

**City of Mantorville
City Council Minutes
May 24, 2021**

1. Call to Order

Mayor Bradford called the meeting to order at 6:30 p.m.

Present: Mayor Chuck Bradford
Councilmembers Lyle Hoaglund, Bill Kinney, and Kent Keller

Absent: Councilmember Don Hofstad (excused absence)

Others Present: City Clerk-Treasurer Shirley Buecksler
Assistant City Clerk Shelly Jensen-Germundson
Public Works Joe Adams
Public Works Ryan Jech
City Attorney Dave Anderson (via Zoom)

2. Pledge of Allegiance

The Pledge of Allegiance was recited.

3. Additions/Deletions to Agenda

Council adopted the agenda, as presented.

4. Consent Agenda

Motion was made by Councilmember Kinney and seconded by Councilmember Keller to approve the following items on the Consent Agenda, as presented:

- A. City Council Meeting Minutes of May 10, 2021
- B. Warrant List in the Amount of \$21,415.43

Vote: 4 ayes / 0 nays. Motion carried.

5. Public Concerns

- Jerrod Kappers, 811 East Street addressed the Council regarding a retaining wall he wants to install in front of his house. Mr. Kappers provided photos of the project for Council and described the work involved. He plans to raise the yard in front of the house and install a retaining wall, which will provide a level service on top (behind the retaining wall), as well as a level surface below, in front of the wall to the street. Mr. Kappers said City Engineer Tim Hruska reviewed the plans and said the wall needs to

be between 5 ½ and 6 feet tall. Trees would be removed from in front of the house. There is a gas line and municipal water line, but Mr. Kappers said he is not digging downwards, but into the bank.

Councilmember Keller asked the reason for the cut-in? Mr. Kappers said it will allow him to stack the stones and may also aid in any future sidewalk plans.

Councilmember Keller asked what the finish is on the left side of the lawn? Mr. Kappers said he is looking to grade it to a slope. The neighbor considers the area unusable, he said.

Councilmember Hoaglund asked Mr. Kappers if the neighbor is in agreement with the project? Mr. Kappers said yes.

Mr. Kappers said his timeline is to have equipment delivered between June 4 – 8, with material removed and rocks installed by June 15.

Mayor Bradford said, as long as you're inside the easement, we are comfortable with the plans. Mr. Kappers said he will stay within the 33 ½ foot requirement.

Councilmember Keller said he appreciates Mr. Kappers keeping Council informed. He added that the transition of the grade should be on your property and not on your neighbor's property and you maintain it how you want to. The other option is to take your wall back.

Mayor Bradford reminded Mr. Kappers that, whatever you do to the property, you cannot make flooding potentially worse for your neighbors.

Council thanked Mr. Kappers for keeping the Council and the City in the loop and wished him luck with is project.

6. Old/New Business

A. Community Relations Presentation: Saloon Request for Stage Coach Days

Koreen Seim, Owner of the Saloon, presented details for Stage Coach Days, scheduled for June 25 – 27. She requested to block off part of 5th Street and put a tent in the street, as well as in the Saloon parking lot.

Motion was made by Councilmember Hoaglund and seconded by Councilmember Kinney to allow half of the block of 5th Street to be closed Friday, Saturday and Sunday, June 25, 26 and 27, for Stage Coach Days activities, contingent on agreement from the County Seat.

Vote: 4 ayes / 0 nays. Motion carried.

B. 508 Clay Street, Lot Split – Continued from May 10, 2021

Councilmember Hoaglund recused himself from voting on this item.

City Attorney Anderson provided an overview of the applications for the lot split and variances. The lot is not currently in compliance with City ordinance because there are two principal structures. At some point, the accessory structure turned into a residential structure. Only one residential structure can be on a parcel. The first application is for a lot split. The only problem is the size of the lot and the rear setbacks. To make the lot split work, the applicants also applied for variances for one lot to be smaller than the required minimum lot size and for both lots to have rear setbacks that are less than the required minimum. It's up to the City Council whether it desires to approve or not. The documents that the City Attorney put together provide the findings that there are practical difficulties, and the facts are not undoubtedly supportive of such findings. The approvals also require utility, parking, and access easements to be recorded. There is no need for any other Public Hearings on this item because the Council held the requisite hearings at the last meeting before tabling its decisions on the applications. If Council decides to approve the lot split, resolutions were included in the Council's packet. If you decide to deny, Council should direct Staff to bring back resolutions of denial at the next meeting.

Mayor Bradford asked if there are any other options to consider in this complex situation? Could a variance be granted to allow two primary residences on a single property?

Attorney Anderson said no. There is prohibition in State law regarding use variances. Per Minnesota Statute 462.357, Cities cannot approve variances for uses in a manner that is not allowed. State law precludes and prohibits it.

Mayor Bradford asked if there is anything we have not considered?

Attorney Anderson said there are no other options and, if the applications are denied, the owners would need to come into compliance. The building evolved into something not allowed under zoning code. There is a very limited set of options.

Councilmember Hoaglund asked what would happen if we connect the buildings (currently 20 feet apart) and call it a duplex?

Attorney Anderson said it could fit ordinance and building code that may work, but a review would be required to determine compliance. Attorney Anderson was unable to answer if it's workable with zoning code but it's an interesting question. Cami Reber may have brought that up previously in a phone conversation but it wasn't pursued, possibly for some reason that made it unworkable.

Councilmember Keller said I think it was the economic situation. Do they have to be connected?

Attorney Anderson said the way to answer the option of creating two structures into one is to prepare a simple proposal and submitting to City Staff to determine whether it 1) meets zoning requirements and 2) meets building permit requirements.

Mayor Bradford said one thing to look at is land utilization and if we still have 75% of green space around structures. A variance could work but the hardship clause may be hard to prove. This could be a plan B.

Council thanked Attorney Anderson for his time. Attorney Anderson left the meeting.

Mayor Bradford said Resolutions 2021-09 and 2021-10 will need to be pulled off the table for consideration. Options are to adopt the resolutions, reject them, or retable. Motion was made by Councilmember Kinney and seconded by Councilmember Keller to pull Resolutions 2021-09 and 2021-10 from the table.

Vote: 3 ayes / 0 nays. Motion carried.

Councilmembers Kinney and Keller said they were satisfied with the City Attorney's comments.

Councilmember Keller said he visited the property and it would be messy to split it because they share a boardwalk and a parking lot. Councilmember Keller moved to table this item. Motion failed for lack of a second.

Mayor Bradford said there must be a need in order to table it. Councilmember Keller said when he was there, it looked like the most practical solution was the lot split. But now he thinks the owner needs time to consider making it into a duplex.

Mayor Bradford said there are three options:

- Pass the two resolutions, as written, to approve the lot split.
- Deny and come back with resolutions of denial.
- Look at the option of converting two buildings into one. We would need answers on green space and other potential non-compliant issues.

Councilmember Kinney moved to adopt Resolutions 2021-09 and 2021-10. Motion failed for lack of a second.

Mayor Bradford asked Councilmember Keller to bring back his original motion.

Councilmember Keller moved to table this item for further consideration of converting the two buildings located at 508 Clay Street into one duplex. Mayor Bradford seconded the motion.

Vote: 2 ayes / 1 nay – Councilmember Kinney voted nay. With only 3 voting members, Mayor Bradford said it is the Chair's discretion that this motion passed on a 2/1 vote. Motion carried.

C. Marigold Days: Request to Waive Fee for Fireworks Display

Motion was made by Councilmember Hoaglund and seconded by Councilmember Kinney to waive the fee for the Fireworks Display Permit for Marigold Days.

Vote: 4 ayes / 0 nays. Motion carried.

D. Amendment to Schedule of Meeting Dates

Motion was made by Councilmember Keller and seconded by Councilmember Hoaglund to approve the amended Schedule of Meeting Dates, as presented, which includes the addition of holidays on January 1, 2021 (New Year's Day) and November 11, 2021 (Veteran's Day).

Vote: 4 ayes / 0 nays. Motion carried.

E. Office Cleaning Service

Motion was made by Councilmember Kinney and seconded by Councilmember Hoaglund to approve the hiring of Olivia Germundson at \$25.00 per week for cleaning of the City Offices, Council Chambers, and restroom.

Vote: 4 ayes / 0 nays. Motion carried.

7. Reports

A. Public Works Report

- Joe Adams said Public Works Staff has been mowing and getting caught up but more rain is coming.
- Council discussed opening an Amazon business account for purchases. Mayor Bradford said any purchases over \$250.00, as well as capital expenditures, require Council approval. Councilmember Hoaglund recommended that purchases be made from local vendors, whenever possible.

Motion was made by Councilmember Keller and seconded by Councilmember Hoaglund to authorize Adams to set up an Amazon business account for the City.

Vote: 4 ayes / 0 nays. Motion carried.

A. City Clerk Report

- Shirley Buecksler thanked everyone for their patience during her first few weeks here.
- Buecksler attended a virtual meeting this morning with David Maeda, Director of Elections for the Minnesota Secretary of State's Office, and Andy Lokken, Director of Elections for Dakota County. This meeting was the State Review of Ward 2 Precinct 2 for the City of West St. Paul, which Buecksler had promised to attend,

since there is no one else at the City of West St. Paul with elections knowledge from the 2020 Elections. The review went well.

- The City has received several inquiries about the lot at 408 West Street, which was a tax forfeiture property and currently up for sale by Dodge County. The minimum selling price with the County is \$19,300.00. However, there are special assessment fees of \$24,902.00 for the house demo and \$3,890.59 for cleanup charges (total special assessment charges are \$28,792.59), which the City of Mantorville paid at that time. One potential buyer asked if the City would be willing to waive these special assessment fees.

Buecksler spoke with Attorney Anderson prior to tonight's meeting who said the City's right to reassess for the costs incurred in removing a hazardous building falls under Minnesota Statute 435.23, which allows the City to reassess using the process outlined in Minnesota Statute 429.071, Subd. 4. Attorney Anderson stated that he didn't think the Council can waive that right in a non-contractual setting, so his suggestion was to inform any interested buyers that the City has a statutory right to reassess and cannot make any commitments regarding whether it might choose to do so, if and when the property goes back into private ownership.

Minnesota Statute reads:

435.23 Reassess Tax-Forfeited Land Back in Private Ownership

Any municipality, political subdivision, or other public authority may make a reassessment or new assessment pursuant to Section 429.071, Subd. 4, notwithstanding that the original assessment may have been made pursuant to other general law or special law.

429.071 Supplemental Assessments; Reassessment, Subd 4. Reassessment, Tax-Forfeited Land

When a parcel of tax-forfeited land is returned to private ownership and the parcel is benefited by an improvement for which special assessments were canceled because of the forfeiture, the municipality that made the improvement may upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to the parcel in an amount equal to the amount remaining unpaid on the original assessment.

Councilmember Keller suggested that this be left to the County to adjust the cost of the property to where a buyer can afford the assessment and the remainder would go to the County.

Mayor Bradford said potential buyers could bring a proposal to the City Council. He stated that he would prefer to recoup some of the City's expenses.

- Reminder that City Offices will be closed on Monday, May 31, 2021, in observance of the Memorial Day Holiday.

- Reminder that City Hall office hours will change for the summer. Between Memorial Day and Labor Day, City Offices will be open Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Fridays from 8:00 a.m. to Noon.

B. Consultant Report

Nothing to report.

C. Committee Report

- 1) Chamber – Graduate photos honoring 2021 high school graduates will be posted in windows downtown. Stage Coach Days is coming up soon.
- 2) Economic Development Authority
- 3) Finance/Budget
- 4) Fire Department
- 5) Infrastructure
- 6) Kasson Mantorville Joint Powers
- 7) Mantorville Restoration Association – Greek Revival House is almost done and will have an Open House. Ordering brass plaques with information for tourists on each of the six buildings owned by the MRA. The plaque will include the build date, use, and history for tourist information, as well as QR codes to track visitor numbers.
- 8) Park and Recreation Board – haven't met since the last Council meeting.
- 9) Personnel
- 10) Relief
- 11) Township

D. Councilmember Report

Nothing to report.

E. Mayor's Report

- As we are heading into summer, Mayor Bradford wanted to remind everyone that a few years ago part of the cliff eroded into the river. Do not jump off of those cliffs. There is rock just below the surface of the water, as well. This area is more dangerous than in the past.
- Mayor Bradford talked with one individual doing a development non-contiguous to the current Mantorville border into Mantorville Township. This could be an extension of the expansion corridor. It will need City Council approval.
 - Councilmember Hoaglund asked about the Planning Committee. He said we should meet again and look at Planning and Zoning and the Land Use Plan. He said it hasn't been looked at since 2012.
 - Mayor Bradford said we used to have a Planning & Zoning Commission. We had some resignations and it was hard to fill seats, so the City Council at that time pulled that activity into Council. We could either reinstate the Planning & Zoning Commission or be more active within our Council meetings and be more active on the planning and zoning issue.

- Councilmember Keller said he believes the Planning & Zoning Commission, in the past, would get overruled by Council, so they would become discouraged. The ultimate authority is Council.
- Mayor Bradford said it's similar to MRA. The majority of the time, we go with their recommendation, but the Council has the right to go another direction. In the past, two Councilmembers were on the five-member board for Planning & Zoning.

8. Executive Session

There was no Executive Session.

9. Adjourn

Motion was made by Councilmember Hoaglund and seconded by Councilmember Kinney to adjourn the meeting at 7:46 p.m.

Vote: 4 ayes / 0 nays. Meeting adjourned.

Respectfully Submitted,



Shirley R. Bueckler
City Clerk-Treasurer