

**INVER GROVE HEIGHTS CITY COUNCIL MEETING MINUTES
TUESDAY, MAY 28, 2019**

1. CALL TO ORDER

The City Council of Inver Grove Heights met in regular session on Tuesday, May 28, 2019, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present were: Councilmembers Piekarski-Krech, Bartholomew, Perry, Dietrich, City Administrator/Interim Deputy Clerk Lynch, City Attorney Kuntz, Fire Chief Thill, Public Works Director Thureen, Deputy Police Chief Folmar, Police Commander Otis, City Engineer Kaldunski, Assistant City Engineer Dodge, and City Planner Hunting.

3. PRESENTATIONS

A. Oath of Office and Badge Pinning for Fire Captains.

Fire Chief Judy Thill stated she would be introducing three full-time shift captains recently hired into the Inver Grove Heights Fire Department. She said the department has been running three-person-duty-crew 24 hours a day, seven days a week, 365 days a year, since 2016. The duty crew is made up of volunteer/paid-on-call firefighters. She stated there has been a shortage of senior firefighters and officers who could provide leadership to the duty crew. These shift captains were hired to provide that leadership to the paid-on-call staff daily. She stated the duty crew would still be staffed with paid-on-call firefighters, the shift captains would take turns filling the third spot for coverage and providing consistent supervision from shift to shift. She stated that these officers will be given the Oath of Office while a chosen family member will officially pin the badge on their uniform.

She introduced Captain John Patnaude and stated that he grew up in northern Minnesota. After high school graduation he spent four years as a member of the Army National Guard. After working as a construction worker in the Twin Cities, he came to Inver Grove Heights where he followed in his father's footsteps and became a volunteer paid-on-call firefighter in 2005. He progressed to the rank of paid-on-call Battalion Chief. She stated his dedication to the fire department was recognized in 2013 when he was nominated to receive the Chief's Choice Award. While serving the fire department in his spare time, he worked full-time with Flint Hills Resources Refinery in Rosemount where he also served on the refinery's industrial volunteer firefighter team. In 2014 he was hired into the refinery's fire department as a full time Captain where he worked up to Assistant Chief and then Training Chief before being hired into the Inver Grove Heights Fire Department's Shift Captain position.

Mayor Tourville administered the Oath of Office to John Patnaude. Captain Patnaude's father, Joe Patnaude, pinned the badge.

Fire Chief Thill introduced Captain Josh Parrow and stated he grew up in Inver Grove Heights where he graduated from Simley High School. After high school he advanced his education and worked in transportation and then took a position as a Corrections Officer at the Prison in Lino Lakes. While serving in corrections, he joined the Inver Grove Heights Fire Department in 2010 and was recognized as the 2010 Recruit of the Year. After serving two years with the department he attended and completed the Inver Hills Community College Paramedic Program and will be continuing on for his Associates Degree. She stated while working in his spare time as a paid-on-call Lieutenant for the Inver Grove Heights Fire Department, he works as a firefighter/medic for the Maplewood Fire Department and as a paramedic for Allina Ambulance. He was most recently working full-time as a firefighter/paramedic for the White Bear Lake Fire Department. She stated he was recently recognized as the Inver Grove Heights Fire Department's 2018 Field Training Officer of the Year.

Mayor Tourville administered the Oath of Office to Josh Parrow. Captain Parrow's daughter Harper and his girlfriend Megan, pinned the badge.

Fire Chief Thill introduced Captain Paul Rank and stated he grew up in Inver Grove Heights and joined the Fire Explorer program in 2001 for four years. In 2004 he enrolled in the Hennepin Technical College's

Fire Science Program and joined the Inver Grove Heights Fire Department as a paid-on-call firefighter in 2005. While on the Inver Grove Heights Fire Department, Captain Rank continued as an Explorer Advisor helping to recruit youth and still serves as a Fire Explorer Post Advisor today. She stated he also continued his studies and received an associate degree in Fire Science. In 2007, he was named the Fire Department's Firefighter of the Year. While working as a paid-on-call Lieutenant in his spare time, he worked as an Emergency Medical Technician for Life Link III. He also served as a Firefighter/EMT for the Maplewood Fire Department before being hired as the Inver Grove Heights Fire Department's first full-time Fire Operations Supervisor in 2015. In that position, he helped get the duty crew model up and running and managed it once it was operational before being hired into the Fire Department's Shift Captain position.

Mayor Tourville administered the Oath of Office to Paul Rank. Captain Rank's wife Ashley pinned the badge.

Fire Chief Thill stated this position means a lot to the new hires and they are passionate and hardworking individuals. She stated all three Captains have solid experience with this Fire Department. With their previous jobs they have gained experience and education from other fire departments and companies and have brought that experience back to the Inver Grove Heights Fire Department. She congratulated the three Captains.

Photos were taken of the three Captains, the Fire Chief, and City Councilmembers. The Captains introduced those in attendance with them.

Mayor Tourville stated on behalf of the City of Inver Grove Heights and the City Council, they were very proud. He commented that the duty crew concept has been studied for several years and this was the best direction to take for all in Inver Grove Heights.

4. CONSENT AGENDA

- A. i. Minutes from May 6, 2019 Council Worksession.
- ii. Minutes from May 13, 2019 Council Meeting.
- B. Approving Disbursements for Period Ending May 21, 2019. (**Resolution 19-83**)
- C. Request for Approval of Rental Housing License.
- D. Consider Acceptance of Donations to both IGH Fire and Police Departments.
- E. Appoint Senior Humane Agent Keith Streff as the City's Administrative Hearing Officer. (**Resolution 19-84**)
- F. Consider Change Order No. 5 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail).
- G. Consider Pay Voucher No. 7 for City Project Nos. 2017-03 – Watermain Improvements 65th Street Loop and 2017-24 – T.H. 3 Intersection Improvements for 65th Street.
- H. Consider **Resolution 19-85** Accepting Quotes and Awarding Project for City Project No. 2019-04 – 68th Street Storm Sewer Outfall Repair.
- I. **Resolution 19-86** Receiving Objection Letter.
- J. Consider **Resolution 19-87** Accepting the MS4 Annual Report for 2018.
- K. Consider **Resolution 19-88** Accepting Quote from Goodpointe Technology to Conduct 2019 Pavement Ratings.
- L. Tim & Amy Johnson - (Case No. 19-12C); Consider **Resolution 19-89** Approving a Conditional Use Permit to Exceed Maximum Impervious Surface and Approval of Stormwater Facilities Maintenance Agreement for Property Located at 3790 80th Street.
- M. Wade Schowalter – (Case No. 19-11C); Consider **Resolution 19-90** Approving a Conditional Use Permit to Exceed Maximum Impervious Surface and Approval of Stormwater Facilities Maintenance Agreement for Property Located at 6950 River Road.
- N. Andy Calton - (Case No. 19-10CV); Consider **Resolution 19-91** Approving a Stormwater Facilities Maintenance Agreement for Property Located at 7540 River Road.
- O. Scott & Kristina Gorden – (Case No. 19-18C); Consider **Resolution 19-92** Approving a Conditional Use Permit to Exceed Maximum Impervious Surface for Property Located at 11640 Aileron Circle.
- P. Shawn Briggs – STOR Self-Storage. (**Resolution 19-93**)

- Q. Consider Approval of an Agreement with CHS, Inc. for Temporary Parking at the VMCC.
- R. Consider Approval of Purchase Agreement for Property Located at 6445 Doffing Ave. for Heritage Village Park. **(Resolution 19-94)**
- S. Consider Approval of Timber Staircase for Seidl’s Lake Park.
- T. Personnel Actions.

Councilmember Piekarski-Krech requested pulling Agenda Item 4E.

Councilmember Dietrich requested pulling Agenda Item 4T.

Motion by Bartholomew second by Perry to approve the Consent Agenda with the exception of Agenda Items 4E and 4T.

**Ayes: 5
Nays: 0 Motion carried.**

Councilmember Piekarski-Krech stated for Agenda Item 4E, to Appoint Senior Humane Agent Keith Streff as the City’s Administrative Hearing Officer, Mr. Streff is in attendance and it would be nice to have him introduce himself.

Police Commander Josh Otis stated that they would like to have a named Administrative Hearing Officer for dangerous dog and potential dangerous dog hearings. He stated that Keith Streff from the Humane Society of Minnesota will be the Hearing Officer.

Keith Streff, Senior Humane Agent for the Animal Humane Society based in Golden Valley, stated that he has been a Hearing Officer for over 20 agencies and municipalities across the State. This involves cases where a dog is deemed dangerous, potentially dangerous, or declared dangerous by the Police Department.

Motion by Piekarski-Krech second by Perry to approve Agenda Item 4E to Appoint Senior Humane Agent Keith Streff as the City’s Administrative Hearing Officer. (Resolution 19-84)

**Ayes: 5
Nays: 0 Motion carried.**

Councilmember Dietrich asked about the protocol for volunteer positions and the interviewing process. She stated the City Administrator’s wife volunteers at City Hall and there has been concerns. City Administrator Joe Lynch responded there is a Volunteer Coordinator that serves four communities and is the person responsible for recruiting and working with various departments on filling tasks, roles, and responsibilities. People interested in volunteering make application, the coordinator speaks with various departments to determine the best use of skills, and then makes assignments. He stated he spoke with the Human Resource Manager and asked if this volunteer would be okay and she agreed it would be. He stated he has no role with the volunteer’s supervision or responsibilities and does not manage her on a day-to-day basis.

Motion by Piekarski-Krech second by Bartholomew to approve Agenda Item 4T Personnel Actions.

**Ayes: 5
Nays: 0 Motion carried.**

5. PUBLIC COMMENT

There were no public comments.

6. PUBLIC HEARING**A. Public Hearing to Consider Resolution Adopting the Final Assessment Roll for the 2019 Pavement Management Program, City Project No. 2018-09D – Atwater Path Pavement Replacement and Stormwater Improvements. (Resolution 19-95)**

Assistant City Engineer Steve Dodge stated Atwater is a cul-de-sac road located off Babcock Trail by Mendota Road. The parcels proposed to be assessed are single-family along with the golf course property. He stated the proposed improvements are for a pavement replacement project, minor water and sewer updates, and storm sewer improvements for access to the outlet by Stark Lake. Stormwater treatment structures would be going in to improve water quality to Stark Lake.

Total project cost is approximately \$613,000. Funding sources would come from the pavement management fund, assessments, water fund, and sewer fund for the utilities. He stated that single-family assessments for the project per house, with bids coming in higher than the feasibility report, would be \$10,951. There is a benefit cap of \$14,700 by the benefit appraiser. He stated the assessment amount at the improvement hearing in January was \$10,457. This is a \$500.00 reduction. He stated the final assessment, if not paid in full within the first 30 days of levy, would be a 10-year term with a 5.15% interest rate. The interest rate does not start until January 2020 and would be paid for on the homeowners' County tax statements. There is potential for deferred assessments for those that qualify.

He stated that as a part of the hearing the Council should receive an objection notice from 19 residents who are objecting to the assessment amount.

Motion by Bartholomew second by Perry to receive the petition.

Ayes: 5

Nays: 0 Motion carried.

Mike Sinn, 1616 Atwater Path, had the official petition and handed it to Interim Deputy Clerk Joe Lynch. He stated he has sent emails and would like to begin negotiations about the assessment costs. He said based on previous projects he noticed in City records; the assessed amount is towards the higher end. The highest he noticed was \$7,500 versus the amount of \$10,500 they are being charged. He commented this sets an unusual precedence. Similar projects were assessed as low as \$2,000, and he noted the percentage to be around 20%. He said in that case their assessment should be around \$4,500.

Loel Lowary, 1680 Atwater Path, stated Atwater Path road is 40 years old, was designed for 20 years, and has been a mess for many years. He commented he has been trying to get the road taken care of and that it took a petition to get it done. He said it was patched horribly last year and every other time it has been patched it wasn't good. He stated they should not have to pay this full assessment. He commented he has heard that the City pays 65%, and the homeowner pays 35%, then he has heard other figures and inaccuracies. He did not agree with 35%. He commented that north of the freeway receives no services, there are no parks, they are forgotten, and things that are done are done poorly. He stated the sewer had a problem and the repair consisted of fabric lining inside of the pipe.

He stated he lives in one of the homes on either side of the easement that takes stormwater into Stark Lake. He has owned his lot for 28 years and prior to that the land sloped down into the lake clogging the storm sewer. The area was cleaned up with retaining walls consisting of used railroad ties with creosote in them. He commented that when he had block retaining walls put in, the contractor suggested he get in touch with the city to have their wall repaired. He stated he called the city and was told the wall did not belong to the city and they have no responsibility for it. He commented that he spoke to someone about the wall in the last couple of years who told him the city did do the wall. He stated he found out the city would be fixing the problem and running a steep slope down the hill, which to him would not work out. He commented the he asked if they would do a retaining wall and was told no because it cost too much. He was concerned if it sloped it would go back into the water again and suggested they put a retaining wall in because it would hold up better.

Mayor Tourville stated the issues are the street and path for the water. He commented that in the past people wanted the street done and there were people that did not. If there are people that do not, the city moves on to a different area and a different street.

Mr. Lowary asked how people were polled.

Mayor Tourville responded that people were notified about neighborhood meetings.

Mr. Lowary responded that he would have been at the meeting if he had heard about them.

Mayor Tourville commented that ten years ago there were as many people wanting the street done as there are now on the petition. He asked the Assistant City Engineer to speak about the drainage and how it would be handled.

Assistant City Engineer Dodge stated the street and stormwater are part of the 55% assessment. 55% has been used since it has been a pavement replacement project. In response to the percentages that Mr. Lowary referred to, he commented it was initially a reconstruction project with a 35% assessment. There was an evaluation from residents stating they desired other options. Four options were discussed with the neighborhood and the City Council. He stated overlay was ruled out and partial reconstruction also has a 55% assessment. Pavement replacement was the option settled on between the December feasibility report and the January improvement hearing. He stated there were no inconsistencies, the numbers were clear and discussed, they had never changed.

Councilmember Bartholomew stated the information in the Council packets on the proposed assessments include slope repair.

Assistant City Engineer Dodge agreed the packets include the slope repair. He stated this was initially a developer's project who put in the storm sewer and streets. Originally there was going to be a slope down to the water, but they left the storm sewer away from the water on the hill. He commented the size of the storm pipe carries a lot of water and can cause a lot of erosion. In 1989 and 1983 there were two cases where the slope was eroded by large storm events that undermined the storm pipe and emergency repairs had to be done. Staff put in a retaining wall in order to repair the eroded slope. He stated this project would extend the pipe and lower it into the water to make sure erosion doesn't occur again. Rip rap will be installed in the water to help with water churning. He stated a geotechnical engineer has been hired to make sure the area disturbed would become an engineered slope. Equipment would be brought up and down the slope, and vegetation would be reestablished in that area when complete. He stated for maintenance purposes they are proposing to be able to access the pipe in the future and maintain it. Having a retaining wall will not allow that to happen. They want it back in the condition the developer proposed, which is a slope, so that maintenance can occur. He addressed the comment about DNR waters and responded that the city has a DNR Waters Permit to disturb the edge of the lake.

Councilmember Bartholomew asked if the DNR has the plans and understood the proposed project and process.

Assistant City Engineer Dodge responded that the DNR has the plans and have approved them.

Mayor Tourville asked about retaining walls and the costs.

Assistant City Engineer Dodge responded the costs are an indirect point of the decision. The decision is the proper way to install a storm sewer is to get it down into the water. Rip rap placed below the water will help. He stated there would be a manhole put in to be able to help dissipate energy before it goes out the pipe. He commented that this is the way the city has designed these for over 20 years, it works, and there should be no concerns.

Councilmember Bartholomew asked if they would stay within the easement.

Assistant City Engineer Dodge responded they are going to work with both neighbors to try to get outside of the easement to dress up the area. He stated the retaining wall on Mr. Lowary's side goes about three to five feet outside of the easement. They would have to go slightly onto his side to fix it up. He stated he shared with Mr. Lowary the city's obstruction removal policy if there are obstructions in the easement. He stated the other neighbor Peggy; has said she would work with the city but was concerned about a tree in the area. He commented that they would try to have the least amount of disturbance to the tree.

Mr. Lowary disagreed with the percentages and stated he has heard many different answers. He commented that he didn't understand why the pipe can't be extended with a retaining wall in the area. He stated that he was sent a letter by an outside Attorney that asked for his signature. He read the letter but there was nothing included to protect the homeowner, it protects the city. He stated he called about that and was told they would be putting things back to normal and that he should sign the paper and return it. He said that he does not trust the people he has been in contact with.

Mayor Tourville suggested further discussion about the slope, the yards, and retaining wall and try to resolve that portion.

Mr. Lowary responded there is an easement between the two homes. His home was built 10 feet off of the property line and commented that they could be digging right next to the home. He stated he is losing a garden and several trees so this work could be done. He asked the Council to come out and see how they can access the water with a slope.

Iraj Fard, 1620 Atwater Path, stated he has spoken with many neighbors who feel the city isn't functioning and are frustrated with the process. He commented that it felt like it was the city against the people not the city for the people. He stated that behind closed doors the golf course has already negotiated down to \$25,000 from \$75,000 based on the numbers sent to the neighbors. He stated the neighbors are still at the same amount. He asked to agree on a price where people would be happy. He said the neighborhood needs help and would appreciate being helped through this.

Mayor Tourville asked Assistant City Engineer Dodge to speak further about the different percentages with the various types of projects and city policy.

Assistant City Engineer Dodge responded the city pavement management policy is that the city tries to do preventative maintenance such as crackseal and sealcoats. Those are non-assessible and budgeted at roughly \$500,000 a year, this also includes trail maintenance. There is mill and overlay, which has fewer candidates as many streets are either older or newer. He stated the 2016 assessment policy is assessed at 80%. Partial reconstruction consists of taking the pavement and gravel out and redoing the curb while assessed at a 55% level. A full reconstruction project consists of digging two feet down, replacing with sand, and drain tile, at 35%. He stated they do not have what to do with the pavement replacement projects in their assessment policy. For that reason, it is assessed at 55%. He commented this would be evaluated in the future and could end up between a partial reconstruction and mill and overlay, with percentages between 55% to 80%.

Councilmember Perry asked when the last time was that they did a project like this.

Assistant City Engineer Dodge responded there is no project comparable in a residential neighborhood. The only project similar is in the commercial area by Gertens and one done near Barbara Avenue. He commented those are the only two pavement replacement projects done in the city. Both have commercial not residential. He stated it was non single-family rates by property area. The assessments have been a broad range depending on type and class of property. A policy assessment is done, and an independent appraiser does a special benefit analysis and looks at the type of project and class and provides a special benefit. For this project the appraiser recommended a special benefit of \$14,700.

Councilmember Bartholomew stated this project went from a reconstruction to replacement. He asked for the cost on the reconstruction.

Assistant City Engineer Dodge responded that a full reconstruction was \$1.2 million dollars and pavement replacement was \$567,000. Due to higher bids, the project budget went up slightly. He stated they held the assessments at the amount of what was proposed at the improvement hearing.

Councilmember Bartholomew stated the benefit cap was \$14,700 for residential whether it was a reconstruction or partial reconstruction. He commented that if going with reconstruction, everyone would have capped out at \$14,700. He asked if there was any information about when the street repairs were in front of the Council.

Assistant City Engineer Dodge responded the benefit cap amount was correct including street and storm, it would have capped out at \$14,700 with the slope repair. He responded it was a part of the feasibility report presented in December. This followed the same pattern as all type of roads built at the time, with a 20-year design. They get a sealcoat or two and by the time it gets to a 12 to 15-year range, the road is already deteriorating. At that point they can no longer do sealcoats and maintenance stops. He stated that one sealcoat was done in the area for sure.

Mr. Lowary asked about the difference between 35% and 55%. He commented that this was the first time he has heard there is no percentage for this project. He stated other projects don't compare to this. He commented he has been told different things at different times and doesn't trust people. He stated that he didn't see paying 35% for this road as it's 40 years old and they have put up with a lot over the years. He commented that everyone in his neighborhood that he has spoken to has wanted a new road for years.

Mr. Sinn stated he wanted to discuss negotiation. He commented other projects have been done that are comparable and asked why they couldn't follow the same precedence set by those projects. Some were as low as 20%. He stated there are projects from 60th Street, 65th Street, and 55th Street. He asked what happens if there is a full reconstruction and how they could stay at \$7,500 maximum, or below that, to hit 20%.

Mayor Tourville asked if the cap benefit on 60th Street ran as high as \$14,000.

Assistant City Engineer Dodge responded 60th Street is the most recent project that went to the 20% threshold. Bids came in high and there was a change order to save on costs and try to get it up to 20%.

Councilmember Piekarski-Krech asked if there was a cap of \$14,000 on benefits to the property.

Assistant City Engineer Dodge responded he didn't know of every project and the assessment cap versus the assessment policy. He stated he would need to get a spreadsheet with that information.

Mayor Tourville asked Assistant City Engineer Dodge if he could get the spreadsheet information. He stated the Council could move to the next Agenda Item and re-address this item once they have the spreadsheet. He stated if the cap is different it makes a difference going forward.

Assistant City Engineer Dodge responded the reason he didn't bring that information forward was because they are not comparable projects. These are all reconstruction projects; they are not partial reconstruction projects. He stated you can't compare to a non-comparable project.

Mayor Tourville stated that the neighborhood says they are comparable, but we say they are not. He asked why they aren't comparable.

Assistant City Engineer Dodge responded they start at a 35% assessable amount for total reconstruction. 60th Street had high bids and were below the 20% threshold. The city had to do project cuts with the contractor in order to get above the 20% threshold to have a project they could bond. He stated that he doesn't recommend doing a comparable as they are not the same project.

Councilmember Piekarski-Krech commented that people are trying to understand if one project is only assessed so much, why it was that low. She stated the neighborhood is asking what the cap is in the

other projects. She commented if we could barely get to 20%, she assumes the benefited amount was way less for us to be able to scramble to get to a 20% assessment amount.

Assistant City Engineer Dodge stated an example would be an estate reconstruction project on 93rd and Abigail done last year. Property types and class are looked at as a part of the project. Those assessments came in at \$19,500 for street and storm. The percentage was within the 25% to 30% range.

Councilmember Bartholomew asked what the methodology was for 55%.

Assistant City Engineer Dodge responded the methodology is that it is a full pavement replacement project. A mill and overlay consist of taking up two inches of pavement and replacing it at 80%. A partial reconstruction is going down and replacing gravel and pavement. For this project, because they were replacing the pavement full depth, they brought it down to the 55% level to be fair and equitable to the neighborhood.

Councilmember Bartholomew commented it is still higher than 35% for the reconstruction. The project is going to be 30% to 40% higher which drives the total assessment.

Assistant City Engineer Dodge responded that was correct.

Mayor Tourville commented when mill and overlay projects were done, costs have varied between \$2,000 and \$4,000. He asked if 55% is the right or wrong number and if they need to take a look at it. He stated there are some cities in Minnesota that charge a percentage higher and when the streets are done there is no cost to the residents. You can pay anywhere from \$300 to \$1,000 a year and not even have your street done. He stated the City of Inver Grove Heights is on the majority side of assessments and looking at percentages. If it is lowered for everyone then you cannot do as many projects. He stated the city looks at doing the best job they can for the number of projects that we have. Some projects are comparable, and some are not.

Public Works Director Scott Thureen suggested tabling this item for two weeks so information can be pulled together and get an understanding. He commented that policy has changed through time. He stated every project is unique with costs and a benefit analysis and will recommend the higher of the two options because they are dealing with streets that need work.

Mayor Tourville asked if there could also be a meeting on the stormwater portion so those affected are aware of what is being done.

Mr. Lowary stated there is no percentage for this type of street. He commented that the street has not had good service and should have been taken care of a long time ago.

Mayor Tourville asked if tabling this item would slow down the project.

Assistant City Engineer Dodge responded that they will award the project after this Agenda Item. The project was bid with 55th Street, that contractor wanted to get working on 55th Street and begin June 10th. Waiting two weeks would delay the contractor. He stated they have a gap now where the contractor could begin the 55th Street project and wouldn't want to delay their availability.

Mayor Tourville stated they have done projects without finalizing the assessments.

Public Works Director Thureen asked how long the bids were good for.

Assistant City Engineer Dodge responded they were good for 90 days. He commented that he would have to check the date.

Public Works Director Thureen stated they always used to do projects without finalizing the assessments first. He stated this is a project that has 19 of 22 objecting to the project via petition. Typically, they

would hold off on awarding a bid until after 30 days have passed to see how many people actually appeal.

Mayor Tourville stated with 19 appeals the road doesn't get done and the city moves on. He commented that people want the street, the stormwater needs to be figured out, and they want the assessment amount to be lower.

Mr. Fard commented that \$10,500 doesn't make sense. He asked why the Council isn't more prepared about what is going on before the meeting so that everyone is on the same page. He stated they need to be more efficient in their jobs to get the job done. He asked that the city fix the street with a fair assessment.

Assistant City Engineer Dodge stated bids were opened on April 15th. They are held no longer than 90 days which gives them to mid-July.

Mayor Tourville stated that one suggestion is to table this item for two weeks. The Council could also come up with a different percentage or keep the current percentage.

Councilmember Piekarski-Krech stated she wasn't ready to do a different percentage because she didn't know what the costs were, what the changes would be, and where the money would come from. She stated she didn't want to delay 55th Street. She asked if this was a part of the Groveland area.

Public Works Director Thureen responded that nothing was done to this street when the Groveland project was done in the early 90's.

Councilmember Piekarski-Krech stated she was Mayor when Groveland was supposed to be done, and none of the residents wanted it done. The Council at the time said they wouldn't do Groveland but when it was done a few years later it was done at a higher cost with more work. Mayor Tourville stated the cap would have been the same. The assessment is 35% for a total reconstruction. He asked what the estimates were.

Assistant City Engineer Dodge responded the special assessments for a full reconstruction were estimated at just over \$1 million dollars. The street and storm assessment were 35% and would have been \$13,400. When adding slope repair for \$1,400, it would have been over \$14,700, so it was capped at that amount.

Mayor Tourville stated if the Council sees this staying at 55% it doesn't need to be delayed for two weeks.

Councilmember Bartholomew stated he was prepared to move on with the way it currently is. He commented that if anyone wanted to talk about reducing it, he was open to hearing more.

Councilmember Perry commented that the memo states the proposed assessments are only 42%, it's not the full 55%. This would be 13% less than what staff was proposing originally.

Councilmember Bartholomew agreed that she was correct and stated \$255,000 assessed is 42%.

Brian Jewell, 1716 Atwater Path, stated he didn't believe there was anyone on Atwater Path that didn't want this project done, they just want to get the project done affordably. Many in the area are seniors on fixed incomes.

Public Works Director Thureen stated the slope repair is still something that needs to be considered. That could be funded from a different source and pulled out of the total considered for assessment. He stated they could use stormwater utility which currently has enough funds. He commented that it is apart from the street physically. That could drop them to under \$10,000.

Assistant City Engineer Dodge stated if the slope repair were removed from the assessment portion of the project, it would bring the 55% assessment down to \$9,462 approximately.

Councilmember Piekarski-Krech asked how much would have to be taken out of the stormwater utility.

Assistant City Engineer Dodge responded approximately \$73,000 projected cost for the slope repair.

Mayor Tourville verified that the percentage is actually 42%, not 55%.

Assistant City Engineer Dodge responded 42% was for the total project cost. Taking out water and sewer, brings it down. He commented that bids came in high, pavement management is picking up \$500.00 per lot to keep it at the January 14th improvement hearing amount.

Councilmember Bartholomew stated the project total is \$613,000. Proposed assessing is \$255,000, with \$358,000 paid by the city. This equals 42% as the assessed amount. He commented if dropped by \$70,000 and picked up by sewer, the percentage changes.

Assistant City Engineer Dodge responded the amount is \$9,462, far below the \$14,700 that was recommended by the appraiser. He commented this is moving in the direction the neighborhood would like. The stormwater utility fund covers more of the project because of the slope repair.

Mayor Tourville suggested using the stormwater fund for the stormwater project.

Councilmember Bartholomew asked about the bid schedule for the slope repair being \$70,000.

Assistant City Engineer Dodge responded the slope repair is a total cost of \$73,120. The actual bid is \$51,133. There are contingency costs involved in all projects.

Councilmember Bartholomew stated this meant taking \$73,000 out of the cities obligation and reducing the assessed obligation by the \$73,000.

Assistant City Engineer Dodge agreed.

Mayor Tourville stated this brings it closer to 40% instead of 55%.

Assistant City Engineer Dodge commented that this would be minus the water main, sanitary sewer, and slope stabilization out of the total project cost. Street and storm is \$464,622. The total assessment changes to \$233,159 equaling 50.2%

City Administrator Lynch stated \$9,462 x 22 properties is \$208,164, which equals 34%. This is the single-family percentage.

Assistant City Engineer Dodge stated the golf course is \$25,000.

Mayor Tourville stated this comes down to 34% taking the stormwater out of the project to assess each lot and putting that into the stormwater fund. He commented looking at the next project if it has stormwater work and there is excess money in the fund, that could be used. He commented they are better off staying on schedule as he doesn't see much change in waiting two weeks. He suggested having discussions with the neighborhood, so they understand the right of way.

Councilmember Dietrich asked the neighborhood how they felt about the proposal.

Mr. Fard responded there would be damages to the sprinklers and driveways of the neighborhood. He asked how that was handled.

Mayor Tourville responded if the sprinkler system is in the right of way, the homeowner would have to call the sprinkler company to shut them off while the project is going on. This has been city policy for many years.

Mr. Fard stated that there would still be charges such as fixing sprinklers or driveways on top of the assessment for the neighbors. He commented that the City can do better on negotiations with the assessment.

Assistant City Engineer Dodge stated there would be some driveway impacts. There are two driveways that would be full driveway replacement, the others, if impacted, would be partially disturbed and replaced in kind. He stated there could be an opportunity with the contractor that may be able to pour the curb right up against the concrete driveway. That would be up to the contractor and the construction methods.

Mayor Tourville stated each individual homeowner could have a discussion with the contractor. Each situation could be different.

Assistant City Engineer Dodge stated the driveway program may be available but a calculation would have to be done based on the amount. He stated for example, one that was done for 55th Street and the driveway replacement program ended up being around \$235.00. Atwater would be less than that because the driveway disturbance is minimal.

Councilmember Bartholomew commented they should state that the slope repair is coming out of the stormwater, the balance is the assessed balance. That would be 34%.

City Attorney Tim Kuntz stated he had three points. One is if this would be continued, the Statute states that notice of the adjournment of the hearing is adequate if the minutes of the meeting show adjourn, time, place, when, and where, the hearing is to be continued. If this item is tabled a motion would need to be made that would show the time, day, the place.

He stated secondly if proceeding this evening, the hearing would need to be closed first. Third, what is being adopted, whether today, or in two weeks, is an assessment. The amount needs to be specified for all residential and the amount for the golf course.

Councilmember Piekarski-Krech asked if the golf course amount changes. (Response off screen was no).

Mayor Tourville asked the City Attorney if they could look at single-family lots differently than the golf course property.

City Attorney Kuntz responded yes because of the use and classification.

Mayor Tourville stated that the percentage, slope, and drainage estimated at \$73,000 comes out of the per lot assessment. He asked the City Administrator what the percentage would be.

City Administrator Lynch responded it would be \$9,462 with 34% for single family residential properties.

Councilmember Bartholomew stated that leaves the golf course at \$25,000.

Motion by Bartholomew second by Dietrich to close the Public Hearing at 9:03PM.

Ayes 5

Nays: 0 Motion carried.

Motion by Bartholomew second by Perry to approve the single-family assessment without slope calculation at \$9,461.77 for the Public Hearing to Consider Resolution 19-95 Adopting the Final Assessment Roll for the 2019 Pavement Management Program, City Project No. 2018-09D – Atwater Path Pavement Replacement and Stormwater Improvements.

Mayor Tourville stated this takes the stormwater portion out of the per lot assessment.

Councilmembers Bartholomew and Perry agreed.

City Attorney Kuntz asked if they would be making a separate motion on the golf course.

Councilmember Bartholomew amended the motion stating that single family would be \$9,461.77 and the golf course would be at \$25,000 for the Public Hearing to Consider Resolution 19-95 Adopting the Final Assessment Roll for the 2019 Pavement Management Program, City Project No. 2018-09D – Atwater Path Pavement Replacement and Stormwater Improvements. Councilmember Perry agreed to amend the motion.

Mayor Tourville stated this went from 55% down to 34%. He stated that they would be meeting with the neighbors with information on the sloping and the easement before construction begins.

Ayes: 5

Nays: 0 Motion carried.

B. Public Hearing to Consider Resolution Adopting Final Assessment Roll for the 2019 Pavement Management Program, City Project No. 2018-09F – 55th Street Court/55th Street Area Reconstruction. (Resolution 19-96)

Assistant City Engineer Dodge stated this item is about the 55th Street and 55th Street reconstruction project located off of Babcock Trail with Schmidt Lake north of Upper 55th. The parcels consist of single family residential, twin homes, multi-family residential (duplexes), the Lake Cove property, and the Loon LLC/Clark gas station property. This is for a full street reconstruction. He stated there would be driveway impacts, stormwater improvements including water quality improvements, separators will be placed by the 55th Street cul de sac and another by the storm sewer that leaves 55th Street Court. Both of those head out to Schmidt Lake.

He stated there would be minor adjustments and repairs for water main, sanitary sewer, and hydrant replacements. A new sidewalk will be going in along 55th Street. It has been verified that the city has the right of way to put one in the area. He stated they have worked with the property owners north of the sidewalk.

He stated the total project cost is \$1.3 million dollars, streets are \$1 million dollars, stormwater \$130,000, watermain \$86,000, and sanitary sewer \$29,000. The funding package is through the pavement management fund at \$900,000 with assessments proposed at \$276,122. The water fund/sanitary sewer fund would be used for minor adjustments and replacements. He stated special assessments are prorated at 35% for \$11,154 and the special benefit by the appraiser came to \$6,562. Improvements are proposed at the assessed amount and will follow the same terms as Atwater with a 10-year term and a 5.15% interest rate if not paid in full of 30 days after the assessments are levied. He stated interest would not accrue until January 2020. There are deferred assessment options for those eligible.

He stated the project schedule consisted of an open house on May 16th, the hearing and award takes place at tonight's May 28th meeting, with construction in June. He stated the contractor has been in contact and would like to begin as soon as June 10th. Construction would end in September.

He noted that in the memo to the Council, the Clark Gas Station/Loon LLC, listed an assessed price of \$42,791. The assessment roll is correct with the amount of \$41,514.

Sayyad Hassain, 5465 Babcock Trail, spoke about the privately-owned gas station and stated the assessment on the property was \$26,000, the amount spoken here was over \$40,000. He asked why there is a difference between the city amount and the appraiser's amount. He asked why they needed a sidewalk on the street and what the main purpose was. He asked why the lot located in front of his business, which is a part of the Lake Cove Apartments that has over 400 units, has not been assessed. He stated the assessment has a difference of \$18,000 and those are apartments. He stated that his appraiser's amount is located on Page 5 in the amount of \$27,800. The apartment buildings assessment is similar to what the gas station is being assessed at. He asked why they had to pay for the other side of the street which is also owned by the apartment complexes.

Assistant City Engineer Dodge responded the Council packets contain a letter from Metzen Appraisals stating they had used a wrong number in their report. The error has been revised and corrected. He stated through the improvement hearing, feasibility report, and this assessment hearing; the correct amount is \$41,514. Bids came in high. The benefit cap was at \$43,569 provided by the special benefit. Per policy the assessment would have been \$47,185. He stated the \$27,000 amount was an error in the report by Metzen Appraisals.

He responded about the sidewalk and stated it is a general improvement. With Lake Cove Apartments, and 55th Street, future Babcock Trail also has a trail study for putting a potential trail on the east side with a sidewalk on the west side. That would provide connectivity to eventually connect to that trail system.

He responded regarding Lake Cove Apartments and their costs and stated they are following the appraiser's special benefit analysis. The assessment policy would have assessed for their parcel per policy at \$77,590. The appraiser capped the assessment at \$63,996. The other four parcels are undeveloped single-family parcels, at the proposed assessment of \$11,154. They are receiving the same cap benefit as other single-family parcels and are being assessed at \$6,562.

Mayor Tourville stated the gas station's proposed assessment of \$41,514 is correct, but there was an error on the appraiser's report.

Assistant City Engineer Dodge responded that was correct. His appraised amount is \$43,569.

Mr. Hassain asked how the property across from them is considered single family home. He asked what the ratio was for the 400 plus units compared to a small gas station.

Assistant City Engineer Dodge responded that it is what the special benefit analysis came to. He stated that it was up to the Council to adjust policy.

Public Works Director Thureen asked Assistant City Engineer Dodge to explain the calculation process for the different classes of properties, frontage for single family versus frontage for commercial, industrial, or multi family.

Assistant City Engineer Dodge discussed the different classes of parcels stating the general assessment policy has single family assessed on a per lot basis paying a single front footage rate divided evenly amongst all parcels. He stated non single-family lots could be assessed at the non-single-family rate or commercial rate, which is double the assessed front footage amount. He stated that Lake Cove was assessed for the front cul de sac and front footage on 55th street. The Clark gas station was assessed for their front footage on 55th street and the long side on Babcock. He commented that was why the two assessments are close in nature, but Lake Cove still has more front footage because of the cul de sac they have. For multifamily residential they are counted as two houses, similar to twin homes that are attached, they are included in a single family per unit.

Mayor Tourville commented that the rate for a corner commercial lot is going to be different than an apartment building because the classifications are different.

Assistant City Engineer Dodge responded it is based on the front footage on 55th Street.

Councilmember Bartholomew asked if property owners get a copy of the appraisals, the methodology, and the benefit analysis. He asked if a copy is requested, if the homeowner could get one.

Assistant City Engineer Dodge responded the special benefit analysis is provided at the informational neighborhood meeting. He responded they would give a copy if requested.

Gale Tipton, 1906 55th Street Court East, asked if the sidewalk would be in the cul de sac. He stated that he received a document for deferment as he is a Disabled Vietnam Vet over the age of 65 and questioned who the document goes to. He stated he was impressed with the Council and was involved in

politics while in Arkansas. He commented that Upper 55th Street gets a lot of traffic, even semi-trucks. The road needs to be repaired. He stated he wasn't sure what the assessment would be for him, but felt the apartments need to be accountable, responsible, and pay their own bills. He stated the sidewalk going in would not be used by him. He asked if there was any pipe work being done in the area because old pipes contain asbestos.

Assistant City Engineer Dodge responded there would be no sidewalk in the 55th Street Court cul de sac. The sidewalk is going to be on the north side of 55th Street and connect to Babcock. He responded that the document Mr. Tipton is speaking about can be brought to City Hall. He responded about pipe work and stated 55th Street Court was done in the early 80's. During that timeframe the watermain and sanitary sewer were in good condition. He stated they found the petrified clay sanitary sewer in good condition. They have coordinated with the utility department so that slip lining occurs. Mayor Tourville stated Mr. Tipton's assessment is listed at \$6,562.

Kay Jamison, 1918 55th Street Court East, stated the street needs to be done. She asked why they were combined with 55th Street as one project. She commented that she didn't believe anyone in their court would use the sidewalk and should not be a part of that assessment. She asked for a breakdown of the cost of 55th Street Court East without the 55th Street portion. She asked about an empty lot included with Lake Cove and if that has been assessed or not. She stated that it has been referenced that they are single family homes, but all of the homes along 1918 55th Court East are twin homes. She stated she has heard the bids came in high and asked if they are getting good pricing.

Assistant City Engineer Dodge responded the projects were combined because they want to have a consistent pavement management policy throughout the city and the neighborhoods were in similar road repair needs. They were included for bid and maintenance purposes. Smaller projects can cause higher prices. He stated that he has received comments with concern about the sidewalk being a part of the assessment. Taking the sidewalk off, would not change the assessments. The PMP is taking up the full cost of the sidewalk because of the cap. He stated bids were competitive, with three or four bids within a \$40,000 range. True costs will not be known until the contractors come in and do the competitive bid.

Ms. Jamison asked as long as the road is being done, if the company doing the work would be open to doing some driveways at the same time.

Councilmember Piekarski-Krech responded sometimes driveways could be done. It depends on how busy the contractor is. Homeowners are welcome to ask them.

Assistant City Engineer Dodge stated the city has a driveway reconstruction program that allows a credit on your assessment. This involves signing an agreement. Information about this would be included in the construction bulletin sent by mail.

Motion by Piekarski-Krech second by Perry to close the public hearing at 9:43PM.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated he was unsure what to do about the gas station property, but understood the comments made. He asked if there was corner relief for commercial versus residential.

Assistant City Engineer Dodge responded that the policy for non-single family is they would get a credit on their long side. In the case of the gas station, this is the short side. There is no additional credit for them.

Councilmember Bartholomew stated there is a process that the property owner can go through if they feel their assessment is wrong.

Assistant City Engineer Dodge responded they would need to provide in writing, tonight, their objection to the assessment. They would have to appeal to the assessment within so many days from this evening in

order to begin proceedings to take it to court. He stated this needs to be done before the hearing is closed. The objection should be in writing.

City Attorney Kuntz stated there is a letter from the gas station owner in the packet dated March 24th that states he absolutely disagrees with the amount of the assessment. That can be treated as an objection letter.

Mr. Hassain stated he has no objection to the street being done, his objection is how they differentiate the traffic on the street that goes to the apartment building, versus coming to the gas station. He asked the Council to reconsider or give him a break in the cost of the project. Mayor Tourville asked about the letter of objection and the process.

City Attorney Kuntz responded when the objection is to benefit, they wait to examine and see whether an appeal is filed. He stated that commercial is different than all of the other classifications in this project. The Council could levy for a greater number of years in order to assist in the payment term.

Mayor Tourville asked if this needed to be decided tonight, or if staff and the City Attorney could meet with Mr. Hassain and discuss options.

City Attorney Kuntz responded the Council could proceed with an assessment with everyone but Mr. Hassain's property, which would keep the issue open and tabled for another day.

Mr. Hassain asked if that would include Lake Cove and the lot that holds their advertisement. He asked how that was considered single family.

Mayor Tourville stated they are looking to negotiate with him, not looking at changing others because the policy states single family.

Motion by Bartholomew second by Piekarski-Krech to approve the Public Hearing to Consider Resolution 19-96 Adopting Final Assessment Roll for the 2019 Pavement Management Program, City Project No. 2018-09F – 55th Street Court/55th Street Area Reconstruction with the Exception of the Property of Loon of MN LLC.

Ayes: 5

Nays: 0 Motion carried.

Assistant City Engineer Dodge stated the appropriate people would meet with Mr. Hassain and address his concerns.

City Attorney Kuntz stated that the Council needs to make another motion to table consideration of the assessment against Mr. Hassain's parcel. He suggested this be discussed either June 10th or the second regular meeting in June.

Public Works Director Thureen suggested going two meetings out.

Motion by Piekarski-Krech second by Perry to table the Loon of MN LLC assessment to June 24, 2019.

Ayes: 5

Nays: 0 Motion carried.

City Attorney Kuntz stated this item would be discussed at the June 24th City Council Meeting at 7:00 p.m. He stated Mr. Thureen and Mr. Dodge would speak with Mr. Hassain in advance of that meeting.

7. REGULAR AGENDA**POLICE****A. Change 2019 Fee Schedule to Include New Ordinances (Large Assembly and Excessive Consumption of City Services). Resolution 19-97.**

Deputy Police Chief Sean Folmar stated this is the resolution to add the fees discussed at the work session this month. No changes have been made. He stated that Councilmember Bartholomew had asked for escrow documents, which were provided to the Council. Those would change over time. Mayor Tourville stated this came about from an event that took place last summer.

Deputy Police Chief Folmar stated this would help with those excessively using Police services and Inspections. Fees would be assessed to those abusing the system.

Motion by Piekarski-Krech second by Perry to approve Change 2019 Fee Schedule to Include New Ordinances (Large Assembly and Excessive Consumption of City Services). Resolution 19-97.

Ayes: 5

Nays: 0 Motion carried.

PUBLIC WORKS**B. Consider Resolution Receiving Bids, Awarding Contract, and Approving Geotechnical Services Proposal for the 2019 Pavement Management Program, City Project No. 201809D – Atwater Path Pavement Replacement and Stormwater Improvements, City Project No. 2018-09F – 55th Street Court and 55th Street Reconstruction, and City Project No. 2017-07 – Met Council Grant (Heritage Village Park Soil Borrow Placement). Resolution 19-98.**

Assistant City Engineer Dodge proposed to consider Agenda Items 7B, 7C, and 7D in one as they all deal with Atwater and 55th Street. He stated that Item 7B consists of receiving the bids, awarding the contract to Veit Construction, and approving geotechnical services for both projects, Atwater and 55th Street. AET was proposed for that. He stated the general project amount for Veit Construction does not include Schedule 2. He noted as a part of the bids, there was a schedule to bring stormwater between the Lake Cove property and the duplex property the rest of the way to the lake. He stated based on the project cost and assessments, they would like to do maintenance on the ditch so it works like it should. This would be done with the stormwater maintenance budget. He stated Schedule 2 is not recommended to be approved with the award. He stated that Veit Construction with Schedules 1, 3, 4, and 5 is at \$1,430,292.05. AET Services is \$25,884.50 for 55th Street and Atwater combined.

C. Consider Change Order No. 1 for City Project No. 2018-09D – Atwater Path Pavement Replacement and Stormwater Improvements, City Project No. 2018-09F – 55th Street & 55th Street Court Reconstruction, and City Project No. 2017-07 – Met Council Grant (Heritage Village Park Soil Borrow Placement).

Assistant City Engineer Dodge stated this item is a change order for the contract being awarded. It has nothing to do with assessments. It is a water main. He said the contractor signed and stated he had an error in his bid, resulting in a \$40,000 swing in his bid. He stated by a small amount the contractor remained the low bidder by \$7,000. The contractor recognized he had made an error resulting in a \$40,000 project savings to start the project.

D. Consider Resolution Approving a Temporary Easement Agreement and Waiver of Assessment Agreement for City Project No. 2018-09F – 55th Street Court and 55th Street Reconstruction. (Resolution 19-99)

Assistant City Engineer Dodge stated this item is to approve the temporary easement and waiver agreement for the Schmidt parcel next to the sidewalk. There is screening with bushes in front of the home. He has discussed with the homeowner how to put the sidewalk in to conform best to his lot. An agreement was made to do some slope grading, which the homeowner gave the city easement to do. He

stated in order to get the easement from the homeowner, and give them reprieve from taking down the bushes, an agreement was made to credit their assessment with an assessment waiver by \$1,700.

Motion by Bartholomew second by Dietrich to approve Agenda Item 7B Consider Resolution 19-98 Receiving Bids, Awarding Contract, and Approving Geotechnical Services Proposal for the 2019 Pavement Management Program, City Project No. 201809D – Atwater Path Pavement Replacement and Stormwater Improvements, City Project No. 2018-09F – 55th Street Court and 55th Street Reconstruction, and City Project No. 2017-07 – Met Council Grant (Heritage Village Park Soil Borrow Placement), Agenda Item 7C Consider Change Order No. 1 for City Project No. 2018-09D – Atwater Path Pavement Replacement and Stormwater Improvements, City Project No. 2018-09F – 55th Street & 55th Street Court Reconstruction, and City Project No. 2017-07 – Met Council Grant (Heritage Village Park Soil Borrow Placement), and Agenda Item 7D Consider Resolution 19-99 Approving a Temporary Easement Agreement and Waiver of Assessment Agreement for City Project No. 2018-09F – 55th Street Court and 55th Street Reconstruction.

Ayes: 5

Nays: 0 Motion carried.

COMMUNITY DEVELOPMENT

- E. CHS – Case No. 19-19IUP and 19-20IUP – Consider a Resolution relating to an Interim Use Permit to allow a park-and-ride for the properties located at 5869/5899 Babcock Trail and 8055 Barbara Avenue. Resolutions 19-100 and 19-101.**

City Planner Allan Hunting stated CHS is requesting two interim use permits for temporary parking while construction for the parking deck takes place. The term for each location would be from June to the beginning of September. One location is at Salem Hills Elementary School for 75 spaces. The other location is at the Community Center for 100 spaces. He stated this would be for employees during the week who would be shuttled to and from the sites. Staff recommends approval of both locations.

Mayor Tourville asked if this would interfere with Food Truck Days.

City Planner Hunting responded no. Food Truck events would be utilizing some of the green space next to the Armory.

Motion by Perry second by Piekarski-Krech to approve CHS – Case No. 19-19IUP and 19-20IUP – Consider a Resolutions 19-100 and 19-101 relating to an Interim Use Permit to allow a park-and-ride for the properties located at 5869/5899 Babcock Trail and 8055 Barbara Avenue.

Ayes: 5

Nays: 0 Motion carried.

- F. Source Land Capital – Case No. 19-14ZPD – Consider the following requests for property located at 6477 South Robert Trail:**
 - a. An Ordinance rezoning the property from A, Agricultural to R-1C/PUD, Single Family Planned Unit Development.**
 - b. A Resolution relating to a Preliminary Plat for a 66-lot subdivision to be known as Windsor Ridge.**
 - c. A Resolution relating to a Preliminary Planned Unit Development for Windsor Ridge.**

City Planner Hunting stated the property is located by South Robert Trail and future 65th Street on the south side. The proposal is for 66 single family lots on a 30.25-acre parcel. The request is for rezoning to a single-family PUD preliminary plat and preliminary planned unit development. Highlights as follows:

- Providing a little over six acres in open space, which equals 25%.
- Density of the project is consistent with the Comprehensive Plan and with the northwest area.
- Lot size is between 8,000 and 21,000 square feet, averaging 10,000 square feet with widths of 65 to 70’.
- There are public streets proposed with an extension of Agate Trail.

- Right of way widths of 60 feet and 50 feet.
- All streets would be 28 feet wide with parking on one side.
- Park Dedication would be in the form of cash contribution.
- Sidewalks will be one side of the street as required by Code and a trail on one side of 65th Street.

He stated that the developer is requesting flexibility as follows:

1. Building separation. Code requires 20 feet. Proposal is for 15 feet which is common in the northwest area and matches the standard.
2. Setback variance for one lot along 65th Street.
3. Proposing an impervious surface of 30%. This has been approved in other developments in the northwest area. This gives 3,700 square feet per lot for building and coverage. The stormwater management plan addresses this, has been reviewed, and is designed for the 30%.
4. Reforestation. Lot is heavily wooded with a lot of topography. There would be a significant amount of grading and tree removal. Requesting allowable tree removal up to 50% before reforestation is required. The standard R-1C is 30%. Their plan is still short 406 trees which would have to be addressed either through cash contribution or planting at other sites.
5. Cul-de-sac length. Due to change of topography, the cul de sac would be 700 feet.

He stated the project complies the with northwest area standards. Staff, Planning Staff, and Engineering recommend approval of the project as proposed. He commented there were letters from a resident with concerns included in the Council packets.

Councilmember Bartholomew referenced a letter from the neighbor's Attorney that raises issues about the overflow, flow of the water, ponding, 100-year rainfall, and 100 year as it relates to the amount of water to be retained on the site before it goes to the other site. He asked if there has been opportunity to visit with the owner and if the concerns have been met.

City Engineer Tom Kaldunski responded about the letter dated May 21, 2019, received from the Attorney for the neighboring property owner. He stated the city is working to make sure those items will be addressed. A majority of them are being addressed in a letter. He stated the developer would have to submit a new construction plan based on the comments before approval of construction. One item mentioned was sediment in the basin. He commented that it is a regional basin, the city would work routinely once the project is built by the developer. There are routine maintenance items the city is responsible for and maintenance the developer and Homeowners Association would be responsible for.

He stated some of the items asked by the neighbor are on the extreme side of concern, such as a 7.4" rainstorm, which is above and beyond the areas review project. There are flows and volumes the developer had to submit to the city. Items will be addressed in the final approved plans. He stated MnDOT will be reviewing a drainage permit application once it is submitted by the developer. He stated many comments and concerns of the property owners have been addressed in his review and in the consultants (Bolton and Menk) review comments. Barr Engineering has been used for stormwater purposes. He stated the proposal the Planning Commission took action on had items such as the volume coming off the development for the five-year storm, which is at zero. There are also rates equal to zero in the hundred-year event. He stated he is confident with things that have been done to meet or exceed the northwest area standards.

He stated there is a plan of action that would address issues when they get to that point. Currently they are in the midst of an extremely wet time period. May 2019 is the highest rainfall in May event in recording history and historic snowfalls took place in March and April. He stated they can't go in and clean erosion out until the rainfall stops. Once it does, it is the city's responsibility to take care of the issue. He stated there is water going underneath Highway 3 in a couple of places due to the wet period, they have to wait and see what would take place once it dries up.

Councilmember Piekarski-Krech asked what would happen if it doesn't dry up. She commented they may need to change some of the models as the weather is changing. She asked about properties in the northwest area and asked if properties were going to maintain their own runoff.

City Engineer Kaldunski responded they are heeding those issues. He stated looking at the computer model of the northwest basin, the property to the east has seen two to three feet of water for a length of time. The model predicts as much as 18 feet could occur in an extreme event. The model shows there is space to store the water there because it is a landlocked basin. He responded that Windsor Ridge is maintaining runoff and holding back more water than the model says they are supposed to. He stated they are doing a good job.

Councilmember Piekarski-Krech asked why there was a problem on the other side of Robert Street.

City Engineer Kaldunski responded because it has been raining. He stated there is no Windsor Ridge currently, the water falling there is occurring during a historic wet period.

Councilmember Bartholomew asked how far City Engineer Kaldunski was on the engineering comments and how soon the applicant and adjoining neighbors would be able to see them.

City Engineer Kaldunski responded the comments were provided about a month ago. He stated they have not responded about those comments, but as soon as they do, he will review and make sure to address them. He commented when they submit the updated construction plans with the final plat, that's when it is anticipated advancing to construction. There are still other agreements that need details worked out. He stated he has heard people were concerned that digging would begin because equipment showed up. That equipment is for the 65th Street project, 2015-03.

Mayor Tourville stated the extra rainfall, and Windsor Ridge, would not be handled well now, but would be handled better once basins and pipes were in to direct water accordingly.

City Engineer Kaldunski responded the system is similar to its existing condition. There is a proposal to put an overflow control structure at the end of the 24" culvert. That would raise water levels on the west side of the highway and retain water. He stated once constructed, more water would be held. He commented that water has been flowing through that culvert since 1936. The entire culvert was replaced.

Mayor Tourville stated everyone is depending on those models being what it says it would be.

City Engineer Kaldunski stated it is based on computer models. Data is based on existing drainage patterns. With Windsor Ridge, soil borings have been done so they know what the soils are and the anticipated infiltration rates. He stated they are infiltrating the five-year event, which is 3.6 inches of rain before it even gets to this basin on a 24" pipe. There is a triangular shape pond at 65th with a pipe that takes water along Highway 3 to a cross culvert and a basin. He commented that took water off of this area where the 24" culvert is. All of those items are helping have a better stormwater plan and exceeds the northwest area standards.

Pat Hiller, Source Land Capital, applicant for the development, introduced his team in attendance as follows: Chase Peterson, his partner, John Bender, Project Engineer from Westwood Engineering, Greg Fransen, Water Resources Scientist with Barr Engineering who has done the stormwater analysis and ponding analysis for this site, and Chad Onsgard from Pulte Homes. He stated the plan of the project is Pulte would be purchasing it from Source Land Capital and doing the buildout and the development work over the summer if approved.

Mr. Hiller stated while attending two Planning Commission meetings there was concern raised by property owner Bill Nichols. While referencing the location on a diagram, he stated there are treatment ponds and a 24" culvert that goes to Mr. Nichols property that has done a good job infiltrating the water. He stated Mr. Nichol's concern was what would be done once the hardcover water came to his location. Due to the concern the item was tabled at the first Planning Commission meeting. They went back to Barr Engineering and Mr. Fransen and asked what could be done to hold more water in that area in a deep basin that has the ability to hold more than is required. He stated they have come up with a plan to put an outlet control structure (picture was displayed) before the water leaves the site. An outlet control structure forces the water level to rise before it can cross over to the east. They can control the height and hold as much or as little water as the site would allow. He stated they asked Mr. Fransen how high it

would have to be to hold a 100-year event and if it could hold all of it on site. The answer to that was yes. He stated there is a level that ponds the water and holds it. Those concerns were discussed and addressed at the second Planning Commission meeting. He stated there were also concerns about the impact of the high-water level, a berm was built to keep the water from flowing onto Mr. Lojovich's property. He stated they are trying to be responsive to the neighbor and address concerns.

He stated that prior to their involvement in the project, there has been some erosion, silt and sand in the lower basin, through the culvert, and onto Mr. Nichols property causing damage. He commented the city is working with Mr. Nichols on that but asked that they themselves have nothing to do with this project and that they be evaluated for the merits of the project.

He discussed tree forestation and the rationale and stated when looking at what the city requires of the developer, they want to start with an uneven terrain that has vertical elevation change. They are supposed to maintain the low lying and wetland areas as is, leave 20% open space, and maintain density. He stated that it is physically impossible not to take down the number of trees they are taking down. 30% is not close. They are asking for reasonableness and flexibility for up to 50% before they have to mitigate. He stated at the 50% level they have to mitigate 889 trees, at \$300.00 a tree it is \$265,000. He commented they believe they can accommodate on site by replanting with the remainder paid in cash.

Councilmember Piekarski-Krech asked what the trees were like on site and if it was a part of the oak savannah. She commented she was more concerned about mature oaks and good trees being taken down than she was about other varieties.

Mr. Hiller responded there are some substantial trees. A tree inventory was done and there is a mixture of varieties. He responded that he was not aware of it being a part of the oak savannah.

Mayor Tourville asked if the tree inventory information could be shared with the Council.

Mr. Hiller referenced a diagram and stated the trees around the perimeter are the ones they can accommodate. The ones in the interior have to come down for grading. Replanting would be a combination of yard trees and buffer trees. He stated he would be happy to work with the neighbors on suggestions on what they can plant and have room for.

Brad Lojovich, 6385 South Robert Trail, referenced areas toward the top of the map that contain all oak trees. He asked why the city would put a development like this in an area that would destroy it when there are other flat areas in the city. He asked how many of the Councilmembers read the minutes from the first Planning Commission meeting and stated there are no minutes for the second meeting. He commented he was concerned about rainwater and that it was not a deep basin near his home. In the winter he gets large amounts of snow dumped on his property. He commented that a berm in the area would not allow water to flow where it is supposed to flow. If water is up on the other side of the berm, it would not flow out, it would back up. He suggested the current area be dug deeper as it is not taking water like it used to. That could eliminate the need for a berm. He doesn't believe it would work, especially in the winter.

Bill Nichols, 6302 South Robert Trail, lives across Highway 3 with roughly the same amount of acres Source Land is developing. He understood density issues and was involved in the task force and knows what the developer and city are trying to accomplish. He stated he has lived in the area 20 years and has never noticed water on his side of the road coming out of the pipe. He displayed a picture of the pipe and a map of his property. He pointed out the center natural area infiltration pond that rises and falls with weather and water events and stated the last rainfall brought the silt fence down and sand went down into the ponding area on his land. He stated he has 8 to 10 acres of land he cannot access due to elevation and a sedge meadow you cannot walk across. He commented that something needs to be corrected beginning at the bottom. He stated he could take the water, not through the sedge meadow, but in some other method.

He stated he disagrees with Barr Engineering and has asked for stormwater calculations and has not received them. He commented he received one page out of 200 pages that states 19 acres, six of impervious is coming into a corner. He stated six acres of grass is overflowing the silt fence today.

Councilmember Bartholomew asked if the remedy is to clean out the basin that is on 65th and Highway 3 to get down to the sand basin.

Mr. Nichols responded the area is stamped as a future regional basin by city. He referenced page 83 of 154, called a basin by the city diagram. He stated several basins were put in along Robert Street but now it all catches the 24" culvert and goes directly onto his property. He commented that area can't handle more grading until the catch basins are fixed on the way up the hill. He stated the stormwater states the opposite of what the city is accomplishing with statements like "respect the hills, leave the trees, build it slow, low impact development, best management practices". He stated this should be done differently with 27.72 net developable acres. Meeting the city's financing package could have been done with 56 homes. He asked to see a new calculation on an undisturbed area and stated there is not enough undisturbed area to catch rain, six acres of grass isn't catching it today. He asked who is reviewing the stormwater run off on this project for the city.

City Engineer Kaldunski responded that Bolton and Menk does an overall review of the whole project on the city's behalf. They are not going into the level of detail that Mr. Nichols spoke about with stormwater management because the developer is using one of the city's approved consultants to do the stormwater design and make sure it meets the northwest area standards. That design is coming from Barr Engineering. He stated that he looks at the report based off their models and reports that information to the Council.

Greg Fransen, Water Resource Scientist with Barr Engineering Company stated he has been with the company for 9.5 years and has been working with the City of Inver Grove Heights doing stormwater reviews for seven of those years. He has worked on stormwater design for two different developments under construction in the northwest area.

He spoke about the stormwater plan put forward at the first Planning Commission meeting stating they worked to meet the five-year volume standard that is part of northwest area standards and two rate control standards. The plan ends up with a low volume of water in the southeast corner regional basin. He stated after the first plan was reviewed by neighbors, comments were received asking about the five year and what would be done about the 100 year. He stated the requirement is not to address 100-year volumes if there is more volume with the 100 year. That is not part of the Ordinance and was tabled.

He stated to address those concerns he was asked to do an analysis and came up with a series of modeling efforts as well as a 100-year capture. He stated MnDOT may weigh in about permitting, as would the city. He commented that one of the big issues with the northwest area is the closed landlocked basins that have water going steadily downhill. There are strict requirements about how the hydrology is analyzed, such as changes to the land, how to model them properly, and do impervious surfaces correctly. He stated they work hard to get that right and meet those standards and would work with the city and MnDOT to address any items in the final plan.

He referenced Mr. Nichols comments and stated if Mr. Nichols says it is ok to have a low rate of water come through the outlet control structure and get through the culvert, that would be good. It could address some issues that MnDOT and Mr. Lojovich may have.

Councilmember Bartholomew commented that it seems Mr. Nichols has an idea that involves repair on the basin that allows infiltration, which worked at one time. He asked why they are not considering that so water gets into the sand vein, then repairing the other side where the water went into the sand vein and into the sedge meadow.

Mr. Fransen responded it was great logic to consider. He stated they have not had geotechnical investigations with soil borings in the area yet. The soil borings done initially were done in areas they wanted to put infiltration. He stated to investigate this thoroughly they would have to do soil borings in the

area. He commented the city may want those borings done as well to indicate what the basin is capable of doing. He stated the issue with sand veins is they are left behind by the glaciers and have interspersed areas of sand that are deep and connected to shallow ground water and interspersed with clay and silt which doesn't conduct water easily. In some areas sand veins do a good job. He commented it would be nice to have a sand vein there to clean the water, pass it down, and not have silt flowing. He stated this is a preliminary plat and those investigations have not been done. Further investigations would be done once they advance the plat.

Mayor Tourville agreed with having multiple engineers get together and take a look at the area. He stated Barr Engineering is working for the developer. He commented it would be difficult to have Barr represent both the city and the developer. He stated the need to have someone on the city side to take a look at the options. He commented he appreciated the five year in the Ordinance, but the problem with that is it seems to happen for months out of the year. He stated 100 years are happening and changing water incidents around the State and elsewhere.

Mr. Fransen stated he does not take offense at what was stated for the need to have other people take a look at the area.

Mayor Tourville suggested looking at the preliminary plat. He suggested the neighbors and engineers get together to address the water.

Mr. Nichols stated he may have been misquoted about taking water through the pipe and wanted to clarify. He commented that you could not have sent too much water through that infiltration area if it's kept working. Water is there today by accident. He stated sending it through the pipe doesn't work for him because it is sent across the most developable land he has. He asked to get Source on track to do a good development and not grade until they figure out the water. He stated they could try to find the sand vein, and that building up a weir can't hurt the project either.

City Engineer Kaldunski commented that Mr. Nichols has good suggestions. He stated if they are having issues today, the only project going on out there is the city's 65th Street project. The issues seem to be related to that project not the Windsor Ridge project. He stated there are additional items for the city to do research on with the 65th Street project as to the proper methodology.

He stated he would welcome Mr. Nichols showing him where those spots are and they can start geotechnical investigations. He commented that as a part of the plan they have recognized the 65th Street project has had some sediment go into the basin by the 24" pipe. He stated the plan for 65th Street includes scraping some of the erosion that has occurred at the bottom of the existing basin.

Councilmember Piekarski-Krech stated some concern is that we already have this problem with just 65th Street, adding that impervious surface could be ten times the problem.

City Engineer Kaldunski responded they believe it is because 65th Street has sealed it up with erosion coming off of the slopes. He commented that he is recognizing based on the testimony heard this evening, that they not only impacted on Mr. Nichol's side, it also impacted the west side. The plan has always been to remove materials off of that side too.

Mayor Tourville asked when Source was looking at Excavating.

Mr. Hiller responded the plan was to do early grading in July. He stated that if the Council wanted to move the plat forward, they would have to come back with the final planset and final engineering. He stated he would be happy to meet with Mr. Nichols and go through his concerns. Moving things forward and getting the directive with the final planset, could be a course the Council considers this evening.

Mayor Tourville stated they need to take a look at stormwater and the berm. Borings should be done. He commented that neighbors and engineers could have discussions. He asked the City Engineer to address the stormwater within the city realm.

Mayor Tourville stated with Agenda Item 7F, passing A, B, and C with directions that the engineering gets done before the final comes. He commented he wasn't sure what was the best way to go.

City Attorney Kuntz stated if you grant them preliminary plan approval to get final plat approval, they have to meet the conditions of preliminary plat. It is important to put in the preliminary approval what they have to do, what standards they have to meet, and where they have to end up. He stated in looking at the Resolution that was prepared prior to the discussion, he noted that Paragraph 14 says "prior to final plan being approved by the Council, or review of them, the developer must respond to all of the comments of the City Engineer memo dated 4/17/19 and comments from Barr Engineering". He asked if that was the paragraph that was supposed to compel Pulte and everyone else to make sure they comply with whatever the City Engineer approves.

City Planner Hunting responded yes, that is the general catch all condition. It addresses everything that the engineers point out and comment on to make sure those are all addressed in the final plan set.

City Attorney Kuntz asked if the City Engineer's comments of 4/17/19 need to be updated in light of the discussion.

City Engineer Kaldunski responded based on testimony heard, an update of a few comments would be warranted. For example, the soil borings, a good pattern for the area, the city cleaning up the 65th Street erosion on the west side, and other items that were heard tonight that could be added as an updated memo. He stated he would issue a new memo with additional conditions.

City Attorney Kuntz stated there is a series of plans that are referenced where there is a preliminary storm sewer plan dated 4/26/19. He asked if that was the last plan received.

City Engineer Kaldunski asked if that was the plans or the stormwater management report. He stated the stormwater management report has two reports, one dated in April, the other dated May 15, 2019.

City Attorney Kuntz stated the condition states that the final plat shall substantially conform to this list of plans. The plan is the preliminary storm sewer plan dated 4/26/19. He suggested updating the plan.

City Engineer Kaldunski responded to change that to May 15, or a new version that would be provided with the updated construction plans. He stated he expects to see another stormwater report from them.

Public Works Director Thureen stated that Mr. Nichols has used one of the other consultants in the city's pool for the northwest area. He suggests that the city have a conversation with them (EOR) to see what it would take to get a second opinion.

City Engineer Kaldunski stated if there is new information, they would have to provide to them.

Mayor Tourville stated in looking at the minutes from the first Planning Commission meeting there was a lot of discussion around the larger rainfall events and needed to be addressed more so than just the five year. The Planning Commission tabled it with too many unanswered questions. He agreed with the need to look at a consultant within the city to address the problem. He asked the City Attorney if the Resolution needed to be exact with items done in the preliminary, so everyone knows what has to be done for final.

City Attorney Kuntz responded yes, due to the fact that the City Engineer is in a position to update his memo. We are in the position to have another updated set of plans other than the one dated 4/26/19.

Mayor Tourville stated he wasn't sure they could do that this late at night. He asked if they could discuss it during the work session, or at the next regular Council meeting.

City Attorney Kuntz stated the opportunity should be given to City Engineer Kaldunski since he is updating his memo to reflect the standards and goals that he is setting for the others to do. A condition is needed that states they are meeting on the various issues the City Engineer has identified. He

commented that by the June 10th meeting they could have a memo that could be incorporated into the conditions that City Planner Hunting laid out and update the planset.

Mayor Tourville asked if Ace in the Hole should be involved as this about water and they are concerned that they would be taking water from projects in the area. He commented their attorney has sent a letter stating there could be issues with them also.

Mr. Nichols stated his consultants assumed it would flow a certain way. He commented it all flows to Rockwater, where ponds are lower. He asked why they are not trying to utilize those low unbuildable areas on the Rockwater property. He stated he needs water to flow in other directions than a 24" culvert that was not functioning 12 months ago and should not have been replaced with a new culvert.

Mr. Fransen responded about passing water off to the north stating that is something that is looked at with the study. They try to meet all standards to all the directions the water flows. He stated the northwest area standards state to meet the rates and volumes. If water is passed that way, there is no way to infiltrate the water on those steep slopes. The northwest standards would not be met for the rates and standards. He stated the central area has a ridge and is a landlocked basin during the existing conditions with a small watershed. During a 100-year event it ponds up and stays there. He stated it does not part to the north. He commented that is why they cannot route it there in the future because they cannot change the direction water goes. They would try to infiltrate the water in the center area.

Councilmember Piekarski-Krech asked where the basin shows on the plat.

Mr. Fransen displayed a diagram of the plat and pointed out where the water would flow and be treated.

Mayor Tourville asked the City Attorney if the suggestion was to let the City Engineer work and update the memo for the next Council Meeting.

City Attorney Kuntz responded yes. In the meantime, people could begin discussions.

Councilmember Piekarski-Krech asked about a timeline.

City Attorney Kuntz responded that 60 days is June 7th and before the next meeting. He suggested having the Planning Department extend the time another 60 days. The City can unilaterally extend.

Mayor Tourville stated that people could meet and discuss stormwater. He commented he has no problem inviting Ace in the Hole unless someone says it is a bad idea. He stated the Ace in the Hole property is still sitting in the top 15 intersections to be looked at by Metro Council in the next five to seven years.

Councilmember Bartholomew asked if they are considering tabling this item until June 10th for an updated report from City Engineer Kaldunski. Then to modify Paragraph 14.

City Attorney Kuntz stated that it was the Paragraph 14 and the planset shown in Paragraph 1.

Mayor Tourville asked if there have been preliminary meetings with Ace in the Hole.

Public Works Director Thureen responded yes. They met with Mr. Foster last week to discuss 65th Street and this development. This issue didn't come up in the conversation.

Mayor Tourville suggested inviting him to be a part of conversations. He stated Source would be there and other neighbors. He commented that those meetings can begin to develop a plan of attack.

Mr. Hiller wanted to clarify what is being requested of them before the June 10th, meeting. He stated that the City Engineer would be updating the engineering memo. He asked if their engineers would meet with an engineering representative of Mr. Nichols to go over the analysis that has been prepared, explain it,

and go through the methodology. He stated they would come back on June 10th with an updated memo and an updated Resolution.

Mayor Tourville responded it may not be resolved completely, but the meeting would happen to address issues, the 65th Street construction sediment, and engineering items. He stated that in looking at the memo he noted the two-year peak, five year run off, ten-year peak, and 100-year peak. He stated those items are discussed but not in the Ordinance and need to be spoken about.

Mr. Hiller stated they would organize the meeting and have an updated memo.

Motion by Dietrich second by Perry to table until the first meeting taking place on June 10th, 2019 and direct the Planning Department to extend the 60 days for Source Land Capital – Case No. 19-14ZPD – Consider the following requests for property located at 6477 South Robert Trail: a. An Ordinance rezoning the property from A, Agricultural to R-1C/PUD, Single Family Planned Unit Development, b. A Resolution relating to a Preliminary Plat for a 66-lot subdivision to be known as Windsor Ridge, c. A Resolution relating to a Preliminary Planned Unit Development for Windsor Ridge.

**Ayes: 5
Nays: 0 Motion carried.**

8. MAYOR AND COUNCIL COMMENTS

Mayor Tourville gave the following upcoming event information:

- Food Truck Event begins on June 12th.
- Ribbon Cutting Event takes place on June 11th at the Dog Park at Heritage Village Park.
- Farmer’s Market begins on June 16th which is also Father’s Day.

9. ADJOURN

Motion by Perry second by Dietrich to adjourn the meeting 11:55 p.m.

**Ayes: 5
Nays: 0 Motion carried.**