

**INVER GROVE HEIGHTS SPECIAL CITY COUNCIL MEETING  
MONDAY, July 27, 2020- 8150 BARBARA AVENUE**

**\*In-Person and Via Zoom Video Conferencing\***

**A. CALL TO ORDER and ROLL CALL:**

The City Council of Inver Grove Heights met in a special session on Monday, July 27, 2020, in the City Council Chambers. The Pledge of Allegiance was recited. Mayor Tourville called the meeting to order at 6:00 p.m.

Present In-Person were Council Members: Piekarski Krech, Bartholomew, Dietrich, and Perry; City Administrator Lynch, Finance Director Hove, and City Clerk Kiernan.

Via Zoom: Fire Chief Thill.

**1. 2021 Budget Discussion**

Finance Director Amy Hove discussed the 2021 Budget as follows:

- Background on what took place in 2020 to prepare:
  - June 5-26: AEM/Finance preparation of salary and benefit information.
  - June 30: Department Head Meeting to review requests for 2021.
  - July 14: Department Head Meeting to review impact of requests on budget and levy.
  - July 21: Department Head Meeting to review updated budget and levy based on revisions from July 14<sup>th</sup> meeting.
  - July 27: Council Meeting to discuss preliminary budget and levy impact.
- 2020-2024 Capital Improvement Financing Plan:
  - Approved by the City Council on June 22, 2020.
  - Creates funding strategies, serves as a road map, a responsive document for changing goals and needs.
  - Goals within the Plan:
    - Maintain and expand infrastructure.
    - Increase funding for the Pavement Management Program.
    - Keep the annual debt levy at or below 15% of the total annual levy.
    - Maintain General Fund balance at a minimum of 40% of next year's expenditures. (Current Draft Budget accomplishes all of these goals).
- Revenue Assumptions:
  - Continued demand for building permit and related revenues.
  - 2021 Preliminary Revenue Budget = \$4.3 million dollars. \$282,000 over 2020 original budget (7% increase).
  - CIP Model assumption for Non-Property Tax Revenues at 2%.
- Expenditure Assumptions:
  - COLA – Union Contracts are not yet settled. (Current model assumes COLA plus step increase and receive positive performance evaluations.
  - Health Insurance at 7%.
  - Internal Service Fund Allocations at 6%.

Councilmember Bartholomew commented 6% was a bit higher than the last allocation, it used to be 4.5%. Finance Director Hove responded quite a bit is driven by Workman's Comp. and Central Equipment. When insurance renewals come back in September, they will review and hope to minimize the percentage.

- Pavement Management no longer General Fund Expenditure (Transfer Out) but separate levy for levy calculation.

- 2021 Preliminary Expenditure Budget = Approximately \$26 million dollars. \$1,592,254 over the 2020 original budget (7% increase).
- CIP Model assumption at 4%.
  - 2017-2018 expenditures increased 9% (PMP increased \$500,000).
  - 2018-2019 expenditures increased 7% (PMP funding stayed flat).
  - 2019-2020 expenditures projected to increase 6% (based on original 2020 budget).
- Staffing Needs:
  - Original requests included \$1.2 million dollars in staffing request. (Reduced to \$105,800 during Department Head meeting).
    - \$29,700 – Additional .40 FTE Accounts Payable Technician.
    - \$36,100 – Additional .50 FTE Office Support (Inspections).
    - \$40,000 – Increase On-Call Firefighter pay by \$0.75/hour.

Councilmember Piekarski Krech asked if they did not agree upon a \$1.00/hour increase for On Call Firefighters. City Administrator Joe Lynch responded there was discussion about trying to increase the pay wages for On Call Firefighters. The .75 cent figure was a result of taking the .50 cents an hour raise they received in 2019, increasing by the COLA in 2020, and arriving at .75 cents an hour.

Fire Chief Judy Thill stated on average it has gone up approximately .25 cents per year. It is a little bit higher than the average maintained for the past ten years.

City Administrator Lynch stated there is a six-year agreement with the Relief Association. Money is put in on a voluntary basis so they can determine if there is more funding available, they can ask for a higher benefit. It is a part of the retention package. He stated they will determine what is trending in terms of the length of service and if some are staying for 10 to 20 years, or less. If it is less, they would discuss if a different compensation package may be needed.

Finance Director Hove continued discussing Staffing Needs:

- Continue Staffing discussion in Fall 2020. Can build into future CIP Models and subsequent budgets.
- Meeting Outcomes:
  - Staffing needs prioritized for 2021.
  - PMP levy increase for 2021 at \$250,000. Scenario for \$500,000 increase to come.
  - Department Heads to meet with Administrator/Finance Director to identify potential areas to increase revenues or decrease expenditures.
  - Fee Reviews. Are we comparable to other Cities near us?

Proposed Tax Levy – Payable 2021:

General Fund - Expenditures:	\$25,783,654
General Fund – Revenues:	\$4,329,600
General Fund Levy Request:	\$21,454,054
Pavement Management Levy:	\$2,000,000
Debit Levy:	\$2,906,813
Total Levy Requested:	\$226,360,867 (\$1.6 million dollars over last year’s taxes payable).

Proposed Tax Levy – Draft Versus CIP

	<u>2021 Levy per Current Draft</u>	<u>2021 Levy per CIP</u>
Tax Levy:	\$26.4 million	\$26 million
Levy Increase:	8.1%	7.2%
Tax Rate:	51.708 (estimated)	53.128
% Change in Tax Rate:	1.4% (Market value increase)	4.5%
% Change in City Taxes:	\$91.02	\$80.11

Finance Director Hove discussed Pavement Management Scenario Comparisons between a \$250,000 increase to the PMP and/or \$500,000 increase stating the tax levy is higher. The percent increase is higher by approximately 1.2%. The percentage of change in the tax rate would be 1.4% compared to 2.4%. The percentage of change to a median property is \$91.02 or \$104.26 under the \$500,000.

Councilmember Bartholomew asked if there were calculated changes to businesses. Finance Director responded no but was something she could provide. Councilmember Bartholomew stated he does not propose reducing pavement management. He commented there should be \$250,000 they could find elsewhere to keep pavement management at \$500,000. Finance Director Hove responded it is recognized as a key priority for Council.

Finance Director Hove stated the information being provided next is statistical and comparison information. One displayed the tax rates for neighboring cities in Dakota County. The City of Inver Grove Heights is in the center with West St. Paul, South St. Paul, Hastings, and Farmington. She stated some cities receive LGA's. Comparable Dakota County cities that have the higher tax rate also get LGA's. She stated they are monitoring what kind of future changes to LGA may benefit Inver Grove Heights. The 2021 Draft Budget shows the City to be at 51.708, right in line with where they have been trending in the range.

Councilmember Bartholomew asked what the threshold was for the LGA and how far the City is from it. He questioned if it was even worth considering. Finance Director Hove responded the LGA formula is complicated, she commented that she has been asking why the City does not receive it. Cities use it differently, some use it to fully support operations, some use it for special projects. She stated if able to obtain LGA funding they could earmark it, for example, for the Pavement Management Plan. She stated it is something they should continue to pursue. Councilmember Bartholomew agreed it was something they should pursue and suggested to be careful with the consequences.

Mayor Tourville stated over five years ago they asked for a RUN from the Department of Revenue. At that time, because of the city's residential growth, they were not getting LGA, there was not a lot of debt service. He stated the Department of Revenue said their trending of Inver Grove Heights is that unless things really change, they would probably not get the formula. He questioned if they want residential growth, do they want LGA, a huge debt and LGA, or balancing and being more conservative in watching how they spend. Councilmember Bartholomew stated the wise move would be to be cautious and protect the bond rating and keep the debt as low as possible.

Finance Director Hove discussed market value comparisons and tax capacity comparisons as follows:

- Market Value Growth. Dollar change is largest in residential.
- Growth was at 6.7% of market value growth.
- Excluding new construction, which is 1.1%, it comes down to 5.6% growth on existing properties.
- Taxes are based on the tax capacity. Biggest change is in residential.

Next Steps:

- Council Feedback.
- Updates provided at future City Council Meetings or Work Sessions.
- Continued refinement of numbers. (Union Agreements, Insurance, Allocations).
- Preliminary Levy must be approved and submitted to Dakota County by September 30<sup>th</sup>. There are two meetings in September: The 14<sup>th</sup> or the 28<sup>th</sup>.

Councilmember Piekarski Krech asked when the Council would receive the more detailed budget. Finance Director Hove responded she could send out a detailed report this week. She stated there are placeholders at the August and September Work Sessions so these discussions can continue. Items available can be brought to those meetings or at a Council or Special Meeting. Councilmember Bartholomew requested past years be included in the itemized line by line for each Department.

City Administrator Lynch asked if the Council would like to receive it electronically or a hard copy. Councilmember Piekarski Krech requested the initial one be hard copy. Councilmember Bartholomew stated in the past they received an electronic version in Excel listed by Department, he requested that version. City Administrator Lynch stated both would be given out. Mayor Tourville suggested discussing this item on September 14<sup>th</sup>. He asked that pages be numbered.

Councilmember Bartholomew asked if it was possible to see detail showing funds that were not used by Departments such as travel, seminars, and education. Finance Director Hove asked if it was for carryover or for helping to shore up potential revenue loses. Councilmember Bartholomew responded both. If there is an opportunity to use it next year if they can.

Finance Director Hove stated Departments have been having discussions regarding their CARES Act dollars, what they can and cannot use them for, and how that impacts what was set aside as potential savings to help bridge them in this year.

Councilmember Dietrich asked about the CARES money and if there has been any conversation about allocating them toward small business Grants. Finance Director Hove responded that Dakota County has been leading that. Further information will be brought forward at the August Work Session or August 10<sup>th</sup> City Council meeting.

City Administrator Lynch stated this was discussed last Friday and it sounded like almost all of Dakota County cities are contemplating doing something. The general amount was 10% of their allocation. He stated most are thinking about defunding, Counties getting money, Dakota County has set aside \$10 million dollars and having an application process handled by a third party. It is done by a lottery system; some businesses may not receive anything. He stated a recommendation would be brought forward on a local program but still using the third party with the CDA, so duplications are not made. This would be DEED money, CDA money, and then local money.

Mayor Tourville asked about the potential dollars available/needed/wanted for Host Community. Finance Director Hove responded that information has not been put together yet but can be provided. She stated there are currently no new asks for Host Community Funding.

City Administrator Lynch stated the MPCA approved Expanded Certificates of Need. There is a new funding formula but an additional \$250,000 to help offset costs related to environmental programs and sustainability that has not been received. They hope to receive it in 2021.

**B. ADJOURN:**

**Motion by Perry second by Piekarski Krech to adjourn the Special Meeting at 6:37 p.m.**

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, JULY 27, 2020 - 7:00 P.M. - 8150 BARBARA AVENUE.**

**\*\*In Person Meeting and via Zoom\*\***

**1. CALL TO ORDER:**

The City Council of Inver Grove Heights met in regular session on Monday, July 27, 2020, both in person and via Zoom Video Conferencing. Mayor Tourville called the meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

**2. ROLL CALL:**

Present in Person: Mayor Tourville, Council Members: Piekarski Krech, Bartholomew, Perry, and Dietrich; City Administrator Lynch, City Attorney McCauley Nason, Park and Recreation Director Carlson, Human Resources Manager Shefchik, and City Clerk Kiernan.

Present Via Zoom Video Conferencing: Technology Manager Gade, Police Chief Chiodo, Fire Chief Thill, Community Development Director Rand, Associate City Planner Botten, Assistant City Engineer Dodge, Finance Director Hove, and MIS Technician Geiger.

**3. PRESENTATIONS:**

There were no Presentations.

**4. CONSENT AGENDA:**

**A.** Minutes from the July 6, 2020 City Council Work Session.

**B.** Disbursements for Period Ending July 21, 2020. **Resolution 2020-143.**

**C.** Schedule State Primary Canvass Meeting on August 15, 2020 at 8:00 a.m.

**D.** Consider acceptance of a donation from a City Resident in the amount of \$15,500.00 to the Inver Grove Heights Police Department K-9 program.

**E.** Consider a **Resolution 2020-144** approving a Preliminary and Final Plat for the subdivision to be known as Robert Curve Third Addition (Kimley-Horn & Associates).

**F.** Consider Approval of Proposal with WSB Inc. for Heritage Village Park Phase III Development.

**G.** Consider Approval of River Heights Park Natural Resource Management Plan.

**H.** Consider Pay Voucher No. 2 for 2019-09C Cahill Avenue Mill and Overlay (Concord Boulevard to Inver Grove Trail).

**I.** Consider Personnel Actions.

**J.** Consider a **Resolution 2020-145** Approving an Assignment and Assumption of Development Contract for Plat of Scenic Hills First Addition.

**K.** Consider Pay Voucher No. 8 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.

**L.** Consider Pay Voucher No. 1 for City Project No. 2019-09D – 64th Street Area Improvements.

**M.** Consider **Resolution 2020-146** Approving Land Alteration Permit for Pine Bend Estates by Alliant Ventures (aka Ades Property).

**N.** Consider a **Resolution 2020-147** Approving a Joint Powers Agreement (JPA) between Dakota County, the City of Eagan and the City of Inver Grove Heights for Right-of-Way Acquisition for the Reconstruction and Expansion of 70th Street (CR 26) City Project No. 2015-08 (County Project No. 26-54) and Realignment and Reconstruction of Argenta Trail (CR 63) City Project No. 2016-04 and City Project 2016-05 (County Project No. 63-27).

Councilmember Dietrich requested pulling Agenda Item 4F.

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

**Ayes: 5**

**Nays: 0      Motion carried.**

**Agenda Item 4F. Consider Approval of Proposal with WSB Inc. for Heritage Village Park Phase III Development.**

Councilmember Dietrich asked which internal funding source the \$36,000 comes from with Grant expectation coming in 2021. Park and Recreation Director Eric Carlson responded the expenditure to WSB is Grant eligible with funds paid for out of the Grant proceeds. The money is expended, receipts are turned in, reimbursement comes as long as they are Grant eligible expenditures. The hiring of the Consultant is Grant eligible.

Councilmember Dietrich stated the summary references DEED (Department of Economic Employment and Development) and asked if this would be a shovel ready property defined by the “For Government” menu on the website. Park and Recreation Director Carlson responded the project is shovel ready because capital improvements are being made. The City applied for the Grant money a few months ago, DEED Granted the dollars to the City for this expenditure and project.

City Administrator Joe Lynch stated it is DEED money received in 2013/2014 as a part of special Legislation. The MPCA was changing the regulations on waste management and the City was successful in receiving an annual Grant from DEED. This is money given to each City currently hosting a landfill and helps offset costs associated with them.

Councilmember Dietrich asked if the Agreement had been finalized. Park and Recreation Carlson responded the City has signed the Grant Agreement. This was approved by the Council a few months ago and handled by the Community Development Director.

Councilmember Dietrich commented that WSB does a great job but would like to see different bids. She stated it appears WSB gets a lot of City work. Park and Recreation Director Carlson responded WSB has been the main Consultant for the Heritage Village Park project and developed the plans and specifications. In his opinion they are most qualified to move the project forward as they have all the data and background. Councilmember Dietrich asked why they have been using WSB from the inception of the project, when other companies bid on projects. Park and Recreation Director Carlson responded they have been using WSB for this project for a long time, they are knowledgeable about what the City is trying to accomplish, created the Master Plan, helped with the dog park, and with the next phases of development. Hiring different help would have added costs because that firm would have to get up to speed with what they are trying to accomplish.

Councilmember Dietrich stated the Consultant have included the following in their description: “For the bidding and construction administration for the inclusive playground site improvements”. She wanted to clarify that they are not currently committing to the inclusive playground. Park and Recreation Director Carlson responded they are not with this portion of the project. This portion includes preparations for the future, not the actual equipment. Councilmember Dietrich stated the wall being built looks like it is being built around the inclusive playground. Director Carlson responded it is preparing the site for the next steps, not with what is currently proposed.

Councilmember Dietrich stated the way she read it is that it was originally intended to be a part of the overall project package, but now is being separated out for the inclusive playground. Park and Recreation Director Carlson responded they were unsure of what would have happened if Covid had not taken place. The City was on track to make the next phase of improvements much larger than currently proposed. It was to include the inclusive playground, shelters, and a restroom facility at a cost of approximately \$2.3 million dollars. Covid happened, the funding was not here to move the project forward, DEED money became available, it was determined to use it to help with a portion of the \$2.3 million dollar project. He stated they are doing some of the improvements that would have been made if they had the funding for

the bigger project. This takes smaller portions of it and moving them forward. The next phase could be done the same way.

Councilmember Dietrich stated she was not convinced they had the money pre-Covid and wanted his word this was not a commitment to do the inclusive playground now. Park and Recreation Director Carlson responded it is not currently for the playground and not something that has been approved at this point. WSB would provide plans and specifications for this specific project, not for the playground equipment. This hires WSB to pull those plans out of the bigger project, go out to bid, review bids, and do the construction project, meaning less work in the future.

Councilmember Dietrich stated it was unclear in the beginning of their bid that says, "For the bidding and construction for the inclusion playground site improvements". She asked if that should not be called Heritage Village Park. Park and Recreation Director Carlson displayed a map of the Master Plan for Heritage Village Park and referenced the locations of the inclusive playground, future splash pad, shelter, and restroom facility. A more specific site plan was displayed showing items in yellow being project components that are Grant eligible and have a signed Grant Agreement to complete.

Councilmember Dietrich commented that listed under project understanding it specifically states playground curbing and asked what playground. Park and Recreation Director Carlson responded that is included in the yellow area for future installation of the inclusive playground. Councilmember Dietrich stated her whole point was that it may never happen and seems like a poor use of \$36,000 on the heels of Covid. She said there have been no discussions about how to sustain any future playground.

Mayor Tourville responded there are multiple firms included in the Engineering pool, the City has saved a lot of money by having one. WSB does not get all of the projects. He stated the inclusive playground, and the site are different. If there are items, such as the curbing, that are needed by a certain time, they could get them bid as alternates. He stated the City Council has not approved the inclusive playground at this point but approved the improvements. Councilmember Dietrich stated WSB gets a majority of projects, she did not say all projects.

Councilmember Piekarski Krech suggested taking out the playground curbing or making it an option. Park and Recreation Director Carlson responded it could be an add-alternate. Mayor Tourville stated they are only looking at site work. Councilmember Dietrich stated if this Agenda Item were written like it was just discussed, she would be more comfortable with it.

Councilmember Bartholomew suggested tabling the item and bringing it back with corrections. Mayor Tourville stated the item will be tabled.

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

There were no public comments.

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

##### **A. Public Hearing to Consider New Corporate Officer for American Multi-Cinema Inc. (AMC) Theatres.**

City Clerk Rebecca Kiernan discussed the consideration of a new Corporate Officer, Sean David Goodman, for the AMC Theatre located at 5567 Bishop Avenue for an On-Sale and Sunday Liquor License. She stated AMC requested changing their Corporate Officers and amend the On-Sale and Sunday Liquor License. They have paid the appropriate fees and provided all necessary documentation. The Police Department conducted the background investigation and found no basis for denial. Staff recommends the change.

**Motion by Piekarski Krech second by Perry to close the Public Hearing at 7:21PM.**

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

**Motion by Piekarski Krech second by Perry to approve the New Corporate Officer for American Multi-Cinema Inc. (AMC) Theatres.**

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

**B. Public Hearing to Consider approval of a Therapeutic Massage Business License for Mystic Moon Wellness and two individual therapeutic massage therapists, Roger and Delaina Hinrichs.**

City Clerk Kiernan stated an application has been made by Roger and Delaina Hinrichs for a Therapeutic Massage Business License for Mystic Moon Wellness located at 1870 50<sup>th</sup> Street East. Both have completed the required number of therapeutic massage training and are a member of good standing in Mendota Heights and Lakeville. She stated the background investigations reveal no basis for denial of the business license or individual license requests. Staff recommends approval of the business license and for the individual business licenses.

Delaina (Dee Dee) and Roger Hinrichs, 7377 Bond Way, introduced themselves. Ms. Hinrichs stated they are looking forward to opening a business in Inver Grove Heights and have been in Mendota Heights for nine years.

**Motion by Piekarski Krech second by Perry to close the Public Hearing at 7:24PM.**

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

**Motion by Bartholomew second by Dietrich to approve a Therapeutic Massage Business License for Mystic Moon Wellness and two individual therapeutic massage therapists, Roger and Delaina Hinrichs.**

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

**C. Public Hearing to Consider the application of an Off-Sale and Sunday Liquor License for SuperValu Inc. dba Cub Wine and Spirits for the premises located at 7840 Cahill Ave.**

City Clerk Kiernan stated this is for an application for Off-Sale and Sunday Liquor License located at 7840 Cahill Avenue in the former MGM Liquor Warehouse. The Police Department conducted the background investigation and found no basis for denial. Certificate of Insurance has been received. The Public Hearing notice was published in the July 19<sup>th</sup>, 2020 issue of the St. Paul Pioneer Press. Staff recommends approval of the license. She stated actual issuance of the license would be contingent upon fulfilling all requirements to hold an Off-Sale and Sunday Liquor License through the Minnesota Alcohol and Gambling Enforcement Division and the satisfactory inspection and approvals from the Fire and Building Departments.

Syd Scherling, Operations Specialist for Cub Wine and Spirits and Liquor Stores. Mark Kilkelly, Category Manager for Cub Wine and Spirits Chain introduced themselves.

Councilmember Piekarski Krech asked if they were aware of the City Ordinances and regulations regarding checks. Mr. Kilkelly responded they are very familiar with the policy and take it very seriously. Anybody under age 40 are carded, over age 40 are asked for their birthdate.

**Motion by Piekarski Krech second by Perry to close the Public Hearing at 7:27PM**

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

**Motion by Dietrich second by Perry to approve the Application of an Off-Sale and Sunday Liquor License for SuperValu Inc. dba Cub Wine and Spirits for the premises located at 7840 Cahill Ave.**

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

Mayor Tourville asked when they would be ready to open. Mr. Kilkelly responded approximately eight weeks.

**7. REGULAR AGENDA:**

**Administration:**

**A. Consider the Third Reading of an Ordinance Amendment to the City Discipline Policy Review and Update. Resolution 2020-140. Ordinance 1383.**

City Administrator Joe Lynch stated this is the Third Reading for this Ordinance change. It was discussed at the June 22<sup>nd</sup> meeting. Since that time, no further changes have been made. Copies have been sent to all Union Stewards. Staff recommends adoption.

Councilmember Dietrich stated she was contacted by an employee this week that was not aware there would be a change to the policy. The employee was told by a resident. She asked if any focus groups were held where employees were given an opportunity to hear or weigh in. City Administrator Lynch responded no; this was a minor language change. This was sent to Union Stewards with a request to send them out to their memberships. When changes are made to the Personnel Policy, they do not always include all personnel.

Councilmember Dietrich asked if the Union Contract would supersede this document. City Administrator Lynch responded it depends on the language.

**Motion by Bartholomew second by Piekarski Krech to approve the Third Reading of an Ordinance 1383 Amendment to the City Discipline Policy Review and Update. Resolution 2020-140.**

Mayor Tourville asked if the bargaining groups should be contacted about the change and what the process was. City Administrator Lynch responded he would work with the Human Resources Manager and make sure the Council and all employees are given an updated version. It will also be posted in locations where other rules and regulations are located.

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

City Administrator Lynch stated this is a new process in order to save time, space, and money. The request is asking for summary publication and. Action needs to be taken.

**Motion by Piekarski Krech second by Perry to approve the summary publication of the Ordinance regarding City Discipline.**

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

**B. Consider the First Reading of an Ordinance Amendment regarding Psychological/Medical Examinations.**

City Administrator Lynch stated this item was delayed to keep it separate and avoid confusion from the previous Agenda Item. This is for a specific portion of the Personnel Policy relating to Psychological/Medical Examinations as well as making determinations about an employee's ability to continue to be qualified for their job. This is the First Reading. He stated the Council has the red line copy in their packets so changes can be seen. Copies will be given to all Union Stewards and employees to be aware that the City is considering this change. Staff recommends passing the First Reading.

Mayor Tourville asked if other cities have something like this. City Administrator Lynch responded there are many cities that have this as a part of their regulation. Several paragraphs and sentences were reduced/eliminated to eliminate confusion and/or ambiguity.

**Motion by Perry second by Piekarski Krech to approve the First Reading of an Ordinance Amendment regarding Psychological/Medical Examinations.**

Human Resources Manager Janet Shefchik referenced drug and alcohol in the workplace to make sure there are additional confirmatory tests. She commented there is something written in the policy to ensure they are still following anti-discrimination laws. According to Exhibit A it is to potentially expedite termination. She stated management that is applying this needs to understand the need to look at the laws and ramifications and follow proper protocol. There are protocols in drug and alcohol testing that need to be followed.

**Ayes: 5**

**Nays: 0      Motion carried.**

**Community Development:****C. Consider the Second Reading of an Ordinance Amendment to eliminate the need for a conditional use permit to exceed impervious surface maximum in the A, E-1, E-2, R-1A, R-1B and R-1C zoning districts.**

Associate City Planner Heather Botten stated City Council approved the First Reading at the July 13<sup>th</sup> meeting with no recommended changes. Impervious surfaces are limited on a single-family residential lot based on the lot size. The Code has a provision to allow the owner to exceed the maximum amount by up to 10% with a Conditional Use Permit (CUP). One of the requirements of the CUP is to obtain a Stormwater Facility Maintenance Agreement (SWFMA). That agreement is between the applicant and the City and addresses the responsibilities and maintenance of a stormwater system on that property. She stated Staff believes the objective of the Ordinance can be obtained by removing the CUP portion and just requiring the SWFMA. Staff recommends approval of the Second Reading of the Ordinance as presented. There have been no changes since the First Reading.

Councilmember Piekarski Krech stated she received a few calls about this. She asked if it goes over 10% if they still come before the Council. Associate City Planner Botten responded over 10% requires a Variance that requires the public process and neighbor notification. Mayor Tourville stated it would require the Planning Commission, Permit, and City Council approval.

**Motion by Piekarski Krech second by Perry to approve the Second Reading of an Ordinance Amendment to eliminate the need for a conditional use permit to exceed impervious surface maximum in the A, E-1, E-2, R-1A, R-1B and R-1C zoning districts.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**D. Consider the Second Reading of an Ordinance Amendment to eliminate the need for a conditional use permit allowing sheet metal siding on accessory structures in the A, and E-1 zoning districts.**

Associate City Planner Botten stated the Council approved the First Reading of this Ordinance Amendment at the July 13<sup>th</sup> meeting with no recommended changes. Current Code states that sheet, corrugated, and shaped metal siding are prohibited in all residential districts except by CUP (Conditional Use Permit) in the Agricultural and E-1 Zoning Districts. Staff believes modifying the Ordinance to allow sheet, corrugated, and shaped metals permitted material in the Ag. and E-1 Districts only would streamline the process and would not have a negative impact to these districts. Staff recommends approval of the Second Reading as presented.

**Motion by Piekarski Krech second by Perry to approve the Second Reading of an Ordinance Amendment to eliminate the need for a conditional use permit allowing sheet metal siding on accessory structures in the A, and E-1 zoning districts.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**E. TITAN LAND: Consider the following for property located at 1462 80th Street:**

- 1. A Resolution relating to a Comprehensive Plan Amendment to change the land use designation from IOP, Industrial Office Park to HDR, High Density Residential. Resolution 2020-148.**
- 2. An Ordinance Rezoning the property from A, Agricultural to R-3C, Multiple Family Planned Unit Development. Ordinance 1387.**

Community Development Director Heather Rand stated Titan Land has requested the proposed change to land use designation on approximately ten acres of land from Industrial Office Park to High Density, and to change the zoning guided from Ag to R-3C. She displayed a map of the location on 80<sup>th</sup> with Highway 55 to the south, north is the new Scenic Hills assisted living project. With zoning, the change makes sense to Staff due to what is located in the area and the topography. It does not lend itself well to office warehouse. Staff recommended the change to the Planning Commission. A Public Hearing was held on July 7<sup>th</sup>. There were concerns about the size of the property and the unavailability for office warehouse. It is a ten-acre parcel and there are other opportunities within the City. This makes sense on this site. She stated there are other sites Staff would be bringing forward to Planning Commission and the Council for consideration so there are additional office warehouse elsewhere in the City. The Planning Commission expressed concerns, but due to the irregular shape of the lot, voted 7-1 in favor of the changes in use.

She stated the developer will need to return for a Public Hearing and discussion as they continue to develop their PUD. This is a concept plan with a proposed apartment building and two rows of proposed townhomes.

Peter Stalland, Applicant and Developer, 19356 Meadowridge Trail North, Marine on the St. Croix, stated he is in attendance along with his partner Todd Horn, and Mark Welch the Civil Engineer. Mr. Stalland stated they have spent a lot of time looking at this site and developing a first-class apartment site relative to the topography. They hope the City grants the rezoning and Comprehensive Guide Plan. He stated it would be an upper level market rate apartment project with 150 units on three stories. The other side would be 30 townhomes in a possible second phase. He stated they build really high-end suburban apartment projects in the Twin Cities.

Councilmember Piekarski Krech asked if they have been in contact with the County Transportation Department regarding access. Mr. Stalland responded yes, there have been discussions about a right

turn lane and a pass lane. She stated her concern was that 80<sup>th</sup> has not been upgraded to four lanes, and the improvements will not come until land on the other side of this develops.

Mayor Tourville stated there are 90 acres adjacent to the area that has not developed. This could be the transition that makes more sense for property use. The Comprehensive Plan is a 4/5 vote and the Ordinance rezoning is a 3/5 vote.

Councilmember Bartholomew stated his concern was changing the use of land from industrial/business to residential. He commented Staff makes a good point that it is a challenged lot and has been vacant for many years. The ten acres is a poorly conformed lot and is a good transition. He stated he could go along with the comprehensive change and zoning change.

Debra Kammerer, 8590 Ann Marie Trail, requesting seeing a map of the location. Councilmember Piekarski Krech stated when passing the storage facility on 80<sup>th</sup>, this is the first property on the south side of 80<sup>th</sup>. Mayor Tourville stated it is right across the street from the new development.

Pat Wistl, 1462 80<sup>th</sup> Street East, stated he is proud to be a part of a new housing development. This brings upper level housing with a view of the golf course. Some will have a view of the 14<sup>th</sup> hole and 15<sup>th</sup> tee box of the Inver Wood Golf Course. He stated new residents will hopefully shop in the City and add to the tax base. He commented that he has been trying to sell his property for many years with no luck.

Mark Walsh, Civil Engineer, G-Cubed Engineering, 14070 Highway 52 Southeast, Chatfield, MN, agreed this was tough terrain to get leveled out for office building. He was hopeful this is approved tonight. He stated the survey crew began today and will be back tomorrow to finish. The County Engineer stated they need 60 feet of right away versus 50, they have had to move the building south a bit to provide for that. They are hoping to submit the preliminary development plan Monday.

**Motion by Bartholomew second by Perry to approve TITAN LAND: Consider the following for property located at 1462 80th Street:**

- 1. A Resolution 2020-148 relating to a Comprehensive Plan Amendment to change the land use designation from IOP, Industrial Office Park to HDR, Hight Density Residential.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Perry second by Piekarski Krech to approve TITAN LAND: Consider the following for property located at 1462 80th Street:**

- 2. An Ordinance 1387 Rezoning the property from A, Agricultural to R-3C, Multiple Family Planned Unit Development.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Legal:**

**F. Discussion of Status of Draft Investigative Report.**

Scott Lepak, Law Firm of Barna, Guzy, and Steffen, in Coon Rapids, stated he has been the outside Labor Employment Counsel for the City for over a dozen years. In October 2019 he was asked to look into a potentially unauthorized data release involving a written communication by a City employee relating to other employees in the organization.

Meetings were held with an Investigator from his office and other City employees. Information is contained in a Draft report. He stated he was unable to receive certain direct information. Due to that,

they need to refocus the investigation on how information could be obtained from another direction. He stated there was discussion about whether the matter could be finalized using indirect information.

Mr. Lepak stated he asked the Mayor whether it would be an appropriate item for consideration by the entire City Council. The Mayor's response was that it would be with preference this be put before the Council at an in-person meeting. Due to the stoppage of in person meetings this was delayed. He stated he is asking for two matters and Council input relating to the Draft report as follows:

1. If the Council wishes to review the Draft report in order to determine next steps.
2. Does the Council wish to provide direction on those next steps.

He stated he had a few things to consider when deciding whether they want to review the Draft report, and if so, when reviewing the Draft report. This is an open meeting, the data in the report can be utilized in the discussion to the extent it is vitually necessary in the discussion of the matter. If not, under the Data Practices Act and the Open Meeting Law, the request is to avoid having any detailed discussion as to what is in the report as it may involve personnel data.

He stated the first step is whether they would like to review the Draft report. There was an inquiry about whether the data was an unauthorized data acquisition and utilization. He stated there has not been a subsequent release of the data. He asked the Council for direction on whether they would like to see the report.

Mayor Tourville stated he himself was asked whether the Council should look at this or have further discussion. It was not his decision as Mayor, it was the City Council. Guidelines from the League of Minnesota Cities state that personnel information has to be obtained with the approval of three Councilmembers (a majority). He asked if the Council wants to proceed and look at the information. If so, it would need a Motion and vote, then take the next step. If it is decided not to, they move on.

Councilmember Bartholomew asked what the ramifications were if the Council as a body looked at the report. Mr. Lepak responded if the Councilmember chose not to identify who provided the information, the Council can drop the investigation. If Council direction is to ask the Councilmember to cooperate and the information is provided, it could be incorporated into the final report. They could also take what they have and make it into a final report and proceed from there. Councilmember Bartholomew asked if looking at the report makes it public. Mr. Lepak responded it does not, it is still a Draft report and will stay that way until finalized.

Councilmember Piekarski Krech stated she has no idea how to make that decision without seeing the document. Mayor Tourville stated if the report receives approval to be looked at, it stays here and does not leave the room.

Councilmember Dietrich stated she was disappointed that no information was provided or asked for prior to this meeting. Supporting data for every item on the Agenda has been provided except for this one. She stated this is why residents do not trust Local Government and that there is a culture of mistrust at the Staff level. She asked City Attorney Bridget McCauley Nason if it was legal to discuss without supporting data to review. Mr. Lepak responded the report was the only data item that is classified as confidential. Councilmember Dietrich stated the information just provided verbally could have been in the Agenda.

**Motion by Piekarski Krech second by Perry to view the Draft Investigative Report.**

Mayor Tourville asked Mr. Lepak if Staff had anything to do with the investigation or input. Mr. Lepak responded certain Staff were interviewed as a part of the investigation. Staff direction was not sought about how to proceed this evening.

**Ayes: 3**

**Nays: 2 (Bartholomew, Dietrich) Motion carried.**

Mr. Lepak provided a copy of the report stating it is confidential. The document would be returned to him at the end of the Council's review.

Councilmember Dietrich asked the City Attorney if the Mayor had the authority to bring this before the Council. City Attorney McCauley Nason responded this matter has been handled by the City Labor and Employment Attorney. She responded to an earlier question about the placement on the Agenda and lack of supporting documentation stating because it was brought in by outside counsel, she would have to defer to them. Mr. Lepak responded it was his practice not to provide written information on a matter that is pending under an investigative status. Mayor Tourville asked if they are still legally able to read the document. Mr. Lepak responded yes.

At 8:23 PM, the City Council quietly read the report. The Council finished reading the report at 8:51PM.

Mr. Lepak asked the Council for direction from the following three options:

1. Provide direction that the matter be deemed incomplete. No action taken.
2. If the Council is comfortable with finalizing the Draft report without the Councilmembers input. Clean up the Draft report and finalize it without interviewing additional individuals.
3. Whether the Council as group would like the interviewed Councilmember the ability to provide further information on the matter.

Councilmember Piekarski Krech stated she would be interested in Options 2 or 3. She commented she was deeply concerned that an employee's privacy was violated. She stated they need to make that employee whole. Mayor Tourville stated after reading it there are questions, one being if the Councilmember could fill in the blanks. He stated there may be some summing of what happened between the Councilmember and an employee He commented that the Data Practice was breached. He stated you cannot take a look at someone's email and start reading it without permission of that person. He commented the two may want to meet and fill in some of the blanks in the report.

Councilmember Bartholomew asked how this got to this point if the Council did not authorize the report. Mr. Lepak responded the entire Council did not authorize the investigation. The individual involved could not authorize an investigation into [their] own complaint. Direction was sought from the Mayor. Councilmember Bartholomew asked if not authorized, if it has any bearing on the report, and if the report is nullified. Mr. Lepak responded it was still the report. Councilmember Dietrich asked how the Mayor was brought into this and why if the Council is of equal seating. Mr. Lepak responded why the Mayor was brought in. Councilmember Dietrich asked who pays for Mr. Lepak's retainer and who he represents. Mr. Lepak responded he would be charging the City. He represents the City as a body.

Mayor Tourville stated there was a possibility of a data breach. He was asked to look at it because if there is a data breach, they look into it. If determined there was not, they can move on. He stated everyone on the Council was notified they would be looking at this item in several emails.

Individuals in attendance at the meeting spoke.

The speaker stated the following background:

- She and her husband have been residents of the City for 32 years. They pay taxes, their kids went to school here.
- She has been a Girl Scout Leader, Dance Mom, Youth Mentor, and Chair of Beyond the Yellow Ribbon Committee.

She stated several of her friends who know her and can vouch for her character are risking exposure of Covid-19 to be in attendance and show support.

- She has been an employee for 5 ½ years with no discipline and a stellar performance as she has had no performance reviews in her time here.
- The position comes with a high degree of responsibility and fairly limited authority.

• She reports to the City Administrator who reports directly to the City Council. She stated this is a Statutory A City meaning authority for approval of the budget and personnel actions lies with the Council. All Councilmembers have equal votes including the Mayor.

- Prior to working for the City, she worked for the Dakota County CDA as an HR Administrator for 15 years, was the Senior Employee Relations Consultant for Dakota County, and has private sector HR experience.
- Has over 30 years of HR experience.
- Has a Bachelor's Degree and a Senior Professional in Human Resources Certification.
- Was a Data Practices Official for 15 years. In this State, Local Government is subject to the Minnesota Government Data Practices Act.
- Served on the Human Resources and Data Practices Legislative Committee at the League of MN Cities for six years.
- Initiated Subdivision 19 of Minn. Statute Chapter 13.43 which was passed to become part of the State Statute.
- Expert at understanding Data Practice Laws.
- Is an educated and experienced female HR professional with the highest degree of integrity and understanding of Human Resources and Equal Rights Laws. Not easily intimidated into ignoring wrongdoing.

The speaker stated in 2018 and 2019 she participated as a witness in an investigation into a sexual harassment complaint. This is a protected activity under State Human Rights and Federal Equal Employment Opportunity Commissions Laws (EEOC). State and Federal Laws prohibit punishing employees for asserting their rights to be free from employment discrimination including harassment. These Laws state that it is unlawful to retaliate against employees for doing each of the following items, all of which she has done in Inver Grove Heights:

- Filing or being a witness in a charge, complaint, investigation, or lawsuit.
- Communicating with a Supervisor or Manager about employee discrimination including harassment.
- Refusing to follow orders that would result in discrimination or intentionally obstructing or preventing individuals from complying with act.
- Resisting sexual advances or intervening to protect others.

The EEOC states that participating in a complaint process is protected from retaliation under all circumstances. An employer is not allowed to do anything in response to a protected activity that would discourage someone from resisting or complaining about future discrimination, including increasing scrutiny, spreading false rumors, making threats, intimidation, or reprimanding an employee. The employee stated she has witnessed many of these illegal actions prior and subsequent to the aforementioned investigation [and discussed concerns related to retaliatory action against her..

The employee stated the City and Council should ask the following questions:

- Who filed the complaint that resulted in the data breach investigation?
- Who contacted Mr. Lepak's office to conduct the investigation?
- Under whose direction and authority was a Councilmember investigated.
- Approximately how many investigations has someone from Mr. Lepak's office conducted for the City over the past 13 years versus the past two.
  - How many were females or minorities.
  - How many have been on employees who have either filed a complaint or participated in other legally protected activity such as a complaint investigation against the City Administrator.
  - How much has the City paid to Attorneys from the League, the Cities Attorney's office, and consulting Attorneys to investigate or defend these claims.

She stated tonight City leadership felt it important to bring forth an update to the discipline policy for Council approval. This is the first personnel policy revision initiated by someone other than HR since she began. She commented leadership feels it is important for Staff to be accountable and management to

have latitude to expedite the termination process. She asked what the process was if a Staff member has a complaint against the City Administrator or Councilmember. There is not one. She stated hundreds of thousands of dollars have been spent on investigations, Attorneys, and org. culture studies with no process for reporting misconduct by the Administrator or protection for Staff. Complainants are subject to counter investigations, microaggressions, intimidation, and public reprisal, anyone would be afraid to report illegal conduct. She estimated the amount of money paid to Investigators, Attorneys, Org. Culture Consultants, and Settlement Agreements within the last year amounts to over \$400,000.

There is a history and pattern in this City that never should have been allowed and needs to stop. She stated she wants to be here to help repair and improve the environment moving forward and needs Council support to do so. She needs the antagonistic and retaliatory investigations to stop.

Mr. Lepak asked how the Council would like to proceed. Councilmember Dietrich stated here are bigger problems than this. She commented that it is appalling that the City Administrator cannot look at [the employee] while she is asking specific questions.

Mayor Tourville stated the previous case was previous. This situation looks for the truth. The report says the Councilmember read a document in an Executive Session from a different employee that had no idea the email was being read. He stated the date was wrong. The City Council is looking into [who] gave it to the Councilmember, did the Councilmember take it and bring it to an Executive Session and start reading the email without the approval of the person. He asked if a Councilmember would be willing to fill in the missing pieces. Councilmember responded [they were] not convinced there was a data breach [and would] will discuss with her own Legal Counsel.

Mr. Lepak asked if Council was going to request the Councilmember provide additional input. If Council declines, the report is finished as is. Councilmember Piekarski Krech responded they would wait to hear if the Councilmember would be providing additional input, if not, the Draft would have to be accepted as it is. Councilmember Perry stated she did not believe they could make the entire Staff whole until they can know the entire story. She commented that she needed the entire story.

Julie Shefchik, daughter of Human Resources Manager Janet Shefchik, did not disclose her address because she is a participant in Safe at Home under Minnesota Statute 5B. She asked if the City Administrator reports to the Council as his boss. She asked why it was a data breach for an employee to provide information to someone's boss about their performance. In summary, the following is from a statement she prepared:

- Grew up and raised in Inver Grove Heights. Attended school here. Graduated with honors, took PSEO Classes at Inver Hills Community College.
- Completed her Master's Degree in Psychotherapy and works as a Therapist in private practice.

She stated she would be providing background into herself to provide context into how deeply this issue is rooted in the Community. She helps others cope with their Mental Health, process trauma, and share their journey from a place of deep emotional struggle to a state of wellness and ease. She stated this has not been afforded to her Mother as she worked here.

She stated there are many things deeply concerning about the conduct of several individuals employed by the City. Her focus is to inform, educate, and encourage change. Her backstory into this problem within the community follows:

- In 7<sup>th</sup> Grade she was punished by a Teacher. Demanded she go to the Principal's office, and threatened to prevent her class from doing activities as a way to vilify her and turn classmates against her. The Teacher's behavior was sexist.
- In High School a male Teacher told her she would not make it in STEM fields in College. Due to this, she decided not to pursue a career in the STEM field because she was not willing to expose herself to that kind of sexism.

- An Administrative professional made an inappropriate comment about her body in the hallway.
- During the last 1 ½ year of her education she was gaslit by a student whose parent was in Law Enforcement. He did not respect her physical boundaries. When speaking up about it she was ignored by Officers. Her abuser spread lies about her throughout the school. She received death threats, her school artwork was destroyed, she was left out of the yearbook intentionally, profanities were written on her locker, and “trash” was whispered to her in the hallways. Years later she discovered that same male went to prison for violating another woman’s rights.

She stated she is telling these circumstances because it shows how widespread the issue is. She sees the same type of abusive behavior occurring as the City fails to act when employees come to them with legitimate concerns about the City Administrator. She commented that youth in the Community see what takes place when adults who govern the City passively allow the City Administrator to continue to behave in illegal, inappropriate, and immoral ways.

She stated Human Resources require her Mother hear complaints from employees about their fellow employees. When employees are incapable of behaving in safe and respectful ways towards one another, her Mother had a duty to participate in an investigation about her direct Supervisor, City Administrator Joe Lynch. Like others before her, she now has a target on her back. She stated the Council knows this is not the first time the public has spoken out about Mr. Lynch’s problematic work behavior. Last year a woman lost her job after he treated her inappropriately and she filed a complaint against him. The City settled with the woman for \$89,000. She stated this is not a good look for the City. This is not the only circumstance in which money has been spent defending Mr. Lynch or dealing with toxic workplace issues. She stated his discipline was a three-day slap on the wrist and a raise. In the private sector he most likely would have been terminated.

Ms. Julie Shefchik stated her Mother does not enjoy conflict. She has never noticed her doing anything questionable. She listens to and supports the employees of the City in knowledgeable ways with compassion and without retaliation. She stated her Mother has taught her that no matter what the consequences may be to you, you do the right thing, and leads by example.

She stated that perhaps the Council is being gaslit. The HR Institute describes gaslighting in the workplace as “Gaslighters” will use very elaborate and subtle forms of manipulation in order to achieve their desired outcome. They will take their victim on a roller coaster of emotions and establish trust initially by confiding in them or making promises only later to deny they ever did such a thing. They do not want their insidious behavior to be obvious, they will sow the seed of doubt and carefully water that seed over time. They will tell their coworkers and other managers that there are mental health issues, they are crazy, incapable of doing their job, and discreetly point out ways that you are lying or unreliable. The behavior includes aligning other people against you until erosion of your workplace identity is done gradually. Over time you are likely to believe what your being told.”. She stated just because someone can pass a background check does not mean they are a moral person.

Ms. Julie Shefchik stated the following alternative points:

- Voting to terminate from the existing position, if lead to that, will reek of collusion, corruption, and retaliation.
- It is illegal because she is protected by whistleblower laws, and as laid out in the American’s with Disabilities Act.
- Removes the only person standing between Mr. Lynch and further misbehavior, costing taxpayers more money.
- It will show that it is known to treat his employees with disrespect as he was reprimanded last year.
- Rather protect him than the HR Manager employees rely on to ensure their rights are not violated.
- Irresponsible and bizarre use of taxpayer money.

She stated because of her work she understands how commitment bias works. Mr. Lynch has been kept around in the past, keeping him around means they would have to admit they were wrong before, the status quo seems the safest option. She stated the Council has a choice and their votes on this issue

make a statement about what they stand for. She questioned if they were willing to ask their taxpayers if they were willing to waste more money to deal with future complaints. She asked if they value the physical and mental safety of the employees of this community.

Ms. Julie Shefchik stated her Mother will continue to be liked by nearly everyone she meets. Her integrity and professionalism are never in question. She is an expert in data practices. She stated the Council has the power to change the narrative in this community today, and to use that power responsibly.

Karen Shefchik, stated she is the daughter of HR Manager Janet Shefchik and previously resided at 8245 Copeland Way East. Below summarizes a prepared statement she read regarding her Mom's character:

- Always do the right thing. Even if it is hard, not popular, even if others will not like you for it.
- Neither her sister, nor herself, would have dedicated their lives to become Mental Health professionals without her example. She stated they did because that is what she taught them to do. To give a voice to the voiceless, provide support to those in need, to stand against injustice.
- Trusts that she will always know what is right when asked an ethical question.
- She will go to bat for those that have been mistreated and misjudged both personally and professionally.
- Her job is to ensure the good people who work for the City are protected against injustice in the workplace and has done this tirelessly.

She stated the Council can follow her example and act justly and asked the Council to do what they know is right.

Sarah McEllistem, 506 10<sup>th</sup> Avenue South, South St. Paul, attorney for the subject of the complaint, stated that despite repeated inquiries as to specific portions of the Statute that have been violated, she has not been provided that information. She stated they are here today asking to provide information yet the City Council's Attorneys are not providing any basis for any breach. She commented that Mayor Tourville has said there was a data breach. If there was a data breach, she questions what it was. She sees no data breach in anything shared with her.

Mayor Tourville asked Mr. Lepak to answer the question about why information has not been sent out. Mr. Lepak responded the only document prepared for review is confidential. Once direction is received it can be determined whether the report can be finalized and become something other than confidential data. The meeting tonight is to see if there are other opportunities to collect additional facts. The facts would be analyzed, and the law would be applied.

Councilmember Dietrich stated she did not believe a data breach has taken place and has not seen proof.

Mayor Tourville stated any employee cannot go to HR and say they want information from a personnel file. A Councilmember could not go to HR and request information on the City Administrator. Councilmember Dietrich stated that was untrue, when she began with the Council, she asked City Attorney Kuntz where she could locate information to do the City Administrators review. His response was that "it was going to be really tricky; HR doesn't have that file because she is a subordinate". She stated the City Administrator would have to be asked for his own file to do his review.

Mayor Tourville stated the League of Minnesota Cities states they need a majority of City Councilmembers to agree in order to look at a personnel file. It does not look like that happened in this instance. He stated he did not say there was a breach, he said there was a possible breach. With HR, if one Councilmember asks for something, they need a majority of the Council to agree to open it up.

Ms. Julie Shefchik asked if his assumption was that a Councilmember sought out information from [an employee] and somehow convinced [them] to provide specific information from a file she does not have access to. Mayor Tourville responded she did have access to the file. Ms. Julie Shefchik stated

Councilmember Dietrich just said the HR Manager was not allowed to keep that file because she is a subordinate. Councilmember Dietrich agreed that was what she was told.

Michelle Classen stated the Council has to legally vote to approve the Investigator. She asked who is paying for his expenses. She stated if he has not been assigned to this they do not have to pay nor listen to him.

Human Resources Manager Janet Shefchik asked whether or not Mr. Lepak's office, who has contacted the League of Minnesota Cities Insurance Trust Attorneys, of which the City pays premiums to, whether he sought an opinion from the Commissioner from the State on what the classification of the data was. She stated they have the right as an organization to ask for an opinion from the State. She stated she does not believe there was a data breach.

Mayor Tourville asked if they should obtain additional information and come back August 10<sup>th</sup> at the regular City Council Meeting. Councilmember Piekarski Krech stated that could be done or have the report as it is, and the Draft becomes the final.

**Motion by Piekarski Krech second by Perry to table Discussion of Status of Draft Investigative Report to the August 10, 2020 Regular City Council Meeting.**

Mayor Tourville stated it takes three Councilmembers on a vote to get personnel information and three votes to HR in order for a Councilmember to get the information.

Attorney McEllistrem requested a copy of the report. Mayor Tourville responded the reports are going away. Mr. Lepak stated he would attempt to obtain additional information. If that occurs, he will put that in the report and finalize it. If that does not occur, he would finalize the report without the requested information.

Councilmembers Piekarski Krech and Perry agreed.

Debra Kammerer, 8590 Ann Marie Trail, stated she has heard what went on in the past has no reflection on what is going on now. She did not feel that was accurate. She has information from the Pioneer Press and the Star Tribune that speaks about a culture where retaliation exists. She stated women in this City are treated poorly. She has told Councilmembers that if some version of this happened again, she would return.

**Ayes: 3**

**Nays: 1 (Bartholomew)**

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

Mayor Tourville asked if the August 10<sup>th</sup> meeting could be public and/or Executive. Mr. Lepak responded if it lands on an individual subject of the investigation, that individual can choose whether it be open or closed. Prior to the meeting, the individual would be notified, and they would be able to make that call.

**8. EXECUTIVE SESSION:**

**A. Closed Session Pursuant to Minn. Stat. SS 13D.05, Subd.3(c)(3) to develop or consider offers or counter offers for the potential purchase of real property for park purposes in the Northwest Area.**

City Attorney Bridget McCauley Nason stated the Council is being asked to consider moving into a closed session Pursuant to Minn. Stat. SS 13D.05, Subd. 3(c)(3) in order to develop or consider offers or counter offers for the potential purchase of real property for park purposes in the northwest area. The particular real property that is the subject of the closed session is identified as:

-Real property located on Argenta Court in Inver Grove Heights owned by James Peltier and described by PID # 20-00700-06-012 which is a 37.76-acre parcel addressed at 7250 Argenta Trail.

She stated the closed meeting will be held in Council Chambers and will commence immediately. Once the closed meeting is completed the City Council would then reconvene the open meeting portion of tonight's meeting in the City Council Chambers. There are no further Agenda items. Once back in Open Session the Council would adjourn the meeting. Under the Open Meeting Law this meeting must be tape recorded. It must be identified once moving into Closed Session who is present at the meeting as far as Staff and Council is concerned, and reidentify the property that is being discussed.

**Motion by Piekarski Krech second by Perry to go to closed session per the State Statute at 9:51 p.m.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**9. MAYOR AND COUNCIL COMMENTS:**

**10. ADJOURN:**

**Motion by Piekarski Krech second by Perry to adjourn the Executive Session meeting at 10:18 p.m.**

**Ayes: 5**

**Nays: 0      Motion carried.**