

**INVER GROVE HEIGHTS REGULAR CITY COUNCIL MEETING MINUTES  
MONDAY, AUGUST 26, 2019 AT 7:00 P.M.**

**1. CALL TO ORDER**

The City Council of Inver Grove Heights met in regular session on Monday, August 26, 2019, in the City Council Chambers. The Pledge of Allegiance was recited. Mayor Tourville called the meeting to order at 7:00 p.m.

**2. ROLL CALL**

Present were: Councilmembers Piekarski-Krech, Bartholomew, Perry, and Dietrich; City Administrator/Interim Deputy Clerk Lynch, City Attorney Kuntz, Community Development Director Rand, City Planner Hunting, City Engineer Kaldunski, Fire Chief Thill, Police Chief Chiodo, Police Commander Otis, and Police Sergeant Wiederhoeft.

**3. PRESENTATIONS**

**Fire Safety Commendation**

Fire Chief Judy Thill stated due to unforeseen circumstances the scheduled presentation will be discussed another time. She introduced Fire Explorer Post 627 that just received the newly created Art Widerstrom Award during Governor's Fire Prevention Day at the State Fair. Governor's Fire Prevention Day was created 21 years ago by Inver Grove Heights Fire Operations Officer Dan Bernardy. She stated the Award was established in 2018 and presented to the highest scoring public education presentation skill at the Explorer Challenge each year. She congratulated the Inver Grove Heights Fire Explorer Post 627 for their hard work and dedication and for bringing home this prestigious Award. She also thanked the Explorer Advisors who have helped over the years.

She stated if there are any youth between the ages of 14 and 21 interested in learning about fire fighting and want to join the Explorer Post, to contact the Fire Department. She stated ten to twelve of the present paid on-call fire fighters are hired out of the Explorer Program and one has been hired full time.

**4. CONSENT AGENDA**

- A. Minutes from the August 12, 2019 City Council Meeting.
- B. Disbursements for Period Ending August 20, 2019. **Resolution 19-140.**
- C. Consider Approval of Proposal from WSB Inc. for Heritage Village Park.
- D. Consider Final Pay Request No. 6 to Pember Companies for the Heritage Village Park Dog Park Improvements.
- E. Consider Pay Application No. 9 for Fire Station No. 2.
- F. Consider Approval of Change Orders 4, 5, and 6 for Fire Station No. 2.
- G. Consider Authorizing Fire Chief to Proceed with Purchase of Furniture, Fixtures, and Equipment, per Accepted Budget for City Project No. 2014-10, Fire Station No. 2 New Construction.
- H. Consider Setting Special Meeting Dates.
- I. Consider Pay Voucher No. 2 for City Project No. 2015-03 – 65th Street Construction (between T.H. 3 and Argenta Trail) and City Project No. 2018-03 – NWA Trunk Watermain Improvements, 65th Street Loop (Phase IV of 2015-12) from Agate Trail to Alverno Lane.
- J. Consider Pay Voucher No. 1 for City Project No. 2018-09D – Atwater Path Pavement Replacement, City Project No. 2018-09F – 55th Street and 55th Street Court Reconstruction, and City Project No. 2017-07, EVP Site Borrow Placement.
- K. Consider Approving Custom Grading Agreement and Storm Water Facilities Maintenance Agreement (SWFMA) for 1975 96th Street.
- L. **Resolution 19-141** Accepting Professional Engineering Services Proposal (IPO 35) from Kimley-Horn and Associates, Inc. for City Project No. 2016-09G – 60th Street, 62nd Street and Bacon Avenue Improvements.

- M. ISD #199 – Approve Improvement Agreement, Stormwater Facilities Maintenance Agreement, and Drainage, Utility and Stormwater Ponding Easement for Pine Bend Elementary Improvements, 9875 Inver Grove Trail. **Resolution 19-142.**
- N. Consider a **Resolution 19-143** Receiving Petition for City Project No. 2019-09D – 64th Street Area Improvements.
- O. **Resolution 19-144** Accepting Professional Engineering Services Proposal from Bolton & Menk for City Project No. 2019-09D – 64th Street Area Improvements.
- P. Approve Proposal for Additional Professional Services for Feasibility Study for City Project No. 2016-19 – 65th Street between Trunk Highway 3 and Babcock Trail.
- Q. Personnel Actions.

Councilmember Dietrich requested to pull Agenda Items 4A and 4H.

Dian Piekarski, 7609 Babcock Trail, requested pulling Agenda Item 4D.

**Motion by Bartholomew, seconded by Perry to approve the Consent Agenda except for Consent Agenda Items 4A, 4D, and 4H.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**A. Minutes from the August 12, 2019 City Council Meeting**

Councilmember Dietrich stated Human Resource Manager Janet Shefchik's name was missing from the August 12, 2019 minutes for her help negotiating the Union Contract under Agenda Item 5 – Public Comments. She was concerned with the minutes being factual and commented the website states it is approved by Staff when it should be approved by Council. She stated that may be something to revisit in the future. Mayor Tourville stated the minutes are pending until approved by Council and then become official.

**Motion by Dietrich, seconded by Perry to approve Agenda Item 4A Minutes from the August 12, 2019 City Council Meeting with correction as described.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**D. Consider Final Pay Request No. 6 to Pember Companies for the Heritage Village Dog Park Improvements**

Dian Piekarski, 7609 Babcock Trail, asked what the yearly cost to maintain the dog park was and if it is budgeted annually. She commented about the Golf Course being mowed in some areas and not in others. She questioned if they cannot take care of what they have, why new things are being added. Mayor Tourville suggested she contact Parks and Recreation Director Eric Carlson about the dog park. He stated trails are on a program and not done yearly.

**Motion by Bartholomew, seconded by Perry to approve Agenda Item 4D to Consider Final Pay Request No. 6 to Pember Companies for the Heritage Village Park Dog Park Improvements.**

**Ayes: 5**

**Nays: 0      Motion carried.**

#### H. Consider Setting Special Meeting Dates

Councilmember Dietrich stated there have been discussions between herself and City Administrator Lynch about setting special meeting dates. She stated on August 16, 2019 she emailed the City Administrator and asked that his performance review be put back on the August 26, 2019 agenda for a vote in the Executive Session. She stated his response was that “he was setting aside September 23<sup>rd</sup> as his review date”. She discussed her emailed response and stated the review should be taken care of in a timelier manner than the end of Quarter 3, 2019. She commented a previous discussion between them was that it was a goal to have it completed on time this year. She stated she suggested this still be placed on the agenda for August 26, 2019, and if the Council prefers to wait, then it would be affirmed via vote. On August 22, 2019, after noticing the performance review was not on the upcoming agenda, she emailed the City Administrator asking why. She stated his response was that he had spoken with City Attorney Kuntz who said that notice must be posted for these meetings.

Councilmember Dietrich requested that for future meetings there be a discussion around the process for preparing agendas. She requested a copy of the Council Bylaws so that she can serve to the best of her abilities within the guiding principles.

Mayor Tourville commented that not all Councilmembers were going to be in attendance for the meeting to take place at 5:00 p.m. this evening. Councilmember Dietrich stated all are currently in attendance. Mayor Tourville stated not all would have attended at 5:00 p.m. today. Councilmember Dietrich stated the City Administrator’s performance review was scheduled during a regular Council meeting in the spring and took place after the Council meeting.

#### **Motion by Piekarski-Krech, seconded by Perry to approve Agenda Item 4H to Consider Setting Special Meeting Dates.**

**Ayes: 5**

**Nays: 0      Motion carried.**

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

Frank Rauschnot Jr., Woodville, Wisconsin, spoke regarding his former property located at 6840 Dixie Avenue. He stated that since the property was sold, the City has said that trucking or truck repair was never done on the Industrial site, which it was based on the number of visits by City staff. After the sale of the property, Code Enforcement visited the site and stated trucks were not allowed on the property and the property was not to be sold. He stated before the property was sold, the City Administrator contacted him about selling the property to the City for considerably less than it’s worth and felt like he was being bullied. He asked that the Council step in and allow the current owner to run his business. He stated since he is unemployed, he can take the position of both the City Administrator and the Community Director for the price of one and he would run things honestly and transparently.

Mr. Rauschnot, Jr. stated the City Administrator has misled people about how things were done at Heritage Park and requested the following information:

- GPS coordinates of the areas with asbestos contamination found in the park.
- Dates that Braun Intertec supervised the safe legal removal and disposal of asbestos or asbestos containing debris.
- Name of the Engineer from Braun Intertec who oversaw the asbestos removal process.
- Name of the Contractor who removed and disposed of asbestos from the park.
- Copies of all manifests and bills paid for removal, transportation, and disposal for asbestos and all hazardous materials from Heritage Park.

Grant Robbins, 9432 Tyne Lane, stated he is present along with residents living at 9436 and 9426 Tyne Lane. He stated they were concerned about the self-storage industrial development located at 9725 Robert Trail South. He had been in contact with City employees Heather Rand, Steve Dodge, Nicole Portugal, Tom Kaldunski, and Barr Engineering when the new on-site stormwater pond filled significantly from a minor rain event. Since contacting the City employees, he has received many documents, drawings, future development ideas, and minutes from the December Planning Commission meeting and the January City Council meeting from which a conditional use permit and variances were granted. He stated those plans differ from the plans approved by the Assistant City Engineer from May 24, 2019. He commented those plans may have been reviewed without notification or input from the Planning Commission, City Council, or affected residents. The revised plans include excavation of a new I1 zoned location visible to nearby homes, removal of an additional 0.7 acres of heavily wooded onsite property, which provides the only privacy to residents on Tyne Lane, and significant changes to the site's stormwater plan. He stated the new stormwater pond reaches within 12 inches of his property line and creates a safety hazard.

He requested Council support stopping the development in the area east of the roadway until the issues have been reviewed and resolved. He stated the work is ongoing prior to 7:00 a.m. and after 7:00 p.m. Mayor Tourville asked if he has met with engineering. Mr. Robbins responded that he spoke with City Engineer Kaldunski but has not heard from others. He stated the developer asked to meet with him on Wednesday, but he is not prepared to negotiate the settlement when there are violations of the practices of the City. City Engineer, Tom Kaldunski, stated they should not be working before or after the 7:00 hour.

Mr. Robbins stated he would prefer meeting with the City and neighbors. Councilmember Bartholomew asked if activity could be stopped until they can discuss the issue further. Community Development Director Heather Rand did not believe the work should be stalled. She stated proper notification was given, along with discussions, with residents last week. After speaking with the City Engineering Division, they believe the plans have not changed and the proper process was followed. Ms. Rand stated that if there is any resolution to negotiate above the City's responsibility, the property owner and individuals should discuss them together.

Mayor Tourville asked staff to contact the business owner and tell them they cannot begin work prior to 7:00 a.m. Mayor Tourville agreed with residents speaking with the developer and offered staff to sit in on the meetings as well.

Mr. Robbins stated the plans given to him differ substantially to the plans currently in place and no notifications were given of any changes. Mayor Tourville suggested he meet with developer and the Engineering Division. Mr. Robbins stated the request is not to stop work at the site, it's to stop work on the site east of the road where changes were made to the plans. Mayor Tourville responded the City could relay the message to the developer that there is a difference in opinion on the east side of the road and let them know about what time of day they can begin working.

Councilmember Piekarski-Krech asked staff to notify Council as well. She recalled the trees were going to stay in the project as a buffer and that neighbors at the time were fine with it. She commented she was concerned things may have changed and would have possibly voted differently. Mr. Robbins responded those plans have changed and the trees are gone.

Kevin Sethre, 3650 73<sup>rd</sup> Street East, referenced articles in the St. Paul Pioneer Press beginning with one dated August 7, 2019. Mr. Sethre commented the article spoke about offensive comments made by City Administrator Joe Lynch. He stated a December 2018 article states that comments by Joe Lynch to an employee as "immature and unprofessional" resulted in disciplinary action. He

commented a June 15, 2019 article states there was an initiative to enhance interactions and communication within the City staff that is not related to any of the aforementioned. He stated there are concerns and questions about whether taxes will increase due to the separation agreement and that he noticed a quote stating “if I had done half of what Mr. Lynch has admitted to at work, they would have been ushered out the door by the employer”. He stated he understands there must be an action to reduce City exposure on personal matters, but this is disappointing.

Kathryn Bauer, 6895 Cain, thanked the City Council for their service and leadership. She stated she believes the perception of the City has been marred by recent negative publicity concerning the City Administrator and she is concerned about his words and actions. She stated the Council found Mr. Lynch to be in violation of the City’s Respectful Workplace Policy twice. Mr. Lynch was not only suspended for three days, but it cost him the respect of City employees and residents. She stated the City needs the City Administrator to be a role model of someone who sets the tone for all City employees and residents, and employees deserve to be treated with dignity and respect. Disrespect should not be tolerated. She stated City Administrator Lynch’s words and actions did not promote the type of respectful workplace environment she wants to see in this City and that the City deserves better.

Regina Barr, 5947 Bryant Lane, read aloud a letter she sent to the Mayor and the City Council. Ms. Barr stated she wrote the letter as a resident to express her dismay about the negative publicity regarding employment matters and actions of City Administrator Joe Lynch. She commented the negative public perception and work culture in the media is with the City Council. She stated that confidentiality does not preclude the City Council and they should improve the work culture and environment, so these matters do not occur again. She stated she looks forward to hearing more about the City Council’s plan to ensure a positive work culture and environment and thanked them for their service to the Community.

Ms. Barr spoke of Councilmember Dietrich’s comment about performance reviews being delayed twice and questioned if it had something to do with the behaviors seen with the negative work environment and work culture. She spoke with Councilmember Bartholomew who informed her that her letter could not be received into record unless she attended the meeting to present it. She asked about the policy concerning letters that are requested to be read into the record and how they are handled. She asked what the City Council does with letters they receive and how they are shared with staff. Mayor Tourville responded that most letters received are attached to an agenda item and added into the record. Ms. Barr asked to see where that information is posted so she knows the policy.

Sue Gliva, 5914 Bryant Lane, stated she sent letters to the City Council and she wanted to read her letter. Ms. Gliva read her letter. To summarize, she stated that as a resident, and School District 199 School Board member, she was disappointed with the actions of City Administrator Joe Lynch. The money and time spent on his actions should warrant thought about his future employment with the City. All costs associated with the employment matter should be accounted for and publicly posted and residents have a right to know where their taxpayer money is being spent. She stated the City and School Board collaborate on many things and for the success of the Community we need the City and schools to represent the community in a positive way. She stated she was not speaking for the entire School Board but personally did not feel that Mr. Lynch is fulfilling expectations in the workplace, and his actions should not be overlooked. She urged the City Council to consider his future employment.

## **6. PUBLIC HEARING**

### **A. Alcohol Compliance Check Failures**

Police Chief Melissa Chiodo discussed youth drinking, stating the Inver Grove Heights Police Department impacts this issue by enhanced enforcement of laws, prohibiting the sale of alcohol to minors, working with schools on policy review, changes, enforcement, and by public awareness and education campaigns. Since 1999, the Police Department has conducted at least one yearly compliance check. Checks are not done to target a business or individual, they are done to help prevent youth from purchasing alcohol, make sure licensed businesses check IDs, and do not sell alcohol to anyone under twenty-one.

Police Commander Josh Otis stated the program uses checks as a tool to verify businesses, with a valid liquor license, are properly selling alcohol to persons age twenty-one or over. This reduces underage access to alcohol, helps the department identify, educate, and hold accountable those in violation of MN Statutes and Ordinances. Checks are currently done annually. Beginning in 2019 there will be a minimum of two City-wide alcohol compliance checks. The compliance check process includes verifying all current license holders that have adult underage participants, aged 18-20, fill out a seven-page participant packet to ensure they can participate with underage sales. He stated that this year there were two teams. The first team consisted of two young adult females who worked with Sergeant Wiederhoeft, the second team had one young adult female working with Officer Mattson.

The process includes presenting their State ID if asked, and if not asked for an ID, they are to go about the sale. If asked for their age, they say twenty-one. When checks are completed a business is notified of a "pass". This year's process had changed to a mail merge which allows a spreadsheet of all businesses to be mailed out in separate letters signed by Officer Wiederhoeft. This year there was a clerical error and some businesses that had a failure received a pass letter. Due to the error, Officer Wiederhoeft personally served businesses with a notification and discussed what was needed to attend tonight's meeting.

City Attorney Tim Kuntz discussed the process for the public hearing and stated he wanted to address each violation separately. A presentation would be given by the Officer on the information contained in the packet. He asked that Council make a motion to receive information and make it part of the public hearing record. He stated that the business has a right to respond, make statements, or produce evidence. The public hearing would end with a motion. He stated if Council finds a violation has occurred, a motion should be made with the following two parts: part one would be to determine and find that a violation of the liquor laws in respect to a sale to a person of less than twenty-one years of age has occurred. Part two determines what the penalty of the violation.

Police Commander Otis stated on June 20, 2019 a bartender from El Azteca viewed the license of the underaged person and served her a beer. Once the underage teen left the business, Sergeant Wiederhoeft presented post-serve-contact procedures. According to records over the last five years, this is the first violation by El Azteca. Staff recommends that the first violation within five years receive a \$750.00 civil penalty.

The El Azteca representative(s) had to leave and before they left, they advised Police Chief Chiodo that the server was sick that day and believes that is why this happened. The server has been through server alcohol training twice.

**Motion by Piekarski-Krech, seconded by Perry to receive the documents submitted by the Police Department as part of the public hearing records.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Piekarski-Krech, seconded by Perry to close the Public Hearing at 8:04 p.m.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Police Commander Otis stated on June 20, 2019 a server for Jersey's Bar and Grill viewed the underaged person's drivers license and served them a bottle of beer. Officer Mattson gave post-serve-contact procedures. According to records over the last five years, this is the first violation for Jersey's Bar and Grill. Staff recommends a \$750.00 fine. He stated the Council also needs to consider the server training for the server who failed the compliance check. He stated they were advised the server did not complete server training prior to serving alcoholic beverages which is an additional violation to the Ordinance.

Councilmember Bartholomew asked if there were any guidelines on the penalty for not completing server training. Commander Otis responded there are no guidelines for that, it only states the Council can go above and beyond the outlined civil penalties.

**Motion by Piekarski-Krech, seconded by Perry to receive the documents submitted by the Police Department as part of the public hearing records.**

**Ayes: 5**

**Nays: 0      Motion carried.**

William Ashton, 6449 Concord Boulevard, stated they have changed their policy for Jersey's Bar and Grill. The server in question was a server in training and has been terminated. He stated policy is to have training before beginning shifts on their own. They have now changed that policy to have the training done prior to working.

**Motion by Piekarski-Krech, seconded by Perry to close the Public Hearing at 8:11 p.m.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Piekarski-Krech, seconded by Perry to approve a \$750.00 fine.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Police Commander Otis stated on June 20, 2019 an employee for Cameron's Liquor viewed the underaged person's driver's license and sold her a six pack of beer. The buyer was asked by the employee if she was over twenty-one and the buyer responded yes. The teen buyer left the store and Sergeant Wiederhoeft took over with post-buy-contact procedures. According to records from the last five years, this is the second violation for Cameron's Warehouse Liquor with the first violation in July 2015. Staffs recommendation for the second violation in five years

is a \$1,000 civil penalty and a one-day license suspension. The recommendation for suspension would take place on one of the following dates: October 3, November 1, November 27, or December 31, 2019.

Councilmember Bartholomew asked why dates were recommended and how they were picked. Police Chief Chiodo responded the dates were recommended because it's a practice done by other Cities. Businesses who pick their own dates pick a date that they do not want to be open or have the slowest sales. She stated due to that and the violation, Cities pick a date that is usually a busier time, so they understand the impact of serving alcohol to someone under twenty-one. Mayor Tourville stated picking dates has not been the practice in the past. Mayor Tourville suggested this year the owner choose the date; however, notify liquor license holders that in the future, if there is a violation, dates will be recommended by the Police Department. Councilmember Bartholomew agreed.

Councilmember Dietrich asked if this would come before the Council on a future agenda. Police Chief Chiodo responded that could be done.

**Motion by Piekarski-Krech, seconded by Perry to receive the documents submitted by the Police Department as part of the public hearing records.**

**Ayes: 5**

**Nays: 0      Motion carried.**

George Cameron, 2477 79<sup>th</sup> Street East, discussed what took place on June 20<sup>th</sup>, the day that Officer Wiederhoeft came in with the underage adult stating the purchase was made by the underage adult. He stated a badge was not shown by the Officer when he introduced himself and he did not have a business card. He stated he didn't hear anything back until he received a letter dated July 12, 2019 stating he and staff successfully passed the alcohol compliance check. He stated the worker, Cherylarae, received a letter from Dakota County called Statement of Probable Cause. He discussed what the letter spoke of regarding the events of the compliance check and stated he has two witnesses that heard and noticed the sale of the beer but did not hear the cashier's statement about making the sale anyway. He stated the letter is inaccurate and it doesn't note the fact that there was another person in the store at the time.

Mr. Cameron stated he asked the City for the protocol for compliance checks and was told there was no protocol. He called the State of MN Liquor Control and asked what their protocol was and was told it is up to the City.

Mr. Cameron stated he called City Administrator Lynch and asked if the City tells the underage buyer to lie about their age or if it was the Officer. He asked to see the certificate of training received by underage buyers. Police Commander Otis responded the individuals are trained the day of compliance checks by both himself and the officer assigned. There is no certificate of completion. Mayor Tourville asked if the underage buyer is told to lie when asked about their age. Commander Otis responded the underage buyers are told when asked about their age without an ID being presented that they should say they are twenty-one. If they are asked to show their ID and are asked if they are twenty-one, they should say yes.



Police Chief Chiodo stated the City Administrator and herself discussed this topic with Mr. Cameron last week. During that discussion she gave Mr. Cameron a copy of the protocol that began in 1997 in the State of Minnesota. On that copy, in Point 13, it states to “instruct the decoy to lie about their age if asked”. She stated the document is a part of the Attorney General Guidelines and the Department of Alcohol and Gambling to set up a real-life situation.

Councilmember Bartholomew asked if the practice was done the same way in the past. Commander Otis responded over the last few years the direction has been the same. Councilmember Piekarski-Krech agreed the practice has been the same over several years.

Mr. Cameron distributed handouts to the Mayor, Councilmembers, and City Administrator. He commented about the content of the letters regarding compliance checks stating they were from the following locations: University of Minnesota, Grand Forks, North Dakota, Oklahoma, State of Missouri, and other locations. All letters state the underage buyer should state their true age when asked. He commented the protocol in Inver Grove Heights is that they do not have to be truthful when answering.

Mr. Cameron distributed a handout about a court case that took place in Little Falls, MN referred to as a “sting”. He asked to see the record for Cherylarae on how many sales she has made illegally for someone under 21. He commented she is being placed under the same rules as a sting and it is entrapment.

Mr. Cameron distributed a handout about compliance checks and sting operations to the Council and quoted, “Compliance checks or sting operations must be conducted without entrapment. Entrapment is inducing people to commit a crime they would not be predisposed to commit or ordinarily commit”. He stated in the eighteen years he has worked with Cherylarae, she has never sold to someone underage, and he would not allow it to happen. He commented that once an ID is asked for, the check should be over and what was done to his employee is illegal. He stated it is a sting. Mr. Cameron handed out an additional handout to the Council and staff.

Councilmember Perry stated the employee had the under underaged person’s driver’s license in her hand. Mayor Tourville commented he appreciated the handouts, but this seemed like more of a legal issue outside of the Council’s purview. The City Council cannot stop this from going to court. Councilmember Bartholomew stated an ID was asked for and produced and it resulted in a violation.

Councilmember Piekarski-Krech asked about the witnesses. Mr. Cameron responded there were two underage people sent into the store and there were salesmen in the store working. Commander Otis stated the day shift had two adult underage females and the night shift had one underage adult female. Councilmember Piekarski-Krech asked for clarification on the term “underage adult”. Commander Otis responded all underage buyers are adults under the age of twenty-one with an ID.

Councilmember Dietrich asked if there was a written policy that Mr. Cameron could have. Police Chief Chiodo responded there is protocol in draft form. She stated that could be brought before the Council and made public.

**Motion by Piekarski-Krech, seconded by Perry to receive information given by Mr. Cameron.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Piekarski-Krech, seconded by Perry to close the Public Hearing at 8:56 p.m.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Councilmember Bartholomew suggested the liquor license holder pick the date as long as it is served by the end of the year. Councilmember Piekarski-Krech asked that something be written to show that going forward if there is a suspension, a date would be given by City staff. Commander Otis responded they would outline the entire compliance program. Mayor Tourville suggested a draft be put together and brought to the City Council before beginning the second compliance checks.

City Attorney Kuntz requested the motion contain information that the suspension date must be chosen within ten days and reported back to the City Administrator.

**Motion by Dietrich, seconded by Perry to show that a fine of \$1,000 has occurred and to impose a penalty of a one-day license suspension. The suspension date must be chosen within ten days and given to the City Administrator.**

**Ayes: 5**

**Nays: 0      Motion carried.**

City Attorney Kuntz stated there needs to be a clarification under Jersey's Bar and Grill public hearing. The Council imposed a fine of \$750.00, but there were two violations brought forward. He asked if the Council understood the motion was to set a fine for the two violations. Councilmember Piekarski-Krech responded it was just for the underage person being served with the understanding that Mr. Ashton change his procedures. If a server hasn't received training, there would be a fine moving forward. The Council agreed with doing training before serving. Mayor Tourville stated the person doesn't work there anymore and they can't impose a fine for the person not receiving training because the employee no longer works for Jersey's Bar and Grill.

## **7. REGULAR AGENDA**

### ***ADMINISTRATION***

#### **A. Consider Request for Drkula's Bowl to Extend the Premise of the Existing Liquor License Sales Area to a Designated Outdoor Area, September 5, 2019 to September 7, 2019.**

City Administrator Lynch stated this is for an extended Premise Permit for Drkula's to sell and consume liquor outside the physical building from September 5 to September 7, 2019. He stated on Thursday September 5, there will be a private party from 5:00 to 7:00 p.m. It would be open to the public from 7:00 to 10:00 p.m. with live band music. On Saturday, September 7, the area would be open from noon to 12:30 a.m. There will be a wrestling event and live music. He stated the applicant provided the necessary insurance certificate. The Police Department and Fire Marshal have been notified and will meet the day of the event to review the enclosure and ensure compliance. Staff recommends approval.

Mayor Tourville stated it is a different premise for non-liquor license holders, they get one event per year. City Administrator Lynch responded there is a temporary liquor license granted to organizations that do not hold an existing liquor license in the City. This is part of the Inver Grove Heights Days events.

**Motion by Piekarski-Krech, seconded by Perry to approve the Request for Drkula’s Bowl to Extend the Premise of the Existing Liquor License Sales Area to a Designated Outdoor Area, September 5, 2019 to September 7, 2019.**

**Ayes: 5**

**Nays: 0      Motion carried.**

### ***COMMUNITY DEVELOPMENT***

**B. Kyle Hannah – Case No. 19-29V – Consider a Resolution relating to a Variance to allow a detached accessory building within the front yard setback for property located at 1808 63rd Street. Tabled from August 12. Resolution 19-145.**

City Planner Allan Hunting stated this item was tabled at the last meeting due to the applicant’s absence. This request is for a detached accessory structure garage with a setback of 16-feet and 6-inches from the Babcock Trail right-of-way. The existing house is twenty-one feet from the property line and the setback from Babcock Trail is forty feet. Staff recommends the structure not be any closer to the roadway as the existing house. Planning Commission recommends approval of the application as presented.

Community Development Director Rand stated there were issues related to building permits, code compliance, and a fire permit, but the applicant is within the confines of meeting the requirements.

Kyle Hannah, 1808 63<sup>rd</sup> Street East, discussed the layout of the property and the setbacks. Councilmember Piekarski-Krech asked why it couldn’t have the same setback as the house with 21 feet. Mr. Hannah responded there is an apron cement slab that would have to be moved from the plan and would offset the front of the garage from the front of the home. The front of the home has an open porch, and this would move it five feet in front of the existing structure.

Councilmember Bartholomew stated the home was built in 1880, additional easements were added over the years moving it closer to Babcock, so he was not opposed to the 16-foot 6-inch setback. Councilmember Piekarski-Krech stated twenty-one feet has been done with other variances and was not in favor of the lesser setback but would agree with twenty-one feet.

Mr. Hannah stated he would have to adjust the plans and resubmit them to the City. The change brings the building five feet in front of the existing house. City Planner Hunting stated if the request is denied the applicant would have to submit a new plan.

Councilmember Bartholomew asked if the next step was to make a motion to approve the variance as listed in the resolution and see if it passes. City Attorney Kuntz responded if it does not pass, they would have to make a motion to deny. Councilmember Bartholomew asked if a motion could be made for twenty-one feet as directed by staff. City Attorney Kuntz responded a motion could be made for twenty-one feet.

**Motion by Dietrich, seconded by Bartholomew to approve the sixteen feet, six inch setback as the Planning Commission had set for the Variance and noted by Bartholomew that the increase of easement from Babcock Trail is also a consideration for a Resolution relating to a Variance to allow a detached accessory building within the front yard setback for property located at 1808 63rd Street. Tabled from August 12. Resolution 19-145.**

**Ayes: 4**

**Nays: 1 (Piekarski-Krech) Motion carried.**

**C. Gateway Christian Church – Case No. 19-31PDA – Consider an Amendment to the Arbor Pointe PUD Ordinance to allow churches as an allowed use in the CSC, Community Shopping Center District. Resolution 19-146.**

City Planner Hunting stated the applicant is proposing to amend the Arbor Pointe PUD Ordinance to allow the use of a church in the community shopping center district in the old Advanced Auto Parts building. Current ordinance does not allow for churches. He stated they would convert the building to include the worship auditorium, classrooms, offices, and minor changes to the parking lot. He stated this only addresses the Ordinance Amendment. If successful, the applicant would have to come back to review the site plan. He stated staff was concerned with the change of use from retail and recommends leaving the use out of the Ordinance. Staff recommends not changing the Ordinance but would recommend it be allowed as a conditional use which is consistent with how churches are treated in other parts of the City. Planning Commission supported the request.

Councilmember Bartholomew asked who owns the vacant piece of property next to the gas station and tire store. City Planner Hunting responded TCF Bank.

Richard Farrell, 531 12<sup>th</sup> Avenue South, South St. Paul, Senior Pastor of Gateway, stated they are active within the community and want to continue to do so. They have been looking for a space and understand this space is not zoned for a church. He stated the current building would be a perfect fit on this side of the City.

Rodger Espeseth, 8662 Collin Way, stated the group is doing good things in Inver Grove and lends his support.

William Melin, Cushman and Wakefield, 3500 American Boulevard, Suite 200, Bloomington, stated he is in attendance on behalf of the owner of the property which has been vacant for twelve years. Maintaining it and keeping it nice has been a hardship for the owner. There has not been much activity. He stated the Planning Commission voted in favor of a conditional use permit. He stated having a Church in the area would be a customer draw to businesses around it and an opportunity for a Church to go into an area much like the school.

John Marsden, 7352 Boyd Avenue, stated he and his wife are the founding Pastors of River Heights Vineyard Church on Cahill Avenue. He stated they have been a part of the community for twenty-nine years. Twenty-six years ago, they were given a conditional use permit to meet in the shopping center where the Bierstube is located. He stated businesses and churches can co-exist very well and draw more people into the area. He urged the Council to support this amendment for a conditional use permit for this area.

Jane Michelkamp, 8664 Collin Way, stated she is a Children's Pastor and has taught a Bible Study at Rolling Meadows. Gateway Church has supported the Bible Study and giving the families clothing, coats, mittens, hats, food, and diapers. She stated Gateway Church would be a great asset to the community.

Mary Rekuski, 8740 Brunell Way, stated she supports all churches finding a location within the ordinances of the law and zoning codes. She is opposed to putting a Church in the community shopping area. She stated the church would be tax-exempt and not contributing to the tax base. She asked the Council to consider the separation of church and state when the church may be renting space to a political group. She questioned why the church has moved twice in six years. She asked if considering this request expresses favoritism for this church over others.

Ms. Rekuski stated that as a taxpayer and voter she didn't feel like there was proper notice of this and that it was fast-tracked. She stated she only knew about this topic based off of a sign placed at the business location. She stated the posted notification needed to change and become more citizen friendly.

Ms. Rekuski asked what the risk was to the City to say no to this proposal and allow the building to remain vacant for the possibility of new retail in the area. She asked what the City gains or risks by granting this request. She stated that placing a church in the center of a shopping area to the benefit of a small group of people as opposed to those impacted by the shopping district.

Mayor Tourville stated their organization has never been given tax-free status, they are in a shopping center now, and included in their rent they are paying taxes. Ms. Rekuski stated this proposal is for purchasing the building. Mayor Tourville agreed. She asked what incentives the City offered the previous business owner. She asked if it was the Cities responsibility to market the property for them, and if other buildings deserve the same treatment. Mayor Tourville responded the City does not give preferential treatment. The business came in and filled out an application and they have a right to go through the process.

Vickie Vars, 8755 Coffman Path, discussed the notification process of the proposal and asked how people can find information on who received notices. She attended the Planning Commission meeting and were told twelve notices went out. The neighborhood did not receive notice. Community Development Director Rand responded the information can be given to Ms. Vars. Ms. Vars requested more publicity or publications. She stated that with the new businesses opening in the area more time should be given to attract more business. She stated the church is not a good fit for the area.

Councilmember Bartholomew asked about the notices that were sent out and if any feedback was received. Community Development Director Rand responded twelve notices went out including the Association. City Planner Hunting stated this is a zoning Ordinance Amendment. Ordinances do not require direct notification. He stated notice is always sent to the management company or the master association so they can get the word out. Nothing was heard back from any of the businesses.

Clyde Sherman, Presbyterian Homes, Cahill, stated the church would be good for the City and hopes it can stay here.

Jeremiah Jones, 1143 5<sup>th</sup> Avenue, Newport, is an Associate Pastor and works at the Church. He displayed photos of the area and stated they are working with a professional architecture company. In response to parking, restriping the lot could get 54 spaces. He stated those that attend church services tend to go out to eat after and having A&W and the Brew Pub in the area would be beneficial. In response to the number of times the church has moved, he stated they began in a living room, then moved to a 1300 square foot facility and outgrew the facility. The church is also outgrowing the current 6,000 square foot facility and the person who owns the space is leasing it out to someone else. He stated they are looking for a permanent home, and would like to stay in this community, and would like the request to pass.

Howard Pince, 6941 Casper Avenue, stated he has been with the church for about a year. The church wants to be a part of this community.

Marcie Sherman Craven, 148 9<sup>th</sup> Avenue South, South St. Paul, stated she has noticed the positive changes churches can do when entering a community. It improves the community, and can bring a different attitude, spirit, and strength to a City.

Ms. Rekuski stated she is not anti-church, but this would be the wrong location for this community.

Community Development Director Rand stated staff has discussed the pros and cons to the project. This is a City with very limited opportunity for commercial districts. There is momentum going in that area. She stated when she was out for Night to Unite in the newer neighborhoods and was listening to the wants of those in the area and it was not for additional churches, but it was “to-go” food, professional services, and job opportunities. She stated for those reasons, and to preserve limited commercial district, staff does not recommend this change. They are concerned about the message sent to the commercial district and the unintended consequences around the area may not be able to get a future liquor license with mixed uses.

Mayor Tourville commented about the Brew Pub being located next to a possible church and stated that took place prior to this request. He stated there could be a question as to why the church would be allowed in that location. City Administrator Lynch responded it was a previously licensed business and Inver Grove Brewing was granted permission before this application.

Mr. Farrell stated they let City staff know there are other Cities who have allowed churches into commercial areas. Some churches have an agreement with the City that the church would write a check every year for the City’s portion of property taxes. He stated that is something they are willing to do.

Councilmember Bartholomew asked if there were any agreements that an organization pays just the City portion of taxes. He asked if there were any Ordinances that prohibit this in the case of an agreement be reached. City Administrator Lynch responded it is called payment in lieu of taxes. There are none currently existing in the City. He stated a contractual agreement would be needed between the two entities and a legally binding document with terms/

City Attorney Kuntz stated this was explored when the Charter School made application. The City could not impose it unilaterally as a condition. It would have to be a voluntary offering by contract. Negotiations would come forward voluntarily to negotiate rather than an imposition.

Councilmember Bartholomew stated he is not opposed to a church but felt the application is not compatible with the area. It could be a lost opportunity for future growth. He stated a church would have an Ordinance requirement prohibiting liquor licenses within the area. He commented he would vote “no” as he finds it incompatible.

Mr. Melin stated due to allowing the school in the area, the City wouldn't allow that in the same radius within the same area. Councilmember Bartholomew stated the distance of the school is farther away than this location. City Planner Hunting stated the Ordinance separation distance is 500 feet. Mayor Tourville stated the school is leasing the building.

Mr. Melin asked if the Council would be in favor if a lease was completed. Mayor Tourville responded he would have to consider it, but it would be different than buying and being in institutional forever. Councilmember Piekarski-Krech stated the issue is this is a community shopping center, not B3. Churches are allowed as a conditional use in a B3 zoning district.

She thought it would still require an ordinance change. Once the Ordinance is changed for the zoning, it's changed for areas with that same zoning. She stated that anywhere there is a community shopping center district there could be a Church. She stated for her that is a great difficulty.

City Administrator Lynch stated that Ruby Tuesday was operating and licensed at the time. The Ordinance states if they are in place and operating and a school or religious organization moves in, it can continue to operate.

Mayor Tourville asked City Planner Hunting if there were other locations that are zoned for churches. City Planner Hunting responded that churches are allowed in the public institutional zoning district or B3 district. There is no vacant land zoned public institutional. He stated the church has approached staff for other locations but has had a difficult time finding something.

City Attorney Kuntz stated the application is for an ordinance amendment to add churches to the commercial shopping center zoning. If a motion is made to deny, the packet does not contain a resolution of denial. He stated those voting in favor of denial would be polled for this reason. He stated Page 2 of the Planning report listed pros and cons. The con section listed the following three points:

1. Takes away possible commercial opportunities for reuse of the building for other retail uses.
2. Church ownership would make the property tax-exempt.
3. The intent of the Arbor Pointe Ordinance was designed heavily on retail and service-oriented businesses to provide shopping opportunities for Arbor Pointe residents and promote retail activity for all businesses in the area.

Mr. Kuntz stated for those thinking denial, those three reasons can be used. If the vote is for denial, information would be brought back to the Council with a resolution at the next meeting memorializing what was stated this evening.

**Motion by Piekarski-Krech, seconded by Perry to accept all correspondence associated with this item.**

**Ayes: 5**

**Nays: 0**

**Motion carried.**

**Motion by Dietrich, seconded by Piekarski-Krech to deny Gateway Christian Church – Case No. 19-31PDA – Consider an Amendment to the Arbor Pointe PUD Ordinance to allow churches as an allowed use in the CSC, Community Shopping Center District. Resolution 19-146.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Councilmember Piekarski-Krech stated she didn't like the precedence of changing the community shopping center ordinance to include churches. She was concerned about changing the parking and restriping the parking lot to nine feet. She stated these two reasons are in addition to the three listed by City Attorney Kuntz.

Councilmember Bartholomew stated by placing the church in this location, it makes some businesses incompatible that may want to come into the area and may request an on- or off-sale liquor license. City Attorney Kuntz clarified that Councilmember Bartholomew he was stating that businesses may be deterred from coming into the area. Councilmember

Bartholomew agreed and stated that he agreed with the three reasons listed previously and those listed by Councilmember Piekarski-Krech.

Councilmembers Dietrich, Perry, and Mayor Tourville were all in agreement with the five listed reasons for denial of the resolution and had nothing to add. Councilmember Piekarski-Krech agreed with the suggestion added by Councilmember Bartholomew.

City Attorney Kuntz listed reasons for denial stating they include item numbers 1 through 3 from the Planning report, number 4 from Piekarski-Krech on the precedence, and number 5 the parking area. He stated number 6 from Councilmember Bartholomew about being a deterrent from compatible uses coming to the area in the future.

He asked all Councilmembers individually if they agreed to the six reasons for denial as he listed above:

Councilmember Bartholomew responded yes.

Councilmember Dietrich responded yes.

Mayor Tourville responded yes.

Councilmember Perry responded yes.

Councilmember Piekarski-Krech responded yes.

He stated this would be reflected in the resolution memorializing those being the reasons of the Council and brought back at the next meeting on September 9, 2019.

Mayor Tourville suggested the church group meet with the City Planner again to look at possible areas.

**D. United Properties – Case No. 19-28PDA – Consider a Preliminary and Final PUD Amendment and Amendment to the Development Contract for Inverpoint Business Park located between Hwy 55 and Courthouse Boulevard Court, west of Barnes Avenue. Resolution 19-147.**



City Planner Hunting stated United Properties would like to begin Phase 1 of the office warehouse project approved in 2008. They are requesting the following changes to the approval:

1. Requesting to change the hours of operation. They are requesting the conditions that restrict idling of truck engines and deliveries. Current hours are between 8:00 p.m. and 7:00 a.m. They would like it to be 10:00 p.m. to 6:00 a.m.
2. Condition that restricts the hours of operation of the building stating that could not be used overnight. They would like that removed.
3. Clarification on a condition of truck terminals. Truck terminals would not be allowed from this location.

City Planner Hunting stated staff does not recommend or propose hours of operation for businesses and have no concerns with the proposed changes. The second part of the request is to add an additional 89 trees to the front of the property. The third part of the request addresses the pedestrian trail to be constructed. He stated the applicant has proposed to construct the trail up front rather than wait to build it later. Discussions have taken place regarding where the trail should be located, on either the north side or the south side. Planning Commission recommends the condition stay the same and the trail not be constructed now, to give it time to see how the development progresses. He stated Parks and Recreation Director Carlson likes the idea of the developer constructing the trail now and that it fits into the trail plan either on the north side or south side.

Councilmember Piekarski-Krech asked if the residents didn't want a trail on the south side near their homes. City Planner Hunting responded some don't like the trail there. Further study would have to be done on the design. Mayor Tourville suggested two plans, one for the south and one for the north.

City Planner Hunting stated there were questions asked at the Planning Commission about signage for the trucks, where they are going, the traffic, and pavement condition. All semi-truck traffic has to use the far eastern entry/exit. There is a requirement that the City post a local traffic only sign at the Annalisa Path intersection and down by Highway 3. He stated the owner is to post internal signage at all three points that state all trucks and vehicles are to head toward Barnes Avenue.

Councilmember Bartholomew asked about a barrier that was requested to be placed at the truck exit that won't allow trucks to go the wrong way. City Planner Hunting responded staff discussed angled curving to make it difficult for anyone turning right. He stated a barrier would restrict access into the site and is not a good idea. He stated another question was asked about adding more signage stating routing trucks through the business park. He stated Public Works Director Scott Thureen has reached out to MnDOT. MnDOT may not allow additional signage but would be fine with local traffic only. Mr. Hunting stated road conditions for Courthouse Boulevard can handle the truck traffic. The Planning Commission supported changes to the hours in the evening but were split on the morning hours of 6:00 a.m. or 7:00 a.m. They supported eliminating the condition restricting use of the building overnight. They agreed with landscape plan changes and felt the pedestrian trail should be left as is as the project begins Phase 1 and then analyze the trail from there.

Councilmember Piekarski-Krech asked which days would be operating at those hours. City Planner Hunting responded the condition doesn't state days of the week, so it would mean every day of the week.

Community Development Director Rand stated there are two representatives from United Properties in attendance. She stated there was a person at the Planning Commission meeting who expressed interest in United Properties constructing sound barriers. Ms. Rand stated that after further discussion, United Properties indicated sound barriers would not be economically feasible. They believe when the buildings are constructed, they will provide some sound barrier value to residents along Courthouse Boulevard.

Brandon Champeau, Senior Vice President with United Properties, stated they have owned the site for over twelve years and has appreciated the time spent with staff and neighbors. The restrictions in the past were causing less interest in the property and changing some of them would help market it more with the hours now being similar to surrounding cities.

Councilmember Piekarski-Krech asked if any businesses would be working on Saturday and Sunday. Mr. Champeau responded it is extremely rare and he stated it would be quieter on weekends but there may be times they have to operate.

Steven Peterson, 2019 86<sup>th</sup> Court East, stated his property is within vision to Concord Boulevard and that he has attended various meetings on this topic. He displayed a map of the location of his home and the business and stated there are eight homes that would be impacted by the dedicated truck ingress/egress. He was concerned about engine braking and larger diesel engine noise. He stated his request is to find a way to have the situation of the view and sound of trucks going past his house be addressed.

Councilmember Dietrich asked how long he has been in the home and if he was aware it was zoned commercial. Mr. Peterson responded he has lived there since October 2017. He stated he was aware it was zoned that way but there are restrictions the developer is requesting to change such as the time change and traffic. He stated he isn't against the development but was concerned about the noise.

Mr. Champeau stated the truck traffic is dependent on the type of business. The product being built is a 24-foot clear product. This area would attract a mid-size type tenant for production or manufacturing office space needs. He stated it would be extremely unlikely having a truck at every dock every single day and he does not believe there would be a lot of truck traffic. He stated for example, one tenant in a development like this is a media company that has four trucks a week in a 50,000 square foot space.

Mayor Tourville asked City Planner Hunting about the original proposal that contained hourly estimates for trucks. Planner Hunting responded he did not have that information with him.

Mr. Peterson stated he sent out copies of ideas for barriers that were aesthetically pleasing, would block noise effectively, and are low maintenance. He stated speed limits were another issue. He stated the restrictions on truck deliveries were put there for a reason and it's being requested to change.

City Engineer Tom Kaldunski stated if speeding is an issue, they would do a MnDOT speed study. Most of the time the results go higher because people drive faster. Noise walls are extremely expensive. He stated most of the solutions for the homeowner would probably occur on his own property with a fence or a row of trees, but not in the City right-of-way. Mr. Peterson commented he would be fine with that.

Councilmember Piekarski-Krech stated she would support some trees but not a cement wall. Mr. Peterson referenced a pamphlet from MnDOT stating that trees and vegetation can provide visual screening but provide very little benefit in reducing noise. There must be at least 100 feet of dense trees that are at least 15 feet high. He stated that in his space the only option would be a physical barrier. City Engineer Kaldunski stated the method for checking noise would be to have a sound study that measures the decibels of existing traffic and who is affected. This would not be measured accurately until the project is there.

Jacob Sedlacek, 9250 Avalon Path, stated the United Properties development is good for the City and for the tax base. He stated he was concerned about giving this property special provisions; he hoped this property could do their work as good neighbors and get the best fit for the community.

Greg Lafrance, 8646 April Court, stated he has the same concerns as Mr. Peterson and is directly affected by the proposed changes. He requested the Council consider adopting partial amendments. He asked to hold to the agreement in 2008 for the hours of operation. He stated it was about the ingress/egress of delivery vehicles and times. He stated he purchased the property knowing of development, but also knowing the restrictions. He stated that all agreed in 2008 that the restrictions were acceptable. He stated the property values and quality of life will be affected by these changes. He asked if a compromise could be made to minimize the amount of traffic and the times that the trucks leave. He stated trees would help. He asked that the Council consider the hours of delivery be restricted or stay the same as the original agreement.

Councilmember Bartholomew stated the hours of 8:00 p.m. to 7:00 a.m. are in the existing Ordinance. The request is for hours of 10:00 p.m. to 6:00 a.m. He asked if the biggest concern would be traffic from 8:00 p.m. to 10:00 p.m. Mr. Lafrance responded yes.

Mayor Tourville asked about the landscape plan and if there was a better option for the visual and noise affect.

Mr. Champeau stated the biggest challenge with the restrictions is that they are different than company standards. Mayor Tourville asked if any neighboring communities have 7:00 a.m. as a starting time. Mr. Champeau responded that he was not aware of any. Councilmember Bartholomew asked if they could go to 9:00 p.m. Mr. Champeau responded they wanted to be on par with everyone else. He stated they would be willing to take the extra trees proposed and move them across the street. Mayor Tourville stated they could give the homeowner a credit and give them the option to select their own trees. Mr. Champeau stated they could offer a given number of trees and the landowner can choose to accept it or not.

Councilmember Piekarski-Krech stated 2008 was a different economy and development. It was a nice plan at the time but doesn't fit with today's economy and culture. She stated with Highway 55 being in the area and the airplane noise, trucks down Courthouse Blvd. would not make that much of a difference. She stated she was willing to try this, trees may help, and the buildings would block more noise from Highway 55. She stated she could support having the buildings open but didn't like the weekend hours.

Mr. Lafrance stated a walkway was supposed to go in the area. He asked why those funds can't be used toward noise reduction.

Jennifer Gale, President of the River Heights Chamber of Commerce, 5782 Blackshire Path, stated this development is important to the community. Businesses of this type rely on deliveries in order to operate during the day. She stated it is an industrial zone and an optimal location and urged the Council to not put limitations on the delivery times.

Mr. Peterson stated he liked the tree idea as it breaks the line of sight. He asked about the size of the trees. Mayor Tourville responded if given an allotment, the homeowner picks the size and type of tree. Mr. Champeau stated they are meeting the required landscaping for the City; the additional landscaping puts them over the accepted standard. His preference was to have the vote based on what was approved and stated that he would work with staff about additional trees and allocation.

City Planner Hunting stated the flexibility is in the 89 trees and that the developer has an approved plan. Councilmember Piekarski-Krech suggested being reasonable about where the trees are placed and spread them out.

City Administrator Lynch asked that the Council accept correspondence received this evening as a part of the decision making. The correspondence included: August 26 from Mr. Dennis, August 26 from Greg Lafrance, and August 26 from Mr. Bengston. Mayor Tourville stated Mr. Peterson's information was accepted as a part of the Planning Commission meeting.

**Motion by Dietrich, seconded by Piekarski-Krech to accept the correspondence as listed.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Councilmember Bartholomew stated he agreed with Councilmember Piekarski-Krech about the hours, that times have changed, and the need for the trucks to run. He agreed with the developer that they would not see the noise envisioned, and that Highway 55 would continue to dominate. He stated he doesn't like the 6:00 a.m. start time but could support 10:00 p.m. to 7:00 a.m. His preference is 7:00 a.m. Mayor Tourville stated the tree portion could be worked out between staff, the neighborhood, and the developer.

Mr. Champeau stated the subject of hours of operation and deliveries have never come up with previous tenants in industrial districts. He stated the preference is to have something in line with what is being done elsewhere. Councilmember Bartholomew asked what the remedy was if the noise after 24 months is intolerable. Mr. Champeau responded there are State Statutes in place that limit noise pollution.

Councilmember Perry stated she has received Amazon packages at 6:00 a.m. and that garbage trucks are out at that time, which could be an argument for the 6:00 a.m. versus the 7:00 a.m. start time. Councilmember Bartholomew stated the 7:00 Garbage Truck Ordinance is not adhered to then.

Mr. Lafrance stated there was a Statute that states that garbage trucks and snowplows are only allowed on City streets before 7:00 a.m. He stated this violates that because it is in a residential neighborhood.

City Engineer Kaldunski stated that in contracts the hours are usually 7:00 a.m. to 7:00 p.m. City Administrator Lynch stated the Noise Ordinance was just modified and was not specific on types of vehicles, only hours of operation. City Planner Hunting stated some of those vehicles did have some hours set but were exempt if the Council sets something different.

Mr. Peterson asked if there could be a restriction on engine braking. City Administrator Lynch stated there is not a regulation on engine braking. Councilmember Bartholomew stated it could be addressed in the future if it becomes a problem.

**Motion by Bartholomew, seconded by Perry to approve United Properties – Case No. 19-28PDA – Consider a Preliminary and Final PUD Amendment and Amendment to the Development Contract for Inverpoint Business Park located between Hwy 55 and Courthouse Boulevard Court, west of Barnes Avenue as directed by Staff. Resolution 19-147.**

Mayor Tourville stated for the tree portion they can use language similar to what has been used in the past. It can be discussed between staff, the neighborhood, and the developer. Trail options should also be discussed further.

**Ayes: 5**

**Nays: 0      Motion carried.**

**E. Consider a Resolution Modifying the Permitted Contractor Hours for Construction Relating to the CHS Parking Deck Improvements at 5500 Cenex Drive in Inver Grove Heights (Case No. 19-15PR). Resolution 19-148.**

Community Development Director Rand stated this is a resolution for CHS to modify the permitted contractor hours for construction activities for the parking ramp. Staff suggested approving the resolution to allow CHS's contractor, McGough, to deviate from the City's established hours on up to eight occasions with a start time of 3:00 a.m. to mitigate safety risks

to local pedestrians, and traffic in the area of the project. She noted the 3:00 a.m. start was a concern by staff about what it means to those in the area, so they requested that CHS take decibel readings and discovered at 5:45 a.m. and at 7:45 a.m. the decibel readings were the same. Due to Highway 52 and 494 there is a lot of ambient noise regardless of time of day.

She stated that Ian Ellis, CHS Property Facilities Management, is present as is Travis Briese who is McGough's Construction Manager. She stated they have said their intent is not to upset the residences in the neighborhood. The eight instances being spoken of would take place on a Tuesday, Wednesday, or Thursday. They are willing to flyer the households to anticipate those pours. They also can turn off the backup beepers on the trucks.

Councilmember Piekarski-Krech suggested sending out flyers for the neighborhood once. They could include information such as the time, possible days, and a number to call for questions or concerns. Community Development Director Rand responded that was the intent.

**Motion by Piekarski-Krech, seconded by Perry to approve a Resolution Modifying the Permitted Contractor Hours for Construction Relating to the CHS Parking Deck Improvements at 5500 Cenex Drive in Inver Grove Heights (Case No. 19-15PR). Resolution 19-148.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**F. Abatement and Removal Agreement for Fire Damaged Structure Located at 9185 Inver Grove Trail. Resolution 19-149.**

Community Development Director Rand stated Agenda Items 7F and 7G are relating to the same incident. She stated a fire occurred at the residence on October 7<sup>th</sup> and 8<sup>th</sup> and there is significant fire damage to the structure and area. Staff has been working with the property owner for awhile and pursuant to MN Statute Section 65A-50 they were able to create an escrow account to demolish the structure. The property has gone into the ownership of Wells Fargo Bank. She stated the agreement has an amendment, the contract did not include the address of the City and that information has been added.

Steve Cook, 9250 Inver Grove Trail, stated the property is nearby his home. The roof is gone, it has a tarp on it, the door is open, and people have been going in and out. He stated he is in support of this.

**Motion by Bartholomew, seconded by Piekarski-Krech to approve Abatement and Removal Agreement for Fire Damaged Structure Located at 9185 Inver Grove Trail. Resolution 19-149.**

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

**G Consider a Resolution Conditionally Approving Contract with Frattalone Companies for Demolition and Removal of Fire-Damaged Structure, Debris, and Abandoned Septic Tank on Property Located at 9185 Inver Grove Trail. Resolution 19-150.**

Community Development Director Rand stated as noted in the report, the City went out and received two quotes. The low bid is from Frattalone Companies, for an amount of \$34,931. She stated the bank will own and market the property. If the contract is approved, work will commence within 30 to 60 days.

**Motion by Dietrich, seconded by Perry to approve a Resolution Conditionally Approving Contract with Frattalone Companies for Demolition and Removal of Fire-Damaged Structure, Debris, and Abandoned Septic Tank on Property Located at 9185 Inver Grove Trail. Resolution 19-150.**

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

**8. EXECUTIVE SESSION – CLOSED DOOR**  
 None

**9. MAYOR AND COUNCIL COMMENTS**

City Administrator Lynch stated City Hall is closed on Monday, September 2, 2019 for Labor Day. The next City Council meeting will be held on Tuesday, September 3, 2019 in the EOC room.

Mayor Tourville stated the next City Council meeting will take place after Inver Grove Heights Days.

Mayor Tourville discussed the Best Foundation Golf Tournament.

**10. ADJOURN**

**Motion by Dietrich, seconded by Perry to adjourn the meeting at 12:38 a.m.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Minutes prepared by Recording Clerk Sheri Yourczek