

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JANUARY 13, 2020 - 7:00 P.M. - 8150 BARBARA AVENUE.**

1. CALL TO ORDER:

The City Council of Inver Grove Heights met in regular session on Monday, January 13, 2020, in the City Council Chambers. The Pledge of Allegiance was recited. Mayor Tourville called the meeting to order at 7:00 p.m.

2. ROLL CALL:

Present were: Council Members Piekarski Krech, Bartholomew, Perry, and Dietrich; City Administrator Lynch, City Attorney Kuntz, Community Development Director Rand, Public Works Director Thureen, City Clerk Kiernan, Finance Director Hove, Police Commander Haugland, City Planner Hunting, and City Engineer Kaldunski.

3. PRESENTATIONS:

Introduction of the Finance Director, Amy Hove.

Introduction of the City Clerk, Rebecca (Becky) Kiernan.

City Administrator Joe Lynch introduced new Finance Director Amy Hove stating she is from Red Wing, Minnesota and holds a Bachelor's Degree from Luther College. She has over 20 years of experience in Government Finance. Her most recent position was as Finance Director in the City of Lake City, Minnesota, and prior to that was a Finance Controller for Goodhue County. He stated with both those positions she was responsible for audit and financial statement preparation, investments, operating capital budget, debt management, and supervised and coordinated all property tax and Election activities.

Finance Director Amy Hove introduced herself and stated she is glad to be here and that it has been a great beginning to her second week. The Auditors were in to do preliminary work today, she is learning a lot and excited to be here.

City Administrator Lynch introduced new City Clerk Rebecca (Becky) Kiernan stating she comes to the city with 19 years of local Government experience. For six years she worked for Dakota County Elections, worked four years for the City of Fridley in the City Clerk's office, and has more than nine years experience working for the City of Lakeville in both the City Clerk's office and the Engineering Department. He stated she has many hobbies including stained glass projects, crocheting, knitting, is an avid reader, snow shoes, snowmobiling, four wheeling, and spending time with her Grandson.

Rebecca Kiernan introduced herself stating she has learned a lot in the last month she has been here and enjoys being here.

4. CONSENT AGENDA:

- A.
 - i. Minutes from the November 25, 2019 Regular Council Meeting.
 - ii. Minutes from the December 2, 2019 Work Session Meeting.
 - iii. Minutes from the December 9, 2019 Regular Council Meeting.
- B. Disbursements for Period Ending January 8, 2020. **Resolution 2020-01.**
- C. Request for Approval of Rental Housing Licenses.
- D. Consider Approving 2020 Acting Mayor. **(Piekarski Krech).**
- E. Consider Approving 2020 Official Depositories.
- F. Consider Authorizing Electronic Fund Transfers (EFT). **Resolution 2020-02.**
- G. Consider Approving 2020 City's Official Newspaper for Publication.
- H. Appoint Deputy Weed Inspector for 2020 Brian Swoboda.
- I. Approve Operating Manager David Scott Faulhaber for Cub Foods at 7850 Cahill Avenue.

- J. Approve Operating Managers Kevin Gwaltney Wills and Aaron Axel Anderson for Pilot Travel Center at 11650 Courthouse Blvd.
- K. Approve Operating Manager Robert Garagiola for Speedway #4411 at 7501 Concord Blvd.
- L. Approve Operating Manager Antonio Vashawn Bennet for Speedway #4548 at 5728 Bishop Ave.
- M. Approve Operating Manager Steven Arndt Morris for Speedway #4411 at 7501 Concord Blvd & #4548 at 5728 Bishop Ave.
- N. Approve Consider Approval of Individual Massage Therapist License for Jonathan Barkalow at Inver Grove Chiropractic, 2940 65th Street E.
- O. Confirm and approve personnel actions.
- P. Approve the appointment of Kathy Fischer to the position of Administrative Support Specialist.
- Q. Approve the appointment of Cora Bauer Henkemeyer to the position of Human Resources Coordinator.
- R. Accept Final 2019 Donations & Grants for Various Parks and Recreation Programs.
- S. Consider Approval of American with Disabilities Policies.
- T. Approve **Resolution 2020-03** approving an amendment to the development contract for the plat of Inverpoint Business Park.
- U. Consider Approval of 2020 Sentence to Serve Contract.
- V. Approve a renewed Joint Powers Agreement with Dakota County for Emergency Management Services.
- W. Recognize the plan update of the City of Inver Grove Heights Emergency Operation Plan (EOP).
Resolution 2020-04.
- X. Request approval of the authorized Change Order #18, Change Order #19, Change Order #20, and Change Order #21 for Project 2014-10 Fire Station #2 New Construction.
- Y. Request approval of the Pay Application #13 for \$359,214.04 to Jorgenson Construction for Project 2014-10 Fire Station #2 New Construction.
- Z. Consider Disposal of City-Owned Assets.
- AA. Consider **Resolution 2020-05** Accepting a Professional Services Proposal for the Ace in the Hole Sanitary Sewer Study.
- BB. Consider **Resolution 2020-06** Accepting a Proposal for Conceptual Engineering and Planning Services for Property at the Northeast Quadrant of 65th Street and T.H. 3.
- CC. Consider **Resolution 2020-07** Accepting Proposal for Stormwater Plan Review Services from Barr Engineering Co. for a Housing Development Project at 9697 Inver Grove Trail.
- DD. Consider a **Resolution 2020-08** Approving Final Plans and Specifications and Authorizing Advertisement for Bids for the 2020 Pavement Management Program, City Project No. 2019-09D – 64th Street Area Improvements.
- EE. Consider **Resolutions 2020-09** Accepting Proposal for Geotechnical Services from American Engineering Testing, Inc. (AET) for City Project No. 2016-09G – 60th Street, 62nd Street and Bacon Avenue Improvements.
- FF. Consider a **Resolution 2020-10** approving Final Plans and Specifications and Authorizing Advertisement for Bids for the 2020 Pavement Management Program, City Project No. 2016-09G – 60th Street, 62nd Street and Bacon Ave Improvements.
- GG. Proposals and Award Contract for Resurfacing Floors in Three Areas of the Water Treatment Plant.
- HH. Approve Purchase of Capital Equipment.

Councilmember Bartholomew requested pulling Agenda Item 4D. Councilmember Dietrich requested pulling Agenda Item 4P. Councilmember Perry requested pulling Agenda Item 4Q.

Motion by Bartholomew second by Perry to approve the Consent Agenda with the exception of Agenda Items 4D, P, and Q.

Ayes: 5

Nays: 0 Motion carried.

Agenda Item 4D. Consider Approving 2020 Acting Mayor.

Councilmember Bartholomew stated he pulled Agenda Item 4D because the individual chosen for Acting Mayor should be named. He stated it has been Councilmember Piekarski Krech.

Motion by Bartholomew second by Dietrich to consider Councilmember Piekarski Krech as 2020 Acting Mayor.

Ayes: 5

Nays: 0 Motion carried.

Agenda Item 4P. Approve the appointment of Kathy Fischer to the position of Administrative Support Specialist.

Councilmember Dietrich stated she didn't see any compelling reason as to why the City Administrator needed the position of Administrative Support Specialist filled.

Agenda Item 4Q. Approve the appointment of Cora Bauer Henkemeyer to the position of Human Resources Coordinator.

Councilmember Perry stated she pulled Agenda Item 4Q to discuss both appointments. She commented she was disappointed that external candidates were not an option, it was her understanding that filling a position included both internal and external candidates. She asked why this was not done for these positions. City Administrator Lynch responded contractually with the Unions, if there are qualified personnel within the city, first, an internal review is done as long as there are candidates that meet the minimum qualifications. He stated it is policy and practice to try to promote people from within. That was the case with the Human Resources Coordinator position, it is an individual who has a degree in HR.

Councilmember Piekarski Krech agreed with Councilmember Perry and stated she didn't recall in recent years a hire that wasn't also done externally. She stated this does not say the individuals are not qualified, it is to say they have done the broadest most robust search there is and have done their due diligence. City Administrator Lynch responded most of those positions have not been Union positions, they were non-Union and high profile. These were Union positions and done contractually internally. Councilmember Piekarski Krech asked how the Community Center positions were done and if they were broadly advertised. City Administrator Lynch responded if there are not people within the organization that meet those qualifications, they look within first. He stated they stated they try to practice promoting from within if they meet the minimum qualifications.

Mayor Tourville stated that was a good practice and a part of the Contract. The other positions were filled from the outside because as a group, that was what was decided. Councilmember Perry stated she wasn't opposed to the two positions, but wanted to know.

Councilmember Bartholomew asked if the positions were posted on the city website. City Administrator Lynch responded he did not know about the website, but knew it had to be posted on the employee bulletin boards and that the Union needs to be notified of the openings. Councilmember Bartholomew asked if they could be posted on the website in the future whether it is Union or not so the public can see there is a job opening.

Motion by Bartholomew second by Perry to approve Agenda Item 4P. for the appointment of Kathy Fischer to the position of Administrative Support Specialist.

Ayes: 4

Nays: 1 (Dietrich) Motion carried.

Motion by Perry second by Dietrich to approve Agenda Item 4Q. for the appointment of Cora Bauer Henkemeyer to the position of Human Resources Coordinator.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Dietrich congratulated Cora Bauer Henkemeyer (in the audience) for her position. Mayor Tourville congratulated both Kathy and Cora on their new positions.

5. PUBLIC COMMENT:

Vicki Vars, 8755 Coffman Path, Representative of the Arbor Pointe Master Association, provided copies of a letter to the Council that was previously sent to them on October 7, 2019. The letter asks that the city take over the emptying of two trash receptacles at two locations along the public trail that runs through the Arbor Pointe Community. She commented that the only person to respond to the letter was the Mayor, who said he would pass the information along to Eric Carlson. She stated that Mr. Carlson did respond, but responded with the same response he made when he was contacted in July.

She stated the Master Association is aware of their responsibility to ensure that pet waste and other debris doesn't make it into the ponds. The city is responsible for trash receptacles in city parks, including Arbor Pointe Park located on the corner of Cahill and Brooks Avenues. She stated the two trash receptacles are located on city owned property in high profile areas, one adjacent to the gazebo, the other on Concord Boulevard. She requested the city look into this matter.

Ms. Vars provided background stating years ago with city approval, the Master Association installed the trash receptacles and paid for weekly emptying. In 2019 the trash hauler, Berquist and Sons, was acquired by Waste Management, who declined to service the containers. Other companies were contacted but only one would take over the waste removal at twice the expense it was previously. She stated they were hoping the Council will look into the issue.

Councilmember Piekarski Krech asked why they were installed. Ms. Vars responded the Association felt there was a need, a lot of the pet waste was collected in bags and thrown into the ponds. She stated they obtained the cans in 2003 but is now a large expense.

Mayor Tourville requested finding out what the cost would be to add this to the city's system. He stated he has noticed city trucks along the trails who may have picked up the trash which comes to City Hall. He stated it is a public trail, it made sense to look into having the city do it.

City Administrator Lynch asked if the receptacles were owned by the Homeowners Associations and if they are, if they were willing to donate them to the city. Ms. Vars responded they are owned by the Association, and are willing to donate them to the city. City Administrator Lynch stated a letter would be needed to state the fact that they are donating the receptacles to the city. Ms. Vars responded the Board meets on Wednesday and she would discuss the letter then.

Katherine McLean, Ashwood Ponds, asked what the process would be if the city would become a city that has no plastic bags and Styrofoam take out containers. She asked if the city has taken steps in that direction and if they have, who the contact person would be. She offered to help and could help find volunteers. Mayor Tourville responded the city has not looked into mandating it, but some restaurants have already done it. He suggested putting a group together and going before the Environmental Commission to see what the thoughts are within the community. City Administrator Lynch suggested starting with the Environmental Specialist, Ally Sutherland. He would provide her contact information. He stated Environmental Specialist Sutherland is the liaison between the Environmental Commission and could communicate meeting information. Employee contact information can also be found on the city website.

6. PUBLIC HEARING:

A. Public Hearing to Consider New Club Officer Robert Wayne Currence Sr. for Moose Lodge #1088 at 5927 Concord Blvd.

City Clerk Rebecca Kiernan stated that Mr. Currence had requested being a replacement officer for the Moose Lodge in December. He has applied for the necessary paperwork and the Police Department conducted a background investigation and found no basis for denial. Staff recommends approval.

Robert Wayne Currence, Sr. introduced himself and stated he received late notice on the information.

Motion by Dietrich second by Perry to close the Public Hearing at 7:29PM.

Ayes: 5
Nays: 0 **Motion carried.**

Motion by Perry second by Piekarski Krech to approve Public Hearing to Consider New Club Officer Robert Wayne Currence Sr. for Moose Lodge #1088 at 5927 Concord Blvd.

Ayes: 5
Nays: 0 **Motion carried.**

B. Public Hearing to Consider the application of an On-Sale, 2 am Liquor, and Sunday Liquor License for Mallards IGH LLC for the premises located at 5681 Blaine Ave (Located in Inver Grove Marketplace III).

City Clerk Kiernan stated the applicant applied in December. The Police Department conducted the background investigation and found no basis for denial. Staff recommends approval of both licenses. She stated issuance would be dependent on fulfilling the duties through the Minnesota Alcohol & Gambling Enforcement Division, and the satisfactory inspections and approvals from the Fire and Building Departments.

David Suddath introduced himself to the Council and stated they hope to open at the end of February. They are located near Gertens.

Motion by Piekarski Krech second by Perry to close the Public Hearing at 7:32PM.

Ayes: 5
Nays: 0 **Motion carried.**

Motion by Piekarski Krech second by Perry to approve Public Hearing to Consider the application of an On-Sale, 2 am Liquor, and Sunday Liquor License for Mallards IGH LLC for the premises located at 5681 Blaine Ave (Located in Inver Grove Marketplace III).

Ayes: 5
Nays: 0 **Motion carried.**

C. Public Hearing to Consider the application of a Temporary 1 to 4-day Liquor License for Church of St. Patrick for the premises located at 3535 72nd Street E.

City Clerk Kiernan stated application was received for the Best Foundation Charity Fundraiser that takes place on February 15th at St. Patrick's. Information will be submitted to the Minnesota Alcohol & Gambling Enforcement Division for approval.

Cindy Reckinger, Parish Administrator at St. Patrick's Church, stated the Church rents out of the hall and the Best Foundation uses the location for the Best Foundation Annual Scholarships. The request is for a

one-day permit to sell liquor at their fundraiser. She stated being the property owners, they apply for the Permit and give it to the Best Foundation who covers the cost of it.

Motion by Dietrich second by Perry to close the Public Hearing at 7:35PM.

Ayes: 5

Nays: 0 Motion carried.

Motion by Perry second by Piekarski Krech to approve Public Hearing to Consider the application of a Temporary 1 to 4-day Liquor License for Church of St. Patrick for the premises located at 3535 72nd Street E.

Councilmember Bartholomew asked if the request was for one day or one to four days. City Clerk Kiernan responded it is for one day.

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

POLICE:

A. Consider Second Reading of Massage Licensing Amendments.

Police Commander Dennis Haugland discussed the second reading of the massage licensing requirements stating there are changes from the first reading. He has met with numerous massage therapists and business owners to discuss proposed requirements and any issues they noticed based on their business. Information from phone calls and emails will be shared. He stated he sent out the amendments and changes to the Ordinance to each massage therapist and business owner. Phone calls and emails were received with questions.

He discussed the following changes:

- The first change falls under the Denial Suspension and Revocation of the Ordinance. #15: The applicant or holder has to live within 150 miles of the business/premises where therapeutic massage services are being provided.
- #16: The applicant must live within a 150-mile radius to the business.
- #17: The license or employees or agents refusing to allow an inspection is a reason for denial, revocation, or suspension.
- Under inspections, language was removed regarding inspection of records and tax returns after discussions with the City Attorney. It would be more in line of needing a search warrant than be based off a City Ordinance during an inspection.
- Section 9 removes the language under the age of 18 would not be permitted on site unless accompanied by a parent or guardian. He stated the city has some places that do hairstyling and offers massages. If someone aged 16 or 17 wanted to get their hair done, they would need to have a parent accompany them.

Councilmember Bartholomew asked if it takes out the age 18 requirement. Police Commander Haugland responded that was correct.

Police Commander Haugland discussed Section 10 about doors, latches, and locks and stated he learned during site visits and discussions that there may be only one or two people working at a location. For their safety it would be necessary to allow them to lock doors. He stated a few locations he visited had a single room with a partition where the massage would take place, the ability to not lock the door could allow others to walk in on someone having a massage. He stated he worked with the Assistant City Attorney Nason to craft language that would allow a sole therapist to lock the doors, but all other situations would not be able to do that.

Councilmember Bartholomew asked if they provide for a manner to answer the door if Authority is at the door and it is locked. He asked if there is a requirement that they have to answer the door. Police Commander Haugland responded they did not address that but is something he can review. Mayor Tourville stated locking the doors has created issues in the past. He asked if other cities follow that. He stated Doctor's offices are not allowed to lock the door and questioned how massages were considered different. Police Commander Haugland responded in speaking with massage therapists and business owners, a larger type spa is easier because there are multiple people there, smaller units don't have that option based on the rooms they rent. Councilmember Piekarski Krech commented based off being a client of one massage therapist in a room and the only person there, she would personally prefer to have that door locked because anyone can walk in. She stated a Doctor's office would have a nurse.

Mayor Tourville stated they could be discussing two different things. The outside door lock or the room lock. Police Commander Haugland stated sometimes the outside door is the only door to the business. Councilmember Dietrich stated her concern was that it wasn't prohibitive to Officers to gain access to the buildings. Police Commander Haugland responded he could look into that and see what they can do for answering the door. Councilmember Piekarski Krech asked if they could do something similar to when they do a building permit and say this business has a license to open, but states city staff has the right to access the facility to do an inspection at any time. She asked if that wouldn't be justification for a Police Officer to go in at any time and if that language could be put in. Police Commander Haugland responded the inspection clause is within the Ordinance, but he could look into if it would be covered. Mayor Tourville stated that a problem is created when they lock that front door, they may have to have a panic bar on the door so that the door can be opened from the inside to get to the outside. A lot of businesses wouldn't have that. He stated landlords would have to put that in so if there is an emergency you are not looking for keys to get the door open. Police Commander Haugland stated he would look into more information for that and come up with something that will work for Police and business owners.

Police Commander Haugland discussed Section 11 where it references massages being offered at a certain location no more than 12 days per calendar year. He stated this was a change to the current language. This pertains to going out and doing chair massages and can only be done 12 times per year.

He discussed the following items:

- Food preparation language on premise. This would spell out that they have to use an area designated for food preparation and have obtained a permit that states where it is being handled. During a previous investigation this was not being done properly. The language will be looked into and cleaned up to be less confusing for business owners.
- Licensing renewal. Requires both licenses be renewed, the massage therapist license and a massage business holder license. He stated it was suggested there be a price break for both as it is not a business-friendly model.
- Posting requirements. States it should be prominently displayed in the lobby of the business. He stated the problem with that is that there are five different therapists working at a location and each have their own individual massage therapist licenses and offer different things and different rates. It was asked how that could be done throughout the lobby. He stated clarification was requested and to have possible changes to where it would need to be posted. He commented that he has spoken with the Assistant City Attorney about this and would be looking into the requirement and where they should be posted.

Councilmember Piekarski Krech stated hair salons have people renting chairs and each stylist has their own license displayed in their space. She asked if there was rationale as to why it has to be posted in the lobby. Police Commander Haugland responded he wasn't sure why it had to be posted in the lobby, but would discuss it further with the Assistant City Attorney. He stated he didn't feel it needed to be in the lobby and that maybe the massage business license and the massage therapy license be posted before going into a massage room.

Councilmember Bartholomew stated he was concerned about the age and that it wasn't quite clear. It says that anyone under the age of 18 can be on the premise. He asked if it permits anyone under the age of 18 to get a massage if they are a minor and by themselves, and if that was being contemplated. Police Commander Haugland responded he would look into if they wanted to get a massage and were under 18 if they would need a parent or guardian note. If they are going to the place for anything other than a massage it is ok. Councilmember Bartholomew asked if the note requirement was called out in this Ordinance. Police Commander Haugland responded it is not currently included. Councilmember Bartholomew commented that age is an issue for him. You have to be 21 to buy cigarettes. He requested there be further clarity on age. Police Commander Haugland stated the Cities of Edina, Eagan, and Woodbury have nothing in their Ordinances to prohibit anyone under the age of 18. Councilmember Piekarski Krech stated we have not caught up with where the business is these days, there are holistic and chiropractic differences now. She stated children also receive this type of service.

Mayor Tourville asked about the cities that do not have an age limit. Police Commander Haugland responded Minneapolis allows 18-year-old on the premise, but under 18 cannot work for the business or obtain massage services without written parent/guardian consent. He stated they could go a similar route as Minneapolis, or have the parent/guardian with to receive a massage if under the age of 18. Councilmember Bartholomew stated it was worth discussing. Mayor Tourville suggested a form be filled out by the parent rather than just a signed note.

Jean Fox, Massage Therapist, stated in the State of Minnesota massage is not a licensed practice. She suggested the requirements for what is allowed for people to practice in the area be looked into. She stated there are different types of massage, some can even go to a weekend seminar and become a massage therapist. The ones that have a substantial amount of training and education are the ones that are going to protect the citizens, they have the education and hours behind them. She stated to have a business license, there is a difference between a massage license and a business license. Her business license gives her the privilege to practice her art in this city. She stated she works at the facility that Police Commander Haugland mentioned earlier where there are a number of therapists. It is advantageous to have the information in their rooms because the front desk isn't capable of answering questions when people come in. She stated it is wise to have stipulations for those 18 and under. When she was trained in school you needed to have the parent there or consent. The first time the parent needed to be there to have a good relationship.

Mayor Tourville asked Ms. Fox if she has read the second reading and if it had addressed any questions she had. Ms. Fox responded yes and stated the items being investigated further are prudent. She asked why there was a limit to the number of chair massages. Police Commander Haugland responded that was part of the existing language in the Ordinance. The number was raised from 10 to 12. He stated he wasn't a part of the conversation for the change and didn't know the background. Ms. Fox stated that 10 seemed ridiculous and 12 seemed limiting. More businesses are asking massage therapists to bring their chairs in and provide chair massages to their employees. Limiting that to 12 would be once a month to the employees at that location, that limits something that is beneficial. Councilmember Piekarski Krech questioned if practicing in Inver Grove, and doing chair massages in Eagan, or if you live in Eagan, and do chair massages in Inver Grove, if this affected the number of 12 and if there was control over that. Ms. Fox responded you have to come under the jurisdiction of each city in which you work. She stated she worked at three locations and Minneapolis did not require any type of business license to work there. In Woodbury she worked under the doctor's license. It depends on the city.

Councilmember Bartholomew asked Ms. Fox what an acceptable number would be for temporary massages. Ms. Fox asked why they call it temporary. She stated chair massages are a different type of massage for a short time per person. It's not temporary, most have businesses they come from to offer them. Councilmember Piekarski Krech suggested looking into chair massages where people do not take clothing off, and if that differs.

Councilmember Perry asked if there was a section specific to chair massage. For example, someone who is homebound and has to have massages in their home twice a month. She asked if this would limit them to having them only once a month. She asked if this included chair or regular massages. Police Commander Haugland responded it falls under 4-8-1, 6C. Persons or Organizations providing temporary massage services such as chair massages provided the following requirements are met. The requirement falls under this category for more than 12 days per calendar year.

City Attorney Tim Kuntz stated the packet contains a memo from Attorney Bridget Nason showing the itemized changes in Ordinance form, and the reproduction of the Ordinance itself showing changes. Pages 3 and 4 of that document address exceptions such as temporary and chair massages.

Mayor Tourville stated he understood the point Councilmember Perry made about the number of times. He suggested looking further into that number. Police Commander Haugland responded he would look into the number of times and what other surrounding cities have with massage licensing.

Mayor Tourville stated that Ms. Fox would know better about massage therapy than most. He stated there were numerous hearings within the Legislature about them. Ms. Fox stated when first applying to be a licensed State, they went under the chiropractic umbrella, which was not always agreed upon. Other avenues were tried but were unsuccessful. She stated Minnesota is one of three States that do not have licensure. It is challenging and difficult to regulate. She stated there are people doing massages on people that shouldn't be. She suggested training and education be looked into on the initial application and if they are aware who they should and shouldn't be doing massages on.

Motion by Piekarski Krech second by Dietrich to approve Consider Second Reading of Massage Licensing Amendments.

Ayes: 5

Nays: 0 Motion carried.

COMMUNITY DEVELOPMENT:

B. Adams French Property, LLC – Consider the following Resolutions for property located at 7855 Cahill Avenue:

- a) a Conditional Use Permit to allow for a mini-storage facility;**
- b) a Conditional Use Permit to allow impervious surface to exceed 25% within the Shoreland Overlay District of Simley Lake.**

City Planner Allan Hunting displayed a map of the property location and stated the property is zoned B-3. This is a two-part request for a Conditional Use Permit for mini storage and a Conditional Use Permit to exceed 25% in the shoreland overlay district. The applicant is proposing a three-story climate controlled indoor storage facility. He stated the total size would be 105,000 square feet. There is one entrance point, circulation around the building, a covered entry way on the side, and individual garage doors leading to units from the outside. The property is zoned B-3 General Business, mini storage is a Conditional Use Permit in that district, and the property is in the shoreland overlay district of Simley Lake. He stated within the district it is allowed to exceed the required 25% impervious surface with a Conditional Use Permit provided the city has a stormwater management plan and there is an approved stormwater plan for the project. He stated the project complies with the setbacks, access location, landscaping, building height, lighting, and building materials for the B-3 district. The drainage pattern has it draining to the west toward South Valley Park. The total impervious surface proposed is 41.7%. He stated engineering has reviewed this and is fine with the stormwater management plan proposed. The DNR reviewed the project and have no issues with the request.

He stated the Planning Commission held a public hearing and had concerns with the building materials, the use, and the location. Since that time, the applicant provided a revised elevation plan. He stated the Applicant toned down the colors and added more brick and earth tone types around the building. It is still

a three-story building. Staff recommends approval of the project as presented. The Planning Commission recommended denial of the request due to concerns about the aesthetics of the building, the use, and commercial area.

Councilmember Bartholomew asked if this was located within the airport overlay. City Planner Hunting responded it is not in the airport overlay.

Mayor Tourville asked if the Simley overlay stormwater pond area was more restrictive than other parts of the city in relationship to impervious surface. City Planner Hunting responded it was more restrictive because it is 25%, other commercial or industrial zones do not have an impervious surface maximum. He displayed an aerial photo of the location and stated the Council has approved other Conditional Use Permits for impervious surface for other projects in the area. It is not an unusual request in this area as it has been approved before.

Max French, Develop Manager for Adams French Property, stated they are seeking a Conditional Use Permit in two parts for development of a 105,000-foot three story self-storage building that will be fully climate controlled and state of the art. The 3.8-acre parcel located at 7855 Cahill Avenue has been vacant for a number of years and has been challenged with topography, use, and environmental issues with the soil. He stated they are proposing a solution to the site they believe viable. It is a needed use in an under served community.

He stated when looking at new sites and new cities they look at a study based on a three-mile radius. Within three miles of the site there are 40,000 people, and three facilities within the three-mile area for self-storage. That makes up about 3.6 square feet per person, the national supply/demand for the self-storage industry is 7.5 square feet per person. He stated this represents about 150,000 square feet of unmet demand for storage, and are proposing to fill 77,000 rentable square feet that would be climate controlled.

Mr. French stated Adams French Property is committed to investing over \$6 million dollars with this project in this community and would increase the overall tax base. The facility is state of the art with a modern design and redefines what most think self-storage to be. This is meant to mimic the surrounding retail and the quality of the community they are investing in.

He stated self-storage is an extremely low traffic operation. A study was done and estimated approximately 51 visits per day, with parking to accommodate. It is a quiet use, there is a drive thru tunnel for customers to get out of the weather and to be screened from the rest of the community. He stated they were denied in the Planning Commission, but took steps to address the concerns with the design of the building and the look.

Steve Oliver, Architect, Mohagen/Hansen Architects, displayed an image of the project and stated it is a more modern clean look and has a different color palette along with more glass. They do it in a way to create an attractive building and reinforces the building functions. He discussed the various sides of the building stating the back of the building has drive up direct access units. Those units are an asset to, for example, contractors who may not have a place of business to store their materials and can use this space. The south side has similar drive up units.

Councilmember Bartholomew asked to have our Engineer speak about stormwater management. He stated he appreciated the photos displayed and the attempt to fit into the neighborhood with the brick and earth tones.

Matt Pavek, Engineer with Civil Site Group, stated there is underwater stormwater tanks that are sized to exceed city standards, collect and retain stormwater, and discharge it to the northwest. Councilmember Bartholomew asked if it percolates through. Mr. Pavek responded it is designed to have an infiltration element in the bottom, the first inch of run off goes into the system and soaks into the ground. Anything

exceeding that is controlled for rate and discharged to the northwest. Councilmember Bartholomew asked where it goes from there. Mr. Pavek responded it is piped to the basin to the northwest. Councilmember Piekarski Krech asked how that affects the park property. Mr. Pavek responded it is right on the edge and comes through with minimal impact, there is a restoration plan.

Councilmember Bartholomew asked City Engineer Tom Kaldunski to speak about where the water ends up and commented that he was concerned about water in the park. City Engineer Kaldunski responded this is a very good plan and that they have done some of the items they have asked to do. The tanks on site are like an underground pond, usually there are above ground ponds, this is a structure under the pavement that can hold the water. This is similar to the underground pond at Cameron's Liquor Store on Concord Boulevard. He stated the existing site sends water to the north and routes it down to the same location where the water would be going to now. This takes the water off of the property to the north, contains it in their system with a storm sewer going down to the bottom of the valley. This reduces erosion occurring at the site today. Councilmember Piekarski Krech asked if it would be filtered. City Engineer Kaldunski responded yes. He stated the city trail is located in the area and would have to have a small portion of that trail cut out as they put the pipe in. He commented this is a good plan and are very happy with what they are proposing.

Mayor Tourville asked Mr. French what the estimate of valuation was between the land and building. Mr. French responded they are estimating between \$6 and \$7 million dollars.

Councilmember Piekarski Krech started that Cahill is supposed to be the main street, as the former Mayor designated, the jewel of the city. She stated the building is beautiful and has nothing against it. She questioned putting a storage facility on what is supposed to be the jewel of main street. She stated that is her only problem with this. She commented she was not familiar with other cities that have a storage facility on their main street. Mr. French responded it is a destination use and compliments retail. For them, this is an ideal site. He stated 60% to 70% of their users are residential users, this is a city that would have several residential users and use the units for higher quality goods and items. It is a convenience factor to some. He stated they are providing the next generation of storage facility for the town. He stated they are pleased with how the architect has designed it and believe it is a compliment to the retail across the street.

Mayor Tourville stated the location has been for sale for a long time. There have been various things looking at it but nothing has happened recently. He asked what could go in that location that is better or more appealing. He thanked them for changing the looks of the building. Councilmember Bartholomew stated this isn't typical storage, it looks nice, will add velocity and trips to the area. He stated this was a fit in his opinion, the building looks nice, it will have traffic to draw people into the area and draw them into the other retail spots. He commended the company for coming in with a better plan than what came in through the Planning Commission.

Kevin, Goettl, RE/MAX Results, stated he is marketing the property along with Dave Giblin, who is also in attendance. They both marketed this property heavily. They went after buyers, coffee shops, fast food, builders, and affordable housing, and have been turned down over and over again. He stated the storage facility found them. Councilmember Piekarski Krech asked what some of the reasons were that they were turned down. Mr. Goettl responded they are in a three-sided market. With office or retail, there are already a lot of vacancies for that so they turned to residential, which is a different usage than zoned for. None of the builders based on the lay of the land and topography were interested.

Councilmember Bartholomew asked about the topography. Mr. Goettl responded there is a lot of retaining walls that are adding expense. Councilmember Bartholomew asked if there was an opportunity to put some type of office space for rental within this facility. Mr. French responded there is an office space in there for their own self-storage use. He stated they do fully self-storage opportunities and felt it was a good fit for the town. Councilmember Bartholomew commented that some past business models had

mixed use with small offices within the storage areas. Mr. French responded they have done that before with a few projects, but it didn't work out well. Self-storage seemed to be the needed use. Mayor Tourville stated the Twin Cities market looked at storage coming to the urban area because the real estate market was changing. The retail market is changing. He stated he was concerned about the stormwater with this project. It would need to be addressed no matter who goes in there and it will be done first class underground with this project. He stated this may spur retail and other traffic.

Councilmember Perry asked City Engineer Kaldunski asked about the pipes that would go underneath the trail in the park. She commented there have been larger storms lately, and asked what the likelihood that the trail would be covered like the one that cannot be used at City Hall. City Engineer Kaldunski responded they are designing a pond that is supposed to handle their flow from a 100-year event. In our community that is a 7.4-inch rainstorm. The outfall from that should cover that type of flow. An event greater than that would come from the emergency overflows, but the likelihood is relatively small. There could be other issues from other points on the switchback of the trail than there would be from this facility. He stated there is still an old ravine there, some water may go that route. He stated he didn't see a significant impact to the trail, other than cutting the hole. They are putting a catch basin to pick up some of the water from the trail on the last piece of pipe, there is some stormwater benefit to the trail system.

Motion by Bartholomew second by Tourville to approve Adams French Property, LLC – Consider the following Resolutions for property located at 7855 Cahill Avenue:

a) a Conditional Use Permit to allow for a mini-storage facility.

Ayes: 2 (Bartholomew, Tourville)

Nays: 3 (Dietrich, Perry, Piekarski Krech)

Motion failed.

Mayor Tourville asked the City Attorney if they should still discuss the second request. City Attorney Kuntz responded the motion failed and required a 4/5 vote. Those voting against it, under MN Statute 15.99, need to articulate their reasons for voting against.

Councilmember Piekarski Krech stated it is a lovely building, if Cahill is the main street, she didn't think that would be the appropriate area to put a storage facility. Any other street in town would work better if it was properly zoned. She stated she didn't think we should start doing this if we call this a main street and have beautified the street. She commented it is not the appropriate place for a storage facility. City Attorney Kuntz asked it was inappropriate due to what. Councilmember Piekarski Krech responded it is supposed to be the jewel of the city and she doesn't think a storage facility fits in the scope of what they want to put there. City Attorney Kuntz asked if the inconsistency was with the use or the appearance. Councilmember Piekarski Krech responded it is the use, the appearance is fine.

Councilmember Perry stated she agreed with everything that Councilmember Piekarski Krech stated for reasoning.

Councilmember Dietrich stated she is a big proponent for smart business in Inver Grove Heights. The residents that she heard from stated this was not a good fit for what is considered to be the cities main corridor. City Attorney Kuntz asked if the inconsistency of the main corridor was a use or appearance question, and if there was any thought as to what would be a good fit. Councilmember Dietrich responded it is not a good fit for the use. She stated she would defer to the Community Development Director for the answer to the question of what would be a good fit.

Mayor Tourville asked the City Attorney if they still needed to deal with Item B with Item A failing. City Attorney Kuntz responded they would need to deal with Item B to recite that the CUP for impervious would not be required if there is no use for mini storage. Mayor Tourville stated another development may have another stormwater plan and was unsure why they would have to address the Agenda Item. City Attorney Kuntz stated B was applied for the use intended. It can't be left unaddressed. He stated the vote against the plan would state that we are not approving a plan that is not tied to a specific use. Councilmember

Piekarski Krech stated she wouldn't have a problem with the stormwater issue, it's the use. She would vote for the stormwater plan. Mayor Tourville stated if they don't have the mini storage facility, the stormwater would be specific to the plan and the development. City Attorney Kuntz stated it is moot, because it is tied to a specific plan. The motion should say it is moot and is rejected because there is not a CUP use approved.

Motion by Bartholomew second by Piekarski Krech for b) a Conditional Use Permit to allow impervious surface to exceed 25% within the Shoreland Overlay District of Simley Lake plan moot because there is no need for the stormwater plan at this time.

Mayor Tourville asked if a vote in the affirmative would be that it is moot because there is no mini storage facility approval. City Attorney Kuntz responded because there is no use it can be tied to; it should be denied under that reasoning.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville asked if they were the sole owners of the property. Mr. French responded the sale was pending approval from the city.

City Attorney Kuntz stated they would put in Resolution form the memorialization of the three that voted no, together with the last action taken. This would be brought forward for Council consideration at the next meeting. The 60-day limitation expires February 20, 2020.

8. EXECUTIVE SESSION:

Mayor Tourville asked if they needed to look at each item independently or do them consecutively. City Attorney Kuntz responded they would go through each of the three items, at the end of each item, make the appropriate motion to move to Executive Session, but make three motions sequentially due to different reasons.

A. Pursuant to Minn. Stat. § 13D.05, Subd. 3(b) and pursuant to the attorney-client privilege, a closed-door Executive Session for discussion with the attorneys representing the City relating to the pending litigation matter of City of Inver Grove Heights vs. GS Truck & Trailer Repair LLC and GS Transport Express LLC, Dakota County District Court File No. 19HA-CV-18-2111.

City Attorney Kuntz stated this item deals with pending litigation pursuant to the attorney-client privilege referenced in Minn. Stat. § 13D.05, Subd. 3(b) and the common law principle of attorney client privilege. The Council is asked to go into a closed-door Executive Session with discussion with the attorney's representing the city relating to the pending litigation matter of the City of Inver Grove Heights vs. GS Truck & Trailer Repair LLC and GS Transport Express LLC. This is a lawsuit that has been in Dakota County District Court. The Statute authorizing this is Minn. Stat. § 13D.05, Subd. 3(b). It is asked that the Council make a motion that pursuant to that Statute, to the purpose outlined, we exercise the right to go into Executive Session to discuss the lawsuit.

Motion by Piekarski Krech second by Perry to move into Executive Session to discuss Pursuant to Minn. Stat. § 13D.05, Subd. 3(b) and pursuant to the attorney-client privilege, a closed-door Executive Session for discussion with the attorneys representing the City relating to the pending litigation matter of City of Inver Grove Heights vs. GS Truck & Trailer Repair LLC and GS Transport Express LLC, Dakota County District Court File No. 19HA-CV-18-2111.

Ayes: 5

Nays: 0 Motion carried.

B. Pursuant to Minn. Stat. § 13D.05, Subd. 3(b) and pursuant to the attorney-client privilege, a closed-door Executive Session for discussion with the attorneys representing the City relating to the pending drainage claims and related imminent claims and threatened litigation of inverse condemnation regarding the property at 7376 East Courthouse Boulevard owned by Gretchen Schaaf and Doug Schaaf.

City Attorney Kuntz stated this item asks the Council to go in to Executive Session pursuant to attorney-client privilege under Minn. Stat. § 13D.05, Subd. 3(b), to discuss with attorney's the pending drainage claims and related imminent claims and threatened litigation of inverse condemnation with respect to the property located at 7376 East Courthouse Boulevard owned by the Schaaf family. He asked the Council to go into that session under the attorney-client privilege due to the imminent threatened litigation of inverse condemnation. Under that Statute and for the purpose outlined, it is asked that the Council make a motion to hold an Executive closed session.

Motion by Piekarski Krech second by Perry to move into a closed-door Executive Session Minn. Stat. § 13D.05, Subd. 3(b) and pursuant to the attorney-client privilege, a closed-door Executive Session for discussion with the attorneys representing the City relating to the pending drainage claims and related imminent claims and threatened litigation of inverse condemnation regarding the property at 7376 East Courthouse Boulevard owned by Gretchen Schaaf and Doug Schaaf.

Ayes: 5

Nays: 0 Motion carried.

C. Pursuant to Minn. Stat. § 13D.05, Subd. 2(b) an executive and closed-door session for discussion of preliminary consideration of allegations against City Administrator Joe Lynch.

City Attorney Kuntz stated that in an instance where an allegation is made against a city employee, the Council has the right to go into an Executive and closed-door session for discussion of preliminary consideration of such an allegation. The Statute is Minn. Stat. § 13D.05, Subd. 2(b) which allows such a closed-door session. The allegation is one made against the City Administrator. This would be preliminary consideration of that personnel matter. He asked that the Council make a motion under the Statute indicated for the purpose stated to hold the closed-door session.

Motion by Piekarski Krech second by Perry to move into closed door session Pursuant to Minn. Stat. § 13D.05, Subd. 2(b) an executive and closed-door session for discussion of preliminary consideration of allegations against City Administrator Joe Lynch.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated the Council would not be coming back into regular session. They would adjourn after the three Executive Sessions.

9. MAYOR AND COUNCIL COMMENTS:

10. ADJOURN:

The regular City Council meeting adjourned at 9:04 p.m.