

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, SEPTEMBER 28, 2020 - 7:00 P.M. - 8150 BARBARA AVENUE**

In Person Meeting and via Zoom (Hybrid Meeting)

1. CALL TO ORDER:

The City Council of Inver Grove Heights met in regular session on Monday, September 28, 2020, both in person and via Zoom Video Conferencing (Hybrid Meeting). Mayor Tourville called the meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

2. ROLL CALL:

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

Present Via Zoom Video Conferencing: Technology Manager Gade and Associate City Planner Botten.

Mayor Tourville stated thoughts and prayers are with those in the western United States who are suffering greatly. First Responders, Fire Fighters, and Healthcare workers. The families and loss of homes is tragic.

3. PRESENTATIONS:

There were no presentations.

4. CONSENT AGENDA:

A. Minutes from the August 24, 2020 City Council Meeting.

B. Disbursements for Period Ending September 22, 2020.

C. Consider Approval of Rental Licenses. **Resolution 2020-195**

D. Consider Approval of Personnel Actions.

E. Consider Approval of Payment for Rich Valley Crack Sealcoat Program.

F. Consider Approval of City Facility Preventative Maintenance Contractors.

G. Consider approval of GPS Bi-Polar Ionization Air Cleaning Devices.

H. Approve a **Resolution 2020-196** relating to the Development Agreement, Storm Water Maintenance Agreement, and related agreements for the CUP amendment to the Prairie Estates housing project located at 6121-6199 Carmen Avenue (Prairie Estates, LLLP).

I. Approve a **Resolution 2020-197** relating to a Variance for fence heights on a corner lot to construct a fence 48 inches high whereas 42 inches is the maximum allowed. Property located at 7605 Boyd Avenue (Erick & Jill Morse).

J. **Resolution 2020-198** Approving Purchase Agreement with James Peltier for Purchase of 6.41 Acres of Vacant Land and 0.38 Acre Remnant Strip of Land within Tax Parcel Identification No. 20- 00700-06-012.

K. Consider Pay Voucher No. 2 for City Project No. 2016-09G - 60th Street, 62nd Street, and Bacon Avenue Improvements.

L. Consider Change Order No. 1 for City Project No. 2016-09G - 60th Street, 62nds Street and Bacon Avenue Improvements, Modifications to the Substantial and Final Completion Dates.

M. Consider Change Order No. 1 and Pay Voucher No. 1 for City Project No. 2019-05 - Sleepy Hollow Park Storm Sewer Repair.

N. Consider Final Compensating Change Order No. 1, Final Pay Voucher No. 3, Engineer's Final Report, and **Resolution 2020-199** Accepting Work for City Project No. 2019-09C - Cahill Avenue Mill and Overlay (Concord Boulevard to Inver Grove Trail).

O. Consider Pay Voucher No. 3 for City Project No. 2019-09D - 64th Street Area Improvements.

P. Approve Custom Grading Agreement for 4045 60th St. (Lot 13, Block 1, Dawn Way Ridge).

Q. Consider a **Resolution 2020-200** Ordering Feasibility Study, Accepting Engineering Services Proposal IPO 39 from Kimley-Horn & Associates, Inc., Accepting Proposal from Metzen Appraisal Services for Assessment Benefit Analysis, and Authorizing Geotechnical Services for City Project No. 2020-09D – Delaney Circle and Delaney Court Improvements.

R. Consider **Resolution 2020-201** Accepting Proposal for Stormwater Review Services from Barr Engineering for the CDA Development (6300 Concord Blvd.).

S. Consider **Resolution 2020-202** Accepting Proposals and Authorizing Consultant Professional Engineering Services for the Canvas at Inver Grove Heights Development.

T. Consider **Resolution 2020-203** Establishing Parking Restrictions on Carbon Court and Accepting Barr Engineering Construction Services Proposal for Pine Bend Estates Development.

U. **Resolution 2020-204** Authorizing Appropriate City Officials to Execute an Agreement to Enter into a Professional Service Agreement with HKGI for Professional Planning Services to Develop a Small Area Plan for a portion of the Northwest Area Overlay District at a Fee not to exceed \$50,000.

Motion by Bartholomew second by Perry to approve the Consent Agenda.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

Loel Lowry, 1680 Atwater Path, thanked Mayor Tourville for his length of time on the Council.

Mr. Lowry stated there is an easement between his and the neighbor's home that goes down to Stark Lake. The area has the following issues:

- A storm tank is uneven and dangerous in the middle of the yard. He requested someone come out and look.
- An issue with two downspouts emptying into a drain. One is ten feet off where it should be and the other is off by 28 feet. Engineers were out last week and said that was the way it was designed.
- Rip rap down by the water with rocks is above water and looks terrible. There is a lot of debris building up. He commented the rocks should have been put under water. Machinery ruined his deck and damaged his home severely with \$150,000 worth of damage. This has not been resolved. It has been one year, one month, and eight days since the damage was done.
- Sod was placed and was beautiful, but the dirt underneath was not raked prior and is rough. He spoke with Assistant City Engineer Steve Dodge who said he has seen worse. The area is so bad he cannot walk on it to go into the backyard and has to go into the neighbor's yard to get back there.
- Grasses were planted down the slope of the hill that he was told they would be cared for. Nothing has been taken care of, the thistles are terrible.

He stated he doesn't know what to do, feels he is at a dead end, and cannot live there like that. If someone was hurt there, or even himself, he believes the City is liable.

Mayor Tourville responded Engineering was at the location last week. He asked if another meeting was set up between the Engineer's. Mr. Lowry responded he hasn't heard anything further. Due to that, he called this morning and asked if he could come to a Council meeting. It's a year later and he still doesn't have his windows or siding on his home.

Mayor Tourville stated correspondence was received from the Assistant City Engineer saying there was a meeting last week with another being set up for later this week. He asked the City Administrator to follow up with the Consulting Engineer, City Engineer, and insurance. Mr. Lowry responded he has not heard from the Assistant City Engineer. Regarding insurance, he thought the City held money back

until it was fixed. He stated Veit and the insurance company will not talk to him. He commented he finally turned it in to his insurance company and it's been a disaster ever since. He is frustrated with all he has put up with and wasn't home when all the damage was done to his house. He was unable to use his deck for eight months and his home is torn up. He suggested one of the new Mayor's go out and look at the area.

Commissioner Dietrich apologized and thanked Mr. Lowry for bringing this up. She stated she was not aware of the timing and how long this has been going on. She said she would personally work on a resolution. Mayor Tourville apologized for the delay.

Kelly Kayser, 1953 59th Court East, stated many people have stood before the Council utterly frustrated and angry over their interactions with City Staff. She understands. She commented Public Works Director Scott Thureen's response to comments she made at the last City Council meeting is her reason for being here. She stated she mis-spoke when comparing assessment amounts on different project types. Her point was one method had a lifespan of 20 years, the other, 50 years. She stated Mr. Thureen's misrepresented her thoughts on most other points. Her primary concern is and has been the amount charged for special assessments.

She stated they paid their assessment in 2016. Her interest in pavement management is born out of a desire to make the process of getting an improved street less arduous, less adversarial, less traumatic, and to find ways to make outcomes more equitable. She encouraged the Council to evaluate the manner Mr. Thureen disparaged her and her remarks with a defensive tone and an undercurrent of her not understanding the complexities of pavement management. She has spent numerous hours researching the Pavement Management Program looking at CIP's, feasibility reports, and benefit analysis appraisals. She has looked into the process used by other Cities and is familiar with the 429 Toolkit provided by the League of Minnesota Cities. She has spoken with experts, read Agenda packets, and watches or attends meetings. Her years spent in Commercial Banking has given her an understanding of complex financial matters. She was offended by Mr. Thureen's attempt to tell Council what she desires or understands.

She stated in 2016 Mr. Thureen made a reference regarding a conversation about the Stormwater Utility Fund after a Council meeting. It was a reference made in an attempt to locate cost savings for their project, which was half its original size. She asked if that was also a way to suggest Council doesn't understand either. She stated Mr. Thureen did not respond to suggestions for providing more information on the City website, nor to questions asked after her presentation. He dismissed her recommendation that a task force be created based on the false premise that she only care about assessment amounts.

Ms. Kayser stated passive aggressive tactics like those is called gaslighting. The underlying sentence is clear "City Staff knows what they are doing, they do not need anyone, especially residents, providing input or offering advice". She stated this is why a task force should be formed. To affect positive change by bringing different perspectives together to discuss problems and challenges. Planning can be gained by sharing ideas. A key area needing scrutiny is the condescension that hangs over the street improvement process. It may not be intentional, but residents are frequently put off by City Staffs attitude toward questions or concerns. She stated things are regularly passed on by saying the Council can only address certain concerns at a Public Hearing, which can delay or jeopardize a project. Much time is wasted when residents come to a Public Hearing in a state of frustration. When watching other Public Hearings there is rarely anything said, she asked why the Cities Public Hearings are so contentious.

Ms. Kayser stated City Staff is highly skilled when presenting the details of a project, but miss the mark with understanding residents' perspectives. Elements of the financial aspect are not explained well, and when hearing of a large assessment for the first time, receives no empathy. That is minimized with statements such as "nobody likes to pay assessments, it's a necessary evil" or "don't worry, you can put it on your taxes". She stated customer service is severely lacking and should be serving a customer until satisfied. Clear explanations, acknowledgement of emotions, a safe platform for expressing objections and opinions, and a real understanding of why things have to be the way they are go a long way. Customers are less likely to complain when they feel they have been treated fairly.

She rejects Mr. Thureen's claim that pre-feasibility meetings are fruitless because people only want to know how much they are going to pay. Education is a key component to good customer service. She stated Eagan sends residents a letter two years before a mill and overlay with cost estimates. Eagan residents paid less than 1/3 of the amount paid by Carter Court residences this year. They characterize a mill and overlay as a street revitalization not a major improvement. She was disappointed she had to call things out in this type of setting. She asked the Council to again consider her task force recommendation.

Mayor Tourville asked the City Administrator when the Pavement Management and Public Works Work Session would take place. City Administrator Joe Lynch responded Public Works Director Thureen would discuss the Pavement Management Plan at the Council's October Work Session. A Town Hall meeting is scheduled for November.

Ms. Kayser stated she has seen Mr. Lowry's property and he is not exaggerating. She asked Councilmember Bartholomew about a discussion regarding pavement management and 80-year streets. Councilmember Bartholomew responded in high level discussions the goal would be to get to that kind of a standard. He is in favor of the idea of resident task forces.

Councilmember Dietrich thanked Ms. Kayser for attending and stated she has spoken with Mr. Thureen and the Financial Manager. She commented the task force is an excellent idea.

Frank Rauschnot Jr., Woodville, Wisconsin, stated he watched Monday night's Council meeting about a data breach and felt it was a total disgrace to public service and people accused of alleged wrong doing. After dealing with administration against his business for many years, this is a set up for some kind of retaliation. He stated until Administration, City Attorney, and Councilmembers Bartholomew and Piekarski Krech are removed, this City will continue to fall off the cliff to a path of no return. There has been continued disfunction. Administration, Staff, and Council are great at trying to solve problems that don't exist. The problems that do exist take months and years to solve if ever. He offered Citizens a solution, he would do the City Administrator and Community Director's job for the price of one. There would be total honesty, transparency, employees wouldn't be afraid to do their job unless they are useless, instructed to do questionable things, or bullied by administration like they are now. He would restore common sense, save tax dollars, make improvements, bring business to the City, return rights and freedoms back to the people, and bigger garages. Fully fund Police and Fire Departments, fix any roads before any new projects for Parks and Recreation, and City buildings would be considered.

He stated he had a Councilmember tell him he didn't have the right education to be a City Administrator, his response was that he has had to deal with the educated people on the Council to run his business and the City into the ground with incompetency, stupidity, corruption, and no accountability for 23 years. He stated he has diverse knowledge of many things that would benefit the City. He commented what he has heard this evening is terrible. He stated if anyone wants to get in

touch with him, they could email him at FrankRauschnot@gmail.com or call at 651-338-4253. Anything will be confidential.

Kathy Fischer, AFSCME Union President, stated she was in attendance because the victim whose data was breached is an AFSCME Member. The employee requested a statement be read and included in the public record. Follows is a summary of the letter read by Kathy Fischer:

The employee whose information was shared felt the need to issue a statement. It should not be public as it contains private information. As a victim they are recommending anonymity and protection as a whistleblower. The nature of this situation has a false narrative, it is not a sexual harassment claim against the City Administrator. The breach involves an email sent to the City Administrator to express frustration with him and the HR Manager. It describes their neglect in dealing with a personnel matter. The email detailed a personal situation of sexual harassment by another employee and how the City Administrator and HR's neglect in dealing with the person impacted their health over time. This information was not to be shared, there was no permission, and was unaware it was read at the City Administrator's review until later questioned as a suspect in their own data breach. Councilmember Dietrich and her accomplice shared the personal story for their professional and political gain without consideration for the victim. The City Administrator provided a copy of the email to HR. It made its way to Councilmember Dietrich who read it during the review. The email may have been altered. One involved party requested having the matter addressed in a public forum and has attracted media attention. None of this was done with the victim or their protection in mind. It stated Councilmember Dietrich and accomplice did not show any concern for the victim or other Staff involved while others were put through the stress of an investigation into a data breach, they had no part in. These are top City officials who are entrusted to protect employees from these situations, yet are the perpetrators. The victim has not been included in the process and is unsure how many people have had access to the email. There is no consideration for the collateral damage caused by the ongoing office war. Using a victim's pain as a disposable tool in personal vendetta's is a gross abuse of power. The victim states they are not alone in saying employees are tired of the constant internal disfunction. Personal friends are crossing personal lines leading to protection of some while others are left to fend for themselves. Who can employees could trust but Council, top Officials, and HR. Much of the turnover in recent years is due to the culture in Administration. It is not a staffing problem; it is a leadership problem. Chaos does not leave Staff or residents with a feeling of confidence and distracts from important City business and reflects poorly on all. Leadership is not about being in charge, its about caring for those in your charge and recognizing a problem before it becomes an emergency. Nothing will change if nothing changes. Ms. Fischer stated that was the victim's thoughts.

Motion by Perry second by Piekarski Krech to receive the letter.

Ayes: 5

Nays: 0 Motion carried.

Mr. Rauschnot directed his statement to Councilmember's Bartholomew and Piekarski Krech saying he has been telling both about the disfunction for awhile and that changes need to be made. They have not listened. Councilmember Piekarski Krech disagreed that nothing has been done. He stated he has known City Employees that have complaints with the way things are run and that change needs to occur.

Councilmember Dietrich stated on September 9, 2019, the Inver Grove Heights City Council held a Closed-Door Executive Session to perform a special performance review of City Administrator Joe Lynch. She stated prior to the session, the HR Manager provided her with an employee's email to Mr. Lynch that was relevant to the Council's discussion. She stated she read that email to the Council during the closed session as it was necessary for the Council to understand the nature and content of

the message to fulfill its Governmental role as Supervisor of the City Administrator and to be effective in performing the review. To her knowledge, no member of the public or employee was privy to the contents of the email.

6. PUBLIC HEARING:

7. REGULAR AGENDA:

Administration:

A. Grant of Cable Television Franchise to Comcast of St Paul, Inc.

1. Consider Approval of Ordinance No. 1390 Granting a Cable Television Franchise to Comcast of St. Paul, Inc.

2. Consider Approval of Resolution Authorizing Summary Publication of Ordinance No.1390. Resolution 2020-205

3. Consider Motion Authorizing the commission to Execute Side Letter with Comcast.

City Administrator Joe Lynch stated this is regarding a new Cable TV Franchise Agreement with Comcast of St. Paul, Inc. Negotiations for a new Franchise Agreement have taken place over the last five years. After the Presentation, Council will be asked to consider the following three items:

1. Consider Approval of Ordinance No. 1390 Granting a Cable Television Franchise to Comcast of St. Paul, Inc. (It is asked to consider waiving the rule of having Three Readings and pass this item in one reading this evening).
2. Consider Approval of Resolution Authorizing Summary Publication of Ordinance No.1390. Resolution 2020-205
3. Consider Motion Authorizing the Commission to Execute Side Letter with Comcast Inc.

Jodie Miller, NDC4 Cable Commission and Town Square Television, stated their Attorney, Brian Grogan of Moss and Barnett, will give a brief Presentation. She thanked and commended the Council for their patience, tolerance, and having the will to continue the long process. The Franchise Ordinance is a ten-year Agreement that maintains strong customer service, rights of way protections, enforcement tools, and includes Performance Bond and Letter of Credit Security Fund. It retains resources including channels, technical support, and funding for capital purchases as well as High Definition channels for the PEG (Public, Educational, and Government) channels. It also provides a creative solution for continuing the in kind non cash requirements that are in the Franchise without the threat of having those values subtracted from Franchise Fee payments. The renewal will provide certainty and stabilization of PEG funding and allows Town Square Television and the Commission to continue to work on strategic planning for more sustainability as the cable industry changes.

She thanked Staff, Council, and citizens. She thanked two NDC4 Commissioner's; Chair George Tourville and Citizen Representative/Treasurer, Skip Jackson. Both have served many years on the Cable Commission. Several Inver Grove Heights residents serve on the Town Square Television Non-Profit Board of Directors, and many volunteers work productions and programs. She commented if residents have questions or concerns about Comcast or Century Link Cable Services, or anything on their property, calls can be forwarded to 651-352-6101.

Brian Grogan, Attorney with the Minneapolis Law Firm of Moss and Barnett stated he represents the Cable Commission which represents the City. His presentation follows:

- August 5, 2020 the Northern Dakota County Cable Commission unanimously approved the documents. This will not be effective until all seven member Cities approve and Comcast accepts.

FCC 621 Order:

- Order Adopted - August 2, 2019

- The FCC Order is under challenge in the six circuit Court of Appeals. Due to the Pandemic a decision is not expected until spring 2021.
- Worked in cooperation with Comcast to get a deal done despite that.
- This changes how things are addressed such as free service to City Hall or Schools and how to transport the signal and institutional network that served this Community and other member Communities.

Side Letter Agreement:

- Letter Agreement is separate and distinct from the Franchise.
- The Commission is the entity that executes this.
- A snap back provisions. If the Court overturns this FCC Ruling next spring, some of the provisions in the preexisting Franchise would snap back and continue to be enforceable against Comcast.
- If the FCC Order stands and the legal challenge is not successful, those provisions would be addressed as they are in the new Franchise.
- Institutional Network: Inver Grove Heights remains one of the seven Cities that is still using it more than others. There are four existing sites. An extension of that has been negotiated through year end and through the entire next construction season in 2021, for the City to be able to migrate the last four locations off of the I-Net and to find another alternative source for those.
- Payment plan in the Agreement handled by the Commission not the City.

Key Terms of New Franchise:

- 10-year Franchise. They are operating in year 20 of the prior Franchise. This is a shorter Franchise term for a rapidly changing industry.
- Continued 5% Franchise Fee identical to what is in the current Franchise. No change in the fee and position the City would be imposing on citizens. A tax neutral position.
- Definitions in the document were up to speed with the Federal Law and Regulations.
- If a competitor should come into town and grant them a more favorable set of terms. Comcast would be able to obtain some relief from this Franchise based on being able to equitably compete in the marketplace.
- City Code: Reference the City Code as the City team works to change the Code over the next ten years, this Franchise will flow with that if opting to make some right of way changes in the Code.
- \$100,000 Performance Bond.
- \$25,000 Letter of Credit.

These items are in addition to those already listed in the City Code:

- Strong Customer Service Standards.
- PEG Channels. Key goal and objective of the Commission was to migrate programming to a high definition format. Three channels would be in high definition, five would be in standard definition. Some may not want to pay the added fee for HD signal, they would still be able to receive the standard signal.
- PEG Fee. There is currently a PEG Fee in the Franchise of \$2.00. This would change to a percentage of gross revenues, almost mirroring the current Franchise. Capital dollars are used to buy new cameras, new presentation equipment, things used to produce quality cable programming.
- How the signal is delivered from location to location.
- How to go live from a local football stadium or graduation ceremony.

Commissioner Bartholomew asked for more information on the competitive equity issue regarding Comcast. Mr. Grogan responded Minnesota State Law dealing with cable television states if a City were to grant a franchise to a competitor, for example, Google wants to put Fiber into Inver Grove

Heights and they say they want a different Franchise. State Law says you cannot grant them a Franchise that has a different franchise area, charges a lesser fee, or creates different local PEG programming obligations unless also changing the requirements on the incumbent operator (Comcast). He stated their provision extends that beyond the three issues that State Law requires. Most of that Franchise would be obligated to require that to Google, or if they didn't, they would promise to go back and take those obligations off of Comcast, and bring them down to the level they would grant to the competitor.

Mayor Tourville stated this goes before all seven Cities, every City Council has to approve it, and all seven City Attorney's look over the documents. Comcast has already agreed to begin the process. Mr. Grogan responded that was correct. He stated all seven Cities are looking at the same document. Comcast has stated they are in agreement with the terms of the Franchise. If not modified and approved by the seven Cities, they will execute by these terms.

Councilmember Piekarski Krech thanked Mr. Grogan and stated she was impressed.

Mr. Grogan stated that Mayor Tourville has been with the Commission for over 20 years. They appreciate his service and the objectives he set.

City Attorney Bridget McCauley Nason stated the following four action items for consideration:

1. Motion to suspend the rules under the City Code Ordinances, which is an Ordinance to require three readings. That requirement can be suspended by a unanimous vote of the Council. If the Motion passes, the next Motion would be:
2. Consider Approval of Ordinance No. 1390 Granting a Cable Television Franchise to Comcast of St. Paul, Inc. by majority vote.
3. Consider Approval of Resolution Authorizing Summary Publication of Ordinance No.1390. **Resolution 2020-205.** This would save the City from having to publicize the entire Ordinance.
4. Consider Motion Authorizing the Commission to Execute Side Letter with Comcast.

Councilmember Piekarski Krech wanted to verify this was checked over, is in order, and allowed to take place quickly. Three readings won't change anything. City Attorney McCauley Nason responded the Agreement has been negotiated by Mr. Grogan on behalf of the Member Cities. For this to work it is required they all be unanimous. She asked Mr. Grogan for a timeline. Mr. Grogan responded the Council would determine when this would need to be wrapped up. The sooner it can be wrapped up, they would like to get Comcast to execute it so they can move forward with the new Franchise.

Motion by Piekarski Krech second by Perry to change protocol to do the reading in one reading instead of three readings.

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech second by Perry to Approve Ordinance No. 1390 Granting a Cable Television Franchise to Comcast of St. Paul, Inc.

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech second by Dietrich to Approve Resolution 2020-205 Authorizing Summary Publication of Ordinance No. 1390.

Ayes: 5

Nays: 0 Motion carried.

Motion by Bartholomew second by Dietrich to approve Authorizing the Commission to Execute Side Letter with Comcast.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville requested an update on the other Cities. Ms. Miller responded the City of Inver Grove Heights is the fifth City to have voted at a Council meeting. Sunfish Lake and Mendota Heights remain and will take place in early October.

Community Development:

B. Consider a Resolution relating to a Variance to allow an accessory dwelling unit 1,300 square feet in size whereas 1,000 square feet is the maximum allowed. Property located at 7346 Bancroft Way (James Polak). Resolution 2020-206

Associate City Planner Heather Botten stated the request is for property located east of Babcock Trail on Bancroft Way. Zoned R1C, single family residential district. The Applicant is requesting an Accessory Dwelling Unit (ADU) to be located in the lower level of an existing house. It would be 1,312 square feet in size, where 1,000 square feet is the maximum allowed. The ADU Ordinance was created in 2015 to provide a secondary living space for a family member or potential rental. The Ordinance was created with a list of standard conditions, one being a minimum and maximum size to keep the unit subordinate and accessory to the principle use while providing a reasonable living space.

She stated the Applicant's house was built in 1993 and has a footprint of 2,000 square feet. The Applicant recently finished the lower level of the house after the ADU Ordinance was created. There are no building additions being requested and access to the ADU is through the main level/main entrance. There is a three-car attached garage and plenty of off-street parking. She stated Staff does not believe there is sufficient rationale to support the Variance criteria, as when finishing the lower level of the home, a portion could have been constructed to comply with the 1,000 square foot maximum. Approving could also set a precedence for other ADU's in the City. Staff recommends denial of the request. The Planning Commission had a Public Hearing September 15th and recommend denial based on the lack of practical difficulty and concern about setting a precedent.

Councilmember Bartholomew commented if they do not call it an ADU and someone wanted to redo their basement there wouldn't be a problem. Because it's being considered ADU it falls under the requirement of 1,000 square feet. Associate City Planner Botten responded the Applicant is requesting it be an ADU and also wants a complete kitchen facility. A single housekeeping unit would be complete. The lower level would have a full bathroom, sleeping area, living space, and wet bars. Making it a complete kitchen would have a stove and oven feature. They are wanting to call it an ADU with a complete kitchen. Councilmember Bartholomew asked if he wanted to have an ADU and wanting to redo the basement with a wet bar, bedroom, living room and a kitchen, if the current Statute would preclude him from doing that. Associate City Planner Botten responded if wanting to consider it an ADU and did not have the complete kitchen.

Councilmember Piekarski Krech stated if it is a rental unit it would have to have a separate furnace room and water heater. Associate City Planner responded she was unsure for Building Code. If it were a separate detached structure on acreage, they have to have a shared well/septic, it's not separate. Her understanding was they have one unit for heating.

Mayor Tourville stated some homes in the City have multiple furnaces or water heaters. ADU becomes an issue with the single entrance. This was looked into a few years ago as a way for relatives to have a

separate living space. He stated there are homes in the City where people have put kitchens in the basement and may have a stove. He commented this may need to be looked into further for a possible change but the subject has been discussed along with tiny homes.

James Polak, 7346 Bancroft Way, stated one issue he has heard is that they do not want to set a precedence. That is what Variances are for. The home would not become a duplex. He stated the Commissioner's and Staff had difficulty finding the practical difficulty. In order to get down to the ADU maximum limit so they could have a full kitchen he would have to construct a void somehow. The impracticality of doing so is the practical difficulty. He commented he didn't feel the Commissioner's noticed this. He stated it was built before the ADU and was discovered by accident that adding a stove would complicate matters. He didn't feel it was well communicated.

Councilmember Bartholomew commented in order to have a full kitchen in an ADU, it cannot be done with 1,000 square feet and 1,300 square feet was needed. Mr. Polak responded it could be done with either one but asked where the void space would go to reduce 1,300 square feet to 1,000. The architecture didn't allow for that type of concept when the home was built. He was unsure what he could do to get down to 1,000 square feet. Councilmember Bartholomew stated the practical difficulty is the existing design where they want to put the ADU, and the ADU wishes to have a kitchen. Practical difficulty is the design today in a current building that is not going to be a duplex and getting it down to 1,000 square feet. Mr. Polak agreed.

Mayor Tourville stated adding the stove becomes a functional kitchen. He stated if it cannot become a duplex you want to be able to allow use of it to its fullest. He stated they looked into the fact that it had to be a relative in order to be a part of another structure on the property. He commented it may not be all bad to have to go on the upper level to use a stove. He asked if this was something that needs checking into further.

Councilmember Piekarski Krech stated the issue is the difference in what they were talking about when discussing an ADU originally. The original footprint of the house is not changing. Mr. Polak responded it is not a walkout. Councilmember Piekarski Krech responded if that wording could be put into the document, she has no problem. It's an existing footprint, not adding on, utilizing space that is there, and does not have a separate entrance. This is not likely to be rental property. She asked if they were able to add this to the wording. She understood about setting a precedence, this keep with the actual footprint of the home they are not adding on. Mayor Tourville agreed this uses what is there.

Mayor Tourville asked if looking at this around the premise that it's not new construction, not built out, and is utilizing the same space stops some of the concerns the Planning Commission had. Associate City Planner Botten responded with the practical difficulties, this can be written with reasons why it is being supported and should help with not setting a precedent. That can be incorporated into the Resolution for approval.

Mayor Tourville asked the Council if they could make a condition that it cannot be used as a Duplex. Mr. Polak responded he has no problem with that. Councilmember Perry stated in order to become a Duplex in the future would require a Rental License, which may not be approved. Councilmember Bartholomew agreed the logic is the existing footprint, not adding on. He asked if they could add the condition that it cannot be a duplex, the practical difficulty is they want an ADU. Without a kitchen, it is difficult to get the ADU with a kitchen if kept at 1,000 square feet. He commented adding the condition that it cannot become a duplex protects the neighbors and grants the use of the building as an ADU. He supports this.

Mayor Tourville asked if it can be added that it cannot be used as a duplex by someone who buys the property. Associate City Planner Botten responded yes. Councilmember Piekarski Krech agreed. Councilmember Dietrich commented it was unfortunate that Mr. Polak had to get this far planning before this came to light. She suggested working on the process for less hassle in the future.

Motion by Perry second by Piekarski Krech to approve Resolution 2020-206 relating to a Variance to allow an accessory dwelling unit 1,300 square feet in size whereas 1,000 square feet is the maximum allowed. Property located at 7346 Bancroft Way (James Polak) with the stipulations that it cannot be turned into a Duplex, stays within the existing structure, and does not have a separate entrance.

Mr. Rauschnot suggested adding it cannot be a Duplex onto the Title of the property. City Attorney McCauley Nason responded the Variance could be recorded against the property.

Ayes: 5

Nays: 0 Motion carried.

Mr. Polak asked if he had to do anything legally now that it is approved. Mayor Tourville suggested he call Staff to get information needed.

A short Recess was taken at 8:32 p.m. Mayor Tourville called the meeting back into order at 8:38 p.m.

Legal:

C. Meeting pursuant to Minnesota Statutes Section 13D.05, subdivision 2(b) for preliminary consideration of allegations or charges against an individual subject to Council authority.

1. Consider Acceptance of Investigative Report.

2. Consider discipline against employee.

Joan Quade, Attorney, Barna, Guzy, & Steffen, Ltd., presented the report on a potential data breach stating the City Council has the report containing private data. The meeting is open because Janet Shefchik has requested an open meeting to discuss these issues. An overview of the report will be given, Council has to consider the report and either, accept, reject, or modify it. The report states there was a data breach by Human Resources Manager Ms. Shefchik. There are six allegations in addition to the data breach of misconduct. She stated those were given by notice to Ms. Shefchik on September 22nd. Ms. Shefchik can respond and present any considerations to the Council. The following is information from the report:

- An investigation occurred, MN Statute Section 13.055, due to a potential concern that there had been a data breach under the Minnesota Data Practices Act.
- September 2019 in a closed Council Meeting, a Councilmember read portions of an email containing private personnel data.
- There was concern that a data breach had occurred and the investigation was done.
- The investigation determined the Councilmember did not receive or use the information outside of the closed session.
- The investigation found that Ms. Shefchik had committed a data breach and:
 - Used the private data for her own purposes.
 - Attempted to interfere in the investigation,
 - Attempted to interfere and undermine the investigation,
 - Tried to get the City to not pursue the investigation. Affirmative steps were taken.

Ms. Quade stated they knew there was a data breach because private data is contained in the email used at the closed Council meeting. There was no Government purpose for disclosure of the information by Janet Shefchik. She did not have a data request from anyone to give the information out, policy was not followed to protect the data, did not state she had a Government purpose at the

time despite stating she is an expert in Data Practices. She did not have a good City purpose that would benefit the City. She stated the investigation has shown is that Ms. Shefchik is working for her own private personal reasons against the City Manager Mr. Lynch. Mr. Lynch is not a subject of this investigation.

Ms. Quade stated they know it was Ms. Shefchik that released the data because the Councilmember came forward and told them of it on August 21st, 2020. She commented Ms. Shefchik had denied it all along and lied throughout the investigation, causing them to work with circumstantial evidence until confirmation was found that she had released the data. She tried to interfere in the investigation because there are emails and witness statements to support this. Ms. Quade stated that Ms. Shefchik told one of the witnesses that they do not need to talk with the Investigator and told another witness that the Investigator is working for the City Manager.

She stated Ms. Shefchik lied throughout the investigation and said the City should not investigate. If accepting the report, the Council must consider discipline. Discipline must be considered because HR Manager Janet Shefchik lied, breached data, did not follow policy in protecting data, interfered in the investigation, used her position to try to protect herself, undermined Investigators, and cost the City a lot of time, money, and consideration in this matter. She stated the City Manager did not tell the HR Manager to lie in an investigation, undermine an investigation, breach data, or delay the investigation. She commented the HR Manager's defenses would likely be that she has been caught in the lie and had a Government purpose. If there was a Government purpose she would have said so immediately and this investigation would not have needed to go anywhere. If a data practices expert, she would know there could not be retaliation. Everyone should have been told up front, by policy, and not released further. Those were not done until after she was caught August 21, 2020.

Ms. Quade stated it cannot be retaliation by Mr. Lynch because he did not instruct the HR Manager to do it. An HR Manager knows what protections she has under reprisal and whistleblower. This has cost the City a lot of money and now the Council is in the position to decide what to do when the investigation has revealed things about her conduct. She stated Council has an obligation to allow Ms. Shefchik and her Attorney to present evidence regarding the matter.

Councilmember Bartholomew stated the Statute they are trying to follow contemplates a data breach and asked if this release of an email is what is envisioned by the Statute as a data breach. Ms. Quade responded this is exactly what the Statute envisions. Private personnel data cannot be released. When there is a good reason to release it, there is a procedure and should be a Government reason to do so. Those were not done; no protections were taken.

Janet Shefchik, Human Relations Manager thanked Kathy Fischer for giving a voice to the person who sent the email. She commented she feels horrible for her. The following statements were presented to her on September 22nd:

- An employee wrote an email complaint to and about the City Administrator and herself.
- The City Administrator shared it with her because a portion of it spoke about her. She was understandably upset and disgusted with her boss, a Councilmember.
- It was later learned the Councilmember read it at the City Administrator's review. That is what commenced this investigation. A data breach is something that is associated with Cyber Crimes, not an email complaint.
- The purpose of an investigative report is to separate out fact. She stated she has read the 70-page report and while some is accurate, it uses words that reveal bias. For example, when talking about Joe Lynch it uses words like credibly. When dealing with herself, the Investigator showed disdain.

- In a years' time the Investigator did not seek an Advisory Opinion from IPAD (Information Policy Analysis Division) which is the State's Authority on this.
- There was no breach, suggestion data, or otherwise. Instead of seeking an Advisory opinion, the City took on a costly and lengthy investigation. She stated she did not delay an investigation. She set up the meetings with the three individuals in the same day she was requested to. The Councilmember refused to meet with them, which was her right, it was clear she shared the contents of the email with her.
- The two main conclusions in this report are based on inference and without factual support. The Investigator claims to know her intentions and claims the data was used for non-Governmental purposes. If this was a non-biased report it would have based the conclusion on evidence. There is no evidence to support either of those conclusions.
- It proves to her the data breach investigation was to retaliate against her and intimidate female Staff and Councilmembers to keep them from talking so men control the narrative.

Ms. Shefchik stated the following to the allegations in Scott Lepak's letter to her and her response:

1. The actions in taking the August 13, 2019 email from an employee and proactively providing it without redaction to a Councilmember without the Councilmember making a formal request for it constituted a violation of the City Data Practices Policy.
 She stated she was given one of the copies Joe Lynch had given out without redaction. She asked him if she should have a copy and he said he wanted her to see it. It was not a document for a personnel file. It was an email about herself and a few others, she was a subject of the data. The Councilmember asked to meet with her outside the office to discuss staffing. She stated she has a right to discuss a complaint about herself with a Councilmember because her review included baseless claims. The Councilmember asked her for a copy. She stated she would like to ask the Councilmember if she remembers asking her about it because that has been purposely left out of the report. Councilmember Dietrich responded she did ask for anything in preparation for Joe Lynch's review. Ms. Shefchik stated Councilmembers are the ultimate authority of the City. She stated she had a business need to know under Minnesota Statutes 1305 Sub. 5. and did not believe to be in a position to say no as the Councilmember seemed concerned about the email contents. In the report she read that Joe Lynch also gave a copy of the unredacted email to a Department head to whom the HR Manager does not report. This was a data breach concerning information about herself. The Investigator requested Ms. Shefchik set up an interview with the Department head. When asked why, the Investigator would not tell her. Ms. Shefchik stated that the Investigator already knew that her data had been breached. She kept the confidences of the Councilmember because both were concerned about retaliation which is documented in the report. Her and two others were interviewed by one Investigator, Mr. Lepak interviewed the Councilmember. She stated the Councilmember contacted her asking who Mr. Lepak was and stated he intimidated her into thinking she had done something wrong. She said Mr. Lepak stated he didn't like having to censor Councilmembers but he had done it before. The Councilmember stated if censored it would affect her run for Mayor and was going to have to get a Lawyer.
2. Your purpose in providing the email to the Councilmember was not for a purpose described in procedures by MN Statute 1305 Sub. 5.
 She disagrees. As a data subject she has a right to question and challenge the accuracy of data about herself under MN Statute 1304 Subd. 4. As a Councilmember, Ms. Dietrich had a right to request a copy of the data. Under Data Practices, Councilmember Dietrich bore the responsibility to keep it private as classified, which she has. It was the Councilmember's choice to read it in Executive Session, which was something she was unaware took place or that it was the intension, until the City Administrator told her. She stated in addition to telling the Council that she discussed the contents with Councilmember Dietrich she told the City Administrator she discussed the contents with Councilmember Dietrich because it contained information

about herself. She stated there was no need to extend a costly investigation with this information.

3. Your actions in keeping an unredacted copy of the email outside of the City facility constitutes a violation of the City Data Practices Policy and statutory safeguards.
She stated she assumed it was in her working bag which is where she put it after meeting with the employee who raised the complaint. She routinely takes work home as do many others. She stated she still has the original and was unable to show it because it contains private data. It has Joe Lynch's name on the top because it was an email to him in which he gave to her.
4. Your actions in accessing the email in order to give it to the Councilmember was not for a City purpose but rather to advance your own personal interest of attacking the employment of the City Administrator based on your personal dislike of him.
She stated she didn't access the email. She was given an unredacted hard copy. She has never had access to the City Administrator's email. She commented whether or not the author of the email intended for anyone to see it does not determine the classification of the data. The City Information Technology Policy the email author signed and acknowledged states there is no assumption of privacy when using City email. She volunteered the information via a complaint and was not entitled to informed consent as said in the report. She stated this was not suggestion data, it was a complaint. She commented that saying she discussed the email because of her dislike of the City Administrator or advancing her own personal interest is unfounded, especially since the report repeatedly lists her name about her concern over seeing her name in the email. Nothing in the report hints at a dislike and bias is evident. She stated she does not like being victim of discrimination and retaliation. The Governmental purpose is to ensure State and Federal antidiscrimination and retaliation laws and harassments laws are complied with, especially by someone in Human Resources. She does not like being set up for wrongful termination. She wants women in this City to be heard, respected, believed, and for the fearmongering and intimidation of women to stop. That includes Staff and Council. She stated she wants leadership to lead. She commented she is the only one that has been irreparably harmed by this process. She represented the City when the author of the complaint email sued the City for damages. The author's email placed blame on herself four years before she started with the City. It makes the baseless claim that she somehow rigged the job classification process. The City did not protect her, but she protected the City because that is her job. If Googling the name Janet Shefchik, the headline as a HR Manager being investigated for a data breach comes right up. She will not even be able to get another job. This investigation has eroded her credibility and reputation of trust which is critical for a career in HR. She has spent \$10,000 protecting herself from the City.
5. You are not candid and truthful during the investigation when asked to respond to the questions about whether you provided the email to the Councilmember.
She responded it is clear there is no fair process in the City. The City did nothing to protect her as a witness and participant in an investigation. This is for a previous investigation she participated in for which she believes is retaliation. There was no data breach. She asked why pay thousands of dollars to a law firm to produce a 75- page report. There has never been a data breach investigation in the history of the City. She asked if this was the first time someone read an email complaint about them that the author regretted them seeing. She stated when there was discussion of interviewing the Councilmember, she recommended they contact the League, which is the City insurer and other State Agencies before proceeding, which is prudent when involving elected Officials. She encouraged the Council to go back and re-read the email. She stated she has tried to save the City from wasted expense and liability but her efforts have been ignored.
6. Despite knowing you were the person who supplied the email to the Councilmember, you utilized your position in Human Resources in an effort to impede the investigation. While acknowledging the email contained private data you recommended an investigation to

determine how the email reached Council and whether disclosure complied with the law. One witness (same complainant) that she did not have to talk to the Investigator and told another that the Investigator aimed to serve the City Administrator, not the City.

She did say she spoke with the Councilmember and does not remember telling anyone they didn't have to talk with the Investigator. She told a Department head she pulled back from using Mr. Lepak's office because she did not feel they represent the Cities best interest. She has worked with many Employment Attorney's over the 30 years while working in HR, it is her professional opinion not to use them. She stated she understands the email sender regretted someone else saw it. This is discipline for something she shouldn't even be here for. She stated the Council is the deciding authority when it comes to Attorney recommendations. The women are speaking and have been for years, she asked if the Council was listening. She stated her female Attorney, Sarah McEllistrem, will speak about their legal response.

Mayor Tourville asked Ms. Shefchik if she would be submitting anything. Ms. Shefchik responded yes.

Sarah McEllistrem, Attorney for Janet Shefchik, stated Data Practices is a complicated law with many definitions and exemptions. This matter is about an email that was perceived to be a complaint, shared by two people. The Council is asked to make a decision about adopting the report, if adopted, if there would be discipline. Even though the alleged data breach occurred a year ago, the report was received 1 ½ days before they were demanded to have a response to Council in the packets. Due to the delayed report, there are no written materials in the packet from them.

She stated the first issue is if the Council accepts the report, it is incomplete, only half a report. The report is about an investigation of Janet sharing information with a Councilmember. The report repeatedly references that Ms. Shefchik shared her concerns with a Councilmember because she was upset, she was the subject of the data. The City Administrator shared the email with Ms. Shefchik because he thought she wanted to see it and gave her an unredacted copy. Ms. Shefchik didn't put it in the file because it was not personnel data. Personnel data is discipline, reviews, and letters of accommodation, not email complaints.

Ms. McEllistrem stated there were two shares to take into account. The first share was investigated. The second was a share by the City Administrator to a Department head, not her clients or his, Supervisor. It had no HR purpose, no business need to know. This information was not analyzed and not in the report. She stated they now know the City Administrator was not the complainant, there is no reason why he should not have been interviewed and wasn't asked about his role in an alleged data breach. The Investigator interviewed her client and other women, no male was questioned. The City Administrator was not interviewed because he was the subject of the data. So was her client. She stated noted by the Investigator on Page 9 of the report, they acknowledge that Ms. Shefchik never gave consent to share her data. The City Administrator shared it, but was not investigated. Same conduct, the woman is only investigated. She stated this is the definition of discrimination. The Council cannot adopt an incomplete report, or the Council can, but then is complicit in, or accepting of discrimination within the City.

She stated the second issue with the report is there is no data breach. The report summarizing the findings makes no sense. She commented on Page 15 of the report, the Councilmember had a business right to know, and statutory authority to see the data. If the Councilmember can see the data, she questioned how that is a data breach. She asked why Ms. Shefchik needed to protect data authorized to be seen, it was reasonable to provide the data to the Council, and was part of her job to do so as it was a complaint. She stated there is flawed logic to say there is a data breach when it is ok for the Councilmember to see it, and to disclose it to other Councilmembers. She asked if all had a right to see it, how is it a data breach.

Ms. McEllistrem stated the following two points in the report come up:

1. Unauthorized acquisition. The report states Ms. Shefchik accessed the email. She has stated she never accessed the email, it was not addressed to her, was handed to her, unredacted, by the City Administrator. He said he thought she may like to see it. He provided a copy to another individual, no business interest in knowing the information, was not an HR purpose. That individual doesn't work in HR. She stated if the City or Investigator were so convinced this was a data breach, why they didn't get the opinion of the State of Minnesota Information Policy Division as Janet Shefchik suggested.

She stated the Investigator says that Ms. Shefchik's response is untruthful. Her story has never changed from stating she provided the contents of the email to the Councilmember. She stated Ms. Shefchik was surprised the Councilmember had the email, does not recall giving it to her as she has the original email. The determination this was done, not in good faith, is based on inference. On Page 12 of the report it quotes "The Councilmember inferred that Ms. Shefchik meant the email be used in Mr. Lynch's review". She stated that is what is being used as evidence.

2. Whether or not there is discipline. There are three people in the report that state they fear retaliation. All women. The first is the author of the email who states she is concerned she would subject herself to retaliation. The second, Ms. Shefchik, raised the concern of intimidation and reprisal with the Investigator, but that is not addressed in the report. The third, the Councilmember, stated she had a concern for the safety of the employee.

She stated since 2014 the City of Inver Grove Heights has had ten and/or black/indigenous people of color employees that have left. This is more than double any geographically close City. Discipline will be seen as retaliation. If the HR Manager is to be disciplined for a supposed data breach, providing the contents to a higher authority, with a reasonable need to know, then the City must also discipline the City Administrator for a far more blatant act, or this is an issue of discrimination.

Ms. McEllistrem asked why there was an investigation into a pretended breach. Why they are not dealing with the subject of the email. The author of the email states "It is frustrating to me that the City seems more concerned with the leak of the email than the content of it". She stated this investigation is a distraction from the main issue that women in the City are not being treated fairly, equally, and are sexually harassed. Discipline towards her client is an act of discrimination and retaliation for witnessing and participating in a valid sexual harassment investigation that led to the City Administrator getting a three-day suspension.

She stated contemplating discipline on this flawed investigation is nonsense. The City Administrator was determined to have sexually harassed someone in City employ, violated work policy, and there are continued complaints about sexual harassment in the City and the Council is doing nothing about it. She stated Janet Shefchik's facts have never changed. She told the City Administrator that she spoke with the Councilmember about it. She stated this was a useless investigation at a costly expense to the taxpayers. She requested both matters are rejected with no action taken.

Ms. Quade stated they are trying to distract from what has actually been found in the investigation. She stated Janet Shefchik admitted she tried to undermine Investigators, told one of the witnesses that she doesn't use the Barna, Guzy, Firm because she believes they were doing the bidding of the City Administrator. That is not true. She participated in an arbitration in July 2019 with Ms. Shefchik which shows Barna, Guzy, was being used. She stated the comment that Investigators are doing the bidding of a particular person or discriminating against women is offensive. Saying the investigation isn't complete, didn't thoroughly look at this issue, doesn't understand the law in the area, or promotes discriminating against women. She stated she wouldn't permit this.

She stated the Investigation could have prevented the costs they say are unnecessary but are the result of a lie told by the HR Manager. She is the one that didn't admit she released the email. If she thought she had a Governmental purpose to release this email, she would have said so in September 2019. She stated it was said that Data Practices only relate to something like credit card fraud, but it preserves more than that. It protects against personal private data held by a Government entity. She stated if Ms. Shefchik would have come forward right away stating she gave the email to the Councilmember, requested doing it by policy, put it in writing to have a formal data request for the information. Proper protection and guidance should have been given to the Council by Ms. Shefchik so it is not released any further.

Ms. Quade stated once it is determined there has been a potential data release, an Investigation is done. They look for who the potential people were that released the information, those are interviewed. In the investigation it was determined there is circumstantial evidence because the HR Manager is still lying about whether she released the actual email to the Councilmember or not. This is why it takes more time, money, and energy for the City because this could have been stopped at any time by saying she released the email and saying she believes there is a government purpose. This was not done and wasn't admitted until Ms. Shefchik was caught lying. This places the focus on everyone else and does not look at what she did. She stated the biggest thing isn't the data breach, but an HR Manager that lies and interferes in investigations. She stated their law firm "doesn't have a dog in this fight", "they call it like they see it". The facts are that Janet Shefchik released data, didn't do it by Policy, didn't put protections in place, and lied and interfered during the investigation. Sexual harassment of women in the workplace has nothing to do with what is in front of the Council. Currently, there is a report about a data breach, an employee, and allegations of misconduct. This has nothing to do with sexual harassment, or gender.

Councilmember Bartholomew stated he doesn't make the connection that an email complaint is protected by private data. He asked where it becomes protected. Ms. Quade responded the email complains about things in the past. The victim's letter that was read by the Union Representative makes it clear that it was private data, she wasn't making a complaint she wanted investigated, she was making a general statement about two employees and why she didn't appreciate them. She stated the content contains private data, has employee names, and issues about what they have done. That is private personnel data. She stated Janet Shefchik admits it is private data but wants you to believe she had a Government purpose to disclose it. She didn't protect the data from further release, didn't do it by policy. Ms. Shefchik's behavior in not admitting she released the information is what lead to the investigation. The investigation also reveals other allegations of misconduct. Councilmember Bartholomew stated he is having trouble connecting that.

Councilmember Dietrich stated the City Administrator shared the email with another Department head, not protecting it from further release. She asked about him not protecting it from further release from that person and questioned where that email went, and why wasn't that looked into. Ms. Quade responded they know where the other email went, that was the Supervisor of the person who wrote the email, to see if there was anything further that needed to be done related to the content of the email. That is not seen as a data breach. It is also not a data breach for the City Administrator to give it to Janet Shefchik.

Mayor Tourville stated an employee sends an email to the City Administrator, with contents that are sensitive. He asked where the email should go. Ms. Quade responded if you go to HR asking for information, they have to ask the purpose by City Policy. They have to see if you are entitled to the information, have a Government purpose, what you want to use it for. In order to give it to you they have to follow City policy, and then advise you of what you can and cannot do with it. Depending on what is in the email, it may or may not be discussed in a meeting. It depends on the content of the

email. She stated as Mayor, if making the request and City Policy is followed, you may not be able to do anything other than read it, and may not be able to disclose it to anyone else. These are further protections of disclosure of additional data that Government entities have on people. She stated if there is data in there and is personnel data by definition of the Data Practices Act, there are protections in place about what you can and cannot do with it.

Mayor Tourville stated it doesn't matter whether a person is Mayor or not, all Councilmembers have the same power. He stated City Policy is if any Councilmember wants personnel data, the consent of three other Councilmembers is needed according to guidelines. Councilmember Dietrich stated the Mayor had said during the July 11, 2020 Open Session "Any personnel information has to be obtained with the ok of three Councilmembers, a majority". He did not cite any law or regulation for this but instead claimed to find it in the guidelines published by the League of Minnesota Cities. She stated those guidelines are not the law and do not govern this Council or City, the review of the City Administrator's performance was conducted and authorized by the Council.

Mayor Tourville stated they do not ever want this to happen again. Guidelines need to be put together if they are not clear for how things are handled in HR, Administration, and City Council. He stated the City of Inver Grove Heights is sad this happened. He stated he has told the author of the email, quote, "From the bottom of his heart" that he is sorry. In his opinion it was handled wrong. He stated in September and October 2019 this whole thing could have been solved easily. There has been talk this has been held secretly but on the basis of Legal Counsel it is because the report has not been received and looked at, and Legal Counsel has said they have been unable to respond and give legal statements. This was still private information and data.

Ms. Quade stated when Counsel for Ms. Shefchik stated they couldn't respond quickly because they had just received this report a day or so ago, Ms. Shefchik knew what she did a year ago. She had that time to decide how she was going to defend herself, what she would say to the Council in the event she was lying. The public hasn't had this information, but Ms. Shefchik knew what she did. The report still has private data in it. Councilmember Dietrich responded that was concerning. She commented the Mayor just stated he went to the subject of the email and apologized to her when this was still considered private data. Council does not know who the individual is, but the Mayor spoke with her. Ms. Quade responded she did not hear the Mayor use names. Mayor Tourville commented to Councilmember Dietrich that everyone on the Council knows who the person is, she told them who it was when talking that day at the meeting on the review.

Councilmember Bartholomew asked about the action taken by the City Administrator in giving the email to the HR Manager without instructions to put it in the file. He asked if that was a violation of City Policy or Data Practices. He asked if there should be direction specifying this was supposed to go into the file. Ms. Quade responded there is a requirement by Ms. Shefchik when receiving data, the City Administrator doesn't have to tell her what to do with the data, he is expecting the HR Manager knows. The question of does he have to actually have to tell the HR Manager to keep this quiet, she commented she cannot imagine in that situation between the HR Manager and the City Administrator. She stated a Councilmember is not often taxed with the preservation of the Data Practices Act on behalf of the City. They rely on those they hire in order to do that.

Jennifer Moreau, Investigator, stated her purpose is to answer any Council questions regarding the facts of the case. She personally interviewed Ms. Shefchik, the author of the email, and her Supervisor. She responded to Councilmember Dietrich's question of what happened to the email provided to the Supervisor. The email was received from the City Administrator and the author of the email. The email was destroyed, either at home or at work. Ms. Moreau stated the copy of the email received from the City Administrator is in her possession.

She stated from her perspective of what was told to her during the interviews, Ms. Shefchik told her that she did not give a copy of the email to Councilmember Dietrich and said the Councilmember did not ask for it. They learned today that Councilmember Dietrich did receive a copy of the email and read it verbatim at the Administrator's personnel review. She stated Ms. Shefchik told her she was unsure if she still had the email, and was surprised it was with Ms. Shefchik today. She stated before this interview she had never met the City Administrator or the Council. She met Ms. Shefchik before as she was here for a Labor mediation. She stated she is surprised to hear of retaliation or being anti-woman. She stated she had assured Ms. Shefchik several times during the interview and via emails that she was here to determine whether or not there was a data breach when the email was provided to Councilmember Dietrich. She told each person she interviewed that she made no determinations and that there could be a valid reason why the Councilmember had the email. She stated she was puzzled as to why Ms. Shefchik seemed opposed to an investigation as to how that email reached Council.

Mayor Tourville stated at the July 27th meeting, Council was told there were some blanks in the report. Council suggested more discussion take place with the Councilmember and Janet Shefchik and ask if there is anything else to add. A report came back from Councilmember Dietrich's Attorney. The message from Janet Shefchik was that she stood by all of her statements prior. Ms. Moreau stated she was not present at the July Council meeting, but during interviews conducted nobody admitted to providing that email to Council.

Councilmember Bartholomew asked why they did not follow the request to seek IPAD's opinion. Ms. Quade responded you also receive advisory opinions from Lawyers too. Whether there was a data breach or not is why you have to do the investigation. The Advisory opinion is not an investigation.

Mayor Tourville commented they have the report and information. He asked if the City could still seek IPAD. Ms. Quade responded the Council is the boss here and gets to decide whether to accept, reject, modify, or take disciplinary action if they feel it is appropriate. The Advisory Opinion will not have the specific facts found in terms of lying, not following policy, and taking precautions.

Janet Shefchik stated you cannot ask someone what the purpose is for requesting data. She stated it sounds as if they disdain her for saying she has experience with Data Practices. She knows a lot about it because she was on the Legislative Policy Committee at the League of Minnesota Cities for six years.

She stated the City Administrator gave the email of which she was a subject of, to a Department head who has no business knowing what the complaints were. The City Administrator was the Data Practices Official for the City at the time he gave both the Supervisor and herself an unredacted copy. Not for personnel use. She stated there is untrue data out there about her. Someone is giving an employee the impression that she had something to do with the fact that she wasn't getting justice for her situation. This is false. She does not have that authority. She stated she is not the Data Practices Official for the City, but was for 15 years when she worked for the CDA. She does not have the City Data Practices manual memorized because she is not the Data Practices Official. She stated some of the things that were said are not true. She knows the Data Practice Law pretty well.

Councilmember Perry asked if Ms. Shefchik had ever been given an email of similar nature from the City Administrator. Ms. Shefchik responded she was unsure. Councilmember Perry asked if they are put in a file or what they would do. Ms. Shefchik responded you would not put them in a file. If it is something about a performance, they would validate the fact and use it for a performance evaluation in a personnel file. She stated if looking at 13.43, the Personnel Data portion of the Data Practices Statute lays out what is private data.

Mayor Tourville asked what is done with an actual email. Ms. Shefchik responded she is more of an expert on the personnel data section, not the email section. Every entity has a retention schedule with what to keep and for how long. The email law is outside the HR purview. Councilmember Piekarski Krech asked if receiving these emails, what is done with them. Ms. Shefchik responded normally it would be investigated if it was an actual case. In this case, it spoke about her boss, and herself, she cannot investigate either. She stated she received a complaint awhile back that resulted in an investigation. That was turned over to the City Attorney. If it is an employee, she would do investigations fairly often.

Mayor Tourville asked if he heard Ms. Shefchik say that she doesn't need a public purpose to get information. Ms. Shefchik responded when someone makes a data request and fills out the form, you cannot ask them for what purpose. Mayor Tourville stated his understanding was if Council wants further information and it's of a personnel nature, they have to declare how they will use it and the purpose. That is in the State Statute around data. Ms. Shefchik stated she safeguards personnel files. She has been in HR for over 30 years. She feels like people have something against her. Mayor Tourville responded he didn't think anyone does. He asked Ms. Shefchik why she didn't come forward one year ago. Ms. Shefchik responded she thought the investigation didn't begin until November to February. She set up the interviews right away. She stated she has worked with both women that stepped up to speak today and has no problem with them. She has had experiences with Attorney Lepak in other investigations he has done where facts are omitted. That is one of the reasons she has pulled back from using him.

Ms. McEllistrem clarified the following:

- Exhibit B, the request for information form, the City's own Data Information request, says nothing to indicate the request or purpose for data.
- The Council's 3/5ths rule. She stated she sent an email on August 19th to the City Attorney asking for the Legal on this. The response received from the City Attorney was the City did not discover such addendum, so it does not exist.
- People keep referencing the email was read verbatim in the review. That is false. Page 2 of the report has various changes to language.
- Barna, Guzy, states they do not have a dog in this fight. That is untrue. The report contains a statement by Ms. Shefchik saying she is not using that law firm very much anymore because of her concerns about their interest not being with the City. She stated that Barna, Guzy had a very direct financial interest in continuing to get Legal work from the City. They continued with this investigation and continued with providing the report after knowing this.
- The Contract requested in Exhibit 10 between Barna, Guzy and the City, Pursuant to Minnesota Statute 13.05 Sub. 11 of the Minnesota Government Data Practices Act, requires specific language if a Law Firm or an Attorney is going to undertake this kind of investigation. There is no such agreement between Barna, Guzy and the City of Inver Grove Heights. She requested the information, none was provided.
- The Attorney's for Barna, Guzy keep saying Janet Shefchik lied. She asked what that lie was. From the very start Janet has said she told Councilmember Dietrich about the contents of the email. She asked the Council to ask that question, what was the lie.
- She asked why Joe Lynch's data breach wasn't investigated. Because it is said it wasn't a data breach, his breach isn't investigated.

Mayor Tourville asked when Ms. Shefchik said she gave the email to Councilmember Dietrich. Ms. McEllistrem responded that Ms. Shefchik has said she disclosed all the contents of the email to the Councilmember. Mayor Tourville asked what page this was located on. Ms. McEllistrem responded it is repeatedly throughout the report. Not just on one page. It is also included in her note which is

under Exhibits and says she stands by her previous statement where she provided the contents to the City Councilmember.

Ms. McEllistrem asked the Council to get an Advisory Opinion. Find out if this really was a data breach, and if it was, if Mr. Lynch's data breach was an equivalent.

Ms. Quade stated Janet Shefchik has never told the truth throughout the investigation. She was caught when Councilmember Dietrich's Attorney told them on August 22nd, 2020 that Ms. Shefchik had given the email to her. She commented Ms. Shefchik told the Investigator that she had shared the contents of the email. It wasn't true, she had actually given her the email and never told them throughout. She stated during Ms. Shefchik's interview she was surprised the Councilmember had the email and denied giving the email. When Council asked where the email came from the Councilmember was honest. Ms. Shefchik stuck by her false statement that she just shared the contents and didn't admit she had given the email out. There is still the issue of having an HR Manager who lied during the investigation, derailed the investigation, undermined Investigators, and tried to get a witness not to cooperate. She stated Barna, Guzy, doesn't have a dog in this fight, everybody who does investigations are paid. Because Lawyers are paid doesn't mean they have a personal interest in a certain outcome. She stated her Firm doesn't look at the outcome and then fix the investigation. She stated they know now that through the Councilmember's Attorney, Janet Shefchik did give her the email and never admitted it. She stated it is also telling that Ms. Shefchik couldn't answer the Mayor's question about why she didn't say something a year ago. She never answered the question.

Councilmember Bartholomew asked if there is no expectation of privacy, how this becomes a data breach. Ms. Quade responded every City has a policy that says there is no expectation of privacy in emails. That does not affect the Data Practices Act. It allows the City or a private employer to give notice to an employee that they can look at their emails and have no expectation of privacy. She stated there is Caselaw that says if emails with private information are shared by accident in the workplace, she cannot sue them for violation of privacy because it belongs to the company. Councilmember Bartholomew stated he appreciated the explanation but if he is sending an email and has no expectation of privacy, it doesn't mean that what is written should be shared. He stated he is still struggling with this issue.

Ms. Quade stated an employee of an entity cannot sue if having private information on a device the company owns. For example, a cell phone. The employer has a right to look at anything on there. She stated the Data Practices Act controls Government entities and the data collected. Protections have to be taken to protect data from being releasing where it is not allowed. Sharing private personal data is violating the Data Practices Act. She stated Government entities are covered by the Data Practices Act. It is a different body of law and obligation as a Government entity. Privacy has nothing to do with Data Practices.

Councilmember Piekarski Krech stated if sending an email to a person, saying personal stuff about someone else, the idea is that information is Data Practices because it is covered, but cannot have the expectation that it is private. Ms. Quade responded Data Practices is different because this is a Government entity. Personnel data needs to be protected and fits under the definition in the Data Practices Act. She stated the privacy issue, for example, an accountant sends you tax returns on your work email. Someone is looking at your email and talks about your finances. There is no expectation of privacy because that email is owned by your employer. She stated if you send a work-related email at work to one of your coworkers, data gathered on a third person, privacy isn't even an issue, but is depending on what is in the email, personnel data being gathered/collected by a Government entity.

Mayor Tourville asked if this email needs to be classified in order to determine what is right or wrong. Ms. Quade responded it has to be determined private personnel data or not. Mayor Tourville stated City Policy clearly says private and confidential information will be stored in files and data bases which are not accessible to individuals who do not have the authority. Do not discuss, disclose, or release confidential data. He stated for example, there is a meeting outside of the City, outside of City hours, the email is outside of a file cabinet, not secured. There must have been some type of agenda for why the email is being carried around. If the information is needed, an appointment is made with the HR Manager, meet in City Hall offices and discuss. He stated Councilmember Dietrich's Attorney stated she didn't ask for it, it was given to her.

Janet Shefchik stated at the July Meeting Council made some comments saying she was willy nilly about giving personnel information out. She has been in HR for 30 years and this is what she is being accused of. Conjecture is being made about her. She commented it is so personal and is going to affect her career. Assumptions are being made that are not true. Mayor Tourville asked Ms. Shefchik to tell the Council. Ms. Shefchik responded she told Investigators she spoke to Councilmember Dietrich and said it originally. She asked to have this public for a reason.

Mayor Tourville asked Ms. Shefchik if she gave Councilmember Dietrich a copy of the email. Ms. Shefchik responded she did, she shared the contents with her. Mayor Tourville asked if it was hard to tell the Council the truth. Ms. Shefchik responded she did tell the truth. Mayor Tourville again asked if a copy of the email was given to Councilmember Dietrich. Ms. Shefchik responded she doesn't exactly remember but does recall giving her the Org. Chart. Mayor Tourville stated Councilmember Dietrich has said you gave the email to her. Ms. Shefchik stated the report had five questions and didn't ask if she had asked her for a copy, which she did ask, and told the Council this evening. She stated they are hearing what they want to hear. She requested inferences are not made in public about her.

Mayor Tourville stated part of the Agenda is to consider acceptance of the investigative report and then possible discipline. Ms. Quade stated she has a potential Resolution if needed.

Councilmember Bartholomew stated he would like discussion on what the Council as a body thinks of the report. He has complete faith in the Firm and City Staff. There are areas that cause him concern and would like follow-up and information. He cannot support the report as written. He commented he is struggling with the action of the City Administrator giving the email to someone else. He wanted information on the following:

- See in writing why the action by the City Administrator giving the email isn't a data breach. He commented one individual hands an email to someone and the other individual hands an email to someone. One violates something the other one doesn't, that bothers him.
- Email that has no expectation of privacy concerns him. He would like to see how that relates to this and would like to see it in writing.
- Counsel for the HR Manager has stated they had not received a Contract as requested from Barna, Guzy, and Steffen and would like to see a copy of that Contract.
- Written rationale as to why they did not pursue IPAD.

He stated he cannot support this report as is because it is flawed, there are holes in it.

Mayor Tourville commented that Ms. Shefchik and her Attorney have the report. Ms. McEllistrem responded they have a redacted copy. Councilmember Bartholomew asked the City Attorney if they had a full copy of the report. City Attorney Bridget McCauley Nason responded they do not. Data related to this matter was provided by Barna, Guzy, and Steffen. Mayor Tourville suggested getting Ms. Shefchik's and Ms. McEllistrem's statements tonight and look at what information and questions they have. He asked the City Attorney if there is a Contract between the Law Firm and the City Attorney's. City Attorney McCauley Nason responded there is a Contract between the City and the Law Firm Barna,

Guzy, and Steffen. There is also a Contract between the City and the Law Firm LeVander, Gillen, and Miller. Both documents are public. She stated her office reached out to IPAD to ask if this was the type of subject, they would issue an opinion on without providing any specific details or facts. Based off a discussion with an Attorney there, it was not something the Commissioner would be willing to write an opinion on. That was based on limited, speculative, facts. No official request has been made, but Council could direct a formal request be made to the Commissioner for a written opinion. If a formal request is made by Council, it would be put into writing, submitted to the Commissioner, they would determine to issue an opinion on the matter or not, provide a formal written response stating they won't issue an opinion, or they would issue an opinion in about 20 days.

Mayor Tourville asked the Council what they thought of having an opinion/no opinion from IPAD. And to be able to respond to documents supplied by Ms. McEllistrem and Ms. Shefchik and meet again. Councilmember Piekarski Krech stated she was seriously concerned they may have more than one data breach and would like that solved. Councilmember Bartholomew agreed.

Mayor Tourville suggested the following direction:

- Look at the possibility of another data breach.
- IPAD looking at it/not looking at it.
- Supply Contracts between the two Law Firms.
- Get information from Janet Shefchik and Sarah McEllistrem so the Attorneys could look at it.
- Council would look into getting together.

City Attorney McCauley Nason stated there are additional Agenda items for Council consideration such as:

1. What to do with respect to the report. Action needs to be taken whether it's to accept it with conclusions as stated. The conclusions as stated find there has been a data breach based on the facts included in the report.
2. Accept the report but with modifications. For example: If Council disagrees with the ultimate conclusion of data breach, but finds other instances that were supported with respect to misconduct.
3. Reject the report and take no further action related to the report.

If Council direction is to seek out a formal advisory opinion from IPAD to obtain the information from the employee and legal counsel, request additional follow-up regarding the four areas of concern stated by Councilmember Bartholomew and Mayor Tourville, then there would need to be a Motion to continue this item as well as consideration of any discipline, table/continue it to the next available Council date after IPAD's opinion is received, or IPAD states they will not be able to issue a statement in this case. She stated IPAD did not have all the facts, if Council wants to seek that it is something they can do. In order to do that Council needs to take the following steps:

1. These Agenda Items need to be tabled to... But needs to be set to a specific date, such as after the IPAD Opinion is received, or date appropriate with respect to the receipt of the additional information.
2. There would need to be a Motion to direct follow up as identified previously.
3. There needs to be a specific Motion to direct City Attorney's office, or Barna, Guzy, and Steffen's office to make a written request to the Commissioner for a written opinion on this matter.

Councilmember Bartholomew asked if they could also get an opinion from IPAD on the other employee that shared an email and whether that is a violation. City Attorney McCauley Nason responded they can request a written opinion on any question relating to public access to Government Data, rights of subject data, or classification of the data. She stated they would have to work with IPAD to discuss how the process works. She stated if the request is to expand the scope of the inquiry to see if they would provide an opinion on the second piece, that can be Council's direction. Councilmember

Bartholomew stated he would like to see that included in the request. Councilmember Dietrich stated she wanted to be mindful of the costs associated with tabling.

Mayor Tourville stated they couldn't discuss discipline until they look at the information available. If IPAD comes back with no opinion. It comes back before the Council. He suggests, if tabling, they go to Monday, October, 26th. He responded they are mindful of the costs; this could have been solved in 2019. He stated they would look into this from the origin (the Author) to the Administrator, to HR, shared with a Supervisor in HR, and shared with a Councilmember. Councilmember Bartholomew agreed.

City Attorney McCauley Nason stated the motion would be to continue Agenda Item C to the October 26, 2020 meeting. Councilmember Piekarski Krech asked if the additional information needed to be included in the Motion. City Attorney McCauley Nason responded it could be included in this Motion or a second Motion could be made to determine what is being requested. There are four specific areas of concern. There is direction to the Barna, Guzy, Law Firm to follow up and provide additional information on those four. There does need to be a specific Motion to direct City Attorney's Office/Barna, Guzy, Law Firm to reach out to IPAD and request a Commissioner's Opinion as outlined.

City Attorney McCauley Nason stated the Motion would be to continue Agenda Item C, all components therein, Items 1 and 2 to the October 26, 2020 meeting

Motion by Piekarski Krech second by Perry to continue Agenda Item 7C. Meeting pursuant to Minnesota Statutes Section 13D.05, subdivision 2(b) for preliminary consideration of allegations or charges against an individual subject to Council authority and the following items to the October 26, 2020 City Council Meeting.

- 1. Consider Acceptance of Investigative Report.**
- 2. Consider discipline against employee.**

Ayes: 5

Nays: 0 Motion carried.

Councilmember Bartholomew stated he would like the following actions looked into:

1. Look into the action of the City Administrator giving the email to someone with potential data on it and see if that is a violation of Data Practice.
2. Explanation in writing of the Email Policy on no expectation of privacy and how/if that effects this.
3. Contract for Barna, Guzy, and Steffen given to Legal Counsel for the HR Manager.

Mayor Tourville commented the fourth point was:

4. Sharing the information between the two groups.

City Attorney McCauley Nason clarified the request as follows:

1. Something in writing regarding how the distribution of the email by City Administrator to Supervisor of Employee who is the Author of the email did not constitute a data breach. She stated she anticipates that analysis be provided by Barna, Guzy, as it relates to their investigation.

Councilmember Bartholomew agreed. Mayor Tourville suggested this be done prior to submitting the request to IPAD. City Attorney McCauley Nason stated there is a supplemental investigation being requested of the Barna, Guzy, Law Firm with respect to the second data distribution. The request to IPAD cannot be made until this is completed.

2. Concern about no expectation of privacy in emails. Clarification is being sought related to City Email Policies.

Councilmember Bartholomew stated he would like it in writing. He asked if simply stating there is no expectation of privacy, if it precludes a data practice breach or not. City Attorney McCauley Nason asked if that is expected of Barna, Guzy. Councilmember Bartholomew responded he believed it is.

3. Request regarding a Contract for legal services.

City Attorney McCauley Nason was unclear about the request stating the Contract between the City and Barna, Guzy, has already been provided to the Employee and the Employee's Attorney. Ms. McEllistrem responded they did provide a Contract for General Services, but under the Data Practices Act Pursuant to 1305 Subd. 11, you have to have specific language about these types of investigations. They were not provided that Contract. Councilmember Bartholomew stated that was information he wanted them to follow. City Attorney McCauley Nason stated that is an item that would require follow up from Barna, Guzy, and Steffen as it is their Contract between them and the City.

Mayor Tourville suggested the following item:

4. Review of the shared data from both groups.

City Attorney McCauley Nason stated Council is requesting copies of the information that has been provided this evening into the record. Written copies. Mayor Tourville agreed and stated there were questions they needed answered.

City Attorney McCauley Nason stated a Motion was needed to direct Staff to do those three things. She asked who was specifically making the IPAD opinion request. Mayor Tourville suggested it come from the City Attorney's office.

Janet Shefchik thanked the Council stating this is her career and it's a big deal to her. She asked because Barna, Guzy, is making the request to IPAD, of which she has misgivings, if it were possible for her to see the request to ensure what they are asking for a data advisory opinion on is actually factual to the situation. She stated they do publicize them, and may ask for a month's extension if they don't know right away. She stated she wanted to make sure the request is asking for what happened and that it is truthful, not biased, not targeting her using language like "we knew her intention was evil". Mayor Tourville stated he does not have a problem with sharing the request. Councilmember Dietrich agreed and stated it needs to be transparent and suggested both parties see that before it is sent in.

City Attorney McCauley Nason clarified the drafting would come from the City Attorney's office. The information is shared, assuming there is no legal prohibition in sharing it. Assuming there is nothing that would preclude the public dissemination of that information, the information would be shared with the employee and the employee's Attorney. She asked if it was a group writing exercise or if it is a direction to request the information, provide the data, and if there is a dispute there would be follow up done. Councilmember Bartholomew responded his preference is to provide them with what they are asking for. He does not want to get into a group writing exercise. City Attorney McCauley Nason responded it is a sharing of information, transparency unless prohibited.

City Attorney McCauley Nason stated the Council can make a Motion to conduct follow-up activities as previously articulated.

Motion by Bartholomew second by Dietrich to conduct follow-up activities as previously articulated.

Ayes: 5

Nays: 0 Motion carried.

City Attorney McCauley Nason requested one final Motion to direct the City Attorney's office to request an opinion from IPAD with those two portions. The Motion could state to request a written opinion

from IPAD related to potential breach of security of the data as it relates to the distribution of the email as articulated in the investigation report and secondly by City Administrator to Supervisor of the Employee who was the writer of the email. Mayor Tourville stated they need further investigation from Barna, Guzy, first, and then have IPAD evaluate the addendum to the report and the information to see if there were any other data breaches. City Attorney McCauley Nason stated the question is if either conduct constitutes breach of security data.

City Attorney McCauley Nason stated the Motion should be to direct the City Attorney to request that opinion upon receipt of additional investigative report data.

Motion by Dietrich second by Perry to direct the City Attorney to request that opinion upon receipt of additional investigative report data.

Mayor Tourville asked if it would help IPAD to know additional information is coming and request a full report. He stated to the City Attorney they are going to give them the authority to take a look after the information is gathered. He stated if it takes two weeks to get the other information, don't wait for two weeks. He suggested telling them the Council passed a Motion to take a look at this with further information to come. City Attorney McCauley Nason responded she was not sure of protocol but can reach out to find out how the process works and what information they need.

Ayes: 5

Nays: 0 Motion carried.

8. EXECUTIVE SESSION:

9. MAYOR AND COUNCIL COMMENTS:

Mayor Tourville thanked everyone for attending and their respectfulness.

10. ADJOURN:

Motion by Bartholomew second by Piekarski Krech to adjourn the meeting at 11:01 p.m.

Ayes: 4

Nays: 1 (Dietrich) Motion carried.

Minutes prepared by Recording Clerk Sheri Yourczek