

**INVER GROVE HEIGHTS CITY COUNCIL MEETING MINUTES
MONDAY JUNE 10, 2019 at 7:00 p.m.**

1. CALL TO ORDER

The City Council of Inver Grove Heights met in regular session on Monday, June 10, 2019, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Councilmembers Piekarski-Krech, Bartholomew, Perry, and Dietrich; City Administrator/Interim Deputy Clerk Lynch, City Attorney Kuntz, Community Development Director Rand, Associate City Planner Botten, and City Planner Hunting

3. PRESENTATIONS

There were no presentations.

4. CONSENT AGENDA

- A. Minutes from May 20, 2019 Council Special Meeting.
- B. **Resolution 19-102** Approving Disbursements for Period Ending June 5, 2019.
- C. Request for Approval of Rental Housing License.
- D. Consider Pay Voucher No. 6 for City Project No. 2016-09E – Bancroft Way Area Reconstruction.
- E. Consider Change Order 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.
- F. Receive Proposals and Accept Quote for Fire Hydrant Reconditioning.
- G. Consider **Resolution 19-103** Accepting Proposal for Engineering Services for STOR Mini-Storage Development.
- H. Approve Storm Water Facilities Maintenance Agreement for Lot 2, Block 2, Cenex Addition (CHS).
- I. Renewal of Advertising Bench Permits; Consider Renewal of Permits for 20 Advertising Bus Benches in the City of Inver Grove Heights.
- J. Vansouth Limited Partnership - (Case No. 19-24ZC); Approve 1) an **Ordinance 1368** Amendment to Rezone Lot 2, Block 1, Home Depot of Inver Grove Heights from B-4, Shopping Center District to B-3, General Business District and 2) Approve **Resolution 19-104** Approving a Conditional Use Permit to Allow a Recreation Center on Lot 2 for Property Located in the Southridge Shopping Center.
- K. **Resolution 19-105** Approving a Storm Water Facilities Maintenance Agreement for Scott and Kristina Gorden, 11640 Aileron Circle.
- L. **Resolution 19-106** Accepting Minnesota Department of Employment and Economic Development Host Community Grant of \$415,625 and Authorizing Mayor to Execute a Grant Agreement.
- M. Jeff and Christi Schadegg – (Case No. 19-22C); Approve a **Resolution 19-107** Approving a Conditional Use Permit to Operate a Beauty Salon as a Home Occupation for Property Located at 8375 Cooper Way.
- N. Personnel Actions.

Motion by Bartholomew, seconded by Perry to approve the Consent Agenda.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT

Loel Lowary, 1680 Atwater Path, discussed the new road and easement modifications in his neighborhood stating it was decided to take out the retaining walls and replace them with a steep slope. The slope was in place when the area was developed about 40 years ago. He commented the wall had caved in at one time and the City installed a railroad tie retaining wall. The ties are deteriorating and ready to fall in. He stated the first time the area caved in it clogged the storm sewer. He stated this time there would be a steep slope and an extension of the sewer pipe into Stark Lake so when the wall fails again it will not clog the sewer. He asked if it caves in again if the City would leave it the way it is or repair it back to the way it was.

Mayor Tourville responded the question was asked under Citizen Comments and the City Council would not be able to answer. He asked Mr. Lowary if he was working with engineering staff.

Mr. Lowary responded he was not working with engineering staff. He stated engineering staff told him that he is not an engineer and not qualified to talk to them. His concern was about the wall caving in again and he wanted to know if it would be repaired. He stated the easement goes right up to his home and he was concerned repairs would be at his expense.

City Administrator Joe Lynch responded that the City, through the contract, would repair the easement which is located 10 feet on either side of the center line. He stated the grade would change slightly and the City does not anticipate there would be erosion. If there is erosion, it would be repaired by the City. He stated the pipe is not a sewer pipe, it is a stormwater pipe. Stormwater from the street would be going into the lake. The pipe would be about 25 feet deep, made from reinforced concrete and below grade. He stated they are offering the two homeowners the chance to drain their two rooftops into a smaller pipe that would drop into the larger pipe, taking off some of the rainwater that currently goes over land. Estimates were looked into for changing the grading, which could not be accomplished without impacting the two properties home foundation, which the City did not want to do. He stated the retaining wall system was twice as expensive as repairing and replacing the current grade. If it erodes, it would be repaired. He commented they do not anticipate the pipe being impacted because it would be deep.

Mr. Lowary commented the pipe is currently heavy duty and would be extended out further into the water. He stated he was concerned the City would leave the area the way it is if it caves in.

Mayor Tourville responded they are not designing it to cave in. He stated it is going into the lake because if it is dead ended before then, there would be erosion. Erosion caused some of the problems. He stated the way it is being proposed would not cause erosion.

Mr. Lowary commented that it seems like they are doing the same thing over again. He stated that it failed the first time and he would expect to have the same results within ten years. He stated he didn't want things happening to his yard when it does cave in. He had walls installed that caved into the pond. He stated he would like to know, and wanted it in writing, that it would be repaired when it caves in.

Mayor Tourville responded if there were any problems the City would have to fix it.

Mr. Lowary asked if that could be put in writing and sent to him.

Mayor Tourville asked City Administrator Lynch if he could have Engineering look into this. He stated if there is a problem it would have to be fixed because it is in the right-of-way.

Councilmember Dietrich asked City Administrator Lynch if there was someone Mr. Lowary could speak to about the specifics of the project, so he has a better understanding. She stated she would like to see him get some resolution.

Mr. Lowary responded that he has spoken to several people. He commented he is not an engineer, but things have happened before, it will happen again. He stated this experience with the City has not been good. He commented he heard the project cost would be approximately \$73,000 and that it would be taken out of the street and paid for by the water district, bringing the assessments of \$10,500 lower. He stated there are 22 homeowners with a cost of approximately \$3,400. He commented their assessments were only lowered \$1,000, which doesn't add up. He stated he has been lied to and asked for honesty. He commented people involved in this project are not happy at all.

Bill Neimer, That Cooking School, stated they are doing a pond cleanup on June 22nd. He invited the City Council to help be a part of the community and help clean the pond out at Arbor Point.

Mayor Tourville asked Mr. Neimer to contact him with the information and he would make sure to share it.

6. PUBLIC HEARINGS

None

7. REGULAR AGENDA

COMMUNITY DEVELOPMENT

A. Consider Approval of the 1st Reading of a Proposed Amendment to Inver Grove Heights City Code Title 4, Chapter 12, Section 1 (4-12-1) to Permit Sampling of Cigars.

City Attorney Tim Kuntz stated the sale of tobacco and tobacco products are licensed by Dakota County subject to the State Statutes in Inver Grove Heights. State Statutes allow the sampling of tobacco products in a tobacco products shop. Under that allowance, sampling, which is the purchase of a tobacco product, lighting up, smoking of it at that time, to sample whether you want to buy more is an allowed activity. He stated the State Statute allows the City to be more restrictive. In November 2015 the City passed an Ordinance prohibiting the sampling of tobacco products in tobacco product shops. A business has approached the City and asked for a limited exception to allow sampling in certain circumstances. He stated the Ordinance changes the current wording and allows as an exception to the general prohibition the sampling of premium cigars and pipe tobacco in a facility that meets the definition of a tobacco product shop.

He stated under the Ordinance the exception to allow sampling would occur if there were nine circumstances or conditions in place as follows:

1. The sampling of premium cigars and pipe tobacco could only occur in a tobacco product shop.
2. That shop must sell premium cigars. This is a cigar exception or at least the focus of the exception.
3. That shop can sell pipe tobacco accessories and cigar accessories but not other tobacco-related accessories.
4. The establishment could not sell cigarettes.
5. Sampling could only occur of premium cigars and pipe tobacco. No other type of sampling could occur in the shop. Cigarettes are prohibited for sale in the establishment and also the sampling of cigarettes.

5. The sale of the premium cigars or pipe tobacco could only occur to persons 21 years of age or older.
6. Sampling can only occur by persons aged 21 years or older.
7. There cannot be any sale or service of alcohol on the premises.
8. Sampling has to occur contemporaneously with the purchase of the product at the shop. The product cannot be brought in from outside and sampled. It would have to be sampled at the same time the product was bought for sampling.

He stated the following two key definitions added to the Ordinance:

- What is a premium cigar? He stated a premium cigar is defined under State tax laws as any cigar that is hand constructed, has a wrapper that is made entirely of whole tobacco leaf, has a filler and binder that is made entirely of tobacco except for adhesives or other materials used to maintain size, texture, or flavor, and has a wholesale price of no less than \$2.00.
- What is a tobacco product shop? He stated that sampling can only occur in a tobacco product shop which is defined as a retail establishment with an entrance door opening directly to the outside. He stated the key language is that it derives more than 90% of its gross revenue from the sale of loose tobacco plants, or herbs and cigars, cigarettes, pipes, and other smoking devices. For burning tobacco, and related tobacco accessories in which the sale of other products is merely incidental. A tobacco product shop does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

He stated the requested exception to the anti-sampling prohibition is that pipe tobacco and premium cigars would be allowed to be sampled in a tobacco products shop. The sampling and the sale would be to people 21 years or older. There would not be any sale of cigarettes or other tobacco products other than the tobacco pipe products and the premium cigars.

Councilmember Bartholomew commented the proposed shop does not sell cigarettes, yet it is stated in the third paragraph that 90% of the revenue must come from the sale of loose tobacco, herbs, cigars, and cigarettes. He asked why cigarettes are included in the language if they are not allowed to sell cigarettes. He asked if they would still preclude the tobacco shop from selling cigarettes.

City Attorney Kuntz responded that was the definition found in the Statute, the shop would not be able to sell cigarettes. He stated in order to meet the requirements of the Ordinance, 90% would have to come from cigars and pipe tobacco. In reference to the other tobacco products, that term is used in a variety of manners, all of those would qualify if allowed. He stated by local Ordinance it is more restrictive saying that sampling in this tobacco shop can only occur if in this shop 90% of the product sales are going to cigars.

Lee Hutton and Diana Hutton introduced themselves as the owners of Perfect Ash. Mr. Hutton stated they were not prepared to speak this evening but are excited to have this unique and special business in Inver Grove Heights. It was chosen for a reason, that reason being there are good people and good business opportunities here. He stated when they were in Lilydale, many Inver Grove Heights residents visited them there. He stated this business is the only sole female owner of its kind in the State of Minnesota, and one in five in the Country.

Diana Hutton, owner of Perfect Ash, stated she bought the business in 2014 after she came here from Mexico City to get her master's degree in law. This opportunity presented itself and working as a lawyer, she wanted something else, so she bought the business. She stated the business had been in its same location for the past 40 years, operated by a female. After a few years they were requested to leave, along with That Cooking School, who they wanted to remain neighbors with. She stated they started looking into locations and Inver Grove Heights was where a lot of their customers were from. She commented there is nothing in the area like this. She stated this is a social business with a clientele mostly consisting of males, retirees, veterans, and people who want to come and be in a good environment where they know everyone and can sit and relax. She stated they come to the shop, buy cigars, get a cup of coffee or sandwich. It is a destination place. They do not have that young of a crowd as kids aged 18 to 21 won't spend that amount of money. It is the older generation that comes and enjoys pipe tobacco and cigars. She stated her clientele is eager to come here and she is eager to bring business to the City.

Mayor Tourville asked if she had any questions. He asked if being here was similar to how things were in Lilydale.

Ms. Hutton responded the age is the only difference. She stated legally it is age 18, but has no problem raising it up to age 21. They did not sell cigarettes before, will not now, and did not sell any other accessories or products that were not related to premium cigars or pipe tobacco. She commented there are no cigarettes, hookahs, or e-cigs. She stated that smoking is prohibited, sampling is allowed.

Mr. Hutton stated he is pleased with the Ordinance. He is an attorney and stated the Ordinance follows State requirements. He commented that being in the City of Lilydale previously, they already had a Dakota County license that met the legal requirements.

Councilmember Piekarski-Krech asked if people came there to spend a lot of time. She asked if this Ordinance was written appropriately if it is a place where people would be coming in, sitting around, and smoking, or if they are trying a product because they want to purchase it. She stated there were issues with a business a year or two ago with tobacco smoking. She asked for clarification about whether it is a tobacco lounge, a store where people can go in and buy other tobacco accessories and products, or if it is a place where people go to socialize.

Mr. Hutton responded from a legal perspective and stated the Clean Indoor Air Act carved out the language of sampling. A community can be restrictive, they can't preempt a State Statute. He stated they are licensed under that exception of indoor sampling. He stated that indoor sampling is important for this because when you are a cigar aficionado, and purchasing, using, and enjoying that, you can't do that in five minutes. He asked that this be thought of similarly as Starbucks would be. The concept with Starbucks is that you can't drink a coffee in five minutes, people could stay there for an hour or longer to enjoy the beverage. This is a similar concept where you would take an hour to sometimes three hours, to enjoy a product and then go back and buy the box or a different cigar. He stated the value of the stick ranges from \$8.00 and up, it's not something you can take a single sample of for a few seconds and be an informed consumer. Based on that, States have carved out the indoor sampling.

Councilmember Piekarski-Krech stated when she considers sampling it's like walking through Costco and tasting items. This is a different experience. She commented that she needed to understand what sampling is and how that works with the law.

Ms. Hutton stated you can't light up a cigar, have a few puffs, put it down, and smoke it later. If put down, it can't be smoked again. Smoking a cigar also depends on the size. A smaller cigar could take 30 minutes to smoke. She commented it isn't like wine or sampling a cookie, it doesn't work like that.

Mr. Hutton stated the State Legislature, when carving out the exception, understood that these businesses could not exist.

Bill Neimer, That Cooking School, 9092 Buchanan Trail, stated that he used to be their neighbor in Lilydale. He commented their clientele are gentlemen and some women who have the income to spend in the City. He commented that he smokes cigars as well and once it's put down, it's done. He stated this is a place that will add value and is unique. This fills a space in the mall that they want to see filled.

Councilmember Piekarski-Krech asked if bringing food inside the business was allowed.

Ms. Hutton responded they are not serving or managing food.

City Attorney Kuntz responded as long as people bring it in and the establishment doesn't need a food license, then it would be ok.

Mr. Hutton stated they are really excited. They have met the neighbors and followed That Cooking School. They have ingratiated themselves with the community. He stated they were hopeful they could bring some of the Vikings crowd to the location and show the rest of the State the promise and purpose of Inver Grove Heights.

City Attorney Kuntz stated there is one consideration under the Statute that was passed last year by the Legislature. On any Ordinance adoption there has to be a notice of 10 days in advance before adoption of the Ordinance. He stated in discussions with the Planning Department, if the Council wanted to do it in two readings with the second reading taking place on June 24th, they believe they can meet that 10-day requirement and get everything posted in time to have the opportunity on the 24th to make that the final reading.

Councilmember Bartholomew stated he only had eight points in his packet information and requested an updated amendment with the nine points that were presented.

City Attorney Kuntz responded the Council packets contain the information that he has. He had counted the ninth point in the introductory language that says, "may occur in a tobacco product shop". It was not part of the enumerated eight but a part of the sentence prior to that.

Councilmember Bartholomew asked that if he owned a store and has a choice to rent to whomever he wants, and if that owner that wants to rent there has a permit, license, sell or sample a product, is that owner allowed not to allow them to do that in his store or does he have to accept them because they are a law abiding and licensed tobacco or cigar store. He asked if he, as the owner of the store or property, allowed to say they do not want you to sample in my store.

City Attorney Kuntz responded you would still have that right because it doesn't affect any protected rights such as race, creed, or faith.

Councilmember Bartholomew responded it wasn't that kind. Maybe they don't want tobacco sampling in their building.

Mayor Tourville stated he looks at this as an opportunity. People have the choice to go sample cigars or pipe tobacco. He stated the last time something like this was here, a group came who was against smoking and petitioned the City Council to not allow any more smoke shops, which they have a right to do. He stated this is a different type of business for adults. He suggested looking into having the final reading on June 24th, and commented instead of having three readings, this could be done in two.

Motion by Bartholomew second by Piekarski-Krech to Approve the First Reading of a Proposed Amendment to Inver Grove Heights City Code Title 4, Chapter 12, Section 1 (4-12-1) to Permit Sampling of Cigars.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville asked City Attorney Kuntz if they needed to make a motion to suspend the rules and go to two readings with the final reading taking place on June 24th, instead of three readings going into July.

City Attorney Kuntz stated on June 24th the City Council would make two motions, one is to suspend the rules and pass at a lesser number than three readings. For that motion to pass it requires unanimity. If that passes, the second motion would be to approve the final reading.

B. Mark Engen – Case No. 19-13ZA – Consider an Ordinance Amendment to Allow Indoor Storage of a Tree Trimming and Removal Business in a Residential District.

Community Development Director Heather Rand stated the request is to consider an Ordinance Amendment to allow indoor storage of a tree trimming and removal business in a residential zone. City Code does allow for home occupations presently. Those are allowed within a residential dwelling and just for an individual residing there to operate the business and self-police themselves. She stated the City has also allowed for up to one-ton commercial truck to be parked at a residence so individuals can come and go from work can drive that vehicle assigned to them. She stated this is a different type of request and for that reason staff wanted to see how the City Council feels about this case. She stated Mark Engen, the owner, has been operating his tree trimming business for over two years. It does not comply with the current City code. Staff is not recommending approval of an Ordinance Amendment at this time to accommodate this business because staff is concerned about the impacts of this type of business in an accessory building, and it opens the door to businesses in a residential neighborhood.

Councilmember Bartholomew commented this is a business that is not operating out of a home. The equipment is stored in the garage because he has the room to store it. He stated he didn't see anything that precludes that in the Ordinance. He commented he felt he can park the equipment in his own garage concealed and out of sight. He asked if he was interpreting the Ordinance incorrectly.

Community Development Director Rand responded the City has designated accessory structures for boats and small RVs, not commercial equipment.

Councilmember Bartholomew stated if he wants to store something in his garage and is not running a business, he should be able to. He commented that he takes the equipment out and would be driving to wherever he goes when he needs to and replaces it in his garage when he is done.

Councilmember Piekarski-Krech stated there is a difference. When approving accessory buildings, there is a line that states for personal use only. With almost every accessory building approved, it states the building is for personal equipment such as a boat, RV, or lawn mower.

Councilmember Bartholomew responded stating if he owns the equipment it is his personal equipment. What he uses it for is his business.

Mayor Tourville stated this needed to be addressed because with almost every accessory building approved, there is a condition that states you will not run a business. Just parking equipment there is different than somebody saying they would build the accessory building and then a business sign goes up. He stated this item deals with neighbors saying there is a business going on.

Councilmember Bartholomew responded that in that case, they are in clear violation. He stated he wanted to make sure we are not stepping on the right that we have already allowed. He stated there are Ordinances in place that define the footprint of the garage, if someone is operating a business in a place where they are not supposed to operate a business, that is a different issue.

Mayor Tourville asked for clarification between E1 and Residential Zoning Districts.

Associate City Planner Heather Botten stated this is a request to amend the code to allow for the indoor storage of tree trimming and removal equipment as a permitted use in the Estate Residential District. This use is a contractor shop/indoors, the type of use allowed as a permitted industrial use in the I1 and I2 districts. She stated current code does not allow for contractor shops to be allowed on residential property. She stated the potential impacts for allowing indoor storage on residential property may be that they are not paying business taxes. That would be unfair for a business owner who operates out of an industrial district and pays industrial business taxes. There could be higher traffic volumes, including the tree trimming equipment potentially coming and going daily and other commercial vehicles. It could be an adverse impact to the abutting property owners including noises and traffic inconsistent with residential uses. She stated if a building in an industrial district is constructed next to a residential district there is a 100-foot setback. In the E1 District, an accessory structure could be located up to 10 feet from the side property line. There may be an adverse impact for a business to be located 10 feet from an abutting residential property.

She stated the applicant is proposing to have this be a permitted use in the E1 District. If the direction is to allow this type of use, staff recommends considering a conditional use where neighborhood notification would be required. She stated staff recommends denial of this request based on the following:

1. There is an inconsistency with the policy in the City's comprehensive plan to allow industrial uses in residential districts.
2. Home businesses are not allowed to be operated in accessory buildings.
3. Industrial uses should be in industrial districts.
4. The potential impact to abutting residential properties.

5. The concern that the amendment could be misconstrued to allow for other contractor's yards on residential properties and large accessory buildings.

She stated that at the Public Hearing, the Planning Commission recommended approval of the Ordinance Amendment as a conditional use with a 4-1 vote with three abstentions. The three abstentions were due to the fact of being an after-the-fact request.

Mark Engen, 9255 Courthouse Boulevard, stated this has been a very difficult process. He commented that the City doesn't want to work with him and feels that the City was hard on him. He stated that he would like the Agenda listing to be clarified. He commented he is not asking to store a business on his property but asking to store equipment inside a building. It is not a contractor shop, he is only storing equipment in an existing building that has a setback of more than 10 feet, which is required. He stated there is no impact on his neighbors, and he is not requesting a home occupation on his property. He is requesting to store equipment in his existing building. He stated he has a shop now and an outside storage area for his employees. He was unaware that he was breaking business codes because he had done this in South St. Paul. He asked where the freedom was here. He stated he is not hurting anyone. He commented that all his neighbors are in attendance. He stated this has made him passionate about what the Council does. He commented that he has reached out to all Councilmembers regarding this. He stated he made a mistake and wants to stay in Inver Grove Heights.

Councilmember Piekarski-Krech asked about his property in South St. Paul and if he had the same equipment there that he has now.

Mr. Engen responded that he kept it all in a 22x24 garage. He was allowed one truck in his driveway. Everything was kept in the garage. He stated he has very little equipment.

Councilmember Bartholomew asked if Mr. Engen understood that he cannot operate a business such as this out of his home. He stated the City has strict rules precluding this type of activity in a residential area, the operating of a business.

Mr. Engen responded that he didn't know before, but he understands this is not allowed now.

Mayor Tourville stated there were conditions that were written up if approval of this was given. He stated there was some asphalt and quite a bit of concrete, some drainage items, and a discussion with the neighbor to the west regarding some confusion with the line. He asked if that would be fixed up before this moves forward. He stated that Mr. Engen cannot bring wood back to the property to store, split, and saw. That cannot be done onsite. He stated there is impervious surface with a firepit that was made. He stated Mr. Engen may have to work with City engineers to look into the drainage going down into the low area. A raingarden may be a part of the request. He stated that he can't operate a home business but may be able to store the vehicles in the existing garage.

Mr. Engen responded he has been working with his neighbor.

Councilmember Bartholomew commented these were two separate issues. He stated Mr. Engen will address the impervious and the easement issues.

Councilmember Dietrich wanted to clarify what was being discussed and stated that this would be for the Ordinance to amend the storage of equipment in the garage. She asked if he brings wood back to his home from another customer.

Mr. Engen responded that he did bring wood back when he first moved there. He commented that he has worked things out with his neighbors, but he is done bringing things back to his home.

Councilmember Dietrich stated that she appreciated his diligence and felt that he has done a good job.

Dave Engen, 9569 Inver Grove Trail, stated he agreed with what his brother was saying. He commented people were worried about the noise from $\frac{3}{4}$ ton pickup trucks when across the street it was rezoned for a fire station. He stated if he lived there, he would be upset because the fire station would devalue his property.

Bob, 9255 Courthouse Boulevard, stated he is currently residing with his daughter Stephanie and son-in-law Mark Engen. He commented when they bought their current location, they loved the area except for the issue they are dealing with today. He stated there isn't any business being conducted on the premises or a sign. He stated that he hopes the Council will support them on this amendment.

Angela Engen Shanley, 8189 Jewel Avenue South, Cottage Grove, stated her brother Mark is a self-made man and does a lot of great things in the community. He is part of the Bethesda Lutheran Church Council and does a lot of pro bono work. She stated the issue with the noise from this doesn't make sense when there is a fire station right across the street. She asked that they take this under consideration. She stated there are plumbers, electricians, and maintenance men who pull their vehicles in and out of their driveways every day. She asked the Council to consider the proposal.

Kathy Weis, 417 5th Avenue South, South St. Paul, commented that Mark and Stephanie were their neighbors in South St. Paul for 16 years and she wished they were still her neighbors. The equipment was brought in every night and every morning as they left for work and never had any issues. She stated it was stored in the garage, the garage was closed, and it was the end of the day. She commented that she didn't see a reason why they can't have it as they live farther away from everybody.

Eric Johnson, 5 High Road, Inver Grove Heights, stated he has worked with Mark Engen for the past eight years. He has a lot of equipment that many others do not have and saves people a lot of money. He stated that he recommends him when there are jobs he cannot tackle. He stated this is a situation where the City can support a small business owner who is able to keep all equipment in an existing business. If all that equipment would be kept outside all over the yard, he could understand why this amendment would not be approved.

He stated he has a letter from another Inver Grove Heights resident and asked if he could read it. The letter is from Harry and Susan McNeely located at 17 High Road and states they support Mr. Engen's efforts to maintain his business assets on his property, in his property, and residence. It stated that Mr. Engen is an asset to the City and its residents. He is self employed and responsibly houses the assets necessary to operate his business within the confines of his property and buildings. The arrangement is tidy and well organized. He stated that Mr. McNeely is a business owner and knows how important community support is for the well being of a local business.

Councilmember Piekarski-Krech asked if Mr. and Mrs. McNeely operate their business out of their home.

Mr. Johnson responded that they do partially as they have a home office.

Jonathan Weber, 10394 Andrea Trail, stated he is in support of this item. He stated there are plenty of this that goes on in the City. Driving to City Hall from his home he noticed at least four or five in operation. People build large garages and store personal and business equipment in them. It's safe at home with you. He stated knowing what he knows about storage facilities, he sees this as an asset for these people. He commented that this item was misconstrued when it went through the Planning Commission. He stated they should differentiate if there is something else with the applicant that comes up in a later meeting.

Councilmember Piekarski-Krech stated that she visited Mr. Engen's property. He has a clean operation and she does not have a problem with that. She commented that she has a problem when residents of the community come and tell the City Council that they need to bring more businesses into town because they don't have business taxes being paid. That is a problem they run into when people are keeping things on their residential property and then going out and doing business during the day and coming back to their residential property at night. She stated she constantly hears the question of why they aren't bringing businesses into town, and why they are not here. She stated there are a lot of businesses in town; they are not paying business tax.

Mr. Weber responded for this instance, and other instances that he knows of, people have their equipment and are in and out of their property, but they also have a business location. They are not going to have an office with storage because it isn't as secure as having an accessory building. He stated people have offices without storage because they have the space for storage at their home.

Councilmember Piekarski-Krech stated she knew Mr. Engen has an office location. She stated there may be a way to write this up if they have an offsite location. She stated they want to have people be able to do these things, but still must protect neighborhoods. She wanted to ensure what is done this evening is fair and just to the people who want to do business.

Mr. Weber stated that putting something in the Ordinance to have an offsite office would be a simple addition and a very broad sweep. This covers others who have storage at home.

Mayor Tourville stated he doesn't want to require that they have an office someplace else. He stated he looks at it as they are storing equipment and not running a business out of that address. The primary use of the address is to live there. He stated they don't have to have another office. He said for example, an electrician. He could have two trucks and then tell him he has to have an office. This doesn't offer an opportunity to get started and have a business. He stated he would not support requiring them to have an office somewhere. The goal is to make the equipment safe. He stated they can keep residential but look at estate residential with a minimum of 2.5 acres so there is a bit of a buffer.

Councilmember Piekarski-Krech asked if it should be written as specific as this or write it so that equipment that is stored completely inside in an E1 or E2 district, is allowed if the business is not being run at that address. She stated this would bring some into compliance right now. Equipment has to be stored inside, no outside storage, no business, no employees coming to the site and running in and out numerous times of the day.

Mayor Tourville agreed with the language. He stated that on Page 4 of the Planning report are eight conditions. He stated that Mr. Engen did look at them and said that he can comply with all of them. He stated that included hours of operation, not having people coming and going all day to pick up items, he is not running the business and is storing his equipment for safety and operations for work.

Councilmember Piekarski-Krech stated that wording is just for Mr. Engen. She stated landscaping and similar businesses are not allowed.

Mayor Tourville stated if a landscape business wanted to look at having all of their equipment and not run their business out of their residence, Council would deal with it. They would not be grandfathered in due to the action for the tree trimming. This is specific. This would state people are storing their things in their garage or in their buildings and not running a business out of that address.

Councilmember Piekarski-Krech stated this request is only for a tree trimming business.

Councilmember Dietrich asked City Attorney Kuntz if this item could be addressed at a later meeting with other businesses.

City Attorney Kuntz responded yes. He stated the struggle as they work their way through this could be that when the notice of the public hearing is published, the statement of what was being requested was “to consider a request for an Ordinance Amendment allowing a contractor shop indoor in an estate or agricultural zoning district as a conditional use”. He stated that is broad but speaks of conditional use. He stated in the memo it states the request is “to allow indoor storage of tree trimming and removal equipment in a residential district”, when the “E” is what they were focusing on. He asked if this is a contractor shop, which is broad, versus the storage of tree trimming equipment. He stated another question is if you are going to make a change and address it, is the Council doing so by changing the words to cover it as a conditional use permit, which would have to be applied for if you change the Ordinance. He asked if it is an accessory permitted use with the Ordinance change. He stated the notice of the hearing in front of the Planning Commission was noticed as using the conditional use permit tool which requires notice to people before granting, in talking of an Ordinance change where an accessory use does not require notice. He stated if using the permitted accessory tool, it is suggested to go back to the Planning Commission to let people know that this is their opportunity to talk about the Ordinance. He stated the question is if it is a permitted accessory, is it conditional, is it tree trimming, storage of tree trimming equipment versus a contractor shop indoor. One is specific the other is broader. He stated the “it” in this needs to be fixed and defined. He stated there is no Ordinance in the packet drafted by the Planning staff. They were hoping to let the Council tell them what the “it” should be so they can bring back that Ordinance for a more formal consideration. He stated this can also include other people, but other people would have to be noticed if they were to be invited.

Mayor Tourville stated he agrees with Councilmembers Piekarski-Krech and Dietrich that this is a bigger issue. There are other contractors. He stated the way it was noticed to the Planning Commission is if it is changed around here it must go back to the Planning Commission.

Councilmember Piekarski-Krech asked if it was noticed at the Planning Commission as a conditional use.

City Attorney Kuntz responded it was noticed in front of the Planning Commission as an amendment that would require a conditional use. He stated if in the discussion it is discussed to not have a conditional use and have an accessory permitted use, it is suggested to at least hold another hearing on that.

Councilmember Piekarski-Krech stated there has been a business in the past that was operated in a building adjacent to the home. They had a conditional use permit to do that.

City Attorney Kuntz stated if the “it” is to allow it in some fashion, they are saying do so by conditional use.

Councilmember Dietrich asked if doing an accessory permitted use, if it should go back to the Planning Commission.

City Attorney Kuntz responded yes.

Councilmember Piekarski-Krech stated she would be uncomfortable doing this as an accessory permitted use. If it is a conditional use permit, it is notified.

Mayor Tourville agreed. He stated the neighbors would get notified.

Vance Grannis, 9249 Barnes Avenue, stated this City has the reputation that it is totally anti-business. There is a perception out there, things like this add to that perception. He commented that instead of looking at the reasons to say no, someone should investigate reasons to say yes. The reason to say yes, is that everything is inside the garage.

Councilmember Bartholomew stated this is at a point of addressing a problem he doesn't see. He commented that in order to move this along let the situation stay as it is. With him storing his equipment on his property, out of site, and not running a business. This would give time to direct staff on how to proceed. He commented he believed it was already permitted. He stated he is willing to proceed with whether it is conditional use or permitted use, the individual is not running a business, he is storing equipment. He stated they would let staff know that this is how we would like to craft an Ordinance and then discuss that. This would help the individual continue what he is doing at this point.

Anthony Kadriik, 9361 Buckley Court, stated he lives two doors down from this property and until a month ago he didn't even know there was a tree trimming service driving by. He stated they are on three acre lots with a fire station going in and a police training center. There will be traffic in the area. He stated people on three-acre lots have room for items, be it a boat, or trailer. He stated the previous neighbor had a semi-truck parked there. He suggested the Council look into this as an acreage situation. He commented that he hopes this goes in Mr. Engen's direction.

Mayor Tourville stated there was a Public Hearing on this item. He asked the City Attorney if the City Council has the authority to tell Mr. Engen that he can store his tree trimming equipment there but not run a business. He stated further direction could be looked into by the Planning Commission and staff. He stated he didn't agree with accessory; it should be conditional. With a conditional use, the neighbors adjacent would be notified.

City Attorney Kuntz responded that the Planning staff's interpretation is that can't happen and is contrary to what the Ordinance says.

Mayor Tourville asked if the Council could say that isn't what the Ordinance says, and he can store his items inside but cannot operate a business there.

City Attorney Kuntz responded the City Council is supposed to have the mechanism to decide that. He stated as a board of adjustment of appeals, there would be an appeal of the staff's interpretation. The Statute says before the Council decides, you would have to ask what the Planning Commission thinks about that interpretation and then you can decide. Those events have not occurred yet. He stated the individual has been in operation for a while, extending the operation tomorrow isn't the issue, it is getting this compliant at some point. The status quo is that he is in operation. He stated the larger issue is if we are leaving this as narrow as it being tree trimming storage of tree trimming equipment or tree removal equipment as a conditional use in an E district. He stated this comes with conditions suggested by the Planning Commission and Council would like an Ordinance back that states that, or if you want to consider this broader field of a contractor shop.

Mayor Tourville stated the broader field may address some issues, but he is looking at this current issue. He stated he is looking at telling Mr. Engen that he can operate tomorrow. Then look at the path needed legally so they can continue to allow that to happen.

Councilmember Bartholomew commented it could be as easy as stating that Mr. Engen is not operating a business and storing his equipment there. Continue to let him store his equipment until this issue is resolved.

City Attorney Kuntz responded they could do the last part by saying that you are deferring any enforcement until you have decided this issue. Let him keep operating for storage only until we address the larger question of the Ordinance change.

Councilmember Bartholomew agreed that was fair. He stated he wanted to see progress and that something be done tonight.

Mr. Weber stated he liked the route the Council was going. He asked if the Council could give staff direction to come back to the Planning Commission to make the Ordinance larger. He stated this was a great example of what the Planning Commission could do to clean the Ordinance up.

Mayor Tourville responded that is the intention. This would allow Mr. Engen to operate. He stated he didn't want to get into adding other information tonight. He stated no enforcement would be taken and they will continue to work on a solution.

Mr. Weber commented he would like it stated as a part of the motion that staff would take a look at this specific Ordinance and that it would be readdressed with the Planning Commission and then comes back through to the City Council.

Ms. Shanley asked if this could be dismissed because it is going back and forth. She stated she didn't believe her brother was out of compliance of anything. He is storing his equipment in his garage and leaves to do his job and comes back at the end of the day. He is not a contractor; he is a self-made businessman. She asked that a motion be made to dismiss.

Mayor Tourville stated they will direct the Planning Commission to look at this and see how to fix it. He stated there are other vehicles in town that work for other companies. There is concern that those with work vehicles would not be allowed to be in the City; that is not the case. He stated this discussion needs to be sorted out. He commented that we are not looking at shutting down Mr. Engen.

Mr. Grannis stated the Council is looking for a solution to solve something that isn't a problem. He stated that people have said he has everything in his garage. There is no problem, no violation. He asked why this is going to staff and the Planning Commission when there are more important things to address. He stated the Council should focus on getting new businesses in this City, not this issue that isn't doing anything to improve the City's image. He asked why they would write another Ordinance or place conditions if there is not a business operating on his property. There is an Ordinance that says you can't do that; if he does, you can go after him for that violation. He stated everything is fine the way it is.

Councilmember Piekarski-Krech stated this is a problem because it initially came in as a complaint. It needs to be dealt with because the issue was raised, there are Ordinances stating they can't do this.

Mr. Grannis responded that if someone calls in and states they don't like a business on a property, the City should send someone out to check, they should find, just like they did in this instance, there isn't any violation.

Mayor Tourville stated that Mr. Engen brought some wood back to his home, he admitted it, and didn't realize he shouldn't be. He is not doing that anymore. He stated they also may be able to address, not just this issue, but other businesses in larger areas. He commented that the largest complaints are the rules in this area are vague.

Mr. Grannis commented if there is a problem deal with it separately. Let this matter pass on. He stated this has wasted a lot of time for the Planning Commission, staff, and Council, for a non-existent problem.

Mark Engen responded about the complaints and stated the complaints had nothing to do about the business, they had to do about the fact that he was chopping and splitting his own wood and running a chainsaw. He stated there is no Ordinance that states you cannot do that. He commented he was just burning wood at his own place.

Mayor Tourville stated that Mr. Engen is in the tree trimming business, there could have been more chainsaw noise than there would be out of a normal household. They wanted it checked out and it was.

City Attorney Kuntz stated a motion was needed to defer enforcement of the Ordinance violation if the premises are being used for storage only and not a business. The deferment runs at least until this is addressed by Ordinance or otherwise.

Motion by Bartholomew second by Dietrich to defer enforcement of the Ordinance perceived violation as long as the premises are being used for storage only and not a business, with the deferment running at least until this is addressed by Ordinance or otherwise for Mark Engen – Case No. 19-13ZA – Consider an Ordinance Amendment to Allow Indoor Storage of a Tree Trimming and Removal Business in a Residential District.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated this means we are on hold for enforcement. This is storage with no business being run at that address.

Mayor Tourville asked to have staff look into this. He stated he didn't want to make an Ordinance just to make an Ordinance. Some clarification may need to be done to solve this.

City Attorney Kuntz checked with those present from the Planning Department to see if the request was understood.

Associate City Planner Botten responded that she understood what is being requested.

Motion by Piekarski-Krech second by Perry to receive two items of correspondence on this case.

Ayes: 5

Nays: 0 Motion carried.

- C. William D. Krech – Case No. 19-07SZC Consider the following requests for the property located at 2001 120th Street:**
- a. Rezoning of the property from A, Agricultural to R-1C/PUD, Single Family Planned Unit Development.**
 - b. Preliminary Plat for a single-family subdivision to be known as Amberwood.**
 - c. Preliminary PUD approval for Amberwood including the specific flexibility requests from standard R-1C requirement.**

City Planner Allan Hunting stated the original request was to develop approximately 11 acres with 26 single-family homes with a PUD design. The purpose of that was to preserve open space and trees. He stated since the Planning Commission meeting the applicant has been working on alternate plans to try to address the concerns. He stated one of the plans was just handed out.

Dick Braun, 2471 Angel Road, St. Paul, MN 55118, stated Amberwood was a development that was brought to the Planning Commission last month. In mid-March the concept plan was brought to a neighborhood meeting. The meeting went well, but after the meeting more questions were raised that needed to be addressed. He stated they did not have a favorable vote at the Planning Commission meeting, it was 8-0 and they felt they needed to switch gears.

He stated the original plat was for a 26-lot development that included 55-foot lots and a villa plan. A villa plan is an association-maintained product that is typically one level. There are not a lot of two stories, if any, in a development like this. He stated they felt this would enhance the neighborhood and be a different alternative to the residential use around the southeast quadrant.

He stated after listening to the Planning Commissioners and the neighborhood, they came up with another concept plan. When this was done it was too late to notify the homeowners. This concept plan ended up being a solution to a lot of concern raised by the neighbors. Some of those concerns were:

- Amberwood wasn't consistent, wasn't in harmony, and way out of character with the neighborhood.
- People didn't like the feel of the neighborhood or the villa plan.
- Not enough buffer.
- Villas are a reaction to a trend.
- Average lot sizes were too small.

He stated that two other comments and concerns were in regard to safety and drainage. The concept plan in the Councilmember's packets is for a 24-lot development because two lots were lost. Once they found out they lost two lots, they went to 20, 70-foot frontage lots. The number of lots went down from 26 to 20. The average square footage on each lot went from 9,800 square feet to an 11,500 square foot lot average. He stated there is three acres of common area.

He stated that instead of the villa product, they decided to go toward a different market. They went to a product more in line with what the neighborhood looks like with a variety of homes and front elevations. He displayed photos of two-story homes and stated these would typically be 2,600 square feet above grade with finished lower levels. There are ten walkout lots, six look-out lots, and four flat lots. Flat lots were labeled slab on grade, which was misconstrued as people thought they would not have basements, which would have been an option. He stated the homes now would range in sale price from \$575,000 up to \$900,000, more in line with the existing neighborhood. The changes to the plan addresses most of the questions and concerns.

He stated 30% is open space. The requirement is 15%. Plans include a two-story plan with a \$750,000 to \$800,000 price range. There are also plans for 1-½ story homes and ramblers. There would be a variety of plans with no association. He stated home plans have similar features, James Hardie siding, stone, and pitched roofs. The development north of this area is similar and they would follow those as close as they can. They will also have an architectural review committee that will make sure, once the developer is out of the area that the homes will maintain that certain look.

Councilmember Piekarski-Krech asked how the green space would be maintained if there is no association.

Mr. Braun responded the conservation easement would be maintained with 1/20th of each lot. He stated they could have a Minor Association. The Minor Association would take care of a cluster box for the mail, entrance monument with landscaping, and liability insurance that may come along with the conservation easement.

Councilmember Piekarski-Krech stated they had issues with Marianna Ranch and people going onto the area that was supposed to be parkland and putting up structures, fire pits, and dumping. She asked that there be a mechanism in place, so the area is taken care of. She stated she wanted to make sure the green space stays green space.

Mr. Braun responded that it would be taken care of. He commented that they would need to create a Minor Association, which could cost approximately \$50.00 a year.

Mayor Tourville stated there are some that have associations that pay for certain things such as irrigation, stormwater, or insurance. People may question that this is not like what was seen at the Planning Commission meeting. He stated the City Council hasn't seen this at all either. He stated the preliminary plat, if approved, has to conform. He asked City Attorney Kuntz about this because it was different, less dense, with larger lots.

City Attorney Kuntz stated one question that may arise would be whether it must go back to the Planning Commission for another hearing. In this instance, it does not. He stated that the major criticism here was that it doesn't fit the character of the surrounding area, having a reduction in density is an attempt to meet that. He commented that the Council does not need to deal with it this evening. He stated that these are concept plans that have been presented. There are two meetings that occur before 120 days. Typically, approval of preliminary plans would be what Mr. Braun has. He stated the City's engineers have not looked at the drainage, the planners have not looked at the density. Someone else has to take a look at it, but that it cannot be looked at right now.

Mr. Braun responded that this is a concept plan now, the road is the same location it was, the ponding is the same, the setbacks are the same, property lines were moved. The development prior to this was recommended by staff. He stated the engineering is done, there wasn't enough time to finish up this last part. He asked City Attorney Kuntz when asking about concept plans if he was asking about blueprints.

City Attorney Kuntz asked Mr. Braun what he wanted the City Council to do this evening. If it was to act on the rezoning and the preliminary plat.

Mr. Braun responded yes.

City Attorney Kuntz asked Mr. Braun about not having sufficient plans that have been reviewed by staff yet tonight, and if he was comfortable with it taking place in two weeks.

Mr. Braun responded they were close enough with the final plat that it could be addressed, if following what staff wanted them to do.

City Attorney Kuntz stated it is not a question of it being a good plan or a bad plan. It was a question of whether Mr. Kaldunski in the engineering department, Mr. Thureen, or Heather Rand, has had enough time to look at it. He stated that once the Council votes, they can't grant partially. He asked Mr. Braun if he was okay with coming back in two weeks.

Mr. Braun responded he would have to be okay with coming back in two weeks.

Mayor Tourville stated two weeks would give both staff and the neighbors time to review this.

Councilmember Bartholomew stated he had no doubt this would work but needed staff to check things over.

Mayor Tourville stated June 24th is the next meeting and the first meeting in July is the 8th. He asked staff about the turnaround time to having this take place on June 24th.

Community Development Director Rand responded they would attempt to do this, but it is also about them finalizing the information for staff.

City Planner Hunting stated it is possible, but the information would have to be turned in. He stated from the Planning side it would be fairly easy to review and thought this could be done.

City Attorney Kuntz asked Mr. Braun about the previous plan where it had about 900 caliper inches of tree replacement per the calculation needed. He stated they are replacing about 560 caliper inches leaving a balance of 350. He asked if he intended on using the old plan and would be asking the Council to not require them to deal with the 350.

Jenny Thompson, Landscape Architect, Pioneer Engineering, responded they were asking for that as a part of the PUD. She stated when the project was first discussed they were going to do straight zoning, which would have wiped out 96% of the trees. They regrouped and did the cluster style, saving 45 to 50% of the trees on site. She stated with three acres of open space and the extra mile they are going to save the trees; they were hoping to get some dispensation with the number of trees they would still have to replace.

Mayor Tourville asked that they review that and see if that is still what was needed. He commented that it may or may not change, but they could work with staff.

Prasanta Wells, 11687 Azure Court, stated this is going more into a direction they would like to see as far as lot sizes and the conformity to the rest of the neighborhood. She stated she was confused about what the procedure would be if it does not go back to the Planning Commission. She stated another request from the developer was a Planned Unit Development approval with variances that had some concerns around the impervious surfaces and setbacks different than the neighboring area. She stated she is trying to figure out what has changed. She asked if coming back in two weeks, if they would have time to review all of those details and time to speak to those if there are still concerns from the neighbors.

Mayor Tourville responded he would give them the time. He stated that Mr. Braun would give the neighborhood information and possibly set up a neighborhood meeting to address questions and concerns. He stated the neighborhood needs time to look over this.

Ms. Wells responded they would greatly appreciate having a meeting again. She stated what was sent out for the first meeting did not match what was presented at that meeting. It changed again by the time it went before the Planning Commission and now it has changed again. She stated it has been frustrating for those that live in the immediate neighboring areas to understand exactly what the plan is.

Ken Hanley, 11696 Azure Lane, stated this is going in the right direction. He stated there are still some differences from the adjacent neighborhood. He appreciated the inclusion of a buffer on one side of the street and asked if there is some type of buffer being placed between the two neighborhoods. He asked if they would add the buffer on the other side of the street for consistency. He stated this plan looks like a significant improvement and he looks forward to seeing the details.

Jeff Halvorson, 4858 Sycamore Drive, Eagan, commented that he agreed with his neighbors. He stated he has concerns with impervious surface, wetlands, and standing water. He stated the area is a wetland area with water issues. He stated they have been shown so many different versions of this plan and now have backed up to something that may go through. He stated he would like to see the variances. He asked about the buffer.

Heather Passe, 11671 Azure Court, stated she agreed with her neighbors that this is moving in a better direction. She asked if the open space would be preserved or changed later.

Rodney Turnquist stated he owns 10 acres south of the area. He commented the two houses where the road comes out onto his property for a possible future development was a spring and underwater. He stated he didn't know how the road would work without grading it up. He asked if engineering has that issue figured out. He stated the positive in this is the area they have preserved.

Mr. Braun displayed the very first plan that was shown at the neighborhood meeting and stated the wetland would create a substantial buffer along with the addition of high-quality trees. He stated the wetland delineation company looked at the area, went out to survey and noticed the stakes were taken out. That caused the delay and last-minute movement. He stated he has three letters he can give to the Council from neighbors that may want to be anonymous.

Councilmember Piekarski-Krech stated if they are submitted, they become public information.

Motion by Piekarski-Krech second by Perry to accept three letters from Mr. Braun.

Ayes: 5

Nays: 0 Motion carried.

Mick Burkard, 11357 Apennine Way, commented that what can be done with that land should be as it adds value to their neighborhood. He stated if it matches the rest of the homes in the neighborhood, they are better off with it than without it.

City Planner Hunting stated after listening to the residents speak, for timing purposes it would be more realistic to move this to the July 8th, City Council meeting to allow engineering more time.

Mayor Tourville stated the direction is to have this at the July 8th City Council meeting and have staff in planning and engineering review it. He suggested that Mr. Braun may want to meet with the neighbors in the meantime.

Motion by Piekarski-Krech second by Perry to table William D. Krech – Case No. 19-07SZC Consider the following requests for the property located at 2001 120th Street: (a) Rezoning of the property from A, Agricultural to R-1C/PUD, Single Family Planned Unit Development; (b) Preliminary Plat for a single-family subdivision to be known as Amberwood; (c) Preliminary PUD approval for Amberwood including the specific flexibility requests from standard R-1C requirement until the July 8th, 2019 City Council Meeting.

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR AND COUNCIL COMMENTS

Mayor Tourville stated the following upcoming events:

- Dog Park ribbon/leash cutting will be held on Tuesday, June 11th.
- Food Truck event takes place on Wednesday, June 12th.

9. EXECUTIVE SESSION

Pursuant to Minn. Stat. § 13D.05, Subd. 3(b) and pursuant to the attorney-client privilege, a closed-door Executive Session for discussion with the attorneys representing the City relating to the pending litigation matter of Case No. 70588 filed with the Minnesota Department of Human Rights.

City Attorney Kuntz stated Minn. Stat. § 13D.05, Subd. 3(b), which allows the Council pursuant to the attorney-client privilege, to have a closed-door Executive Session to discuss with attorneys representing the City matters that are currently in litigation. The intent this evening is to have a meeting with the City Council in the closed-door session, with Attorney Julie Fleming-Wolfe, and the City Attorney, to discuss a pending litigation matter that has been filed as Case No. 70588 with the Minnesota Department of Human Rights. He stated that pursuant to the Statute indicated, and pursuant to the attorney-client privilege, he is asking that the Council make a motion to move to Executive Session under the Statute and privilege identified, for the purpose identified.

Motion by Piekarski-Krech second by Perry to adjourn into Executive Session at 9:34 p.m.

Ayes: 5

Nays: 0 Motion carried.

Minutes prepared by Recording Clerk Sheri Yourczek