

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, JANUARY 14, 2019 - 8150 BARBARA AVENUE**

**1. CALL TO ORDER 2. ROLL CALL:**

The City Council of Inver Grove Heights met in regular session on Monday, January 14, 2019, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m.

Present were: Councilmembers Piekarski Krech, Bartholomew, Perry, and Dietrich; City Administrator Lynch, City Attorney Kuntz, Public Works Director Thureen, City Engineer Kaldunski, Assistant City Engineer Dodge, Community Development Director Gundlach, Parks and Recreation Director Carlson, City Planner Hunting, and City Clerk Tesser.

**3. PRESENTATIONS:**

There were no presentations this evening.

**4. CONSENT AGENDA:**

- A. i. Minutes of December 3, 2018 City Council Work Session Minutes.  
ii. Minutes of December 10, 2018 City Council Meeting Minutes.
- B. **Resolution 19-01** Approving Disbursements for Period Ending January 8, 2019.
- C. Consider Approving 2019 Official Depositories.
- D. Consider Approving 2019 Acting Mayor.
- E. Consider Approving the Council Delegates to Dakota County Communications Center Board.
- F. Consider Approving Representatives to Northern Dakota County Cable Communications Commission (NDC4).
- G. Consider Approving 2019 Deputy Weed Inspector Brian Swoboda.
- H. Consider Approving 2019 City's Official Newspaper for Publication.
- I. **Resolution 19-02** Authorizing Electronic Fund Transfers for 2019.
- J. Consider Approval of O & M Supervisor Job Description.
- K. Consider Approval of Water Heater Replacement for the VMCC.
- L. Consider Pay Request #5 to Pember Companies Inc. for the Heritage Village Park Dog Park Improvements.
- M. Consider Approval of 2019 Sentence to Serve Contract.
- N. Accept Final 2018 Donations & Grants for Various Parks and Recreation Programs.
- O. Consider Approval of American with Disabilities Policies.
- P. Consider Joint Powers Agreement between Dakota and Rice Law Enforcement Agencies for the continued service of South Metro SWAT (F.K.A. Dakota County Mutual Aid Assistance Group (MAAG) team). **Resolution 19-03.**
- Q. Accept Final 2018 Donations to Police Department Programs.
- R. Accept Final 2018 Donations to Fire and Police Department.
- S. Adopt a **Resolution 19-04** Approving Additional Expenses Related to a Demolition Contract for 6639 Concord Ave.
- T. Adopt a **Resolution 19-05** Authorizing Submittal of an Application for 2019 Community Development Block Grant Funds.
- U. Request Approval of Pay Application #1 for \$611,800.00 and Pay Application #2 for \$737,675.00 to Jorgenson Construction for Project 2014-10 Fire Station #2 New Construction.
- V. Consider Change Order No. 6 and Pay Voucher No. 10 for City Project No. 201509D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.
- W. Consider Pay Voucher No. 1 for City Project No. 2018-13 – Public Works Maintenance Facility HVAC Improvements.
- X. Consider Pay Voucher No. 7 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail).

- Y.** Consider Change Order Nos. 1, 2 and 3 and Pay Voucher No. 5 for City Project Nos. 2017-03 – Watermain Improvements (65th Street Loop) and 2017-24 – T.H. 3 Intersection Improvements for 65th Street.
- Z.** Consider Pay Voucher No. 4 for City Project No. 2017-09E – 93rd Street and Abigail Court Area Reconstruction.
- AA.** Consider Pay Voucher No. 9 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.
- BB.** Consider Change Order No. 5 and Pay Voucher No. 6 for City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements and Conduit for City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.
- CC.** Consider **Resolution 19-06** Accepting Additional Construction Engineering and Survey Services IPO No. 21E and 21F from Kimley-Horn & Associates, Inc. for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.
- DD.** Consider **Resolution 19-07** Accepting Proposal Amendment No. 4 from SRF Consulting Group, Inc. for City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.
- EE.** Consider **Resolution 19-08** Accepting Proposal for Storm Water Review Services from Barr Engineering Co. for Industrial Equities Site 2 at Outlot C, Gene Worrells Church Acres.
- FF.** Consider **Resolution 19-09** Accepting Professional Services Proposal for Development Reviews from Bolton & Menk.
- GG.** Consider **Resolution 19-10** Accepting Professional Services Proposal for Development Reviews from Kimley-Horn & Associates, Inc.
- HH.** Approve Purchase of GPS Surveying Equipment.
- II.** Approve Purchase of Capital Equipment.
- JJ.** Approval of Rental Licenses.
- KK.** Approve Compensation Plan Adjustments and Collective Bargaining Agreement Terms for 2019 and 2020. **Resolution 19-11.**
- LL.** Personnel Action.

Mayor Tourville requested pulling Agenda Item 4X.

Councilmember Bartholomew requested pulling Agenda Item 4J.

**Motion by Bartholomew second by Dietrich to approve the Consent Agenda with the exception of Agenda Items 4J and 4X.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Councilmember Bartholomew stated that he pulled Agenda Item 4J Consider Approval of O & M Supervisor Job Description because they were going to change the job description as a working position. He commented that he did not feel the job description met that goal. He requested verbiage be added that states “assists as needed in field, or as required in field work”.

Parks and Recreation Director Eric Carlson asked the Council if he could work directly with Councilmember Bartholomew to make those job description modifications. He also stated that he could make the suggested changes.

Mayor Tourville directed Parks and Recreation Director Carlson to make those changes and get them the updated version. He stated that in previous discussions Council agreed that this position would be a working Supervisor and that they also added the additional buildings instead of it just being the VMCC.

Councilmember Bartholomew commented that they could vote on this item this evening and then take a look at the modified job description. If it is not what the Council wanted, they would make changes.

Parks and Recreation Director Carlson clarified what the Council requested, he stated he would make the necessary changes, and then the position would be posted.

**Motion by Bartholomew second by Piekarski Krech to approve Agenda Item 4J to Consider Approval of O & M Supervisor Job Description with the changes as requested.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Mayor Tourville stated that the next item up for discussion would be Agenda Item 4X to Consider Pay Voucher No. 7 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail).

Kelly Kayser, 1953 59<sup>th</sup> Court East, commented that she just found out this would be on the Agenda. She stated that in the request for Council action, it says based on complaints. She commented that she didn't believe it was a true representation. The neighborhood put together a list of concerns and sent them to Mr. Dodge and he responded promptly. She commented that the neighborhood is grateful for the new pavement, but felt the street isn't functioning as well as it did before. They have drainage issues, huge cracks, and pavement heaving at the curbs. She commented that the neighborhood is concerned that they will have the same issues they had before they got the new street.

She stated that she spoke with Mr. Dodge about a neighbor's concern on ice forming at the bottom of their driveway that is outside of the parameters of the proposal. She wanted to ensure the neighbor that his concern will be addressed. She commented that the road is due for a routine crack seal and wanted to make sure this project won't interfere with any maintenance.

She stated that she was before the City Council in December and questioned when the policy regarding no parking signs on cul de sacs took effect. She commented that Mr. Thureen was supposed to get back to her but they haven't connect. She requested more information about the possibility of the city placing no parking signs in their cul-de-sac.

Public Works Director Scott Thureen stated that Assistant City Engineer Steve Dodge mentioned the ice issue to him. He stated that public safety drives the parking policy. He commented that there was not a formal policy adoption when it was under discussion.

Ms. Kayser referenced the minutes from November 6, 2017 and commented that it states that Mayor Tourville suggested they put something in writing regarding the parking in cul-de-sacs. She has not found that information. She stated that if the Council is interested, she has copies of the correspondence she sent to staff. She commented that she appreciated the work the Council and Staff do and will wait to hear back.

Councilmember Dietrich asked Ms. Kayser for a copy of the correspondence. Correspondence was left with the City Clerk.

Mayor Tourville asked if they needed more information and if the concerns will affect the pay voucher.

Public Works Director Thureen responded that action can still be taken on this item. It will address the drainage concern and the driveway they were made aware of.

Ms. Kayser stated that the concern with the driveway was that there may be a crown issue too. She asked how that would be affected if this was approved tonight.

Assistant City Engineer Steve Dodge stated that since last May they have been in negotiations with the Contractor to address some performance issues that have come up. This pay voucher is moving forward based off those negotiations with the Contractor. He stated that two items have been addressed and agreed upon by the Contractor. One of those items is to do a mill and overlay to get the crown back into the road so drainage goes to the curb line. He commented that the driveway is near the area they are talking about, but that the mill and overlay repair is not going that far back. They hope to continue to extend the mill and overlay a little further to address any situation they see. He stated that before they do any work in the spring/summer they will re-evaluate the area. If there is an issue it will be addressed.

Councilmember Dietrich asked if the residents have access to the documentation so they can understand what is being done.

Assistant City Engineer Dodge responded that information would continue to be shared with the neighborhood.

**Motion by Bartholomew second by Perry to approve Agenda Item 4X to Consider Pay Voucher No. 7 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail) with the understanding to be cognizant of the concerns of the residents.**

**Ayes: 5**

**Nays: 0      Motion carried.**

#### **5. PUBLIC COMMENT:**

There were no public comments.

#### **6. PUBLIC HEARING:**

**A. Public Hearing to Consider Resolution Ordering Project, Accepting Addendum No. 1 to the Feasibility Report, Approving Plans and Specifications, and Authorizing Advertisement for Bids for the 2019 Pavement Management Program, City Project No. 2018-09F – 55th Street Court/55th Street Reconstruction. Resolution 19-12.**

City Engineer Tom Kaldunski stated that this is a Public Hearing for the streets on 55<sup>th</sup> Street and 55<sup>th</sup> Court. He displayed a map of the area and stated that 55<sup>th</sup> Street was built in 1975 and served a useful life. 55<sup>th</sup> Court was built in 1980. This project began with a neighborhood Petition that came forward in September 2018. He stated that the City Council approved that in December leading to the Public Hearing this evening. He stated that the area gets access off of Babcock Trail, and is accessed by the Lake Cove neighborhood. There is storm sewer that collects stormwater and drains it to the lake, but there is no pre-treatment. He stated that they will be adding stormwater treatment to the project. There is a clay sewer that they are televising to see if something needs to be done with it and a watermain that they are unsure of what material it is made of, so they will be verifying that. He stated that 55<sup>th</sup> Street Court has a 36-foot wide width and has some storm sewer that is in poor condition and needs work. He commented that they will be discussing stormwater treatment facilities to help improve Schmidt Lake.

He listed a few findings from the feasibility study stating that AET has found that there are poor subgrade soils. There is an Amendment that modifies the feasibility study with new information. He stated that there are four recommendations and that they should not consider the mill and overlay option with these

sewers. He commented that there have been numerous meetings with residents and some concerns mentioned is the traffic coming in and out of Lake Cove and parking along the road. Residents have been told if they want to see changes in parking, they should submit their request. He commented that he has not received anything. He stated that there is a sidewalk being proposed on the north side that people would use to walk to the gas station. He displayed a proposed conditions map showing the sidewalk and stated that it would connect to the trails that are planned on Babcock Trail and other trails over by CHS. He stated that the gas station has some environmental potential contamination that was discovered in soil borings which adds to the project cost. He listed some of the utility work, such as adjusting castings, watermains, and replacing hydrants and stated that the mains will remain in place. He stated that they are adding a stormwater hydrodynamic separator to clean the stormwater discharge from this project. He noted that he received an email that objects, which needs to be accepted into the record, and that another resident expressed concern about the project cost and some trees.

**Motion by Piekarski Krech second by Perry to accept the email.**

**Ayes: 5**

**Nays: 0      Motion carried.**

City Engineer Kaldunski stated that he recommends full reconstruction which is consistent with the pavement management program. The assessments are consistently, and a life cycle analysis has been done which shows costs spread out over time. An assessment benefit analysis was also done which gave a recommendation of caps. He stated that residents asked for information about how the assessments may look. The full reconstruction would be reduced because of the benefit cap analysis that was done. Pavement replacement is about a \$400.00 difference.

He listed the following project schedule:

- Authorize bidding from the City Council:      January 14, 2019
- Advertisement for Bids:      near February 24, 2019
- Bid opening:      March 28, 2019
- Receive bids and set assessment Hearing:      April 8, 2019
- Assessment Hearing Open House:      May 3, 2019
- Assessment Hearing and Award Project:      May 13, 2019
- Begin construction:      June 2019
- End construction:      September 2019

Councilmember Piekarski Krech asked how this project came up.

City Engineer Kaldunski responded that it came up as a result of a neighborhood Petition. It was then put on the schedule.

**Motion by Bartholomew second by Perry to close the Public Hearing at 7:35PM**

**Ayes: 5**

**Nays: 0      Motion carried.**

Mayor Tourville stated that per policy, the residential assessments could have been roughly over \$10,000. With the proposed project and assessment, it is at \$6,562.00. They go to bid during the winter months to try to get better quotes.

City Attorney Tim Kuntz asked City Engineer Kaldunski to speak about the sidewalks in the area and if they are taking bids for them. He stated that he brought it up because if the easement for the sidewalk are not obtained, it may be that the sidewalk gets pulled from the project to keep with the construction schedule.

City Engineer Kaldunski responded that the plan includes a sidewalk. There is a question about what they have in the area for easements. He displayed a map and referenced a one-acre parcel along the north side of the road, stating that it was the original farmstead. They need to check if there was a dedicated road right of way or if they have to secure an easement for the sidewalk. He stated that they would have that in the bid document, and have an alternative bid to clarify the Title. He commented that it will be a part of the same project, bid at the same time, but listed as an alternative bid so they can choose.

He responded to the City Attorney's comment about construction and agreed that the sidewalk could be taken out of the project. He stated that the Resolution allows the City Engineer and the City Attorney to stop negotiations for the easement if they have to.

Councilmember Piekarski Krech asked if the residents were in favor of this.

Tim Buss, 1935 55<sup>th</sup> Street, stated that he owns 80 feet of what will be that sidewalk. He asked who would be responsible for cleaning it. He commented that the sidewalk would be great.

Mayor Tourville responded that it is a part of the City sidewalk system. The City cleans the sidewalks.

City Engineer Kaldunski stated that it is Staff's recommendation to consider adopting the Resolution for full reconstruction, ordering the Hearing, approving the plans, authorizing the negotiations, and authorizing to get the ads.

Councilmember Dietrich stated that she had received a more in-depth email from Nichole than what was submitted today. There was concern about the price of the assessment. She also stated that Nichole thought the project came about due to another resident, and has not heard anything further from that resident.

City Engineer Kaldunski commented that the City does annual pavement reviews. This one has had a rating stating that it needed attention.

Mayor Tourville commented that he hears from people that say that roads should be done that include businesses. That is not how the street program works. He stated that there is a program that deals with streets that have businesses and one that deals with streets that have residents.

Councilmember Bartholomew commented that this does affect businesses. It makes a difference to the City to have streets that work to help businesses whether they are in commercial or residential areas. It also helps with the City Bond rating.

**Motion by Bartholomew second by Dietrich to approve the Resolution 19-12 as stated with Full Reconstruction for a Public Hearing to Consider Resolution Ordering Project, Accepting Addendum No. 1 to the Feasibility Report, Approving Plans and Specifications, and Authorizing Advertisement for Bids for the 2019 Pavement Management Program, City Project No. 2018-09F – 55th Street Court/55th Street Reconstruction.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**B. Public Hearing to Consider Resolution Ordering Project, Accepting Addendum No. 1 to the Feasibility Report, Approving Plans and Specifications, and Authorizing Advertisement for Bids for the 2019 Pavement Management Program, City Project No. 2018-09D – Atwater Path Reconstruction. Resolution 19-13.**

Assistant City Engineer Dodge stated that they have received a resident's comment. The comment was from Mr. Sullivan, 1725 Atwater Path, supporting the pavement replacement project and preferring something be done.

**Motion by Piekarski Krech second by Perry to receive the email.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Assistant City Engineer Dodge stated that is for City Project 2018-09D Atwater Path Reconstruction Public Improvement Hearing, consider ordering the project, consider Addendum No. 1, approving the plans and specifications, and authorizing the project for bids. He stated that Atwater is near Mendota Road and Babcock Trail, it accesses Babcock Trail, and includes single family residential with the Golf Course/Country Club located in the area.

He presented the following project history:

- The project was built in 1979
- An initial Petition was received in May 2018
- Council authorized a feasibility study in May 2018
- Council accepted feasibility and scheduled an improvement hearing in December 2018
- Council received a second Petition from 17 residents requesting resurface pavement project, saving the curb, and deleting street lights, in December 2018

He listed existing conditions stating that sewer and water are in good condition, the storm sewer is in good condition with the exception of some of the shallow storm sewer which could need repair, and the access to the lake area is also a concern they have. The project has a 36-foot street with no other issues other than the pavement.

He listed feasibility findings stating that the AET did a general report and they recommend a full street reconstruction due to surface distresses and poor subgrade. The second Petition was received. He stated that four different pavement recommendations were received one of which was for mill and overlay, which is not recommended. It is recommended to improve the golf course pond area to reduce risks associated with the retaining wall. He stated that they recommend keeping the current street width. Based on the second Petition, pavement alternatives were analyzed and Engineering recommends the street design per the pavement management plan. He stated that comments received from residents were for concerns for trees, active sump pumps, and drainage issues. All can be resolved with a street reconstruction project.

He stated that the sanitary sewer and water main are in good shape. New fire hydrants will be needed throughout the project due to age and lack of parts. He commented that the storm sewer does not have any water quality stormwater treatment so they would introduce a hydrodynamic separator which would help with water quality. He stated that slope repair should remain, and that a retaining wall in the area is in poor shape. A repair would be made to turn it back to a slope and look at the outfall. He stated that pavement replacement or a full reconstruction remain out of the four options.

Councilmember Piekarski Krech asked if pavement replacement would take care of the stormwater issues. She questioned where all the storm drains in the area run to and the sump pump issue.

Assistant City Engineer Dodge responded that the costs include repairing the shallow storm sewer. They would keep the slope repair into the project. He responded that the storm drains run to a low point and then all go down through an easement, and that at the bottom of the easement there is a lake. He responded about sump pumps stating that the addresses may not be lakeside, but with a full reconstruction project they put drain tile on each side of the road along with a hook up for sump pumps

underground that goes into the storm sewer system. He commented that this is a voluntary program where a sump pump basket is placed behind the curb at the property line and they can connect to it if they want, but they need to go through the Building Permit process to do a reconfiguration to make the connection. Sump pumps cannot be drained directly into the street.

He stated that it would be a \$13,400 assessment for full reconstruction and \$8,172 for pavement replacement. There is a 50-year life cycle for a full reconstruction, and a 20-year life cycle for pavement replacement. Both come with 10-year assessment terms. He stated that the average cost every six months would be \$844 for a full reconstruction and \$514 for pavement replacement. He stated that for special assessments with slope repair and the cap, final assessment would be \$14,700 and pavement replacement is \$10,500.

He stated that the project schedule follows along with the 55<sup>th</sup> Street project:

- Improvement Hearing, Order Project, Approve Plans and Specifications, Authorize Bidding: January 14, 2019
- Advertisement for Bids: near February 24, 2019
- Bid Opening: March 28, 2019
- Receive Bids and Set Assessment Hearing: April 8, 2019
- Assessment Hearing Open House: May 2, 2019
- Assessment Hearing and Award Project: May 13, 2019
- Begin Construction: June 2019
- End Construction: September 2019

Loel Lowary, 1680 Atwater Path, asked if they would repair the storm sewer that goes to Stark Lake.

Assistant City Engineer Dodge responded that Staff's recommendation is to include the repair down to Stark Lake as a part of the project. It includes a water quality device and the shallow storm system.

Mr. Lowary asked if assessments were negotiable. He commented that ten years ago the street was in bad repair and he requested it be fixed. It's worse now and has more patching than it did then. He stated that they requested a new street and did not want the whole thing done. 11 of 23 people that signed the Petition wanted a new street. 17 did not want the street. He stated that all they want is a new street with new blacktop. He didn't see a need for new fire hydrants. He stated that he has one of the homes that is affected by the sewer that goes down to the lake. There is a retaining wall that was put in that is not level, has rotted, and should be addressed. He commented that there should be a catch basin up on top to catch the sand. He stated that they just wanted a new street with blacktop. They didn't want all the other items. He commented that he would like someone to be involved in the selection process of people who do the work and would like to see the bids.

Mayor Tourville responded that assessments are looked at by the City Council and are done after the bids are completed. They can be negotiated. He responded about seeing the bids and stated that by State Law they have to take the lowest bid. He stated that subsoil is more important than the asphalt or the concrete on top.

Iraj Fard, 1620 Atwater Path, stated that the project that is being recommended doesn't match. He stated that the neighbors are here to help. He commented that taxes are raised every year. He stated that most of the neighbors do not want anything done and would like it kept as it is. He commented that five and ten years from now they may have to do sewer projects, then there would be more assessments. He commented that the project that brought Home Depot to Inver Grove has very bright lights and should not have been done the way they it was. He asked the Mayor to come and look at it.

Mayor Tourville responded that the sewer and water would not fail in five years.



Assistant City Engineer Dodge responded that the sewer and water are around half life at this point. There are other ways to extend the life of those. He commented that there are no concerns with the sewer and that the water main has a very long life to it. Because the water is chlorinated in the City, it keeps the water from a corrosive nature and prolongs the longevity of the main. He stated that if there were an issue, there are other ways through technology to make repairs. Systems are built to be 80 to 100 years before they reach their end of use. This has a much longer life, and repairs such as slip lining could extend the life even further.

Mayor Tourville referenced the comment about the lighting at Home Depot and stated that they have guidelines for that. He stated that is a different issue that could be discussed at another time.

Mark Hennen, 1613 Atwater Path, commented that Mr. Dodge had said that they would do the end of the driveway. He has a concrete driveway and would need to get the top of the driveway replaced too as it would look bad to have the bottom done and not the top. He stated that he would also have to re-do the irrigation system. He commented that personally it would cost him \$9,000 to do those things for a total of over \$20,000. He stated that the street just needs repair, not torn up top to bottom.

Mayor Tourville asked why he would have to do the irrigation system over again with an existing driveway.

Mr. Hennen responded that they would be putting in a concrete curb and tearing out the existing.

Assistant City Engineer Dodge responded that if a full reconstruction was done, the policy is that unpermitted obstructions in the right of way, irrigations, dog fencing, and landscaping, would be the homeowner's responsibility. Any driveway disturbed during construction would be repaired. There is a driveway program that allows a small credit for the area disturbed and is credited back to the assessment.

Mr. Fard stated that 19 people rejected the project, he being one of them. He requested that the Council let the neighborhood know exactly what is going on before confirmation.

Mayor Tourville responded that with Petitions, if a major percentage says they don't want it that way, the City will not do it.

**Motion by Bartholomew second by Perry to close the Public Hearing at 8:29PM.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Councilmember Piekarski Krech stated that she would not force people to get a street if they don't want it.

Mayor Tourville commented that Staff suggested one way and the neighborhood would like another. Gravel and sand are more important than the asphalt or concrete on top. He asked Assistant City Engineer Dodge if they could look at other options.

Assistant City Engineer Dodge responded that bituminous pavement is a flexible pavement and is only as good as what supports it. With reconstructions in bad subgrades, they look to verify conditions. He stated that all three Engineers understand life cycle cost effectiveness for the City, with residents paying 30% of the assessments, and the general tax base paying 70%. Resolving both sides of this is the Council's decision. He stated that it is not uncommon with a project like this, that the pavement fails earlier due to the subgrade conditions. There is a life cycle analysis overview, and with a full reconstruction, construction costs are known. He stated that with other options such as a partial reconstruction or pavement replacement, the risks increase based on the subgrade conditions. When the pavement is taken off, it is unclear how the subgrade and gravel will react.

Mayor Tourville commented that they did core samples. He stated that if they recommend a full reconstruction, they are wasting their time as the neighborhood doesn't want it and do not want to pay for it. He suggested taking a look at asphalt replacement. He commented that some other neighborhoods have found underground springs and water issues with that option, not that this is the case with the Atwater neighborhood. He stated that he would not vote for a full reconstruction and is looking for an alternative that the neighborhood would agree with.

Assistant City Engineer Dodge stated that a partial reconstruction was not cost effective, but pavement replacement was another option. Mill and overlay are not recommended. He commented that he would work with residents. He stated that there is an easement they could work in, the retaining wall would come out, and an engineered slope would be reinforced. They would look at the storm sewer to prevent future blowouts and erosion issues. He stated that they could do the pavement replacement if they would like and that it would be an assessment of approximately \$10,400.

Councilmember Bartholomew stated that since the neighborhood didn't want the complete reconstruction, they could get bids for pavement replacement and if it is not compatible, they would not have a project.

Mr. Fard commented that he wasn't against the right job.

Mayor Tourville commented that they could get pricing for replacing the asphalt. If the pricing is terrible, they could have the neighborhood back in.

Councilmember Dietrich stated that it also comes down to the quality of workmanship with asphalt.

Mayor Tourville suggested they still plan to replace the fire hydrants.

**Motion by Bartholomew second by Perry to approve Public Hearing to Consider Resolution 19-13 Ordering Project, Accepting Addendum No. 1 to the Feasibility Report, Approving Plans and Specifications, and Authorizing Advertisement for Bids for the 2019 Pavement Management Program, City Project No. 2018-09D – Atwater Path Reconstruction. This includes pavement replacement, slope repair, and fire hydrants.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**C. Public Hearing to Consider Resolution Ordering Project, Approving Plans and Specifications, and Authorizing Advertisement for Bids for City Project No. 2015-03 (65th Street Roadway and Drainage Improvements) and City Project No. 2018-03 (65th Street Trunk Watermain Improvements). Resolution 19-14 Roadway/Drainage. Resolution 19-15 Trunk Watermain.**

Public Works Director Scott Thureen stated that the original feasibility study for this project was authorized in May 2015. That study was brought before the Council in April 2017. He stated that the assessment was high for the project and direction by Council was to look at ways to reduce it.

He stated that this is construction of 65<sup>th</sup> Street from Trunk Highway 3 going west, to the east right of way line of future Argenta Trail. He commented that we have the last segment of trunk watermain to complete the first loop for the northwest area, City Project 2018-03. He stated that 65<sup>th</sup> Street is proposed to be a Community collector street which is the highest-level street to take heavier loads and carry higher volumes of traffic. A three-lane design is proposed with a potential wide trail on one side. This is proposed to be on the Municipal State Aid System, and designed to Municipal State Aid standards to be eligible for that funding source. He stated that the Council authorized moving forward with a detailed design for work to be done on Trunk Highway 3 for the connection to 65<sup>th</sup> Street at the April meeting. This includes the segment of the trunk watermain that was constructed. He stated that projects 2017-24 and 2017-03 were completed, and that this spring a few items for the project will be wrapped up.

He referenced a map of the location and stated that they are looking at a segment of 65<sup>th</sup> and the watermain this evening. They are advancing 65<sup>th</sup> Street because it is intended to serve as the only permanent full access to Blackstone Ridge (now known as Settler's Ridge) and Windwood 2nd Addition. He stated that there is currently a temporary connection out to 70<sup>th</sup> Street, which is a County Road. There are conditions that state when Argenta Trail is constructed north of 70<sup>th</sup> Street, the temporary connection to 70<sup>th</sup> goes away. 65<sup>th</sup> Street would provide full access to those neighborhoods. He commented that when the County builds Argenta Trail beginning in 2021 it would be a full movement intersection.

He commented that the benefit of splitting the project up helped cover most of the cost. He stated that the project being presented this evening, the trunk watermain project is estimated to cost \$312,000 and proposed to be funded from the Northwest Area Water Fund. The road project would cost an estimated \$2,748,000. Proposed funding sources have a majority coming from Municipal State Aid Funds at approximately \$1,537,000. He stated that we were approved for the full advance under Municipal State Aid Funds. The Board will be considering another Award within the next few weeks. He stated that they allow us to request an advance of either \$4 million dollars or up to three years of the annual allocation, whichever is less. He commented that is where we are at with what is available with Municipal State Aid Funds and then we are tapped out of those funds until about 2022 and the advance will need to be repaid. They would be using the Northwest Area (NWA) Storm Water Fund, the NWA Water Fund, and Special Assessments for \$960,000.

He displayed a map of the properties proposed to be assessed for the project and stated that we are looking at an equivalent single-family residential parcel assessment. There are 79 approved lots in the Blackstone Ridge subdivision. With the development contract for the subdivision, the developer prepaid \$150,000 toward the construction of 65<sup>th</sup> Street. That contract also stated that they were concerned about being assessed if it were anything less than the full collector street. He stated that there is language in there that states that the City can assess for additional costs if they build it as a Community collector initially. He stated that there are an additional 44 lots to the east. As a part of the development contract there was a waiver of assessment appeal recorded that allows assessment for the construction of 65<sup>th</sup> Street for up to \$5,273 per lot. He stated that there is an 18-acre parcel with one home with access off of Trunk Highway 3. If they developed a portion of that lot, the other lots could reach future 67<sup>th</sup> to the South. He stated that for the north side they came up with a number of single family lots per gross acre. They applied that figure to a larger parcel to get a gross area to work with. This equals a total of 231 lots with a total of \$4,164.00. For the 79 lots in the Blackstone Ridge plat, and the prepayment by the developer, that reduces those assessments to \$2,270.00.

Public Works Director Thureen stated that they had an information meeting last week with representatives from five of the homes in Blackstone Ridge. They spoke about the history of the project, the scope, cost, special assessment process, proposed schedule, upcoming projects in the area, and where things are at today. He stated that there were questions about design details, concern about access changes, what happens when construction occurs, concern about lots backing up to 65<sup>th</sup> Street, having grading and screening there, and talk about assessments.

He listed the following proposed schedule if approved:

- Public Improvement Hearing: January 14, 2019
- Order Improvements/Authorize and Approve Final Plans and Specs/Authorize Ad for Bid: January 14, 2019
- Bid Opening: February 11, 2019
- City Council Receives Bids/Orders Assessment Hearing: February 11, 2019
- Neighborhood Informational Meeting: February 20, 2019
- Assessment Hearing/Award Project: February 25, 2019
- Estimated to Begin Construction: May or July 2019
- Estimated Substantial Completion: September or November 2019

He stated that Staff's recommendation is to approve the two Resolutions. Both would order the projects, approve the plans and specifications, and authorize advertisements for bid.

Mayor Tourville commented that for the roundabout, Robert Street would be closing from Upper 55<sup>th</sup> Street to 70<sup>th</sup> Street beginning with the construction season and throughout the summer.

City Attorney Kuntz asked about future 67<sup>th</sup> Street and if it would be treated as a neighborhood roadway.

Public Works Director Thureen responded that it would be treated as a neighborhood roadway. He stated that Blackstone Ridge provided a partial prepayment for 67<sup>th</sup> that runs adjacent to that property.

Chris Staples, 6503 Arctic Court, also has a business at 2906 Upper 55<sup>th</sup> Street for the last five years. He stated that 65<sup>th</sup> affects about 1300 linear feet of the north side of the neighborhood. He displayed photos of the area. He stated that they were concerned about safety with the road having nothing in between the curb and the backyards. He commented that grading and elevation are proposed to be flat and the straight road design allows for increased speeds. The lack of trees/natural barrier is inconsistent with the rest of the City with hundreds being removed and not replaced. Due to that, there would be no barrier for noise and light. He stated that the existing permanent 30-foot drainage easement and Homeowners Associations Bylaws make privacy solutions challenging. He commented that the developer usually covers the cost of the assessment, but due to the temporary road, houses were built and now the assessment is for the homeowners and the developer.

He suggested installing Black Hills Spruce every 15 to 20 linear feet, a total of about 80 – 90 trees, offset at 1,300-foot stretch from Arctic Court to Agate Trail along the southern section of right of way. To use existing earth from the road project to create a contoured two to three-foot berm for blocking from the road. He commented that they could utilize the mulch from tree removal to finish around the trees to reduce hydroseeding/grass maintenance. The trees would be low maintenance and provide a barrier that is safer for residents. It would maintain the aesthetic that defines the City and attract additional homebuyers to the area. He stated that there is some tree coverage budgeted in the proposal and that doing this would cause a slight increase over what was allocated.

Mayor Tourville asked if we had tree replacement on the property.

Public Works Director Thureen responded that they did. The temporary easement would tie into the existing grades, which is what the allocation is for. He responded to Mr. Staples comments and stated that trees in the public right of way mean that they are the City's responsibility to maintain. He commented that the trees suggested are native, but that salt damage along the roadway is always a concern. He stated that he did speak to Mr. Staples this afternoon and they are talking about doing additional grading to get some berm along there. There may be flexibility with drainage and utilities. He stated that they could discuss planting some trees on private property and that this is a work in progress and something they could look at.

Mayor Tourville suggested that Public Works Director Thureen work with the neighborhood and see what can be worked out with a berm, trees, and the distance.

Public Works Director Thureen stated that Blaine is the best example of residential developments that back up to a street that is straight and posted for 35 miles per hour.

Mr. Staples offered paper copies of his presentation to the Council and handed them to City Clerk Tesser.

Chris Enstrom, 6506 Arctic Court, commented that he moved here from Eagan. He stated that the demographic in the neighborhood has many with children aged two and under. Safety is an issue. There are 14 lots that back up to that road. He stated that if someone comes into that area to buy or build a

home and there is no impediment there, that could be a deterrent. He commented that the faster those homes sell, the faster the revenue comes to the City.

Councilmember Perry asked about the HOA policy for fencing.

Mr. Enstrom responded that it is for privacy fencing and the requirement is a half inch rail with a six-inch gap between them.

Councilmember Perry stated that she has been on an HOA Board. With the road being like it is, going to the Board with concerns could be beneficial and could provide some flexibility with those rules.

Dustin Delmonico, 6507 Arctic Court, stated that it would cost him approximately \$30,000 to install fencing. He commented that trees and a berm would be more cost effective.

**Motion by Piekarski Krech second by Perry to close the Public Hearing at 9:32PM.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Piekarski Krech second by Perry to approve Public Hearing to Consider Resolution Ordering Project, Approving Plans and Specifications, and Authorizing Advertisement for Bids for City Project No. 2015-03 Resolution 19-14 (65th Street Roadway and Drainage Improvements) and City Project No. 2018-03 Resolution 19-15 (65th Street Trunk Watermain Improvements).**

**Ayes: 5**

**Nays: 0      Motion carried.**

## **7. REGULAR AGENDA:**

### **COMMUNITY DEVELOPMENT:**

**A. A. SHAWN BRIGGS; Consider the following resolutions for property located at 9725 South Robert Trail:**

**a) a Resolution relating to a Conditional Use Permit for mini-storage with outdoor storage. Resolution 19-16.**

**b) a Resolution relating to a Variance from fence height and landscape standards. Resolution 19-17 Fence. Resolution 19-18 Landscaping.**

City Planner Allan Hunting stated that this Application is for a proposed mini storage, to remodel the existing building with climate-controlled storage, and add seven additional new cold storage buildings. They would also construct an office building. He stated that there would be two security gates and the storage area would have fencing. Two Variances are being requested. One is for an eight-foot fence where seven feet is the maximum allowed, and a reduction in landscaping due to the existing landscaping on site. He stated that they are also proposing, along the north and west boundary, open storage for trailers, boats, and campers. He stated that at the Planning Commission meeting, most of the discussion focused on the screening. The Applicant is proposing to do an eight-foot solid wood fence along the west side and part of the north with it changing to chain link. There was discussion to extend the solid fencing to chain link with slats through it. He stated that the Planning Commission and Staff recommend approval of the project as proposed with the additional condition of the screened fencing.

Mayor Tourville asked why they were having chain link with slats and if it would look nicer to continue with the wood fencing.

Kathy Anderson, President of Architectural Consortium, stated that she is here with Brian Briggs and Shawn Briggs who are the developer and business owners for the self-storage, as well as Steve Johnston,

Civil Engineer with Elan Civil Engineering. She stated that this would be the perfect re-use of the property and is the lowest impact use as far as traffic and noise. She described some of the buildings on the property and stated that they would maintain the existing road.

Councilmember Piekarski Krech asked if they had everything figured out with MnDOT.

Steve Johnston, Civil Engineer, Elan Civil Engineering, responded that they have had discussions with MnDOT. He stated that MnDOT has requested a right turn lane going into the site, and that they are currently in discussions as to whether or not they could use the existing shoulder or if there would need to be an expansion done. He stated that they are waiting on geo technical work to figure out what the existing pavement section is within that shoulder and if that is adequate, they would restripe the area.

Brian Briggs, owner, stated that he and his son are happy to be here with the potential development of an area that has been problematic in the past. He commented that he has met with neighbors and spoke about their concerns for the area. He stated that he wants this to become a secure, beautiful, and productive site for this Community.

Mayor Tourville asked about the chain link slats versus wood, and if there was a big difference in cost.

Mr. Briggs responded yes to cost. He stated that they are requesting a taller fence to provide screening for the neighborhood and that the neighborhood agreed with the concept.

**Motion by Bartholomew second by Piekarski Krech to approve to Consider the following Resolution for property located at 9725 South Robert Trail: a) A Resolution 19-16 relating to a Conditional Use Permit for mini-storage with outdoor storage.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Piekarski Krech second by Perry to approve to Consider the following Resolutions for property located at 9725 South Robert Trail: b) A Resolution relating to Variances from fence height Resolution 19-17 and landscape standards Resolution 19-18.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**B. CITY OF INVER GROVE HEIGHTS; Consider a Resolution relating to a Preliminary Plat and Final Plat for the plat of McGroarty Park 1st Addition. Property located on west side of Blaine Avenue, south of Upper 55th Street. Resolution 19-19.**

City Planner Hunting stated that this was before the City Council in August and tabled for further information. Staff presented that information to Council at the Work Session on January 7<sup>th</sup>. He stated that the proposal is to subdivide a parcel, City-owned piece, to create a three-lot subdivision. They would create two platted lots, one Outlot for future development and establish the right of way for a future Blackshire Court coming in. He stated that if approved, the plan would be for the City to sell Lot 1 to AmericInn to construct a parking lot for their Park and Ride that is currently located at the Theatre. There is potential for a convention center in the future. He stated that from Staff's perspective, the subdivision meets all the standard requirements, lot size, easements, and access. The Planning Commission recommends denial and felt that the land should continue to be looked at as a whole for unified development.

Brett Rose, 5861 Blaine Avenue, representing AmericInn, stated that he is here to answer questions.

Councilmember Piekarski Krech asked about how much land they would be proposing to expand to for the convention center.

Mr. Rose responded that they would only be utilizing the 2.5-acre parcel. Parking would be in the same location.

Councilmember Dietrich stated that there has been talk about a convention center, but nothing in writing. She asked Mr. Rose if he would be willing to put something in writing in the Purchase Agreement.

Mr. Rose responded that they do not have anything in writing yet. The process that he is here for this evening is as far as they have progressed. He agreed to put something in writing.

City Attorney Kuntz asked what the wording would be and if they would be committing to build a convention center.

Mr. Rose responded that they are looking into it and did not know what the timeframe would be. He commented that he was here to get the parcel split first. Once approved, they could discuss further.

Cynthia Smith, 5986 Blaine Avenue, stated that when they purchased their land it was residential and there could be an office park across the street. She commented that this isn't just a parking lot, it's rezoning the area. If the convention center doesn't make it, it's zoned for a different purpose than when the neighborhood purchased their land. She stated that this area is listed as being residential and business park in the 2030 and 2040 Plan. She commented that they want their investment to be honored by the City and to not break that area into pieces and respect the nature across the street. She stated that the Planning Commission listened to their concerns and have denied this. She asked the Council to do the same and use it for what it is originally intended. She stated that the Council didn't know who owned it, and that MnDOT did.

Mayor Tourville responded that the City Council never said that MnDOT owned the property.

Ken C., 881 Ohio Street, West St. Paul, stated that he works with AmericInn and also works with Applebee's. He commented that one of the problems they have during the Holiday's is that it is multi-use parking. He stated that they are asking for additional parking alongside their building and would maintain and supervise the area.

Councilmember Piekarski Krech asked if the subdivision happens, if the only part that is being rezoned is the 2.5 acres that AmericInn is interested in.

City Planner Hunting responded that would be the next step. If this was sold and purchased, this is the piece that the Applicant would have to apply for a Comprehensive Plan Amendment, rezoning, and site plan approval. He stated that the only request in front of the City Council this evening is a sub division plat. There would be no other changes with this action that would affect the Comprehensive Plan or the zoning of the property.

City Attorney Kuntz asked what the other lot becomes for zoning. He asked what Lot 2 is zoned as today and if it meets the office park requirement.

City Planner Hunting responded that Lot 2 Block 1 would remain as currently guided zoning. It would be City owned property that council could decide what to do with. He stated that Lot 2 is zoned office park and meets the office park requirement and that it has been looked at for commercial. It has been sized to meet the current zoning.

Mayor Tourville commented, that if AmericInn wasn't already there and if they were to come to the City for Block 1 and wanted it to be added for future expansion, this would be voted on simply. He stated that we

were never in question as to what the City owned. This item was tabled to take a look at ownership and that was done. He stated that MnDOT is taking a look at all pieces of their property again to see if they should be sold, used, or developed.

Councilmember Bartholomew commented that he has the same position as the Mayor. He stated that Lot 1 is shielded from view, on the berm, and that any development that would happen would have to be split, and a retaining wall would have to be set in there. He stated that he is comfortable selling the portion that the Applicant is requesting. It would help existing business and is shielded from the site lines of residents across the street. He stated that Lot 2 remains the same zoning and guiding as well as Lot B. He commented that he is comfortable with setting up the preliminary and final plat for McGroarty Park.

Mayor Tourville commented that if a sale was done, the Applicant would still have to come back with stormwater, ponding, trees, screening, and the next phase.

**Motion by Bartholomew second by Piekarski Krech to approve to Consider a Resolution 19-19 relating to a Preliminary Plat and Final Plat for the plat of McGroarty Park 1st Addition. Property located on west side of Blaine Avenue, south of Upper 55th Street.**

**Ayes: 4**

**Nays: 1 (Dietrich) Motion carried.**

Mayor Tourville stated that they would work with the landowner and put documents together. Then it would come back to the City Council for final approval.

**ADMINISTRATION:**

**C. Consider Approving NDC4's Recommendation to Preliminarily Deny Comcast's Formal Franchise Renewal. Resolution 19-20.**

Jodi Miller, Executive Director of the Northern Dakota County Cable Communications Commission and Town Square Television. She stated that the Cable Commission is a Joint Powers Cooperative with seven-member Cities, Inver Grove Heights being the largest. The Cable Commission has two main roles. The first is that they administer the cable franchise for the two franchise cable companies in the City, Comcast and CenturyLink. She stated that they are the customer complaint or resolution office, so if there are calls or questions from subscribers those can be sent their way. The second role is operating the Community television station for the seven City area. Town Square Television has seven local channels on Comcast and CenturyLink. She stated that they cover City Council Meetings, High School sports, Music events, Church services, events in town such as the Veteran's Day Celebration, and Election programming. They do about 1300 to 1500 hours of local programming every year. She stated that the City has two members on the Cable Commission. Mayor Tourville has been serving since 1989 and has been the Chair for most of those years. The Citizen Representative is Skip Jackson who has been on the Cable Commission for 23 years and is a retired 3M Engineer.

She stated that they are recommending a denial resolution to renew Comcast's franchise for another ten-year term. Cable franchising is mandated under Federal and State Law. She stated that the City Council passes an Ordinance for the City, which is a negotiated agreement, a contract between Comcast and the City. They are asking the Council to vote in the negative on Comcast's formal proposal. She stated that the Cable Commission produced a needs assessment that contains several consulting reports that are the Cable Commission's assessment of Community needs over the next ten years. She stated that four months later Comcast submitted a proposal to them that includes reports, survey's, and Comcast's proposed franchise. She stated that the Cable Commission is recommending that the City not accept this proposal as it does not meet the Community needs and interest. She handed out a paper version of the power point to the City Council.



Brian Grogan, Attorney, Moss & Barnett, representing the Cable Commission and the City of Inver Grove Heights. He stated that they are in year 19 of a cable TV franchise granted to Comcast. This was a 15-year franchise, with four extra years, initially granted in April 2000. He stated that Comcast requested renewal in 2012, which was required by Federal Law. The Commission started to assess the future needs and interests of not only the Commission, but also the seven member Cities including the City of Inver Grove Heights. That occurred from 2013 to 2014. He stated that it was a long process due to unforeseen delays, one of which was Comcast trying to buy Time Warner Cable. The renewal process was put on hold while Comcast presented a new approach what the franchise would be conducted locally. In 2015, CenturyLink asked for a cable franchise to compete directly against Comcast. He stated that in April Comcast's bid to purchase Time Warner fell apart, but the process stayed on hold. Comcast could not agree to a renewal if they do not know how the competitor's franchise would look like. He stated that everything was put in hold until mid-2016. He stated that member Cities have granted multiple extensions of Comcast's existing franchise term with the most recent one expiring in March 2019.

He stated that the Cable Commission has been negotiating with Comcast for years. Comcast has a different view of the deal points than the Commission does. By the time they got to year 18 with no franchise and no prospect of renewal the Cable Commission directed staff in February of 2018 to undertake a formal process to bring it to conclusion. He stated that they did the process and put together a formal needs assessment report that was approved in April 2018. Those documents were sent to Comcast with a due date of July 2018. Comcast requested extra time, which the Commission granted, and set a new deadline of August 15<sup>th</sup>. Comcast submitted their formal proposal. He stated that a deadline under Federal Law states that they must take action by December 15, 2018. That Law states that you either renew the franchise on exactly the terms that Comcast proposes, or you issue a preliminary assessment that the franchise should not be renewed. He stated that this City Council needs to determine one of those two options.

Mr. Grogan stated that there was a disagreement between Comcast and the Commission about who had the actual authority to make that decision. He stated that it was the Commission's view that the Joint Powers Agreement (JPA) delegated that to the Cable Commission to make those decisions on behalf of the Cities. Comcast felt that each City should be making that decision. He stated that they agreed that the Cable Commission works for the City. They will go to all seven Cities and request this action. He stated that the Cable Commission was going to issue a recommendation and get this completed by March 15, 2019. If any of the Cities decide to issue a preliminary denial, the Cable Commission will conduct the next phase of this process. Nothing happens without the Council vote. He stated that the Cable Commission issued a recommendation on December 12<sup>th</sup>, which parallels the proposed Resolution before the Council this evening. He commented that it recommends Comcast's formal proposal be denied. He stated that the Resolution contains exhibits, the first lists off ten pages of the rationale why Comcast's proposal does not meet the future needs and interests identified in the need's assessment. The second attachment identifies procedural rules which include a Hearing that would go before a Hearing Officer.

He stated that the City Council has two options:

1. Adopt the proposed Resolution which will serve as a preliminary assessment that the franchise should not be renewed.
2. Make a Motion to recommend approval of Comcast's Formal Proposal and the Comcast Model Franchise.

He stated that Option #1 is the Commission's and Staff's recommendation.

Amy Roberts, Manager of Government Affairs with Comcast Twin Cities, stated that Comcast has made commitments to this City and have invested nearly \$1 billion in technology and infrastructure improvements in Minnesota since 2011. They employ over 2600 people and have increased speeds 17 times over 17 years. She stated that a big part of being competitive is making sure new and existing customers receive the best customer experience. They have made it easier by hiring hundreds of tech specialists and customer service agents, including 400 in the Twin Cities. She stated that some have

chosen to do what is known as “cord cutting” and that since 2015, Comcast has seen a 6% decrease in customers. She stated that unlike Comcast, which pays a 5% franchise fee and PEG fee, none of the competitors pay a dime. Only residents that choose to get paid video from Cable shoulder those fees.

She stated that in their view, Town Square Television is unreasonably demanding more money from a shrinking pool of cable customers who do not regularly watch the programming that TST provides. She stated that the Commission is asking the Council to deny Comcast’s renewal and their franchise despite the fact that they have offered a reasonable funding package for the continuation of their PEG studio, without having to put an additional burden on cable customers in the City. She stated that there are new ways to get this information, and all of those ways were not available when PEG channels and the studio were first established. She stated that the Cable Act makes it clear that the deal already determined between Cities and cable operators is that Cities get 5% of the cable operators’ gross revenue as a franchise fee, and a PEG fee to cover the Cities capital cost of a PEG operation. She stated that this Act was meant to prevent the situation to deny a franchise and to deny the ability of an operator to serve its customers or utilize the network it already invested in just because the cable operator doesn’t agree to every demand the City makes above and beyond that 5%.

She stated that they assessed the needs of NDC4’s report, compared that to customer survey results, and the activity by the Commission itself, and are confident their response addresses the needs to continue to provide PEG programming to Cable customers. NDC4 requests seven channels in it’s RFP despite evidence of low PEG viewership and severe underutilization of the seven channels it operates today. She stated that the total number of locally produced first run programs for all seven channels, over one year, would not fully utilize all of the available space on just one PEG channel. It could only fill 10% of available space on one channel and 1.6% of the total hours on seven channels. She stated that the Commission did not weigh the request for seven channels against the ability of putting local information and videos on the internet. She stated that they offered three channels in HD. In addition to the 5% franchise fee, they proposed to provide NDC4 \$1.39 per month per subscriber PEG fee to be used per the Cable Act for capital costs. Since 2015, NDC4 has spent only 21% of it’s PEG funding for PEG Capital. In 2017 TST Capital Fund Projects had a balance of more than \$300,000 and that this year TST transferred \$130,00 PEG Fee revenue to the Capital Fund project. She commented that it appears TST is spending PEG funding on administrative costs rather than addressing what is presented in the needs ascertainment to be an immediate need to replace almost all of TST’s current equipment. She stated that based on the Commission’s historical capital spending, \$1.39 is all that cable subscribers should be paying for the capital costs of the Commission.

Ms. Roberts stated that the Commission’s RFP requested complimentary cable service for 69 sites including public golf courses, pools, and ice arenas. Cities are moving away from PEG programming, and rate regulation of cable operators was removed years ago. She stated that many are using other methods to produce from their own homes and some Cities are embracing these methods to communicate with residents.

She stated that the Commission’s Resolution to reject their proposal makes reference to CenturyLink. CenturyLink no longer offers Prism TV. She stated that Cities throughout the metro area have PEG fees that are similar or lower than this proposal. She stated that there is reference to 3% gross revenues PEG fee that is part of the north suburbs. That approach reflected a right sizing of one of the Nation’s highest PEG fees and resulted in changes to the Commissioner’s Governance structure and established a significant business relationship between the Cities in that area and Comcast.

She stated that in closing, the value of the renewal proposal is significant and reflects the law set forth by the FCC, Congress, and this Cities cable related needs and interests. It reflects the competitive video environment and viewing and programming preferences of present-day subscribers. She commented that denying this is the wrong decision.

Mayor Tourville stated that Town Square Televisions initials were mentioned a few times. Town Square Television is not negotiating this contract. It's Northern Dakota County Cable, not TST.

Councilmember Piekarski Krech asked what the current PEG fee is.

Ms. Roberts responded that the PEG fee is \$1.88 per subscriber per month. They are asking for a gross revenues percentage of 3% which is approximately \$3.18 per subscriber per month.

Councilmember Bartholomew asked for clarification of the fees.

Ms. Roberts responded that it is a 3% percentage of gross revenue instead of doing a per subscriber per month. It's a percentage of the gross revenues in the area. It is roughly \$3.18 per subscriber, which is in addition to the 5% franchise fee.

Councilmember Dietrich asked what NDC4 plans to do as more and more people cut the cord and abandon cable. She questioned how it would sustain its operations.

Mr. Grogan responded that they put a needs assessment together with an expert. They looked at capital needs. Time will tell on a diminishing subscriber base. He stated that they are proposing \$1.39, which is a decrease from the PEG fee today. NDC4 is seeking an increase to drive it to a percentage of gross revenues. In comparing other Cities in the area, it drives to less revenues than what the needs assessment requires. Their proposal would drive to 30% less revenue over what is being provided today.

Councilmember Dietrich asked about the informal negotiations process and questioned if Comcast offered a 2% increase in gross revenues. She asked if some of the content spread over seven channels be condensed on less channels to make the overall programming more robust.

Mr. Grogan responded that an informal process is a settlement negotiation. He commented that we were apart on not just the funding issue, but other complications led to being unable to reach an agreement.

Mr. Grogan responded about the number of channels and stated that they are all standard definition channels. He commented that part of what NDC4 is trying to accomplish is to take some of those channels and have them simulcast in HD. They would have a combination of both SD and HD.

Mayor Tourville stated that the Commission voted unanimously that all seven Cities take a look at denial. He felt with the informal process, the channels could have been worked out. The difficulty was that we didn't think it would work to take a 30% decrease. He stated that Comcast made the statement that they thought that the FCC would rule in their favor and look at not having to deal with Cable Commissions. He stated that it hurt in breaking it off. He commented that the FCC's closed now with the partial shutdown.

Mr. Grogan stated that Comcast was correct when they stated that CenturyLink is wrapping up their operations for cable product. He stated that we would be back to a single franchise operator in town.

Mayor Tourville stated that with a denial, negotiations could pick up.

Mr. Grogan agreed. He stated that Lilydale has voted unanimously to adopt the Resolution. If all seven Cities reach that collective decision, it moves to an administrative Hearing. He stated that it is not practical for a City Council to conduct a proceeding where Attorney's present evidence. This will go to an Administrative Law Judge. The process can be triggered by the Commission or by Comcast.

Mayor Tourville commented that Comcast leadership doesn't believe anyone watches the Council meetings, School Board meetings, or local football. He stated that there are differences, but they are minor and can be worked out.

Councilmember Piekarski Krech commented that people say that they can watch the Council meetings over the internet. She stated that you wouldn't be watching it on the internet if NDC wasn't here broadcasting it. Without the local channels, you would not be seeing these things.

**Motion by Bartholomew second by Dietrich to support denial of NDC4's Recommendation to Preliminarily Deny Comcast's Formal Franchise Renewal. Resolution 19-20.**

City Attorney Kuntz stated that the Motion is a Motion to pass the prepared Resolution that was presented.

Mayor Tourville commented that this is the prepared Resolution to deny. He asked if the Motioner and seconder approved of that.

Councilmember's Bartholomew and Dietrich agreed.

**Ayes: 5**

**Nays: 0      Motion carried.**

**D. Consider First Reading of Ordinance Amending Inver Grove Heights City Code Title 4, Chapter 1, Sections 4, 5, 6, and 14 to Permit the Issuance of On-Sale Brew Pub Liquor Licenses and Off-Sale Brew Pub Malt Liquor Licenses.**

City Attorney Kuntz stated that this is the First Reading of an Ordinance which allows a Brew Pub to operate within the City of Inver Grove Heights. A Brew Pub is a liquor establishment that has the following three components:

1. It is a brewery for malt liquor and produces and brews beer on site.
2. Through its restaurant it operates an on-sale intoxicating liquor license together with a Sunday on-sale intoxicating liquor license.
3. It operates an off-sale establishment which sells the malt liquor prepared and manufactured at the site.

He stated that currently our Ordinance does not address Brew Pubs. This would allow those licenses to be issued for this Brew Pub. The three licenses are for on-sale intoxicating liquor license, Sunday on-sale license, and off-sale malt liquor license. He stated that this is the First Reading, it was posted through the City Clerk on the Website and the bulletin board in advance. He stated that Council needs to give direction to when they want the Second Reading and if you want all three Readings or just two of them.

Councilmember Piekarski Krech commented about how complicated Brew Pubs were compared to regular liquor licenses.

Mayor Tourville asked if there were time constraints and if they needed to have Three Readings.

City Attorney Kuntz responded that the Director of Community Development is trying to coordinate the issuance of the land use permits with this. He stated that land use matters will come before the Council in February.

Community Development Director Janice Gundlach stated that they are hoping to get this completed in two Readings. There is another Council meeting on January 28<sup>th</sup> where the Second Reading can be conducted. She stated that the Planning Commission will take up the land use Applications on February 5<sup>th</sup>. That information would be fast tracked to the Council on February 11<sup>th</sup>. She stated that if a Third Reading is needed, it could happen on February 11<sup>th</sup>. She commented that there are time constraints for the company as there are a lot of steps that need to fall into place for them to open mid-summer.

Councilmember Piekarski Krech suggested having two Readings.

Community Development Director Gundlach responded that two Readings would work.

Mayor Tourville asked if it was best to suspend the rules the next time at the Second Reading.

City Attorney Kuntz stated that they have prepared a Resolution for your consideration while anticipating that the Second Reading could be the last Reading.

Councilmember Bartholomew stated that the off-sale portion is only for the liquor that is made by the Brew Pub.

**Motion by Piekarski Krech second by Perry to approve to Consider First Reading of Ordinance Amending Inver Grove Heights City Code Title 4, Chapter 1, Sections 4, 5 ,6, and 14 to Permit the Issuance of On-Sale Brew Pub Liquor Licenses and Off-Sale Brew Pub Malt Liquor Licenses.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Mayor Tourville confirmed that this item will be done in two Readings.

**E. Designate Council Representative for Inver Grove Heights Local Issues meetings.**

Mayor Tourville stated that at the last Work Session they picked Councilmembers Bartholomew and Dietrich to be the two Representatives chosen for Local Issues.

Councilmember's Bartholomew and Dietrich agreed.

**Motion by Piekarski Krech second by Perry to approve Councilmembers Bartholomew and Dietrich for Local Issues.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**F. Designate Council Representative for Progress Plus meetings.**

Mayor Tourville asked who wanted to be Council Representative for Progress Plus meetings.

Councilmember Perry agreed to be Council Representative.

**Motion by Piekarski Krech second by Bartholomew to approve Councilmember Perry as the designate for Progress Plus.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**PARKS AND RECREATION:**

**G. Consider First Reading of Ordinance Changes Related to Dog Licensing, Dog Leashes, Dangerous Dogs.**

Parks and Recreation Director Eric Carlson stated that this item is for the First Reading for Ordinance changes and Amendments relating to Dog licensing, leashes, and dangerous dogs. At the December 10<sup>th</sup> Council meeting Staff was directed to come back with an Ordinance related to dog leashes set at 16-feet in length or less. He stated that dogs would have to be on a leash 16 feet long or less at all times unless they are at the off-leash dog park at Heritage Village Park. He stated that the Council asked Staff to look at other parks in the system where off leash may work. Staff came up with two hockey rinks, one at

Oakwood Park and one at Groveland Park. He stated that those would be contained areas where dogs could be off leash. Those three locations would be considered off leash areas. People would have to purchase the off-leash dog park pass to be at any one of those three locations with their dog off leash. He stated that dogs would not be allowed inside of fenced baseball or soccer fields.

He stated that there have been no additional changes to the dangerous dog Ordinance. For dog licensing, the City Council wanted to go away from dog licensing and go with the requirement of wanting dogs to be vaccinated. He stated that they changed the language under dog licensing so that dogs would have to be vaccinated. If a dog were found unvaccinated, the owner of that dog would be guilty of a Misdemeanor, punishable by 90 days in jail or a fine of up to \$1,000 as determined by a Judge. Councilmember Piekarski Krech commented that it says dogs vaccinated annually. She stated that Rabies vaccinations are every three years and asked that it requires dogs to have a current Rabies vaccination.

Parks and Recreation Director Carlson responded that is what it says in the actual Ordinance. It does state valid vaccination record.

Councilmember Bartholomew asked about the hockey rinks proposed to be available for off-leash.

Parks and Recreation Director Carlson responded that is during the non-skating season, when not in use for hockey or skating. They would have to have a Permit to be there.

Mayor Tourville commented that speaking with dog owners, currently there is no place you can take your dog off-leash. He stated for example, people are saying that they pay taxes too and that they should be able to use the parks like other people use the parks. He commented that if there is a problem, take the privilege away. You cannot use parts of the park for throwing a tennis ball, etc. He stated that Sleepy Hollow could possibly handle it and asked if that could be looked at.

Councilmember Piekarski Krech commented that it defeats the purpose of the problem with uncontrolled dogs coming up and doing things. She stated that if they are going to have places that this could be done, that is where it should be, in a controlled space.

Councilmember Bartholomew agreed with Councilmember Piekarski Krech's comments and stated that the compromise is being able to use the hockey rinks in the parks. He stated that there is the dog park, and that he doesn't understand why we need to look into other areas.

Mayor Tourville stated that there are people who like to throw stuffed ducks for their dogs and people have said that you can't do that at a dog park because there are other dogs there.

Councilmember Piekarski Krech commented that they may not be able to bring toys into the dog park.

Mayor Tourville stated that he is advocating for those that have asked for more space for dogs to run and to bring items back and forth. He commented that if this creates a problem, it can be taken away. If it doesn't, it will keep some citizens happy.

Councilmember Bartholomew asked what parks the Parks and Recreation Director envisioned for this.

Parks and Recreation Director Carlson responded that he sat down with Brian and they tried to locate areas within the park system that they can control dogs that were not on a leash without having to build something more to try to contain them. He stated that an open field is a policy that the City Council could make.

Mayor Tourville stated that you wouldn't have to build fences at Sleepy Hollow.

Councilmember Piekarski Krech questioned why they were spending money on a dog park.

Mayor Tourville responded that people have said you can't have that type of activity at a dog park. People have said they have had to go to other Cities to train their dogs. He commented that by doing this we are telling people no. He stated that he is looking at it as a possibility.

Parks and Recreation Director Carlson stated that he thought of Dehrer Park, which has no park improvements. There is no playground, ball field, or soccer field. There is nothing to bring families to that park, other than to throw a frisbee in the open field. He suggested that be a park to experiment with the Mayors idea.

Councilmember Piekarski Krech commented that you could have the issue of people not wanting a dog park near their homes.

Mayor Tourville stated that with Sleepy Hollow, people go to the other side of the Volleyball Court to play with dogs.

Councilmember Bartholomew asked if the Police Department has weighed in on having this type of an area.

Mayor Tourville responded that the Police have said it was up to the City.

City Administrator Lynch stated that the biggest issue the Police had was with voice command and if there was no leash. The Police have asked for some type of physical connection that they could enforce.

Mayor Tourville stated that most of the complaints took place on playground equipment or on the trails, not in open fields. He suggested taking a look at Oakwood or Sleepy Hollow and see if there is a problem.

Councilmember Bartholomew stated that this request was for hockey rinks. He suggested getting the First Reading out of the way and that this could give them time to find locations for this to possibly happen.

City Administrator Lynch asked that the Council thought about signage. He commented that people don't have an expectation that they would be walking in dog waste. He asked if the City would provide and install waste receptacles like they have at the dog park. He stated that this is a capital cost and an ongoing supply cost.

Parks and Recreation Director Carlson stated that there are a number of dog waste stations throughout the parks system.

Mayor Tourville stated that the Permit could include information about what people need to do.

Parks and Recreation Director Carlson asked how many areas they wanted to contemplate. He stated that they have Heritage Village Dog Park, Oakwood Park, and Groveland's hockey rinks. He asked if the Council is asking for one or two more additional locations.

Mayor Tourville responded one or two places.

Councilmember Piekarski Krech suggested they skip the hockey rinks. The dog park has fencing. She was concerned about how to control that. She stated that if the dog is off leash in a public area it needs the license.

Councilmember Bartholomew commented that we have decided we want to have dogs on leashes. We need to figure out where to have dogs off leash if that is what we want to do.

**Motion by Bartholomew second by Piekarski Krech to approve the First Reading as it stands for Ordinance Changes Related to Dog Licensing, Dog Leashes, Dangerous Dogs. Councilmember Bartholomew stated that if any Councilmembers can propose a spot and help the Park Director with ways of developing it, and the rules surrounding it, it could be presented to the Council.**

Mayor Tourville suggested Sleepy Hollow Park, west of the Volleyball Court.

Parks and Recreation Director Carlson asked if the Council wanted the neighborhood to be notified and have a review of the Parks Commission before it comes back to the Council, or if they want them to return to the council.

Councilmember Piekarski Krech suggested it go before the neighborhood and then to the Parks Commission.

Parks and Recreation Director Carlson stated that he would notify the neighborhood and bring it before the Parks Commission before bringing it back to the Council for a Second Reading of the Ordinance.

Allan Hunting, 2645 96<sup>th</sup> Street, speaking on behalf of his wife Amy as she could not be here this evening. He stated that one concern appears in the definition “under restraint”. He stated that it was her thought it was always to allow up to 16 feet while you are walking an animal. 16 feet would be too long to chain the animal, and if you would chain the animal you should be on site monitoring for the safety of the animal.

Mayor Tourville asked if this would be on private and/or public property. He stated this could be difficult for larger properties. He commented that we should stay away from private property.

Mr. Hunting responded that it would be on private property. He stated that the concern was that you should be with the animal due to danger.

Councilmember Dietrich agreed with Mayor Tourville and commented that she didn’t believe we needed local legislation on that type of item.

Mr. Hunting commented about the penalty fee if the dog is not vaccinated. He questioned if a Misdemeanor was the best route.

Councilmember Piekarski Krech responded that this is the regulation of the City to have the dog vaccinated. She commented that if you are going to have a dog, be responsible.

City Attorney Kuntz responded about the fee stating that because we are a Statutory City, we do not have the power to set up an administrative fee penalty schedule for lifestyle violations. He stated that they went to the Misdemeanor fee because it is something they can impose.

**Ayes: 5**

**Nays: 0      Motion carried.**

## **8. MAYOR & COUNCIL COMMENTS:**

### **9. EXECUTIVE SESSION:**

**A. Pursuant to attorney-client privilege and pursuant to Minn. Stat. § 13D.05, Subd. 3(b) a closed Executive Session to discuss the lawsuit of City of Inver Grove Heights vs. GS Truck & Trailer Repair LLC and GS Transport Express LLC.**

City Attorney Kuntz stated that these items should be treated separately.



City Attorney Kuntz stated that the first item deals with a pending lawsuit with the City of Inver Grove Heights vs. GS Truck & Trailer Repair LLC and GS Transport Express LLC. This is an existing pending lawsuit. He stated that they are asking the Council to go into a closed-door Executive Session to discuss the pending litigation with the City Attorney. Present will be the City Administrator Joe Lynch, the City Attorney, and the Council. He stated that the opportunity to go into a closed-door session arises under the Attorney client privilege dealing with pending lawsuits as well as Minn. Stat. § 13D.05, Subd. 3(b) which allows a closed-door session for discussion of Attorney client matters. He asked that the Council make a Motion to go into a closed-door session under the Statute for the reasons indicated relating to the lawsuit mentioned.

**Motion by Piekarski Krech second by Perry to approve Pursuant to attorney-client privilege and pursuant to Minn. Stat. § 13D.05, Subd. 3(b) a closed Executive Session to discuss the lawsuit of City of Inver Grove Heights vs. GS Truck & Trailer Repair LLC and GS Transport Express LLC to go into a closed-door session for the reasons stated by City Attorney Kuntz.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**B. Pursuant to Minn. Stat. § 13D.05, Subd. 3(a) a closed Executive Session to discuss a performance evaluation of City Administrator Joe Lynch.**

City Attorney Kuntz stated that the second closed-door session is under Minn. Stat. § 13D.05, Subd. 3(a) which allows a closed-door Executive Session to consider a performance evaluation of an employee over whom the Council has authority. This is for City Administrator Joe Lynch. He stated that they are asking the Council to make a Motion to proceed to a closed-door session under Stat. § 13D.05, Subd. 3(a) for the purpose of a performance evaluation of the City Administrator.

**Motion by Piekarski Krech second by Bartholomew to go into a closed-door session Pursuant to Minn. Stat. § 13D.05, Subd. 3(a) to discuss a performance evaluation of City Administrator Joe Lynch.**

**Ayes: 5**

**Nays: 0      Motion carried.**

## **10. ADJOURN:**

The regular meeting concluded, and the Council went into a closed-door Executive Session at 11:31 p.m.