

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, NOVEMBER 14, 2022 - 6:00 P.M. - 8150 BARBARA AVENUE**

1. CALL TO ORDER:

The City Council of Inver Grove Heights met in regular session on Monday, November 14, 2022, in person. Mayor Bartholomew called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

2. ROLL CALL:

Present In-Person: Mayor Bartholomew, Council Members: Piekarski Krech, Dietrich, Murphy, Gliva; City Administrator Wilson, City Attorney McCauley Nason, City Clerk Kiernan, Police Chief Chiodo, Assistant City Engineer Dodge, Public Works Director Connolly, Community Development Director Rand, City Planner Hunting, Associate Planner Botten.

3. PRESENTATIONS:

4. CONSENT AGENDA:

A. Approval of Disbursements **Resolution 2022-233**

B. Personnel Actions

C. Final Compensation Change Order, Final Pay Voucher, Engineer's Report of Acceptance and **Resolution 2022-234** Accepting Work for City Project No. 2022-09B – Seal Coat

D. Final Compensating Change Order, Final Pay Voucher, Engineers Report of Acceptance and **Resolution 2022-235** Accepting Work for City Project 2020-06 Good Samaritan Pond (1301 50th St.)

E. Approve Contract for Psychological Services with Faul Psychological PLLC. **Resolution 2022-236**

F. Acceptance of AED Donation from the Center for Resuscitation Medicine **Resolution 2022-237**

G. **Resolution 2022-238** of Support for Dakota County 2023-2027 Capital Improvement Program

H. 2023 Central Equipment Vehicle and Equipment Replacement and New Vehicle and Equipment Procurement Requests. **Resolution 2022-239**

I. Re-Execution of Joint Powers Agreement Establishing the Lower Mississippi River Watershed Management Organization. **Resolution 2022-240**

J. Third Amendment to the Preliminary Engineering Contract for City Project No. 2016-17 - 117th Street Reconstruction. **Resolution 2022-241**

K. Joint Powers Agreement for Seidl's Lake Shoreland Restoration Project. **Resolution 2022-242**

L. **Resolution 2022-243** Authorizing Submittal and Execution of 2023 Dakota County Community Waste Abatement Grant Program Application and Contract

M. New Tattoo and Body Piercing Business License

N. Approval of Massage Therapist License

O. Increase to Pension Benefit for IGH Fire Relief Association. **Resolution 2022-244**

Councilmember Piekarski Krech requested Agenda Item 4B be pulled from the agenda.

Councilmember Dietrich requested Agenda Item 4E be pulled.

Motion by Dietrich, second by Gliva, to approve the Consent Agenda with exception to Agenda Items 4B and 4E.

Ayes: 5

Nays: 0 Motion carried.

Agenda Item 4B. Personnel Actions

Councilmember Piekarski Krech noted that the Rental and Code Compliance Coordinator is resigning and asked if there was someone in place, or if they were keeping the person until there is a new person in place due to it being a critical position.

City Administrator Kris Wilson replied there is not someone in place. There is staff in planning and building inspections that have the qualifications to carry on the work in the interim.

Motion by Gliva, second by Murphy, to approve Agenda Item 4B. Personnel Actions.

Ayes: 5

Nays: 0 Motion carried.

Agenda Item 4 E. Approve Contract for Psychological Services with Faul Psychological PLLC. Resolution 2022-236

Councilmember Dietrich asked what lead to the change in providers and what other Police Departments use the company.

Police Chief Melissa Chiodo replied one of the things that lead to the change was lack of confidence in services provided and recommendations. This company does pre-employment psychologicals, leadership assessments for future promotions, and fitness for duty to ensure a member is ready to return to work. Most agencies in Dakota County have switched to Faul, located in Dakota County.

Councilmember Dietrich's concern was that the other provider was used for awhile and are still caring for others in public safety.

Police Chief Chiodo replied she was unsure; they may use completely different criteria.

Councilmember Dietrich asked for a list of cities in Dakota County using this provider.

She referenced the donation of defibrillators and asked if the older ones could be used in other departments in the city.

Police Chief Chiodo replied they are keeping some of them. New ones purchased last year will not be turned in. With the Grant some of the returned ones are repurposed for other agencies that don't have any. After doing an audit of the units it was noted that there is only one AED in the building, they would like to add one to the City Hall side. She would check with other department heads on their needs.

Motion by Dietrich, second by Gliva, to approve Agenda Item 4 E. Approve Contract for Psychological Services with Faul Psychological PLLC. Resolution 2022-236

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC HEARING:

A. Public Hearings and Resolutions Ordering Projects for 2023 Pavement Management Program, City Project Nos. 2022-09 I, J and L. Resolutions 2022-245, 2022-246, 2022-247, 2022-248

Assistant City Engineer Steve Dodge presented on three improvement hearings for three 2023 pavement rehabilitation projects:

1. Carmen Avenue/Claude Way Area, 2022-09I
2. Cheney Trail/Coffman Path Area, 2022-09J
3. Bolland Trail and 62nd Street Area, 2022-09L

Project History 2022-09 (I, J, & L):

- Initiated by the City Council through the Pavement Management Initiative
- Council ordered feasibility reports, October 2021
- Council scheduled the improvement hearing on September 26th, 2022

- Staff hosted open house meetings on October 25th, 2022
- Maintenance: all projects have received crack sealing, chipseal, and patching

Project Summary (I, J, & L) (all but Carmen Avenue):

- 2" Mill & Overlay
- Street corrections as needed
- Spot curb replacement
- Minor utility adjustments for storm drain, sewer castings, and water gate valves
- Carmen Avenue:
 - Full depth reclamation
 - Select storm structure replacement

Cost/Funding (Project 2022-09I) Carmen/Claude area:

- \$3.3 million dollars
 - Surface improvements account for \$2,300,000
 - Water main, sanitary sewer, castings, surface structures
 - Storm improvements (Carmen) structure replacement
 - Sidewalk improvements: \$500,000
 - South St. Paul contribution
- Total Project Funding:
 - Pavement Management Fund: \$1.1 million dollars
 - Water, sewer, stormwater management funding
 - Special Assessments: \$1.8 million dollars
 - South St. Paul contribution: \$166,805

Special Assessments (Project 2022-09I):

- Per city policy: 80% assessed for the mill and overlay portion on Claude
- 55% of the assessed cost would be for the full depth reclamation on Carmen Avenue/partial reconstruction of a new sidewalk where the current trail is
- Properties are assessed on an area basis
- Administrative Assessment Cap:
 - \$43,560 per acre
 - Per policy assessment came in at .40 cents per square foot, equaling \$17,400 per acre
 - High Density Residential parcels are on a per parcel basis
- Recommended 10-year term

Cost/Funding (Project 2022-09J) Cheney Trail and Coffman Path:

- \$628,000
 - Street improvements: \$440,000
 - Bituminous trail improvements: \$96,000
 - Sanitary, water, storm improvements
- Total Project Funding:
 - Pavement Management Fund: \$141,000
 - Assessments: \$432,000
 - Sewer, water, and stormwater management funding
- Special Assessments (Project 2022-09J):
 - Assessed rate is 80% for mill and overlay (street) and 55% for partial reconstruction (trail)
 - 5-year assessment term
 - Special Benefit Cap was set at \$5,740
 - Single family residential, Cheney area: \$3,342
 - Multi-family townhomes, Aspen Ridge area: \$1,400
 - Multi-family townhomes, Woodview Ponds/Estates: \$1.842
 - CDA senior apartments: \$8,100

Cost/Funding (Project 2022-09L) Bolland Trail and 62nd Street:

- \$463,000
 - Street improvements: \$345,000
 - Sanitary sewer, water main, and storm improvements
 - 62nd Street rural section is noted as bid alternate
- Special Assessments (Project 2022-09L):
 - 80% rate
 - 5-year term
 - Special Benefit Analysis done by an Independent Appraiser; cap set at: \$9,262
 - Per policy assessments came in at \$5,941 – for the urban area/Bolland Trail
 - Single family residential rural \$6,791 (higher due to larger front footage)
 - To note: With the alternate option, staff would review and make a recommendation. Single family residential/urban would stay at \$5,941. The rural section would not be part of the project.

Schedule for Projects 2022-09, I, J, and L:

- Improvement Hearing, Order Project: November 14, 2022
- Approve plans and specs, authorizing bidding, authorize SSP Joint Powers Agreement (JPA): January 23, 2023
- Bid Opening: February 2023
- Council receives bids, awards project: March 2023
- Begin construction: April/May 2023
- Assessment Hearing: September/October 2023

Recommendations:

- Receive public input documents for Project 2022-09L into the record: 3 letters were submitted.
 - Staff met independently with property owners. 3 have septic systems, they do not have gravity sewer connection
 - May need connection as the septic systems may fail within a 10-year period
 - Staff will review in final design and come back before the Council in January with a recommendation
 - A staff meeting summary was provided to those residents. From that summary, residents selected Option 2 as the preferred method.
 - Option 2 is to not mill and overlay the rural section

Councilmember Piekarski Krech asked how it would work with plowing if there would be new road with old road in the center.

Assistant City Engineer Dodge replied the existing rural section has received a broad area patch (overlay). Residents preferred to have their assessment dollars go towards a new road improvement when a sewer is needed in the area.

Councilmember Murphy asked if it was included because it was a part of the bigger plan.

Assistant City Engineer Dodge replied it was authorized as a part of the feasibility report.

Councilmember Murphy asked if there was other infrastructure under the road.

Assistant City Engineer Dodge replied there is storm sewer (ditch system).

Public Works Director Brian Connolly stated there is water main.

Recommendations:

- Receive final feasibility reports for all three projects
- Hold public improvement hearings independently
- After each hearing:
 - Receive the feasibility report
 - Order project

- Authorize preparation of plans and specifications

Councilmember Murphy asked how old the roads were for 2022-09J.

Assistant City Engineer Dodge replied the roads were from 2001, further north on Coffman is from 1997.

Motion by Gliva, second by Dietrich, to accept the letters received and the summary of the meeting into the record.

Ayes: 5

Nays: 0 Motion carried.

Motion by Murphy, second by Gliva, to approve and receive the feasibility reports as presented.

Ayes: 5

Nays: 0 Motion carried.

Mayor Bartholomew opened the Public Hearing.

Motion by Dietrich, second by Gliva, to close the Public Hearing at 6:34PM.

Ayes: 5

Nays: 0 Motion carried.

Motion by Murphy, second by Dietrich, to approve Resolution 2022-245 and authorization to order the project for the 2023 Pavement Management Program, City Project No. 2022-09I, Carmen Avenue and Claude Way area.

Ayes: 5

Nays: 0 Motion carried.

Mayor Bartholomew opened the Public Hearing.

Motion by Gliva, second by Murphy, to close the Public Hearing at 6:35PM.

Ayes: 5

Nays: 0 Motion carried.

Motion by Gliva, second by Dietrich, to approve Resolution 2022-246 and authorization to order the project for the 2023 Pavement Management Program, City Project No. 2022-09J, Cheney Trail and Coffman Path Area.

Ayes: 5

Nays: 0 Motion carried.

Mayor Bartholomew opened the public hearing for resolution and authorization of ordering the project for the 2023 Pavement Management Program, City Project No. 2022-09L, Bolland Trail and 62nd Street Area. Resolution 2022-247

James Borgeson, 6232 Bolland Court, asked what the age of the pavement was and the assessment period. He mentioned that patching was noted in the presentation, there wasn't any patching in the area. He said it didn't look like it was in as poor of shape as the other two projects. He did not feel it was necessary. He felt the pavement was ½ way through its life.

Assistant City Engineer Dodge replied construction took place in 2001, it's within the 20-25-year period to do a mill and overlay. The assessment term is 5-years, the rate would be determined at the time of the assessment hearing.

Mayor Bartholomew asked if the address given by the resident falls within the section of 5 parcels.

Assistant City Engineer Dodge replied it is not in the rural section. He addressed the pavement concern stating there would be rapid deterioration of pavement. Once pavement reaches a 20-25-year period it's better to do a mill and overlay to extend its life. Patching would cause maintenance expenses for the city.

Mr. Borgeson said it sounded like the feasibility assessment was ordered in order to avoid patching and smaller maintenance costs. He asked if it was a cost avoidance measure.

Assistant City Engineer Dodge responded the Capital Improvement Plan is based off data driven assessments, pavement condition assessments, and geotechnical exploration. With that information they have made a 25-year recommendation for street rehabilitation.

Motion by Dietrich, second by Gliva, to close the Public Hearing at 6:42PM.

Ayes: 5

Nays: 0 Motion carried.

Motion by Dietrich, second by to Gliva, to approve Resolution 2022-247 and authorization to order the project for the 2023 Pavement Management Program, City Project No. 2022-09L, Bolland Trail and 62nd Street Area.

Ayes: 5

Nays: 0 Motion carried.

B. Adoption of Assessment Roll for the 2022 Nuisance Abatement Program

Community Development Director Heather Rand discussed the adoption of the assessment roll for the 2022 nuisance abatement program. Abatements are identified when there is long grass, weeds, refuse, or other nuisance conditions. The property owner is notified and requested to comply by correcting the matter. If within 1-2 days they do not, they receive additional communication from the city stating the city would hire a firm/consultant to remedy the situation. The property owner is given time to fix the situation, if not, contractors are hired to remedy the situation. After the work is complete, the city sends out a bill. If the bill is not paid, the property owners are notified that staff would have the City Council hold a public hearing. Currently, there are 6 different parcels.

- Amounts vary between \$135.00 to a maximum of \$409.00
- Total for all properties: \$1,263.58

If Council approves the assessment roll, after the public hearing those property owners would receive notice and have 30 days to make payment before the fee goes onto their property taxes for next year. Staff recommends a public hearing be held and adoption of the resolution.

Mayor Bartholomew asked if anyone protested the payment.

Community Development Director Rand replied there were no letters of protest.

Mayor Bartholomew opened the public hearing.

Motion by Dietrich, second by Murphy, to close the Public Hearing at 6:47PM

Ayes: 5

Nays: 0 Motion carried.

Motion by Gliva, second by Dietrich, to approve the Adoption of the Assessment Roll for the 2022 Nuisance Abatement Program

Ayes: 5

Nays: 0 Motion carried.

6. REGULAR BUSINESS:

A. Major Site Plan Approval and Development Agreements for Salem Hills Elementary School, 5869 Babcock Trail. Resolution 2022-249

City Planner Allan Hunting discussed the major site plan approval for the Salem Hills Elementary School Parking Lot Addition. This was discussed with Council in May 2022, there were questions, the item was tabled and is on the agenda at this time.

- Action requires the approval of a resolution for a major site plan
- The parking lot expansion is designed to improve traffic flow and provide more room for student pick up/drop off stacking space
 - Separates car traffic from bus traffic
 - There is currently one access, proposing two
 - The north side of the school would have an additional parking lot for staff
- Neighboring property owners raised concerns regarding impacts to the existing storm water runoff in the area
- The engineer finds that plans comply with storm water management standards
- Council is asked to approve major site plan approval and development agreements for the parking lot expansion
- The Planning Commission met in March 2022 and recommended approval 7-2
- Planning and Engineering recommend approval of the major site plan as presented

Dave Rey, Engineer, Bolton & Menk, represents the School District and developed the plans. He stated there were two primary concerns addressed to them:

1. The volume of runoff being directed to the neighbors to the north
2. Spill lighting coming off the parking lot lights

The first concern was addressed after meeting with city staff and the neighborhood. Following that meeting, he and Public Works Director Connolly discussed ways to work with the stormwater management code yet make adjustments that address concerns. They determined diverting the runoff volume being filtered through the underground retention system to a different location towards an infiltration basin on the east side of the site. This reduces the overall volume going to the neighborhood by 5-15%.

He responded about the lighting concern and stated it is being handled by School District policy. There are approximately 10 potential events during the school year where the lights would be on after hours.

Councilmember Gliva asked where the water going east ends up.

Mr. Rey replied it discharges into a proposed basin that discharges into the ditch and travels along the ditch system on the west side of Babcock.

Councilmember Gliva mentioned during the initial meeting she thought it was said that something like this could not be done.

Mr. Rey replied with stormwater management they need to control the rate of runoff (how fast it leaves the site), provide water quality (clean the water before it goes to wetlands/waterways), and provide abstraction. Code allows for the volume to be directed in a different direction.

Councilmember Murphy asked how the water is sent in a different direction.

Mr. Rey replied there is an underground chamber that holds and retains the water, then sand media, and drain tile. The higher elevation goes to the neighborhood, the drain tile is routed towards the east.

Councilmember Dietrich questioned if any improvements were made to address the traffic flow concerns raised at the first meeting.

Mr. Rey replied no improvements were made since the first meeting.

Dale Beckmann, 1855 58th Court East, lives north of the school.

Philip Prokopowicz, 1850 58th Court East.

Mr. Prokopowicz requested the Council deny the application. He said the major issue of ongoing traffic has not been addressed. He went to the school today at dismissal time. There were 28 cars parked along Babcock by no parking signs. There was no parking enforcement. Southbound traffic was going into the northbound lane to get around parked cars. It stayed that way for 10-15 minutes. There was a staff member outside directing traffic. He said the plan changed a double lane entrance to a single lane entrance at the request of the County, causing additional concerns. What he saw today creates a public safety concern. He said there has been a substantial increase in traffic going into the school. Having been to the school on four occasions, there have been about 40-50 cars lined up for pick up where previously there were 30-40. Those numbers were confirmed by the School District. He felt there were current violations that are not being addressed.

Mr. Beckmann stated they have looked at the application, the wording that came up was more about traffic improvements and less about student safety. With 11.36 acres at this location, there is a lot of room for improvements in the area. He listed safety issues they would like covered:

- 58th Court drainage issue, swale. One of the problems is the lack of maintenance the School District has in the system. There are ongoing concerns about the existing drainage system they are adding water to.
 - There is an emergency overflow that flows water. If catch basins are obstructed/not working, water in the parking lot would flow into the neighborhood. Neighbors requested raising up the west edge of the parking lot forcing the overflow to the east.

They request those issues be reconciled before approving the plans.

- He questioned where snow storage would go from the new parking lot. Residents felt the city should require the School District be proactive in addressing those issues.
- There are student safety concerns. Residents believe the only way to get comfort from drainage is to eliminate the north parking lot. Residents determined alternatives and discovered several flaws in the plan.
- After doing a simulation, they felt the count difference of cars was at 71% from April to September 2022.

He believes the first cars going into the school would go to the front door. If going to the north parking lot, they lose the stacking in the area. He shared that the School District has said that people show up to pick up their kids 15-30 minutes before students get out.

- He asked where the safety was. The queue would not move that quickly due to not being able to see the child.
- The bus turnaround area is on the south side of the school. He questioned if the buses would see a child coming out to the playground area.

- There is a cross walk where the parent/visitor parking area is, this creates a hazard.
- With the handicapped parking spots, there is a 24-foot drive aisle in a parking area. That area is needed for cars to back out.
- He referenced City Code 10-15-21 Traffic Control "traffic generated by any other use shall be channelized and controlled in a manner that would avoid congestion on public streets and safety hazards".

He said a lot of what he has discussed has been sent in a letter to the city this afternoon.

He stated they have asked to see viable alternatives and were told they won't be shared. He offered the following alternatives:

- Alternative 1: All operations all in front. An area can be used to the north for stacking. This allows for safety when crossing the crosswalk.
- Alternative 2: Has stacking for 70+ vehicles. This takes the circular road around the school today and moving it. The plan he showed moves it away from the area.
- Alternative 3: Has stacking for 60+ vehicles.
- Alternative 4: Asher Avenue operation route. Only buses would come up onto the property via Asher. This frees up the east side for passenger vehicles.

The alternatives have been shared with the School Superintendent. No comments have been received.

In summary:

- The most significant problem is stacking on Babcock
- Student, parent, visitor, and staff safety
- Student deliver/pickup
- 58th Court drainage resolution
- Be a good neighbor

George Fell, 1765 Upper 55th Street, mentioned he had no idea the extension of the parking lot at Salem Hills would find its way into Schmitt Lake. He used to have access to the lake, but now has a marsh extending 30-40 feet. Upon hearing that additional flow would come down there, it would still not stop erosion. He was concerned and had no idea this was there.

Kelly Kayser, 1953 59th Court East, stated regardless of what the final plan is if people don't follow the rules all the time and money would be for nothing. She said she lives in the cul de sac across from the school. Currently there are right turn only signs in the school parking lot. About 5% of the cars coming out of the lot actually turn right, several turn left. She felt it was a disaster and a miracle that nobody has been hurt during drop off/pick up times. She mentioned she didn't see the School Districts plan for how cars would come in and move through areas. She questioned if buses would be able to turn. She asked if right turns would still be required. She said there would be two access points with both buses and cars turning right or left and questioned if that would solve the problem on Babcock. She said their cul de sac is where most of the cars that turn right, turn around and go north onto Babcock. Residents are unhappy that most use people's driveways to pull in and back out.

Mr. Rey addressed some of the concerns stating the concept with schools is to separate cars (parent pick up/drop off) and buses. Another is to provide a safe way for students to get off a bus or car and not have to cross into a drive. The current design has a peninsula for safe passageway. Staff can monitor the front area to see all children at the same time.

Mayor Bartholomew asked if there were counts and if they made sense.

Mr. Rey replied school staff counted a few weeks ago, it was about 50. It varies. If cars don't use the staff parking lot, (not in the plan) they do back up on Babcock which is not what they want. The design is to have someone stationed to direct cars around at the beginning. The area would accommodate 50 cars, any more than that would back up onto Babcock.

Councilmember Murphy referenced that buses pull in off Babcock, drive around the school, and exit back onto Babcock.

Mr. Rey replied that is what is currently done today. In the new plan buses would come in and park diagonally. When leaving they pull forward, they do not back up. In the afternoon they go to the turnaround location.

Councilmember Murphy commented that it makes sense to have a road further away from the school, but all the way around the school. He asked if there was a reason why they couldn't.

Mr. Rey replied there is a road all around the school today. They are trying to eliminate the randomness of traffic. It's difficult for staff to monitor. Having the road further out would take away some of the greenspace.

Councilmember Dietrich said it was mentioned that someone would be stationed to monitor traffic flow. She was not comfortable with that because there were no assurances now about turning left and parking where no parking is allowed. She asked why there wasn't anyone currently stationed there.

Mr. Rey replied it's currently very unorganized. There is a mixing of cars and buses with one entrance for everybody. He felt it didn't make sense to have someone out at the street directing traffic. To him, it was more important to direct traffic up at the school where the kids were.

Councilmember Dietrich asked what the County's reaction was when they went back to them with the elimination of the one lane.

Mr. Rey replied that design had two lanes in and two lanes out. The County said if someone was trying to make a left turn to get into the queue, those already queued for the drop off lane would back up into the County Road more. The County was firm in their decision to not allow the second access. He said the lane could be expanded to the north without trouble, it doesn't impact the rest of the design. There is flexibility for future designing and accommodations.

Mayor Bartholomew asked what the future flexibility adds for capacity.

Mr. Rey replied it adds nothing. It's a perceived solution to better channel traffic into the parking lot.

Councilmember Gliva asked about raising the parking lot.

Mr. Rey replied the grades in the parking lot were adjusted for the overflow point to be located where it is.

Dave Bernhardson, Superintendent of School District 199, stated they are trying to eliminate blind spotting. The bus door is located on the right side, they want to be able to drop kids off at the curb. Buses currently go around the building, which creates blind spots. There are currently about 50 cars that back up onto Babcock each day. This plan provides cars to go in and loop around, taking them off Babcock. The current system works but puts staff at risk.

Mr. Rey addressed the handicapped suggestion given by Mr. Beckmann stating he liked the idea and would check to see if it makes the Code minimum car count.

He discussed snow storage stating they have spoken with the neighbors and the School District about having snow storage where proposed so when it melts it melts back into the parking lot along the curb line. With raising the parking lot, there are two catch basins where the primary drainage goes. If those become plugged, they have it going off to the side.

Tracy Mulcahy, 1810 58th Court East, mentioned if a few of the neighbors had not gone to a Planning Commission meeting, they would not have known this was happening. She doesn't believe the school was being a good neighbor by not getting the neighborhood involved sooner. She said the current

playground has woodchips, snow, and rain soak into the ground. That area is being replaced with a parking lot. Residents are concerned that could contribute more problems for water down the hill. Several days last spring she tallied cars coming and going in the parking lot and counted over 90. With right turn only, a majority turned left. She referenced the green space on the west side, stating kids run all over the north side where the playground is. There is plenty of space for kids to play on the north side. She felt using the west side for parking, buses, or traffic, would not impact the kids play area.

Ms. Kayser asked how much space was between the two exit points. She suggested approaching the County to have flashing light signs during drop off/pick up times. She asked if they could get parents to volunteer on the Babcock exit.

Mr. Beckmann requested the Council deny the request. There were a lot of things proposed they have not heard about. They believe there is a lot of work that needs to be done to make it a better plan.

Mayor Bartholomew stated the deadline for this application is November 30th, 2022.

City Administrator Kris Wilson stated that the School District has provided several extensions that have cost them the entire construction season.

City Administrator Wilson shared the issue for Council on this application is whether or not the proposed site changes comply with City Code. The design is not the question before the city. The question is if the landowner, after doing research, has submitted a plan that conforms to City Code. If the Council denies the application, reasons will need to be given as to why the application is not in compliance with City Code.

Mayor Bartholomew stated the Council has purview with traffic and making sure it's doing what the site plan approval says. He was unsure if safety was an issue they have dealt with at this level. He suggested discussing the safety concerns heard from residents.

City Administrator Wilson replied its city staff's belief that the School District submitted the application voluntarily to address the safety concerns that meet with their operational needs and budget. If denying, the Council may not see a revised application and the School District can continue operating as they are and use staff, cones, or other methods to address concerns.

Mayor Bartholomew wanted to ensure the applicant was in compliance with the current ordinance, is expanding the capacity, and trying to improve.

City Administrator Wilson stated Staff and the Planning Commission's recommendation is that the submitted application meets all required city codes.

Councilmember Piekarski Krech was concerned about water quality and keeping the water out of the neighborhood. She asked if all water would be flowing through the parking lot and out onto Babcock.

Mr. Rey replied the stormwater gets captured by catch basins, an underground stormwater management system takes it through a pipe and goes into the neighbors to the north's backyards. There is another volume below the pipe that is the water quality volume, it filters through the sand and into a drain tile system, the drain tile connects to the surface filtration basin. If catch basins get plugged, there would be some storage in the parking lot, anything beyond that goes down the parking lot; the probability of that is less than 1%.

Councilmember Piekarski Krech asked what could be done to make sure the catch basins don't plug.

Mr. Rey replied the catch basin style they use is a safe system.

Mayor Bartholomew asked staff what there was for compliance to be assured the mechanisms and devices on site are working. He asked what the recourse was if there is a complaint, and the system isn't working the way it's supposed to.

Public Works Director Brian Connolly replied staff worked with the School District to come up with an improvement agreement. There is a stormwater facilities maintenance agreement. This agreement indicates regular inspections of the system, makes sure the system is being cleaned out. He mentioned that Bolton & Menk have put together a maintenance plan for the year. Maintenance activities would be submitted to the city on an annual basis. If the School District doesn't provide the information the city would go in and clean out the non-conforming items and assess the cost of the improvements back to the School District. An annual inspection is required.

Councilmember Murphy believes it's a significant upgrade for the area. He said residents made a great point regarding cars backing up on Babcock. He felt it was more of a Babcock issue, he was unsure how the city could get around that. Other elementary schools he has been involved with back up down the road. He was unsure how that problem could be solved in the short term. He supports this.

Councilmember Gliva said it didn't make sense to her as to why they would not be able to have more than one entrance and zipper merge. She was unsure they could solve the Babcock issue entirely. She liked the resident's idea of getting lights, direction, and parent involvement. She questioned having an officer there directing. She thought the plan is a big improvement. She is in favor.

Motion by Murphy, second by Gliva, to approve the Major Site Plan and Development Agreements for Salem Hills Elementary School, 5869 Babcock Trail, along with accepting the letter received into the record. Resolution 2022-249

Ayes: 4

Nays: 1 (Dietrich) Motion carried.

The Council took a break at 8:22 p.m.

The Council was back in session at 8: 29 p.m.

B. Plat and Multiple Related Land Use Actions for 2855 47th Street E (Bethesda Lutheran Church). Resolutions 2022-250, 2022-251, 2022-252, 2022-253, 2022-254

Associate Planner Heather Botten discussed property owned by Bethesda Lutheran Church located at 2855 47th Street East consisting of 13 platted/unplatted parcels. The lot is located near Boyd and 47th Street. The zoning is currently public institutional. There are three lots in the southeast corner currently guided for low density residential. She said the Church was approached by a homeowner to the north about purchasing 6,400 square feet of property to be combined with their lot. In order to sell off that small amount of property, the Church is required to plat all of the property to bring the site into zoning compliance. The Applicant requests the following:

- Three lot subdivision:
 - Lot 1 is for the existing residential lot in addition to the 6,400 square feet requested
 - Lot 2 is for the existing Church lot
 - Lot 3 is for a new single-family lot in the southeast corner of the property
 - There is a Comprehensive Plan Amendment for 2 portions of the property:
 - For the 6,400 square feet. This would go from public institutional to low density residential
 - The perimeter of the property guided low density residential would be changed back to public institutional (same as the Church)
 - There is also rezoning of two portions of the property:
 - For the 6,400 square feet

- For the new single-family lot. Zoning would be changed from institutional to R1-C single family
- Vacation of existing perimeter drainage easements
 - Around Lot 1, existing platted property. Existing perimeter easements would be vacated and rededicated on the new plat to incorporate the 6,400 square feet
- Variance request
 - There is an existing shed on the property that is 380 square feet. With moving the property line, it would be 10 feet from the property line where 50 feet is required.

There are no proposed changes to the Church, any access points, or the parking lot. The variance is for an existing structure. The property requesting the lot is the most affected for the variance request. The institutional zoning district does not have setback requirements for accessory buildings, only for principal structures. Staff does not believe the variance would have any adverse impacts to surrounding property owners. The applicant requests:

- Deferring the fee for park dedication to be done at the time of development of the parcel for the new single-family lot and/or asking for the fee to be reduced to \$2,850. That fee was changed to \$3,850. The materials the Church had at the time referenced \$2,850. Application was made after the fee changed.
- Defer the requirement of providing water and sewer stubs to the property line. This is typically done at the time of development. They ask to defer that, not as a developer, but to the future property owner when building a home. The Church doesn't have a plan as to when they would sell off the new single-family lot.

Staff recommends approval of all requests with the addition of a condition to the plat resolution that would require a development contract be recorded against the property. The Planning Commission reviewed the request at their October 4th meeting and recommended approval as submitted with the conditions listed. The Parks and Recreation Commission met on November 9th and recommended approval of the cash fee of \$3,850.

Mayor Bartholomew asked if they have waived the requirements for water/sewer stubs in the past and put them into the construction agreement.

Associate Planner Botten replied not that she recalled.

Mayor Bartholomew requested information about a waiver of the requirement of the water/sewer stub.

City Attorney Bridget McCauley Nason replied she wasn't aware of any that have done that.

Mayor Bartholomew questioned if it was in the Council's purview that a requirement be put in the resolution to provide it at the time of building permit.

City Attorney McCauley Nason replied the Code requires it be provided by the subdivider in the development of the subdivision. The time of building permit is a possibility.

David Hohle, 127 10th Avenue South, South St. Paul, represents Bethesda Church, 2855 47th Street. He requested deferring the utilities and the park fee. He said the Church is focusing on the single lot for possible future sale of which could be in 5-10 years. The Church has a limited budget and is not looking to do expenditures now. They prefer that take place at the time of sale.

Mayor Bartholomew mentioned the Park Dedication Fee would have to be paid at the time of platting.

Mr. Hohle replied they were wondering if it could be done at the time of sale versus time of plat.

Mr. Hohle stated the only reason they created the other plat was because they were in the process of doing this paperwork anyway. They were changing from institutional to residential. They are not in a hurry to sell and could still create the lot. Another option would be to leave Lot #3 out of the division as institutional rather than rezoning as residential.

City Administrator Wilson stated connection fees for utilities and park dedication comes with the creation of a lot, not just a residential lot.

City Administrator Wilson stated if the Council entertains a deferment of either of the fees, they need to specify what fees need to be paid. If deferring and not selling for 5-10 years, fees would likely be higher. When they come due, staff recommends owing the fees in place at that time.

Mayor Bartholomew said the water and sewer stub would be at the prevailing fee structure at that time. He was unsure how to deviate from the park dedication. \$3,850 is the current fee and what everyone else pays. His position is for \$3,850 and may be able to have water and sewer done at the time the building permit is pulled.

Mr. Hohle said if the fees increased, they would have no objection as it would go against what they get from the sale of the land.

Mayor Bartholomew summarized the request:

1. Comprehensive Plan Amendment
2. Rezoning the two portions
3. Vacation of the perimeter drainage utilities and then reinstatement of utilities after the work
4. Preliminary and final plat for a three-lot subdivision
5. Variance to allow the existing garage on the property

Vern Levine, 2940 46th Court East, stated his lot is directly to the north of the new lot. He was concerned with the drain water. Everything drains to the corner, there is no collection there. He questioned where the water would go if building a house on the lot, it could create more water. He asked what guarantees there were that he would not get additional water.

Associate Planner Botten replied at the time of the building permit the engineering department would review the survey, elevations, and grading to make sure it's not impacting surrounding properties.

Mayor Bartholomew stated he was not in favor of changing the park dedication to a lower amount.

Associate Planner Botten clarified that they are not discussing fees for water and sewer stubs, it's the actual physical connection from the street to the property line.

City Administrator Wilson added that the city imposes water and sewer connection fees at the time of plat. There would be a cost triggered by the action.

City Attorney McCauley Nason stated the request is to pay the fees when they must be paid. The plat connection fee needs to be paid at the time of plat. Building permit fees are paid at the time of building permit. The two questions for Council are if the park dedication fee can be deferred until the time of building permit. If that fee is deferred, payment would be based on what the current rate is at the time. The second question is regarding the physical connections for water and sewer. Code requires a physical connection be made as part of the subdivision process. The request is if the development contract can state those connections be made when the building permit is pulled.

City Administrator Wilson stated that the current water plat connection fee is \$1,520, multiplied by the density factor of 3.5, multiplied by net developable acres. There is also one for sanitary sewer. Those are usually paid at the time of plat.

Councilmember Piekarski Krech stated this was different than a developer coming in and developing multiple lots. The Church is trying to be a good neighbor and sell a parcel to the neighbor. She felt it was logical, it's one lot that would not impact anyone. She suggested to structure it in a way that states

all fees are waived at this point but need to be paid at the rate at the time of the application for the building permit, or the time they are selling the property. At this time, the property would be owned by the Church, tax exempt. It has no impact on city funding. The city gets more money if waiting to pay at the time of building. She did not see a problem for the one lot in this unique circumstance.

Associate Planner Botten stated the request is for the deferment of fees and the installation of the stubs from the street to the property line.

City Attorney McCauley Nason stated in the past some park dedication fees have been deferred, Code provides flexibility for the stubs. There is no flexibility in the language for plat connection fees. She said she would draft the contract as directed by Council.

Councilmember Murphy did not see an issue with deferring this at future prices. He was not comfortable reducing the park dedication fee.

City Attorney McCauley Nason stated that Council has discussed the approval of the applications as presented with an amendment to the approval for the plat indicating that a development contract would be prepared. This would come back to the City Council for final approval. With the development contract, staff is directed to stagger payment relating to the fees and stagger the requirements for installation of physical connections to coincide with development of the lot. If a motion is made and approved, there would be a development contract that contains the terms and conditions the Council outlined. The park dedication fee would be included as part of the development contract. She mentioned that the Council stated park dedication fees would be paid at time of building permit, at the amount within the current fee schedule.

Councilmember Dietrich did not want to go against what the Parks and Recreation Commission recommended.

Councilmember Piekarski Krech stated PRAC did not want a reduction in the fee.

Community Development Director Rand clarified that PRAC was focused on whether they should accept the fees versus dedicated land. They did not weigh in on the amount.

Associate Planner Botten stated PRAC recommended the \$3,850 rate but did not go into discussion because it is not in their purview to reduce.

Community Development Director Rand shared that staff did not recommend waiving or delaying fees because other individuals have come in with similar requests. Staff still requires fee payment.

Councilmember Murphy asked if City Code allows for flexibility.

City Attorney McCauley Nason replied the City Code doesn't go into development scenarios. There is flexibility with the connections. Fees are required at the time of plat, including the park dedication fee and plat connection fee. If Council determines this a unique situation and requires fees be paid at a different time, that could be reflected in the development contract.

Councilmember Piekarski Krech stated there isn't a reduction in fees at this time. The fees can increase. Councilmember Murphy asked if they could decide to not develop them and save the money. For example, at the time of platting they decide to plat three lots but never intend to develop two and the city defers the cost.

Councilmember Piekarski Krech replied if the lots are not developed, the city isn't providing services. She questioned why three lots would be platted if they were not going to use them.

Councilmember Gliva asked if plat connections were calculated or if there was an estimate.

City Administrator Wilson replied no, not at this time.

Mayor Bartholomew stated the Council would forgo charging at platting and put in the development agreement that it would be collected at the time of building permit. This includes the hook up, the fee, stubs, and the hookup fees provided at the time of building permit. The park and recreation fee will be paid at the rate at the time of lot development.

Councilmember Gliva mentioned she was having trouble doing all the deferrals. Even though it's a unique situation, it sets a precedence.

Councilmember Dietrich felt there may be more unique situations coming up. She would like to stay with policy on this.

Councilmember Murphy shared that staff's recommendation has him thinking this could come back with problems. He said there were rules for a reason, and they never know what they may run into.

Motion by Dietrich, second by Gliva, to accept the comprehensive plan as proposed for 2855 47th Street E (Bethesda Lutheran Church). Resolution 2022-250

Ayes: 5

Nays: 0 Motion carried.

Councilmember Piekarski Krech questioned where not having a reduction of fees and when fees are payable was mentioned.

City Attorney McCauley Nason replied the resolution approving the plat includes the reference to different conditions. It is requested to add that a development contract be executed by the property owner and City Council. That is the resolution where any changes would be included.

Motion by Murphy, second by Gliva, to approve rezoning the two portions, vacation of the perimeter drainage, preliminary and final plat for a three-lot subdivision, and a variance to allow an existing garage on the Church property less than 50 feet from the new property owner for 2855 47th Street E (Bethesda Lutheran Church). Resolutions 2022-251, 2022-252, 2022-253, 2022-254

Ayes: 4

Nays: 1 (Piekarski Krech) Motion carried.

C. Liquor License Violation -- Mallory-Mikayla, LLC, doing business as 451 Beer. Resolution 2022-255

Police Chief Melissa Chiodo recapped the ordinance, why they do enforcement, and police training to do enforcement. She would then discuss the violations one by one.

The purpose of Alcohol Compliance Checks:

- Part of an effort to work with the community and businesses to reduce sales of alcohol to minors.

Ordinance 4-1-14 speaks of alcoholic beverages and compliance

- Anyone who serves or sells any alcoholic beverage at a licensed establishment shall complete a program of alcohol server training before being allowed to serve any alcoholic beverages.
- Every licensee shall allow any peace officer, or any other person designated by the Council to conduct these compliance checks. A warrant is not needed, it is in the ordinance.

Underage Buyers Protocol:

- Underage buyers are used, there is strict protocol

- Buyer will not use any identification other than their valid Minnesota Under 21 Driver's License or valid ID
- If being asked for identification, the buyer presents their Under 21 ID
- If asked for date of birth, actual date of birth is given
- If seller asks, the buyer can say they are 21
- All buyers are trained by the police department prior to compliance checks
- Buyers go as they are. No dressing up to look older, come as they normally would

Civil Penalties and Sanction 4-1-19

- Council may impose a civil penalty up to \$2,000 (follows State Law) and suspend a license up to 60 days.

Minimum Penalties:

1. First violation within the last five years: \$750.00 civil penalty.
2. Second violation within the last five years: \$1,000.00 civil penalty and a one-day license suspension.
3. Third violation within the last five years: \$2,000.00 civil penalty and a three-day license suspension and/or license revocation.
4. More than three violations in the last five years: \$2,000.00 civil penalty and a suspension of more than three days and/or license revocation.

To note: Brought forward at a Work Session on October 7, 2019; minimum penalties and violations. The ordinance was amended with feedback from businesses and liquor establishment holders. On February 10, 2020, the resolution was updated that each violation was considered a separate violation as it's presented for penalties.

2022 Compliance Checks:

- Police conducted 32 compliance checks in August and September
- 26 businesses passed compliance checks
- 6 businesses had at least one fail during their compliance check

Councilmember Murphy asked how days were determined for suspension.

Police Chief Chiodo replied the Chief of Police makes a recommendation of three different dates between the violation and the end of the calendar year. The Council selects the date and votes.

Mayor Bartholomew said in the past they may have asked the applicant what day was preferred.

Police Chief Chiodo agreed that was done in the past. It was noticed that the slowest sale day of the year was chosen so it would not impact sales. With trying to encourage businesses to not sell to youth in the community the city selects the date.

Police Chief Chiodo presented the first business for Council discussion: Mallory-Mikayla LLC (DBA) 451 Beer, 6530 Cahill Avenue.

- Compliance check took place on August 31, 2022
- An employee sold/furnished alcohol to a person under 21 years of age
- First violation within the last five years (no public hearing is required because it is the first violation)
- Staff's recommendation is for the minimum civil penalty of \$750.00

Mayor Bartholomew asked if input was taken from the license holder.

City Attorney McCauley Nason replied all business holders were provided with notice of the Council consideration and advised they could attend the meeting.

To note: The first two establishments presented are true first-time violations. They are not required to have a hearing. The others are required to have a hearing; any comments are taken and recorded into the record.

Motion by Dietrich, second by Gliva, to approve the Liquor License Violation -- Mallory-Mikayla, LLC, doing business as 451 Beer with the minimum civil penalty of \$750.00. Resolution 2022-255

Ayes: 5

Nays: 0 Motion carried.

D. Liquor License Violation -- Outback Steakhouse. Resolution 2022-256

Police Chief Chiodo discussed the Liquor License Violation for Outback Steakhouse located at 5723 Bishop Avenue.

- Compliance check took place on September 29, 2022
- An employee sold/furnished alcohol to a person under 21 years of age
- First violation within the last five years (no public hearing required due to first violation)
- Staff's recommendation is for the minimum civil penalty of \$750.00

Motion by Murphy, second by Dietrich, to approve the Liquor License Violation -- Outback Steakhouse with the minimum civil penalty of \$750.00. Resolution 2022-256

Ayes: 5

Nays: 0 Motion carried.

E. Liquor License Violation -- Trail West, Inc., doing business as Trail Liquors. Resolution 2022-257

Police Chief Chiodo discussed the Liquor License Violation for Trail West, Inc., doing business as Trail Liquors located at 9740 Robert Trail.

- Compliance check took place on August 31st, 2022
- First violation: Employee sold/furnished alcohol to a person under 21 years of age
- Second violation: Employee did not have alcohol server training
 - This needs to be kept on file for up to three years after the employee has worked there.
 - Must submit a list of employees indicating that they are compliant with alcohol server training during the liquor license renewal every year.
- Public Hearing required
- First violation for selling alcohol to a person under age 21. Minimum civil penalty of \$750.00
- Second violation of failing to have alcohol server training. (The business has up to three days after the alcohol compliance check to provide the training. If they don't, they are notified). Nothing was received on this employee.
 - Minimum civil penalty of \$1,000.00 and a one-day suspension will occur on one of the following dates:
 - November 23, 2022
 - December 16, 2022
 - December 23, 2022

Councilmember Dietrich asked how the business owner is made aware they have three days to get the information to police.

Police Chief Chiodo replied they are notified in writing at the compliance check. It is also included in the City Ordinance.

James Vogt, 9740 South Robert Trail, Trail Liquor, stated in his 14 ½ years of having a liquor license, this is his first offense. He had searched for the employees' certificate and was unable to locate it. The employee has tested since the new liquor license has gone out. He was disappointed in the choices for dates because one is before Thanksgiving, December 23rd is a Friday night, and so is December 16th.

Mayor Bartholomew stated the dates are chosen at the discretion of the Police Chief.

Mr. Vogt replied he was hopeful to get December 16th if possible.

Motion by Murphy to close the Public Hearing at 9:27PM.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Dietrich suggested December 16th, 2022.

Mayor Bartholomew agreed with December 16th.

Motion by Dietrich, second by Murphy, to approve the Liquor License Violations -- Trail West, Inc., doing business as Trail Liquors with the civil penalties as presented along with the date of December 16th, 2022 being chosen for the one-day suspension. Resolution 2022-257.

Ayes: 5

Nays: 0 Motion carried.

F. Liquor License Violation - LOOM Lodge 1088, doing business as Moose Lodge #1088. Resolution 2022-258

Police Chief Chiodo discussed the Liquor License Violation for LOOM Lodge #1088 (Moose Lodge) located at 5927 Concord Boulevard.

- Compliance check took place on September 29th, 2022
- First violation: Employee sold/furnished alcohol to a person under 21 years of age
- Second violation: Employee did not have alcohol server training
- Public Hearing required
- First violation for selling alcohol to a person under age 21. Minimum civil penalty of \$750.00
- Second violation of failing to have alcohol server training. Minimum civil penalty of \$1,000.00 and a one-day suspension will occur on one of the following dates:
 - November 23, 2022
 - December 16, 2022
 - December 23, 2022

Pete Gorder, Moose Lodge Liquor Manager, 5927 Concord Boulevard, stated it was the employee's second day working under supervision. The employee had not been released to work by herself, was in the process of working on the alcohol server training, did not have her certificate, and received it two days later. He was not in favor of double fining. He has been at the Moose Lodge for 15 years; they have never had a violation. He said this is two fines and one closure in one violation. It was ridiculous to him, along with the two busiest dates at the end of the year. He mentioned the Moose Lodge is a non-profit that gives money back to the community. This would take money out of the charities they give to.

Hubert Bauer, past President for the Moose Lodge, 5927 Concord Boulevard, disagrees with the double penalty. He shared that bartenders will now be tips trained before going behind the bar.

Motion by Dietrich to close the Public Hearing at 9:32PM.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Gliva suggested the date of December 16, 2022.

Councilmember Murphy agreed.

Motion by Gliva, second by Dietrich, to approve the Liquor License Violations -- LOOM Lodge 1088, doing business as Moose Lodge #1088 with the civil penalties as presented along with the date of December 16th, 2022 being chosen for the one-day suspension. Resolution 2022-258.

Ayes: 5

Nays: 0 Motion carried.

G. Liquor License Violation -- Monai LLC, doing business as A & M Liquor. Resolution 2022-259

Police Chief Chiodo discussed the Liquor License Violation -- Monai LLC, doing business as A & M Liquor located at 5709 Carmen Avenue.

- Compliance check took place on August 31st, 2022
- First violation: Employee sold/furnished alcohol to a person under 21 years of age
- Second violation: Employee did not have alcohol server training
- Public Hearing required
- First violation for selling alcohol to a person under age 21. Minimum civil penalty of \$750.00
- Second violation of failing to have alcohol server training. Minimum civil penalty of \$1,000.00 and a one-day suspension will occur on one of the following dates:
 - November 23, 2022
 - December 16, 2022
 - December 23, 2022

Councilmember Dietrich requested more information on the certification process, ex: number of hours.

Police Chief Chiodo replied there are a variety of trainings; some do it online or in person. It's what the business chooses. She was unsure of the number of hours. The State requires it be done every three years. The city used to do it every two years but has changed it to three years.

Councilmember Murphy shared that the training takes five hours.

Sharon Hills, Attorney, Dougherty, Molenda, Solfest, Hills & Bauer, represents the Licensee. She said the sole owner/operator is in attendance. She stated that this Licensee wasn't in business at the time this went out to local establishments and was surprised by the notice. There are no employees unless the owner's father (Joy) is at the store with him. On the day of the compliance check, Joy was working, and an out-of-town relative was visiting him at the store. Joy left the store to get food nearby, leaving the relative in the store with instructions to wait to do anything until he returned. The person who sold/served alcohol was not an employee as the Code states; was not authorized to sell. She requested not having the double fine. They asked for mercy.

Motion by Gliva to close the Public Hearing at 9:41PM.

Ayes: 5

Nays: 0 Motion carried.

Mayor Bartholomew requested information on the Code. He said this was not an employee working and that there seemed to be other violations.

City Attorney McCauley Nason responded the language in the Code under Section J indicates "every liquor licensee shall require that anyone who serves or sells any alcoholic beverage must comply with the alcohol server training requirements." The next paragraph reads that "anyone who serves alcohol, or any alcoholic beverage shall complete a program of alcohol server training before they are allowed to serve or sell any alcoholic beverage." In Code prior to that it states, "the liquor license holder is responsible for the conduct/operation of their place of business." She stated the business doors could have been closed with a sign stating, "Back in 5 minutes". The recommendation made by the police department is to treat this business like the other businesses with two compliance check failures.

She mentioned that the resolution should reflect that the individual who sold the alcoholic beverage did not receive the training.

Motion by Murphy, second by Gliva, to approve the Liquor License Violations -- Monai LLC, doing business as A & M Liquor located at 5709 Carmen Avenue, with the civil penalties for the first violation: individual sold/furnished alcohol to a person under 21 years of age and the second violation: individual did not have alcohol server training along with the date of December 16th, 2022 being chosen for the one-day suspension. Resolution 2022-259.

Ayes: 5

Nays: 0 Motion carried.

H. Liquor License Violation - SuperValu Inc., doing business as Cub Wine & Spirits. Resolution 2022-260

Police Chief Chiodo discussed the Liquor License Violation for SuperValu Inc., doing business as Cub Wine & Spirits located at 7804 Cahill Avenue.

- Compliance check took place on August 31st, 2022
- First violation: Employee sold/furnished alcohol to a person under 21 years of age
- Second violation in the last five years.
 - Prior violation took place on July 15th, 2021
 - Prior civil penalty assessed at \$750.00
- Public Hearing required
- Second violation of failing to have alcohol server training. Minimum civil penalty of \$1,000.00 and a one-day suspension will occur on one of the following dates:
 - November 23, 2022
 - December 16, 2022
 - December 23, 2022

Laura Daley, General Counsel and Vice President for Cub Foods, owner/operator of the store. She mentioned that also in attendance are Dan O'Connor, Vice President of Adult Beverages, Chris Bergsten, Vice President of Operations, and Mike Stigers, President, and CEO. All were in attendance to show how seriously they take this violation. She said they are heartbroken this happened. She shared what took place and the changes they have made since the first violation took place.

She mentioned they submitted a letter and wanted to make sure the Council received it. There was also incorrect information attached in the packet, she supplied the correct information with the letter.

She understands the Police Chief recommends dates for suspension. She said the Council retains sole discretion as to when the suspension date should be.

She stated at the time of the first violation, their recommendation was for all cashiers to card anyone who appeared to be under 40 years old. That didn't work. Due to that, a company wide policy was implemented requiring checking all ID's and scanning them into the system regardless of age. The

current violation happened after the new policy was implemented. The employee completed online training. The clerk did as required but received a ""failure"" with the system and didn't do what she was supposed to do.

She suggested picking a date that was less punitive than one of the three busiest days of the year. They felt they have gone above and beyond to try to address the issue and that the Council consider a less punitive date than the recommendations by the Police Chief.

Motion by Gliva to close the Public Hearing at 9:51PM.

Ayes: 5

Nays: 0 Motion carried.

Mayor Bartholomew said he was confused by the dates chosen.

Police Chief Chiodo replied those dates are what has been recommended. She shared, not that she promotes this, but the Council can over-ride the civil penalties and dates selected.

To note: an incorrect attachment for another establishment was attached for this item. The City Clerk sent out the correct information to the Council via email at 4:00 p.m. on Wednesday, December 28th.

Motion by Dietrich, second by Gliva, to accept the correspondence into the record.

Ayes: 5

Nays: 0 Motion carried.

Motion by Murphy, second by Dietrich, to approve the Liquor License Violations -- SuperValu Inc., doing business as Cub Wine & Spirits located at 7804 Cahill Avenue with the civil penalties as presented along with the date of December 16th, 2022 being chosen for the one-day suspension. Resolution 2022-260.

Ayes: 5

Nays: 0 Motion carried.

I. 1st Reading of Ordinance Establishing Development Fees for 2023 & Call for Public Hearing

City Administrator Kris Wilson presented the 1st Reading of an Ordinance Amending Development Fees. This is an annual action of the City Council that is required by State Statute to be completed via Ordinance.

Section 1 – Water Connection Fees. Unique Rates for NWA & Non-NWA

#1 Water Plat Connection Fee – Current:

- Outside the NWA: \$1,480 x density factor of 3.5 x gross acres (regardless of zoning category)
- Inside the NWA: Varies by zone
 - Fee: \$1,370
 - Different density factor for each category of land
 - Multiplied by net developable acres
 - For B-1 and Office Park, B-2, B-3, B-4, I-1, and I-2, P-Institutional, and Mixed Use:
 - Fee: \$1,370
 - Multiplied by a more detailed density factor
 - Each land/zoning category has its own density multiplier

#1 Water Plat Connection Fee – 1st Reading:

The consultant was asked to recommend rates that simplify and streamline the rate structure.

- Outside the NWA: \$1,720 x 3.5 x net developable acres

- Inside the NWA: Fee would be: \$1,435

Water Plat Connection Fee: Decision Points:

1. Same for all zoning classifications? If not, how many zoning groups should there be?
2. How different should NWA rate be from non-NWA rate?
3. How much change do we want to make in one year?

#1 Water Plat Connection Fee - Alternative:

- Makes things more consistent between the inside and outside of the NWA in terms of having the same structures.
- It sets everything as a net developable acre.
- Removes the listing of density factors but sets different rates.
- Presents a more simplified fee structure.

If Council prefers, this alternative rate schedule could be brought back as part of the Ordinance for the 2nd Reading.

Councilmember Dietrich asked if there was a recommendation in the rate study.

City Administrator Wilson replied the consultant gave one but has not given a bound study.

Staff was given slides, spreadsheets, and fee tables. The alternative was provided to staff.

City Administrator Wilson stated alternative fees are challenging to project due to the impacts of changing the fees. They are dependent upon development.

Mayor Bartholomew asked if the alternative rates could be compared to last year's development.

City Administrator Wilson replied staff is working on them. She hoped to have that information for the 2nd Reading.

City Administrator Wilson discussed Unique Rates for NWA & Non-NWA:

#2 Water Building Permit Connection Fees. Paid at the time of Building Permit. 3% increase.

- Outside the NWA: Current - \$980.00 Proposed - \$1,010
- Inside the NWA: Current - \$3,780. Proposed - \$3,900

Proposed for a Single Rate City Wide

#3 Water Treatment Plant per SAC unit (Sewer Access Charge)

- Outside the NWA: \$870
- Inside the NWA: \$810
- Proposed: \$900 for both inside/outside the NWA
 - The change is due to a possible typo that took place leaving the rates different
 - A rate schedule from 2007 was located and the fee was the same city wide at that time

Proposed for a Single Rate City Wide

#4 Water Core Connection Fee. Based off the water service size (or pipe) coming into a unit.

Rates inside the NWA and outside the NWA have become different from each other over the years.

Research suggests this was unintentional as they were originally set to be the same. There are two recommendations:

1. Go back to being the same
2. Change from a water service size to a water meter size and the proportions between the different diameters

Councilmember Piekarski Krech commented that it seemed like a big difference between the old and new. She questioned if they would be able to sustain costs if reducing it that much.

City Administrator Wilson replied fees for the higher amounts are very rare.

Councilmember Murphy asked how water was paid for in the northwest area.

City Administrator Wilson replied it was her understanding that it was a combination. There was a smaller amount of water debt taken on, more was paid for with cash built up in the water fund. Water debt taken on is paid off. The sewer debt extends out several years.

Councilmember Murphy asked if the question about it being legal to change the rates between NWA and non-NWA has been answered.

City Administrator Wilson replied the question had more to do with where the fees would go once collected. There is currently a northwest area fee fund and the remainder fee fund. Staff would like to have a joint account. That money could go toward the highest and best use of the water or sewer system.

Councilmember Murphy asked why there wasn't a recommendation to have non-NWA and NWA be the same.

City Administrator Wilson responded if that was the Council's direction it could be done. They are two separate things. There is the question of how much to charge people and once revenue is received, how segregated they keep and use it. This approach says development in the NWA should pay for itself by reimbursing the city for fronting the money. Staff does not have anything prepared at this time for the separate accounts versus the joint account. That information is being prepared and would come before the Council at a later time.

Councilmember Murphy asked which northwest fund has all the money in it.

City Administrator Wilson replied the revenue coming into the NWA Stormwater Fund has built up a healthy fund. The NWA Sewer Fund is in the red due to debt service payments they haven't been able to make with this fund. Water funds for both have moderate balances.

Councilmember Gliva asked if charging different with NWA and non-NWA separate would get them out of the red and transferring funds back.

City Administrator Wilson replied they could manage the money that way if chosen.

City Administrator Wilson discussed Section 2 - Sanitary Sewer Connection Fees
Unique Rates for NWA & Non-NWA

#5 Sanitary Sewer Plat Connection Fee - Current

- Outside the NWA: \$1,520 x 3.5 x gross acres
- Inside the NWA:
 - Breakdown into 9-10 different zoning classifications
 - Rate of \$2,460
 - Density factor for each classification
 - Use net developable acres

#5 Sanitary Sewer Plat Connection Fee - 1st Reading

- Outside the NWA: Moving to net developable acres. \$1,720
- Inside the NWA: \$2,580, varies by zone

Sanitary Sewer Plat Connection Fee: Decision Points:

1. Same for all zoning classifications? If not, how many zoning groups should there be?
2. How different should NWA rate be from non-NWA rate?
3. How much change would we want to make in one year?

#5 Sanitary Sewer Plat Connection Fee - Alternative:

- Outside the NWA: Net developable acres
 - 3 zoning groups
 - Relationship between the fees is the same, rates are higher in the NWA to repay costs
- Inside the NWA:
- Difference between outside the NWA/inside the NWA:
 - More significant for sanitary sewer. The way it's currently in the Code. The consultant's recommendation does not change this
 - 50% premium paid by those inside the NWA, for water it's a 25% premium

#6 Sanitary Sewer Building Permit Connection Fee. Both per SAC Unit:

- Outside the NWA: Current: \$560 Proposed: \$580
- Inside the NWA: Current: \$6,750 Proposed: \$6,960

Proposed for a Single Rate City Wide

#7 Sewer Core Connection Fee.

- Currently based on sewer service size
- Slightly different rates inside/outside the NWA were determined to be unintentional
- Recommending going to a single rate structure
 - Use the AWA ratios between the different structures
 - Water meter size

City Administrator Wilson discussed Stormwater Connection Fees:

Section 3 & 6 of Proposed Ordinance:

- Different zoning categories
- Fee for net developable acres
- Fees are significantly higher than neighboring cities

Proposed Stormwater Connection Fees:

- Simplification
- 3 or 4 Zoning Districts:
 1. R-1 and R-2
 2. R-3A, R-3B, and R-3C
 3. All other Zoning Districts
 4. Mixed Use Zoning Districts
- There would be fees inside the NWA and outside the NWA

The starting point was setting an R-1 and R-2 connection fee based on data from comparable cities.

The relationship between the zoning classes is a result of different impervious surface maximums in the city's zoning code for different types of land uses.

NWA fees are proposed to be \$7,230 more than non-NWA. The dollar amount comes from the original NWA utility work. These rates are a balance of what other cities are charging.

Section 4 - Trunk Line Assessments for Water & Sewer. Basis for charges when extending into new areas

- Has not been examined in detail as a part of the study
- Proposing a 3% increase for 2023

Staff is trying to determine why they are different. There has been indication that they used to be the same and deviated at some point. Staff will do further research.

- Staff may ask the Council to consider a 2nd Reading that makes the rates uniform

Councilmember Piekarski Krech asked if this was per acre and if it has always been that way.

Public Works Director Brian Connolly replied it has been that way since at least 2004.

Councilmember Piekarski Krech asked where the front footage comes in.

Public Works Director Connolly replied front footage is measured for street improvements.

These are for sewer and water.

Councilmember Piekarski Krech said when she paid her water assessment, she paid trunk line and front footage.

Public Works Director Connolly responded she probably paid a trunk cost and a linear/lateral cost. This gets the sewer to serve the area. The lateral cost gets it to the property line.

Councilmember Piekarski Krech said she does not have water service.

Public Works Director Connolly replied he did not know specifically. It may be how it was assessed when the project was put together.

Councilmember Piekarski Krech said it would be nice to figure out. If going to the B-line sewer, she's off Babcock Trail, there are a lot who do not have access to it but paid the area assessment charge for it.

Public Works Director Connolly replied he has noticed while working on other areas that several parcels were assessed the area charge, but not the local/lateral charge. It's because they are within the sewer shed of what was built, but don't have direct access to it. If in the sewer/watershed with trunk, the lateral cost is if having direct access to the parcel, they could potentially make that connection today.

Section 5 - Land Use Application Fees & Deposits

- Proposed changes are shown in red in the draft ordinance
- There is one city fee staff proposed to be increased
- There is one new fee that is proposed to be added
- Change in how the Abstract Fee is listed.
 - Proposed to be increased in a \$ amount to cover filing fees
 - An Abstract Fee is an add-on if doing certain things that have to be filed against the property
 - Moved to show as an add-on
 - A pass-through cost
- Also shown in red are increases proposed for several escrow accounts based on previous charges incurred
 - Planning staff has recommended some of the initial escrow amounts be increased
 - If there are escrow costs remaining, the balance is returned to the applicant

Section 6 - Effective Date: January 1, 2023

Next Steps:

- 2nd Reading & Public Hearing: Monday, November 28 at 6:00 p.m. in Council Chambers
- 3rd Reading: Monday, December 12, 2022

Requested Action:

- Move to approve the 1st Reading of the Ordinance with an Amended Water Plat Connection Fee of \$1,435 for land inside the Northwest Area (NWA).
- Set a Public Hearing on the proposed ordinance for Monday, November 28, at 6:00 p.m.

Councilmember Murphy stated it was important to show historic examples. He asked if Council could receive a summary of fees that might change, that are paid by residents inside/outside the NWA versus paid by developers.

City Administrator Wilson replied the fees under discussion are paid by developers. The other part of the Utility Rate Study is the rates paid by customers. That does not have to be done by ordinance and does not require three readings. Staff will bring the rate structure forward at the November 28th meeting.

Motion by Dietrich, second by Bartholomew to approve the 1st Reading of Ordinance Establishing Development Fees for 2023 & Call for a Public Hearing to take place at the November 28th, 2022 City Council Meeting at 6:00 p.m.

Ayes: 5

Nays: 0 Motion carried.

7. PUBLIC COMMENT:

George Fell, 1765 Upper 55th Street East, stated he has three items he wishes to discuss and has shared the supporting documentation with the City Clerk. The first item was regarding speeding traffic on the

section of Upper 55th Street between Babcock Trail and South Robert Trail. Since resurfacing, it has become a race track. It's not only the speed, but the noise. He submitted a letter back in July to the Police Chief and City Administrator regarding this. He asked that the Council have recommendations or assistance that can be offered in the New Year.

The second issue is from the October 24th meeting when an increase in utility fees was presented. He said he had the privilege of being the city representative on the Lower Mississippi Eagan/Inver Grove Heights Watershed Management Organization. He stated that in 2017 he shared an outline with the former Public Works Director about how the city can encourage participation with the public through workshops to promote the new types of technology for reducing impervious areas.

He suggested the city look towards being a community that embraces electric vehicles and charging stations. With four dealerships in the city, this should be a city that encourages places to stop and charge those units.

Kelly Kayser, 1953 59th Court East, congratulated the Mayor Elect and thanked Mayor Bartholomew and Councilmember Piekarski Krech for their years of service.

She thought the presentation on stormwater fees at the October 24th meeting was helpful.

8. MAYOR AND COUNCIL COMMENTS:

Mayor Bartholomew shared that the Veterans Day celebration was held at the Memorial Center on November 11th. It was very well attended. He thanked Staff for their hard work and the police department for greeting so well. He said it was regal and emotional. He thanked all that had a hand in making it a memorable day.

City Administrator Wilson stated there will be a Special Meeting to canvas the results of the Election on Thursday, November 17th at 8:30 a.m. in the City Council Chambers.

9. ADJOURN:

Motion to adjourn the meeting at 10:55 p.m.

Ayes: 5

Nays: 0 Motion carried.

Minutes prepared by Recording Secretary Sheri Yourczek