

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, APRIL 26, 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, April 26, 2021, In Person and via 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: Piekarski Krech, Gliva, and Murphy; City Clerk Kiernan, Interim City Administrator/Community Development Director Rand, City Attorney McCauley Nason, and Police Chief Chiodo.

Present via Zoom Video Conferencing/Phone: Council Member Dietrich: Information Technology Manager Gade, Civil Engineer Moser, Associate Planner Botten, City Planner Hunting, Assistant City Engineer Dodge, City Engineer Kaldunski, Interim Public Works Director Eckles, Finance Director Hove, Fire Chief Thill, and Interim Parks and Recreation Director Oyanagi.

Also Present In Person or via Zoom/Phone: (In Person) Steve Soltau, Builders Lot Group; Nick Lorentz, Kiehm Construction; John Molinaro, Pioneer Engineering; Erin Jordan, SEH; Bob Mahacheck, Alliant Ventures LLC.; Tim Netzel; Darryl G.; Eric Luth.

**3. PRESENTATIONS:**

Mayor Bartholomew stated on behalf of the Council, this past year has been a very difficult time. The safety of everyone in Inver Grove Heights was top priority. He expressed gratitude to Police Chief Melissa Chiodo and the City Police Department and acknowledged them for protecting our Community during this past year. We are lucky to have an outstanding group of Police Officers and Command Staff here in our City. He stated we appreciate them and all they did to prevent further tragedy and violence. He thanked them for holding themselves to the highest standards of fairness, respect, and equality and for being a positive force in our Community.

He stated our Police Force was part of Operation Dakota Shield, a larger coordinated effort by County and Regional Agencies to keep our Communities peaceful this last year. He is pleased to report that Operation Dakota Shield came to an end last week. Officers can finally get out of emergency mode, which meant long shifts, no vacation, and no sick leave for much of the past 12 months. They can start to resume normal operations in Inver Grove Heights.

He stated part of returning to normalcy is the plan to recognize National Police Week next month with our first Police Open House. It will be an outdoor event at City Hall on May 12<sup>th</sup> from 3:00 to 7:00 p.m. All are invited to come and meet the Officers, have refreshments, and say hello to K9 Chase. He has been told there would be a Dunk Tank. He looks forward to seeing all there.

He looks forward to all working together this year. He thanked the terrific Fire Department, Public Works, Administrative Staff, City Leadership present, and residents. As the City continues to move ahead, we are all here to create and sustain the kind of Community we want to live and work in. He thanked everyone and thanked again, the Inver Grove Heights Police Department and residents.

**4. CONSENT AGENDA:**

**A.** Minutes from the March 22, 2021 City Council Meeting.

**B.** Disbursements for Period Ending April 20, 2021. **Resolution 2021-118**

**C.** Consider Approval of Personnel Actions.

**D.** Consider **Resolution 2021-119** resolving typographical error in Ordinance No 1405.

**E.** Motion to Authorize City Attorney Execution of Tolling Agreement Regarding Threatened Inverse Condemnation and Flooding Claims re PID## 20-00500-31-010 and 20-00500-32- 010.

- F.** Consider **Resolution 2021-120** Receiving Feasibility Report, Ordering Project and Authorizing Preparation of Plans and Specifications for City Project No. 2021-08 - Southern Trunk Watermain Improvements.
- G.** Consider **Resolution 2021-121** Awarding Contract for City Project No. 2021-01 - NWA Trunk Utility Improvements for Future County Projects of Argenta Trail (2016-05) and 70th St. (2015-08).
- H.** Consider **Resolution 2021-122** Approving Permanent Drainage and Utility Easement and Temporary Easement for Construction purposes for City Project No. 2021-01 - NWA Trunk Utility Improvements for Future County Projects of Argenta Trail (2016-05) and 70th St. (2015-08).
- I.** JIM & LORA KRECH - Consider the following requests for property located at 2585 - 62nd Street:
  1. A **Resolution 2021-123** relating to a Preliminary and Final Plat to be known as Oakbush Fifth Addition.
  2. A Vacation of drainage and utility easements within Lot 4, Block 1, Oakbush Second Addition, Lot 2, Block 1, Oakbush Third Addition and Lot 1, Block 1, Oakbush Fourth Addition. **Resolution 2021-124**

**Motion by Dietrich second by Murphy to approve the Consent Agenda.**

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

**5. PUBLIC HEARING:**

**A. Public Hearing to Consider the Application of an On-Sale, 2 a.m., and Sunday Liquor License for Los Portales Bar & Grill, 5816 Blaine Ave.**

City Clerk Rebecca Kiernan stated this is for approval of an on-sale 2:00 a.m. Liquor and Sunday Liquor License for Los Portales Bar & Grill located at 5816 Blaine Avenue, in the former El Azteca Restaurant. Three Licenses have been applied for. The Police Department conducted the background investigation on the Applicant and found no basis for denial. Fees and Certificate of Insurance have been received. The Public Hearing was published in the April 11th issue of the Pioneer Press Newspaper. Staff recommends approval of all Licenses. She stated actual issuance of the License would be contingent upon fulfilling all requirements to hold on-sale 2:00 a.m. and Sunday Liquor License through the Minnesota Alcohol and Gaming Enforcement Division and satisfactory inspections approvals from the Fire and Building Departments. A Public Hearing needs to be conducted. She stated the Applicant is not in attendance but has a second Restaurant in Minneapolis and he seems to be very upscale.

**Motion by Piekarski Krech second by Gliva to close the Public Hearing at 7:06PM.**

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

**Motion by Piekarski Krech second by Gliva to approve the Application of an On-Sale, 2 a.m., and Sunday Liquor License for Los Portales Bar & Grill, 5816 Blaine Ave., contingent upon meeting all necessary regulations.**

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

**B. Public Hearing to Consider a Resolution Ordering Project and Authorizing Preparation of Plans and Specifications for City Project No. 2020-06 Good Samaritan Pond (1301 50th Street). Resolution 2021-125**

Civil Engineer Jake Moser gave a Presentation for City Project 2020-06 Good Samaritan Pond Outlet located at 1301 50<sup>th</sup> Street:

Project Overview:

- Located near the intersection of Highway 3 and Mendota Road.
- Called Good Samaritan Pond because its partially located on the Good Samaritan and Southridge Mall property.
- Public Stormwater Basin within a public drainage and utility easement.
- Identified in the Stormwater Management Plan as Regional Basin T-8.
- Receives stormwater from the surrounding highly developed area down by the watershed boundary.

- Project is to replace the pond outlet pipe. Located in the drainage and utility easement on Good Samaritan property.
- Previous Council action:
  - Received the Feasibility Report on March 8<sup>th</sup>
  - Began the Public Improvement Hearing and continued it to tonight's meeting

Project Need:

- Existing pipe constructed in the 1960's has collapsed.
- A sinkhole is appearing on the Good Samaritan property.
- Old steel pipe under the sinkhole area has collapsed.
- There is an existing concrete control structure on the upstream side that is prone to frequent clogging. Requires Staff to remove debris from it.
- Proposed project is to replace the failing pipe with a reinforced concrete pipe and control structure to current standards.

Proposed Improvements:

- Outlet Control Structure:
  - Modern outlet control structure.
  - Manhole style structure. This would reduce maintenance and clogging.
  - Would have a valve to allow the pond level to be drawn down for maintenance.
  - Pipe would be replaced with a 48" reinforced concrete pipe sized to serve the existing impervious area.
- Outlet Stabilization on the downstream size.
  - Would reduce the 100-year high water level.

Project Cost and Funding:

- Estimated Total Project Costs: \$336,293
- Construction: \$262,729
- Contingency: \$26,272
- Legal, Engineering, Administration, Financial (LEAF): \$47,291
- Total Project Funding: \$336,293
- Special Assessments: \$160,592
- Stormwater Utility Fund: \$175,701

Preliminary Assessments:

- Proposed Funding: Based on recommended:
  - 50% Assessments.
    - Calculated based on the stormwater runoff increase from parcels in a 100-year rainfall event.
    - Calculated uniformly in relation to property class.
    - All properties were assessed in the same manner for all properties.
  - 50% funded through the Stormwater Utility Fund.
- Wide range of assessments from \$1,642 to \$76,706.
- Amounts vary based on the runoff value impact each property contributes.
- Existing stormwater systems are credited for volume reduction. The only parcel that has a volume reduction is LaMettrey's owned by J&R Inver Grove Heights. They have an underground infiltration system that reduces their runoff contribution.
- Final assessments to be based on bid prices.
- Assessment term and interest rate set by City Council (10-year term, which is typical).

Tentative Project Schedule:

- Tonight's Meeting (April 26<sup>th</sup>, 2021) Hold Public Hearing. Order project, plans, and specifications.
- Staff would present to the City Council at the May 10<sup>th</sup> regular meeting for plan approval and authorize bidding.
- Month long process while bids are publicly bid.
- Bids received June 15<sup>th</sup>.
- Council would be asked at the June 28<sup>th</sup> meeting to accept bids and schedule Assessment Hearing.
  - Final proposed assessments would be in hand.
- June 15<sup>th</sup>, one more Stakeholder meeting would be held between Staff and affected parcels.
- Hold the public Assessment Hearing and Award the Project on July 26<sup>th</sup>.

- Construction begins late August and completes this fall.

Recommendations:

- Hold Public Hearing.
- Adopt Resolution: Order Project 2020-06 and authorize preparation of plans and specifications.

Mayor Bartholomew asked if all questions asked by Representatives have been answered. Civil Engineer Moser responded yes, there has been dialog with several properties who have larger assessments. Information about how assessments are calculated was shared with property owners.

**Motion by Gliva second by Piekarski Krech to close the Public Hearing at 7:17PM**

**Ayes: 5**

**Nays: 0 Motion carried.**

**Motion by Piekarski Krech second by Murphy to approve Resolution 2021-125 Ordering Project and Authorizing Preparation of Plans and Specifications for City Project No. 2020-06 Good Samaritan Pond (1301 50th Street).**

**Ayes: 5**

**Nays: 0 Motion carried.**

**6. REGULAR AGENDA:**

***Community Development:***

**A. Consider Approval of Rental Renewal License with conditions.**

Interim City Administrator Heather Rand stated Council is asked to consider a Rental License for property located at 6930 Crosby Avenue. The property has had a Rental License for approximately two years. Application was submitted to the City. She stated background checks were conducted on the management and checked for a record on nuisance calls. Over the last two years this property has had 21 nuisance calls, many of them drug and criminal activity related.

She stated Staff would like the opportunity to work with the management team to determine how to limit those types of calls going forward. Council has a Resolution to approve the License with conditions:

- The rental organization start complying with "Crime Free Lease Addendums". If breaking the law, you get evicted.
- The rental would be subject to the Excessive Police and Nuisance Enforcement Ordinances. Defined in Chapter 15 of the City Code.
- The owner of the property should cooperate with the Police Department to resolve drug and other illegal activities.

She stated the Public Hearing is an opportunity for the Applicant to have dialog with the City Council. City Code allows the Council to approve the License without conditions, deny the License, approve the License but with reasonable conditions (Staff's recommendation), or approve the License as provisional (short term, all revisit the issue). She stated Jake Mildon, representing Twelve Thirteen Properties, LLC., is in attendance.

Mayor Bartholomew commented they are requesting as a condition, they verify in writing, an Oath requiring Minnesota Crime Free Leasing Addendum or it is equivalent. He asked if the Ordinance allows for that or are in violation. He asked if this Amendment was described in the Ordinance. City Attorney Bridget McCauley Nason responded City Code Chapter 13, dealing with Rental Licenses, currently requires a Crime Free Lease Addendum be a condition of issuance of a License. All Landlords are supposed to be including this information with their Leases. This condition ensures verification the Landlord has been requiring Crime Free Lease Addendums. It is a reiteration of an existing License Condition.

Councilmember Murphy asked if a Crime Free Lease Addendum makes it easier to evict someone. City Attorney McCauley Nason responded yes, it makes any violation of the conditions a material violation of the Lease and good cause for termination.

Councilmember Dietrich was concerned about what would motivate them to have less calls on Public Safety. It does not appear they have in the past. She asked if the management company was aware and how it got so far off track to begin with.

Police Chief Melissa Chiodo responded a bigger discussion needs to take place. She was called today by Supportive Housing Services that contracts out clients to this house. Between the owner of the property and Supportive Services, the interactions were happening in a bubble and the Police Department was not made aware. Police would respond to calls anytime there was a problem. There was never a reach to learn how to work with the Police Department to be a good steward in the Community. She stated in her discussion with Supportive Services she was told the owner has worked with them on problems, but never brought them to Police attention. Community members were concerned because they saw the Police there so often, they brought it to the attention of a Councilmember who brought it to the attention of the Police Department.

She stated the City enacted an Ordinance for Nuisance Properties or Excessive Consumption of Police Services before she began as Police Chief in the City. The Ordinance was put in place by Employees that are no longer in the City without any way to track or follow. Now that it has come to their attention, one of the items they are working on is how to track rental properties so when they get to two calls, (it takes four nuisance calls for the Police to be able to do something), it can be tracked. The owner of the rental property can be notified and its suggested discussing what is going on with the property, how to help them, and find out what help the owner needs. When responding to 911 calls there, people that lived there would state it was a halfway house. The Police had no idea it was a home in the middle of a neighborhood, people that rent there are getting out of jail, prison, or homeless. With that comes a lot of concerns and problems.

Councilmember Dietrich stated she would like to see this be more on the proactive side. She trusts the Police Department if it is said to move forward. Police Chief Chiodo responded they ask that it be approved with conditions, so they are able to work with the property owner.

Councilmember Murphy asked how long the Licenses were good for and if there was an option to shorten them. Interim City Administrator Rand responded Rental Licenses are good for two years, a provisional License can be issued with a shorter term. That would have to go before the Council for additional consideration. Councilmember Murphy stated this is one call a month, located right next to a park. He has reservations about this. City Attorney McCauley Nason responded a License with conditions includes a number of conditions that would directly address some immediate concerns. There are two options if challenges continue with the property:

1. Excessive Consumption of Police Services. This can result in levying costs for services against the property owner.
2. If the License Holder is in violation of the terms of the License, they could be subject to potential revocation or suspension of the License. If the License is granted today with conditions, that does not preclude the City Council from taking future action against the License, should the License Holder fail to comply with the conditions or any License Conditions that exist in the City Code today.

Mayor Bartholomew asked if the conditions are in the Code already and if this states the need to follow Code or Statute. City Attorney McCauley Nason responded one is a reiteration of requirements that exist in the Code and need to be complied with. The other is conditions identified by Staff and are hoping to address some of the concerns with this property. For example, cooperation with the Police Department to resolve drug and other illegal activity on the property. She stated there is a requirement the Owner proactively interact with the Police Department to address concerns. Conditions can be tailored to the particular situation. These were conditions Staff believed most important.

Jake Mildon, 5865 Neal Avenue, Stillwater, owns the property and stated he has crime free addendums and has kicked out four people over the past two years. He was only made aware of one problem from the Police Department. He stated he has asked the company to clear the house out and would be putting it on the market. He does not believe there is coming back from bad blood in the neighborhood.

Mayor Bartholomew clarified that Mr. Mildon is cleaning out the building and selling it. Mr. Mildon responded yes, commenting it could take a couple of months, there is not a lot of housing for the Tenants. Mayor

Bartholomew stated there are a lot of calls to this property, he does not know why he would even consider approving a renewal.

Councilmember Piekarski Krech stated she would be in favor of a provisional six-month extension with the provisions in the Resolution. Councilmember Gliva stated she cannot see renewing a full two years and agreed with Councilmember Piekarski Krech's suggestion. Councilmember Dietrich agreed with Councilmember Piekarski Krech's suggestion. Councilmember Murphy stated he was not in support of renewing initially but would agree with three or six months with the same conditions. Mayor Bartholomew stated he was not in support of renewing but due to selling the building and the six months timeline suggestion. He stated this is the worst-case scenario, these are things they dread as Elected Officials, to have these kinds of leased buildings in our neighborhoods.

Councilmember Murphy asked if approved for six months, how the City would follow up. Councilmember Piekarski Krech responded the Police Department would be monitoring. After two calls the property Owner would be notified that at four calls they would be charged.

Mayor Bartholomew asked the Police Chief to keep the Council updated whenever there is a call. Police Chief Chiodo responded she could send information through Interim City Administrator Rand. She responded about how to stay up on this stating she would reach out to the Homeowner and discuss how she can support and get him successfully through the next six months.

Mayor Bartholomew stated Council seems to have consensus on a six-month extension with conditions as listed. He asked the City Attorney if that was the proper Motion. City Attorney McCauley Nason responded it would be to approve the Resolution approving a Renewal Rental License with conditions as stated with the addition the Renewal License term shall be for six months.

Councilmember Murphy asked what would happen if six months comes around and the home is not sold and still occupied. City Attorney McCauley Nason responded if the condition of the License states its only for a term of six months, the Applicant would need to reapply for a new Rental License. If the property was still occupied and if there were problems as illustrated in the Code, that provides Legal grounds for the Council to consider denial of the Application. Just because the Application comes in would not be grounds for denial. If there are still problems, that could be something the Council could consider.

Mayor Bartholomew asked what would happen if coming to the end of the term, the property owner has not been able to sell, and the tenants are still there. He asked if they were protected Tenants and cannot be removed. City Attorney McCauley Nason responded it was complicated. When Cities choose to revoke or not renew a License, there is a grace period due to people living on the property. The property owner has limitations as far as removal of Tenants. It is also complicated by pandemic provisions and Federal regulations impacting the ability to evict. She stated the Council could consider a grace period because there needs to be accommodations made for people to leave the premises. At the end of six months if there is a Renewal License Application and Council determines based on factors and facts the License will not be renewed, it would be a Motion not to renew the License and determine within 30 to 60 days that everyone who is a renter needs to be out of the property.

Councilmember Dietrich stated with the clarity provided by the City Attorney she prefers not to approve. The grace period will be in place and they would get to where they want to be in six months instead of precipitating the lead time. City Attorney McCauley Nason stated the information provided to the property owner is that Staff's recommendation is for continuation with conditions. If Council wants to deny the License Application, she recommends tabling the Agenda Item to the next meeting so a Resolution can be prepared that outlines Legal grounds for denial. Staff would need to determine what the Legal basis may be for the denial.

Mayor Bartholomew stated his concern was the protected occupants. Councilmember Piekarski Krech stated given the Attorney description, she believes they need to have a provisional License for a period of time. Mayor Bartholomew questioned where the liability lies if there is no License. He asked the Council if they were in agreement with a provisional License for three months or hold for the next meeting. Councilmember Murphy asked why they needed to wait three to six months. Councilmember Piekarski Krech responded because there may be Legal reasons why it may be difficult to terminate immediately. City Attorney

McCauley Nason responded there is a separate provision in the Code dealing with denial, suspension, or revocation of the License, which has different processes. Staff's recommendation was License with reasonable conditions. Otherwise, Staff would need to come back with a Resolution recommending denial and articulating specific Legal grounds for denial. If considering denial, she requests the application be tabled to the second meeting in May and direct Staff to come back with a Resolution for denial and a recommendation about whether or not it is Legally supportable based on the facts as they exist today.

Councilmember Gliva asked what happens until a decision is made. City Attorney McCauley Nason responded the License has expired. Because it was submitted in a timely manner and are waiting for Council action, there is no action being taken for operating without a License since the Applicant has done what he was required to do which was to timely submit the License Application.

Mayor Bartholomew clarified stating the City is not in violation on the Cities part, they have the License and are going through the process of approval. The Owner is not without a License, they are waiting for renewal. City Attorney McCauley Nason responded the License expired; the Application was in on time. This was on a Council Agenda several months ago and was continued out for Staff to do their due diligence. Staff's recommendation is to approve with conditions, Council agreed to this for a short period of time. She stated Council was also mentioning the possibility of considering denial. If Council wants to deny, her recommendation is to table the item so Staff can prepare a Resolution for denial and articulate what the Legal grounds might be for denial. There are listings within the Code as to what the grounds are for denial. For example: Does not comply with Zoning Code, does not comply with Health Code, failed to pay appropriate fees, and other requirements. Having a certain number of Police calls is not grounds for denial for a License. That is what needs to be articulated and included in any Resolution.

**Motion by Piekarski Krech second by Bartholomew to extend the Rental Renewal License for three months with the conditions listed in the original Resolution.**

**Ayes: 1 (Piekarski Krech)**  
**Nays: 4 Motion denied.**

City Attorney McCauley Nason stated the Motion to approve the Resolution for issuance of a Conditional License failed. A new Motion is needed to table or continue consideration of this License Application to either the May 10<sup>th</sup> or May 24<sup>th</sup> meeting with direction to Staff to review for potential grounds for denial.

**Motion by Murphy second by Gliva to table or continue consideration of this License Application to either the May 10<sup>th</sup> meeting with direction to Staff to review for potential grounds for denial.**

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

**B. Consider the Second Reading of an Ordinance to allow fences to be 48 inches in height within the front yard area of a lot.**

Associate Planner Heather Botten stated the City Council approved the First Reading of the Ordinance Amendment at the April 12<sup>th</sup> City Council meeting. This is regarding allowing fences in front and corner front yards to go up to 48 inches in height with no less than 75% clear visible opening. The current fence Code allows a maximum height of 42 inches with no less than 75% clear visible opening in the front and corner front yards. Staff believes the maximum height of 42 inches comes from the MnDOT Road Design Manual that states assumed height of both the driver's eye and object to be seen are 3.5 feet above the respective roadway surfaces.

She stated at the April 12<sup>th</sup> meeting City Council discussed current requirements and how size and height of vehicles have increased over the years and that Council would support up to a 48-inch fence with 75% clear visible opening within the front and corner front yards of residential properties. No changes have been made to the proposed Ordinance from the First to the Second Reading.

**Motion by Gliva second by Murphy to approve the Second Reading of an Ordinance to allow fences to be 48 inches in height within the front yard area of a lot.****Ayes: 5****Nays: 0      Motion carried.**

Mayor Bartholomew stated the Third Reading will take place at the May 10<sup>th</sup> City Council meeting.

**C. RYAN IHLE- Consider A Resolution relating to a Variance from side yard setbacks for a garage addition for the property located at 7755 Boyd Avenue. Resolution 2021-127**

Associate Planner Botten stated the request is for property located west of Boyd Avenue and north of 79<sup>th</sup> Street. It is zoned R-1C, single family residential district. The Applicant requests an addition onto the existing single stall attached garage. There are no detached structures on the property. She stated they would like to expand the attached garage into a two-stall garage. A revised memo was submitted by the Homeowner stating the addition would be located 2-3 feet from the side property line. A five-foot setback is required. The original request was with a 1-2-foot setback. She stated if the variance is approved, one of the conditions of approval would be the Homeowner hire a registered surveyor to verify the garage setback.

She stated Staff believes the setback standards are not precluding the Homeowner from reasonable use of the property. The lot has a single stall attached garage. The request for the addition could be considered a convenience and not a Practical Difficulty. If desired, the Applicant could add a detached structure on the property up to 1,000 gross square feet. Staff believe the facts presented do not satisfy criteria needed and recommend denial of the request. The Planning Commission met on April 6<sup>th</sup> and recommended denial stating the facts presented do not satisfy the criteria shown for Practical Difficulty.

Kyrstin Schwartz (in person), 7755 Boyd Avenue, stated their property has a unique situation that does not lead to being a precedent. Boyd Avenue stretches from 80<sup>th</sup> to 73<sup>rd</sup> Streets with over 70 homes, theirs is the only home with a single car garage. All others have 2-3 car garages. Granting the variance would put their home in harmony with the neighborhood. She stated there is a concrete base present where the addition would go. Her neighbor is the only other house on the street that does not have a two-car garage as they made the area into their own living space. Due to the two homes that now have one car garages, there is more street parking in their area compared to other surrounding homes. She stated they received a recommendation about moving the structure into the backyard, but that would not work due to a hill and inground pool.

Mayor Bartholomew stated being the only one in the neighborhood with a one car garage is not a Practical Difficulty. Councilmember Piekarski Krech stated she would rather have it added to the garage than have a shed in the back. She was concerned about a comment made from a neighbor who was concerned about runoff on their property. She stated this made more sense than putting another building in the back. She likes keeping down the impervious surface if possible.

Mayor Bartholomew asked what year the house was built. Ms. Schwartz responded 1976. Councilmember Gliva asked how the difference in footage went from 1-2 feet to 3-4 feet. Ms. Schwartz responded she has been working with a Contractor to go as small as possible, but enough to be able to fit a car.

Mayor Bartholomew asked what the size of the addition would be. Keith Schwartz (in person), 7755 Boyd Avenue, responded the standard two cars would be 16 feet. The addition would go as far back as 20 feet in depth, or 7 feet further. This would be 2-3 feet from the property line. Councilmember Piekarski Krech stated this is adding a standard garage stall, most people want to go bigger. A Practical Difficulty for some would be to keep the neighborhood neat by storing things inside. Mayor Bartholomew stated the building was built without attention to the need for a two-car garage. The alternative would be to put a big footprint in the backyard. Mayor Bartholomew stated the Practical Difficulty is the age of the home, built with a one car garage, the aesthetics of the neighborhood, and to avoid further impervious surface.

**Motion by Piekarski Krech second by Gliva to approve Resolution 2021-127 relating to a Variance from side yard setbacks for a garage addition for the property located at 7755 Boyd Avenue with the conditions as outlined.**

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

- D. KIEHM CONSTRUCTION - Consider the following for the property located at 2660 50th Street:**
- 1. A Resolution relating to a Conditional Use Permit Amendment for a contractor’s shop with outdoor storage. Resolution 2021-128**
  - 2. A Resolution relating to a Variance to allow a building with a 10-foot setback along rear property line. Resolution 2021-129**

City Planner Allan Hunting stated this is an Amendment to a Conditional Use Permit for a Contractor’s yard for a small-scale landscaping business. This was originally approved in 2019. There have been changes to the plan. The property is located on 50<sup>th</sup> Street and Blaine Avenue and surrounded by MnDOT right of way. The building is approximately 5,000 square feet, with a parking area in front. He stated the original plan had the building a little further north and about 3,000 square feet. The building is proposed to be 10 feet from the south property line when the requirement is 40 feet. It is believed there is rationale behind that as it is not impacting any neighbors. He stated the property itself drops down from 50<sup>th</sup> toward 494, the top of the building would be slightly below street grade at 50<sup>th</sup> Street and would not be visible.

He stated the Applicant has indicated they are keeping and maintaining a majority of the vegetation in front along the street, some will have to be removed to do utility work. Staff does not see issues with the Amendment and recommends approval of the CUP Amendment and Variance as proposed.

Nick Lorentz (via phone), introduced himself stating he is present on behalf of Kiehm Construction.

Mayor Bartholomew asked if the Amendment was just adding outdoor storage. City Planner Hunting responded the Amendment is changing the location of the building and slightly increasing the size.

- Motion by Piekarski Krech second by Gliva to approve KIEHM CONSTRUCTION - Consider the following for the property located at 2660 50th Street:**
- 1. A Resolution 2021-128 relating to a Conditional Use Permit Amendment for a contractor’s shop with outdoor storage.**
  - 2. A Resolution 2021-129 relating to a Variance to allow a building with a 10-foot setback along rear property line.**

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

**E. PRECISION SIGNS - Consider a Resolution relating to a Variance to install two free standing signs less than 200 feet apart for property located at 11380 Courthouse Boulevard. Resolution 2021-130**

Associate Planner Botten stated the request is for property located on the east side of Highway 52, Zoned I-2, General Industrial District. Applicant is requesting that two free standing signs be located 110 feet apart. 200 feet is the required separation between signs in Industrial Districts. The signs would be approximately 24 square feet in size and located on each side of the main driveway. She stated the property has about 850 feet of road frontage. The intent of the Sign Ordinance is to allow for signage visibility and safe identification of a property, but also to prevent sign clutter.

She stated Staff believes the property can be used in a reasonable manner without the need for a variance. There is enough room on the property to comply with sign regulations. Approval could set a precedence for other signs to be closer than the 200 feet spacing requirement. The property owner, if concerned about visibility of the identification of the property, could increase the size of one sign up to 100 square feet in size. Staff believes the facts presented do not satisfy criteria needed and recommend denial of the request. She stated at the April 6<sup>th</sup>

Public Hearing the Planning Commission recommended denial of the variance request stating the facts presented did not satisfy the criteria needed to show Practical Difficulty.

Councilmember Piekarski Krech asked if the request was due to two different businesses being listed on each side. Associate Planner Botten responded it is the same business advertised on both signs. Councilmember Piekarski Krech stated she was unsure what the original plan was for the signs. Councilmember Gliva stated she went and checked out the location, there was a lot of space and signs along the way. From a traffic standpoint, she felt a bigger sign would be better than two smaller. There is a lot of room there.

**Motion by Murphy second by Gliva to deny a Resolution 2021-130 relating to a Variance to install two free standing signs less than 200 feet apart for property located at 11380 Courthouse Boulevard.**

**Ayes: 5**

**Nays: 0 Motion denied.**

**F. ALLIANT VENTURES III - Consider the following for the property located on Cahill Avenue, west of Inver Grove Trail:**

- 1. An Ordinance to Rezone the property from E-1, Estate Residential to R-3B, Multiple Family Residential. Ordinance 1406**
- 2. A Resolution relating to a Preliminary Plat for a 20-lot townhome development to be known as Pine Bend Estates 2nd Addition. Resolution 2021-131**
- 3. A Resolution relating to a Conditional Use Permit for a multiple family development. Resolution 2021-132**
- 4. A Resolution relating to a Variance from front yard setbacks and building separation. Resolution 2021-133**

City Planner Hunting stated the application is in four parts. There is Cahill Avenue, Inver Grove Trail, and Highway 52/55. This is for the second Phase of Pine Bend Estates. The original portion was 14 lot single family. This proposal is for 20 units on the west side. The density of the project would be 3.6 units per acre, factoring in the entire site would be approximately 2.3 units per acre. Staff is supportive of rezoning; this follows the traditional development pattern of residential when near busier access streets. Having townhomes on the west side would be a logical pattern. He stated there are power lines running through the development, the Developer has to push all units onto the west side of the proposed public street coming in off of Cahill. They are requesting a 5-foot reduced front yard setback and a 10-foot reduced separation between units so they can get the units in.

He stated all performance standards have been met with the project. The biggest discussion point came at the Planning Commission and from residents, regarding the location of the access on Cahill. The Developer had provided two different traffic studies their Engineer prepared. The City utilized SEH, to review the two studies and concurred with the Applicant's Consultant that the volumes of traffic do not warrant any additional turn lanes left or right. Sight triangles criteria have been met. Staff is satisfied with the location of the public street connection. Staff recommends approval of the four parts of the request.

Councilmember Piekarski Krech stated coming out of Tractor Supply with cars on Cahill can be an experience, those cars are traveling at significant speed. She asked if they could go under the power lines and connect to the street in the previous development and come out there. City Planner Hunting responded Staff looked at connection of the two, there were issues with the topographic change that did not meet City standards. There were other topography issues with moving the street.

John Molinaro, Engineer, Pioneer Engineering 2422 Enterprise Drive, Mendota Heights, stated they looked at connecting the road at the beginning stages. At that time, it was determined connectivity would not work due to low lying land, wetlands, topography drop off with the west side being higher than the east side, and a road design that did not meet City standards. Other options have been looked at, but nothing worked out.

Councilmember Gliva stated she checked out the site, when taking a right out of the area there is a curve which is not ideal. The topography does drop off. She asked if the road going in could curve a bit. Mayor Bartholomew agreed the curve could be a problem. He asked if Staff or Engineering could get a sign indicating there is an

access or entryway coming up. He stated the traffic study shows sight lines are within standards. The key would be keeping vegetation clear and to be able to see 35 feet in either direction. He asked to look into a sign that warns of an opening coming. He stated he would lean on the traffic studies as they are valid and reasonable.

Assistant City Engineer Steve Dodge agreed with what has been said about the preliminary reviews from Phase 1. The topographic area has a transmission power line with large poles up on a hill. The hill poses a challenge for connectivity between Phase 1 and 2 of this development. He suggested referring to Erin Jordan from SEH on provisional signs that could be posted.

Erin Jordan, SEH, 3536 21<sup>st</sup> Avenue South, Minneapolis, stated there is something called W2-2, a diamond shaped sign. There could be an existing sign north of the proposed development. Mayor Bartholomew asked Ms. Jordan if she agreed with the assessments that the studies are within standards. Ms. Jordan responded it is close. From her review, it is difficult to do a better evaluation without having the driveway there. From her estimated measurements those distances are met per recommendation the vegetation is minimized to maintain the sight distance.

Mayor Bartholomew asked City Planner Hunting if that was something to consider when getting to final plat. That there be a condition on the vegetation and do not allow shrubs or trees in the sight area. City Planner Hunting responded that was something that could be included. It can state to control, limit, or require maintenance of the vegetation so it does not get tall and obstruct visibility.

Councilmember Piekarski Krech asked why this was not reversed and have the road on the other edge and houses have a big green back yard because you cannot build anything under the power lines. Mr. Molinaro responded they looked into that option and placing homes backed up to the power lines was a more difficult situation for building. The power line is at the highest high point of the project. The topography falls both directions from the power lines. He stated setting the road further west/lower, they would have to cut the homes in and build everything down below the power lines more so than proposed. He stated laying it out the current way, the road is higher and slopes up to the power lines, homes fall off and drainage goes behind the homes into the collection system.

Mayor Bartholomew asked for a walk through of the units, the request for the variances and setbacks. Bob Mahacheck, Alliant Ventures, 4655 Nichols Road, Eagan stated this was a tough site. They began last year with the first half. It was laid out to do single family on one side with the other side being more challenged with wetlands and power lines. This layout was best overall for the site. He stated a Traffic Engineer was hired to address issues and felt this was addressed appropriately. They feel they have what is best.

City Engineer Tom Kaldunski stated he was in a meeting this afternoon with the School District discussing safe routes for school. They like a lot of the things the Applicant is doing along Cahill Avenue to get the sidewalk in for people to walk from this neighborhood to Pine Bend Elementary School. He stated in their review of safe routes to school, one of the things the School District identified in their study was interest in getting a road to the west side of the building. One potential way of doing that would be to make it a full intersection that buses going to Pine Bend School could turn at the same location, 3A, and go south and get behind the west side of the school building, go around the building, and come out at Inver Grove Trail. He stated that may be a positive thing for the School District because they own the land, if they put a bus route that way, it would help the congestion they get at the school.

Mayor Bartholomew asked if there were emails that need to be added to the record. City Clerk Rebecca Kiernan responded she has two emails, from Deidre Backus and Michelle Horst.

**Motion by Piekarski Krech second by Gliva to accept the two emails into the record.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Dave Engen, 9569 Inver Grove Trail, stated he drives that road every morning at 5:45 a.m., and would be a deadly intersection. It is a huge mistake putting the entrance in. He stated there is a hill and the entrance would be right

there. He suggested going back to Old Concord. He stated the Developer does not want to move the road because they are trying to cram as many units there as they can. He did not understand why the City is even allowing it. It is a monstrous project being crammed into a tiny space; he does not believe it was right.

Interim Public Works Director Klay Eckles stated it is important they are using the manual on Uniform Traffic Control and is the same set of standards used on every street, road, and highway in the State of Minnesota. They are meeting that standard.

Dave Gibbens, 9655 Inver Grove Trail, lives across the water from this. He stated he moved to a larger lot on purpose. This project is outside of the normal character of the neighborhood. There are no multifamily dwellings around, all are single family. He stated a lot of people wrote letters about Cahill and the traffic study. He agreed with them. He asked if the traffic study included the traffic from the new 14-unit development. Traffic studies are based on observed traffic patterns, those patterns have not developed yet.

He stated the Applicant has said "no negative comments were received" at the February neighborhood meeting. That is untrue. He objected to the high-density development and questioned the closeness to the transmission line. The response he received was the transmission line was unmonumented. Xcel states the power line is the monument itself. He stated the line was built in the 1960's across agricultural land before survey descriptions were accurate. The 1976 survey put the easement 35 feet east of the center line of the transmission line. He stated that was a mistake. The survey of the section itself has changed; the quarter section line that goes north/south was moved as a part of the 1976 survey.

He stated it was a mistake to put these buildings that close to a power line. The previous owner bought this property in 1976 from relatives. In all this time it has only been agricultural land. It was not important to see where the easement was until they start putting up buildings. He stated the power company has hired Wright Tree Service to brush and mill the entire 200-foot easement centered on the power line since at least 1976. The clearing is centered on the power line center line, not 35 feet east of it. This is the defacto easement. He stated this project is being partly built on land that has been brushed for years and defoliant is applied after brushing. He stated with a clearance of 100 feet from the transmission line, the project could not be built.

He stated the Minnesota Public Utilities Commission directs and permits placement of lines require a clearance space of 100 feet on each side for safety and minimizing the electric fields. The clearance has been maintained by the power company. If near the line in humid weather, snow or rain, people can hear the hissing and popping of the electrical breakdown. Sometimes the purple glow of the discharge at the insulators can be seen. He asked if they could imagine putting housing next to this. He commented if parking a car underneath running your hand lightly over the top of the car, you can feel a jolt. When he parks his tractor under it in a couple of days the battery is killed.

Mr. Gibbens stated the Applicant said at the Planning Commission meeting that he thought 20 townhomes would be priced at \$350,000 to \$400,000 and would likely be owner occupied. Unless there is an Owners Association with rules forbidding rentals, they would likely see a situation where the Developer retains enough units to control the Owners Association and rents units out and does not pay Association fees. Actual owners would have to make up the shortfall. He hoped the Council denies the project, it does not fit. The land was sewer and water for the purpose of running a sewer to the school and getting it paid for by taxes on the surrounding land. This land was not appropriate for a job like that.

Mayor Bartholomew stated there are some issues with proximity to power lines, the transportation study, and additional homes. He asked for information on those. Interim Public Works Director Eckles responded the primary issue at the intersection is visibility. The number of vehicles leaving the new property was looked into and vehicles traveling on Cahill. The project met all warrants for safety.

City Planner Hunting stated there is not any provision in the Zoning Ordinance to address or say there should be a minimum distance separation. It is not typically looked at. Mayor Bartholomew stated there was an easement question and concerns about the easement for the power company. He asked for more information.

Mr. Mahacheck stated a lot of time was spent on the entrance from Old Concord and was not a feasible option. Mr. Molinaro stated the powerline easement is a recorded document with the County, the document was researched and brought up through the Title Company. The easement was located on the survey work and is a permanent recorded easement from 1968. They were checked by the County and by the power company, both have confirmed the location of the easement is correct in the way it sits on the plan. Assistant City Engineer Dodge stated this is handled by a Registered Land Surveyor with the State of Minnesota. With the power lines and the street, the Applicant is responsible for getting a Permit and approval from the power line company.

Mayor Bartholomew stated density and the issue of putting the development in the area makes sense to him for transition. He felt it was a good fit and would support it. It is a good product, good transitional item, adds density to the area. All questions and concerns can be followed up on with the appropriate approvals.

Councilmember Murphy asked what the landscaping would look like on the entrance to Cahill from the east and west side. He asked if the east side were where the vegetation would need to be maintained and if the west side would be lawn. City Planner Hunting responded the vegetation proposed is minimal, there would be a tree on either side of proposed Street A. One is off the corner of the building and one directly opposite. There would be trees in the backyards for screening and would be a distance away from the curve and the property line. This information can be verified. Because it is in an Association there would be maintenance of the perimeter of the site.

Assistant City Engineer Dodge stated he noted they would have to review this going into the final plat. If needed they could require a Restricted Use Easement to expand through the area where the sight distance needs to be maintained. That way it can be enforced by the City. Trees cannot be planted in a Restrictive Use Easement. His recommendation is this be further reviewed by the time it comes back for final plat. Mayor Bartholomew liked the idea of adding the Restricted Use and to look into adding that as a condition as they get to final plat.

Mr. Mahacheck stated there will be a Homeowners Association that will be responsible for maintaining the area.

City Planner Hunting asked if the Council wanted to add a condition about the Restricted Use Easement in the boulevard to help maintain site visibilities. Mayor Bartholomew responded he was fine with adding it at this time. City Planner Hunting stated it would be easier if done now. He believes it was in the City Engineer comments and could be added as a condition.

**Motion by Gliva second by Murphy to approve ALLIANT VENTURES III - The following for the property located on Cahill Avenue, west of Inver Grove Trial:**

- 1. An Ordinance 1406 to Rezone the property from E-1, Estate Residential to R-3B, Multiple Family Residential.**

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

**Motion by Gliva second by Dietrich to approve ALLIANT VENTURES III - The following for the property located on Cahill Avenue, west of Inver Grove Trial:**

- 2. A Resolution 2021-131 relating to a Preliminary Plat for a 20-lot townhome development to be known as Pine Bend Estates 2nd Addition.**

**Ayes: 4**  
**Nays: 1 (Piekarski Krech)    Motion carried.**

Councilmember Murphy asked if this the next item is the one that was amended. Mayor Bartholomew asked which item the condition was placed on. City Planner Hunting responded it could be added to both the Preliminary Plat and Conditional Use Permit. City Attorney McCauley Nason stated there was a condition added to the Resolution approving a Preliminary Plat approval. It can also be added as a condition to the Conditional Use Permit.

**Motion by Murphy second by Gliva to approve ALLIANT VENTURES III - The following for the property located on Cahill Avenue, west of Inver Grove Trail:**

**3. A Resolution 2021-132 relating to a Conditional Use Permit for a multiple family development.**

**Ayes: 5**

**Nays: 0 Motion carried.**

**Motion by Dietrich second by Gliva to approve ALLIANT VENTURES III - The following for the property located on Cahill Avenue, west of Inver Grove Trail:**

**4. A Resolution 2021-133 relating to a Variance from front yard setbacks and building separation.**

**Ayes: 5**

**Nays: 0 Motion carried.**

**G. BUILDER LOT GROUP (PELTIER RESERVE) - Consider the following requests for property located at 7250 Argenta Trail and 1266 70th Street:**

**1. An Ordinance to Rezone the property from A, Agricultural to PUD, Planned Unit Development. Ordinance 1407**

**2. A Resolution relating to a Preliminary Plat and Preliminary PUD development plan for a 126-lot single family subdivision and a 180-unit apartment building. Resolution 2021-134**

City Planner Hunting stated this is a 124-unit proposed single family lot and a 180-unit apartment building. In light of numerous emails and resident concerns in the northwest area, Staff asks Council to table action on the Application until the May 10<sup>th</sup> City Council meeting. Staff has had meetings with the Applicant and would like the additional time to explore options for a possible park solution. Staff would present the whole application presentation at the May 10<sup>th</sup> meeting.

Mayor Bartholomew asked if the Applicant was in favor or online to agree. City Planner Hunting responded the Applicant is available and is aware and understands this to be Staff's recommendation.

Steve Soltau, Builder's Lot Group, 8170 Old Carriage Court, Shakopee, stated they are in concurrence with the recommendation to table. It has challenges, they have spent over eight months to get here and spent time and money researching and working with Staff to get to this point. They met with Staff and talked about the urgency to move matters forward.

City Attorney McCauley Nason stated if tabling were the Council's direction, she would look for a Motion to continue all Applications. There are three:

1. Rezoning
2. Preliminary PUD
3. Preliminary Plat Application

Continue all Applications to the May 10<sup>th</sup>, Council Meeting with direction to Staff to work with the Developer to discuss and consider options for inclusion of a small park potentially within the proposed plat area. The Council would be asked to extend the 60-day decision deadline for decisions on all three Applications to 120 days to provide adequate time for Staff to work with the Developer.

**Motion by Piekarski Krech second by Murphy to continue to May 10<sup>th</sup> BUILDER LOT GROUP (PELTIER RESERVE) - Consider the following requests for property located at 7250 Argenta Trail and 1266 70th Street:**

**1. An Ordinance to Rezone the property from A, Agricultural to PUD, Planned Unit Development. Ordinance 1407**

**2. A Resolution relating to a Preliminary Plat and Preliminary PUD development plan for a 126-lot single family subdivision and a 180-unit apartment building. Resolution 2021-134**

**to the May 10, 2021 City Council meeting.**

**Ayes: 5**

**Nays: 0 Motion carried.**

**Motion by Piekarski Krech second by Gliva to extend the 60-day deadline to 120 days.****Ayes: 5****Nays: 0      Motion carried.*****Administration:*****H. Consider Third Reading, Ordinance Amending City Code Related to Council Meeting Times. Ordinance 1408**

Interim City Administrator Heather Rand stated this is the Third and Final Reading for the intent to change the meeting times. Current Council Ordinance starting time for Regular City Council Meetings is on the second and fourth Monday of the month beginning at 7:00 p.m. This Ordinance would change the start time to 6:00 p.m. If approved, the 6:00 p.m. start time would begin on May 10, 2021.

**Motion by Gliva second by Murphy to approve the Third Reading, Ordinance 1408 Amending City Code Related to Council Meeting Times changing the time from 7:00 p.m. to 6:00 p.m. beginning on May 10<sup>th</sup>, 2021.****Ayes: 4****Nays: 1 (Piekarski Krech)      Motion carried.****I. Consider First Reading, Ordinance Amending Specific City Licenses due date from January 1st to May 1st. Ordinance 1409**

City Clerk Rebecca Kiernan stated this is the First Reading for an Ordinance change specific to City Licenses, specifically: Massage Business, Massage Individual Therapist, Motor Vehicle Sales, Rubbish Haulers, and Service Stations. She proposes changing the License to be May 1<sup>st</sup> through April 30<sup>th</sup>, instead of January 1 through December 31<sup>st</sup>. She stated the reason being is on even years there is an Election that runs during the same time most of the Licenses come back to the City. Her proposed fix is to move the due dates to accommodate for the extra work in the fall. No unfavorable comments have been received.

Councilmember Piekarski Krech commented this seems pretty clear cut, she would be happy to suspend the rules and do it in one reading instead of three.

Mayor Bartholomew asked if there would be a long License year for those coming up. City Clerk Kiernan responded she would make it be a part of the year, from December 31<sup>st</sup> because there is not an Election. This would be a short year.

Councilmember Dietrich stated the City Clerk has said she has not received any feedback. She asked if all people have been notified. City Clerk Kiernan responded notifications were sent out. Councilmember Dietrich asked if this was sent via email or letter. City Clerk Kiernan responded an email was sent out.

Councilmember Gliva asked how suspending the rules works. Mayor Bartholomew responded the rules are suspended and all three Readings are taken in one vote. Councilmember Murphy agreed it was a good idea that should be used more often. Councilmember Piekarski Krech stated for most Ordinances they want to give the Public time to react. With this one, there is not a lot of public input, it is the people who have to pay the Licenses. This just changes the date they pay them.

**Motion by Piekarski Krech second by Gliva to suspend the rules and take all three Readings at once.**

City Attorney McCauley Nason stated this requires a unanimous vote. She stated an Ordinance may be presented, read, and passed at any one Council meeting if the rules are suspended by unanimous vote of the whole Council, the Ordinance may be passed by majority. The first Motion would be as directed. If passing unanimously, the second Motion would be on the Ordinance itself at this meeting and would be the first and final reading.

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

**Motion by Piekarski Krech second by Gliva to approve all Three Readings, Ordinance 1409 Amending Specific City Licenses due date from January 1st to May 1st.**

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

**7. PUBLIC COMMENT:**

Dave Gibbens, 9655 Inver Grove Trail, gave a handout for the Council Members to the City Clerk. Mr. Gibbens referenced the pond in the center of the Pine Bend Estates project stating his property is located right next to it. He stated he received water flow from the ditches along Inver Grove Trail and Concord until about 1992. In 1992, Kevin McCarthy, City Engineer and BRW planned the rerouting of watersheds. Storm sewers were put in. At that time, the water level was approximately 850-853. After Concord was redirected and Walmart and other projects went in, watersheds were rerouted, and an upper pond was built in the MnDOT property west of the project just approved by Council.

He stated with all that water, they had an excess coming over. The pond by his home came up. Over the years the City raised his driveway two feet on two separate occasions, in 1995 and 1998. In 1998 the water level got up to 860.6 as a maximum. Another foot and it would be high enough to go over Inver Grove Trail. In the pond across the way, there is a water gate that was put in badly. It never held water back. He stated information was gathered and Barr Engineering was hired. Barr took his information along with the rainfall information and came back with a report saying they were causing the problem. He stated the pond going up to 860 ended up killing four Cottonwood trees that were 11 feet around and several 100-year-old Oak Trees.

He stated the pond across was restructured. He recommended putting in an emergency overflow at the south end where Cahill goes across. The only inflow he has is from the east side of Old Concord. He stated the pond across the way no longer empties into the pond by his property, but the elevation is 845. When the elevation went down that far he had over 1,000 fish and minnows winter killed. He lost wading birds. The pond is now shallow and heats up by the sun and turns green. He felt that would be unattractive to the new project going in.

Mr. Gibbens asked the City to modify the pond across the way to put the proper amount of water back into the pond by his property. There is no longer any inflow from Inver Grove Trail. He stated the City needs to deal with the issue because one of the neighbors' yards and basement has flooded from water coming down the street that used to go into the pond by his home. He asked to get the Engineering Staff to fix the water flow problem and make it adjustable. He stated he has spoken to City Engineer Tom Kaldunski twice a year and has not had any traction and is why he is present this evening.

Councilmember Piekarski Krech stated she contacted Mr. Kaldunski about this and needs contact information from Mr. Gibbens so they can have a discussion.

**8. MAYOR AND COUNCIL COMMENTS:**

**9. EXECUTIVE SESSION:**

**A. Closed session pursuant to Minn. Stat. § 13D.05, Subd. 3(b), for a confidential attorney-client discussion concerning pending litigation in the matter City of Inver Grove Heights v. Ace in the Hole Real Estate LP, et al., Court File No. 19HA-CV-21-1069.**

City Attorney McCauley Nason stated the Council is asked to make a Motion to go into closed session pursuant to Minn. Stat. § 13D.05, Subd. 3(b), for a confidential Attorney-Client discussion concerning pending litigation in the matter City of Inver Grove Heights v. Ace in the Hole Real Estate LP, et al., Court File No. 19HA-CV-21-1069. The closed meeting will be held in Council Chambers and would commence immediately upon the Motion. Once the closed meeting is completed the City Council would reconvene the open meeting portion of tonight's Council meeting in Council Chambers. With no further items on the Agenda, once back in open session the Council would adjourn the meeting.

**Motion by Murphy second by Gliva to move into Executive Session at 9:31P.M.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Piekarski Krech second by Dietrich to adjourn the Executive Session at 9:46P.M.**

Minutes prepared by Recording Clerk Sheri Yourczek