

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, APRIL 8, 2019 - 8150 BARBARA AVENUE**

1. CALL TO ORDER 2. ROLL CALL:

The City Council of Inver Grove Heights met in regular session on Monday, April 8, 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, Parks and Recreation Director Carlson, Recreation Superintendent Dorshak, City Planner Hunting, Interim Police Chief Folmar, and City Clerk Tesser.

3. PRESENTATIONS:

A. Introduction of Julie Dorshak – Recreation Superintendent

Parks and Recreation Director Eric Carlson introduced new Recreation Superintendent Julie Dorshak and stated that she is a graduate of Minnesota State University/Mankato. He stated that she will be overseeing the recreation programs, special events, and aquatic and fitness programs at the Community Center. She will build good working relationships with the community, businesses, the School District, Community Education, and neighboring communities to provide high quality Parks and Recreation activities. He stated that Julie was selected out of 52 applicants due to her experience in managing recreation programming, her creativity in developing partnerships, and her successful grant writing and administration skills.

Recreation Superintendent Julie Dorshak stated that she is thankful for the opportunity and is looking forward to getting to know everyone and working with the partners and citizens in Inver Grove Heights. She stated that she was previously with the City of Burnsville for over 25 years with experience primarily in youth and family programming, and special events. She stated that she has done Grants administration, community services with volunteers and seniors and trail development within the city.

Mayor Tourville stated that the last week of March they lost a friend to the City of Inver Grove Heights. Scott McLean served in the United States Navy and was also very involved in the Inver Grove Heights Fire Department. He stated that his grandsons have served, and are on, the Inver Grove Heights Fire Department. He stated that in 2018 Mr. McLean was the Grand Marshal of the Inver Grove Heights Days Parade and also served on the Yellow Ribbon Committee. He commented that we give our sympathy to his family and friends. There will be more information in the months to come to look at honoring him for his work and devotion to the City of Inver Grove Heights.

4. CONSENT AGENDA:

A. Minutes of March 25, 2019 City Council Meeting Minutes.

B. Resolution 19-51 Approving Disbursements for Period Ending April 3, 2019.

C. Approval of Rental Housing License.

D. Resolution 19-52 Adopting Post-Issuance Debt Compliance Policy for Tax-exempt and Tax-advantaged Governmental Bonds.

E. Consider Awarding a Contract for the North Valley Pickleball Court Project.

F. Consider Pay Voucher No. 4 for City Project No. 2018-13 – Public Works Maintenance Facility HVAC Improvements.

G. Approval of a Storm Water Facilities Maintenance Agreement (SWFMA) for Lot 6, Block 1, Krech's Knollwood Estates Fourth Addition.

H. Consider **Resolution 19-53** Receiving Quote and Awarding Contract for the 2019 Raingarden Inlet Retrofits.

I. Consider Resolution 19-54 Authorizing Preparation of a Feasibility Report for the 2019 Pavement Management Program, City Project No. 2019-09C – Cahill Avenue Mill and Overlay (Concord Boulevard to Inver Grove Trail).

J. Consider Resolutions Calling for Hearing on Proposed Assessments Resolution 19-55, Declaring Costs to be Assessed Resolution 19-56, and Ordering Preparation of Proposed Assessments for the 2019 Improvement Program, City Project No. 2015-03 – 65th Street Roadway and Drainage Improvements.

K. Personnel Action.

Mayor Tourville requested removing Agenda Item 4A.

Motion by Bartholomew second by Perry to approve the Consent Agenda with the exception of Agenda Item 4A.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated that he was out of town for the meeting that took place on March 25, 2019, Agenda Item 4A.

Motion by Piekarski Krech second by Perry to approve Agenda Item 4A the Minutes of March 25, 2019 City Council Meeting Minutes.

Ayes: 4

Nays: 0

Abstain: 1 (Tourville) Motion carried.

5. PUBLIC COMMENT:

Ed Colon, 4879 Bitterman Path, commented about the installation of a basketball court at Seidl's Park stating that the City Council received opposition to having a court anywhere within the park. He asked for justification in moving forward with meetings about where to put one. He stated that he gave information to the Council from two South St. Paul Police Officers that stated that basketball hoops were removed from South St. Paul parks due to fighting, after hours noise, misconduct, and destruction of park property. He asked the Council to address the possibility that this could happen in Seidl Park since that would be the only basketball court suitable for regular play east of Highway 52 and north of 494.

Mr. Colon asked to terminate plans for a regular height 10-foot hoop or facilitate a compromise. He stated that an 8-foot high hoop would accommodate the needs of area children and reduce the possibility of becoming a hangout for older teens. The lower height would be appropriate for elementary school aged and younger children to play and practice. He stated that the size would meet the needs of the 40 families indicated that have children who would use a court. He commented that this is a compromise, it is a park court, not a court for competitive play. He stated that he was initially against the basketball court but is trying to pay attention to families with younger children. The shorter height would not meet the needs of those older that use the courts, but there are six other courts in Inver Grove Heights that could.

He asked that Parks and Recreation and/or Public Works present a proposal for traffic control before any more steps are taken. He stated that residents have complained about speeding along Blaine Avenue and have never heard anything from Public Works. He commented that prior requests for stop signs or cross walks have been turned down in the past. He asked for a plan that preserves the open space in the park that everyone wants. He requested to cancel the meetings about moving the location of the court and think about what would accommodate the majority of residents, not divide them.

Stephanie Zwirn, 4688 Bloomberg Lane, asked if the City Council has done anything about the wildlife issues. There are numerous wildlife that live in the park. She stated that they haven't heard anything from Public Works and that they would not put up a Deer Crossing sign on Blaine Avenue knowing that there is deer crossing it several times a day. She commented that having a basketball court would further disrupt the animals in the area. She asked that the Council conduct a study about how this would affect the animals if one has not been done already.

Tommie Milton, 4674 Bloomberg Lane, stated that he was concerned was about traffic and speeding on Bloomberg Lane. He commented that there is a lot of noise at night and garbage in the park. He commented about the basketball court going in and asked about parking on Blaine Avenue and where those using the court would park.

Mayor Tourville responded that they do not have dialog back and forth during public comments because the item is not on the agenda. He stated that Mr. Milton's point has been made.

Mayor Tourville asked Parks and Recreation Director Carlson when the amenities for Seidl's Lake Park would come back before the Council.

Parks and Recreation Director Carlson responded that at the last City Council meeting the Council directed him to have a neighborhood meeting at the park and see if there was a way to find compromise if a basketball court were to go in. He stated that would go back before the Parks Commission on Wednesday, May 8th and then come back before the City Council on May 13th. He stated that he would be sending a letter out to the neighborhood this week to schedule a meeting for Tuesday, April 23rd in the park, with a rain backup date of Thursday. Meeting information will be posted on the city website and on Social Media.

6. PUBLIC HEARING:

A. Conduct a Public Hearing to Consider a Culinary Class Limited On-Sale Liquor License Application for the business called THAT Cooking School, 9092 Buchanan Trail.

City Clerk Michelle Tesser stated that this is for an application from Molly Durkin and Manager Bill Niemer for THAT Cooking School. This is a specific type of license for culinary class limited on-sale. She stated that the license authorizes the licensee to furnish to each participant, in each class, at no additional cost to the participant, up to a maximum of six ounces of wine, or 12 ounces of intoxicating malt liquor during, or as a part of a class. This is for consumption on the licensed premise only. She stated that the application fee has been paid, a background investigation was conducted and passed. She commented that the Police have spoken to them about the specific State Statute that they have to abide by, which is the limited on-sale. She stated that it is a specific cooking class that is also a partnership for training.

Bill Niemer, 121 Heritage Circle South, Burnsville, MN 55337, stated that he and his wife, Molly Durkin, had a cooking school in Lilydale. He stated that the landlord at that location sold the building so they were looking for a spot and found the old Dunn Brother's Coffee shop location. He stated that they have conducted training for assisted living and healthcare cooks, and do corporate team building in a class structure. He asked what the city was doing to incentivize people to come and do business here. He asked if there was a plan to get more into the city. He stated that they realize what their limitations are and that a portion of the cost of a class is for one serving of alcohol. He commented that they are looking forward to being in town.

Councilmember Piekarski Krech commented that he would be able to get alcohol close by with the incoming brewery.

Mr. Niemer responded that he has spoken to the owner and would be doing some things together.

Mayor Tourville stated that between the City, the Chamber, and Progress Plus, a retail study was done about five years ago. The effects were just beginning from Amazon, where more people are buying online than in person. He welcomed them to the city and stated that there has been interest in the Walgreens store and others around his location.

Councilmember Piekarski Krech asked Mr. Niemer if he had originally asked for more than what is being requested.

Mr. Niemer responded that he may request a catering license at some point.

Councilmember Dietrich welcomed them to the city.

Mr. Niemer stated that it was really helpful to have City Clerk Tesser help them with the process, but commented that it was a lot of work, similar to doing taxes. He asked if there was a better process for all of the things one has to do and all of the rules to get a certificate of occupancy. He commented that it would be easier to do business if the process was easier.

Mayor Tourville responded that they had a process going with the former Community Development Director. He stated that a new Community Development Director has just been hired and he would pass that information along.

Councilmember Dietrich asked Mr. Niemer if he could let the Council know what things went well for him in the process, and things that they could improve upon.

Mr. Niemer responded that he could provide that information.

Motion by Piekarski Krech second by Perry to close the Public Hearing at 7:25PM.

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech second by Perry to approve the application for a Culinary Class Limited On-Sale Liquor License Application for the business called THAT Cooking School, 9092 Buchanan Trail.

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

PLANNING DEPARTMENT:

A. Discount Storage; Consider the following for property located at 10805 Rich Valley Boulevard;

a) A Resolution relating to a Comprehensive Plan Amendment to change the land use from RDR, Rural Density Residential to LI, Light Industrial or

A Resolution relating to a Comprehensive Plan Amendment to change the land use from RDR, Rural Density Residential to CC, Community Commercial. Resolution Denial 19-57. AG: B3.

b) An Ordinance Amendment to rezone the property from A, Agricultural to I-1, Limited Industry District or

An Ordinance Amendment to rezone the property from A, Agricultural to B-3, General Business District. Resolution Denial 19-58. AG: I-Limited.

City Planner Allan Hunting discussed the background stating that the Applicant originally made application to have an outdoor mini storage on 17 acres of a 20-acre parcel. The property is located on the east side of Rich Valley Boulevard, north of Cliff Road. He stated that in order to do that for mini storage they would need to rezone the property and change the Comprehensive Plan. He stated that the first request was to change it to an industrial use, Industrial Comprehensive Plan designation, where mini storage is allowed as a conditional use. He stated that there was some discussion by the City Council asking if industrial was the right way to go. The Applicant then suggested commercial. Mini storage is a conditional use in the B3 District. He stated that the City Council directed staff to hold a new public hearing with the Planning Commission with a commercial designation. The Planning Commission reviewed that and did not support the request. The Planning Commission felt the issues were the same whether industrial or commercial, was inconsistent with the Comprehensive Plan, and recommended denial of either of the options that the Council has on the agenda this evening. He stated that staff looked at this and said that it has been rural designation for over 40 years and would be a change in the direction of being an open space rural area and does not support it. He stated that there are resolution options that approve or deny, or go with a commercial or industrial designation.

Councilmember Bartholomew asked if there was any discussion regarding changing this area from RDR to anything else. He asked if there were any suggestions from landowners. He asked if there was any consideration by the consultant for change or a reasoning behind leaving it at RDR.

City Planner Hunting responded that nothing was brought up from landowners during the process. He responded that the Comprehensive Plan was more of an update, it has been the guided that way over the years and there has been no discussion to look at changing.

Councilmember Bartholomew commented that the Comprehensive Plan is through the Met Council and other adjoining cities. He asked when that was expected back. He asked how long the process was.

City Planner Hunting responded that they received the first round of comments. There are a couple of updates that the consultant has to provide more information on. He stated that they hope to get a response back, approve it, and present it to the City Council for adoption and then move forward. He stated that they began the process in 2016. In 2017 they started some of the meetings and getting information out to the public.

Councilmember Bartholomew asked City Planner Hunting to show the property locations of Flint Hills and the Applicant's on a map. He asked if it was possible for Flint Hills to make application to request a change in the Comprehensive Plan.

City Planner Hunting pointed out the locations on a map. He stated that all of the parcels in pale yellow are owned by Flint Hills Refinery as a buffer for the refinery located in Rosemount. He responded that Flint Hills could request a change in the Comprehensive Plan.

Paul Saver, 7845 Boyd Court East, stated that this process began a year ago with City Planner Hunting and Associate City Planner Botten when he explained the intentions for 10805 Rich Valley Boulevard and asked if there would be a problem. He said they responded that they didn't think there would be a problem. He stated that he had gone through the process for several months last year and had no indication they would ask the Planning Commission not to approve the project. He stated that he spent a lot of money on engineering and fees to the City. He spent \$5,000, and \$2,500 for Barr Engineering to review the stormwater plans for the property. He commented that at that point he had still not heard there was a problem. He stated that he had first heard about it on November 16th in an email from Kim Fox, three days before their meeting with the Planning Commission.

He stated that he found 20 properties in the city that have zoning and designations other than what the property around them is designated. He commented that the Milbert Company is next door to an apartment complex, another is Highway 52 storage on Courthouse Boulevard, which is the exact same

project that he wants to do, and that location is surrounded by rural density residential. He stated that the Dakota Electric storage facility on 10805 Barnes Avenue is only 600 feet away from his property and is surrounded by the same rural density residential that surrounds his property. He stated that he doesn't see any reason why this was denied.

Councilmember Bartholomew stated that this is a request for a change in the Comprehensive Plan, it takes a lot of deliberation with those in the area and their concerns and then a change has to be made in the Comprehensive Plan. He stated that some of the properties that Mr. Saver listed may not have required a Comprehensive Plan change and requires a 4/5 vote. He stated that he just wanted him to be aware that this is a long and lengthy process.

Mr. Saver asked that because Flint Hills owns 746 of the 800 available acres there, if it was possible that the Comprehensive Plan was very inaccurate, because it didn't take into consideration that Flint Hills bought that property to keep it from becoming rural density residential just for that reason. He asked if that didn't throw the Comprehensive Plan and the rural density residential designation out.

Councilmember Bartholomew responded that the property is still rural density residential even though Flint Hills owns it. He stated that if Flint Hills wanted to do anything with the property, they would still have to go through the same process.

Loren Scherff, 1320 105th Street East, commented that there are four different zoning amendments on the agenda. The notification he received only listed the first one for industrial, the second one for B3. He stated that there was nothing about the other two. He asked if the other two should have been before the Planning Commission before they were brought to the City Council.

City Planner Hunting responded that when it was industrial it was for a Comprehensive Plan change and the rezoning. For commercial it was both the Comprehensive Plan and the rezoning. He stated that they were in two different hearings but did include both parts commercial and both parts of the industrial.

Mr. Scherff stated that this would be visible from his back window and that he has a concern about that use. He stated that there is nothing in the Comprehensive Plan that would allow this and suggested to keep with the Comprehensive Plan. He commented that to make a change there should be a benefit to the city and wasn't sure what benefit an outdoor storage facility would be. He asked why the city would change this when there is a detriment to a lot of people and a benefit to only one.

John Larson, 1938 105th Street East, stated that he is still opposed and does not see a reason for change. He stated that it was RDR for over 40 years and continues to be that way in the Comprehensive Plan. He commented that it ends up being spot zoning with one 20-acre section out of hundreds. He stated that if this goes through, Flint Hills may want to change things too, which he is also opposed to. He commented that Flint Hills has owned that property for over 20 years and they are fine with it being agricultural or vacant. He stated that he doesn't see a need to change it.

Councilmember Bartholomew asked what the distance was between his property to the proposed property.

Mr. Larson responded that it would be approximately 1,000 feet. He stated that his property is 660 feet deep with Flint Hills property in between.

William Johnston, 2353 105th Street East, stated that as a resident close to the property, he discovered this topic by accident over the weekend. He commented that the notification requirements are 1,000 feet from the subject property. That would be a relevant distance if living in the city, but living in the open you can see 1,000 feet. He stated that he was disappointed that word didn't get out to a lot more residents in the neighborhood. He commented that there were others in attendance who also just found out. He asked that the Council consider that more residents should be made aware of this before voting. He

commented that he was concerned that it has been to the Planning Commission twice and both times they have denied approval. He stated that staff also recommended denial and said that the location of the property is not fit for the purpose. He asked the Council how they could vote to approve this when it has been studied and recommended for denial. He stated that he has been in the area for 30 years and that most of the neighbors have been there that long, the property now is unsightly, but if it would look like the TruSeal property down the road, it will not look good. He commented that he can see this being an outdoor storage area for a long time if approved. He stated that he agreed with the previous comments about spot zoning and asked what the purpose of the Comprehensive Plan is if they were to make this change. He commented about the Dakota Electric property that was discussed by Mr. Saver and stated that property was deeded to Dakota Electric because they required it for essential services.

Peter Tjornhom, one of the owners of TruSeal America, stated that they purchased the land because it was close to their shop. The land was listed as seven acres of agricultural, seven acres of agricultural/tree, three acres of industrial, and three acres of residential. He stated that they wanted the industrial and are trying to use the land they purchased to make money. He commented that the overhead map lists them as agricultural and sometimes even rural residential.

He responded to the comment about the neighborhood views changing and stated that the current view is of cornfields and open land. Once the storage facility is put in it, they are required to surround it with trees. He commented that he read in the zoning information that the agricultural designation is a term used for future development. He stated that they are trying to move forward with future development right now on low impact property. He commented that the baseball field across the street would probably get more traffic than his business would in a weekend, has more lighting, and more noise than a storage unit would. He stated that a study was done that proves it would have a low impact on the roads. He commented that this area would be a fenced off, treed off, parking lot. It would not be an eyesore. He stated that if one of the trees were to die and left a gap, he would put new trees in.

He discussed some of the benefits and stated that people need places to store their items and this would be safe, have less foot traffic, less vandalism, a great place to store items to keep nice. This business would be clean, well kept, and well maintained to attract people to store their expensive equipment on site. He stated that his business down the road is a day to day functioning site that is different than it would be here. He commented that they bought this property not thinking that it would not be a huge hurdle.

Mr. Tjornhom stated that the current site is about a mile from his industrial business that is designated industrial. It is about 900 feet from the proposed industrial overlay. He stated that he approached the owners south of them as they were hoping to connect the whole piece, and they were not interested in selling at this time. He asked how they go from agricultural to rural residential and why Dakota County and the city do not match up.

Councilmember Piekarski Krech responded that she understood why on the taxes portion. She stated that the County taxes you by what you are using it for. It has nothing to do with the zoning.

Mayor Tourville stated that the city has a Comprehensive Plan that may not match up the zoning. The zoning is agricultural and the future Comprehensive Plan states that it is going to be rural residential. He stated that staff would not say that it is zoned commercial. The Comprehensive Plan says rural density residential. He stated that he had just looked up the use from the County website and it states residential, they also have four other uses.

Mr. Tjornhom asked why the map says agricultural, but it's future use is rural residential. He commented that it will be changing.

Councilmember Piekarski Krech responded that if somebody wanted to come in and do something with that land, they could build a house on it because it is rural residential. She stated that the agricultural designation is a holding zone.

Mayor Tourville stated that depending on the size of the property, they would have to pull a Permit to build a house on it. They would not have to change the zoning.

Mr. Tjornhom stated that this is a piece of property that he is arguing about the city calling it rural residential where he sees that as being unlikely. He commented that it is surrounded by commercial or industrial and they are just asking for an extension of that. He stated that they are just trying to expand the business up the road from their current business. He commented that this would be a good business that is quiet, a good neighbor, and have fencing with trees. There would be increased traffic but not a severe hinderance to the streets, the population, and the area it's located in. He stated that they are trying to put something in that is needed by those who do not have large acreage to store items. He stated that there are 11 storage facilities in Dakota County that are near full or completely full. He commented that they want to provide that service to those homeowners.

Councilmember Bartholomew stated that he would like to hear the City Planner's clarification between the guiding and the zoning. The RDR being the guiding and the zoning being Agricultural.

City Planner Hunting responded that the property is guided RDR-Rural Density Residential. It is set up for large lot residential 2.5 or 5 acres in size. Agricultural is also allowed in that category. He stated that the zoning of agricultural allows for farming type uses or single-family residence. He stated that the Comprehensive Plan and zoning are consistent with the uses that are allowed and in the long-range plan. He stated that rural residential is looked at as a large lot area, you can have farming or have animals on a 2.5- or 5-acre parcel, you could create lots on that or have a hobby farm. 2.5 acres is the smallest lot size.

Paul Bute, 10016 Barnes Trail, stated that he lives closer to Highway 52 and heard about this discussion from an email yesterday. He stated that he currently lives less than 1,000 yards from a storage facility and has one lot between him and that storage facility. He commented that while he is on the backside of that facility, and there are trees along the area, it does affect him with the noise from Highway 52. He stated that when he bought his property 30 years ago, he asked the city about the zoning and what he could do. He stated that he followed the Comprehensive Plan and asks the City Council to continue to follow that plan. He stated that there should be other areas in the city where the zoning is proper for this type of establishment. He commented that he objects to spot zoning because it goes into neighborhoods.

Mike Dufour, 10017 Barnes Trail, lives across the street from Mr. Bute. He stated that the business may be there for 20 years and asked what the next business would do if the zoning was changed. He stated that he objects to the change.

Carol Berg, 10129 Blair Avenue, stated that she would like the Council to not allow spot zoning and have the area remain in the same zoning. She stated that they built their home on their five-acre lot in 1987 and everything around them was the same.

Dave Fleischhaker, 10300 Brent Avenue, stated that he has been before the City Council before for Comprehensive Plan issues. He stated that his wife was on the Planning Commission for eight years in the late 80's and that they worked hard on putting together a Comprehensive Plan for the area back then. He commented that it hasn't changed since then and he sees no reason to make a change now. He stated that he would like the Comprehensive Plan to remain what it is and hopes that the Council will turn the request down.

Mr. Johnston stated that the applicant has said that it is 900 feet from the TruSeal Property. That is where the industrial overlay ends. He stated that is why they do not want this to happen. This area would be visible from 105th Street and the kids that play at Rich Valley Park. He asked that the Council try to have a vision beyond our lifetimes and how the area is going to change, and the potential the beautiful open space of land has. He asked that the Council go with the suggestions made by the Planning Commission and the people.

Mr. Larson stated that he previously lived on Arnold Avenue. He stated that he looked at the Comprehensive Plan and sold those five acres and bought his current ten acres. He commented that he bought his current place because he thought things would never change. The refinery was there before he was, as was the landfill. He stated that after 29 years this is something being asked for after the fact. He doesn't want it to change. He doesn't want it to be there.

Mayor Tourville stated that Comprehensive Plans can change.

Councilmember Bartholomew asked City Planner Hunting about the subject property that he had previously spoken with him about that has an excavation business on it. He asked if they were in business in that area because they were there before it was zoned or guided RDR.

City Planner Hunting responded that there is an excavating company there, but was unsure about its history. He stated that if it was there prior to 1965 when the code went into effect, it would be considered a legal non-conforming use. He stated that it has been zoned agricultural all that time, but the zoning district didn't allow a contractors or excavator type use. If it started at that time, it would be a legal non-conforming use, allowed to remain in its existing state, there could be minor alterations or additions to structures. He stated that it could be illegal or a non-conforming use, a use that wasn't in place before current codes and doesn't conform to any of the codes at any time.

Councilmember Bartholomew commented that if it is illegal non-conforming and the business that is out there has an excavation business and is allowed to store equipment on their property, the equipment being stored has to be used for that business. He asked if the building was renovated or destroyed, if they could rebuild and increase it up to a certain percentage. He asked that as non-conforming, the property can have a large farm if the applicant wanted. He commented that a farm larger than that, such as a feedlot, would have different rules and guidelines.

City Planner Hunting agreed that the equipment would have to be used for the business. He responded that if something were to happen to the structure, it could be rebuilt with some percentages that you can not increase the size of non-conforming structures. He agreed that they could have a large farm out there, but anything larger would have rules and guidelines by the MPCA.

Councilmember Bartholomew stated that knowing that there is an illegal non-conforming entity and has an excavation business and outside storage. He asked if they could convert that to agricultural or rural density residential.

City Planner Hunting responded that they could.

Mr. Saver stated that Johnson Excavating has been there since 1962 or 1965.

Councilmember Dietrich asked if City Planner Hunting could explain the financial investment that Mr. Saver has had and how he got to this point.

City Planner Hunting responded that the application applied for was the Conditional Use Permit and rezoning the Comprehensive Plan. He stated that there are application fees and Engineering would have started the stormwater review. He stated that in a situation like this where there is a change of land use, there is an opportunity for the applicant to do it in two steps. They can apply for the rezoning and Comprehensive Plan, which is a less expensive process where the applicant provides a sketch plan and a narrative. He stated that if that is successful then the applicant would come back for the Conditional Use Permit or site plan approval, then you are spending the money on detailed plans. He stated that the applicant chose to do all that at once. That was the investment made with the initial application.

Councilmember Dietrich stated that she was concerned with what the other company spoke about earlier about it not being very clear.

Councilmember Bartholomew stated that he has heard Mr. Saver say that it seemed to be a surprise to him that staff was not supportive of the issue. He stated that he has received emails from staff that has said that Mr. Saver was notified early on that staff would not support the request for the Comprehensive Plan change or a zoning change. He asked Mr. Hunting if the applicant was made aware of this.

City Planner Hunting responded that they had initial discussions but did not immediately say no this wouldn't be supported, that was looked at further down the process. He stated that there was a different Community Development Director at the time, and they were not in support of the request. This is where staff's recommendation came from.

Councilmember Bartholomew commented that both times the Planning Commission said no to the change from the Comprehensive Plan from I1. The request to change the Comprehensive Plan to B3 was unanimous. He stated that they thought to take a look at B3 Community/Commercial and have gone through that same process. That was not supported by staff and the Planning Commission.

City Planner Hunting agreed.

Councilmember Piekarski Krech stated that this is a little different than spot zoning. It is an area of the city that is not deemed to have sewer and water services. She stated that her concern was that it starts a slippery slope if someone wants to start a commercial zone. She commented that Flint Hills has bought property, they are keeping it rural residential, not trying to expand on it, and are keeping it as a buffer zone. She stated that if they are not buffering homes, there is no reason to keep their buffer zone as a buffer either. She stated that is why she does not support this proposal.

Mayor Tourville stated that he checks to see if there is any detriment to the neighbors. They have the right to come whether applicants like it or not. He commented that he doesn't see a lot of benefit. He sees a large gravel piece that gets built, they store items. He stated that there may be a need for storage, but there are locations currently that have them, and there are a couple of new ones. One is north of 494, and two opening off of Robert Street. He stated that it is not the City Council's job to say there are too many storage units. It is free market. He stated that there are some cities around Inver Grove Heights that have stopped approving storage facilities from being built in their Community. He commented that the rezoning creates a problem for him and he doesn't see a benefit. He stated that the Planning Department has looked at this twice and recommended denial. He commented that the Comprehensive Plan has been looked at, and it hasn't been brought to the attention to the city that it should change from rural density residential. He stated that he was against the industrial because of the zoning change. He stated that he cannot support the change to industrial or B3.

Councilmember Bartholomew stated that his concern was about spot zoning. He commented that if it was closer to the industrial overlay district, he may have considered it. He stated that the market decides how many of a certain type of business is in the city. He stated that it is a spot zone, too far away from the overlay. He stated that he is opposed to changing the Comprehensive Plan guiding and zoning at this time.

Mayor Tourville asked City Attorney Kuntz about the Resolutions for approving and for denial. He asked if they need to take a look at denial of both industrial and/or B3, or an approval of one or the other. If they deny, do they deny both or just one of them.

City Attorney Kuntz responded that the City Council would need to address both of them. There is a Resolution that denies the Industrial Comprehensive Plan and industrial zoning. One Resolution accomplishes both of those ends. There is another Resolution that denies both the Comprehensive Plan commercial and the zoning for business in one Resolution. He stated that lists the reasons reviewed by the Planning Commission and suggested comments by some on the City Council. He stated that those are two Resolutions, each denial. One resolution approving the Comprehensive Plan industrial and the zoning industrial and the other denying the Commercial Comprehensive Plan and the business zoning.

He stated that there are four other separate Resolutions. One approves the industrial Comprehensive Plan and one approves industrial zoning. Another tandem there is a Resolution approving the commercial Comprehensive Plan and another Resolution approving the business. He stated that if there are comments that indicate three votes (a majority of the Council) to deny, there would be enough votes to pass the denial Resolutions without having to go through the process of making a motion to approve and then hearing the denial reasons.

Councilmember Piekarski Krech asked if they need to move the Resolutions of denial and if that should be done together or separately.

City Attorney Kuntz responded that it was the two Resolutions of denial, they should be voted on separately. He stated that the two denial Resolutions each deny the Comprehensive Plan and the companion zoning.

Motion by Piekarski Krech second by Perry for a Resolution 19-57 Denying the request for:

- 1) A Comprehensive Plan Map Amendment to change the land use designation of the parcel from RDR, Rural Density Residential to CC, Community Commercial. And**
- 2) To rezone from A, Agricultural to B-3, General Business District.**

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech second by Perry for a Resolution 19-58 denying the request for:

- 1) A Comprehensive Plan Map Amendment to change the land use designation of the parcel from RDR, Rural Density Residential to LI, Limited Industrial. And**
- 2) To rezone from A, Agricultural to I-1, Limited Industry District.**

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville thanked everyone for their comments and input on this item. He stated that with rural applications it can be difficult to decide how far out to notify residents. He asked if the Planning Commission could take a look to make sure that people know.

PARKS AND RECREATION DEPARTMENT:

B. Third (Final) Reading of Ordinance Changes Related to Dog Licensing, Dog Leashes, Dangerous Dogs. Ordinance 1367.

Parks and Recreation Director Eric Carlson stated that this is the third and final reading related to changes of the dog Ordinances discussed over the last few months. The Ordinance is the same with the exception of the language in the memo underlined and in red. It states that “dogs in common areas of apartments, condominiums, cooperatives, and townhomes, shall be kept on a leash not greater than 16 feet in length and under restraint at all times”. He stated that the language has been added for the Council’s consideration. No other changes have been made.

Councilmember Piekarski Krech asked why they are regulating dogs on private property. She commented that it wasn’t public property and that it was for the condominium group to decide.

Parks and Recreation Director Carlson responded that there was some discussion from the City Attorney about potentially adding that language so that the regulations were the same for all public property.

City Attorney Kuntz stated that Section 4-4-4, talks about a dog on a leash with the exception of the owner's property. That is further amplified in the Ordinance by the definition of under restraint, it states that "within the boundaries of property owned or leased by the person owning, harboring, or keeping the animal". He stated that the owner's property is considered as property owned or leased by the owner. The question was in the instance of housing type or legal ownership where there are common areas, or an outside area, someone is going to say that they lease or own it. He stated that wouldn't be a universal interpretation. The question was to clarify before Homeowner's Associations ask the city's position.

Councilmember Piekarski Krech stated that she looks at it as the Condo Association determines what rules and regulations they have. Most say what their regulations are. She stated that she is looking at this as Government coming in and telling a private entity what their rules are going to be. She stated that if it is a private organization, it is their job to determine what they want their rules to be.

City Attorney Kuntz asked if the approach would be that on the common areas, they would treat them as leashed areas.

Councilmember Piekarski Krech responded that the areas do not belong to the city, it is private land. She commented that it is the responsibility of the Association to figure out what they want to do.

Interim Police Chief Sean Folmar stated that in the previous Ordinance, manufactured home communities were the ones that were specifically addressed. He stated that it comes down to having them all be the same, whether it was an apartment or HOA of townhomes, there is common space in all of those places. He stated that those common spaces are one of the biggest generators of public complaints to the Police Department for dogs. He stated that in the past they only addressed the manufactured homes, but they thought it would be better to have them all addressed equally in the Ordinance, or take them all out.

Councilmember Piekarski Krech asked why manufactured homes were in the Ordinance.

Interim Police Chief Folmar responded that he did not know why they were solely included.

Mayor Tourville asked where they were listed in the Ordinance.

City Attorney Kuntz responded that Amendment to Section 10-15H-4-8 is the sections dealing with manufactured homes. The Ordinance reads that if you are in a manufactured home, the dog would have to be on a leash at all times.

Councilmember Bartholomew asked if there have been any concerns or complaints from apartment complexes or manufactured homes regarding the Ordinance.

City Clerk Tesser stated that she takes in dog licensing and has noticed several inquiries from townhome Associations, asking what the City Council will do because their bylaws state to refer to the City Code.

Ed Colon, Lafayette Park East, agreed and stated that their bylaws do refer to whatever the Inver Grove Heights Ordinances are. He commented that dogs are a big problem in his townhome area. The Ordinances are incorporated into their bylaws and they defer to the City Ordinances. He stated that the Associations hands are tied when people let their dogs out and go wherever they want to.

Parks and Recreation Director Carlson stated that they have not sent information out yet to the apartment complexes, townhomes, condominiums. They may not be aware of the proposed change.

Councilmember Piekarski Krech stated that if you live in a townhome or manufactured home park your dog should never be loose except inside the home.

Mayor Tourville stated that some of those areas could have fenced in areas.

Councilmember Piekarski Krech commented that they still couldn't be off leash in those areas due to the wording of the Ordinance.

Mayor Tourville asked if they have an area that they are paying for separately and is fenced in, if they could let their dog off leash in that area.

City Attorney Kuntz asked if every dog in the complex could go into the area. He questioned who has the right to be in that area.

Mayor Tourville responded that it would be the people who own that piece of property.

City Attorney Kuntz responded that if they own it, then it wouldn't be a common area.

Mayor Tourville stated that both manufactured homes and possibly townhomes may have an area that is fenced in that belongs to them. This would be similar to a single-family home in that they could have a portion of their yards fenced in.

City Attorney Kuntz asked Interim Police Chief Folmar if they have fenced in space where the Association says you could let your dog, if they would treat that as a common area.

Interim Police Chief Folmar responded that unless it was titled to them under purchase or rent, it would be a common area. He stated, for example, a small concrete area right outside a patio door that leads to grass. The grass is typically an all common area, whether they put a fence around it themselves to keep their small dog in.

City Attorney Kuntz responded that the dog would need to be on a leash.

Interim Police Chief Folmar responded that a dog could also be on a tether that is attached to the house and less than 16 feet. He stated that the distinction comes between whether it is physically owned or common land.

Councilmember Perry commented that with her townhome experience, they already had the wording in place. She stated that some bylaws stated that you have to be outside with the dog tethered. There are several different areas that suggested referring to City Ordinances.

Interim Police Chief Folmar stated that there are some townhome communities that have several different HOA's within the development. Some of the rules could conflict. He stated that this is a way to solve all of the common area issues so they didn't have to deal with all of the HOA's.

Motion by Bartholomew second by Perry to approve the Third (Final) Reading of Ordinance Changes Related to Dog Licensing, Dog Leashes, Dangerous Dogs. Ordinance 1367.

Councilmember Piekarski Krech stated that she would keep fighting this. She commented that it is Government's interference into people's private business.

Mayor Tourville responded that this would make it uniform. He stated that if there is a problem with this later, they could discuss it further.

Councilmember Bartholomew commented that it was an overreach but that something needed to be done.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated that this would be an opportunity between the Police, the city, and Insights to take a look at the message being said. He stated that they may want to do a video.

Councilmember Piekarski Krech asked when this becomes effective.

City Attorney Kuntz stated that it takes effect five days after publication.

City Clerk Tesser stated that it would be published on Sunday. Five days after that would be Friday.

Mayor Tourville asked if they could set a different date. He stated that it may be better to begin on the first of the month and suggested May 1st.

Councilmember Piekarski Krech stated that it could be enforced on May 1st with a warning beginning next Friday.

City Attorney Kuntz responded that they could say May 1st. He suggested to City Clerk Tesser that where it lists an effective date, to add another sentence to address that.

Mr. Colon asked if retractable leashes were not allowed. He stated that there are safety concerns with them. He asked if there was anything to address having retractable leashes around a playground.

Mayor Tourville responded that retractable leashes are allowed.

Parks and Recreation Director Carlson responded that the Ordinance says that dogs can be off leash on the owner's property, owner's vehicle, or at the Heritage Village Dog Park. Dogs can be on any city park, trail, or sidewalk, as long as they are on a leash that is 16 feet long or less at all times. He stated that dogs are not allowed on athletic fields, soccer fields, courts, and cannot be inside a fenced athletic field such as Rich Valley. He commented that dogs can be on a playground as long as they are on a leash.

PUBLIC WORKS:

C. Resolution Adopting Small Cell Facility Aesthetic Standards. Resolution 19-59.

Public Works Director Thureen stated that this agenda item was rushed to get to the City Council on time as there was a deadline to establish aesthetic standards. He stated that this is regarding having some control in what goes in the right of way and adopting the standards. He commented that he reviewed models online for Minnesota and nationwide and that this is what was adopted by the City of Northfield last year with numerous other cities in Minnesota following suit. He stated that he changed it in some areas to recognize areas that are unique to this city. He stated that the Legislation change gives cell providers the ability to attach the facilities to any structure the city owns in the right of way. There are also other private utilities in those areas. He stated that there is an email from a liaison for Xcel that talks about the plans to work with cell providers and make changes to light and power poles. He stated that they are recognizing that they are in the city right of way, have a right to be there, but are working with the designers of the poles to come up with a standard design that is built into it so the poles do not need to be added onto. He stated that there is a memo from the League that spoke to the matter. Verizon saw the Leagues memo and stated that they disagreed with the League. He stated that the League is looking out for the city's best interest. He stated that owners can't treat it any differently, in terms of a private utility, then anyone else in the right of way. He commented that was one of things that he made a point of in the language that he added.

He stated that there are two parts to this. One is the feature of the antennae itself on the pole, some would need a meter and power. Every location would have to have fiber and power. They would also need ground mounted facilities. He stated that the Legislation states that it could be up to 28 cubic feet in volume. He stated that he suggested it should be no higher than three feet and the balance of the

dimensions in depth and width to get to be 28 cubic feet to match up to the type of junctions you see from the power company. He stated that some could be located in private side yard easements or front yard easements. If they have to be in the right of way, there may be issues from a safety standard. There needs to be no impediments for ADA accessibility or for clear sighting.

Councilmember Piekarski Krech commented that plowing snow could be an issue. She stated that she envisioned these on a pole, but in actuality they are on the ground next to poles.

Public Works Director Thureen responded that they would probably attempt to co-locate if possible. The purpose of 5G is to get a better distribution of their signal lower. He stated that there could be three big providers. One could put a pole in and not allow another to use the same pole. He stated that they have also discussed the minimum spacing between poles going with the minimum of a 400-foot separation. They would also recognize that all three could have poles close to each other and work within a 100-foot radius. He stated that they have a meeting with Verizon this week. He commented that he has spoken with other cities that have already met with Verizon and found that this would take place later this year and wrap up in 2020. He stated that there are other requirements things that need to be obeyed to not be an impediment to 5G.

Mayor Tourville commented that not every location needs a 28 cubic foot box. There could be multiple boxes and poles for 5G than were necessary for 4G. He stated that the autonomous vehicle is 5G and more locations may be necessary.

Councilmember Piekarski Krech stated that she sees the need to do this.

Public Works Director Thureen stated that the FCC says this has to be published. He stated that they would be publishing this on Sunday.

Motion by Piekarski Krech second by Bartholomew to approve Resolution 19-59 Adopting Small Cell Facility Aesthetic Standards.

Ayes: 5

Nays: 0 Motion carried.

9. MAYOR & COUNCIL COMMENTS:

City Administrator Lynch stated that the new Community Development Director starts tomorrow. Her name is Heather Rand and he commented that he would be setting up meetings to have the City Council meet and talk to her about their wishes for the City going forward.

He stated that Sunday, April 14th is the retirement party for Mr. Davis who has been with the city for 45 years.

He stated that Thursday, April 18th is the Commission Appreciation dinner at 6:00 p.m. at the Community Center.

Councilmember Dietrich asked what the Community Development Director's email would be.

City Administrator Lynch responded that it would be hbrand@invergroveheights.org. He commented that it has not been set up yet.

Mayor Tourville suggested that next year they stay away from Holy week for the Commission Appreciation Dinner.

10. ADJOURN:

Motion by Piekarski Krech second by Perry to adjourn at 9:26 p.m. and go into Executive Session.

Ayes: 5

Nays: 0 Motion carried.

8. EXECUTIVE SESSION:

A. Executive Session Pursuant to Minn. Stat. § 13D.05, Subd. 3(c)2 & 3: Discuss Doffing Ave. Property Acquisition Related to Heritage Village Park for Property Located at: LSS Properties LLC - 6455 Doffing Ave - 20-36500-32-110.

City Attorney Kuntz stated that there is a Statute, Minn. Stat. § 13D.05, Subd. 3(c)2 & 3 that allows the Council to meet in a closed-door Executive Session for the purpose of considering offers and counter offers relating to real estate and to consider non public appraisal data. He asked that the Council meet in an Executive closed-door session for those purposes pursuant to the Statute to discuss the property located at 6455 Doffing Avenue owned by LSS Properties LLC. He stated that the purpose of the closed-door session is only to discuss that property and to discuss the offers and counter offers of the appraisal data available. He asked that the Council make a motion to move to Executive Session for the reasons indicated under the Statute outlined.

Motion by Piekarski Krech second by Perry to adjourn at 10:10 p.m.

Ayes: 5

Nays: 0 Motion carried.

Minutes prepared by Recording Clerk Yourczek.