met Council may impose its broader policy decision on individual units of government.

Mayor Labadie explained that the Met Council could potentially withhold funds for road projects or other infrastructure improvements. She stated that this is what the City is up against and it either does what the Met Council says and try to be creative or they can potentially withhold money or infrastructure grants.

City Attorney Keane stated that he feels the Mixed Use policy conformity issue is a solid solution. Shorewood is a built-out community so any changes in land use will be redevelopment which is driven by land economics. He stated that he believes the Met Council is trying to be even handed across the one-hundred and five jurisdictions and he believes that, at a granular level, he does not see much of that happening in the City anytime soon.

Joe Huber, 19762 Waterford Court, stated that Shorewood is indeed a fine place to live and it is due to the volunteer efforts of the Council and Commissions. He stated that he would like to thank them for their services and also recognize and thank of the City staff for respecting their concerns in the decade he has lived in the City. He stated that he is here to ask the Council to stop any action to further medium- and high-density residential zoning for both commercial and residential properties. He stated that the testimony at the October 5, 2021 Planning Commission meeting demonstrated that Shorewood has no land truly viable for medium or high density development. He stated that the answer should be that Shorewood is built out. He noted that he understood that these are preliminary actions, but things could change overnight. He stated that these changes will have an impact on how landowners see the future and reiterated that these simple things be stopped tonight. He stated that one of the major political parties has concerns about the nature and governance of the regional and sewer planning council.

Tom Lingo, Garden Patch, 23445 Smithtown Road, stated that they have been in business for forty-two years and at this point in time there has not been enough land left that could be used for building high density housing. The City has twice taken parts of his property for City use. He stated only half of the land is now available because one-third of this parcel is covered in wetland. He stated that when all the setbacks are followed there would be room for about two houses and reviewed the setback and easements on his property. He stated that there is a culvert that was installed on his property to drain Studer Pond and the water coming from Mary Lake. He stated that now the City is demanding that they agree to a legal access on the south end of the culvert that can never be used for building or anything but surface storage. The City has left a very small piece of land for them to use and now they want more for the third time. He stated that the City needs to look for another piece of property for their housing because this is his piece of property and thinks it is outrageous that the City would take their property for a third time. He stated that this would be an undesirable place to live because of its proximity to County Road 19, the water table, surrounded by commercial businesses and would be a dangerous place to raise a family. He stated that this property should remain commercial and not be residential and asked again that the City not take his land for a third time.

Councilmember Siakel stated that the City does not take land and asked for clarification of what Mr. Lingo was referring to. City Engineer Budde stated that the City has negotiated a drainage and utility easement for the project which required an agreement with them for maintenance purposes.

Councilmember Siakel explained that she gets concerned when she hears that the 'City has taken things' because the City has not taken anything. Mr. Lingo stated that the City 'took the land' in the way that it is now restricted. He stated that the twenty-foot easement that runs over the culvert for the full length of his property cuts right through from the back of his property to the front. He explained that this means he cannot build anything permanent on there and has to have everything that can be moved so the City can come in and repair. He stated that if he wants to build a bigger building he cannot because he has to avoid all of that property. He stated that this means that housing also could not be put on there. He stated that he is happy with the culvert



and that it is helping Mary Lake, but he has to allow room that he cannot build so that they can come in at anytime if there are any problems with the culvert, with large equipment to fix it. He stated that because of the 20-foot easement there is a little strip of land along one side where he can build, but it is so narrow that it really is not useable. He stated that his understanding is as soon as the Comprehensive Plan amendments pass, he will not be allowed to make any changes to the property. He stated that he is allowed to stay in business, but cannot make any changes and if he sells it to someone, they also cannot make any changes. He stated that you cannot run a business without some change.

Bob Skinner, 19880 Waterford Court, distributed some information that was from the Planning Commission agenda packet and a photo he took from the Met Council website. The changes being proposed by the City is the creation of a new land use called Commercial Mixed Use. He stated that within the information he gave to the Council it states that fifty percent of the site is to be maintained as a commercial land use and residential use for forty percent of the site, with a minimum of fifteen units per acre and a maximum of thirty units per acre which is much more than the five units per acre that has been discussed in the presentations. He stated that there were twenty people from the neighborhood that attended the Planning Commission meeting. He noted that he would estimate that their neighborhood is currently about two units per acre and this would have fifteen to thirty units per acres that would border their property. If the Council's hands are tied, he may be able to live with a few stories, but not the four-seven story buildings that are depicted in the photo from the Met Council site.

Mayor Labadie asked if the photo that was presented was the one she referenced in her communication to Council. Planning Director Darling confirmed that this was the photo that she referenced in the staff report and had attached the same photo to the report. She noted that it is a photo of a development in Bloomington. She stated that she has spoken with the Planner that worked on the project and was told that it is upwards of sixty units per acre and is a horizontal Mixed Use development. She stated that the planner was unable to replicate how the Met Council got to twenty eight units per acre as listed on their website. He stated that he was unsure if they had included all of the land in the development but Bloomington's calculations are upwards of sixty units per acre.

Mayor Labadie stated that if the City went ahead with some sort of Mixed Use plan, it would not look anything like this photo. Planning Director Darling stated that she does not know what it would look like but what is shown in the photo is significantly more than the top end of what the City could do.

Gabriel Jabbour, 23500 and 23400 Smithtown Road, explained that one of his properties is the marina and the other is the dredging company. The marina is zoned residential with a recreational leisure overlay and the other property was zoned commercial. He stated that he bought the dredging company in order to preserve it in 2008. He stated that staff, residents and members of the Planning Commission and City Council have been very pleasant. He stated that he is concerned about secessions and the future of the land. He stated that he understands the City's position and noted that he has worked with the Met Council for the last thirty years on various issues and understands the difficulty in having a partnership with them. He stated that sometimes it ends up being a monologue from the Met Council rather than a dialogue. He stated that he had Excelsior run water to the land and feels that the planning was done by accident when the dredging company came in. He stated that he is interested to see what the City's plans and intentions are 'on purpose' now rather than by accident. He explained that there are access issues and residents do not want to see any traffic there. He stated that it is zoned commercial

and he is concerned if the existing dredging company decides that they no longer want to continue what purpose the land should have down the road. He stated that they are not in the position that it can just be in limbo and just hold on to it. He stated that he would encourage the City to take direction on the whole thing sooner rather than later so they can aim their compass in that direction as well. He noted that he is a strong proponent of life cycle housing and noted that when he is older he does not want to have to leave the community but be able to stay near his family and have the same lifestyle and just downsize to a nice place near the lake.

Mayor Labadie noted that she liked the description from Mr. Jabour that sometimes there is a monologue from the Met Council rather than a dialogue and reiterated that the City presented a plan to the Met Council that was rejected.

Councilmember Siakel explained that the original plan was to essentially do nothing which is what residents are asking for, but that was not good enough for the Met Council. They have now said the City has to add one-hundred fifty five units and additional density. She stated that, to her, they are discussing things that she views as never happening. She stated that this is something so far down the road and will never come to fruition and noted that no one on Council has ever talked about something like this ever being there. She stated that the City has even called in consultants to ensure that this is done correctly because it is important. She stated that she is willing to listen to what residents have to say, but she is stymied on the solution and a way to find a middle ground where the Council can satisfy what residents want, but also do what needs to be done.

Mayor Labadie stated that the solution that would have made everyone happy, has been rejected. She stated that what they must do to move forward will not make everyone happy, including some of the Council, because a decision needs to be made that is in the best interest of the whole community. She stated that the Council shares the concerns of the community with relation to traffic and they also like the quaintness of the City as it is. She stated that to do any kind of improvement to Highway 7, they will need approval from the State and if the funding gets yanked away, those kinds of improvements may never happen. She reiterated that the Council cannot vote on this issue tonight because a super-majority is needed. She thanked the residents for expressing their concerns in a very respectful manner.

**G. Variance to OHWL Setback and Impervious Surface Coverage**  
**5655 Merry Lane**

Planning Director Darling stated that this item is a request for two variances to allow a new concrete pad to be installed forty feet from the Ordinary Highway Water Level (OHWL) where 75 feet is required. She stated that this request will also require a point three percent increase in impervious surface coverage which results in a total of 64.8 percent coverage where 24 percent is allowed. This has been reviewed by both the Parks Commission at their August 10, 2021 meeting and the Planning Commission on October 5, 2021 who reviewed the two possible locations for the decontamination equipment. The Planning Commission recommended approval and noted that one nearby resident spoke and raised a concern about noise and suggested an alternative location for the equipment. She reviewed the current usage practices and location for the decontamination equipment and gave an overview of the proposal to alter the current landscape island in order for the equipment to be located there. She stated that following the concern about noise raised by a resident, staff went to the site and took noise readings and found that it is operating underneath the maximum levels allowed by the City and State. Staff and Planning Commission recommend approval of the two variances.

Joe Schneider, 21125 Christmas Lane, stated that they have been working closely with City staff on trying to solve a series of problems and this change is one element of the overall solution. He stated that they are in support of moving the decontamination unit out of the trailer in a parking stall and are very comfortable with this solution. The Planning Commission report indicated that every boat is decontaminated before it goes in the water and the reality is that a fraction of them are decontaminated before they go in the water, but noted that they are inspected. He stated that some boats are decontaminated upon exiting the water according to DNR protocols as well. He stated that they stop inspecting at 9:00 p.m. during the peak of the summer months. He stated that any noise that is generated will be during the daytime hours.

Councilmember Gorham asked for an overview of the two options that had been presented. Planning Director Darling gave an overview of the two alternative locations for placing the equipment. City Administrator Lerud stated that this is one of the first changes in a line of improvements that are planned to be made.

**Gorham moved, Labadie seconded, Adopting RESOLUTION NO. 21-126, “A Resolution Approving Variances to Allow a Concrete Pad to be Installed for Property Located at 5655 Merry Lane.” All in favor, motion passed.**

**8. ENGINEERING/PUBLIC WORKS**

**9. GENERAL/NEW BUSINESS**

**A. City Code Amendment for Commercial Animal Breeders  
Chapter 701 of City Code**

Planning Director Darling stated that on July 12, 2021 the Council adopted a four-month moratorium on dog breeding and directed staff to research the activity and advise if a change to the City Code was necessary. Staff reviewed regulations in a number of metro communities and found that generally, cities allow commercial dog breeders on rural properties or larger properties that are further from more intensely developed areas. The other cities also require a substantial setback for structures or enclosures to any property line that is adjacent to residential use. She noted that Shorewood is a built out community and does not have the larger rural areas where the impacts from this particular use can be accommodated. Based on this research, staff has proposed that the City maintain the ability for residents to own their dogs and sell puppies, but not increase the nuisance factor as would be likely with expanded numbers of dogs.

Councilmember Gorham asked what led the Council to discuss this issue and pass a moratorium. Planning Director Darling explained that staff had received a call from someone who was looking to begin a commercial dog breeding operation and wanted to know what the City standards were, which the City did not have. She stated that the City Administrator spoke with this individual to let them know that the issue would need to be studied to the need to create some standards for commercial dog breeding operations. She stated that the moratorium ends on November 9, 2021.

Councilmember Siakel asked if this recommendation was basically for a status quo, meaning that people can have two dogs, and with a permit can have four dogs. She stated that she is confused how commercial dog breeding fits into that scenario. She stated that she does not think the City should have commercial dog breeding. Planning Director Darling stated that allowing two dogs and four with a permit is exactly what the City currently allows.

Councilmember Siakel stated that breeders could potentially exceed four dogs if they have puppies. Planning Director Darling clarified that the ordinance sets the maximum amount of adult dogs that a breeder can own and an age where offspring are considered adults.

Mayor Labadie stated that she thinks the revisions were well thought out and add further restrictions without altering the existing parameters.

**Labadie moved, Gorham seconded, Adopting ORDINANCE 584, “An Ordinance Approving an Amendment to Shorewood City Code Chapter 701 (Animals).” All in favor, motion passed.**

Mayor Labadie noted a minor typographical error on the resolution.

**Labadie moved, Gorham seconded, Adopting RESOLUTION NO. 21-127, “A Resolution Approving the Publication of Ordinance 584 Regarding City Code Ordinance Amendments Related to Animal Breeders.” All in favor, motion requires Super Majority Vote (4/5) to Pass and will be continued to the next city council meeting for approval.**

## **10. STAFF AND COUNCIL REPORTS**

### **A. Administrator and Staff**

#### **1. 3rd Quarter 2021 General Fund Budget Report**

Finance Director Rigdon gave a brief overview of the General Fund Budget report as of the third quarter of 2021.

Councilmember Gorham confirmed that there did not appear to be any ‘red flags’ in the General Fund Budget. Finance Director Rigdon stated that there are not any and it is comparable with prior years.

#### **2. Investments 3<sup>rd</sup> Quarter 2021 Report**

Finance Director Rigdon stated that the City is complying with its policy and are basically using the Safety Liquidity and Yield (SLY) method where investments are made, in that order.

### **Other**

Public Works Director Brown stated earlier this year, based on drought conditions, the Minnesota Department of Health put out a mandate stating that watermain flushing was to be held off in order to conserve water. He explained that Shorewood traditionally does this in the spring and fall of the year and has not received any official notification that the decision has been reversed, so the City may not be doing watermain flushing unless the decision is reversed soon.

Mayor Labadie stated that there have been some residents that have contacted the City about this issue. She asked if it gets to the point where the City is unable to flush this fall that there be an explanation given in the newsletter and on the website for the residents.

City Engineer Budde updated the Council on the Enchanted Island force main project which has begun and noted it should be completed in about two weeks. The City has posted information on the website about the Strawberry Lane project regarding the upcoming open house which will be held on Wednesday, November 10, 2021. He stated that MnDot is working on completing a road safety audit for Highway 7.

City Attorney Keane explained that regarding the Comprehensive Plan amendment discussion, Mr. Lingo voluntarily provided the easement he referred to through a negotiations which was within his setback area so he could not have put a building in that area anyway. He stated that the Waterford discussion was especially interesting for any of the Council that was around in the 1990s when the whole center with the Holiday store was proposed to be a full service Byerly's store. He reminded the Council that land use changes and patterns come and go.

Councilmember Siakel stated that she thinks that is a point that is missing and understands wanting to be respectful of people, but does not know how to comment when the changes of what they are saying may happen is infinitesimal. She stated that she does not like it when people come and say the City 'took' their property because the City has never taken anyone's property. She stated that kind of thing needs to be checked so people are not left with a bad impression and it needs to be made clear that the City does not use eminent domain. She stated that if Mr. Lingo gave the easement to the City, nothing was 'taken' from him by the City.

City Attorney Keane explained that he just wanted the Council to understand the context of that situation.

**B. Mayor and City Council**

Councilmember Gorham stated that there is a 'buzzing' schoolboard election on November 2, 2021 and encouraged people to vote if they are in the Minnetonka school district.

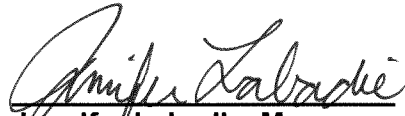
Mayor Labadie expressed her appreciation for everyone on the Council and staff and how well everyone works together.

**11. ADJOURN**

**Gorham moved, Siakel seconded, Adjourning the City Council Regular Meeting of October 25, 2021, at 9:45 P.M. All in favor, motion passed.**

**ATTEST:**

  
\_\_\_\_\_  
**Sandie Thone, City Clerk**

  
\_\_\_\_\_  
**Jennifer Labadie, Mayor**