

**SPECIAL WORKSESSION OF THE ANOKA CITY COUNCIL  
ANOKA CITY HALL  
CITY COUNCIL WORKSESSION ROOM  
APRIL 3, 2023**

**1. CALL TO ORDER**

Mayor Pro Tem Weaver called the special worksession meeting to order at 5:00 p.m.

**2. ROLL CALL**

Present at roll call: Mayor Rice (arrived at 5:20 p.m.), Councilmembers Scott, Skogquist, Weaver, and Wesp.

Staff present: City Manager Greg Lee; Community Development Director Doug Borglund; Assistant City Engineer Ben Nelson; Public Services Director Mark Anderson; Electric Utility Director Del Vancura; and City Attorney Scott Baumgartner.

Absent: None.

**3. COUNCIL BUSINESS and/or DISCUSSION ITEMS**

**3.1 Discussion; Ryan Companies Grocery Store Development at 7<sup>th</sup> Avenue and Bunker Lake Boulevard.**

Community Development Director Doug Borglund shared a staff report with background information stating Council is asked to continue discussion with Ryan Companies regarding associated development costs and the development agreement related to the City-owned property at 7<sup>th</sup> Avenue and Bunker Lake Boulevard. He shared cost impacts to date that included public improvements, CSAH 7<sup>th</sup> Avenue signal, and reduced land sale from Ryan Companies for removing the 1.34 acres for right-of-way that totaled \$2,944,716.19. He reviewed the DIP watermain elements in detail that totaled \$139,418 and said staff believes there could be a cost breakdown for this item that both parties would pay a percentage of the costs to reduce the cost impact to the City. He spoke about the stormwater piping and stormwater hold back totaling \$190,000 and said staff has been communicating with the Anoka County Engineer and said staff will have to work through this issue and be part of the solution, adding this will most likely shift the cost to the County and away from the City. He reviewed the stormwater ponding changes due to the east/west road of \$493,290 and said now that an infiltration test has been completed the site does infiltrate appropriately so that additional cost can be eliminated. He spoke about CSAH 7 signal of \$759,109 and said this figure was the amount the City paid Andover and the amount includes the City's fair share of the signalized intersection improvements and the bituminous trail on the west side of 7<sup>th</sup> Avenue from Bunker Lake Boulevard to the signal and would need to be considered. Mr. Borglund outlined the reduced

land sale cost of \$190,476 and said the City held the \$2,000,000 land cost has been held for 2.5 years through today then noted the private service drive was now becoming a public drive saving Ryan Companies \$520,000.

Patrick Daly, Ryan Companies, said the relationship they have had with the City is a healthy one over the last few years and if anything from this process has changed that relationship it was only because of the short timeframe and assured the Council they did the best they could. He said everyone agreed the development agreement did not translate well to the good relationship but noted agreements were supposed to be cold and detailed and that he wanted to have a discussion first to come to agreement. He spoke about all the cost pressures with this project and the need to come to a conclusion and create something the community feels good about while trying to find a fair balance.

Councilmember Weaver invited Mr. Daly to share what Ryan Companies was willing to do to come to agreement. City Attorney Scott Baumgartner noted he had spoken with Ryan Companies' attorney regarding the redlined agreement and felt the proposed changes needed to wait until the cost shift changes have been determined.

Mr. Daly said he was aware of a different plan proposed for the watermain loop and noted the City will have the benefit of hydrants, irrigation, and other elements. He said if they would have done the watermain as part of the project they would have used PVC which is more expensive and asked if the City would explore other material to significantly reduce the cost.

Mr. Baumgartner confirmed the watermain was a public improvement under the development agreement which is turned back to the City for future maintenance, etc., and that the City decides the materials used.

Mr. Borglund asked about adding pipe. Assistant City Engineer Nelson explained one connection for the watermain was tied into 7<sup>th</sup> Avenue and then we added 155 feet to go to Parkview Lane as well as the location to the new watermain north behind the building which was an additional \$20,000.

Councilmember Weaver asked if using PVC was acceptable and not from 7<sup>th</sup> Avenue to Parkview Lane. Mr. Nelson said PVC was acceptable but not standard with what we have everywhere else in the City and would probably be \$20-\$30 per foot.

Mr. Daly explained the benefit to the City and suggested returning to this topic later in the agenda so he could better understand the City's concerns.

Mr. Borglund explained further the watermain in a private service drive area was for fire protection and other systems and since the alley has been moved to a public road that \$20,000 cost has been assigned back to the City. He said the

watermain runs from 7<sup>th</sup> Avenue to Parkview Lane so there is an extension from the original drive to Parkview Lane and staff believed there should be a percentage of cost sharing between both parties but spoke about the material differences in PVC versus DIP that Ryan Companies would like us to consider.

Councilmember Skogquist spoke about the property land in Andover and how they negotiated with the utility for access in the area and having everything else dealt with by the developer for the public road, adding public improvements are built by the developer and deeded to the City. He said the City was selling land for \$2,000,000 and then a signal was added then noted the change from private to public access went from the signal being paid for to the City being in the hole \$800,000 and said that was difficult to accept especially when a similar situation happened in Andover right across the street. He said there could be other things to negotiate but noted this is a stark contrast from one city to another and added public roads are not built to only serve a private developer.

Mr. Daly said Ryan Companies has done a number of projects in other communities and did not profess to know the intricacies of each project.

Mr. Borglund referred to the stormwater piping and stormwater holdback system, stating there is no easement and that staff is working with the County who will need to be part of the solution, adding the cost shift would go to the County anyway and be a reduction to the City.

Mayor Rice said that should not be a surprise to the County. Mr. Lee added this cost should have never been considered to be a City cost in the beginning as it would have been the County working with the developer anyway and never be the City's cost.

Mr. Daly said this item could have been managed better and felt it could be addressed, stating it was not intentional to shift costs to the City and apologized this was section was not connected in the first place.

Mr. Lee shared an example of where this has happened before resulting in discharging water on City property which was not legal and said when Ryan Companies offered to do it as part of the project they determined the area would need to be piped on the east side of 7<sup>th</sup> Avenue and controlled, like a holding pipe, and surcharged, before entering into the regional system, adding the County is in no position to negotiate with us on this point.

Mr. Borglund outlined the stormwater ponding changes due to the east/west road and explained that since an infiltration test has been completed the \$493,290 cost could be eliminated as it met additional capacity.

Mr. Lee explained when Ryan Companies planned the project they estimated .8 inches rain per hour infiltration and said it actually infiltrates much more and

taking out the northerly pond decreases the capacity of the site as well as change the slopes and retaining walls to maximize the ponds, resulting in .6 inches per hour.

Mr. Daly spoke about the need to re-submit the permit with the watershed to correct this change.

Mayor Rice asked if quality pond construction will likely be infiltrated more than needed. Mr. Lee cautioned it might do too much, adding some standing water is needed.

Mr. Daly spoke about the reduced land sale point and said Ryan Companies will hold to the \$2 million land purchase even though the site is less acreage. He said they can deed that part back through the final plat once final acreage is determined but confirmed Ryan will remain at the original \$2 million purchase price.

Councilmember Weaver said that was an important figure in this discussion.

Mr. Borglund spoke about the traffic signal cost of \$759,109. Mr. Daly said this was difficult because they are not aligned with how this will lay out. He said he recognized the signal was included in the development agreement but the cost was coming in late in the process and they based their project on the \$650,000 cost three years ago. He said they assumed the signal would connect into a private property and there would be a cost share with no connection to Parkview but conditions have changed and while he felt it should not all be on the City, they hoped to see a cost share between the parties. Mr. Daly spoke about the amount of traffic that will go through this signal which could vary on all sides but offered a cost sharing of 50% of this cost.

Mr. Baumgartner noted the only change to the signal is the connection to the private drive and how that changes the cost share. Mr. Daly said the reason was because of a benefit of a public street, adding they have cost pressures and while that is not the City's fault he recognized the City has cost pressures too. He said we just want to deliver on this vision and it is quickly moving in the wrong direction for Ryan Companies with other costs such as transformers and that they are doing their best to get this project they can deliver and is not out of line of with the changing conditions. He said the signal connecting to right-of-way that is private property should bear the full cost but felt there should be a fair balance and that his offer was starting somewhere.

Mayor Rice asked if there is a plan for how many vehicles will enter the parking lot daily. Mr. Daly said there are formulas for those estimations and other components such as the municipal liquor store which could all end up affecting the final count estimate.

Councilmember Weaver asked if there was not a signal in place for the residents to use to get out would Ryan Companies build a store, adding there is no ease of access without a signal. Mr. Daly said most traffic is driven by other elements but agreed the anchor tenant wants to have ease of access and if there is no access it would be problematic and while not necessarily a reason it would be a condition.

Councilmember Weaver said it will be negligible impact to the neighborhood having to use the signal.

Mayor Rice said there should be some formula for use and agreed the signal will heavily favor the development. Mr. Lee said there are traffic formulas that come quite close based on use.

Councilmember Weaver said the signal also gives the neighborhood easier access to the liquor store and grocery store.

Mr. Daly said the new cost estimate was \$759,109 and they had included \$650,000. Mr. Nelson said that estimate was given before bidding and the new estimate was the cost share after engineering costs.

Councilmember Scott said the proposed total reduces the overall burden to more than half or \$139,000 cost to the City. Councilmember Weaver said he would support that.

Mayor Rice noted the DIP watermain would be a better product than what we would install and asked if we are compensating for the spec difference or just distance and wouldn't this be their cost because its now a public street, adding it is not Ryan Companies' fault.

Councilmember Weaver asked if Ryan Companies uses PVC on the private section can we tie with DIP material on the public section. Mr. Lee said that could be done for \$20,000 plus the cost differential, adding the City should pay the differential of \$10/foot or approximately \$7,000.

Mr. Daly said it appeared both sides were agreed in principle and showed further the cost difference onscreen that will be calculated. He said the almost \$500,000 decrease for infiltration was fantastic news and asked if it could be removed until the test occurs, adding there has been a change in scope that has to be updated and the expectation is that Ryan Companies is responsible for the linear piece, City for the additional piece, and the incremental cost of the update. Mr. Baumgartner said he would work on proposed language to cover that portion but said the concern was the stormwater ponds as the \$190,000 is dependent on the pond and the risk of waiting for the County to respond and if the City is willing to move forward without that answer.

Councilmember Weaver noted this point will likely come up during the jail facility discussion.

Mayor Rice said the signal estimate of \$759,109 is still a valid number and asked if Ryan Companies would have accepted it but for the road going all the way through, adding the cost is the cost, so us going back to \$650,000 is saying that is 16.8% lower than the actual cost and noted there won't be that many City trips for that percentage which is the rationale for our position.

Councilmember Weaver said if the signal costs more then they pay more and we leave the amount as it is. Mayor Rice said he was willing to do a study on the costs and if greater the City would pay the greater portion.

Mr. Lee asked about timing, stating the agreement was on the agenda for approval this evening or should it be delayed for the next regular meeting. Mr. Daly said he would like to go to Council tonight and hoped everyone felt comfortable enough to move forward knowing both sides felt balanced and that while the \$650,000 signal cost was a lot to absorb he felt they could figure it out and accept the agreement in order to finalize something.

Councilmember Weaver asked if Mr. Baumgartner could do the agreement subject to agreed-upon figures in the spirit of the discussion. Mr. Baumgartner noted there were other items to discuss such as monument sign location.

Mr. Daly said it was not their objective to place the signage anywhere they just wanted some input and to soften language of some items but nothing would be monetary-related.

Mayor Rice said City code stated two monuments and Ryan Companies was asking for three and would support that.

Mayor Rice and Councilmember Skogquist left the meeting at 6:12 p.m.

Mr. Baumgartner spoke about confirming the lease for the liquor store as the current language was less than a guaranteed lease and instead a right of first refusal and would like to revise. Mr. Daly said they again would like to soften the language and stated they wanted the municipal store to remain but just did not know the City's needs, expectations, deliverables, terms, etc., He said they wanted the City to feel enough control and supported the agreement go forward this evening for approval with the attorneys to discuss final details.

Mr. Baumgartner said he just needs to ensure he has confirmed in the agreement what the Council wants with the authorization to change items if needed.

Councilmember Weaver suggested Council call a special meeting for April 10 at 5:00 p.m. to complete these two items rather than this evening.

Councilmember Wesp said he wanted to see what Ryan Companies would do and how the development would change this neighborhood and understood while they wanted to fast track approvals for construction the process happened quickly. He said while he was pleased the changes were being agreed upon, he'd prefer the Council have a chance to review the final agreement as well as the residents before formal approval. He said while it is not the neighborhood's decision their input is important. He said we have agreed on the important points, including the signal cost and that the neighbors on the west end will receive berming and trees and the plan allows for the project to flow better overall.

Councilmember Weaver said it is important that the resulting project feels like a win for everyone and it wasn't before. Mr. Daly said he was sorry the City felt that way.

Councilmember Wesp stated we have come to an agreement and felt we should move forward.

Mr. Baumgartner asked Mr. Daly to share all the monetary changes with Ryan Companies' attorney for inclusion in the updated draft for everyone's review. Mr. Daly asked the City to respond to the softer language and include exhibits and they will send for response.

Mr. Lee said we need to await the County's response to the drainage as this will not be a private entity. Mr. Nelson suggested Ryan Companies include this with the County's review.

#### **UPDATES/REPORTS/COUNCIL SUGGESTIONS FOR TENTATIVE FUTURE AGENDA ITEMS**

None.

#### **4. ADJOURNMENT**

Motion by Councilmember Scott, seconded by Councilmember Wesp to adjourn the Special Worksession at 6:22 p.m. Motion carried.

Submitted by: Cathy Sorensen, *TimeSaver Off Site Secretarial, Inc.*

Approval Attestation:

Amy T. Oehlers, City Clerk