

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, NOVEMBER 28, 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 28, 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, Community Development Director Rand, City Planner Hunting, Public Works Director Connolly

3. PRESENTATIONS:

4. CONSENT AGENDA:

A. Approval of Disbursements **Resolution 2022-262**

B. Personnel Actions

C. Change in Pay Grade for Fire Inspector Position

D. Revised ADA Plan for City Facilities **Resolution 2022-263**

E. Resolution 2022-264 Approving the 2023-2027 Public Works Capital Improvement Plan (CIP)

F. Resolution 2022-265 Accepting Consultant Proposal and Authorizing Project Surveying for Bolland Trail and 62nd Street Area Rehabilitation, City Project 2022-09L

G. Vista Pines Trail Connections – Authorization to Proceed to Final Design and Preparation of Plans and Specifications.

H. Authorization to Place 2023 Equipment Orders for Golf Course **Resolution 2022-266**

I. Lobbyist Contract for 2023 Legislative Session

Councilmember Piekarski Krech requested Agenda Item 4E be pulled from the agenda.
Councilmember Murphy requested to pull Agenda Item 4I.

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

Ayes: 5

Nays: 0 Motion carried.

Agenda Item 4E. Resolution 2022-264 Approving the 2023-2027 Public Works Capital Improvement Plan (CIP)

Councilmember Piekarski Krech referenced “unprogrammed items” stating she has always been against paving Akron and the 65th Street extension. She felt residents were given the idea those would not be dealt with or dealt with differently. She does not agree with either item as proposed.

Motion by Piekarski Krech, second by Gliva, to approve Resolution 2022-264 Approving the 2023-2027 Public Works Capital Improvement Plan (CIP).

Ayes: 5

Nays: 0 Motion carried:

Agenda Item 4I. Lobbyist Contract for 2023 Legislative Session

Councilmember Murphy asked if the Lobbyist was met with on a proactive basis and if there were topics specific to Inver Grove Heights.

City Administrator Kris Wilson replied Lobbyist Katy Sen, from Messerli Kramer, focuses primarily on issues specific to Inver Grove Heights. Sometimes Ms. Sen shares awareness of items that affect all cities in order to be in the loop. The Lobbyists primary focus has been on seeking State Bonding Funds for various projects and building relationships with Legislators. She shared that later this week the Mayor, Mayor Elect, herself, and Ms. Sen will meet with the Legislative Delegation for an introductory session.

Councilmember Murphy asked if that was easier to do with a Lobbyist around or if it was something that could be done on our own.

City Administrator Wilson replied that staff could set up a pre-session meeting but once the session starts, it's incredibly difficult and time consuming to schedule. She stated that Ms. Sen's presence at the Capital is very beneficial.

Mayor Bartholomew mentioned that without Ms. Sen, their access wouldn't be as good as it is.

Motion by Murphy, second by Gliva, to approve the Lobbyist Contract for the 2023 Legislative Session.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC HEARING:

A. Public Hearing for 2023 Liquor License Renewal Applications and change in Manager approvals

City Clerk Rebecca Kiernan presented the 2023 Liquor License Renewal Applications and change in Manager approvals. There have been 32 active liquor licenses issued by the city; all have an expiration date of December 31st, 2022. The city has currently received renewal applications for 20 of those licenses. Each renewal has the necessary license fees and certificates of liability insurance. All background investigations have been completed by the police department. The following two establishments had changes in managers:

- B52 added a new manager: Amy Holum
- Cub Wine & Liquors added a new manager: Michael Rietz

Staff recommends approval of the request. Pending receipt of all necessary materials, the remaining licenses will be brought forward for a public hearing at the December 12th City Council Meeting.

Mayor Bartholomew closed the Public Hearing at 6:06PM

Motion by Murphy, second by Dietrich, to approve the Public Hearing for the 2023 Liquor License Renewal Applications and changes in Manager approvals as presented.

Ayes: 5

Nays: 0 Motion carried

B. Public Hearing and 2nd Reading of Ordinance Amending Development Fees and Utility Connection Fees

City Administrator Kris Wilson presented the 2nd Reading of the Ordinance Amending Development Fees. The proposed Ordinance amends three different sections of the City Code:

1. Water, Sewer, and Stormwater Connection Fees and Sanitary Sewer and Water Trunk Area Assessments
2. Stormwater system rates and changes

3. Land use approval fees and deposits

Changes from the 1st Reading:

1. Section 4: Establish a per acre assessment amount for water and sewer trunk lines. (Not a charge applied very often. Used when choosing to assess a utility extension rather than paying connection fees). Recommend they be set at the same dollar amount.
2. Section 6: Added a fee for the "Determination of Substantially Similar Use". This fee is currently used; it was inadvertently dropped from the 1st Reading. No change to the dollar amount.
3. Sections 5 & 6: Have been reversed in order to match the title of the ordinance.
4. Various minor grammatical and technical edits identified by the City Attorney.

Section 1 - Water Connection Fees:

- There are distinct fee structures for the northwest (NWA) compared to the rest of the city.
 - This relates to a decision made years ago not to assess up front for the extension of utilities to the NWA. The intent was the development to come would pay the city back for the up-front expenditures.
- Staff recommends continuing to have unique rates for the NWA and Non-NWA for:
 - Water Plat Connection Fee
 - Water Building Permit Connection Fee
- Staff recommends merging the following into a single city-wide rate:
 - Water Treatment Plant Fee
 - Water Core Connection Fee

This makes it easier to administer, fairer, and was how they were done originally.

Unique rates for NWA & Non-NWA: Water Plat Connection Fee - Current (based on land area):

- Outside the NWA: Single rate of \$1,480
 - Multiplied by a density factor of 3.5
 - Multiplied by gross acres
- Inside the NWA: (calculated based off zoning districts)

Unique rates for NWA & Non-NWA: Water Plat Connection Fee - 1st Reading:

- Change so everything is based on net developable acres.
 - Streamlines NWA and Non-NWA fees
 - Increase for rising costs

City Administrator Wilson shared that during the 1st Reading a slide was shown based on discussion by staff regarding an alternative plat connection fee that would have gone further in making the NWA & Non-NWA more similar. Staff applied that fee structure to some developments that have come through recently and discovered it has significant impacts (higher costs for development). Staff did not feel the work done with the consultant to this point was robust enough to justify/support that level of an increase. Staff recommends no consideration to this alternative and to proceed with what was presented in the 1st and current 2nd Reading.

Unique Rates for NWA & Non-NWA: Water Building Permit Connection Fee (calculated on a per SAC - Sewer Access Charge, Unit):

- Proposing to continue use with increases to the dollar amounts

Proposed for a Single Rate City Wide: Merging fees into one:

- Water Treatment Plant Fee
 - \$810 inside the NWA
 - \$870 outside the NWA
 - Proposing to make it \$900 per SAC Unit

Proposed for a Single Rate City-Wide:

- Water Core Connection Fee

- Previously based on the water service
- The public works director and consultants have advised the water meter to be a better measurement

Section 2 – Sanitary Sewer Connection Fees:

- There is a sanitary sewer plat connection fee
- Sanitary sewer building connection fee
- Sewer core connection fee (proposed to establish a single rate city-wide)
- Proposed to continue at the current single rate city-wide:
 - MCES (Metropolitan Council Environmental Services) SAC Unit Fee: No change for 2023
 - Set by the Met Council, collected by the city, directly passes through.
 - B-Line Special Connection Charge – Flat 3% increase
 - Distinct region of the city. Most properties have connected/paid fees. Few have deferred until development occurs. This fee is carried from one year to the next due to uncertainty about when the last remaining properties will connect.

Unique Rates for NWA & Non-NWA – Sanitary Sewer Plat Connection Fee – Current

- Outside the NWA: Single rate based on gross acres
- Inside the NWA: Broken down by zoning code and net developable acres
- Proposing for 2023, recommend going to net developable acres, both inside and outside NWA

Unique Rates for NWA & Non-NWA – Sanitary Sewer Plat Connection Fee – Alternative

- Staff does not recommend this option

Unique Rates for NWA & Non-NWA Sanitary Sewer Building Permit Connection Fee

- Outside the NWA proposed: \$580
- Inside the NWA proposed: \$6,960

Proposed for a Single Rate City-Wide – Sewer Core Connection Fee:

- Moving to have the base be water meter size

Stormwater Connection Fees: Sections 3 & 6 of the proposed Ordinance:

- Currently there is only a stormwater connection fee inside the NWA
- Recommendation of the utility rate funding study to have a stormwater connection fee city-wide.
 - Need to set a fee amount
 - Establish language
 - Goes directly to ongoing maintenance of the stormwater system and capital investments in stormwater
 - Most capital improvements done to the storm system are tied to a street project
 - The fees have not been high enough to sustain costs. Other money, (pavement management funds) has been used on stormwater portions of projects
 - Will take numerous years to build up a fund

Section 3 & 6 Current Stormwater Connection Fees (charged in the NWA only):

- Vary by zoning district
- Lowest fee is \$16,050
- Highest fee is \$18,450
- Proposed Stormwater Connection Fees:
 - 4 categories of land. Each category has a fee
 - R-1 and R-2
 - R-3A, R-3B, and R-3C
 - All other Zoning Districts (B, I, and P)
 - Mixed Use Zoning Districts
 - Outside the NWA: Based on comparable cities to see what the market is

- While looking at surrounding cities, it was very common to see a single family, multi-family, and other land use types.
- In the NWA, a dollar amount of \$7,230 has been added to each of the fees. (This comes from some of the NWA utility work).

Section 4 - Trunk Line Assessments for Water & Sewer: (Change was made between the 1st and 2nd Reading).

- A 3% increase was proposed during the 1st Reading
- In the 2nd Reading, recommend making both Water and Sewer Trunk Line amounts be the same at \$5,418 proposed
- Based on total acres
 - Consultant has recommended
 - Assumes 90% of the area is developable
 - Parcels are treated equally whether paid through assessment or plat connection fee

Councilmember Piekarski Krech questioned what would happen if a person with 20 acres decided to subdivide. Those would be hit would connection fees and paying double.

City Administrator Wilson replied they would not. The plat connection fees, water and sewer, specifically says it does not apply if the parcel has previously been assessed a trunk line assessment.

Section 5 - Land Use Application Fees and Deposits:

- Only one city fee is proposed to be increased
- One new fee is proposed to be added plus the reinstatement of the fee accidentally left off the 1st Reading
- Change in how the Abstract Fee is listed
- Increases proposed for several escrow amounts based on previous charges incurred
 - A developer provides an escrow/funds to cover costs the city incurs for reviewing their application. This can be due to incurred legal costs and technical costs.
- Externally reviewed costs incurred are taken from the escrow

She stated that developers have been running through the escrow accounts quickly. It has not been high enough to get project reviews complete. Staff recommends these be increased.

Section 6 - Effective Date of January 1, 2023

Next Steps: 3rd and final Reading on Monday, December 12th

Requested Actions: Hold the Public Hearing

- Staff recommends approval of the 2nd Reading of the Ordinance as presented

Councilmember Piekarski Krech referenced the differences in cost on the plat connection commenting that it seemed like outside of the NWA went up significantly higher than it did inside the NWA. She asked if the rationale was because it was net not gross.

City Administrator Wilson replied that was correct.

Councilmember Piekarski Krech commented if raising fees, one would think it would be the same percentage across the board.

City Administrator Wilson replied typically they would. This was not an annual occurrence.

Councilmember Murphy referenced the alternative that was tested against three developments and mentioned it was said staff felt the increase was unacceptable because they have not analyzed the rate study in enough detail.

City Administrative Wilson replied she didn't want to leave the expectation they would come back to that magnitude of an increase. Staff recommended taking the utility rate study to make

sure the fees were just, equitable, understandable, and administratively feasible. It wasn't done to get more money. The rate structure they determined took significantly more money from developers. Staff did not feel they had justification to do that level of a rate increase at this point. Councilmember Murphy asked what might be justification. He questioned if another example outside of the NWA would provide better information.

City Administrator Wilson replied that staff looked for examples outside of the NWA. They were surprised at how uncommon it was for the plat connection fee to be paid outside the NWA. Councilmember Murphy referenced the development on the old South Grove site and asked if there were no fees involved.

City Administrator Wilson replied there were no plat connection fees. Councilmember Murphy said he was still questioning why staff thought it to be so expensive and what they were comparing it to.

City Administrator Wilson responded it was compared to what is currently being collected. Option A (1st Reading) generates some additional revenue for the city. The alternatives had close to a 40% increase in revenue.

Councilmember Murphy stated for example, if 40% was too low and that was what the neighbors were doing, how it was decided.

City Administrator Wilson replied staff did not do a formal market comparison on each fee. Every city does it a little differently. The consultants went out and tried to estimate other market rates. Current development fees in the city are high. Having an increase of that amount would likely bring objections and a lack of continued development.

Councilmember Murphy asked if the Consultants agreed the alternative was too high.

City Administrator Wilson replied the consultants, AE2S, stated it was too high.

City Administrator Wilson displayed Page 131 from the packet showing a comparison of the options. She stated AE2S ran through the scenarios with Staff and work was also double checked. The consultant agreed that a large impact was not advisable at this time.

She shared for future reference that The Crossings development, a multi-family project, is the one example whose fees would go down under any of the options.

There have been criticisms and complaints that fees for multi family development in the NWA are too high and out of the market to the point that the Council considered and awarded an abatement tied to the fees for The Crossings.

The diagram was referenced showing that Option C-1 and C-2 were put together in the last two weeks by staff in talks with the consultant. Staff believes Option C-2 has possibilities and benefits. Staff was not prepared to recommend that option at this time due to it being something that was just discussed two weeks ago. It needs further analysis and work.

Mayor Bartholomew closed the Public Hearing at 6:38PM

Motion by Piekarski Krech, second by Dietrich, to approve the Public Hearing and 2nd Reading of Ordinance Amending Development Fees and Utility Connection Fees.

Ayes: 5

Nays: 0 Motion carried.

6. REGULAR BUSINESS:

A. Rental Housing Licenses

Community Development Director Heather Rand presented four rental housing licenses for approval. Staff found the applications to be complete, they have been reviewed and approved by the police department. Staff recommends approval of the following four rental housing licenses:

- 8905 Brunswick Path - Maverick Tom Perry
- 8832 Brunswick Path - Michael Reed
- 8213 Cloman Ave - Matthew Olson
- 3604 77th St E - Jesse Mausser

Motion by Dietrich, second by Gliva, to approve the four rental housing licenses as presented.

Ayes: 5

Nays: 0 Motion carried.

B. Final Plat for Peltier Reserve 2nd Addition and related land use actions for the Peltier Reserve, located at Agate Trail and 70th Street. Resolutions 2022-267, 2022-268, & 2022-269

City Planner Allan Hunting presented a request by Builders Lot Group for Peltier Reserve 2nd Addition. The Applicant requests the following:

1. Final Plat for Peltier Reserve 2nd Addition
 - a. Re-platting Outlot L, the park lot from the original plat. It will need to be re-platted to a buildable lot
2. Amendment to the PUD Site Plan to allow for a 20-foot front yard setback
 - a. The developer was recommended and approved for a 25-foot front yard setback.
 - b. Finding some of the lots on the curved street have portions of the front porch encroaching into the 25 feet. Requesting to change the plan to go back to 20 feet. (20 feet is the minimum allowed by the Northwest Area Overlay)
3. Amendments to the Development Contract
 - a. Timing of the improvements to get roads up to the park.
 - b. Outlot K was originally dedicated. It was going to underground stormwater systems. Those need to be enlarged. The developer needs to absorb three lots to the south to make a larger stormwater system. The three lots would be deeded to the city because the city maintains ownership of the storm system once constructed.

Action requested:

- Consider resolutions approving a final plat, PUD site plan amendment, and amendments to the development contract for Peltier Reserve.
- Planning Commission recommended approval of the three action items (6-0).
- Staff recommends approval of the three resolutions.

Mayor Bartholomew asked if the three parcels would need to be mowed or left natural.

Public Works Director Brian Connolly replied the underground storage system will be a surface-based infiltration basin. Those are left to grow naturally around the edges. Staff will still maintain the piping.

Mayor Bartholomew questioned if it would be left natural for the distance of the three lots because it was going to an above ground versus inground. He asked if it was due to more capacity.

Public Works Director Connolly replied he was unsure of the specifics. The former Public Works Director /approved this item. He said it was his understanding that the underground system was not going to be large enough to handle the needs.

Councilmember Piekarski Krech asked if the street connection issue has been solved there and if it affects this.

Public Works Director Connolly replied there is no current issue. The plans were approved in a manner that kept construction for the street further west than the original layout. There is still a stub street.

Councilmember Piekarski Krech asked if the neighbors have signed off on this.

City Administrator Wilson replied the neighbor still doesn't like what is on here. It does not touch his property and is not as close as originally proposed. The property owner prefers it be less of a stub than it already is. Staff has explained to him why it was approved.

Councilmember Murphy asked what the downside was if it was not underground versus the infiltration system. He asked if there were pros and cons between the two.

City Planner Hunting believed it was the design chosen. If above ground, there would be some type of depression/stormwater pond. The developer chooses for different options/alternative. He was unsure why one would be better than the other in different situations.

Councilmember Murphy asked if those three lots could have been sold if underground.

City Planner Hunting replied the system needed to be enlarged.

Councilmember Murphy asked if Builder's Lot Group wrote a letter stating that due to supply chain issues, they were unable to do this as scheduled. He questioned what happens if this isn't approved and if there were consequences for not honoring the original contract.

City Planner Hunting replied dates initially established are sometimes the best estimated guess as to when a developer is going to get things done.

City Attorney Bridget McCauley Nason replied if there is an event of developer default under the development contract, the city has a variety of remedies:

- The city can go in and do the action itself (depending on what the issue is)
- The city can withhold building permits in certain circumstances when actions are not completed within certain deadlines

To note: Language under the Developer Default section says there is an excuse, which could include supply chain issues.

City Attorney McCauley Nason stated access points have been provided and found to be sufficient to provide access for park construction to occur in the spring. The development contract states the developer must not interfere with the city's construction activities. The developer would need to coordinate with the city's parks and recreation director.

Steve Soltau, Builders Lot Group, stated the last thing they wanted to do was lose any lots. The sizing of the underground stormwater requirements did not meet needs and needed to be further oversized. This caused costs to escalate, and materials were not available, so they looked at alternatives. They did not want this project to take longer than it already has. The pipeline crossing changed things schedule wise. They were originally told they would be able to suspend the pipeline and do the utility work underneath. Given the depth of the utility work, the senior engineer said no. A subcontractor came onboard as quickly as they were able to in the spring. Heavy rains delayed the project further. They will do everything they can in order to move forward in the spring.

Motion by Gliva, second by Piekarski Krech, to approve the Final Plat for Peltier Reserve 2nd Addition and related land use actions for the Peltier Reserve, located at Agate Trail and 70th Street. Resolutions 2022-267, 2022-268, & 2022-269

Ayes: 5

Nays: 0 Motion carried.

C. 1st Reading of Ordinance Regulating the Sale of Legal Products Containing THC

City Attorney McCauley Nason presented the 1st Reading of a draft ordinance regulating the sale of legal THC products. Background information:

- Marijuana versus Hemp:
 - The difference comes down to Delta-9 tetrahydrocannabinol concentration in the plant
 - Hemp is defined as a cannabis plant that has a Delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis
 - Marijuana is any plant of the species of the genus Cannabis that does not include Hemp
 - Marijuana is not legal in Minnesota yet
 - Edible products containing THC in certain circumstances can come in the form of an edible (gummy) or a beverage
- Cannabinoids are a group of substances found in the cannabis plant.
 - There are more than 100 different cannabinoids
 - The two most common are THC and CBD
- Edible cannabinoid products are products intended to be eaten/consumed by humans.
- Nonintoxicating cannabinoid is substances extracted from certified Hemp plants
- THC Products are any product that contains tetrahydrocannabinol and meets the requirements to be sold for human or animal consumption

This licensing ordinance licenses the sale of THC products, products just made legal by the Legislative Session. 2022 Legislative changes:

- Prior to the changes there was lack of clarity regarding the ability to sell certain edible products containing cannabinoid (CBD) products.
- The changed legislation now clarifies some of those issues and allows certain edible and beverage products to be sold for human consumption, only to those aged 21 or over.
- There are limitations to the products related to the THC concentration.
 - Products cannot contain more than 0.3% of any THC
 - Cannot contain more than 5 mg. of THC in any single serving, or more than 50 mgs. of any THC per package
- The law does not limit or restrict where the edible cannabinoid products may be sold.
 - This is where the city's potential licensing structure comes into play
 - The city has the ability of determining where these products might be sold and under what circumstances pursuant to the terms of the license
- The MN Board of Pharmacy has regulatory authority over edible cannabinoid products.
 - This is the entity responsible for enforcing whether or not the products being sold comply with the various provisions within the Statute
- The State has already limited and suggested several things these products cannot do:
 - They cannot be infused into an existing food product
 - They cannot be modeled after something that is marketed to children
 - Other ingredient specifications

The City Response: An Interim Ordinance was adopted August 8, 2022

- Some cities adopted Interim Ordinances, some adopted licensing structures immediately.
- The purpose of the City of Inver Grove Heights' Interim Ordinance was to:
 - Direct staff to study the matter
 - Staff has completed that action
 - Draft a licensing ordinance
 - Staff has drafted a zoning ordinance. (This has not been brought forward yet, will come at a later meeting)

Proposed Licensing Ordinance Purpose:

- Regulate the sale of adult use products containing tetrahydrocannabinol (THC) through a city licensing structure.
- Proposed licensing structure:
 - Requires a license for the sale of THC products
 - Currently, there is no state license required for the sale of these products
 - If the Council considers/adopts the proposed ordinance, there would be a city license required for the sale of these products
 - The licensing structure does not impact existing businesses selling these products, providing they obtain a license
 - Does not impact the sale of other legal cannabinoid products such as lotions with CBD or trace amount of THC
 - Does not apply to products dispensed by a registered medical cannabis manufacturer

Proposed Licensing Ordinance Structure:

- License requirements would apply to all retail establishments where licensed products are sold. This includes grocery stores, tobacco products shop, convenience stores, and bars.
- License required before THC products may be sold:
 - Application
 - Background investigation
 - City Council consideration and approval

Requirements for License Holders and Restrictions on Sales:

- Sales only to those 21+
- Required training for all employees or other persons making sales of licensed products
- No sampling
- No self-service checkout or self-service merchandising
- No sales from vending machines
- No sales from a THC truck (moveable place of business)
- No sales from a home business
- No sales from exclusive liquor stores

There is a proposal that states that no sales are allowed at businesses located within 500 feet of youth-oriented uses that were not selling THC products prior to the imposition of the moratorium. (Convenience store, tobacco restaurant, bar, or THC stores)

The city has language in the liquor licensing chapter. She wanted the Council to be aware this could have a potential impact on businesses that are not selling these products but may wish to because of the location of the business as it relates to schools or other youth related uses.

Compliance Checks and Administrative Civil Penalties:

- First Violation: Civil fine of \$750.00 and suspend the license for not less than 1 day
- Second Violation within five years of the first violation: Civil fine of \$1,000 and suspend the license for not less than three consecutive days
- Third Violation within five years of the first violation: Civil fine of \$2,000 and suspend the license for not less than 10 consecutive days
- Fourth Violation within five years of the first violation: Council shall revoke the license for at least one year

Compliance checks would be completed by the police department.

Requested Council Action:

- Consider the First Reading of the draft THC Products Licensing Ordinance
- Provide direction to staff regarding any changes the Council would like to see in the second reading version of the ordinance

Councilmember Piekarski Krech referenced Chapter 16, 4-16-1 sub paragraph A, that says "based on most reliable and up to date scientific evidence the rapid introduction...". She asked what the up-to-date scientific evidence was and where it was from.

City Attorney McCauley Nason replied the paragraph has been utilized in many of the licensing ordinance adopted by other cities. She did not have any specific studies that were cited but can get that information to the Council.

Councilmember Piekarski Krech questioned what the scientific evidence was. She wanted the study to be cited. She asked how this was different from how the city regulates cigarettes in terms of the distance.

City Attorney McCauley Nason replied the city does not currently license cigarette sales; it is done by Dakota County. Inver Grove Heights is one of four Dakota County cities that have the County as the licensing authority. All other cities have adopted a licensing ordinance. Staff will be bringing forward a proposed licensing ordinance in 2023 that would have the city taking over that licensing role.

She stated that many tobacco license ordinances have prohibitions on exclusive tobacco shops. This would be an option for the Council. For example, if there is a bar/restaurant that sells alcohol that is offering these products infused with THC near a school, there may be less concern there versus an exclusive THC or tobacco shop located closely to a youth-oriented use.

Councilmember Piekarski Krech asked if something could be included that doesn't preclude established businesses. If it wasn't done for tobacco, she questioned why it wouldn't be done for something like this. She asked why bars could have it if liquor stores could not.

City Attorney McCauley Nason replied Statutes that deal with off sale licenses have established what products could be sold in those exclusive liquor stores. Those include mixers, food, and beverages. Because these products are not technically food, they are edible products intended for human or animal consumption. They are not subject to the purview of the Department of Health; they are subject to the Board of Pharmacy. The Alcohol and Gambling Enforcement Board has said these are not products allowed under Statute to be sold in exclusive liquor stores.

Councilmember Murphy referenced Paragraph B stating it goes from the rapid introduction of being a potential threat to actually calling it a threat. He was unsure if that was an issue. He asked if training would include how to ID someone.

City Attorney McCauley Nason replied that she was unable to locate product specific THC training. It is anticipated to be modeled off alcohol. There are some trainings for tobacco specific products.

Councilmember Murphy said existing businesses within 500 feet of a youth-oriented use is a concern for him.

Councilmember Piekarski Krech asked if it was known how many businesses would be affected by the 500-foot rule. If an ordinance like this was done, she questioned how many businesses, unless they would be doing it already, would be impacted. She asked if it puts an unfair disadvantage for different businesses.

City Attorney McCauley Nason replied no, particularly if the products were sold at convenience stores or existing restaurants. She shared that there may be current restaurants that may want to sell beverages that might have a challenge with the distance restriction. She said the Council could put a date and direction in the Ordinance that gives a grace period as to the time in which they would have to obtain a license.

Councilmember Piekarski Krech commented that a liquor license would not be needed to sell the Surly products shown but would need the THC license.

City Attorney McCauley Nason replied that was correct.

Councilmember Dietrich referenced the moratorium that ends in February and asked if there was any interest in seeing what the State does.

City Attorney McCauley Nason replied that is up to the Council. The thought was to have something in place before the interim ordinance expired.

Councilmember Dietrich asked if the violations could be stacked similarly to the alcohol compliance.

City Attorney McCauley Nason responded that is something that could be added to clarify. Like liquor, if failing a compliance check and staff has not been trained, those could be two separate violations.

Councilmember Dietrich requested seeing a proactive part of training the businesses. She mentioned that some surrounding cities have Officers go out to the establishments and offer information about the training portion and what they would be looking for. This would build relationships.

Mayor Bartholomew requested the Police Chief send information on the distancing for businesses currently selling and what those distances are.

Motion by Murphy, second by Piekarski Krech, to approve the 1st Reading of an Ordinance Regulating the Sale of Legal Products Containing THC

Ayes: 5

Nays: 0 Motion carried.

City Administrator Wilson stated staff would present the 2nd Reading in January.

D. Resolution Establishing 2023 Water and Sanitary Sewer Utility Rates. Resolutions 2022-270 & 2022-271

City Administrator Wilson discussed the Comprehensive Utility Capital Planning and Rate Study. This is for Council consideration of resolutions establishing water rates and sanitary sewer rates for 2023. Staff is still trying to do some work on the stormwater rates, that resolution would come before the Council at the December 12th meeting.

She mentioned there were corrections to the resolutions included in the Council packets. Hard copies were provided with the changes in red. If more time is needed with the changes, the item can be continued to the December 12th meeting.

Water Rate Recommendations:

- Modify water fixed charge. Separate from any gallons of water used.
 - Currently there is a fixed/base fee that includes the first 6,000 gallons of water per quarter, billed quarterly. If billed monthly, there is 2,000 gallons per month.
 - The consultant recommends discontinuing this practice.
- Recommending maintaining the existing residential tier structure with adjusted pricing.
- Adjust the non-residential tier sizing to address inequity issues.
- Adopt a separate set of rates for irrigation meters. Volumetric rate.
- For future:
 - Recommending the consideration of a needs-based discount
 - The senior discount is proposed to be maintained for 2023. Future research and discussion on this is needed

Councilmember Dietrich requested information on what kind of monies are being discounted.

City Administrator Wilson replied she could provide a general idea via email.

Water Rate Recommendations – Single Family Residential (Quarterly):

- Currently:
 - Base fee of \$24.51
 - Zero for 0-6,000 gallons of water used
 - \$2.84 for 6,001 to 21,000 gallons
 - \$3.27 for 21,001 to 39,000 gallons
 - \$3.54 for 39,001+ gallons
- Earlier Proposal:
 - Base fee of \$21.48
 - 0-6,000 gallons would be \$1.83
- Proposed Revised Recommendation: Still trying to separate the base fee from gallons of water.
 - Base fee of \$18.00 (generates 25% of revenue instead of 30%)

Rate Impacts for Single Family Residential (Quarterly):

- Beginning with the 50th percentile residential customer:
 - Uses about 15,000 gallons per quarter. Would see a 2% increase in their bill
- 75th percentile would be impacted the same 2%
- 90th and above would be 3.5% and 5.9%
- Those only using 3,000 gallons of water per quarter would notice a reduction in their bill

Water Rate Recommendations – Non-Residential (Monthly):

- Amount of gallons are different
- Current Base Fee: \$8.17
- Revised recommendation Base Fee: \$6.00

Water Rate Recommendations – Irrigation Accounts (Monthly):

- These are not for single family homes. These are irrigation accounts already separately metered. For example: commercial, businesses, multi-family.

Water Usage by Class. Amount of water used:

- 53% went to single family residential customers
- 23% went to multifamily residential
- 11% went to commercial/industrial/institutional
- 13% went to the irrigation accounts

Councilmember Gliva referenced the current pricing structure versus the latest and questioned if they were still coming out okay in terms of the budget.

City Administrator Wilson replied yes, assuming they sell the same amount of water in 2023 that they did in 2021. This proposed rate structure could generate 5% more revenue for the city. This has been factored into the water operating budget.

City Administrator Wilson presented the Sewer Rate recommendations:

- Remove 2,000 gallons per month (6,000 per quarter for residential) included in the fixed charge and revise rate structure.
 - Like the recommended water structure but without conservation tiers.
- Eliminate NWA Surcharge
 - At one time a decision was made to add a surcharge to all customers in the NWA at \$2.00 per 1,000 gallons
 - The current volumetric rate outside of the NWA is \$4.99

- Currently, inside the NWA pays \$6.99 per 1,000 gallons in their sewer charges
 - This money is separated off when it comes in the utility payments and put into the Sewer Capital Fund
 - After working with consultants and staff, this is typically not the way to run sewer rates
 - The \$2.00 surcharge in the NWA is generating \$60,000
 - Staff recommends discontinuing the surcharge
- Aiming for a 6% revenue increase for 2023 in the sewer rate recommendations.
 - A significant portion of the budget is pass through. The city collects the fees from residents and then pays the Metropolitan Council Environmental Services.
 - The Metropolitan Council of Environmental Sciences rate is going up by 5.5% for 2023

Rate Impacts for Single Family Residential (not in the NWA):

- Modest users will notice bills going down

She stated that herself, the public works director, and the finance director all agreed the city sewer funds are in a less favorable financial position than water. Most residents will see the two charges on the same bill. Staff agreed that sewer should increase instead of water.

Rate Impacts for Single Family Residential (in the NWA):

- Bills will be going down due to the surcharge going away

Councilmember Dietrich asked when the sewer fund and the surcharge collected was implemented and how long it has been going into the fund.

City Administrator Wilson replied since 2016.

Councilmember Dietrich asked if it stipulates the need to be used for the NWA sewer.

City Administrator Wilson replied it does not stipulate it in the resolutions collecting it. The practice has been to move that revenue out of the fund where the general sewer revenue goes and put it into the capital fund to repay the city for the money upfronted.

Councilmember Piekarski Krech asked if the new rates were generating enough now that they were charging for each 1,000 gallons. It concerns her when bills are going down.

City Administrator Wilson replied the consultants have assured staff of these rates. She shared that it was critical in the sanitary sewer to separate the base fee from the volumetric charge because the Met Council doesn't give 1,000's of gallons at no charge. Every gallon metered is charged for.

City Administrator Wilson addressed Councilmember Dietrich's reference to the senior discount and stated that it is on water only, the base fee. The discount is roughly \$12.00 a quarter. With the new structure the senior discount is proposed to be set at 50% of the base fee, about \$9.00 per quarter of a discount.

Councilmember Dietrich requested a totality of those figures in the future.

Motion by Gliva, second by Murphy, to approve Resolutions 2022-270 & 2022-271, Establishing 2023 Water and Sanitary Sewer Utility Rates.

Ayes: 5

Nays: 0

Motion carried.

Councilmember Gliva requested re-voting on Agenda Item 5A. Public Hearing for 2023 Liquor License Renewal Applications and change in Manager approvals so she could abstain from the vote.

City Attorney McCauley Nason stated if Councilmember Gliva would like to abstain from voting on from that motion, she or any other member of the Council would make a motion to reconsider Agenda Item 5A. It needs a majority vote to pass. If it passes, that leaves the item where it was on the table before the vote. The City Clerk would call the roll again and a Councilmember could abstain.

Motion by Gliva, second by Piekarski Krech, to reconsider the vote on Agenda Item 5A. Public Hearing for 2023 Liquor License Renewal Applications and change in Manager approvals.

Ayes: 5

Nays: 0 Motion carried.

Reconsideration of Agenda Item 5A. Public Hearing for 2023 Liquor License Renewal Applications and change in Manager approvals.

Ayes: 4

Nays: 0

Abstain: 1 (Gliva) Motion carried.

E. City Administrator Performance Evaluation (Pursuant to Minnesota Statute Chapter 13D.05, subd. 3, (this portion of the meeting may be closed to the public.)

This Agenda Item will be moved to a Closed Session.

7. PUBLIC COMMENT:

Joe Fahnhorst, 9395 Tyne Lane, expressed his appreciation and support of the proposed revisions to City Code, Title 4, Chapter 13, relating to rental licenses. He shared that on September 30th he and his wife drafted an email and spoke with City Clerk Kiernan and Councilmember Dietrich regarding a commercial short term rental business that is advertising itself as a pub up the street, ready for 16 guests. He said he learned that residents also voiced concerns. They learned the city was working on amending the City Code regarding rental license requirements, of which he fully supports. Their concerns were regarding parking, increased traffic, noise, safety, and zoning. He referenced Title 10, Zoning Regulations, Chapter 15, which states "in general occupations and businesses in the city are to be conducted in commercial and industrial zoning districts, not in residential". He said the pub is 100% commercial, nobody is living there. The primary purpose is to rent the property to up to 16 individuals for less than 30 days. He said the garage has been converted to a game room. If at it's limit, he could have approximately 2,920 strangers lodging at a commercial entity every year. He said the proposed amendment is ideal, it closes the loophole that allows commercial use activities in an area zoned residential. He asked that the work continues the amendment and passes.

8. MAYOR AND COUNCIL COMMENTS:

6E. City Administrator Performance Evaluation (Pursuant to Minnesota Statute Chapter 13D.05, subd. 3, this portion of the meeting may be closed to the public.)

City Attorney McCauley Nason requested the Council make the following Motion: "A motion to move into closed meeting pursuant to Minnesota Statute Chapter 13D.05, subd. 3, for the purpose of evaluating the performance of City Administrator Kris Wilson, and to conduct a closed session in the

Mayor's Conference Room. Once the meeting is completed, the City Council will reconvene the open meeting portion of tonight's City Council meeting. With no further business on the agenda, the meeting will then be adjourned.

Motion by Gliva, second by Piekarski Krech, to move into Closed Session Pursuant to Minnesota Statute Chapter 13D.05, subd. 3, for the purpose of evaluating the performance of City Administrator Kris Wilson and to conduct a closed session in the Mayor's Conference Room at 7:59 p.m.

Ayes: 5 Motion carried.

Motion by Gliva, second by Murphy, to reconvene in Open Session.

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech, second by Murphy, to continue Agenda Item 6E. City Administrator Performance Evaluation to a Special Meeting to be held at 5:30 p.m. on Monday, December 5, 2022 in the City Council Chambers.

Ayes: 5

Nays: 0 Motion carried.

9. ADJOURN:

Motion by Gliva, second by Murphy, to adjourn the meeting at 9:05 p.m.

Ayes: 5

Nays: 0 Motion carried.

Minutes prepared by Recording Secretary Sheri Yourczek