

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, AUGUST 14, 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, August 14, 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, T’Kach, Scales; City Administrator Wilson, City Attorney McCauley Nason, City Clerk Kiernan, Public Works Director Connolly, Finance Director Hove, Assistant Finance Director Hosszu, Parks and Recreation Director Lares, City Engineer Merchlewicz, Communications Manager Looze, Recreation Superintendent Dorshak, Golf Course Club House Superintendent Moynihan, Utilities Superintendent Kramer, Street Maintenance Superintendent Underdahl
Also Present: Ryan Capelle, Project Manager, Stantec, Brian Lintgen, Lead Process Engineer, Stantec

Mayor Dietrich noted that Agenda Item 6B. Grace Church Comprehensive Plan Amendment, has been postponed. Updates will be provided via the city website.

3. PRESENTATIONS:

4. CONSENT AGENDA:

- A.** Minutes of the July 10, 2023 City Council Meeting
- B.** Minutes of the July 17, 2023 City Council Work Session
- C.** Approval of Disbursements **Resolution 2023-170**
- D.** Personnel Actions
- E.** Ice Usage Agreement with Premier Skating Academy
- F.** Marketing Contract for Inver Wood Golf Course Anniversary Membership Campaign
- G. Resolution 2023-171** Accepting Work, Authorizing Final Payment, and Closing the Contract for City Project No. 2021-09D
- H.** Cost Participation Agreement with BFI Waste Systems for 117th Street Sanitary Sewer Design (City Project No. 2016-17)
- I. Resolution 2023-172** Electing to Confirm Statutory Tort Limits for Liability Insurance Purposes
- J. Resolution 2023-173** Accepting \$2,000 in Donations for Fire & Police Departments
- K. Resolution 2023-174** Amending 2023 Fee Schedule
- L.** Approval of Massage Business License and Two Therapist Licenses
- M.** Revised Temporary 4-Day On-Sale Liquor License for Twin Cities Goodtime Softball League

Motion by Scales, second by T’Kach, to approve the Consent Agenda as presented.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC HEARING:

A. Temporary 1-Day On-Sale Liquor License for Inver Grove Brewing

City Clerk Rebecca Kiernan presented a Temporary 1-Day On-Sale Liquor License for Inver Grove Brewing to be able to sell alcohol at the Rich Valley Athletic Complex as a part of the August 17th City Food Truck Event. Inver Grove Brewing has a full on-sale liquor license with the city. Staff has reviewed the application and find it to be complete and in compliance with all requirements. Staff recommends holding the public hearing and approving the application as presented.

Motion by Gliva, second by T’Kach, to close the public hearing at 6:03PM

Ayes: 5

Nays: 0 Motion carried.

Motion by Murphy, second by Gliva, to approve a Temporary 1-Day On-Sale Liquor License for Inver Grove Brewing.

Ayes: 5

Nays: 0 Motion carried.

B. Interim Ordinance Temporarily Prohibiting the Establishment and Operation of Cannabis Businesses within the City. Resolution 2023-175

City Attorney Bridget McCauley Nason presented an Interim Ordinance prohibiting the establishment or operation of a cannabis business within the city until January 1, 2025, or until such earlier date as the Council may rescind this interim ordinance. Background:

- In 2022, the Legislature legalized the sale and consumption of hemp-derived cannabinoids
- This allowed edibles, beverages, and topical products containing limited amounts of THC
- No state licensing structure was established
- In 2023, the Legislature enacted Chapter 342, the Regulation of Adult Use Cannabis
- This creates uniformity across the state related to the use, sale, and licensing of adult cannabis products
- Legislation created the Office of Cannabis Management (OCM) which is tasked with developing, maintaining, and enforcing an organized system of regulation for the cannabis industry and the hemp consumer industry
- OCM is authorized to issue licenses for cultivators, manufacturers, distributors, and retailers from seed to sale
- Cities are prohibited from issuing licenses to cannabis businesses

This interim ordinance does not impact:

- Edible cannabinoid products (lower potency hemp edibles)
- These are products that may be seen at restaurants, convenience stores, smoke shops, breweries, or other places

What would be impacted by this interim ordinance:

- Anything that falls under the definition of a cannabis business
 - There are 14 different types of cannabis businesses defined within State Statute

The city role in regulation is limited by statute

- The city is authorized to issue registrations to cannabis businesses
- Conduct compliance checks
- Provide information to the OCM regarding zoning approval and feedback
- Collect a statutorily defined registration fee
- Receive some of the tax revenue generated from cannabis businesses

Legislative Details:

- Local control for cannabis businesses is limited
- City can adopt reasonable time, place, and manner restrictions on the operation of cannabis businesses
 - Includes prohibiting the operation of a cannabis business within 1,000 feet of a school, 500 feet of a daycare, residential treatment facility, or attraction in a park commonly used by minors
- Can limit the number of licensed cannabis retailers and other businesses with retail operations within the city based on population

The city has not taken action yet because this legislation is new, recently enacted. At this time, the city can consider an interim ordinance. A moratorium can be adopted for a longer time than is typically allowed per state statute.

Other cities:

- Are looking to adopt an interim ordinance
- Directing staff to complete a study regarding appropriate restrictions the Council may wish to consider imposing on these types of businesses
- This provides cities an opportunity to review model regulations from OCM, LMNC, and other cities
- Adoption of an interim ordinance/moratorium gives the city enough time to prepare and adopt their own regulations prior to issuance of licenses by the OCM
 - These licenses will not be issued until sometime in 2025

Council Options:

- Take No Action

- Means no licensed business would show up to the city because no business can get a license yet.
- The city's ability to regulate these types of businesses may be impacted depending on the timing of when the city might adopt regulations and when OCM might begin to issue licenses.
- Adopt Interim Ordinance
 - Directs staff to complete the study
 - Gives the city the opportunity to adopt local regulations prior to the time licenses would be issued by the OCM
- Continuation
 - If Council would like further information before taking action on the interim ordinance

Requested Council Action:

1. Hold a public hearing
2. Consider adoption of the interim ordinance
3. If the entire Council concurs, could consider a waiver of the three-reading requirement
4. If the ordinance is approved and adopted, Council would consider approval of a summary publication resolution

Councilmember Murphy referenced Section 6, Exceptions, and the summary publication, and asked if the state has a definition of the potency level and if not if that should be included.

City Attorney McCauley Nason replied a statute adopted last year defined edible cannabinoid products. There is a limit based on the THC concentration. That statute was amended by the legislation and is set to sunset. At the same time Chapter 342 will begin and includes definitions relating to edible cannabinoid products. There are licenses that will eventually be issued to retailers of low potency hemp edible products. Until that takes over, they are not considered a licensed cannabis business. There is a licensing piece but are not considered a cannabis business under the new statute.

Councilmember Murphy asked what the current potency is and what it is changing to.

City Attorney McCauley Nason replied for hemp edibles it was either .5 or 5%. It will not be changing. The difference would be if buying full potency products, those have a much higher concentration of THC.

Councilmember T'Kach referenced economic development in the city and asked if other cities do not adopt a moratorium, if they would have a competitive advantage to Inver Grove Heights if people want to get businesses started.

City Attorney McCauley Nason replied it was possible in theory. Knowing OCM is not going to be issuing licenses until 2025, there is time for regulation to occur. As draft regulations from OCM come up, most cities would be looking at them in a similar timeframe. It makes sense to see what state agencies see as reasonable time, place, and manner regulations. She mentioned that the city has the right to walk back the interim ordinance. If adopting, it is recommended adopting through its latest date of January 1, 2025. If the city adopts regulations in 2024, the Council can rescind this earlier.

Mayor Dietrich mentioned she spoke with public safety; this seems like a good idea. The city does not have all provisions in place for them to be successful in monitoring this.

Motion by Scales, second by Gliva, to close the public hearing at 6:17PM.

Ayes: 5

Nays: 0 Motion carried.

Motion by Murphy to approve summary publication of the ordinance.

City Administrator Wilson clarified that the first motion would be to waive the three readings. It needs to be unanimous. If that passes, there would be a motion made to adopt the ordinance. If that passes, a motion would be made for summary publication.

Motion by Murphy, second by Gliva, to waive the three readings.

Ayes: 4

Nays: 1 (T'Kach) Motion failed.

Motion by T’Kach, second by Gliva, to approve the First Reading of an Interim Ordinance Temporarily Prohibiting the Establishment and Operation of Cannabis Businesses within the City. Resolution 2023-175

Ayes: 5

Nays: 0 Motion carried.

The second reading will be scheduled for the next City Council meeting.

6. REGULAR BUSINESS:

A. Rental Housing Licenses

City Administrator Wilson presented applications for three (3) rental housing licenses. They have been reviewed by staff and the police department. Everything is found to be in order. Staff recommends approval of the following rental licenses in order of rental address, property owner, and property manager.

8866 Branson Dr.; Trachmar LLC. Inver Grove Heights, MN; Travis Anderson, Inver Grove Heights, MN

8829 Branson Dr.; Alisia Alee, Converse, TX; Chris Mauzy, Lakeville, MN

6964 Archer Pl.; Sowjanya Mattaparthi, Corcoran, MN; Chris Mauzy, Lakeville, MN

Motion by Gliva, second by Scales, to approve the three rental licenses as presented.

Ayes: 5

Nays: 0 Motion carried.

B. Comprehensive Plan Amendment for 7950 Blaine Avenue. Resolution 2023-176

This item has been postponed.

C. Preliminary Design Report and Final Design Recommendations for Water Treatment Plant Rehabilitation Improvements (City Project No. 2023-03). Resolution 2023-177

Public Works Director Brian Connolly presented on the Water Treatment Plant Preliminary Design Report along with a request to advance this project to final design. He introduced Ryan Capelle and Brian Lintgen from Stantec, who would be speaking to some of the technical details.

Public Works Director Connolly provided a project overview:

- In January, elevated levels of radium were detected in IGH drinking water by the Department of Health
- Budgeted for in 2024, approximately \$4.7 million dollars for planned water treatment plant upgrades
- Awarded preliminary/final design contract to Stantec on April 24, 2023
- Completed pilot testing of two different filter media combinations
- Completed the Preliminary Design Report
 - Report focuses on recommended Phase 1 improvements:
 - Water treatment items such as filter, chemicals, and piping
 - Cost estimates
 - Future work recommendations

Current Schedule:

- August 14, 2023 (modified date). Bringing forward the Preliminary Design Report to Council
- Bidding & Contract Award (Phase 1) Spring 2024
- Construction (Phase 1) Late-Summer/Fall 2024

Items Impacting Schedule:

- Late start to pilot testing and pilot testing lab results
- Challenges getting material supplier responses with order lead times and costs
- Scope of rehabilitation has increased due to filter media and existing system
 - Dual versus single filter media
 - Replace backwash system versus retaining existing system
- Material lead time. Several components had 20+ week order lead times
- Construction needs to take place during “off peak” times such as September through May
- Drinking Water Revolving Fund (DWRF) Loan approval requirements
 - Pending city qualification, approximately October 2023
 - Iterative process: Involves a review, comment, and response period

Ryan Capelle, Project Manager, Stantec, shared that in his 27-year career in drinking water treatment, his first project in 1997 was as an Inspector for the city's water treatment plant. He shared the following information regarding the water treatment plant:

Filter Media, Wash Troughs, and Underdrain Nozzles are key elements to a gravity water treatment plant. These needed to be addressed to determine what to fix for radium treatment.

- The original plant was designed for the removal of iron and manganese, not radium.

Filter Media:

- Existing media. Original media with additional media put in as it was lost over time.
- Install new media that is better for radium treatment/removal.
- Single media would be replaced with dual media (does a better job with radium removal).

Wash Troughs:

- Media has been lost over the years. Will be able to put in troughs that can retain media.
- Replacing wash troughs has been found to be a potential improvement.

Underdrain Nozzles:

- Once the media is out of the filters, will replace the nozzles the water goes through.

Key Noted Deficiencies - Phase 1:

- Distribution Box. Replace with a stainless-steel box. (Would be custom fabricated and maneuvered into the plant).
- Existing Conditions: Filters 1-4 are the carbon steel distributor box.
 - This plant was expanded in 2006. Designed with stainless steel distributor box.
 - The project being done in 2023 would make all boxes the same
- Rehabilitation: No coating is needed on a stainless-steel box.
 - Will match Filters 5-8
- Replace Filter Valves and add Electric Actuators
 - Electric valves are more reliable (has backup standby power)
- Chemical Feed Systems
 - Replace feed systems for chemicals needed to remove radium
 - Replace with preformed hydrous manganese oxide (HMO)
 - Use TonkaZorb. Repurpose some of the chemical equipment to accommodate this new chemical which is more effective at removing radium (proven by the pilot study)
 - Replace the Fluoride feed system
 - Replace the Chlorine feed system

Mayor Dietrich asked if this would help remove manganese.

Mr. Capelle responded that it would continue to remove manganese.

Brian Lenten, Lead Process Engineer, Stantec, discussed Key Noted Deficiencies - Phase 1:

Flow Meters.

- Tells what is going in and out of the plant along with various operations in between
- There are 2-24" pipes that are on finished water
- There is a 30" pipe coming in that is the raw water
- Old style meter was a propeller meter. Technology has since advanced, magnetic, and ultrasonic meters are now used.
 - Older style meter proves unreliable. The city has already replaced one of them with an ultrasonic meter. Looking to upgrade the other two pipes for more accurate metering.
- Looking at replacing smaller meters with new magnetic meters.

This was not originally part of Phase 1 costs. Because it is related to other treatment aspects, it was decided to be an add-alternate. It can be accepted/not accepted and put forward for the future.

Cost Estimate - Phase 1 Improvement (Summary):

- Individual components of what to replace were looked at with Phase 1, from media to meters
- Item comparisons were done, specifically with media
 - The Pilot report showed good results from both different types of media compared
- Determined it does not change the design much to put a different type of media in
- If bidding both, may get better prices, encourages competition
- Original items needed to upgrade the plant: \$3.6 million dollars

- After looking at the plant, there were additional suggested improvements noted. Those came in at \$261,000
- Contingency: 35% = \$1,350,000. While this is at the higher end, it is still the early phases. The labor and contracting market, which can be difficult, have costs that keep going up.
- The only way to know is to bid a project
- Add Alternates: Flow meters

Councilmember T'Kach referenced 2002 and if there were new regulations that came in.

Mr. Capelle replied the regulation prior to 2002 allowed a certain percentage of radium to be in the water in order to be compliant. In 2002 that requirement was lowered. That was the change prompting things to be different at the water plant. The manganese sulfate chemical was added to attempt to react with radium; it worked for 20 years. Now there are better ways to correct it.

Mr. Capelle addressed the contingency stating after bidding a project in Cottage Grove, they found their estimates were 15% low. They are trying to prepare the city for that in the market.

Mr. Lintgen discussed the Design and Construction Schedule:

- August 2023: Approval of report
- Begin Phase 1 design: End of August/September 2023
- Funding approval: September/October 2023
- Phase 1 design complete: December 2023
- Bidding and awarding a contract: Spring 2024
- Contractor can procure materials: Summer 2024
- September 2024: Phase 1 construction begins
- April 2025: Phase 1 construction complete

Mr. Capelle discussed contaminants of emerging concern, PFAS. They noticed that PFAS was a part of the city's Request for Proposal.

- Looked at what was needed to treat the water for PFAS
- Current state of the art method is to use granular activated carbon contactors. Adding this to the current treatment process would be a very significant modification. It involves adding the contactors somewhere on a very tight site.
 - There is proposed legislation from the EPA in March, the USEPA proposed to set a limit for two key PFAS substances.
 - There is regulation yet to be finalized. Until it is finalized, it would be premature to make a significant adjustment to the water treatment facility.
 - Expect the proposed guidance to be finalized by the end of this year.

He mentioned that it was not within the scope of this study to design this aspect, but they know what would need to be done if going this route.

Councilmember Scales asked for an idea of what the scope of significant is.

Mr. Capelle replied that the project in Cottage Grove was a 5.75mgd treatment facility. It involved pretreatment prior to manganese and then treatment for PFAS. The bid price was \$39 million dollars. Comparing Cottage Grove's project to Inver Grove Heights, this city already removes manganese, that portion is already spoken for. An improvement to that process would be to add another component. As time goes on other technology is being developed; it may become more available/economical. Waiting may work in the city's favor. If the rules finalize and action needs to be taken, there are two processes available. He said this would be expensive.

Councilmember T'Kach asked if they currently test for PFAS.

Mr. Capelle replied they do. As it stands today, the city water is compliant. Testing has been done by the Minnesota Department of Health. City levels are above current standards. If those standards are reduced, the city would get closer to those standards.

Mr. Lintgen discussed Key Noted Deficiencies - Future Phases:

- Roof replacement

- Rooftop HVAC units
- Condition of paint: City staff has done a really good job of keeping up on painting. The plant is in really good shape.
 - There are a lot of nooks and crannies when working with water, humidity, and steel components. If not fully painted or the paint is not as good as it used to be, corrosion begins.
 - Need to stay on top of this. Recommend heavier painting in the plant.
- Install new variable frequency drives (VFD's) for all High Service Pumps
 - These are pumps taking water that has been treated and putting it out to the system
 - A VFD allows the ability to change the speed on the motor. Also allows slower starting of the motor making it easier on components
 - Three existing high service pumps already have VFD's, but they are getting to the end of their life. Looked at adding them to the remaining pumps.
 - Provides greater operational flexibility and less motor wear
- There is a centralized dehumidifier in the plant
 - As old as the plant. Staff has done a good job of maintaining it but running into difficulties obtaining parts. Repairs are becoming more expensive. Looking at replacing.
- LED Lights on the interior and exterior. Energy savings translates into cost savings.

Summary of Future Phase Improvements:

- \$933,000
- Additional suggested improvements \$105,000
- 35% Contingency = \$364,000
- Total: \$1,402,000
- Separate from the total is \$428,000 in future items already programmed (dehumidifier, updates to the fire alarm panel, and interior/exterior LED's).
- Timing of these improvements are based on staff needs and budget needs as they come up. They need to be done, need to be programmed. These are not an immediate need to take care of the radium issues.

Public Works Director Connolly discussed Drinking Water Revolving Fund (DWRF) Loan Considerations:

- Applied for a DWRF Loan in March 2023
 - Estimated \$4,900,000 in the application
- If qualified, the MDH/PFA provides the DWRF loan based on actual bidding cost. Would still be qualified to receive a loan for the entire amount.
- Will receive word on the loan between the end of September into October
- Will be working with Finance Director Hove on details of the loan amount, if there is any cash on hand to be used, and how to best fiscally address this.

Recommended Council Action - Staff recommends approval of the Resolution:

- Accepting the Preliminary Design Report
- Authorizing preparation of final plans and specifications for the Water Treatment Plant Rehabilitation Improvements

Councilmember T'Kach asked if approved tonight, if all the details were in another report.

Public Works Director Connolly replied an estimate of what needs to be replaced is in the Preliminary Design Report. Implementation would be at the recommendation of the design team in terms of efficiency and cost.

Motion by Gliva, second by Scales, to accept the Preliminary Design Report and Final Design Recommendations for Water Treatment Plant Rehabilitation Improvements (City Project No. 2023-03). Resolution 2023-177

Ayes: 5

Nays: 0 Motion carried.

D. Third Reading of Ordinance 1457 Establishing a City Licensing Requirement for Tobacco Sales and Resolution Approving Summary Publication. Resolution 2023-178

City Clerk Kiernan presented the Third Reading of City-Issued Licensing of Tobacco Retailers. Background:

- Most Dakota County cities license tobacco retailers at the local level. Inver Grove Heights did not enact a licensing program in 2015. Dakota County kept the responsibility of licensing and enforcement of tobacco products.
- Chapter 12 of the Inver Grove Heights City Code addresses cigar/vape shops located in the jurisdiction but does not contain a licensing program.

Change from County to City:

- Dakota County staff requested the city shift responsibility for licensing and enforcement of tobacco products beginning with the renewal process in 2023, for licensure in 2024.
- There are currently 32 tobacco retailers in the city.
- Earlier in 2023, the Council discontinued the licensing of service stations and automobile dealerships, making staff time available for this licensure process.
- The licensing process can be accomplished with existing staff.

Proposed Ordinance Key Features:

- 1-year license period
 - Consistent with neighboring jurisdictions
 - Consistent with IGH liquor licensing
 - Different from Dakota County (currently 2 years)
- Background check and insurance are required
- Staff training and record keeping are required

Violations:

- \$300 fine, no suspension, for the first violation
- \$600 fine plus a 1-day suspension
- \$1,000 fine plus a 7-day suspension
 - Proposed penalties match what Dakota County and neighboring cities use

License Fees - Tobacco:

- Staff recommends a fee that is justifiable for time spent, \$300.00 annually

Direction from Council:

- Proceed with a 1-year license
- Proceed with a fee of \$300 per year
- Keep retailer history of violations from Dakota County

Changes made prior to the Third Reading:

- Section 4-12-3, persons possessing a current tobacco license issued by Dakota County, will not be required to obtain a license from the city until January 1, 2024.
- 4-12-3E Term: All licenses expire on December 31st of each year, with exception to licenses issued between September 1, 2023 and December 31, 2023; those expire December 31, 2024.
- 4-12-7B Existing City Code, adding the date of July 1, 2019 as the permit of sampling (original adoption of ordinance) to include the 3 licensed sampling retail establishments.
- Effective date will be September 1, 2023, for the transition from Dakota County to the city.

Final Step: Approval of the third reading and approval of a summary publication.

Councilmember T’Kach referenced Item J., if approving, the location of a tobacco sales place being 500 feet from a school was mentioned. The state requires 1,000 feet. She asked if this could be changed to 1,000.

City Attorney McCauley Nason replied the state allows for up to 1,000 feet for a school. It is at the Council’s discretion and could be changed. If there is an existing licensed business, that would be treated differently and need further discussion.

Motion by Scales, second by Murphy, to approve the Third Reading of Ordinance 1457 Establishing a City Licensing Requirement for Tobacco Sales.

Ayes: 5

Nays: 0 Motion carried.

Motion by Gliva, second by T’Kach, to approve Resolution 2023-178 approving the publication summary of Ordinance 1457.

Ayes: 5

Nays: 0 Motion carried.

E. Second Reading of Ordinance Prohibiting Cannabis and Tobacco Smoking and Vaping In Public Places. Resolution 2023-179

City Attorney Bridget McCauley Nason presented the Second Reading of an Ordinance Prohibiting the Use of Certain Cannabis Products in Public Places.

Background:

- MN legislature adopted comprehensive legislation regulating adult use cannabis
- Legislation does not specifically prohibit the use of cannabis products in public spaces
 - Legislation does prohibit the use of cannabis products such as smoking, around minors
- Cities have limited regulatory authority related to adult use cannabis and has authorization to prohibit the use of cannabis products in public places

What other cities are doing:

- Many are adopting some type of prohibition on adult use cannabis products
 - Some are adopting smoking and vaping only restrictions
 - Others are adopting more comprehensive restrictions prohibiting the use of edible cannabinoid products in public places
 - Some are copying their existing smoking restrictions/regulations

Ordinance background:

- The ordinance was presented for the first reading at the July 24th City Council Meeting
- Council directed revisions be made to the draft ordinance
- Approved the first reading

Council has a revised version of the ordinance that incorporates the direction provided by Council in preparation for the second reading.

Changes from the First Reading:

- Removal of prohibition of the use of edible cannabinoid products
- Revised definition of public place
 - Public place is not a defined term in State Statute. The definition is: "Property owned, leased, or controlled by a governmental unit, including the city. Public places include but are not limited to businesses/buildings and all the land thereon, parking lots, Inver Wood Golf Course, personal property..."
 - Language about what a public place does not include comes straight from State Statute
- Prohibition limited to smoking and vaping of tobacco products as well as certain adult use cannabis products

Revised prohibition focuses on smoking and vaping of adult use cannabis and tobacco products.

Council Options:

- Take no action. The Council does not have to adopt this ordinance. If the Council takes no action, there would be no enforceable prohibition on the use of certain adult-use cannabis products or tobacco products in public places within the city.
 - State Statute states a person cannot smoke or vape around minors
- Discuss potential ordinance prohibitions that limit or expand the scope of what types of public places to include or where to preclude the use of these products.

Requested Council Action:

Consider adoption of an ordinance prohibiting the use of adult use cannabis products in public places.

(Requires 4/5th Council vote)

- Council can waive the three-reading requirement and move forward with this tonight or move the second reading and have it brought back for consideration for a third reading at the August 28th, City Council Meeting.
- If the ordinance is approved and the three-reading requirement is waived, adoption is needed for the authorization of a summary publication.

Councilmember Scales asked if waiving the third reading if it would be after approving the second or first reading.

City Attorney McCauley Nason replied the Council would first move to suspend the rules to waive the three-reading requirement (requires a unanimous vote). If the motion fails, the Council would take

action by moving the second reading of the ordinance. This would set it up for consideration at the August 28th, City Council meeting.

Councilmember T’Kach referenced the public place definition stating she could not tell if it included streets; right of way is listed. For example, driving with someone in a car.

City Attorney McCauley Nason responded the right of way is adjacent, the area cars drive. It would prohibit the use of these types of products inside of a car. The use of cannabis products inside of a car is already illegal. The way it is drafted, if it were to include inside motor vehicles on a right of way, that means you cannot smoke a cigarette in a car. She said she did not believe that was anything anyone was intending.

Councilmember T’Kach said she would like to see that definition changed; it was fairly broad. She requested clarification on whether a person, driver or passenger, could smoke cannabis in a car.

City Attorney McCauley Nason replied her understanding was that neither could. She offered to check on this item to confirm.

Councilmember T’Kach said this also means a person cannot smoke a cigarette walking down a sidewalk or if living in a townhome association that did not allow smoking on their property. The sidewalk is public, they would expect smoking to be done there. She questioned if that was possible.

City Attorney McCauley Nason responded that was correct. From a policy standpoint, that is something some City Councils are looking at. If a private property prohibits the use of these products and cannot smoke anywhere on the building premises, where could smoking be done if the city prohibits it in public places.

Councilmember T’Kach mentioned she thought this was a solution looking for a problem. She was unsure if there were a lot of complaints and if the police department has been chasing these. What she has heard is that some people are ok with not having smoking in parks mainly to not have cigarette butts there. Anything broader than that people were concerned about, they thought it was a little too much government overreach.

City Attorney McCauley Nason replied that was exactly the legislative question before the Council. The Council has the option to limit prohibition to just within parks or just within parks and on city sidewalks and trails.

City Attorney McCauley Nason stated the first motion would be to suspend the rules and then authorize adoption of the ordinance with two readings instead of three. If that passes unanimously, the Council can adopt it tonight, if it does not pass the Council would make a motion to adopt the second reading of the ordinance with amendments.

Councilmember T’Kach asked if a fine stays on the persons record as a petty misdemeanor.

City Attorney McCauley Nason replied a petty misdemeanor is not a crime, it is like a speeding ticket.

Motion by Gliva, second by Murphy, to approve the Second Reading of an Ordinance Prohibiting Cannabis and Tobacco Smoking and Vaping In Public Places. Resolution 2023-179

Councilmember T’Kach asked for a friendly amendment.

City Administrator Wilson suggested hearing what the friendly amendment is. The maker of the motion can either accept it as a friendly amendment or can decline the amendment as a friendly amendment.

Councilmember T’Kach suggested the amendment be to narrow the definition of a public place to city parks; not including right of way, streets, and trails.

Councilmember Gliva denied the friendly amendment.

Ayes: 4

Nays: 1 (T’Kach) Motion carried.

F. First Reading of Snow Removal Ordinance and Winter Maintenance Policy Update

Public Works Director Brian Connolly discussed consideration of a draft update to the Winter Maintenance Policy and the First Reading of a Snow Removal Ordinance modification. Background:

- Winter Maintenance Policy was initially adopted in January 2011

- Goal of the policy was to address snow and ice removal objectives and to establish formal procedures to respond to winter weather events

Noted shortcomings:

- Current policy has not been updated in the last 12 years to reflect the changes in staffing levels, equipment used, and infrastructure expansion
- Policy lacks general procedures for staffing across divisions
 - Streets staff is not the only staff used to clear roads. Staff is drawn from central equipment, central maintenance, parks, and utilities.
- Lacks clarity regarding sidewalk and trail snow removal responsibility
 - The city does not clear snow unilaterally from all public sidewalks. For example, does not clear snow from residential sidewalks in the northwest area.
 - There are other residential areas in the city where snow has been cleared.
 - This has not been applied universally across the city.
 - Due to staff and equipment capabilities
 - There has been more growth in certain areas
 - Staff has been unable to keep up and/or talk through some of the challenges
- Current Sidewalk Ordinance (City Code 7-1-2) dates to 1974
- Goal of the Ordinance:
 - Identify what is considered a nuisance on public sidewalks
 - Defines nuisances as ice, dirt, rubbish. Snow is not listed.
 - Identifies triggers for abatement of the nuisances and subsequent tracking/payment of costs
- Noted Shortcomings:
 - Does not address "snow" removal specifically
 - The code was originally adopted in 1974, at a time the city had substantially less infrastructure and very few sidewalks along public streets

Importance of the Updates:

The Winter Maintenance Policy is an internal document that primarily impacts city maintenance processes and practices.

The Snow Removal Ordinance impacts private property owners, it details their responsibilities for maintenance of abutting sidewalks.

- This policy and ordinances are intertwined; changes in one impact the other.
- Clarity in both policy and ordinance affords code enforcement and public works staff to effectively address complaints and maintenance activities equitably across the community.

System Statistics:

- 150 miles of city streets to plow/maintain
 - 270 cul de sacs
 - 78 miles of sidewalks and trails
 - Clear snow regularly from approximately 50 miles of sidewalks and trails along public roadways
 - 27 miles along city roadways
 - 5 miles within city parks
 - 18 miles along County and MnDOT roadways
- To note, the city is responsible for winter maintenance along county roads; trails and sidewalks per a 1995 maintenance agreement. Each city has discretion as to what to plow/not to plow.
- Staff recommends continuing to maintain plowing routes on sidewalks and trails along county roads.

Proposed Winter Maintenance Policy Updates:

- Clarify winter maintenance staffing requirements. Utilize staff from streets, central equipment, utility, and park maintenance divisions.
- Remove clause regarding declaring a "Snow Emergency." The city no longer has snow emergencies, it is no longer noted in City Code.
- Clarify what is/isn't allowed in boulevards and what the city would repair/replace if damaged.
 - Policy currently indicates if hitting the following with a plow (not the snow coming off the plow):

- Mailboxes (stipend up to \$75), landscaping elements (grass, sod only), clearing snow around fire hydrants (there is not enough staff, city encourages people to adopt a hydrant/clear around hydrants).
- Clarifying what sidewalks and trails would be plowed by the city
 - Map will be updated annually
 - Focus would be on county road sidewalks/trails, collector streets (state aid routes), and walks near schools and bus routes
- Clarify snow and ice removal priorities:
 - Major streets (arterials such as Cahill, Blaine, Upper 55th Street) & Public Safety Facilities (3 fire stations and police parking lot)
 - Residential streets & City Hall/VMCC
 - Cul de sac & Parks
 - Alleys
 - City responsibility
 - Excess boulevard/intersection snow removal

Proposed Changes in Sidewalk Plowing:

- Remove 3.5 miles of sidewalk from current plowing routine
 - Mainly local roads (residential/townhome)
 - South Grove has 0.1 miles
 - Section of 63rd Street (East of Babcock Trail - 0.5 miles)
 - 55th Street (West of Babcock Trail - 500 feet)
 - Blaine Avenue (North of Seidls Park - 0.5 miles)
 - Arbor Pointe (2.4 miles)
- Add 4.25 miles of new County Trail
 - Argenta Trail/70th Street/65th Street

Councilmember T'Kach asked if any of things being taken off the list were around bus stops.

Public Works Director Connolly replied the only street would be 55th Street, west of Babcock. There are several street entrances to an adjacent apartment complex. This is the only public street entrance. There are several other private driveway entrances with connection to a bus stop. This is the one that could be borderline close to bus stops.

He said College Trail was questionable as there is a park at the end. It is unclear how many go to that park. If not plowing the trails in that park, is it expected to be used in the winter. He said staff expects there to be questions.

Councilmember Murphy referenced 78 miles of sidewalks and trails and asked how many the city would be doing.

Public Works Director Connolly replied they are currently clearing 50 miles. 27 miles is city sidewalks and trails along city roads, 5 miles are in city parks, 18 miles are along County and MnDOT roadways. Staff would be doing 51 miles if this is implemented.

Councilmember Murphy asked if there were roads left in residential areas.

Public Works Director Connolly replied the ones that are, are located around Hilltop Elementary, South Grove state aid roads. Those will be proposed to be cleared.

Public Works Director Connolly discussed City Code Modifications:

- Title 5, Chapter 9, Section 6(A) Public Nuisance Code:
 - Add definition regarding "Immediate Abatement"
 - Accommodates emergency situations where written notice is not always feasible
 - General clause, not just for snow/ice removal
- Title 7, Chapter 1, Section 2:
 - Proposing to add the term "snow" to the current list of "ice, dirt, and rubbish on sidewalks" clause
 - Adding abatement requirements and costs
 - Remove ambiguity and allow code enforcement staff to provide notice and coordinate corrective action, if necessary

Code Enforcement Modifications - Enforcement:

- Current Code requirement: Residents have 24 hours to remove ice, dirt, and rubbish
- Proposed Code clarifications: Add "snow" to the definition along with ice, dirt, and rubbish
 - Clarifies that after 24 hours, notice is provided of non-compliance
 - Owner would have up to 48 hours to address
 - If not addressed within 48 hours, the city can abate the issue and charge the property owner
- Staff recommends a Soft Enforcement in 2023/2024 if the ordinance is adopted
 - Focus on education of property owners regarding the code
 - Provide more leeway for compliance/correction
 - Only abate if considered an emergency or the property owner is non-responsive/uncooperative

Next Steps - Proposed Outreach:

- Send a mailing/notice to property owners who may be impacted by proposed changes in past sidewalk plowing procedures.
 - 260 properties in the northwest area
 - 90 outside of the northwest area
 - Provide staff contact for questions
 - Identify the next ordinance revision date discussion with the Council
- Coordinate a writeup in the fall edition of the Insights newsletter
- Proposed follow up date for further Council discussion regarding the snow removal ordinance:
 - September 11 or September 25th for a second reading
 - October 9 or October 23rd for a third reading

Input is welcome from Council and residents.

Action Requested:

- Council feedback and questions regarding the policy ordinance changes along with the proposed outreach efforts
- Council is asked to act on the First Reading of the proposed ordinance

No action is requested on the Winter Maintenance Policy unless Council wanted to make a motion to adopt outright. He recommends waiting until the map can be finalized.

Mayor Dietrich mentioned the need for consistency, especially with the northwest area. She thanked Streets Superintendent Underdahl and his team. They do a phenomenal job every year. She said she receives a lot of praise for their work and knows that they work long hours.

Street Maintenance Superintendent Barry Underdahl thanked the Council. He said they receive a lot of positive comments about snow removal.

Councilmember Scales mentioned it was straightforward. He has no issues with the wording.

Councilmember T'Kach asked about homeowner's associations that would be contacted, for example on Blaine Avenue. She asked if other homeowner associations would be contacted.

Public Works Director Connolly replied the outreach would reach specific areas that the city would no longer do. They would be contacting common interest parcels.

Councilmember Murphy liked the soft enforcement idea.

Motion by Scales, second by Murphy, to approve the First Reading of Snow Removal Ordinance and Winter Maintenance Policy Update

Ayes: 5

Nays: 0 Motion carried.

7. PUBLIC COMMENT:

There were no public comments.

8. MAYOR AND COUNCIL COMMENTS:

Mayor Dietrich shared that the Food Trucks will be out on Thursday night.

G. Closed Session Pursuant to Minn. Stat. Sec. 13D.05, subd. (3)(c)(3)

Mayor Dietrich stated this item is in order to consider offers or counter offers of the purchase of real property located at 6840 Dixie Avenue, 6863 Dickman Trail, 6871 Dickman Trail, and property located on Dickman Trail

legally described as Lots 14-17, O.M. Johnson Addition. A closed session will be held in the Mayor's Conference Room.

Motion by Dietrich, second by Murphy, to adjourn into Closed Session Pursuant to Minn. Stat. Sec. 13D.05, subd. (3)(c)(3) at 8:02 p.m.

Ayes: 5

Nays: 0 Motion carried.

Motion by Murphy, second by T'Kach to move out of Closed Session at 9:17 p.m.

Ayes: 5

Nays: 0 Motion carried.

9. ADJOURN:

Motion by T'Kach, second by Scales, to adjourn the meeting at 9:18 p.m.

Unanimous Motion carried.

Minutes prepared by Recording Secretary Sheri Yourczek