INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, DECEMBER 11, 2017- 8150 BARBARA AVENUE

1. CALL TO ORDER and 2. ROLL CALL

The City Council of Inver Grove Heights met in regular session on Monday, December 11, 2017, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m. Present were Council members Bartholomew, Hark, Perry, and Piekarski Krech; City Administrator Lynch (absent), City Attorney Kuntz, Community Development Director Link, City Clerk Tesser, Parks and Recreation Director Carlson, Finance Director Smith, Public Works Director Thureen, City Engineer Kaldunski, Fire Chief Thill, and Recording Clerk Yourczek (absent).

3. PRESENTIONS:

There were no presentations.

4. CONSENT AGENDA:

A. i. Minutes November 13, 2017 City Council Meeting
ii. Minutes November 27, 2017 City Council Meeting
B. Resolution Approving Disbursements for Period Ending on December 6, 2017 **Resolution 17-228**
C. Consider Approval of 2018 City Council Meeting Schedule
D. Consider Approval of 2018 Meeting Schedule of Advisory Commissions
E. Consider Application and Resolution to Conduct Off-Site Gambling for Spartan End Zone Club at Simley High School, 2920 80th Street E. **Resolution 17-229**
F. Designate the 2018 Official Newspaper
G. Consider Acceptance of Babcock Trail Feasibility Study
H. Authorize the City of Inver Grove Heights and Dakota County Electronic Crimes Task Force Joint Powers Agreement **Resolution 17-230**
I. Consider Pay Voucher No. 1 for City Project No. 2017-09D – Sealcoat
J. Resolutions Establishing Utility Rates for 2018 **Resolution 17-231 Water, Resolution 17-232 Sewer, Resolution 17-233 Storm Water**
K. Consider Resolution Establishing and Separating City Project No. 2017-21 – VMCC/Golf Course Parking Lots from City Project No. 2015-09D – Broderick Boulevard Street Reconstruction **Resolution 17-234**
L. Adoption of Standard Small Wireless Collocation Agreement **Resolution 17-235**
M. Consider a Resolution Receiving Feasibility Report for City Project No. 2018-04 - Arbor Pointe PUD Shared Street Light System Improvements **Resolution 17-236**
N. Approve Custom Grading Agreement, Stormwater Facilities Maintenance Agreement and Permanent Utility and Drainage Easement for Lot 3, Block 1, Hatchard Estates (9175 Dalton Court)
O. Consider Approval of the Joint Powers Agreement with the City of Inver Grove Heights and Dakota County for Broadband Services
P. Personnel Actions

Motion by Bartholomew, second by Perry, to approve all items on the consent agenda 4A-4P except 4L.

Ayes: 5
Nays: 0 Motion carried.

Pulled item 4L. City Attorney Tim Kuntz stated this is to address the small standard small cell wireless devices collocation agreement. The State requires a model for a pole location agreement. This applies to all Cities. The LMC drafted a policy for cities to adopt. Mr. Kuntz stated a corrected version was provided to the Council tonight.

Motion by Piekarski Krech, second by Perry to move forward with the Small Wireless Facility Agreement.

Ayes: 5
Nays: 0 Motion carried.

5. PUBLIC COMMENT:

There were no public comments.

6. PUBLIC HEARINGS:

A. Consider Approval of the 2018 Renewal Applications for Liquor Licenses

City Clerk Michelle Tesser stated the City received applications for license renewal for 31 liquor licenses for 2018. Public hearing was noticed in Southwest Review. Each renewal was accompanied by material regarding the license fee and liability insurance certificate. Information regarding completion of alcohol server training was provided to verify all employees are engaged with the serving/selling end of alcohol received training within 24 months. All background investigations were approved by the Police Department.

Motion by Piekarski Krech, second by Perry to close the public hearing at 7:05PM.

Ayes: 5
Nays: 0 Motion carried.

Motion by Pierkarski Krech, second by Hark to approve the 2018 Renewal Applications for Liquor Licenses.

Ayes: 5
Nays: 0 Motion carried.

B. Consider Approval of the 2018 Renewal Application for Pawn America LLC

City Clerk Michelle Tesser stated just like every year City Code requires we conduct a public hearing. Application and documentation was received. Notices were mailed to the surrounding area. Police Department conducted background and there were no remarkable findings. Staff approves.

Motion by Piekarski Krech, second by Perry to close the public hearing at 7:07PM.

Ayes: 5
Nays: 0 Motion carried.

Motion by Hark, second by Bartholomew to approve the 2018 Renewal Application for Pawn America LLC.

Ayes: 5
Nays: 0 Motion carried.

C. Consider Approval and Resolution of Lawful Purpose Gambling Premise Permit at King of Diamonds, 6600 River Road, Resolution 17-237

City Clerk Michelle Tesser stated they received an application from Wendy Busch, Operations Manager at Merrick Inc. for a premise permit to conduct lawful gambling operations at King of Diamonds. Merrick Inc. would relinquish the lawful gambling premise permit currently at Overboard Bar located at 4455 64th Street East. Letter reflecting action has been received. Merrick is a non-profit charitable corporation licensed by the Department of Human Services. They are an adult day and memory care training and habilitation employer. A background check on the operations manager and the owner came back approved from the Police Department. Staff recommends approval of the permit.

Motion by Pierkarski Krech, second by Perry to close the public hearing at 7:09PM.

Ayes: 5
Nays: 0 Motion carried.

Motion by Bartholomew, second by Hark to approve Resolution 17-237 of Lawful Purpose Gambling Premise Permit at King of Diamonds, 6600 River Road

Ayes: 5
Nays: 0 Motion carried.

Mayor Tourville asked Staff to review the charitable gambling ordinance, specifically in 2018, examining the 20% that can be spent in the area. The trade area is a little wide and very little of the money is being spent in Inver Grove Heights.

Those that have gambling licenses must spend 20% in the trade area. It doesn't cost the non-profit, nor the establishment any more money. City staff should take a look at the 20% being spent closer to home. Most Cities have a requirement, that a percentage of the total gross be spent in the City where the gambling license is located verses a trade area. We are finding very little of the money is being spent in the City of Inver Grove Heights.

D. Public Hearing to Consider Ordering City Project No. 2018-02 – 80th Street Sanitary Sewer Improvements (Robert District), Authorizing Preparation of Plans and Specifications, and Authorizing City Attorney to Complete Easement Negotiations, Resolution 17-238

City Engineer Tom Kaldunski stated this is a sanitary sewer project we are reviewing on 80th Street. They are recommending a gravity sanitary sewer that would follow 80th Street. Properties were invited to an informational meeting in November. A map of the area was shown. We are looking at constructing a sanitary sewer along 80th Street that would tie into an existing sewer at Amana Trail. We had 8 -10 properties invited to the meeting. Four property owners showed and were supportive of the project. Scenic Hills liked the idea of a gravity sewer rather than having to build a station on their development. The cost is approximately $1.32M, funded through the Northwest Area Sewer Fund. The funds are financed through various fees at the time of development. No assessments are proposed, they pay when development would occur on their sites. Council will consider authorizing Bolton & Menk to move the project forward. We have a proposal from them to do the engineering services to prepare the plans and specifics. Scenic Hills will be speaking about the development itself later this evening. The estimated cost is $111,000. Bolton & Menk will provide the design and construction oversight of the project. City Engineering staff will do the inspection of design. We will receive testimony from anyone tonight and close the hearing after that. We would suggest any approval tonight be conditioned on the Planning Commission reviewing the overall project and making their determination consistent with the Comprehensive Plan.

Councilmember Piekarski Krech asked if we have to add to an existing sewer to serve this area. She stated It seemed like a lot of digging and a lot of sewers.

Mr. Kaldunski referenced a map of the area located near the Golf Course maintenance facility. It's the high point where the lift station discharges to. We put a sewer in the central location with the knowledge there may be further development in the area. He stated there wasn't right-of-way at the time when MNDOT had it, but that has since been turned back to the County, and we can get a permit. There is an existing force main built in 2008, and stayed in place pumping from the lift station by Argenta Hills area. We are placing the gravity sewer so the properties can hook up to it. It will flow to the lift station and pump and it was always planned to be done this way.

Mayor Tourville felt those along the route are probably happy because we don't need another lift station.

Mr. Kaldunski responded yes. This option was more cost effective over the life cycle of a lift station. We don't pay for electricity or pump repairs.

Motion by Piekarski Krech, second by Hark to close the public hearing at 7:19PM.

Mayor Tourville said this will go before the Planning Commission to take a look at presenting this project with regards to the Comprehensive Plan and other items.

Mr. Kaldunski stated the intent is to have the Planning Commission make their determination that would be consistent with the Comprehensive Plan.

Ayes: 5
Nays: 0 Motion carried.

Motion by Bartholomew, second by Hark to approve to Consider Ordering City Project No. 2018-02 – 80th Street Sanitary Sewer Improvements (Robert District), Authorizing Preparation of Plans and Specifications, and Authorizing City Attorney to Complete Easement Negotiation and that it is contingent on Planning Commission approval. Resolution 17-238

Ayes: 5
Nays: 0 Motion carried.

E. Public Hearing and Resolution to Consider the Issuance of Capital Improvement Bonds to Finance Project #2014-10, Fire Station #2 and the Adoption of a Capital Improvement Plan for 2017-2021, Resolution 17-239

Finance Director Kristi Smith stated in front of the council for consideration is the Capital Improvement Plan for 2017 to 2021. This is the financing mechanism for the potential fire station. The packet is the same as you saw at the November work session. The plan was prepared by Ehlers and representative Steve Apfelbacher is here this evening to answer any questions. Approval would start the clock on the timing on which we would need to receive a petition by. That could slow down the process for the fire station. The purpose is for financing of the fire station. Plan includes authorizing up to 12.5 million in capital improvement bonds with the intent that the project is around 10 million, so that we don't issue more than 10 million in one year to remain being qualified. The purpose of it being 12.5 million is room in case bids come in higher because if they were to go over that 12.5 million, we would have to go back through the entire Capital Improvement Plan process.

Motion by Bartholomew, second by Hark, to close the public hearing at 7:23PM.

Ayes: 5
Nays: 0 Motion carried.

Motion by Bartholomew, second by Perry to approve Resolution 17-239 to Consider the Issuance of Capital Improvement Bonds to Finance Project #2014-10, Fire Station #2, and the Adoption of a Capital Improvement Plan for 2017-2021

Ayes: 5
Nays: 0 Motion carried.

7. REGULAR AGENDA:

I. FINANCE:

A. Resolutions Relating to 2018 Tax Budgets and Levies

Finance Director Kristi Smith went over small changes on the budget in regard to the K-9 program and Park Maintenance position. The updated cost of the K-9 Officer with a September 1st start date would be $36,100. That amount was slightly higher than the $33,000 that was estimated last week.
She stated the Council gave direction to reduce the transfer to Park Maintenance by $35,000. She stated updated pages were provided to you in are in the Council packets.

She stated the proposed levies recommended in the packet would be the Operating Levy of $19,021,200Bond Retirement Levy of $1,941,197. Special taxing levies for the 70th Street Recon $79,395. Preliminary Levies and Budgets were approved on September 11th.

She stated Dakota County mailed out 2018 proposed property tax notices on November 13th2017
Three interested parties notified us that the County incorrectly sent out ten notices where the City portion was doubled. They corrected them and resent new ones. Two more inquiries came about changes in property tax classifications, so they were directed to Dakota County
We have the presentation of the 2018 final Budget where the public can speak and then we adopt the final budget and levies which then need to be certified to Dakota County on or before December 28th, 2017.

Ms. Smith presented the 2018 Expenditure Budget she stated the 2017 amended budget items were carried over. General Fund expenses total $22,367,900. We report three special revenue funds: Recreation, Community Center, and EDA. The biggest difference on the Community Center is the inclusion of the capital outlay. The EDA Budget was reviewed earlier this year. She reported on capital project funds And the American with Disabilities Act (ADA) fund. She stated the amended budget is higher than what is being proposed.

Ms. Smith presented the 2018 Expense Budget Enterprise Funds. She stated its comprised of three primary Enterprise Funds. She stated water was broken down into several pieces for recording purposes.

Ms. Smith stated they also report several Internal Service Funds: Risk Management, Central Equipment, Central Stores, City Facilities, and Technology. Total proposed expenditures across all those budgets is over $44M.

She stated the General Fund turns into the Tax Levies. Operating Fund is proposed just over $19M. General Bond Retirement is under $2M. Included in that number was an estimated amount for the 2017 B issuance of just under $2,000. The special taxing district levies total $21,041,791. She stated the estimated tax rate is .50863, which is a reduction in the tax rate due to property evaluations being increased. She stated the General Fund Revenues property taxes make up 85%, licenses and permits make up 5%, intergovernmental revenues 3%, charges for services 5%, fines and penalties 1%, misc. 1%.

She went over the net tax capacity and net tax levy. She stated that the general fund revenue is $22,342,300. She stated that the2018 General Fund Expenditures $22,367,900. Public safety/Police/Fire make up 47%. Public Works at 19%, Parks 9%, General Government 9%, Community Development 7%. She stated the reliance on other funds has decreased and illustrated on the slide the decrease in the reliance on other funds.

Ms. Smith stated the impact on the mean and median residential properties for 2017 was $248,000, that is seeing an increase for 2018 to $266,680. With market value homestead credit, is just over $251,000. Tax rates we have now impact that mean property would see is an increase of $83.00 which equals just under 7%. The median property in 2017 was $213,550 showing an increase of 8.76% in valuation estimated at $232,250. Taxable market value just over $215,000 impact is under $89.00 or 9%.

On the business side. Businesses are valued at $563,700. They did see an increase of 4.12%, due to change in tax rate, they will see a decrease in a few dollars on their City portion of the tax bill. Business valued at over $3M saw a very small increase of .24% impact there is a decrease in the proposed levy of $214.00 or just under 1%.

Motion by Bartholomew, second by Hark to accept the following three Resolutions Relating to 2018 Tax Budgets and Levies: Special Tax District Resolution 17-240, Final Tax Levies Resolution 17-241, Final Budget Resolution 17-242.

Ayes: 5
Nays: 0 Motion carried.

B. 2018-2022 Capital Improvement Plan

Finance Director Kristi Smith stated that every year they do an update to the Capital Improvement Plan on a five-year basis. This was reviewed at the November work session. Staff and Ehlers are still concerned with an issue on Page 3. The net debt levy will go as high as 17% in 2022. She stated from a bond rating perspective that is concerning. \. Copies were available at the front desk and will be on the website as well.

Mayor Tourville stressed the importance of taking a look at a long-range plan in order to know the needs, wants and what reality really is. He stated we need to be careful.

Motion by Piekarski Krech, second by Bartholomew for approval of the 2018-2022 Capital Improvement Plan.

Ayes: 5
Nays: 0 Motion carried

C. Resolution Providing for the Issuance and Sale of $3,645,000 General Obligation Improvement Bonds, Series 2017B

Finance Director Kristi Smith stated information was provided at the table tonight with a revised resolution.

Steve Apfelbacher stated the Council authorized $3,645,000 of the bonds to be issued. It has been updated and they opened bids this morning and received five bids. The bid that we received is by Stifel Nicolaus at about ½ of 1 percent lower than what our estimate would have been. This sale would result in an annual debt service payment of $12,500 less each year than the City would have paid because of the bond rating. The great news that we wanted to share this evening was we spoke to S&P regarding the City's rating. The best rating you can get is a AAA rating. S&Phave upgraded the City's rating to a AA+. . It is our tradition to prepare a Bond denoting the credit rating change. For the credit rating in the report, they have highlighted that the City has a strong economy, strong management, strong budget performance, very strong liquidity, very strong budget flexibility, and the adequate debt service. He stated that this rating represents the strong fiscal job that the Council and Staff are doing on a daily basis. He presented the Bond in a frame to Kristi Smith. Pictures were taken.

Mr. Apfelbacher stated that this is good news for the City as we move forward. He stated this rating is intended to continue for some period of time. He stated a revised resolution is in front of you.

Councilmember Bartholomew asked about the percentage of the CIP and whether a policy change needs to occur.

Mr. Apfelbacher stated that it has to do with the needs of the City annually. For example, the rating is as $12.5 million that debt service that was projected was about $900,000 a year, that's almost 50% more. We can try to manage some of those elements that are in there. The biggest thing you have is the tax base and local economy as you are in the expanding mode. We did a good job of the rating this year. This is a growing and developing community. He stated that roads and facilities are in the CIP that's here. The tax base will expand. This was because of the valuation of the fire station. We can manage that on a case by case basis.

Motion by Piekarski Krech, second by Perry to approve Resolution 17-243 Providing for the Issuance and Sale of $3,645,000 General Obligation Improvement Bonds, Series 2017B with Stifel Nicolaus.

Ayes: 5
Nays: 0 Motion carried

D. THIRD AND FINAL READING OF AN ORDINANCE AMENDING CITY CODE TITLE 3, CHAPTER 4, SECTIONS 3-4-2-2 and 3-4-2-3 and 10-3-8 ADJUSTING DEVELOPMENT FEES FOR 2018

Kristi Smith, Finance Director, stated there have been no changes since the last reading on this ordinance. This is an annual review; the rates are increases from 3.5 to 5%. This information was sent to the River Heights Chamber of Commerce, posted on the City Website and also on Social Media.

Motion by Piekarski Krech, second by Hark to approve the changes to the ordinance as presented in the Third and Final Reading of an Ordinance Mmending City Code Title 3, Chapter 4, Sections 3-4-2-2 and 3-4-2-3 and 10-3-8 Adjusting Development Fees for 2018. Ordinance #1344.

Ayes: 5
Nays: 0 Motion carried

Mayor Tourville called up Sean Folmar and Paul Schnell from the Police Department up to the Podium for introductions.

Sean Folmar introduced Paul Schnell as the new Police Chief.

Police Chief Paul Schnell stated it was a great honor to be here. Today was his first day. He has met several in the department and is very excited to be here. He is proud to be a member of the department. He is looking forward to advancing goals discussed during the selection process, particularly the community engagement goal. In the next week you will see some of the goals the department is working on. A survey will be launched next week which we hope will drive the City policing as we go into 2018. He stated thank you for the trust you are placing in me and that he's looking forward to working with the department.

II. COMMUNITY DEVELOPMENT:

E. HAMPTON COMPANIES; Consider the following Resolutions and Ordinance for property located on the north side of 80th Street, between Hwy 3 and Babcock Trail:

- **a) An Ordinance to rezone Lot 1, Block 1, Scenic Hills from R-1C/PUD to R-3C/PUD; Ordinance #1345**
- **b) A Resolution relating to a Preliminary Plat and Preliminary PUD Development Plan for a 68-unit single family and 32-unit senior care facility; Resolution 17-244**
- **c) A Resolution relating to a Conditional Use Permit for a 32-unit multiple family development; Resolution 17-245**

Allan Hunting, City Planner, summarized the development. He stated the Planning Staff and Commission approve the plans for 68 single family homes and one 32-unit senior care facility. In 2014, Council approved a single-family development of 44 lots but that did not work out with the project. Rezoning is required with the senior building. They are requesting a number of setback flexibilities as noted via diagram. We haven't seen this before, but the developer is trying to comply with City standards. Road connections were also discussed and referenced via diagram. Project complies with open space requirements and landscape plan although plan is 101 trees short of what is required. Applicant will be working with Staff to resolve that. Staff thinks the project meets the goals of the Comprehensive Plan as providing a different housing density mix, and meets financial density goals. We support the application with the 24 conditions listed.

Planning Commission also recommended approval. They also added wording relating to the Abbott property, the Abbotts home driveway will access onto a private road. They will be providing them access. There should be some type of document records that there is an easement for them to use the roadway. That would terminate once the parcel develops as the Abbotts would have access to a public road. Wording is in the resolution that you have.

Councilmember Piekarski Krech asked if there was an easement now? Have the applicants agreed to this? Do the Abbotts agree?

Mr. Hunting responded there is currently a private easement for Abbotts to get down to 80th Street. Due to grading, that would disappear. The applicant will have to provide continuous access while this is being constructed. The applicants have agreed to this and will speak further on it. He is unsure if there is a recorded easement document right now.

Councilmember Hark asked if there is an existing easement and if it is recorded, they need to get that vacated.

Mr. Hunting responded it is a private easement and they would work that through with the private owners to remove. The developer would not want that segment. We can make sure that is worded and worked out as we go through with the final planset with the development agreement.

Councilmember Piekarski Krech asked about setback flexibilities. Is there two feet between side yards? There have been complaints from Argenta Hills that they are way too close together. The neighbors have not been complaining, but there are issues. She stated looking at the design it kind of looks like detached town home type set ups.

Mr. Hunting responded code requires from the property line a minimum of 20 feet, maximum of 30 feet. They would be from a property line of 14 feet. The separation between units is proposed at 10 feet. Rear yard typically is 30 feet. They are requesting a 24-foot rear yard. They are keeping an eye on the minimums.
It does have the look as a type of a detached town home type project. They are doing that to meet their density requirements for the project.

Councilmember Hark asked how close this was to the Golf Course Fairway?

Parks and Recreation Director Eric Carlson responded the fairway is on the other side of a pond.

Mayor Tourville asked about the rendering of the product?

Applicant was present to answer any questions. Renderings are being redone as they will be shrunk a little from what they look like now. In response to the questions of the closeness to the golf course, there is approximately 100 feet between the property line and the back of those houses, besides trees and water.
The senior section is one level senior memory care and assisted living. Rendering of area was shown. Applicant discussed the grading and water near the golf range. With approvals they look to start in spring.

Tourville stated that the Abbotts are working with the development.

Applicant responded they have spoken to the Abbotts and they will not be charged any association dues or fees. They have the access to come down the private drive.

Kurt Rechtzigel,1407 E. 80th, asked if there will be any street parking. Mr. Rechtzigel also asked if there will be any assessment on any road improvements.

Mr. Hunting stated they are allowed parking on one side of the street. These are 28-foot and 32-foot roads. He would guess the side with the most open areas would have the parking, but that still needs to be looked at yet. Hunting pointed out private roads that would be paid for by the developer. County stated that the road size and turn lanes are an adequate size.

Councilmember Piekarski Krech stated this has come before the Council four or five times now.

Motion by Piekarski Krech, second by Hark, to approve a). Ordinance #1345 Ordinance to rezone Lot 1, Block 1, Scenic Hills from R-1C/PUD to R-3C/PUD.; b). Resolution relating to a Preliminary Plat and Preliminary PUD Development Plan for a 68-unit single family and 32-unit senior care facility; Resolution 17-244, and c). Resolution relating to a Conditional Use Permit for a 32-unit multiple family development; Resolution 17-245.

Ayes: 5
Nays: 0 Motion carried.

F. FRATTALONE'S DAWNWAY; Consider a Resolution relating to an Amendment to the Non-Conforming Use Certificate allowing the landfill to operate for an additional 15 years and approving a Host Community Agreement among Frattalone's Dawnway, Inver Grove Heights and South St. Paul. The property is located on Dawn Way, west of Concord Boulevard. Resolution 17-246

City Planner Allan Hunting reviewed the agreement to amend the existing agreement for the next 15 years to complete the filling of the landfill. The first NCUC was approved in 2002, and expires at the end of this year. No changes are proposed by the Applicant.

He stated that the second part is for a Host Community Agreement with South St. Paul, as the landfill is in both Cities. They are requesting a new agreement to be approved and are meeting with the staff right now. We are still in negotiations. Since we need more time to get that done, staff is recommending Council extend the amendment for the non-conforming use certificate to operate for an additional 15-year extension to 90 days bringing us to the end of March. A non-conforming use only requires a majority of a 3/5 vote for the Council. Applicant has extended the 60-day review period. They will have to approve and agree to an extension as well with the Councils action.

Jim Fyksen, 4045 59th Street, adjacent to the gravel pit, stated he has dealt with this property for 35 years. They opposed it at that time, and it still went through. It was approved again in 2002 and we are back again for another 15 year permit. He's lived with dust, noise, shaking of the ground. He doesn't believe they have any intension of filling up the landfill.

Mike Gardner, 5950 Concord, stated his house intersects with Dawn Avenue. He stated 32 years ago, they said it should be full after 20 years. Smashing the concrete is hazardous and toxic to them. Rocks, boulders on the boulevard, and the dust, is ridiculous so they can't open windows. It needs to stop.

Tracy Fyksen, 4045 59th Street, researched the shaking that has occurred on her property. Houses are shaking at a Richter scale of 2.5 to 4.0. Homes are not built to withstand that shaking and this needs to end.

Mark Feidick, 5946 Concord St, complained about the dirt and debris coming off the trucks from the landfill. He's breathing all that in and worries about his health.

Larry Lascewski, 5919 Concord Blvd, doesn't feel this will ever end.

Joe McBride, 4055 59th Street E., went over the signed petition of (3) signatures. He showed several pictures of the area. He doesn't feel they have the room. He went over the amount of the recycling collected from 2009-2016. He discussed the traffic of the disposal and the recycling. He stated that a small group is absorbing the brunt of all of this.

Mark Feidick, asked for a study by the MN Pollution Agency for noise and air before this can be reapproved.

Jim Fyksen discussed his wife's lung cancer and that this environment doesn't help with that. Please do not let this go through.

Community Development Director Tom Link stated he is not aware if the MPCA monitors noise or air quality.

Councilmember Piekarski Krech asked about the pictures shown.

Applicant Tony Frattalone stated he does have a MPCA permit. It is inspected regularly. They have a full-time water and dust quality employee. State requires that you recycle as much material as you can rather than dumping it in a hole. He stated he would let the Council tour the facility at any time. He stated that in regards to the crushing, the permit only allows it November-March, windows are normally closed during that time period. He stated there is sound barrier testing that has been done and they have put barriers up in the area.

Councilmember Piekarski Krech asked if he knew anything about the shaking.

Mr. Frattalone responded he wasn't aware that was happening, but there are a lot of trucks that go up and down Concord Avenue and they don't all necessarily stop at the landfill.

Councilmember Bartholomew stated that they would like to see the testing on the sound barrier. He asked about the dust controller. He asked if they also recycle on Saturdays? Perhaps the neighborhood would request no crushing on Saturday and Sundays?

Applicant Frattalone responded he can get them the testing results. In regard to the dust, they have a full-time water truck on the site at all times. Water is shut off in November and it's usually pretty quiet in the winter. If they need water they will truck it in.

Luke Dahn, 5645 Annette Avenue E, Inver Grove Heights said they do not crush on Saturday or Sunday. Our permit is Mon-Friday 7-4pm. November through March is their permit. They do not crush at any time outside of that. Items are stockpiled throughout the year.

Councilmember Hark asked if those trucks are required to be covered? It's a pretty dusty load.

Mr. Dahn stated there is no requirement, some companies have it some don't. Class five holds moisture pretty well.

Mayor Tourville asked about the motion of the drilling for the project to Thureen. Can we put meters in the house to look at the shaking? Is it expensive?

Public Works Director Scott Thureen stated he can look at the cost and bring it back to the Council.

Residents discussed complaints with the Frattalone's employees.

Mr. Fyksen questioned bringing in those trucks and asked if dumping them doesn't create dust? You are bringing in product and stirring up dust, as well as crushing and creating dust. Between those two piles you are always going to have dust. He doesn't feel no matter how wet that is you are still going to get dust. He stated he has had difficulty getting through to them when he needs to. The phone number is hard to find.

Mr. Dahn stated they are sprayed with water. They are wet when they get here. When the water truck is there we also water it down when we place it. Our goal is to keep away the dust. It is then capped with dirt. He offered his phone number to contact. He also stated they can visit at any time.
Ms. Fyksen asked if the permit only allows crushing November through March, why is she feeling vibrations and hearing it all summer long?

Mr. Dahn responded they haven't crushed there in over a year.

Councilmember Bartholomew wanted to verify that you haven't crushed in over a year, and you will get the phone numbers to the individuals who requested them. You are also willing to have someone on site to visit?

Mr. Dahn agreed to the above.

Councilmember Piekarski Krech asked if you are not crushing over the summer, do you have large trucks working? What could cause the vibration?

Mr. Dahn responded there is a bulldozer pushing on the demolition landfill side of things.

Mr. Gardner felt what you are feeling might be trucks going in and out. He counted them one day.

Mr. Frattalone also thought what you may be feeling is the screener. It may look like a crusher, but it's vibrating with dirt and gravel to take the rock out.

Mr. McBride said they are still filling in the southeast corner, they are pushing it up hill with a D6 and it shakes. D9 is a huge piece of machinery and you can feel that.

Mr. Frattalone reiterated that anyone is welcome to come for a tour. He encouraged it.

Councilmember Piekarski Krech asked if residents from South St. Paul have complained?

Mr. Hunting responded he hasn't heard anything from South St. Paul staff.

Mark F. stated as far as he knew there is only one entrance and exit to the facility and that is in Inver Grove Heights. That's where all the dust drops off the trucks that go in and out. He didn't think South St. Paul would have much of a complaint.

City Attorney Tim Kuntz stated South St. Paul has its own permit authority, as does Inver Grove Heights through the non-conforming use certificate. There is a joint Host Community Agreement that had three parties to it. The operator of the landfill, South St. Paul, and Inver Grove Heights.

Ms. Fyksen stated she has actually spoken to neighbors from South St. Paul, but they didn't think they could be heard here so they didn't attend.

Councilmember Piekarski Krech stated they hear from people from all around and are welcome.

Councilmember Bartholomew asked if the testing devices could be done in 90 days.

Mr. Thureen stated he can look at the vibration monitoring and bring it back.

Mr. Kuntz stated 90 days has been used as a placer number. You will get to March. In March the first regular meeting is on the 12^{th} and the second is on the 26^{th}.

Mr. Hunting felt 90 days was long enough. It could come sooner than that. Joe Lynch sets up the meetings.

Councilmember Piekarski Krech asked that the agreement be done by March 12^{th}.

Mr. Frattalone agreed to the date of March 12^{th}.

Motion by Piekarski Krech, second by Bartholomew to table this until March 12^{th} and to extend the current non-conforming use and extend the certificate until March 12, 2017. Resolution 17-246.

Mayor Tourville questioned whether the County comes out to do dust checking. The MPCA would be taking a look at vibrations, dust, water, product, etc. The County monitoring.

Councilmember Hark asked Mr. Thureen about what is involved in measuring vibrations. If that equipment is placed in the house hypothetically, does the City have the expertise to deal with that data?

Mr. Thureen stated in the past a geotechnical firm was hired to install and record the information and then provide a report.

Mr. McBride stated he wasn't notified of this meeting.

Councilmember Piekarski Krech responded they should have been told of this meeting at the Planning Commission meeting.

Mayor Tourville commented you can always keep in touch with the planning group here. We will not do a mailing about March 12^{th}. If that date changes, we will send a notice to you.

Ayes: 5
Nays: 0 Motion carried.

G. VICKY STADTHER (McDONALDS); Consider a Resolution relating to a Conditional Use Permit Amendment to add an additional drive-through lane along with other site improvements for property located at 5760 Cahill Avenue Resolution 17-247

Community Development Director Tom Link stated the McDonalds located on the corner of Upper 55th and Cahill wants to add an additional drive thru. They will be doing minor site improvements and adding ADA improvements to the building. The size of the building and access will remain the same. A storm water facilities maintenance agreement will come back to the City Council at another time. Planning staff and Commission unanimously approve the improvements.

Councilmember Piekarski Krech asked if they are going to change the traffic flow pattern?

Kevin Shay with Landform Professional Services, here on behalf of Vicky Stadther of McDonalds, stated the proposed drive through area, when doubled like that, will only have one bypass lane. The traffic flow will change slightly in that they cannot pass each other. It will only be a bypass for traffic going around one way. He described the site plans and traffic flow as pictured on a map. The parking will be reduced 12 spaces but still exceeds the code requirement by two spaces. They are working through approvals right now with the City and while he isn't sure of a specific date, he believes this will begin in early spring.

Mayor Tourville stated that there are problems with people going the wrong way on Cahill, but a lot don't see it. This configuration isn't a lot different from the other McDonalds at 80th and Cahill.

Motion by Hark, second by Bartholomew to consider a Resolution relating to a Conditional Use Permit Amendment to add an additional drive-through lane along with other site improvements for McDonald's located at 5760 Cahill Avenue Resolution 17-247

Ayes: 5
Nays: 0 Motion carried.

III. PUBLIC WORKS

H. First Reading of Ordinance Amending Rights-of-Way Management Ordinance

City Attorney Tim Kuntz stated this is the first reading of an ordinance which amends the Cities Right of Way Management Ordinance. The City passed one a few years ago for utilities to obtain permits so they can use the right of way. Legislature passed a number of laws dealing with small cell wireless facilities. These are small cell applications which are for increasing compacity where there is intense use of wireless systems. They can be free standing, hung on utility poles, etc. The City is going to touch the subject in three ways. First you passed a pole location agreement in a standard form. In the City right of way users have a right to use the City right of way. When they want to use your facility/light pole/utility pole, etc. you will have to allow them to do so subject to the pole location agreement. The second way we are now considering is an amendment to the Right of Way Management Ordinance which we are doing as you need to treat facility users as if they are utilities and have the rights in your right of way. Due to that they need to be incorporated into the right of way management ordinance. Permitting will be needed following guidelines and engineering. The third way is still being worked on by the Planning Department and that is the zoning question. The two areas we are speaking of here, one being the right of way itself, the second is private property. Legislature states with respect to public right of way, if small cell is being located in the right of way adjoining non-residential zoned property, then these facilities within the right of way are being treated as permitted uses. If they are in right of way adjoining residential property, the City can require a conditional use permit. Mr. Hunting is working on an ordinance that language. Second category is private property and where they are located. Right now, they can be in the same zones as the antennas are, but that will need to go through the normal Planning Commission process. We ask you to address the first reading today.

Additionally, when first adopted, we retained outside Council Jim S., who specializes in antennas. He has been the author of the changes to the right of way ordinance because he was there in the beginning.

Motion by Piekarski Krech, second by Perry to approve the First Reading of the Ordinance Amending Rights-Of-Way Management Ordinance.

Ayes: 5
Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

9. EXECUTIVE SESSION:
Executive Session Pursuant to Minn. Stat. § 13D.05, Subd. 3(c)2 & 3:

City Attorney Tim Kuntz stated there is Statute 13D.05 subdivision 3 (c) 2 & 3 which allows the City Council to go into an executive closed-door session for the purpose of formulating offers and counter offers with respects to the acquisition of real estate and for the purpose of considering non-public protected appraisal data obtained by the City. This will be in respect to four properties as listed:

A. Discuss Doffing Ave. Property Acquisition Related to Heritage Village Park for Property Located at:
i. LSS Properties LLC - 6455 Doffing Ave - 20-36500-32-110
ii. Hay – No address - 20-36500-31-050
iii. Kramer – 4301 64th St- 20-36550-31-070
iv. Walser Real Estate III LLC – 4343 65th St E – 20-36500-32-070

Motion by Piekarski Krech, second by Perry to approve the Executive Session Pursuant to Minn. Stat. 13D.05, Subd. 3 (c) 2 & 3.

Ayes: 5
Nays: 0 Motion carried.

10. ADJOURN: The meeting was adjourned at 9:22 p.m.