

**SPECIAL WORKSESSION OF THE ANOKA CITY COUNCIL
ANOKA CITY HALL
CITY COUNCIL WORKSESSION ROOM
MAY 15, 2023**

1. CALL TO ORDER

Mayor Rice called the Special Worksession meeting to order at 6:15 p.m.

2. ROLL CALL

Present at roll call: Mayor Rice, Councilmembers Scott, Skogquist, Weaver, and Wesp.

Staff present: City Manager Greg Lee; Community Development Director Doug Borglund; Assistant City Engineer Ben Nelson; Senior City Planner Clark Palmer; and City Attorney Scott Baumgartner.

Absent: None.

3. COUNCIL BUSINESS and/or DISCUSSION ITEMS

3.1 Discussion; Development North and West of 7th Avenue and Highway 116 – Grocery Store Development.

Community Development Director Doug Borglund shared a staff report with background information regarding the proposed grocery store development at 7th Avenue and Highway 116 and stated Ryan Companies had an update to share.

Patrick Daly, Ryan Companies, shared information regarding recent timing for the proposed grocery store project, stating that due to the current economy, interest rates, and commercial real estate vulnerability and news surrounding retail and other sectors being unsettling that their grocery anchor would be delaying the project for 12-24 months. He said Ryan's goal was to make this a 12-month delay but noted the current contract with the City does not allow for that possibility and if unable to renegotiate Ryan Companies would need to drop the contract altogether. He said it would be a shame to waste all the work to date as the project seems to work with the exception of the immediate timing then asked if the project would still be of interest and value to the community a year from now because if so they would like to continue to work and submit the non-refundable earnest money as outlined in the purchase agreement. He shared their desire to work with staff to finalize the remaining project documents and include an amendment to extend for 12 months if an extension was unavoidable, adding this is a huge disappointment to everyone as there has been a lot of work on this project and that they hoped the work would still get put to use. Mr. Daly said while this was not a desired outcome it will be less material when construction begins and the grocery store eventually opens.

Councilmember Skogquist confirmed the current contract included as built and asked about the timeline and if not met was the contract null and void. Mr. Borglund explained this was the third amendment to the purchase agreement and that the due diligence period goes through May 18, 2023, so there needs to be an extension or renegotiated agreement.

Mr. Daly noted the contract allows for two additional 90-day extensions or six months in total.

Councilmember Scott asked about the economic metrics Mr. Daly's tenant was looking to use as they contemplated moving forward. Mr. Daly responded they had been given limited information but speculated budgets have been made and with the current economy it is becoming more difficult to hold on the projections and expenditures. He noted Ryan Companies had made significant investments as well as the anchor tenants and as budgets change anticipated cuts need to be made.

Councilmember Weaver confirmed the two 90-day renewal periods and what happens if the wants to start over after six months. He said costs will only continue to increase due to inflation and land prices and asked if the City is legally bound to move forward as we have already held the purchase price for over two years. City Attorney Scott Baumgartner explained the purchase agreement does allow for two extended periods for due diligence with the original earnest money of \$25,000 becoming nonrefundable and if extended an additional amount of earnest money would be required. He said the amendments would push out the timetable but does not change the due diligence periods.

Councilmember Wesp asked when the initial purchase agreement was signed and if it included compensation for the traffic signal of \$2,700,000. Mr. Borglund said the purchase agreement was signed in February 2020.

Mr. Daly shared they were on the third amendment which was done approximately 12 months ago. Mr. Borglund confirmed the amendment was signed May 2022.

Councilmember Wesp said the City needed to extend the agreement during the pandemic but noted the value of properties across 7th Avenue in Andover have increased and confirmed Ryan Companies can legally extend 90 days and exercise the earnest money.

Mr. Daly said if they were to extend then close, they would need to start construction in November 2023, and if not, the City would have the right to purchase back and added they did not anticipate construction occurring yet this year.

Mr. Baumgartner confirmed the current agreement states construction must start November 2023 and be substantially completed March 2025.

Councilmember Wesp said the property has increased significantly over time and that it might be worthwhile to see what this property could be worth if we didn't move forward at this time.

Mayor Rice said he did not want to see Ryan Companies have to exercise options after all this time and suggested waiting another 180 days to see if they want to continue to work and pay the additional earnest money as we wait. Mr. Daly responded that with the timing of the project being unclear it is difficult to make decisions, adding they know they will be unable to start construction in six months and with the option for the City to purchase the land back puts them in a difficult position. He said he understands pricing can be different and offered to revisit that component if needed to but asked if the City still wanted a grocer-anchor project and if so, hope he hoped they could come to an agreement.

Councilmember Skogquist said he wanted to see this project work but based on how things have changed we owe it to the residents to see what other options the property could bring. He said he did not want to waste Ryan Companies resources and that the City should explore other options and if nothing comes to fruition then start again.

Councilmember Weaver said the City gets only one chance to do this right and would be willing to wait as property values will not go down in value, adding we may have other options with the signal in place and that traffic challenges have already been addressed. He said he would be willing to wait and if so welcome back Ryan Companies.

Councilmember Wesp stated he lived at 4252 Parkview Lane and as the neighborhood evolved the Council made a decision in 2010 to seek a grocer as the best tenant but that was before the current neighborhood was in place. He said he supported the east/west road and landscaping enhancements and this delay would allow us to look at other options for traffic flow and provide a reset. He thanked Ryan Companies for their work but said he would like to see the Council reevaluate their options.

Councilmember Scott agreed a reset would not cost anything and noted the cost of debt will only continue to increase during this difficult macro environment and supported waiting and hopefully returning later.

Mayor Rice said the anchor tenant is assuming they have been falling off as prices rise but added people still needed grocers during both good and bad economies.

Mr. Daly said they did not want to cancel but just adjust the timing and said it would be unfortunate to see three years of work go away and asked if something

else could be considered during this period. He offered to review the current purchase price if that was a concern, adding it was a condition of Ryan Companies to carry out what the community wanted which was a 50,000-square foot grocer. He said things have occurred outside of everyone's control and thanked the Council for their time and asked if it would be appropriate to review and continue this conversation.

Councilmember Weaver said with the May 23 deadline there is some flexibility and suggested reconvening if necessary, then commented that development includes risk/reward and that currently we were seeing the risk.

Mr. Baumgartner clarified the due diligence deadline was May 18, 2023, and that Ryan Companies has to provide notice to the City prior to the expiration date as to whether they want to do an additional 90-day which would include non-refundable \$25,000 earnest money.

Councilmember Scott suggested delaying for two months. Mr. Daly requested a 30-day extension for discussion purposes instead.

Mr. Baumgartner said any extension would require a fourth amendment and change 30 days from May 18 and suggested a special meeting be scheduled prior to May 18 for formal consideration.

Councilmember Wesp said there have been many concessions already regarding amendments but noted the pandemic was not in anyone's control and that this is not in Ryan Companies control either but said the City has moved forward in good faith and that there is a risk/reward for everyone. Mr. Daly asked for 30 days to make a proposal for the Council to consider.

Mr. Lee said staff could post for a special meeting for 7:00 a.m. on May 18, 2023, and meet the required posting notice.

Mr. Daly said staff could draft an amendment to make a formal proposal on how to proceed. Mr. Baumgartner said it would be a simple amendment to continue for 30 days after May 18, 2023, taking into account any holidays.

Councilmember Skogquist said he was supportive of this direction but clarified if no conclusion can be made, he would support the City explore other options going forward.

Councilmember Wesp noted he will not be in attendance at the June 20 meeting.

Council consensus was to post for a special meeting to be held on May 18, 2023, at 7:00 a.m. to consider the development north and west of 7th Avenue and Highway 116 – Grocery Store Development.

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

None.

4. ADJOURNMENT

Motion by Councilmember Skogquist, seconded by Councilmember Scott to adjourn the worksession at 6:55 p.m. Motion carried.

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

Approval Attestation:

Amy T. Oehlers, City Clerk