

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, MAY 8, 2023 - 6:00 P.M. - 8150 BARBARA AVENUE**

1. CALL TO ORDER:

The City Council of Inver Grove Heights met in regular session on Monday, May 8, 2023, in person. Mayor Dietrich called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

2. ROLL CALL:

Present In-Person: Mayor Dietrich; Council Members: Murphy, Gliva, Scales, T'Kach; City Administrator Wilson, City Attorney McCauley Nason, City Clerk Kiernan, Community Development Director Rand, Public Works Director Connolly, City Engineer Merchlewicz, Fire Chief Thill, Communications Manager Looze, Technology Manager Gade, Environmental Specialist Sutherland, Associate Planner Botten

3. PRESENTATIONS:

A. Swearing In of New Fire Department Personnel

Fire Chief Judy Thill stated she would be Swearing In four fire personnel. There are two firefighters that have transitioned from paid on call to full time, a new fire inspector, and a new fire marshal. She requested the two Firefighters approach the podium.

She stated that Firefighter Roger LeDoux grew up in Rosemount, both of his parents are from Inver Grove Heights. Firefighter LeDoux's grandfather was Fire Captain Jack LeDoux who retired from the Inver Grove Heights Fire Department in 1992 after 21 years of service. Firefighter LeDoux watched his grandfather and thought it would be an awesome job, so he joined as one of the paid-on call firefighters. He has now decided to do this full-time. He has helped as an instructor with the Northern Dakota Training Academy, now serves as a field training officer, and spends a lot of time working on public education. Firefighter LeDoux loves spending time with his family, his dogs, and likes to work on his car and truck in his spare time.

Firefighter Robert Christenson, served as a paid-on call firefighter for over 10 years in the Big Lake Fire Department before moving to this side of the Twin Cities and joined the paid-on call ranks of the Inver Grove Heights Fire Department. Firefighter Christenson's father served on the Big Lake Fire Department for over 20 years which left a lasting impression on him from an early age, learning early that he wanted to be a firefighter. Firefighter Christenson has worked in the Emergency Medical Services field for the past 12 years and earned a Paramedic Certification during that time. He has been working with community outreach, training, and mentoring new recruits since being in the city's department. He enjoys spending time with his girlfriend and two boys, as well as hunting, camping, and four wheeling.

Mayor Dietrich read the Oath of Office to Roger LeDoux.

Mayor Dietrich read the Oath of Office to Robert Christenson.

Family members of both firefighters did the Pinning of the Badge.

Fire Chief Thill requested the Fire Inspector approach the podium.

She stated that growing up in South St. Paul, Fire Inspector Derek McNamara thought it would be cool to be a firefighter but also liked the thought of helping others. He started off his fire career as a Fire Explorer for the Inver Grove Heights Fire Department and then transitioned to a paid-on call firefighter before becoming the fire inspector. Inspector McNamara realized he wanted to work full-time in his field knowing it was a good path that would give him purpose. He has continued his education by becoming a Certified Paramedic, Arson Investigator, Fire Investigator, Technician, and Fire Inspector. He enjoys helping with community outreach, teaching CPR, and helping with the recruit academy doing live burns. He used to be into Karate and has earned a Second-Degree Black Belt.

Mayor Dietrich read the Oath of Office to Derek McNamara.

Family members did the Pinning of the Badge.

Fire Chief Thill stated the next Oath of Office will be for the Assistant Chief/Fire Marshal. She stated that Assistant Chief/Fire Marshal Scott Oswald grew up in Duluth. He had originally considered the Military but decided not to go that route. He still wanted to give back to the community and joined the Fire Department. After rising through the paid-on call ranks to battalion chief, Assistant Chief Oswald loved what he was doing and liked the thought of making a positive impact on people's lives on a full-time basis. Assistant Chief Oswald started out in the technology field earning a bachelor's degree in computer engineering and a master's in software design and development. Since joining the Fire Department over 14 years ago he has also earned an associate degree in Fire Science Technology and a master's degree in public safety and law Enforcement Leadership. Being very active in the Inver Grove Heights Fire Department, Assistant Chief Oswald has served as training coordinator and Relief Association Treasurer for over 12 years, has been a member of the Dakota County Special Operations Team, and Minnesota Task Force One for 13/11 years, respectively. He has worked a Self-Contained Breathing Apparatus lead and has overseen the fire apparatus for over five years. Assistant Chief Oswald has over 30 certifications including fire inspections and investigations. At one time before coming to Inver Grove Heights, Assistant Chief Oswald lived in Germany for six years.

Mayor Dietrich read the Oath of Office to Assistant Chief/Fire Marshall Scott Oswald. Family members did the Pinning of the Badge.

Fire Chief Thill stated they were very excited to have these four fire personnel on board in their new positions. She noted they are extremely proud of all Inver Grove Heights Firefighters and Fire Staff as they work hard to make this city proud each and every day.

4. CONSENT AGENDA:

A. Approval of Disbursements. Resolution 2023-098

B. Personnel Actions

C. Resolution 2023-099 Amending On-Sale and Sunday Liquor License - Jerseys Bar and Grill, 6449 Concord Blvd (Expansion of Licensed Premises)

D. Amended Liquor Licenses for Applebee's Neighborhood Grill and Bar (New Manager)

E. Renewal of Massage Business and Therapist Licenses

F. Renewal of Rubbish Hauler License

G. Resolution 2023-100 Amending Final Project Budget for City Project No. 2019-19 - Cahill Ave. Mississippi River Greenway Trail Improvements

H. Resolution 2023-101 Amending Final Project Budget for City Project No. 2019-06 - Schaaf Inverse Condemnation Claim

I. Contract with LOGIS for Fiber Management Services

J. Resolution 2023-102 Entering a Joint Powers Agreement with Dakota County for Final Design, Right of Way, and Jurisdictional Transfer for City Project No. 2016-17 - 117th Street Reconstruction.

K. Resolution 2023-103 Awarding a Contract to SRF Consulting Group, Inc. for Final Design and Engineering Services for City Project No. 2016-17 - 117th Street Reconstruction

L. Resolution 2023-104 Approving Land Alteration Permit for S.M. Hentges & Sons, Inc. Associated with 70th Street (CSAH 26) / Argenta Trail (CSAH 63) Dakota County Construction Project

M. Resolution 2023-105 Approving the Write-Off of Three Inter-Fund Loans

N. Resolutions 2023-106 & 2023-107 Approving a Preliminary Plat and Variance for Rich Valley Ranch Subdivision (10093 Rich Valley Blvd)

O. Resolution 2023-108 and Bishop Heights PUD Amendment Approving a Restaurant on Blaine Avenue North of Upper 55th Street

Motion by Scales, second by Gliva, to approve the Consent Agenda as presented.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC HEARING:**A. New Off-Sale Liquor License for Yangs Liquor**

City Clerk Rebecca Kiernan presented a new off sale liquor license for Yangs Liquor doing business as Arbor Point Liquor (transfer of sale). The Council is asked to conduct a public hearing and then take action on the application for the official off-sale liquor license for Yangs Liquor Inc., located at 9084 Buchanon Trail. Tou Lee Yang and MaiNou Yang have applied for the off-sale liquor license. The application results from the sale of an existing license business owner to a new owner. The police department conducted background investigations of the applicant and found no basis for denial of the request. Fees and certificate of insurance have been received and the public notice was published on April 28, 2023. If approved by the City Council, actual issuance of the license would be contingent upon fulfilling all requirements of the off-sale liquor license to the Minnesota Alcohol and Gambling Enforcement Division and satisfactory inspections and approvals from the fire department. Staff recommends approval of the license.

Mayor Dietrich opened the Public Hearing.

Motion by T’Kach, second by Murphy, to close the Public Hearing at 6:20PM

Ayes: 5

Nays: 0 Motion carried.

Motion by Gliva, second by Scales, to approve the New Off-Sale Liquor License for Yangs Liquor located at 9084 Buchanon Trail.

Ayes: 5

Nays: 0 Motion carried.

6. REGULAR BUSINESS:**A. Resolution Executing a Joint Powers Agreement for the Operation of a Residential Organics Drop-Off Site. Resolution 2023-109**

Environmental Specialist Ally Sutherland presented a resolution to execute a Joint Powers Agreement (JPA) for the operation of a residential organics drop-off site. She stated that John Exner, Environmental Specialist from Dakota County, is also in attendance to answer questions if needed.

Environmental Specialist Sutherland discussed the Dakota County Organics Drop Off Program:

- There are 9 drop off sites in Dakota County
 - 10th drop site is proposed for Inver Grove Heights and is on this Agenda
- Consists of temporary fenced-in enclosures with organics dumpsters
- Program encourages residents to collect organics at home and bring them to drop sites for free.
- Organics include:
 - Any food scraps such as dairy, meat, fruit, vegetables
 - Non-recyclable paper such as tissues, pizza boxes, napkins.
 - Certified compostable products such as to go containers that have the BPI certification
- Residents are asked to separate the organics at home and bring it to the drop site for free
- Over 9,000 households in Dakota County are participating. There are 461 Inver Grove Heights households participating.

Organics Collection Process (5 Steps):

1. Separate organics at home.
2. Put the scraps in a compostable bag (Provided free by the Dakota County drop site program).
3. Tie bag closed. Drop bag off at an organics drop off site.
4. Haulers bring the content to a commercial compost facility. The one Dakota County works with is called The Mulch Store, located in Empire (close to Rosemount).
 - a. The organic material is converted and processed into compost.

5. Use compost. This is used by local contractors, Department of Transportation, Farmers, and Residents. The County and City purchase it for different projects.

A map of the current nine drop sites was shown. There is a gap noted in Inver Grove Heights. Three drop sites that Inver Grove Heights residents currently use are located in West St. Paul, Eagan, and Mendota Heights. The most heavily used is the West St. Paul site located at the Thompson County Park with 301 households in Inver Grove Heights using it.

The proposed site for Inver Grove Heights would be at the Inver Glen Library located off 80th Street. This is a county owned site that the county projects another 400 residents would be signing up to use.

Program Purpose:

- Dollars have been allocated to try to meet the recycling goal the legislature has put in place.
 - As a state, the legislature has said they want to be at a 75% recycling rate by 2030.
 - Dakota County is at a 55% recycling rate.
- 30% of our trash is organic content (food scraps, non-recyclable papers, compostable materials)
- There is no curbside organics collection in Dakota County.
 - It is not required by Dakota County that haulers provide this service.
 - The MPCA is going through a solid waste management policy update process. This gives directives to counties to update their own solid waste management plans.
 - Other counties, along with Dakota County, are waiting to see what the plan includes.
- In about one year the MPCA process would wrap up; after that Dakota County would start their stakeholder process.

Proposed JPA (Joint Powers Agreement): Inver Glen Library, Dakota County

- Inver Glen Library site
 - Northwest corner of the parking lot
 - Takes up three parking stalls
- Site would be 18 feet in length, 10 feet in width, and 6 feet in height
- Proposed fence would be black with privacy slats

JPA Terms:

- Dakota County:
 - Builds the enclosure
 - Pays for weekly hauling
 - Reimburses the city for the cost of compostable bags
 - Promotes the site and registration to residents
 - Provide welcome packets and training to participants wishing to join the program
 - County oversees a program website and their email
 - Will answer questions
- City of Inver Grove Heights:
 - Purchases and stores the compostable bags (1-2 times a year)
 - Stocks the compostable bags weekly
 - Inspecting the dumpster for nuisance concerns/overflowing dumpsters
 - City will request reimbursement for the compostable bags from the County
 - Helping promote the site

All roles and responsibilities for the city will fall onto the Environmental Specialists position, no other departments would be affected.

Timeline:

- Approved by the County Board on April 24th, 2023
- Consideration and/or approval by the City Council on May 8, 2023
- June/July 2023: Installing the enclosure
- July 2023: Recruitment, residential training opportunities
- August 2023: Open site, Open House
- May 31, 2029: Joint Powers Agreement termination date (this will take place unless residential organics curbside is widely offered in Inver Grove Heights by the private sector). In that case, whatever comes first would be the termination date.

Staff recommends approval of the Joint Powers Agreement.

Mayor Dietrich requested the Council be made aware of when the Open House takes place.

Environmental Specialist Sutherland replied she is in discussion with the Dakota County Environmental Specialist regarding this.

She mentioned there is a Fix It Clinic happening in August. This is another county program where residents are encouraged to bring in any items that could potentially be fixed. There could be a possibility of pairing the two events to make it a larger event.

The date selected would go out in the Insights newsletter. Council will also be made aware.

Councilmember Murphy commented that it was a visible site. He asked if there were any issues with dumping of other items at any of the other nine organics drop sites.

John Exner, Environmental Specialist, Dakota County, replied there have been times where some items should not be brought there. Participants using the site report this quickly. County or city staff will go there quickly and remove the items. They have received yard waste at the organics drop off site, which is a compostable material, but they do not have the capacity to handle the yard waste. He estimated it to be 12 times in the last six years they have had some serious illegal dumping. This gets resolved quickly.

Councilmember Murphy asked if it did happen, who was responsible for the cost of hauling it away.

Mr. Exner replied Dakota County is responsible for those costs. There have not been any extra costs associated with illegal dumping since the first site opened at Thompson Park.

Councilmember Murphy asked if it were to happen, how long it would take to get hauled away.

Mr. Exner replied it would not take long. For example, someone brought a window to the Lakeville drop site location, and it was removed within 30 minutes. Having items like that sit sometimes encourages more of the same items so they are removed quickly.

Councilmember Murphy asked if there was a timeframe in the JPA if there was a problem like this.

Mr. Exner responded there is not a specific set timeframe.

Councilmember Murphy referenced the 2029 termination date and asked if it was an estimate for when private haulers may offer the service.

Mr. Exner responded they were hopeful. The MPCA will be releasing their policy plan in the next month or two. Once released, the county would begin stakeholder engagement to find out how many cities/people want curbside. All the other JPA's have started off as six-year terms. If curbside is not available in the community throughout those six years, they would look to renew the JPA. If renewed, Dakota County is required by the city to put up additional screening along 80th Street such as pine trees. He said it would be interesting to hear comments from residents that participate, and if residents that do not, would want an extra fee if that was the case. They are interested in what haulers and the cities say.

Mayor Dietrich said some constituents asked about yard waste. She mentioned that some senior residents have said there used to be a facility in Dakota County for yard waste, she asked if that was correct and if there was a future with it.

Mr. Exner responded that he has been with the county since 2017 and was not familiar with that being available or if they have ever had a site. They have referred people to Gertens in Inver Grove Heights or to The Mulch Store in Empire. Yard waste is mixed with the organics at the commercial composting facility. He said he has not heard any discussion about starting one. They rely on private businesses to take in yard waste and manufacture it into compost.

City Administrator Kris Wilson asked for more information on program registration.

Mr. Exner replied if the Council approves, in early July/late June, recruitment letters would be sent to all households in the city inviting them to sign up. Sign up is available online on a dedicated website, by email, or by calling the county. Welcome kits are mailed out every Monday, or once recruitment begins, mailed out more frequently. Welcome kits would be sent out at least three weeks before the site opens. There would be training sessions prior, one at Zoom, one at Inver

Glen Library, and the kickoff event taking place on a Saturday. This could be in conjunction with the Fix It Clinic or on the first Saturday after opening.

City Administrator Wilson asked if registration was necessary to access the door.

Mr. Exner responded no. They like to send out the Welcome Kit with program information, what is accepted, what is not accepted, compostable bags to get started, site map, tips, and tricks for collecting organics at home.

Councilmember Murphy asked if the parking lot has cameras.

Mr. Exner did not believe the Inver Glen Library had cameras in the parking lot. It was something they could put up if dumping became an issue. If it becomes a problem, this is something he could speak with their facility staff about installing.

Environmental Specialist Sutherland noted that is no camera, there is existing lighting on site. This was one of the reasons why the northwest corner was chosen, there is a light directly above. She said that 80th is such a busy street making the site more visible to deter illegal dumping.

Motion by T’Kach, second by Scales, to approve Resolution 2023-109 Executing a Joint Powers Agreement for the Operation of a Residential Organics Drop-Off Site.

Ayes: 5

Nays: 0 Motion carried.

B. 3rd Reading of Ordinance Amending City Code Title 11, Chapter 1, Prohibiting Premature Subdivisions and Resolution of Summary Publication. Resolution 2023-110

City Attorney Bridget McCauley Nason discussed the 3rd Reading of an Ordinance that amends the city subdivision ordinance to include criteria for when a subdivision may be deemed premature. This same ordinance would prohibit the Council from granting approval of a premature subdivision. This is the same format as the 2nd Reading. If Council approves the ordinance, Council is also asked to approve the summary publication resolution authorizing the summary publication of the ordinance instead of the entire ordinance within the city’s official newspaper.

Motion by Gliva, second by Murphy, to approve the 3rd Reading of Ordinance Amending City Code Title 11, Chapter 1, Prohibiting Premature Subdivisions and Resolution 2023-110 Summary Publication.

Ayes: 5

Nays: 0 Motion carried.

City Attorney McCauley Nason asked if the motion to approve included both the ordinance and the summary publication resolution.

Both Councilmembers Gliva and Murphy replied in the affirmative.

C. Resolutions Relating to Variance Request for Exterior Building Materials and Side Setbacks for 6449 Concord Boulevard. Resolutions 2023-111 (Approval/Denial) & 2023-112

Associate Planner Heather Botten discussed property located on the west side of Concord Boulevard, north of 65th Street. It is zoned B-3, General Business district. There is a single-family home to the north zoned R-1C, the applicant owns property to the west, which is part of their parking lot, to the south is another single family home zoned commercial, and east is Concord Boulevard, the railroad, and Heritage Village Park. The applicant is requesting a variance from exterior building material requirements to allow the exterior of a structure to be steel. They are also requesting a variance to allow a setback of 10 feet from a side property line that is abutting a residential district, whereas 75 feet is the requirement.

Background:

- The shipping container is approximately 160 square feet in size.

- The applicant would like to use the container as a temporary/seasonal bar.
- Code requires at least 50% of the exterior surface of the structure to be either brick, block, lap siding, natural stone, or glass.
- The intent of the ordinance is to require all commercial or industrial buildings to have a high grade of materials for aesthetic and valuation purposes.
- Proposed structure would be located at least 10 feet from the northern property line. Code requires all structures in a B-3 zoned district maintain at least a 75-foot setback.
- The existing building is already non-conforming as it does not comply with the 75-foot setback requirement. There is no room on the property for an addition, either attached or detached, to be done without some sort of variance.
- Due to the historical age of the Concord area, there are many buildings that do not comply with setback standards.
- There are a lot of mixed-use properties where residential is next to commercial areas.

Recommendations from Staff:

- Recommend denial of the exterior building material request based on the fact that the request itself does not preclude the applicant from reasonable use of the property.
- Approving the exterior building materials could set a precedent for other structures, if temporary, seasonal, or permanent.
- Facts presented do not satisfy the practical difficulty criteria as there are other options such as adding siding to the shipping container or building a structure that complies with material requirements.
- Supports the variance for the structure to be at least 10 feet from the side property line. In commercial/industrial areas, code does not differentiate when having an accessory building.
- Even though it is not a part of the principal structure, there are not reduced setbacks as seen in the residential district. Due to that, they need to comply with code requirements for any type of building.
- Does not believe the setback would have any impacts to neighboring property owners.
- Site is unique as it is already non-conforming. Any type of addition would need a setback variance.
- Structure is less than 200 square feet. Code does not allow for reduced setbacks.
 - If the property to the north was commercial, they would meet setback requirements.
 - If residential and putting in an accessory structure, they would exceed the requirement for an accessory structure in the R District.

Staff recommends denial of the exterior building materials and approval of the side setback.

She mentioned at the April 18th, 2023 Planning Commission public hearing, the Commission recommended denial on the exterior building materials based on the lack of practical difficulty and the language in the Code. The Planning Commission recommends approval of the side setback with the two conditions listed in the resolution.

Included in the Council packets are two resolutions for the exterior building materials; one to approve, one to deny. If making the recommendation to approve, the practical difficulty would need to be stated and to verify which it would be for. Another resolution is included for the approval of the side setback.

Mayor Dietrich mentioned she watched the Planning Commission meeting, there was a lot of conversation about the building materials and that it may be something the Council should look at. She asked if that was warranted, and something noticed before regarding building materials and the thoughts surrounding it.

Associate Planner Botten replied staff has received a couple of inquiries from commercial/industrial businesses who have wanted shipping containers. It was mentioned to them that a variance was needed, or they could ask to amend the ordinance. This is the first request to come forward requesting a variance from code. She said some may be noticed for residential buildings within Ag or pole barns to do sheet metal. The ordinance was amended a couple of years ago to make sheet metal siding/corrugated steel permitted in Ag or E-1 districts for pole buildings, but not commercial types of proposals.

Mayor Dietrich asked if current setbacks were something that should be revisited in terms of the code.

Associate Planner Botten replied transitional zoning is more common than mixed use. There could be some properties along Cahill and Concord that would be directly affected. In her opinion the 75-foot setback, if it is a main principal use, may be warranted. The accessory use is if they wanted a shed or something on a smaller scale, there could be room for flexibility to adjust the ordinance.

Councilmember T’Kach said she understood the precedent set with steel siding. She understands staff and the Planning Commission’s recommendation, which are fair and reasonable. She was concerned about the setback as a precedent for someone in an R-1C. She asked if there would be precedent set here that may cause issues until the ordinance is addressed differently.

Associate Planner Botten replied that staff felt the practical difficulty part of the request has been met with the uniqueness found. There is no room on the lot to expand to comply with the ordinance.

Councilmember T’Kach asked the Council if they saw it as a precedent.

City Attorney McCauley Nason addressed precedent setting and stated the Council must, in order to grant a variance, find practical difficulties that exist with the particular application. The grounds for practical difficulties may/may not repeat themselves depending on the property’s circumstances. Any time the Council deals with a variance application the question is asked whether or not there are practical difficulties exhibited by this application. There could be same/similar requests from two different property owners with differing results based on the practical difficulties test, met, or not met, with each of the properties.

Councilmember Gliva questioned if there was a change to the ordinance, with regards to siding, or if they would they say shipping containers. She asked how something like this would be inserted into the ordinance.

Associate Planner Botten replied direction would come from the Council on what they would like to see changed. Such as if steel or shipping containers would be a permitted, allowed, or a conditional use.

Councilmember Gliva asked if other surrounding cities use shipping containers.

Associate Planner Botten replied she was unsure. She said the company the applicant is looking to hire to bring the structure in have used other bar type shipping containers in other cities. She was unsure if they were an interim use or allowed by code.

Councilmember Murphy mentioned that it seemed like someone came in and sold the idea to a business owner. He asked if other siding options were offered.

Associate Planner Botten replied that the applicant would likely be able to answer the question. Her understanding was that the shipping container was what would be presented. The applicant could possibly add siding to it.

William Ashton, 6449 Concord Boulevard, addressed using the shipping container and not siding it stating he felt it goes with the flow of the industrial area, the train going by. Being commercial, he said they would make sure it would always look nice, it would be painted. It would have a good look, but if they need to side it, they would. He felt it would look better without siding.

Mayor Dietrich asked when Mr. Ashton was in front of the Planning Commission if practical difficulties were discussed as far as the siding.

Mr. Ashton replied no, not at that meeting.

Councilmember Gliva asked the applicant if he had a photo of what it would look like.

Councilmember T’Kach mentioned there was a rough sketch.

Mr. Ashton agreed; a rough sketch was shown. He said the doors would be hydraulics that open. It would have a bar top so people can sit around it.

Mayor Dietrich asked if there would be plumbing and electricity.

Mr. Ashton replied yes.

Councilmember Murphy asked if it was located up against the building.

Mr. Ashton replied it was in the middle of the lot.

Councilmember Gliva asked if it would be closed in non-summer months.

Mr. Ashton replied in the affirmative.

Councilmember T'Kach questioned if a variance was allowed, she was thinking about the longer-term development of Concord with residential, more parkland, and changing the feel of what is down there. She asked how this would fit in five or ten years.

Mr. Ashton replied if it goes like the last 20 years, he does not believe in 5-10 years anything would change in the area. He hopes there is change.

City Attorney McCauley Nason stated the practical difficulty task requires the Council make three findings. All three must be met in order for the practical difficulty to be found.

1. The property owner must use the property in a reasonable manner not permitted by the zoning ordinance.
 - a. She said that conversation seems to indicate that would be met.
2. The variance, if granted, would not alter the character of the locality.
 - a. Council has had conversation about this.
3. The plight of the landowner had to be due to circumstances unique to the property, not created by the landowner.
 - a. The siding issue is a little different than a typical setback, lot size, or unique angle.

She mentioned she does not have a specific response to the #3 point. The Council is the finder of fact, if the Council finds practical difficulties, it would need to be articulated that all three components have been met including the plight of the landowner due to circumstances unique to the property, not created by the landowner.

Mayor Dietrich mentioned it was discussed at planning that the practical difficulty could be the code itself. She asked if that had any legal standing.

City Attorney McCauley Nason replied the code itself does not appear to meet the issue of circumstances unique to the property, not created by the landowner. A variance can be obtained in theory from anything in the zoning ordinance, they are generally related to land configuration.

Councilmember T'Kach asked if examples could be shared of where, if allowed here could it be done on a residential property, mixed use, commercial. She asked where challenges would be seen.

Associate Planner Botten replied shipping containers are a hot topic these days compared to five years ago. In other parts of the nation some use them as tiny homes. They can be repurposed for a number of different items and uses. In Inver Grove Heights, there have been requests to use them for storage. They are a lot safer for commercial and industrial areas than sheds. She mentioned that there has been another business owner looking to do something similar to Mr. Ashton's request. These have popped up on residential lots. She shared with the change to the siding requirements in Ag and E-1, this would be an allowed type of siding in the Ag and E-1 district, not in urban R-1 lots.

City Administrator Wilson stated the first action would be for someone to make a motion with one of the resolutions relating to the exterior siding. The resolution included in the Council packet could be moved to deny the variance request or move the resolution to approve. If approval is the motion, the Council would

need to identify the practical difficulty that the Councilmember making the motion sees in complying with the code.

Councilmember Scales commented that he was unsure this product fits the city code. He said the way he looks at it is that is not about the siding it is the product. It is the way the product is built; it is not a separate material on the outside. Even though he would like to find a practical difficulty for the variance, he said he believes it is a good product, the right thing for the area. He thought more of these would be seen in the future. He suggested the use of these containers in the city needs to be addressed separately. He likes the product, has seen them in use before; they look nice, professional, and fits the environment down there. He said the applicant could put siding on it, he believes it is a better product as it is.

Councilmember T'Kach agreed with some of what was said by Councilmember Scales. She said the practical difficulty is a difficult hurdle. The property owner could build a 2x4 or 2x6 structure or could do a similar design. She said this puts them in a difficult position to try to jump through hoops to get to a practical difficulty when they need to relook at the situation. She said they had discussed premature development; she looks at this as a premature shipping container. She said she does not say that lightly. She stated this is someone who wants to expand their business and bring in more commercial activity. She respects that the city has ordinances in place for a reason. She believes the request should be denied and look at revisiting it as a Council at another time.

Motion by T'Kach, second by Murphy, to deny the request for a variance from metal/corrugated siding for this applicant for property located at 6449 Concord Boulevard. Resolution 2023-111

Ayes: 5

Nays: 0 Motion carried.

Motion by Gliva, second by Scales, to approve the 10-foot setback for property located at 6449 Concord Boulevard. Resolution 2023-112

Ayes: 5

Nays: 0 Motion carried.

Councilmember Gliva stated the need to look at this item; the shipping container is not going to go away; they are seen everywhere. She said she was unsure where this fits into an ordinance and if it needs to be added. She agreed with Councilmember Scales that it was not about the siding; it is an actual structure.

City Administrator Wilson suggested the Council direct planning staff to look at ways this interacts with city code and then bring it before the Planning Commission for discussion. It would eventually come back before the Council.

Mayor Dietrich and some of the Councilmembers agreed.

City Attorney McCauley Nason suggested the Council take Public Comments and the Mayor and Council Comments before going into Closed Session.

7. PUBLIC COMMENT:

Brenda Sabistina, 10380 Brent Avenue, stated in 2017 the Inver Grove Heights City Council started working with the railroad on a whistle free zone. That has been stopped for multiple reasons over time. She would like the discussion to be brought back up. There are more trains, they are louder. She said Dakota County came before the Council on the 105th Street bike trail. She lives close by on Brent. She commented that it was not just the land owners that would be impacted, it is the rest of the people in the area that have been there for a long time that would be impacted over time. She said most of the neighbors that went to the Dakota County meeting were against it on 105th, but Dakota County wants

to push it through. She wanted to mention that there are a lot of people that want to be involved that are not on 105th, Dakota County has not been very easy to work with on it.

Mayor Dietrich said she thought there would be another engagement on this item.

Ms. Sabistina replied that Dakota County usually tries to make sure people don't know about it.

When they come in, a decision has already been made. She said they had already decided on 105th and do not want to change it. She said 117th Street would be a much better option, it's being redone. She questioned why they would not include it as a part of that project.

Mayor Dietrich encouraged Ms. Sabistina to contact Dakota County Commissioners.

8. MAYOR AND COUNCIL COMMENTS:

Mayor Dietrich said her thoughts and prayers go out to Officer Ben Bidon and his family. He was respectfully honored with a traditional police burial at Fort Snelling today. She keeps the family and our own officers in her prayers.

Mayor Dietrich stated the city has two great events coming up that the public are invited to attend:

- Wednesday, May 17th, EDA Consultant Lee Krueger will be speaking to residents and getting input from business owners regarding what types of retail, restaurant, and service businesses they would like to see in the community. This takes place at Jersey's on Concord Boulevard, at 4:00 p.m.
- Wednesday, May 17th, the Police Department is hosting their Annual Open House in celebration of National Police Week. This event takes place from 4:00-7:00 p.m. outside of the Police Station.

D. Closed Session to Discuss the Acquisition of Real Property

City Attorney McCauley Nason stated there will be two separate closed sessions. Both will be held in the Mayor's Conference Room. The Council will be asked to vote to move into closed session and reconvene the closed session in the Mayor's Conference Room. After the first closed session is completed, the Council will vote to move back into open session and then will vote again to move into closed session for the second closed session which is regarding Labor Negotiations. After the two closed sessions the Council would reconvene the open meeting and adjourn the meeting as there is no further business on the agenda.

City Attorney McCauley Nason stated the first request is for the Council to make a motion to move into a closed session pursuant to MN Statute Section 13D.05. Subd. 3C, Subparts 2 & 3, to review confidential/protected non-public appraisal data under Section 13.44 Subd. 3, and to develop or consider offers or counter offers for the purchase of real property identified by the following addresses and Parcel Identification Numbers (PID):

- 6971 Dickman Trail. PID#20-00200-56070, PID#20-39900-00170, PID#20-00200-57093, PID#20-39900-00250, and PID#20-39900-00210

Motion by Gliva, second by Murphy, to move into Closed Session to Discuss the Acquisition of Real Property located at 6971 Dickman Trail. PID#20-00200-56070, PID#20-39900-00170, PID#20-00200-57093, PID#20-39900-00250, and PID#20-39900-00210 at 8:19 p.m.

Ayes: 5

Nays: 0 Motion carried.

Motion by Gliva, second by Scales, to return to Open Session at 8:28 p.m.

Ayes: 5

Nays: 0 Motion carried.

E. Closed Session to Discuss Labor Negotiations

Motion by Gliva, second by Scales, to close the meeting pursuant to Minnesota Statutes Section 13D.03, Subd. 1(b) to consider strategy for labor negotiations, including negotiation strategies or developments or discussion and review of labor negotiation proposals with LELS Local #540 and IAFF Local #5251, pursuant to Minnesota Statutes Section 179A.01 to 179A.25 at 8:28 p.m.

Ayes: 5

Nays: 0 Motion carried.

Motion by Gliva, second by Scales, to return to Open Session at 8:58 p.m.

9. ADJOURN:

Motion by Murphy, second by Gliva, to adjourn the meeting at 8:58 p.m.

Ayes: 5

Nays: 0 Motion carried.

Minutes prepared by Recording Secretary Sheri Yourczek