

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, SEPTEMBER 25, 2023. 6:00 PM - 8150 BARBARA AVENUE**

1. CALL TO ORDER:

The City Council of Inver Grove Heights met in person on Monday, September 25, 2023. 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, Gliva, Murphy, Scales, T’Kach; City Administrator Kris Wilson, City Attorney Bridget McCauley Nason, City Clerk Rebecca Kiernan, Finance Director Amy Hove, Public Works Director Brian Connolly, Fire Chief Judy Thill, Commander Josh Otis, City Planner Allan Hunting, Assistant City Planner Heather Botten, Parks & Recreation Director Adam Lares, Assistant Engineer Steve Dodge, and Communications Manager Amy Looze.

3. PRESENTATIONS:

4. CONSENT AGENDA:

- A.** Approve Minutes from the July 31, 2023 City Council Work Session
- B.** Approval of Disbursements, **Resolution 2023-214**
- C.** Personnel Actions.
- D.** Approval of Temporary Gambling Permit for South Robert Street Business Association, **Resolution 2023-215**
- E.** Declare Costs to be Assessed, Order Preparation of Proposed Assessments, and Call Assessment Hearing for 2023 Pavement Management Project 2023-09D - Dawn Way Area Improvements, **Resolution 2023-216 & 217**
- F.** Agreement with Tivity Health for Fitness Memberships and Services at the VMCC
- G.** Resolution Approving Encroachment Agreement for 5878 Blackberry Bridge Path, **Resolution 2023-218**
- H.** Service Agreement with Wellness that Fits, LLC
- I.** Extension of Deadline for Recording Plat of Robert Curve Fourth Addition, **Resolution 2023-219**

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

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC HEARING:

- A. Conduct a Public Hearing for a Minnesota Investment Fund and Job Creation Fund applications for Somic Packaging**

City Administrator Kris Wilson presented at the Public Hearing in regard to City Support for SOMIC Packaging MIF & JCF Program Applications.

Minnesota Department of Employment & Economic Development (DEED) Minnesota Investment Fund (MIF) provides loans to businesses that create or retain high-paying, full-time permanent jobs, and invest in machinery or real property acquisition or improvements. Program is available for manufacturing,

distribution, warehousing and other eligible business activities. In order to receive funds, a business must work in conjunction with the city or county government where the business will be located.

SOMIC Packaging's Minnesota Investment Fund (MIF) Program has made a request for up to \$200,000 in a forgivable loan Minnesota Department of Employment & Economic Development Job Creation Fund (JCF). This program provides job creation awards and capital investment rebates to designated businesses that retain or create high-paying, full-time permanent jobs and invest in real property improvements. The program is available for manufacturing, distribution, warehousing and other eligible business activities that could locate outside of Minnesota and still be able to serve the same customers. In order to become a designated JCF business and receive benefits, a business must work in conjunction with the city, county or township government where the JCF business will be located. The City of Inver Grove Heights' role in JCF Program is to adopt a resolution of support and to assist the JCF business as needed with submitting the required annual progress reports, payment request documentation, and other information requested by DEED.

SOMIC Packaging's Minnesota Department of Employment & Economic Development Job Creation Fund (JCF) Program has also made a request for up to \$375,000 in program funds. Key Factors funding for both programs comes fully from DEED. The city is agreeing to devote staff time to administrative and reporting tasks. If not allocated here, DEED will invest these funds in other businesses in other communities. The opportunity to attract businesses to Inver Grove Heights (and retain in Dakota County) a company with well-paying jobs who is interested in expanding here and owning their own facility would be beneficial to the city. Over the long-term, enhancing the City's commercial/industrial tax base helps offset property taxes for residential properties.

Tonight's requested actions are to hear from SOMIC Packaging CEO Peter Fox, hold the public hearing, receive community input and adopt the resolution of support for JCF Program Application.

SOMIC Packaging CEO Peter Fox presented his request to the City Council by giving an overview of their business of packaging machines. It is part of a European Company, with its U.S. office currently located in Eagan, Minnesota since 2018. They are looking to relocate to Inver Grove Heights to be able to expand and grow their business. The infrastructure in the area will be able to support their growth. They are heavily invested in the dairy industry, Kroger, General Mills, Nestle to name a few.

SOMIC Packaging's mission is to make it easy to acquire the world's best end of line packaging equipment uniquely configured to match the specific requirements of each partner with unmatched customer service and support.

The facility in Eagan, Minnesota commissions machines and conducts Factory Approval Tests (FATs) when they are received from Germany. The Company would like to have the assembly process moved to the United States. It will increase the capacity and be cost-effective to have assembly here rather than overseas.

They are looking to add up to 25 well-paying jobs if able to proceed with the move to Inver Grove Heights. They currently employ 31 people, 24 in Eagan and seven in other states (sales and service) and intend to increase their facility from 14,900 sf to 48,000 sf. The new facility would add the assembly process, building machines from components manufactured in Germany.

SOMIC Packaging's current annual revenue is \$25M, and they expect this to double over the course of the next three years as a result of increased capacity gained in the new facility.

Mayor Dietrich opened the public hearing. No comments from the public were received, and the public hearing was closed.

Council member Scales thanked SOMIC Packaging for considering Inver Grove Heights and appreciates this opportunity.

Council member T’Kach had questions about the entry and exit accesses onto Briggs Avenue in the Inver Pointe Business development where SOMIC is possibly relocating to.

Council member Murphy stated that this would be a welcome opportunity for the City and supports moving forward with the resolutions.

Motion to approve the Resolutions regarding support of a Job Creation Fund (JCF) application in connection with Somic Packaging, Inc. by T’Kach, second by Murphy.

Ayes: 5

Nays: 0 Motion Carried.

City Administrator Kris Wilson mentioned that at the time of the agenda packet the resolution for the Minnesota Investment Fund (MIF) was in draft form and that the resolution would be brought forward on the City Council consent agenda at a future meeting.

B. Conduct Public Hearings and Resolutions Ordering Projects for 2024 Pavement Management Initiative, City Project Nos. 2024-09 D, F, G, H and I and Declining to Order Project No. 2024-09E

Assistant City Engineer Steve Dodge presented this item for conducting the public hearings for the 2024 Pavement Management Initiative.

2024 Street Rehabilitation Projects
2024-09D – Delano Way and Dempsey Way Area
2024-09E – Inver Grove Trail (Pine Bend)
2024-09F – Corcoran Path and Dawson Way Area
2024-09G – South Grove Area 7
2024-09H – 96th Street and 99th Street Area
2024-09I – Bixby Way

Motion to approve Resolution 2023-221 accepting feasibility report for 2024 Pavement Management Initiative Projects (2024-09D, E, F, G, H, and I) by Gliva, second by Scales.

Ayes: 5

Nays: 0 Motion Carried.

Assistant City Engineer Steve Dodge proposed that 2024-09D is recommended to be a full depth pavement reclamation project. Assessment rate of 55% of total project cost. Proposed to be specially assessed at \$779,465.71. over a ten-year term per city policy. There are 62 single family lots proposed to be assessed on a uniform per parcel basis at a rate of \$12,572.03 per parcel. These are only estimates, not final amounts. Total road miles are .74 miles for this project.

Mayor Dietrich opened the public hearing for 2024-09D Delano Way and Dempsey Way. No public in attendance for this item.

Motion to close public hearing and approve Resolution 2023-222 Ordering Improvements and authorizing preparation of plans and specifications for City Project 2024-09D - Delano Way and Dempsey Way project by Gliva, second by T’Kach.

Ayes: 5

Nays: 0 Motion Carried.

Assistant City Engineer Steve Dodge proposed the 2024-09F Corcoran Path and Dawson Way Area is recommended to have a full-depth reclamation project. Assessment rate of 55% of total project cost. Proposed to be specially assessed for \$1,101,195.22 over a ten-year term per city policy. There are 33 single family lots to be assessed on a uniform per parcel basis of \$ 13,083.09 per parcel and 226 townhome lots proposed to be assessed based on an adjusted front footage calculation and uniform per parcel basis per association ranging between \$2,492.43 and \$5,968.94 per parcel. These are only estimates, not final amounts.

Mayor Dietrich opened the public hearing for 2024-09F Corcoran Path and Dawson Way Area. No public in attendance for this item.

Motion to close public hearing and approve Resolution 2023-223 Ordering Improvements and authorizing preparation of plans and specifications for City Project 2024-09F - Corcoran Path and Dawson Way Area by Scales, second by Murphy.

Ayes: 5

Nays: 0 Motion Carried.

Assistant City Engineer Steve Dodge proposed the 2024-09G South Grove Area 7 is recommended to have a full-depth reclamation project. Assessment rate of 55% of total project cost. Proposed to be specially assessed for \$1,970,251.00 over a ten-year term per city policy. There are 141 single family lots to be assessed on a uniform per parcel basis of \$ 12,518.05 per parcel and 16 Condominiums (\$6,826.42 per unit) and 1 residential apartment lot (\$95,983.67) proposed to be assessed based on an adjusted front footage calculation and uniform per parcel basis for the condominiums. These are only estimates, not final amounts. 2.03 Street miles on this project.

Mayor Dietrich opened the public hearing for 2024-09G South Grove Area 7.

Les Schwegel, 7807 Cooper Avenue wanted to know how much would be assessed if they are not putting in new utility work such as shut off valves or curb and gutter.

Assistant City Engineer Steve Dodge replied they may have to replace certain portions of the curb. This project is mostly about the pavement, not all of the curb will get replaced.

Motion to close Public Hearing for 2024-09G - South Grove Area 7 by T’Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion Carried.

Motion to approve Resolution 2023-224 ordering improvements and authorizing preparation of plans and specifications for City Project 2024-09G - South Grove Area 7 by T’Kach, second by Scales.

Ayes: 5

Nays: 0 Motion Carried.

Assistant City Engineer Steve Dodge proposed the 2024-09I Bixby Way is recommended to have a mill and overlay project. Assessment rate of 80% of total project cost. Proposed to be specially assessed for \$96,639.76 over a ten-year term per city policy. There are 26 single family lots to be assessed on a uniform per parcel basis of \$ 3,716.91 per parcel. These are only estimates, not final amounts.

Mayor Dietrich opened the public hearing for 2024-09I Bixby Way Area. No public in attendance for this item.

Motion to close Public Hearing for 2024-09I - Bixby Way by Murphy, second by Gliva.

Ayes: 5

Nays: 0 Motion Carried.

Motion to approve Resolution 2023-225 Ordering improvements and authorizing preparation of plans and specifications for City Project 2024-09I - Bixby Way by T'Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion Carried.

Assistant City Engineer Steve Dodge proposed the 2024-09H 96th Street and 99th Street Area is a combined project with recommendation to have both a mill and overlay project and a full depth reclamation area. Assessment rate for the mill and overlay project would be 80% of total project cost and the full-depth pavement reclamation be assessed at 55% of total project cost. Proposed to be specially assessed for a total of \$1,490,916.53 over a ten-year term per city policy. There are 55 single family lots to be assessed on a uniform per parcel basis of \$ 19,677.30 per parcel for full depth pavement reclamation and 21 single family lots to be assessed per parcel for the mill and overlay portion of the project. These are only estimates, not final amounts.

There was an error in the publication notification of this project. Two parcels located on Benjamin trail was not included in the original public hearing notice, so staff addressed the oversight by direct mail notice to the two parcels on September 14, 2023 noting the oversight and notifying them of the public hearing this evening and staff published a revised Public Hearing notice in the Pioneer press on September 24 and October 1st noting the public hearing this evening and proposed continuance to October 9, 2023. Staff has requested continuation of this public hearing to October 9, 2023 to ensure the State Statute Chapter 429 requirement are properly followed.

Mayor Dietrich opened the public hearing for 2024-09H.

Public comments are as follows:

Amy Hunting, 2645 96th Street, described the road issues. There are heavy equipment traveling through our neighborhood as it is the only east/west through streets in the southern portion of the city. Used heavily by these trucks and are very loud. Our road are in shambles and there are craters that would swallow up a car at some point. People are happy the road is proceeding, but this project needs to be done fairly quickly as traffic. Concerns that this is a collector street. Please consider that this is a unique road and consider reducing the dollar amounts of assessments.

Gina & Doug Danner, 9583 Baker Ct, do not believe the project is defined correctly. Titcomb Acres is west of Barnes and Marcott Woods is east of Barnes. Living west of Barnes, the amount of the

assessment seems unfair. They would like to have the project split into two projects. The front footage for the lots of Baker Ct is smaller than the lots in Marcott Woods. Assessing each owner in Titcomb Acres, an extra \$4,086 for the Marcott Woods streets is not fair as there is little to no benefit of this roadway to the residents of Titcomb Acres. Prior to approving this project either split the full-depth pavement reclamation portion of the project in two or divide the cost fairly with Titcomb Acres burdened with on 19% of the project cost and Marcott Woods with 81% of the project cost.

Jeff and Rhonda Clint, 9816 Baxter Trail, would like Council to reallocate the projects costs to reflect each area. Does sanitary sewer necessary as an improvement? If our pavement condition index (PCI) is 60 on Baxter Trail, why couldn't the repairs continue rather than do a reconstruction.

Motion to continue Public Hearing via Resolution 2023-226 for 2024-09H - 96th Street and 99th Street Area to October 9th, 2023 by Gliva, second by Scales.

Ayes: 5

Nays: 0 Motion Carried.

Assistant City Engineer Steve Dodge stated that 96th is a collector roadway and is considered a state aid project. The road currently meets the MnDOT standard designs for a state aid project. Staff will need to look into the truck traffic between Highway 52 and Barnes Ave. Staff will also look into the frontage of the properties that are using right of way for their driveway. Staff is using a per parcel policy for this area.

Assistant City Engineer Steve Dodge proposed the 2024-09E Inver Grove Trail (Pine Bend) is recommended to have a full depth pavement reclamation from Cahill Ave to the south. Assessment rate of 55% of total project cost. Proposed to be specially assessed for \$249,593.31 over a ten-year term per city policy. All of the parcels would be assessed based on a per area (acre) basis. Single family lots would range from \$1,375 to \$32,261. Other lots would range from \$3,589 to \$7,047 per lot. These are only estimates, not final amounts.

Staff originally planned for a mill and overlay project based on the pavement condition index (PCI) of 65. The feasibility recommendation is for Full Depth Reclamation (FDR) due to Existing pavement thickness of 4", current levels of bus and truck traffic warrant increase to 6" pavement to handle the traffic loads, adjusted pavement condition is 45 based on number and type cracks observed (and covered by sealcoat), and the road is 16 years old and showing signs of deterioration; a Mill & Overlay will not extend the pavement life an additional 20-25 years as intended due to traffic type and quantity.

Staff believes additional life remaining in existing pavement before an FDR project is most economically applied through the Pavement Management Initiative.

Staff recommends inclusion of the project in future Pavement Management Initiative year and programmed into the Capital Improvement Plan based on there is still life in the pavement to allow further deterioration prior to a full depth reclamation being implemented. This project will be brought back as part of the Pavement Management Initiative in 2028.

Mayor Dietrich opened the public hearing.

Lea Kammerer, 3600 102nd Street E. When Inver Grove Trail became a City road, frontage was assessed via 102nd Street versus the length of Inver Grove Trail. The amounts should be relooked at when this project finally moves forward.

Donna Schneider, 3470 102nd Street E, would like to know how the assessments are determined, by size of land versus usage on road. She would like to see prevention of further road deterioration by limiting the truck traffic on Inver Grove Trail.

Motion to close public hearing for Project 2024-09E - Inver Grove Trail (Pine Bend) by T’Kach, second by Murphy.

Ayes: 5

Nays: 0 Motion Carried.

Motion to approve Resolution 2023-227 rejecting recommendations of the feasibility report and declining to order improvements for 2024-09E - Inver Grove Trail (Pine Bend) by Scales, second by T’Kach.

Ayes: 5

Nays: 0 Motion Carried.

6. Regular Business

A. Rental Housing Licenses

City Administrator Kris Wilson presented two rental licenses for approval. All background checks and other information have been performed by the police department. Staff found everything to be in order and recommend approval of the requests.

Rental Address	Property Owner	Property Manager
8761 Branson Dr	Micheala Farner New Richmond, WI	Anthony Rodriguez St Paul, MN
3024 69 th St E	North County Holdings LLC Bloomington, MN	Brian Scanlan Bloomington, MN

Motion to approve rental licenses by T’Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion Carried.

B. Comprehensive Plan Amendment, Rezoning, Platting and PUD Development Plan for 8245 Argenta Trail

City Planner Allan Hunting presented this item to City Council. The applicant is asking council to consider the following actions related to the property located at 8245 Argenta Trail.

- a. A request for a Comprehensive Plan Amendment to reguide a portion of the property from Light Industrial to General Industrial.
- b. A request to rezone a portion of the property from Limited Industry District (I-1) to General Industry District (I-2).
- c. A request for a Preliminary and Final Plat of Floerke Forest.
- d. A request for a Preliminary and Final Planned Unit Development (PUD) for a 5,600 square foot manufacturing building with outdoor storage tanks.

The current comprehensive plan shows light industrial, and the zoning is currently I-1 Industrial. The request for the plan amendment is for a portion of the property is because IGH Fire Code Section 9-2-4 allows outside storage of flammable or combustible liquids in above ground tanks when greater than

1,000 gallons only in the I-2 district. The applicant proposes to have outside above ground storage tanks, one of which would be a 20,000-gallon tank for storage of methanol.

Bulk Fluid Systems is proposing to subdivide an approximate 1-acre parcel from the existing 6-acre parcel at 8245 Argenta Trail. The subdivided property will be used to construct a new facility in which Bulk Fluid Systems would produce and distribute windshield washer fluid product. The proposed building would be 56 feet by 100 feet and would house multiple tanker trucks, a washer fluid blending room, and general office space for staff. They are also proposing to store flammable liquids outdoors in above ground storage tanks on the south side of the building. There would be one 20,000-gallon tank for methanol, and two 9,000-gallon tanks and one 2,500-gallon tank for windshield washer fluid.

The applicant is requesting to reconfigure the lot lines to retain two lots with slightly different lot configurations. The plat complies with all subdivision code standards. The applicant is also requesting Planned Unit Development (PUD). The property is located within the Northwest Area Overlay District which requires development reviewed through the PUD process. The site plan consists of a 5,600-gallon foot building for the operation, storage tanks would be located along the south side of the building and is requesting flexibility from the front parking area lot setback due to a unique extra wide right-of-way. Plans meet all other performance standards.

The site is expected to have six employees either working directly at the facility or making deliveries, working standard business hours.

Planning commission recommended approval of the four action items at a vote of 5 to 3. Staff recommends approval of the four requests.

The applicant, Chris Willeke, 631 4th Street N, Hudson, Wisconsin, owner of Bulk Fluids, currently located on Concord Street in South St. Paul that is a bulk washer fluid company that utilizes containers on top of gas station canopies, so that there isn't as many plastic bottles out in the world. They provide washer fluid through vending machines. They are excited to assist drivers reduce the plastic imprint.

Chris Willeke addressed the methanol concerns that the residents are concerned about. Methanol vapors only go about 50 feet. It will disperse and not ignite in an area greater than 50 feet as it pools and mixes with air. He claims methanol cannot hurt the water if there is a spill and that this is a safe business.

Council member Murphy asked about the fire hydrant issue. The applicant agreed to have the fire hydrant placed on this new lot.

Mayor Dietrich invited the public to comment on this item.

Dan O'Shea, 7315 Brittany Lane, watched the planning commission meeting and commented that this is a dangerous chemical unlike what Mr. Willeke presented. According to his paperwork, BFS is not an exemplary business, and their insurance is up for cancellation. Their safety record is less than stellar.

Joan Elbert, 8569 Alverno Ave, appreciates that this business exists, but is concerned about the safety plan that BFS presented and does not believe this business belongs in a residential neighborhood.

Marta Haynes, 9408 Alladin Trail, appreciates the engagement of the meetings that have been held for this item. She was concerned about the emergency response plan and the evacuation plan. She has a petition from many neighborhood residents requesting denial. Marta read a letter from Ralph Taylor, 8334 Argenta Trail about his concerns with this action item.

Ann Ulrich, 7623 Bennett Ct, wanted to concur with the other speakers. Are there no other areas in the city that could be comparable site for them to move to?

Irene Albert, 7642 Bennett Ct, concurred with others in the neighborhood. Wanted to address the road conditions on the Argenta Trail.

Scott Haynes, 9408 Alladin Trail, presented that Mr. Willeke has not been truthful and is biased in the claims he has made. Would like the business in Inver Grove Heights but not in this area of the city.

Monica Pitterle, 9906 Altman Ct, seems there is a lot of information that has been glossed over.

Kassandra Fries, 7920 Alberta Way, items proposed only benefit a few individuals and not a benefit to area residents. Trying to fit a square peg in a round hole. Reiterated what council had denied for other businesses in the area in the past. This rezoning should not be allowed.

Jess Donnelly, 1712 82nd St W, rezoning will open up the area to more rezoning for commercial.

Mayor Dietrich asked Mr. Willeke if he has an emergency response plan. They do but did not bring it with to the meeting to share. Mr. Willeke addressed the insurance concern that was mentioned, they do have insurance and increased the coverage. They also have regular Department of Transportation inspections and mentioned what their violations were and are actively pursuing corrections.

Council member Gliva asked about the truck's impact on the roads, and if the truck drivers are employees or are contract workers. Mr. Willeke stated that they are employees and when deliveries were made.

Council member T'Kach asked if the business was able to find any other space to put this business in Dakota County. They have looked through out the county without much avail.

Council member Gliva asked if the city has any other property in the city that would be suitable for this business. City Planner Allan Hunting said the city only has a few I-2 zoning in the southern portion of the city and most have businesses already on those parcels.

Motion to adopt Resolution 2023-228 denying a comprehensive plan map amendment to change the land use designation of that portion of Lot 1, Block 1, Inver Hills Memorial Cemetery which is being platted as Lot 2, Block 1, Floerke Forest from LI, Light Industrial to GI, General Industrial by T'Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion Carried.

City Administrator Kris Wilson mentioned that staff will ask council to continue the items on this application given the outcome of this vote.

Motion to continue other items on this agenda item 6B by Murphy, second by T'Kach

Ayes: 5

Nays: 0 Motion Carried.

**C. Comprehensive Plan Amendment, Rezoning, Platting and PUD Development
Plan for 8245 Argenta Trail**

City Planner Allan Hunting presented this item to City Council. This is for Robert Curve Fifth Addition. The developer is asking to continue with the replatting for the remaining townhomes and the apartment complex.

City Council is asked to consider the resolution approving the final plat, and final PUD plan and development agreements and easement vacation for Phase 2 of Robert Curve Fifth Addition. Planning commission recommended approval of the three action items with a vote of 7 to 0. Staff recommends approval of the resolutions.

Motion to approve Resolutions 2023-232 Approving the final plan, final PUD Development Plan for Phase 2, Development Contract and Related agreements for the plat of Robert Curve Fifth Addition and Resolution 2023-233 providing for the vacation of all plat dedicated public drainage and utility easements on Outlots A and B, Robert Curve Fourth Addition, According to the Recorded Plat thereof, Dakota County, Minnesota by Resolution pursuant to Minnesota Statutes Section 462.358, Subd. 7 by Scales, second by Murphy.

Ayes: 5

Nays: 0 Motion Carried.

D. Variance to allow a pool and perimeter walk to be constructed within the shoreland setback at 8450 Alta Avenue

Assistant City Planner Heather Botten presented this item. Applicant is asking for a variance to allow a pool and perimeter walk to be constructed within the 100-foot shoreland setback. There is water on three sides of the property. The house received a variance to build the home before the wetland was designated. In 2006, the DNR determined that all water surrounding the property was part of DNR ID #19-41. At the widest point, the property is about 200 feet across. The home has established setbacks from the ordinary high-water mark of 80 feet from the west and 28 feet from the east.

The applicant has requested a variance to install a 20 foot by 40-foot pool, with a 5-foot perimeter walk. The pool would be at the same setbacks as the home and the perimeter walk would encroach an additional five feet closer to the ordinary high-water mark on the east and west side. Other zoning requirements, such as impervious surface would be met.

Staff believes there is rationale and a practical difficulty to support a setback variance for a pool and perimeter walk, but not as much as of a variance being requested by the applicant. City Code states that the setbacks for a pool be measured from the perimeter walk. Staff recommends that the pool and perimeter walkway be restricted to the same setback from the ordinary high water as the existing home.

Planning commission at the September 6, 2023 public hearing recommended approval of the variance as requested by the applicant, allowing the improvements to encroach an additional five feet on both the east and west side of the property on a vote of 8 to 0.

Mayor asked what the response was from the Department of Natural Resources, Assistant Planner Heather Botten replied that the DNR was in support of the variance.

Owner Justin Jongbloedt, 8460 Alta Ave, was present at the meeting. Council member T'Kach asked if he could make the pool smaller to meet. He mentioned that he could but the last conversation that was held was about the setbacks to protect the neighbors.

Council member T’Kach is concerned about the possible flooding of the area and if the city will be held liable if we approve the variance. City Attorney Bridget Nason commented that she is unaware of any concerns about additional city liability or repercussions if we approve this request as the house is already in existence.

Motion to approve Resolution 2023-234 approving a variance to allow a pool and perimeter walk to be constructed within the shoreland setback by Gliva, Second by Scales.

Ayes: 4

Nays: 1 (T’Kach) Motion Carried.

E. Liquor License Compliance Check Violations

Commander Josh Otis and Sergeant Dane Winget presented a brief overview of the alcohol compliance program in the city. It is a tool to verify businesses with a valid liquor license are acting responsibly and helps reduce underage access to alcohol. The compliance checks are currently done once annually. The short- and long-term goals are to reduce underage access to alcohol, obtain and maintain a 100% yearly compliance with no underage alcohol sales and/or service, and enhance the knowledge and improve skills related to stopping underage alcohol sales and service for our local businesses.

He mentioned City Code 4-1-1 through 4-1-24, but highlighted sections 4-1-14D, Sales to Certain persons Prohibited, 4-1-14J Alcohol Server Training Required, 4-1-19A: Civil Sanctions Imposed and 4-1-19B Minimum penalties. The City had send out an informational flyer with their license educating the holders of the check list.

Compliance Check process consists of verification of license holders within the city, recruitment and training of underage buyers, of which they must possess and present their own valid under 21 Minnesota State Driver’s License or ID. The police department used two buyers this time and to use normal appropriate clothing. Training consisted of speaking as little as possible and may state that they are over 21 when asked per Minnesota State Statute 340A.503 Subd 6.

The Compliance checks were conducted on both the On-Sale and Off-Sale establishments. After the check was completed, notification was given with either a pass or a fail. Pass being notified right away that they passes, and if the establishment failed, officers identified themselves and conducted post sale follow up procedures. If a business did not have training records available on site, they were given 72 hours to have the documents turned in.

No public hearings were required for the first-time offenders of Inver Grove Heights 2001 LLC dba Cub Foods and American Multi-Cinema, Inc. dba AMC Theatres Inver Grove Heights 16. Public Hearings are required for three establishments as this was not their first offense for Northern Tier Retail LLC dba Speedway #4411, H & K Corporation dba Market Liquor and Lakeville Brewing Co. LLC dba Inver Grove Brewing.

Sanction #1 - Inver Grove Heights 2001 LLC dba Cub Foods

Council member Murphy asked if this was Cub’s first violations as he recalled they failed last year. Sargeant Winget replied that Cub holds two liquor licenses. One for the liquor store and one for the grocery store. The one that failed this time was the grocery store, last year was the liquor store.

Staff recommends for the first violation within the last five years, a seven hundred fifty dollar (\$750) civil penalty.

Mayor Dietrich asked if the liquor license holder was present; they were not.

Motion to approve Resolution 2023-235 imposing sanctions upon Off-Sale Liquor License Holder Inver Grove Heights 2001 dba Cub foods with a \$750 first violation by Murphy, second by Scales.

Ayes: 5

Nays: 0 Motion Carried.

Sanction #2 - American Multi-Cinema, Inc. dba AMC Theatres Inver Grove Heights 16

Staff recommends for the first violation within the last five years, a seven hundred fifty dollar (\$750) civil penalty.

Mayor Dietrich asked if the liquor license holder was present; they were not.

Motion to approve Resolution 2023-236 imposing sanctions upon On-Sale Liquor License Holder American Multi-Cinema Inc dba AMC of \$750 first violation by Scales, second by T'Kach.

Ayes: 5

Nays: 0 Motion Carried.

Sanction #3 - Northern Tier Retail LLC dba Speedway #4411

This is a required public hearing as it is the third violation. Staff recommends the sanctions of a \$2,000 fine plus a three (3) day suspension for any of the five dates listed (10-20-2023; 11-03-2023; 11-22-2023; 12-08-2023; or 12-24-2023).

Mayor Dietrich asked if the liquor license holder was present; they were not.

Motion to close public hearing by T'Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion Carried.

Motion to approve Resolution 2023-239 imposing sanctions upon Off-Sale Liquor License Holder Northern Tier Retail LLC dba Speedway #4411 in the amount of \$2,000 fine and 3-day suspension for October 20, November 3, and November 22, 2023 by Gliva, second by Scales.

Ayes: 5

Nays: 0 Motion Carried.

Council member T'Kach stated the proposed suspension days are dates that are before holidays and wanted to know if it was more effective or profitable days with the staff recommendations. Sargeant Winget said those dates were chosen due to the severity of the violations.

Sanction #4 - H & K Corporation dba Market Liquor

This is a required public hearing as it is the first and second violation for sales to a minor and no server training proof provided.

Staff recommends a \$1000 civil penalty and a one-day suspension.

Mayor Dietrich asked if the liquor license holder was present. Mr. Kim Jong Ho, 1 Water Street, St Paul came forward as the attorney for the business. He provided a handout to council. He is here to appeal

for the second violation due to the circumstance of the owner brought in his brother from out state because the owner's wife was giving birth via c-section. Kim Lau was supposedly trained in 2016 but had not been trained since. He had taken the training the day after the violation. They admit it is a violation but would like council to consider a reduction in the sanctions to a first violation without a day of suspension.

Council member T'Kach questioned the license that was provided that it was from New York in 2021. The license provided does not show training on the materials provided.

Mayor Dietrich opened the public hearing.

Motion to close public hearing by T'Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion Carried.

Council member Scales appreciated the attempt to come in and explain what happened and would like the proposed violation to be reduced to \$750 and with no suspension.

Motion to approve Resolution 2023-237 imposing sanctions upon Off-Sale Liquor License Holder H & K Corporation dba Market Liquor with the recommendation of reducing to a first violation of \$750 and no dates of suspension by Scales, second by Murphy.

Ayes: 5

Nays: 0 Motion Carried.

Sanction #5 - Lakeville Brewing LLC dba Inver Grove Brewing

Sargeant Winget brought forward that this is a second violation for Inver Grove Brewery. The first violation was in 2019 as case no 19003380. Staff recommends for two violation a \$1,000 civil penalty and a one (1) day license suspension selected from one of these dates of 11-3-2023; 11-22-2023; or 12-08-2023.

Mayor Dietrich asked if the liquor license holder was present. Erin Gerlach, 7935 Cooper Ave E, came forward. They do training all year long. The employee was terminated on the spot, and they continue to take violations very seriously.

Mayor Dietrich opened the public hearing.

Motion to close public hearing by T'Kach, second by Scales.

Ayes: 5

Nays: 0 Motion Carried.

Motion to approve Resolution 2023-237 imposing sanctions upon On-Sale and Sunday Liquor License Holder Lakeville Brewing Co. LLC dba Inver Grove Brewing Co. in the amount of \$1,000 fine and 1-day suspension on November 3, 2023, by T'Kach, second by Gliva.

Ayes: 4

Nays: 1 (Scales) Motion Carried.

F. Resolution of Support for Dakota County 2024-2028 Transportation Capital Improvement Program

This item is proposed to be postponed to October 23, 2023.

G. First reading of Ordinance Establishing Licensing Requirements for Short-Term Rentals.

Item moved to the end of the agenda per City Administrator Wilson.

H. Review of Proposed 2024 VMCC Operating and Capital Budgets

Parks and Recreation Director Adam Lares presented an overview of the Community Center and is funded through community fees and the host community fund. The budget was lumped into a single budget in the past, so this year, the city is breaking out the budgets.

- 153,000 sq. ft. plus facility
 - Aquatics Center
 - Fitness Center
 - Ice Arena/Senior Center/Community Rooms
 - National Guard Armory Gym
- Annual Hours of Operation
 - 5,366 hours (avg. 15hr/day) Fitness, Aquatics, Gym
 - 5,980 hours (avg. 16.5/day) Arena
- 3,072 - Members in 2022
- 154,811 - Admissions in 2022
- Over 500,000 attendees annually (Arena, Sr. Center, Gym, etc.)
- 14 FTE's
 - Operation & Maintenance = 5
 - Programming = 5
 - Guest Services = 2.75
 - Administrative = 1.25
 - 100-150 Part-time Non-benefited staff across all divisions

Operating Budget - New Divisions for 2024

- (6210) Administrative & General Operations (22% of total expenditures)
- (6220) Aquatics (29% of total expenditures)
- (6230) Fitness (20% of total expenditures)
- (6240) Arenas (17% of total expenditures)
- (6250) Community Rooms/Rentals/Kids Rock/Seniors (12% of total expenditures)

Community Center Operating Summary

In the 2023 Budget, personnel is \$2.5 million up a little bit, Internal Allocations is \$184,300 and Supplies and Services are \$1.3 Million continue to go up with inflation. For the 2024 requested budget a total of \$4,069.990 is requested.

Breaking this down into divisions of revenues and expenditures in the chart below.

	Aquatics	Fitness	Arenas	Community Rooms/Rentals/ Kids Rock	Admin & General Operations	Total
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Revenues	\$ 767,210	\$ 861,260	\$ 790,900	\$ 334,900	\$ 141,520	\$ 2,895,790
Expenditures	1,186,101	826,436	685,900	472,710	898,844	4,069,990
Difference	(\$418,891)	\$ 34,824	\$ 105,000	(\$137,810)	(\$757,324)	(\$1,174,200)

Community Center – Noteworthy Items for 2024 Budget

- Part-time Communications specialist position was added to the 2023 Communications budget – that cost has been transitioned to Parks & Recreation budgets in 2024
- Conditioning Water in Pool
 - Increased utility expenses
 - Increased cost for pool chemicals & related supplies
- Expansion of existing software for onsite check in's
- Increased training costs related to staff development
- Community Center – \$62,590 in Additional Requests
- New staffing requests
 - Additional hours for Part-Time Communications specialist (\$5,000)
 - Additional OT for Maintenance (\$1,400)
 - Staffing Adjustments (\$21,790)
 - Additional hours and improved aquatics coverage, class offerings, and expanded program hours
 - Higher wages for part-time operations staff to remain competitive in current labor market
 - Partially offset by reductions to Fitness and Guest Service hours
 - Reclass Lead Customer Service to Membership Specialist (\$34,400)
 - \$17,500 estimated cost for Reclassification
 - \$16,900 hours needed to backfill front desk coverage

Revenue projections

	2021 Activity	2022 Activity	2023 Budget	2024 Proposed
Total Operating Revenues	\$ 2,245,228	\$ 2,701,883	\$2,789,050	\$2,895,790
Increase from Previous Year	\$1,509,517*	\$ 456,655*	\$ 87,167	\$ 106,740
* Programming rebounding to pre-COVID levels (2019 operating revenues = \$2,804,582)				

Revenues are based upon proposed program rate fee increase, admission fee increase, Kids Rock increased participation, and birthday parties increase in offerings.

Community Center Operating Transfer Needed

	2021 Activity	2022 Activity	2023 Budget	2024 Requested
Total Operating Expenditures	\$3,177,376	\$3,718,186	\$3,898,700	\$4,069,990
Total Operating Revenues	<u>\$2,245,228</u>	<u>\$2,701,883</u>	<u>\$2,789,050</u>	<u>\$2,895,790</u>
Transfer Needed from Host Community Fund (per audited financials)	\$932,148	\$1,016,303	\$1,109,650	\$1,174,200
Operating Costs Not Covered by Revenue	29.3%	27.3%	28.4%	28.9%
Actual Transfer from Host Community Fund *	\$947,535	\$1,069,557		
Difference	\$15,387	\$53,254		

** Actual transfers are calculated prior to finalizing year-end payroll liabilities so transfers needed per audited financials will differ from actual transfers completed. These small differences either increase or decrease fund balance within the Community Center Fund*

Community Center Capital Budget

- New fund created in 2023 to track Community Center capital expenditures (Fund 206)
- Funded by a transfer from the Host Community Fund
- Scheduled for \$700,000/annually
 - Increase of \$15,000/annually in future years for inflation
- Consistent funding should allow the city to manage capital repairs and replacements for varying years of high and low capital needs.
- Individual projects still require annual City Council approval - capital will be included in the annual Capital Improvement Plan (CIP)

Proposed 2024 Projects

Area	Project	Amount
Common	Common Area Updates	\$ 20,000
Aquatics	Lap Pool Lane Lines, Diving Boards, Stands	47,900
Arena	East Rink Matting, Paint Team Rooms & Restrooms, Re-key Interior Doors, Update Kitchen/Kitchen Windowsills, Rear Doors/Frames (east rink), New Skate Racks	204,000
Mechanical	Update Automation, Replace Roof Top Unit #4, Replace Water Softeners	158,000
Grove	Replace Front Entry Concrete/Carpet, Community Room Partition, IT Server/Panel Upgrade	63,000
Grove Brightside*	Design + Engagement Brightside Room Remodel	<u>20,000</u>
	Total Projects	\$ 512,900

* Original 2024-2028 CIP had Brightside Room remodel budgeted in 2024 for \$200,000 - future remodeling costs will be developed after community & Council engagement has occurred.

Community Center Capital Fund (Fund 206)

	2023 Budget	2024 Proposed	2025 Projected	2026 Projected	2027 Projected	2028 Projected
Revenue In						
Transfer from Host Community Fund	\$ 718,200	\$ 700,000	\$ 715,000	\$ 730,000	\$ 745,000	\$ 760,000
Expenses Out						
VMCC Capital Projects (from 2024-2028 CIP)	(718,200)	(512,900)	(689,500)	(609,750)	(1,300,000)	(385,900)
Year-End Balance	\$ 0	\$187,100	\$212,600	\$332,850	(\$222,150)	\$151,950

* Current 5-year CIP does not include remodeling costs for the Brightside Room

The 2027 Projected \$1.3 Million the city may look at asking some of our community partners to assist with the cost of conversions of the compressors in the arena. There is a lot of youth hockey associations in the area that may be able to support the costs of the upkeep of the arena center.

G. First reading of Ordinance Establishing Licensing Requirements for Short-Term Rentals.

City Administrator Kris Wilson presented this item and gave a brief background. The City Council adopted a rental ordinance in fall of 2016 and current code language has not be interpreted to apply to short-term rentals and only applied to long-term rentals

Currently we know that we have short-term rentals operating illegally with no license. This has been a topic being discussed for over a year with staff, council, residents and operator of these short-term rentals. There are a continuum of options to choose from being 1. No regulation - properties subject to the same ordinances as any other property in IGH (noise ordinance, tall grass and weeds, etc.). 2. Apply existing rental licensing ordinance. 3. Create a new license specific to short-term rentals. 4. Restrict short-term rentals to specific types of properties. 5. Prohibit short-term rentals via establishing a minimum rental period of 30 days.

Council advised staff to prepare and create a new license specific to short-term rentals at our last meeting in August. This item is being presented this evening. Why establish a license specific to short-term rentals? The regular rental licensing ordinance does not fit in some ways such as the requirement for a Crime Free Lease Addendum (background check for each tenant) or the desire to require collection of lodging taxes. This proposed ordinance gives us the opportunity to address some unique challenges or complaints of short-term rentals such as large gatherings and special events.

The ordinance proposed this evening includes a proposed purpose statement. It is the purpose of this Article to protect and preserve the stability and character of residential areas within the city by establishing standards for the operation of short-term rental housing. The operation of short-term rental properties is a business enterprise that includes certain responsibilities. Rental owners, operators and managers are responsible to take such reasonable steps as are necessary to ensure that the guests who occupy such rental dwelling units, as well as neighboring properties, may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, and sanitary, free from noise, nuisances and annoyances, and free from unreasonable fears about safety of persons and property.

The definition of a short-term rental is the letting of a dwelling or dwelling unit for a period of less than thirty (30) consecutive days. These are commonly rented items on VRBO or Airbnb platforms.

Some policy issues for Council consideration is Who needs a license? The current rental licensing ordinance exempts 1. hospitals; 2. state licensed residential care facilities; 3. assisted living facilities; 4. nursing homes; 5. hotels and motels; 6. single-family homes in which an individual owns the single-family home and resides in a portion of the building in which there is a rental dwelling unit and there are a total of no more than three (3) persons within the rental dwelling unit that are unrelated to the owner and to each other; 7. accessory dwelling units pursuant to section 10-18-1 of this code; and 8. supervised student housing pursuant to section 10-14-2H of this code. Staff recommends keeping exceptions 1 through 5 and 8, but not having exemptions for items 6 and 7.

Policy issues for council consideration are that the ordinance should speak to neighborhood notification, maximum occupancy, events, parking and lodging taxes. The City would like to open the communication line between the owner of the property and the surrounding property owners be open.

Other ordinance provisions mimic the currently rental licenses and are to be considered are items to be included on the application, a background check for owner and keyholders, insurance requirements, process or terms for denial and the ability to inspect the property, if necessary, but not proactive inspections.

Staff is seeking councils' preferences or changes on the neighborhood notifications, maximum occupancy, events, parking and the lodging tax portion of this ordinance.

Council member Scales made the comment that he likes the lodging tax. He likes the parking on the hard surface, does not like the events on the bigger property. Does not have an opinion on maximum occupancy. Neighborhood notification is always a good idea and allows the neighbors to be engaged.

Mayor Brenda Dietrich asked what kind of ability does the city have to enforce if the owners of the short-term rental property does not notify the neighborhood. If the city could prove that there wasn't a notice, the city could take on the responsibility of notification to the neighborhood. She would like to see the city have maximum occupancy as there are some very large homes in the community that are rentals.

Council member T'Kach brought up the situation that a new homeowner purchased a house next to a short-term rental property, how would that new owner get notified and what requirements we could put on the owners of the rental property to notify the new neighbors. She would prefer that the owners notify the neighbors. She would like to hear from some of the rental property owners in the audience.

Council member Murphy is confused on some of the reading and research on short term rental properties and what is stated in City code. The city should be enforcing the code by not allowing businesses to operate in residential areas. Council member Murphy brought forward these questions, if we follow City Code 10-15-26 definitions the difference between an occupation and a business, short term rentals are considered to be a business because as an occupation they would fail at least three of the eight criteria and should only be conducted in business or industrial districts. Short term rentals cannot be considered an occupation because in subsection D. Home occupations shall not be interpreted to include tourist homes, restaurants or similar uses. Short term rentals are breaking the current rules, and he cannot support the licensing of short-term rentals when these owners are not following the rules.

What power does the City have to ignore our own rules and just change the rules? Why should we be picking and choosing what we like and do not like. The City should be following and enforcing current city code. He cannot support short-term rental licensing without minimum stays or occupancy requirements or homesteading requirements. This makes no sense to him.

Council member T’Kach says that residents are allowed to have a rental license (long term) in the city already, so this may give Council member Murphy more clarification.

City Administrator Kris Wilson says there are some discrepancies in City Code that will need to be clarified as the city proceeds through the reading process.

Mayor Dietrich asked if there were residents in the audience that wish to be heard on this agenda item.

Diantha Cavin, 4588 Bloomberg Lane, decided to accommodate small families that would have a hard time with the noise at hotels, value and space. Hosts can read the reviews before approving the rentals. None of my guests have caused any issues. Airbnb does prechecks of potential guests. They have been considerate of my house rules and my neighbors. One of the biggest concerns are of the parties being held, Airbnb has a strict policy against parties. They have seen a 44% drop in parties since Airbnb have started enforcing their rules. The majority of the earnings are used for the upkeep or investment of my home.

Tamara Kappauf, 1186 82nd Street E, wanted to address Council member Murphy’s concerns about businesses. Google maps pull up business in residential areas. There are many businesses using their homes as businesses. It is now the reality of the world. My Airbnb is the lower level of our house. We have been renting since 2018. Her neighbors know that we rent out a portion of our home. Doesn’t feel that the city needs to license those that are home owned renters. It shouldn’t matter if we are using a website to bring people into their homes. She appreciated the input that the City has solicited from the owners of these rentals.

Jerry Slama, 9185 Inver Grove Trail, has not yet had a guest stay in our new property with a room above our garage. It makes sense to create a license that would allow people to utilize their property in a responsible manner.

Motion to approve the first reading of an ordinance amending Inver Grove Heights City Code, Title 4, Chapter 13 related to short term rentals and amending Title 10, Chapter 15, Section 26(d) related to home occupations by T’Kach, second by Scales.

Ayes: 4

Nays: 1 (Murphy) Motion carried.

Moved to Closed session pursuant to Minnesota Statute Section 13D.05, subd. (3)(c)(3) in order to develop at 9:50 by Gliva, second by T’Kach.

Ayes: 5

Nays: 0

Motion to move back to open session by Gliva, second by Scales.

Ayes: 5

Nays: 0

Motion to adjourn at 10:55 p.m. by Gliva, second by Scales.

Ayes: 5

Nays: 0

Minutes prepared by City Clerk Rebecca Kiernan.