

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, MARCH 8, 2021 - 7:00 P.M. - 8150 BARBARA AVENUE**

**\*\*In Person Meeting and via Zoom Video Conferencing (Hybrid Meeting)\*\***

**1. CALL TO ORDER:**

The City Council of Inver Grove Heights met in regular session on Monday, March 8, 2021, via In Person and Zoom Video Conferencing (Hybrid Meeting). Mayor Bartholomew called the meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

**2. ROLL CALL:**

Present In Person: Mayor Bartholomew, Council Members: Dietrich, Piekarski Krech, Murphy, and Gliva; City Clerk Kiernan, Interim City Administrator/Community Development Director Rand, City Attorney McCauley Nason, Fire Chief Thill, and Interim Parks and Recreation Director Oyanagi.

Staff Present via Zoom Video Conferencing/Phone: Information Technology Manager Gade, Environmental Specialist Sutherland, City Planner Hunting, Assistant City Engineer Dodge, City Engineer Kaldunski, Associate Planner Botten and Staff Civil Engineer Moser.

Also Presenting: Larry Hartman, Minnesota Department of Commerce; Tim Johnston, Director of Pipeline Engineering, WSB; John Rask, M/I Homes; Steve Cook, Chair Inver Grove Heights Parks and Recreation Advisory Commission; and Candace Amberg, WSB.

**3. PRESENTATIONS:**

**Overview of Proposed Pine Bend Pipeline and Status of Regulatory Procedures.**

Interim City Administrator Heather Rand stated the Fortistar project is moving through the Planning Commission and the City Council. Extensions of pipeline are needed related to the project to capture methane gas at the Landfill and turn it into usable product. A representative from the State of Minnesota Public Utilities Commission (PUC) is in attendance to talk about the process.

Larry Hartman, Minnesota Department of Commerce, Technical Advisor to Minnesota Public Utilities Commission, gave an overview of the regulatory process of pipelines. It began with the Natural Gas Act in 1969 for a review of Natural Gas Pipelines. With the explosion in Mounds View in the mid 80's, the Governor at that time established a Governor's Commission on Pipeline Safety. Three critical things emerged from that Legislation:

1. Establishment of the Minnesota Gopher 1 call system (also known as the 811 system) used by excavators for notification of underground facilities.
2. Re-established the Minnesota Office of Pipeline Safety
3. Provided routing authority for pipelines to the Minnesota Environmental Quality Board (EQB) until 2005. Then it was transferred to the Minnesota Public Utilities Commission along with Staff. He was one of the Staff Members.

Between the EQB and the Minnesota PUC, they have permitted over 50 pipelines to date. Most recent in Dakota County was approximately 12 years ago. He stated information books have been done for Koch Refinery and two to three partial exemptions for Jet Fuel Line to go to the airport, a product line going to Wisconsin, and an information book for NSP.

A map was shown of where the pipeline would begin. The lower center of the map is the proposed Fortistar location. An alternative route was also submitted. Two routes were looked into, one with the power lines, the other along the road. He stated based on a map he received from Koch Industries; the route is primarily located on Koch property.

Mr. Hartman discussed the permitting process stating Northern Natural Gas has pipelines that run through the County. Permits may be issued for road crossings, they are regulated by the Federal Energy Regulatory Commission, the State has no standing in those. The State regulates liquid, crude oil, and product pipelines. He stated Minnesota Statute 216G, establishes requirements for an information book. Rules were established in Chapter 7852. There are two venues are for permitting pipelines:

1. Partial Exemption. Covers the bulk of pipelines permitted to date by the EQB and the PUC. Longer crude oil pipelines have been permitted by the PUC. The Statute provides the State is the sole terminate of where the pipeline is located, it pre-empts local jurisdiction. The Partial Exemption process by rule is supposed to take between 90-120 days. He stated this one has not started yet but begins with the Applicant filing an Application.
  - When the Application comes in it is put out for review and comment.
  - On January 15<sup>th</sup>, they put in their comments on it.
  - The Commission accepted the Application and issued an order February 23, 2021.
  - When the Order is issued the permitting process for the pipeline begins.
  - The Applicant filed their Permit Application on December 30, 2020.
  - Next Tuesday, notice would be published in the EQB Monitor prior to the Notice of Application Acceptance.
  - The public information meeting would be published in the St. Paul Pioneer Press.
  - The Application and Notice would be sent by Certified Mail to all affected landowners and local units of Government.
  - A Public Comment meeting has been scheduled for March 25<sup>th</sup> at 6:00 p.m. via Webex. Notice will provide how to participate in the meeting.
  - Comment period will remain open from March 23 to April 16.
  - Commission will consider the Record and make findings and fact.
  - If Partial Exemption is issued, they will issue a Permit with Conditions which will determine location of the pipeline. In this instance a route has been applied for. The pipeline will be located within the 200-foot-wide route. There may be extra temporary workspace outside of that area.
  - After the Permit is issued and before Construction, will need to file 21 different Documents. Some include:
    1. Notifications of Landowners
    2. Field Representative
    3. County can appoint a County Inspector (acts on behalf of the interest of Landowners)
    4. Ag Mitigation Plan
    5. Construction/Environmental Control Plan
    6. Ag Mitigation Impact Plan
    7. Vegetation Management Plan
    8. Site Sediment and Erosion Control Plan

He stated the purpose of the Public Comment meeting was if there were any concerns about the information contained in the Application or Permit.

Tim Johnston, Director of Pipeline Engineering, WSB, stated the gas from Pine Bend Landfill is currently being collected at a Landfill Gas Collection Facility. The gas has been burned to generate electricity and goes through a set of powerlines. The gas would be brought across to the Renewal Natural Gas Processing Facility, cleaned up to pipeline quality gas, 98% Methane, 2% Carbon Dioxide. The pressure would be raised up high enough to get into the Xcel Energy Pipeline, then delivered to the Pine Bend Pipeline. It would cross under Rich Valley Boulevard and end up at a gas delivery point on the Xcel Energy system and delivered into their pipeline. He stated the operating pressure is about

670 pounds and would be tested to 1,440 pounds. It would have a little over a 2.1 safety factor. If running calculations on the steel pipe being used, the burst pressure would be a 4.1 safety factor. It would deliver about 2,800 thousand cubic feet per day. For comparison, in Minnesota houses use about 90 mcf per year. He stated this would be enough gas on an annual basis to supply close to 11,000 houses.

He stated the process requires using a 30-foot-wide permanent easement and 20 feet of construction easement for a total 50 feet wide or using a total of 6.7 acres of ground. In situations like this, to the greatest extent possible, they try follow other utilities. He stated it was discussed following the power line that runs up the section line. It is a fairly high voltage power line and would induce electric current onto the pipeline. That would be a safety and operations issue. He stated they elected to stay on Flint Hills/Koch property and follow the power lines that run along the west side of Rich Valley Boulevard. When getting toward the north end of the project they would follow an Xcel Energy Pipeline across the last field up to the station. More than 2/3 of the pipeline will follow existing energy rights of way.

Mr. Hartman stated for more information you can check out the Minnesota Public Utilities Commission and enter Docket Number #20, Project Number is 872. Mayor Bartholomew requested this information be placed on the City Website.

#### **4. CONSENT AGENDA:**

- A.** Minutes from the February 1, 2021 City Council Work Session.
- B.** Disbursements for Period Ending March 2, 2021. **Resolution 2021-55**
- C.** Consider Approval of Personnel Actions.
- D.** Consider Approval of Telework Policy.
- E.** Consider Approval of **Resolution 2021-56** Approving Memorandum of Understanding (MOU) between Xcel Energy and Inver Grove Heights for Phase 2 - Energy Action Plan Implementation.
- F.** Consider Approval of Professional Service Agreement with Baker Tilly for Executive Recruitment Services. **Resolution 2021-57.**
- G.** Consider Approval of Stipulation of Settlement, Parcel 4, and Parcel 5, for CP 2017-24 in the eminent domain matter City of Inver Grove Heights v. Robert M. Dalsin, et al.
- H.** Consider Approval of Mutual Aid Agreement with St Paul Police.
- I.** Consider Approval of Contract with Kimley-Horn for Construction Management and Award Bid for the Veterans Memorial Community Center Parking Lot Reconstruction Project - City Project 2020-05.
- J.** Consider approval of revised accrued leave disbursement.
- K.** Consider Approval of 2021 Fire Fighter Wage Increases.
- L.** Accept Proposal from Key Wells Drilling Company for Well Pump No. 4 Reconditioning.
- M.** Consider **Resolution 2021-58** Accepting Quote from Goodpointe Technology to Conduct 2021 Pavement Ratings.
- N.** Approve Custom Grading Agreement, Storm Water Facilities Maintenance Agreement, Permanent Drainage, Utility and Stormwater Ponding Easement Agreement for Lot 14, Block 3, Foresthaven (5966 Blackberry Trl).
- O.** Consider **Resolution 2021-59** Seeking 2021 Municipal State Aid System (MSAS) Advancement of Funding for City Project No. 2017-24 - T.H. 3 Intersection Improvements for the 65th Street Project.
- P.** Consider **Resolution 2021-60** Ordering Feasibility Study and Accepting Engineering Services Proposals for City Project No. 2021-08 Southern Trunk Watermain Improvements (Phase 1).
- Q.** Consider **Resolution 2021-61** Receiving Feasibility Report and Scheduling Public Hearing for City Project No. 2016-09F - Carleda Way Area Improvements.
- R.** Consider **Resolution 2021-62** Approving Plans and Specifications and Authorizing Advertisement for Bids for the 2021 Trunk Utility Extensions, City Project No. 2021-01.
- S.** Consider Adoption of the 2021 Inver Grove Heights Emergency Operation Plan (EOP). **Resolution 2021-63.**

**Motion by Murphy second by Dietrich to approve the Consent Agenda with the exception of Agenda Item 4D which has been removed.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Mayor Bartholomew stated Staff requested Agenda Items 6E and 6F be switched from the Agenda order.

**5. PUBLIC HEARING:**

**A. Consider a Resolution Adopting the Assessment for the 2020 Nuisance Abatement Program. Resolution 2021-64.**

Interim City Administrator Heather Rand stated this relates to the Nuisance Abatement Program from 2020 and pertains to assessments on four different properties listed in the Memo. The properties had compliance problems and did not meet City Code. After numerous requests to correct the issue, such as mowing grass or hauling away brush or garbage, the City would hire Contractors to go out and correct the problem. The cost to correct the nuisances for the four properties totaled \$1,181.41. She stated the City requested the property owners pay the invoices for the services, but they did not. The next course of action is to pass a Resolution authorizing to put those expenses onto their property tax bills.

**Motion by Piekarski Krech second by Gliva to close the Public Hearing at 7:26PM.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Councilmember Piekarski Krech thanked residents stating this is the fewest number certified for taxes.

**Motion by Piekarski Krech second by Gliva to approve Resolution 2021-64 Adopting the Assessment for the 2020 Nuisance Abatement Program.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**6. REGULAR AGENDA:**

***Fire:***

**A. Consider Acceptance of a \$28,700 Assistance to Firefighter Grant (AFG) by IGH FD.**

Fire Chief Judy Thill stated this Grant is through the Federal Emergency Management Agency (FEMA) for COVID supplies. Firefighters have had to take extra precautions, not only when responding to calls but after training and other activities. She stated social distancing is encouraged, they keep hands clean and wear masks, this also includes disinfecting vehicles and buildings. Disinfecting takes a lot of time. She stated the Firefighters have done an excellent job of keeping the Stations clean and keeping COVID out of the Stations. Using a spray bottle is inefficient and can be ineffective as it does not cover everything. This Grant was applied for to pay for Electrostatic Sprayers. The sprayers generate charged droplets that seek out surfaces and attach themselves onto them. She stated they also applied for enough disinfectant that goes into the sprayers to last an entire year. With the sprayers, in the entire time it takes to wipe down a couple of surfaces, they would be able to do an entire room.

She stated the total cost for the sprayers and disinfectant is \$28,700. The City match required by FEMA would be \$2,609.09. FEMA would pay \$26,090.91. Staff recommends acceptance of the Federal Grant to improve the effectiveness and efficiency of the facilities and equipment.

Fire Chief Thill stated she was extremely proud of their Firefighters and how they have handled the Pandemic. Other than adding the proper precautions, they did not change any of their response protocols, going to all types of calls as they did before COVID. None, including the Volunteer Paid on Call Firefighters, refused to show up for work, even when Firefighters in other Departments did not show up. She stated they modified all their training on short notice, operating within all State Mandates.

Mayor Bartholomew thanked the Fire Chief for her remarks and the Department for their diligence during this trying time. He thanked the Fire Chief for applying for the Grant.

**Motion by Piekarski Krech second by Dietrich to approve the Acceptance of a \$28,700 Assistance to Firefighter Grant (AFG) by IGH FD.**

**Ayes: 5**

**Nays: 0      Motion carried.**

***Community Development:***

**B. Consider Second Reading of Ordinance Amending City Code Title 5, Chapter 4, Section 2(B)(3) Relating to Notification Requirements for Chicken License Renewal Applications.**

Interim City Administrator Rand stated the Second Reading pertains to notification when seeking renewal of a Chicken License. Staff requests a change in the Ordinance when all neighbors are already notified. She stated this notification is over-reach and could be eliminated. If there is a complaint Staff would follow up with individuals. A Third Reading will take place before approved.

**Motion by Gliva second by Piekarski Krech to approve the Second Reading of Ordinance Amending City Code Title 5, Chapter 4, Section 2(B)(3) Relating to Notification Requirements for Chicken License Renewal Applications.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**C. Consider the Second Reading of an Ordinance Amendment deleting the use "Ministorage facilities (with caretaker quarters) and outdoor vehicle storage" as a conditional use in the B-3, General Business District.**

City Planner Allan Hunting stated the Council last reviewed this at the February Work Session with the direction to continue the Second Reading to eliminate mini storage from the B-3 District. There were two property owners that raised concerns during the process. Staff reached out to both owners. The first one is down along Highway 55/52 owned by Mr. Solomon David whose property is currently B-3. He stated if the landowner would pursue mini storage, he requests zoning to I-1. The property to the south is I-1 and has a storage facility operating there.

The second parcel is represented by Realtor Dave Langer, consisting of two properties on the north side of 494, east of Highway 52, at the end of 50<sup>th</sup> Street. There is a mini storage to the east of this location. The properties have Industrial Office Park Zoning. He stated Mr. Langer wanted to make sure

Council is comfortable with potential rezoning to some other use. If mini storage were to come in the area, they may want to pursue I-1 Zoning. Staff does not see an issue with this. He stated they believe the parcel owners are satisfied and request the Council adopt the Second Reading of the Ordinance eliminating mini storage from the B-3 Business District. The Third Reading would take place on March 22<sup>nd</sup>.

**Motion by Dietrich second by Murphy to approve the Second Reading of an Ordinance Amendment deleting the use "Ministorage facilities (with caretaker quarters) and outdoor vehicle storage" as a conditional use in the B-3, General Business District.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**D. WENCK ASSOCIATES (FORTISTAR) - Consider the Second Reading of an Ordinance Amendment to the IRM, Integrated Resource Management Overlay District to allow for an energy recovery facility for the generation of renewable natural gas as a conditional use.**

City Planner Hunting stated at the previous meeting the First Reading of the Ordinance was approved to allow renewable Natural Gas as opposed to Electricity. There have been no changes to the Ordinance. He stated they will continue pursuing to have the Application on the March 22<sup>nd</sup> meeting Agenda.

**Motion by Piekarski Krech second by Dietrich to approve the Second Reading of an Ordinance Amendment to the IRM, Integrated Resource Management Overlay District to allow for an energy recovery facility for the generation of renewable natural gas as a conditional use. WENCK ASSOCIATES (FORTISTAR).**

**Ayes: 5**

**Nays: 0      Motion carried.**

**E. M/I HOMES - Consider the following requests for the old South Grove Elementary school site, PID no. 20-01000-77-010:**

- 1. A Comprehensive Plan Amendment to change the land use designation from Public/Institutional to MDR, Medium Density Residential. Resolution 2021-68.**
- 2. Rezoning of the property from P, Institutional to R-1C/PUD, Single Family Planned Unit Development.**
- 3. A Preliminary Plat for 70 townhome lots, 10 single family lots and 5 outlots to known as South Grove.**
- 4. A Preliminary Planned Unit Development for South Grove. Resolution 2021-69.**
- 5. A Conditional Use Permit for the 70 townhomes. Resolution 2021-70.**

City Planner Hunting stated the Applicant is proposing to redevelop the old South Grove site with a Residential Planned Unit Development consisting of 70 townhome lots and 10 single family home lots. A map of the location was displayed. The school was listed as Institutional. They are proposing, on the southern portion of the map, a density of MDR (medium density residential) with 8-12 units per acre. Staff feels this is consistent with the neighborhood as there is currently a mix of townhomes to the east and north, some single family, and more townhomes to the west on the other side of Clayton.

He stated rezoning would consist of PUD Zoning, R1-C (homes) and R-3C (townhomes). The next step is the Preliminary Plat. Townhomes would be on the east and northern half (two different product types) single family homes abut single family homes to the south, stormwater ponding, and in the

southeast corner, a public street system connecting Cloman Way out to Clayton. He stated the Conditional Use Permit is a standard requirement all multiple family projects require. Through the Planned Unit Development, the Applicant is requesting flexibility to allow unique configurations with how townhomes are laid out. Some involve reduced front yard setbacks, garages face internally. He stated there is flexibility for lot sizes for single family; smaller than the standard, but typical to the northwest area.

He stated they received four emails from residents, some with concerns. There is an email from the Cable Company stating they were having problems with streaming to the internet side. That part of the system was not working that evening. He stated the Planning Commission reviewed and believes the project is in conformance with the Codes and area and recommended approval 9/0. Staff approves the request, noting all actions are subject to Met Council.

William Scott, 3732 Conroy Trail, east end of the property, stated there have been multiple changes with the plot in the last couple of days. He asked about the property line on the north end commenting it looks like it is suggested that five feet of the property line goes into the Oaks Property. He stated the setback should be off the fence line. He asked what position the property was, if it is the fence line, it does not meet the RC-1 setback which is 30 feet and would be five feet shy. He asked about drainage with the holding pond at the east end of the field.

John Rask, M/I Homes, 5354 Parkdale Avenue, St. Louis Park, stated the plan before Council is the same plan the Planning Commission has viewed. They are working through drainage adjustments with the City and Barr Engineering. He responded about the property line stating they had a boundary survey and have a discrepancy where some of the fences are. They are confident the boundary is as depicted. He stated there are fence encroachments not on the property line and are off by about five feet.

He stated there are two different townhome styles. Price points would be low to mid \$300,000, higher with bigger end units. Villa Homes would be built with one level single family homes designed to appeal to the empty nester, but not age restricted. He stated they have read the conditions of approval and were in agreement with the Conditions when at the Planning Commission.

Mayor Bartholomew referenced the fence lines stating the surveys have the property setback in the right position. There were some drainage issues that would be addressed as they move forward. City Planner Hunting agreed.

Councilmember Piekarski Krech asked if they would try to save some of the trees between the development and the Oaks. Mr. Rask responded they were able to pull some of the units away from the easterly property line where there are significant trees and would be able to save those. He stated that was one of the areas with drainage concerns.

Mayor Bartholomew stated it was a well thought out plan and liked the idea that the Villas about other single-family homes. He said it was a good concept and liked the product.

Assistant City Engineer Steve Dodge addressed stormwater management stating there is a trunk storm sewer system that would be extended from Clayton Avenue. Rolling Meadows Apartment complex drains into a deep basin on the west side of Clayton. The storm sewer system was installed across Clayton Avenue in 2009. In anticipation of this development coming through someday, they would extend a 27-inch storm sewer from Clayton Avenue all the way across the back of the development to the southeast corner where the Oaks are located. The system will be installed with the development. He stated per City Attorney guidance, this would be brought to the next Council meeting to set a

Hearing to approve City funds be spent on this project. The second part of the stormwater is the existing high-water line by the properties near 77<sup>th</sup> Street. He stated they need to make sure the existing and proposed conditions of the high-water lines match. Options are being considered in working with the Oaks, the Board, and the Developer to see if there is expanded regional basin capability.

Councilmember Piekarski Krech asked if the storm sewer line takes all stormwater across Clayton or if it would go both ways. Assistant City Engineer Dodge responded it connects in the open space of the Oaks and continues to the northeast into Conroy Trail. From there it moves east into a 33-inch storm sewer system, moves east, straight south back onto 77<sup>th</sup> Street, goes all the way to Dawn Avenue, across Concord, and down to the River.

Councilmember Piekarski Krech asked if they were taking most of the water through storm system. She stated people in the Oaks were concerned about where the water from this development would go. Assistant City Engineer Dodge responded all would not go into the storm sewer system. He displayed a diagram of a three-phase pond system where water comes into the middle (Outlot A) as a sediment basin. Then it builds up and infiltrates to the area to the west and continues to build up and go into a dry pond. That allows the water to rise in large storm events, be held, and released slowly within a 72-hour period. This was done to mitigate the impervious space being added by the Development. He stated the Developer is developing their own stormwater system to mitigate their own impervious space. The storm sewer was established to mitigate the deep pond and overflow due to potential flooding issues that could occur with the JP1 Pond, only in large events.

Councilmember Piekarski Krech asked if the City had the easement for the new stormwater or if it would be part of the plat. Assistant City Engineer Dodge responded it would be part of the plat, the easement is not there today. They tried to work out an agreement with the school in 2009, but the agreement fell through. He stated it was said to wait until the property was developed in order to extend the sewer and get the easement through plat. Shoring mechanisms will be needed for installation. He stated proper easements through plats would be needed in order to maintain in the future. City Engineer Kaldunski stated there are easements and pipe in place from this plat through the Oaks down to the infiltration pond near 78<sup>th</sup> Street on Concord Boulevard with pipes that go down to the river.

John Ricci, 77<sup>th</sup> Street, asked what the setback of the new houses would be to the fence line. City Planner Hunting responded the setbacks are at least 30 feet, which is the requirement.

Councilmember Piekarski Krech asked if that included the easement that would be taken for storm sewer. City Planner Hunting responded the setback would be measured from the property line. The easement would be from within that.

Mr. Ricci asked if the easement would affect existing properties. Assistant City Engineer Dodge responded the easement would not affect the properties on 77<sup>th</sup> Street, they would only be on the platted property. They have been working out the final details and construction plans. The proposed plan is to keep the pipe off of the property line far enough to use shoring mechanisms. They would need to confirm whether they will/will not need a portion of the easement. He stated there is an existing DNU Easement in the backyards of 77<sup>th</sup> Street properties in order to install the pipe. The intent is not to use the easement. Once they have final plans with the Developer's Engineer, they would have more details to come before the Council in the Final Plat approval.

Mayor Bartholomew asked if there was an existing construction easement on existing properties that allows entrance to the property for construction. Assistant City Engineer Dodge responded there is an existing Drainage and Utility Easement that would give the City authorization to install a pipe on the

Developers property. If there is some disturbance to install the pipe, the existing DNU easement could be used, it is not the intent, only if necessary.

Kathryn Domagall, 3738 Conroy Trail, stated her townhome abuts the open area. She asked where she could get a map that shows where the City easements are. Assistant City Engineer Dodge responded he is working with the City Attorney’s office and the Developer to identify drainage and utility easements they have in the area. If the City does not have the easements, they would have to work on acquiring necessary ones. Once completed they will share any documentation.

Mayor Bartholomew stated Staff worked well with property owners and the Applicant. He is pleased with the proposal as it is and would support it.

**Motion by Piekarski Krech second by Gliva to accept all emails regarding this Application into the Record.**

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

City Attorney McCauley Nason stated there is a super majority requirement for the Comprehensive Plan Amendment and should be taken separately.

Councilmember Gliva stated this looks like a great development and is great for the School to get the property developed. She commented it would look great in the neighborhood and has heard positive comments from others that have contacted her. She fully supports.

**Motion by Gliva second by Murphy to approve the following for the old South Grove Elementary school site, PID no. 20-01000-77-010:**

- 1. A Comprehensive Plan Amendment to change the land use designation from Public/Institutional to MDR, Medium Density Residential. Resolution 2021-68.**

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

**Motion by Dietrich second by Gliva to approve the following for the old South Grove Elementary school site, PID no. 20-01000-77-010:**

- 2. Rezoning of the property from P, Institutional to R-1C/PUD, Single Family Planned Unit Development.**
- 3. A Preliminary Plat for 70 townhome lots, 10 single family lots and 5 outlots known as South Grove.**
- 4. A Preliminary Planned Unit Development for South Grove. Resolution 2021-69.**

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

**Motion by Dietrich second by Gliva to approve the following for the old South Grove Elementary school site, PID no. 20-01000-77-010:**

- 5. A Conditional Use Permit for the 70 townhomes. Resolution 2021-70.**

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

Councilmember Piekarski Krech stated when this comes back for Final Plat, she would like to make sure the drainage issues are solved/taken care of. That is one thing that would stop her from approving the final plan, if they cannot guarantee the water is taken care of.

**F. TIM SALSCHIEDER - Consider the following requests for property located at 2306 99th Street (tabled from January 25, 2021):**

- 1. A Variance to allow a 2,400 square foot accessory structure whereas 1,600 square feet is maximum size allowed.**
- 2. A Variance for an accessory structure larger than 1,000 square feet to be located within the 50-foot setback.**
- 3. A Variance to allow more than one detached accessory structure. Resolution 2021-65 to 2021-67.**

Associate Planner Heather Botten stated the request is for property located east of Barnes Avenue, north of 99<sup>th</sup> Street. The property is zoned E-1, Estate Residential District, and is 4.5 acres in size. There is one single family home with an attached garage, a pool behind the house, and a large drainage and utility easement that covers the western portion of the property. She stated the City Council tabled the request from January 25<sup>th</sup> so the Applicant could consider different alternatives.

She stated the original request included three variances. At the time the Applicant was asking for two detached accessory buildings, where one is allowed on the property. One of the structures was proposed at 1,750 square feet in size, where 1,600 square feet is the maximum. The third variance was to allow that structure to be located within the 50-foot setback from the north and east property lines. She stated the Applicant revised the request and is now requesting one detached accessory building 2,400 gross square feet in size located within the 50-foot setback from the north and east property lines. The lots to the north, east, and south of the Applicants property are 2.5 to 3 acres in size and would have to comply with the same accessory structure requirements as the Applicant.

Associate Planner Botten stated Staff continues to believe the proposed size of the accessory building is contrary to the intent of the Zoning Ordinance and could be considered a convenience to the Applicant and not a Practical Difficulty. Staff does not believe there is sufficient rationale to support the variance criteria and recommend denial of the variances as proposed. Staff would be in support of a setback variance for a structure up to 1,600 gross square feet or smaller, with the Practical Difficulty being the large drainage and utility easement on the property and due to the topography and locations of the drain field, the house, and the pool.

She stated at the Planning Commission Meeting on February 16<sup>th</sup>, the Planning Commission recommended denial of the size variance, and approval of the setback variance. The Planning Commission also discussed a possible need of an Ordinance Amendment to look at allowing larger accessory structures based more on a ratio system versus a strict lot size. Current Code requires any lot 2-5 acres is allowed a 1,600 gross square foot structure, five acres or greater could have a 2,400 gross square foot structure.

Associate Planner Botten stated the original request for the number of accessory structures was not withdrawn from the Applicant. When making Motions, Council would have to act on all requests the Applicant presented this evening and on the original request from January. If denying both size variances, the Denial Resolution in the packets could be amended to include the 1,750 square foot structure and the 2,400 square foot structure.

Mayor Bartholomew stated the last time this was before the Council there were some issues with either setbacks or easements and asked if that had been reviewed or resolved. Associate Planner Botten

responded there was discussion of right of way being added to the property, nothing additional was found.

Councilmember Piekarski Krech stated she could not find a 2,400 square foot document for approval or denial. Associate Planner Botten responded for the denial, the 2,400 square feet would have to be added, it just states 1,750. If making a Motion to approve, with the way it is worded in the packet, the last Resolution talks about approving a variance to allow a detached accessory structure larger than 1,600 gross square feet. Council would have to state the Practical Difficulty, the size is left blank and would need to be filled in with whatever the Council decides to approve.

City Engineer Kaldunski stated this goes back to when the original platting was done. There was a lot of Engineering comments for a plat to include a pond in the area that was created for infiltration and ponding purposes. That did not occur with platting. When the Homeowner came forward to get his Permit the City went through a process to secure an easement over the ponding area where the hockey rink currently sits. He stated the City had to compensate the owner for that easement to secure it even though conditions of approval for the original plat recorded it was given. For whatever reason it fell through the cracks a long time ago and was corrected when getting the additional easement. He stated that is why the additional easement is there. He estimated the amount was \$9,500 to secure the easement as it is a big part of the overall drainage in the area. He did not believe this affects the decision made tonight.

Tim Salscheider, 2306 99<sup>th</sup> Street, stated he has changed his route and would build a Gazebo and one detached structure with four walls. He stated he was aware there may be a change with the ratio. He is currently allowed 1,600 square feet but has 4.5 acres. Mayor Bartholomew stated that Statute is not in their favor right now and is not an option this evening. He commented he was unsure of the process for the change and how long it would take to get it before the Council. He said if Mr. Salscheider were patient and wanted to go that route, he liked the idea and thought it made sense, but right now it would be difficult to find a Practical Difficulty. If denying the variance, the pressure would be on the Council to address the issue. Mr. Salscheider stated when looking at the area he lives, nobody would see it, it is not a matter of the size of the structure. He commented he tried to get approval for two structures, that did not work out, now he is looking to make one structure. He stated everyone talks about the precedence, but when going up and down Barnes Avenue there is a precedence with dozens of homes that have two structures on 2.5 acres or less, some structures are even over 5,000 square feet. He commented as a homeowner it was tough for him if this gets turned down. Mayor Bartholomew responded he was unsure how to comment about that. He was unsure if those were allowed a variance or built without a Permit.

Mayor Bartholomew asked what the timeframe would be if looking at an Ordinance change for the larger lots. Interim City Administrator Rand responded she estimates about 90 days. Staff needs time to research and bring to a Council Work Session. What is drafted would go through Planning Commission and then Three Readings before the City Council.

Mr. Salscheider stated he has a six-person home, he needs a detached garage for cars and toys, that could be his Practical Difficulty. Mayor Bartholomew responded that does not rise to a Practical Difficulty, its interpreted as a convenience.

Mr. Salscheider asked if there was a way to research how the other homes were given variances. Interim City Administrator Rand responded it would take Staff some time to determine. Councilmember Piekarski Krech stated the question would be if the buildings were really the size, he thinks they are, or if there were variances given. She does not recall giving variances for the area and was unsure where there was a 5,000 square foot building that is not Ag land or Commercial.

Councilmember Gliva stated if the Ordinance were changed ratio wise, her calculations would have him at 2,200 square feet. She asked if that was acceptable. Mr. Salscheider responded yes. Mayor Bartholomew stated he was struggling with the Practical Difficulty. Councilmember Piekarski Krech stated 2,400 square feet was a pretty major change from what is allowed. Mr. Salscheider asked if the Council could see doing the ratio. Mayor Bartholomew responded they could not guarantee it would happen.

Councilmember Gliva asked if the 1,600 and 2,400 square footage has been in place for a long time. Councilmember Piekarski Krech responded yes, every time a change has been brought up it has been turned down. Councilmember Gliva asked why and if it had anything to do with Staff. Councilmember Piekarski Krech responded Staff brings the possibility of change up and the Planning Commission does not believe there should be changes. Councilmember Dietrich stated she was encouraged Planning Staff came up with the idea and would like to see it come back in front of the Council. She liked the sliding scale.

Mayor Bartholomew asked if urgency could be put on this to move it along. He asked if it was possible to discuss at the April Work Session. Interim City Administrator Rand responded it has to go to the Planning Commission first. She stated they could accelerate it but believes it would still take 60-90 days.

**Motion by Piekarski Krech second by Dietrich to deny TIM SALSCHEIDER - the following requests for property located at 2306 99th Street (tabled from January 25, 2021):**

- 1. A Variance to allow a 2,400 square foot accessory structure whereas 1,600 square feet is maximum size allowed.**
- 2. A Variance for an accessory structure larger than 1,000 square feet to be located within the 50-foot setback.**
- 3. A Variance to allow more than one detached accessory structure. Resolution 2021-65 to 2021-67.**

Councilmember Dietrich stated the way the Statute is currently written is why she seconded the Motion.

Mayor Bartholomew stated they need to investigate the new approach to sizing and ratio and get it to the Planning Commission as quickly as possible. He would like the Planning Commission to understand the City Council is very interested in this.

Associate City Planner Botten asked that the Motions be separated as the Applicant may still want the setback variance to be considered. Mr. Salscheider agreed.

City Attorney McCauley Nason stated there are four separate variance applications that are pending. With the Motion to deny, the Resolution in the packets reference the 1,750 square foot variance. If the vote is to deny, the request is that the Motion and Second be to approve the Resolution of denial for both the 1,750 square foot variance and the 2,400 square foot variance. She stated the Motion is to approve the Resolution of Denial as Amended to reflect a denial of both the 1,750 and 2,400 variance requests.

Mayor Bartholomew asked the Motioner and Seconder if they were in agreement with what was stated by the City Attorney. Councilmembers Piekarski Krech and Dietrich agreed.

**Motion by Piekarski Krech second by Dietrich to deny TIM SALSCHEIDER - the following requests for property located at 2306 99th Street (tabled from January 25, 2021):**

**1. Variances to allow a 2,400 square foot and a 1,750 square foot accessory structure whereas 1,600 square feet is maximum size allowed.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Associate Planner Botten stated a Motion is needed on the variance to allow more than one detached accessory structure. That was included with the original request in January. There are still two variances, one is the setback variance and the variance to allow more than one detached accessory structure. The setback variance was approved by the Planning Commission and by Staff.

City Attorney McCauley Nason stated in the Council packets there is a Resolution approving a variance to allow a detached accessory building larger than 1,000 gross square feet to be located within the 50-foot setback. That is the Resolution of approval as recommended by the Planning Commission. Once the Council acts on the setback variance, the last Application is the variance to allow multiple detached accessory structures. There is a separate Resolution of denial in the packets for consideration. She stated there has been discussion about the size of the building and a possible Code change that may impact what the Applicant chooses to build. If the variance is considered by the Council and approved, the Applicant could build a detached accessory building less than 1,600 square feet within the setback area as outlined. For example, if there is no change made to the Code and the Applicant wants to build a structure that complies with the size requirements but build it where he is proposing in the setback area, this variance would allow the Applicant to do that.

Associate Planner Botten stated any structure larger than 1,000 gross square feet, if there is no Code change, the Applicant could still build a structure 1,600 square feet within the setback. If the Code changes to allow a larger structure, the variance is open where it would allow him to build the larger structure within the 50-foot setback. This approves a setback variance for a structure larger than 1,000 gross square feet. Any structure less than 1,000 square feet has different side and rear setbacks.

Councilmember Piekarski Krech stated if the Applicant wanted to, once this variance is approved, he could build a 1,600 square foot building, but not bigger. Associate Planner Botten responded he could within the setback.

Councilmember Gliva asked what would take place if changing the Ordinance to ratio.

Councilmember Piekarski Krech responded he has the setback. If changing the Ordinance and it fits in the Permit, he would just go and get a Permit. She stated right now he could walk in and get a Permit if building at 1,600.

Councilmember Murphy asked if there was a recommendation by Planning Commission on the setback as it relates to a 1,600 square foot structure. Associate Planner Botten responded they took out the 1,600 square foot requirement the second time it went to the Planning Commission. They were just in support for the setback variance for whatever is allowed by Code. She stated they were trying to do it in a way that the Applicant did not have to come back for another setback variance.

Mr. Salscheider stated the Planning Commission approved the setback variance based on a 1,600 square foot building or smaller. If going through with the ratio, the setback variance would already be in place, he would only have to come back and get a Permit for the 2,200 square foot building he would be able to build.

**Motion by Piekarski Krech second by Dietrich to move the Resolution approving a variance to allow a detached accessory building larger than 1,000 gross square feet to be located within the required 50-foot setback.**

**Ayes: 5**

**Nays: 0      Motion carried.**

City Attorney McCauley Nason stated there were three components. The size of the structure, the location of the structure, and the number of structures. Council has dealt with the size and location. The last variance request is related to the number of structures. The original request was for two detached accessory structures. The request was not formally withdrawn, Council needs to take formal action. She stated the recommendation from the Planning Commission was for denial. There is a Resolution of denial, titled the Resolution denying a variance to allow two detached accessory buildings where one is allowed on the property.

**Motion by Gliva second by Piekarski Krech to deny two structures on said property.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Mr. Salscheider stated it does not set a very good precedence with neighbors when one thing is done for someone else that does not get done for another, especially when they are members of the Planning Commission or City members. Councilmember Piekarski Krech asked where they did something for someone. Mr. Salscheider responded 10211 Barnes Avenue is on two acres. He stated he has 12 addresses with two to three structures that have less property than he owns.

Councilmember Dietrich appreciated Mr. Salscheider for being forthcoming and trying to do this the correct way. She understood where he was coming from because this is a reactive City, unless those properties are turned in, Council does not know about them.

***Parks & Recreation:***

**G. Consider Resolution to Apply for DNR Outdoor Grant - Heritage Park. Resolution 2021-71.**

Interim Parks and Recreation Director Jon Oyanagi stated when he started in the Interim Parks and Recreation role one month ago, he drove to Heritage Village Park and found his jaw dropping. In his 38 years of Parks and Recreation experience he has not seen a park parcel with so much potential. He commended the City Council for having the vision and the foresight to assemble the properties and create the park. He commented it is difficult to get a beautiful Community Park like it has been assembled there. He believes they would benefit from it as a City, and it would spur much development around it. He stated it reminded him of being in Minneapolis with the Park and Recreation Board, the riverfront was all flour mills and railroad tracks, and started to redevelop. The first thing they did was put parks and trails on both sides of the river and the development exploded, it still is today. He sees that happening at Heritage Village Park. He stated being by the River is a tremendous opportunity for Inver Grove Heights.

He discussed Heritage Village Park and application for a Minnesota DNR Outdoor Recreation Grant. He stated Candace Amberg from WSB was hired back in December to prepare the Application and is available for questions. The Application would be due to the DNR by the end of this month. A Resolution to move forward with the Application is needed by the City Council. He commented Steve Cook, Chair of the Inver Grove Heights Park and Recreation Advisory Commission is in attendance this

evening. The Commission recommended the Resolution at their February meeting. The following presentation was given:

- In 2019, Phase 1: The Dog Park was created along with the parking lot.
- In 2020, Phase 2: Filling, grading, utilities, the open lawn was developed and graded, half of the parking lot on the east side of the park was built, and the trail system. The Regional Trail system runs through the park.
- In 2020, Phase 3: Included a retaining wall and ornamental fence with history panels that preserve the history and culture of the area. Portions of the concrete railroad walk resemble a railroad track. This will be completed in the Spring.
- Phase 4: Application for the Grant. The phase would construct:
  - Roundhouse picnic pavilion for large group gathering.
  - Sheltered bench seating area that is on the railroad walkway.
  - Restroom building.

If the Council approves the Resolution:

- Would submit to the DNR by March 31<sup>st</sup>.
- Summer 2021: DNR Awards the Grants.
- Fall 2021: Project begins. Recommendation would be brought forth for a firm to do plans and specifications.
- Go out for bids. Would come before the City Council for approval.
- Construction would begin and go through 2022/early 2023.

Councilmember Piekarski Krech asked if this was just the Application, they are not guaranteed the money. Interim Parks and Recreation Director Oyanagi responded that was correct. It is estimated the overall project be \$1.4 million dollars for the three structures. The Grant is for \$250,000 and would need to be matched. He stated they have the money needed for the match, which helps with scoring for the Grant Application. The estimated \$1.5 million would come out of Park Dedication Funds.

Candace Amberg, WSB, stated if approving the Resolution of support, it would be a competitive Grant approval process. The fact there is a lot of infrastructure in the park, on the Regional Trail Corridor, have a strong connection to the Rock Island Swing Bridge, and future amenities bodes well. She felt they had a pretty good chance with the Grant Application.

Councilmember Gliva stated she does not recall talking about this being a priority. She asked about a South Valley Park project they are working on. She was unclear how this would all work out. Interim Parks and Recreation Director Oyanagi responded this project would be out of the Park Dedication Fund, the South Valley Park project comes out of a fund that is for redevelopment, not Park Dedication.

Councilmember Dietrich asked about the parks in the northwest area and where those funds would come from. Interim Parks and Recreation Director Oyanagi responded they have earmarked approximately \$700,000 for that coming out of the Park Dedication Fund. Councilmember Dietrich asked how much money was in the fund. Interim Parks and Recreation Director Oyanagi responded there was approximately \$2 million dollars.

Councilmember Gliva commented there is a park in Woodbury that is all-inclusive, there was a lot of private funding for it. She asked if there was anything like that here. Interim Parks and Recreation Director Oyanagi responded that is Madison's Place Playground in Woodbury, it was a private fundraising effort. There are Inver Grove Heights residents trying to get donations for an all-inclusive playground here. Councilmember Gliva commented the \$1.4 million does not include the playground and would be another phase. Parks and Recreation Director Oyanagi responded that was correct.

Steve Cook, 9250 Inver Grove Trail, Chair, Inver Grove Heights Park and Recreation Advisory Commission, stated there is group that Advisory Commission Vice Chair Niki Barker has been heading for the inclusive playground to raise funds. That group has been active for 1.5 years. He was unsure how much has been raised so far. He stated they are trying to look for ways to fund the project that is not just out of City coffers. This is to help get Grant money to help with a phase. He stated the Commission would appreciate the Council's support.

City Clerk Rebecca Kiernan stated there is a comment the Council needs to accept into the Record.

**Motion by Piekarski Krech second by Dietrich to accept the email/letter from Nancy Martin into the Record.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Piekarski Krech second by Murphy to accept Resolution 2021-71 to Apply for DNR Outdoor Grant - Heritage Park.**

**Ayes: 3**

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

***Engineering:***

**H. Consider a Resolution Receiving Feasibility Report and Scheduling Improvement Hearing for City Project No. 2020-06 Good Samaritan Pond (1301 50th St.). Resolution 2021-72.**

City Engineer Tom Kaldunski stated this is a project he started working with awhile ago. He gave the assignment to Jake Moser, Staff Civil Engineer, who would be presenting information. There is unique funding proposed with this project that would follow what the former Public Works Director wanted. There is a split in how the project is funded.

Civil Engineer Jake Moser gave the following presentation for City Project 2020-06 Good Samaritan Pond Outlet, 1301 50<sup>th</sup> Street. He stated this action would usually be placed on the Consent Agenda, but due to the unique funding it was moved to the regular Agenda.

Location and Watershed:

- Located near the intersection of Robert Trail South/Mendota Road.
- Storm sewer outlet pipe that drains the T-8 Pond (Good Samaritan Pond) which receives stormwater from the surrounding highly developed area.
- The Regional Basin (T-8) stores runoff from the developed area reducing downstream flooding impacts, pollutants, and environmental degradation.

Project Need:

- Arises due to the existing failing public storm water outlet pipe. It is an existing corrugated metal pipe that has rusted out and is corroding, causing sink holes to appear at the surface.
- A sinkhole has opened up on the Good Samaritan property. The pipe and basin both lie within the public drainage and utility easement but on private property.
- If not addressed, would increase the risk for emergency repairs.
- The existing control structure that regulates the pond level is prone to frequent clogging and requires City maintenance and intensive cleaning.

Preliminary Project Cost and Funding:

- Estimated total project cost: \$336,293
- Total proposed funding through Special Assessments: Estimated at \$160,592

- Stormwater Utility Fund: \$175,701

Preliminary Assessments:

- Funding is based on 50% of the project costs to be assessed to contributing properties.
- 50% of the project funded through the Stormwater Utility Fund.
- The stormwater utility portion was higher than the total assessment amount. This is due to the assessment calculation including run off from some public right of way. That is 50<sup>th</sup> Street and the County and State right of way.
- The assessment portion was calculated based on the runoff volume from each parcel in a 100-year rainfall event.
- Most of the parcels do not have existing stormwater systems.
- #4 does have a recent stormwater management improvement. The volume of stormwater is credited and reflected in their assessment amount.

Stormwater Maintenance Funding Tools:

- The Stormwater Utility Fund is supported through City taxes to which all City properties contribute.
- Those funds are used for other stormwater system maintenance, repairs, and improvements throughout the City.
- Special Assessments is another tool proposed to be used. Costs are allocated directly to properties that benefit or contribute to the need for the project.
- Third tool that is not being proposed is the Stormwater Special Taxing District.
  - Not typically used for Inver Grove Heights projects.
  - Cumbersome Administrative process.
  - Requires an Ordinance process.
  - Would delay the project in order to accommodate the schedule.
  - The costs to the contributing properties would be similar in a Stormwater Taxing District. Would recommend to be based off of run off contribution calculations.

Property Owner Feedback. Gathered from the Feasibility Report:

- Virtual Open House was held on February 25<sup>th</sup>.
- Three properties represented: Good Samaritan, LaMettry's, and the Southridge Mall ownership group.
  - Attendees generally supported and understood the need for the project.
  - Representative of the Realty group, owner of the Home Depot Lot, reached out as they were unable to attend the meeting. They were provided presentation information given/spoken at the Open House. The Home Depot lot has the most impervious surface, largest run off contribution. They had raised the question of the benefit, as their property is upstream from the outlet pipe. It was explained the project was needed to maintain the system.
  - The proposed funding was viewed as an alternative to the Special Taxing District.

Recommendations:

- Adopt Resolution
- Receive Feasibility Report
- Schedule Improvement Hearing for April 12, 2021

**Motion by Piekarski Krech second by Gliva to approve Resolution 2021-72 Receiving Feasibility Report and Scheduling Improvement Hearing for City Project No. 2020-06 Good Samaritan Pond (1301 50th St.).**

City Attorney McCauley Nason suggested adding language to clarify the Public Notice would be held as noticed in the Resolution and Pursuant to 13D.021 by other electronic means as Pursuant to Statute.

This provides the ability for the public to attend virtually. Councilmember Piekarski Krech and Gliva approved of the addition.

**Motion by Piekarski Krech second by Gliva to approve Resolution 2021-71 Receiving Feasibility Report and Scheduling Improvement Hearing for City Project No. 2020-06 Good Samaritan Pond (1301 50th St.). The Public Notice would be held as noticed in the Resolution and Pursuant to 13D.021 by other electronic means as Pursuant to Statute.**

**Ayes: 5**

**Nays: 0      Motion carried.**

***Administration:***

**I. Consider approval of Resolution terminating existing lease arrangement with Bee Elite Gymnastics Academy. Resolution 2021-73.**

Interim City Administrator Heather Rand stated Bee Elite Gymnastics Academy has had a verbal lease with the City for space in the VMCC in the former racquetball area since 2006. Bee Elite's verbal agreement was that they would compensate the City for the space, and assistance with marketing and utility payments at 20% gross revenue. She stated revenues have been in decline for many years. Park and Recreation Staff recommend the space be reprogrammed. An immediate need would be for Kids Plus programming this summer. Future programming could include: Silver Sneaker classes, yoga classes, Boot Camp, and other Community space needs for fall/winter. She stated the Kids Plus programming revenue by itself for the summer would exceed the revenue the City received through the verbal Bee Elite Gymnastics lease and revenue exchange.

She stated the City has been encouraging Staff at the VMCC to work hard with a goal of achieving revenues that cover approximately 86% of operational expenses at the VMCC. Staff recommends the City Council approve a Resolution authorizing Staff to issue a letter to Bee Elite Gymnastics terminating the verbal lease agreement with a 90-day notice that would not go into effect until June 10<sup>th</sup>.

Tomas Settell, Bee Elite Gymnastics, passed out a handout to the City Council.

Matthew Quy, 13309 Coachford Avenue, Rosemount, stated his oldest daughter was taking gymnastics classes up until COVID. Her confidence increased and coordination improved. He stated one of the reasons why Mr. Settell had a bustling organization is due to his passion for gymnastics, specifically the kids. He stated this is a small business, someone who lives in the Community, it would be a big loss to the Community to no longer have Bee Elite here. He asked if evicting, to give Mr. Settell more time to prove himself.

Samuel Adedeji, 1610 Skyline Path, Eagan, encouraged the Council to allow Bee Elite Gymnastics to keep running. He stated he understands the City wants to make money. He asked the Council to consider the advantages children have with the program. It is a great asset for Community kids. He stated his son participated in the program in 2006. He asked this be given a chance so the kids in the City and surrounding Communities can have these kinds of benefits. It would be a great contribution to the Community to allow this program to be here for their children. He stated children's business is the Council's business too and he wants the Council to see it that way. He commented a place like this is a part of the children's development and education.

Mr. Settell, Bee Elite Gymnastics, wanted to clear up a few things stating he has heard that his program is declining and failing. It was not a fair statement. He stated new City Staff have only been in place for

a month, not prior to COVID. The program had a slight decline due to the recession but was on the upswing prior to COVID shutdown.

He stated having a set rent, does not matter what the program is doing, the rent is paid. How the program is doing is irrelevant to negotiations. He asked how they came up with the warehouse cost per square foot and who did the analysis. He commented if there is integrity with negotiations, he believes the negotiation should receive fair conversation with a fair and unbiased third party, not an exiting City Staff Member who is trying to look good and giving false inflated numbers. He stated if this were fair with integrity, he believes the City Council would vote no to a 90-day termination and allow for fair negotiations with a non-biased third-party Realtor/Evaluator that understands the current marketplace.

He stated he has a Lease Agreement he wrote with his Attorney that goes over the fair market. He was unable to give it to the City Council due to the changeover going on. He stated for example, he spoke to a business leader who has a retail space by 494 and Highway 3. This business owner let him know they are currently paying \$8.49 per square foot for primetime retail space in the City. That amount multiplied by 1,850 square feet, is roughly \$12,000 a year. That is compared to \$21,000, which is almost double of what he was asked to pay in the first draft of the Contract. He is returning a second Draft to negotiate a fair market price and asking for someone nonbiased to work with him. He stated the retail space did not have restrictions like he has had to work with. He has had to work with having limited hours, not being able to have a vending machine, no painted walls to make the gym look nice, and not being present for a fire inspection that took seven months to be notified of and has had that used against him by one of the Staff.

He stated the retail space in the City is currently in use, is worth more for rent than the unfinished warehouse space he has been leasing for 15 years. The City has not authorized the room to be painted, which costs approximately \$10,000 to \$15,000, to be usable by removing the valuable gymnastic business that has been faithful and loyal.

He stated COVID has impacted them and have been restricted to operate their normal business in a reasonable way. He stated the City Government Agency has not negotiated with integrity and allowed a Staff member who has recently been given a Separation Agreement and is under Criminal Investigation as published in the Pioneer Press. He stated that Staff person has influenced new incoming City Staff that are unaware of the operations of his private business because they have never come, meet, or called to talk with him. They go from what they are told by someone disgruntled with a personal vendetta against his business to make themselves look better to save their job, and when that did not work, they gave the new Staff erred information. He stated he does not blame the new Staff; they do not have all the information.

He stated from the start of this he has been personally targeted. If the City Council allows this to happen to his business it sets a tone of what all citizens of the City can expect of Council. He asked if Inver Grove Heights wants to be known as an unfriendly place for private businesses to operate. He stated he has waited to work with the City through COVID, a new City Council, and new City Administration. They should have good faith negotiations with transparency and integrity. He commented when COVID and Government take out private citizens, they do not expect to be kicked when they are down. They need representatives that will support the small guy and children. He asked the Council to vote no, allow good faith negotiations to happen with a fair and unbiased moderator, and look at the real fair values based off of office square footage space instead of warehouse square footage that is unfinished and has restrictions in its usage. He stated after being loyal to the City and leasing the space under terms the City Staff negotiated, he has operated and been in good standing for the last 15 years.

Mr. Settell asked the City Council to let good faith negotiations happen with the new Staff. The vote, in his opinion, is not being done with good faith and integrity. He commented that Council has been placed under duress and pressure by new City Staff in Interim positions, based off of inflated numbers. They are trying to switch programming for the coming summer. He asked that the Council come and visit a class before making a decision, and not to make a decision without looking in person. He stated as a resident, if the Council votes to terminate he would definitely be watching the return of investment with the space. He urged the Council to vote no and stand up for a small business during COVID. He commented that he currently has clients registering for classes, as soon as COVID restrictions lift they would see a very strong demand. His current clients are contracted until the end of May. Moving all gymnastics equipment would require a minimum of 14 days to orchestrate. He has served 1,600 students in the last 15 years.

Councilmember Piekarski Krech stated she was sorry Mr. Settell feels Staff was against him. They were trying to work through things and give him a chance. She visited the space twice in the past week and commented that it definitely needs to be closed down, the area needs to be cleaned up and disinfected. She stated programming in the area needs to change.

Mayor Bartholomew supports termination of the lease. He stated it was time to utilize the facility, it is a City asset, and they should get as much revenue out of it as they can. He commented they hold the Community Center revenue at 86%, historically it is done well with covering their own programming. He supports Staff's recommendation for termination.

Councilmember Gliva stated they received the lease agreement on Friday. She has been involved in lease negotiations, with this, there was not a lot of negotiation, it was just the same thing. She commented in looking at the entire Community, she believes they are too far away from getting to an agreement. Due to time constraints space is still needed for the Kids Rock Program, parents would appreciate it. She stated this is not a great situation for anyone, she supports moving forward and not renewing the lease.

Councilmember Piekarski Krech stated the Council supports businesses in the Community. She commented that Peterson's Popcorn may have loved to have had the space they took the snack shop out of in the Community Center, but that is not what they are in the business of. They cannot support one private business and not support all private businesses with public money. She stated she does not believe they are not business friendly; they are just not business friendly in public spaces.

Councilmember Murphy stated he was unsure if the business failing, or exceeding is as important as serving as many of the kids in the City as they possibly can. People's needs change, tennis courts are changing to pickleball courts, and baseball fields to soccer fields. The kids in Inver Grove Heights want Kids Rock and other programs. He agrees it is time to move on.

Councilmember Piekarski Krech asked if the agreement ends, if the space must be vacated by that date. She was concerned about moving all the items in the room out and being able to clean it. City Attorney McCauley Nason responded under Minnesota Statutes Chapter 504B; all items are required to be moved. If they are not moved the City would have to revisit taking further legal action by filing an Unlawful Detainer Action to move forward with vacation of the space. If items remain at the end date, the City will have to resort to a legal process to remove items, recoup the costs of storage of items, or sale.

**Motion by Piekarski Krech second by Bartholomew to approve Resolution 2021-73 terminating existing lease arrangement with Bee Elite Gymnastics Academy.**

**Ayes: 4**

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

**7. PUBLIC COMMENT:**

**8. MAYOR AND COUNCIL COMMENTS:**

Mayor Bartholomew stated a gentleman spoke to him before the meeting started, he said he would reach out to him in the morning. This person's question was about how a private person gets an item added to the Agenda. He requested Staff give information about how residents get something on the Agenda and the process. He asked to make time with the Interim City Administrator in the morning to go over what the gentleman spoke about. Interim City Administrator Rand responded she would go over information with the City Attorney. She stated the protocol of three minutes was offered to the Gentleman, and that he could submit written comments. He was advised by Staff last week that he could do both of those things.

**9. EXECUTIVE SESSION:**

**A. Closed session pursuant to Minn. Stat. § 13D.05, Subd. 3(b), for a confidential attorney-client discussion concerning litigation risks in eminent domain re acquisitions from PID 20-19500- 03-100 for City Project 2016-13.**

City Attorney McCauley Nason stated the Council is being asked to make a Motion to move into closed session Pursuant to Minn. Stat. § 13D.05, Subd. 3(b), for a confidential Attorney/Client discussion concerning litigation risks and eminent domain regarding acquisitions from PID 20-19500-03-100 for property located at 6399 Cahill Avenue for City Project 2016-13. The Closed meeting will be held in City Council Chambers. Once the closed meeting is completed, there being no further items on the Agenda, and once back in open session, the Council will simply adjourn the meeting.

**Motion by Gliva second by Murphy to move into Executive Session at 9:45 P.M.**

**Ayes: 5**

**Nays: 0 Motion carried.**

Minutes prepared by Recording Clerk Sheri Yourczek