

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, AUGUST 28, 2017- 8150 BARBARA AVENUE**

1. CALL TO ORDER and 2. ROLL CALL

The City Council of Inver Grove Heights met in regular session on Monday, August 28, 2017, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m. Present were Council members Bartholomew, Hark, Perry and Piekarski Krech; City Administrator Lynch, City Attorney Kuntz, Community Development Director Link, City Clerk Tesser, Parks and Recreation Director Carlson, Finance Director Smith, Public Works Director Thureen, City Engineer Kaldunski, and Fire Chief Thill.

3. PRESENTATIONS: Mayor Tourville commented that there were no presentations but wanted to mention that thoughts and prayers go out to those in Texas that are in the path of hurricane Harvey. For the citizens, cities, police, fire, EMS and volunteers.

4. CONSENT AGENDA:

- A. i. Approve August 7, 2017, City Council Work Session Meeting Minutes
ii. Approve August 14, 2017, City Council Meeting Minutes
- B. Approve **Resolution 17-150** for Disbursements for Period Ending August 23, 2017
- C. Consider Change Order No. 2 and Pay Voucher No. 2 for City Project No. 2016-09E – Bancroft Way Area Reconstruction
- D. Approve **Resolution 17-151** Receiving Feasibility Report, Scheduling a Public Hearing, and Authorizing Preparation of Plans and Specifications for City Project No. 2015-09D – Broderick Boulevard Reconstruction from 80th Street to Concord Boulevard
- E. Approve **Resolution 17-152** Accepting PO No. 21-C for Final Design Services from Kimley-Horn & Associates, Inc. for City for City Project No. 2015-09D – Broderick Boulevard Reconstruction from 80th Street to Concord Boulevard
- F. Consider Pay Voucher No. 11 for the 2015 Capital Improvement Program, City Project No. 2015-13 – NWA Trunk Utility Improvements, Argenta District (70th Street Lift Station to Blackstone Ridge) and 2015-16 – Trunk Utilities, Argenta Trail to Blackstone Ridge
- G. Consider Pay Voucher No. 3 for the 2017 Capital Improvement Program, City Project No. 2017-02 – NWA Watermain Improvements, 65th Street Loop
- H. Approve **Resolution 17-153** Receiving Feasibility Report, Scheduling a Public Hearing, Authorizing Preparation of Plans and Specifications and **Approve Resolution No. 17-154** Accepting the Supplemental Letter Agreement from Short Elliott Hendrickson, Inc. for Design Services for City Project No. 2015-09E – 93rd Street/Abigail Court Area Reconstruction
- I. Approve **Resolution No. 17-155** for Joint Powers Agreement (JPA) with Dakota County and the City of Eagan for a Feasibility Study and Preliminary Engineering for City Project No. 2015-08 – 70th Street from the Eagan Border to T.H. 3
- J. Consider Accepting Proposal from Northern Technologies (NTI) for Geotechnical Testing Services for the Review of Stormwater Conditions at 7376 Courthouse Boulevard
- K. Approve **Resolution No. 17-156** Authorizing Staff to Secure an Appraisal for the City Stormwater Basin W-006 - 7676 Courthouse Boulevard
- L. Approve Stormwater Facilities Maintenance Agreement for Dakota Pediatrics, 5975 Carmen Avenue
- M. Approve Easement Encroachment Agreement for Landowner Improvements within City Easement for Property Located on Lot 5, Glenn Clarke Homestead (Inver Grove Toyota)
- N. Approve **Resolution 17-157** Approving Agreements for Inver Grove Hotel (Lot 2, Heartland Addition)
- O. Approve **Resolution 17-158** Receiving Quote and Awarding Contract for the 2018 Raingarden Inlet Retrofits
- P. Approve **Resolution 17-159** Receiving Quotes and Awarding Contract for the 2017 Raingarden Rehabilitation Project
- Q. Approve **Resolution 17-160** Approving City's American with Disabilities Act Transportation Infrastructure Transition Plan

- R. Consider Awarding Purchase of two Scott X380 Three-Button Thermal Imaging Cameras, each with 2 Batteries, Lanyard and Truck Charger to Clarey's Safety Equipment
- S. Approve Personnel Actions

Motion by Bartholomew, second by Hark, to approve all items on the consent agenda except for items 4L and 4O.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Piekarski Krech asked that Items 4L and 4O be pulled from the consent calendar

4L. Approve Stormwater Facilities Maintenance Agreement for Dakota Pediatrics, 5975 Carmen Avenue

Councilmember Piekarski Krech stated her concern is with the date in a document which stated it started October, 16, 2016, what was it that took a year to get a business approval for expansion. She was concerned there were issues with the process.

Mr. Kaldunski stated that it was in the storm water maintenance agreement for Dakota Pediatrics. Most of the documents were ready but the owner decided to wait and start the work in 2017. All the documents have now been signed.

Motion by Piekarski Krech, second by Perry, to approve stormwater facilities maintenance agreement for Dakota Pediatrics, 5975 Carmen Avenue

Ayes: 5

Nays: 0 Motion carried.

4O. Consider Resolution Receiving Quote and Awarding Contract for the 2018 Raingarden Inlet Retrofits

Councilmember Piekarski Krech asked why the raingards needed to be retrofitted?

Mr. Kaldunski stated that it is more of a maintenance activity. There are four locations with washouts that will be fixed where water was entering from the curb. There is a new design for better maintenance. A small structure will be put in the inlet rather than the grass and this structure will catch things like twigs and maple seeds. The inlets can be vacuumed out with a vacuum truck. A few raingardens are being retrofitted every year.

Councilmember Bartholomew asked about the average age of the raingardens.

Mr. Kaldunski said the raingardens being worked on were installed between 2006 and 2008.

Motion by Piekarski Krech, second by Hark, to approve Resolution 17-158 receiving quote and awarding contract for the 2018 raingarden inlet retrofits.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT: Marley Danner, 8314 Delaney Circle, was glad the raingardens came up. He spent \$25,000 on his raingarden to fix that the city installed and it looks bad - weeds are five feet high. Staff had told him the city would maintain the raingarden.

There is an escrow of \$19,000 of my money on a project and I have asked that the money be released last spring. The money dwindles down every year. I was told it would not be released by staff because

the project was not complete. I told them that the MPC permit was complete and the grass was growing. I was told not all the houses have been built and it is in the contract. It has been over 10 years. It is ready for houses. We can't sell houses here in Inver Grove Heights.

Also, the city has \$8,000 of his money for trees. I have paid \$60,000 for park dedication, \$40,000 was paid for trees and over 200 trees were planted in the development. Staff said two trees per house were still need to be planted before the \$8,000 is released.

The conservation easement around the whole property, you can't cut the weeds. Cutting the weeds makes the property look better. My grandson was told he could not cut down the weeds. I would like someone to call me and tell me why I can't get my escrow back. I also want someone to look at my raingarden.

Mayor Tourville asked someone on staff to look at the issues.

6. PUBLIC HEARINGS:

A. Liquor License Alcohol Compliance Check Failures 2017

M. Tesser introduced the item stating that on July 7, 2017, police conducted an alcohol compliance check, and two current liquor license holders failed. They were Outback and Bierstube. Outback did provide proof of alcohol training certification from the server who failed the compliance. The Bierstube did provide proof of alcohol training certification today from the server who failed the compliance (have not been able to view it) and she stated she spoke to the manager of Bierstube.

According to City ordinance 4-1-19 the City Council shall impose civil penalties for violations. This is the first violation for Bierstube in five years. The first violation is a \$750.00 civil penalty. This is the second violation in five years for Outback, the first violation was August 6, 2016. The second violation is \$1,000 civil penalty and one-day license suspension. The Council may impose penalties exceeding those stated in the section at their sole discretion.

Both managers are here; Rick from Outback and Jimmy from Bierstube, if you would like to talk to them.

Jim Coleman, 757 Keeny Road, Hudson, WI. He has been manager since 2016. The person who failed passed the check last year. She does have a magnifying glass and superimposed the numbers on the date. She has four kids of her own. This was her second day back after being off for two or three months after having surgery. The Bierstube does not get many minors. She does card she superimposed the numbers for the year.

Councilmember Piekarski Krech asked if the penalty was on the server or the establishment? M. Tesser said it is the server and the establishment. The Interim Police Chief can talk about this.

S. Folmar said the server was charged with a gross misdemeanor of serving alcohol to an underage drinker. That was handled by the police department. This is the civil matter against the holder of the license.

J. Coleman said alcohol awareness training will be done in the next month for all employees.

Rick Lenten, 3200 Canterbury Drive, Woodbury said Outback did fail the compliance check and the server did card the individual, misread the ID and was diagnosed with cancer right before the check. The server was having a bad day. We do have annual mandatory training for every server. The employee was terminated for serving a minor.

Councilmember Hark said we don't have discretion for minimum penalties on this it is a shall correct? Mr. Kuntz responded it is a shall and there are minimum penalties as stated.

Motion by Bartholomew second by Piekarski Krech to close the public hearing on liquor license alcohol compliance check failures for 2017.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Bartholomew asked how the date was picked for the one-day license suspension.

T. Kuntz responded that if the Council imposes a license suspension the Council shall set a date. It is a Council decision as part of the motion that is mutually agreed upon. The Council can talk to the applicant about the date.

J. Colman asked if September 5th could be the date for the one-day license suspension.

Motion by Piekarski Krech second by Bartholomew to impose the minimum penalties and have September 5th as the date of the one-day license suspension for Bierstube.

Ayes: 5

Nays: 0 Motion carried.

- B. Conduct Public Hearing to Consider Application for New Owners of the Closed Off-Sale Liquor License – Salem Liquor – Pacheco LLC dba Salem Liquors**

M. Tesser said that Beatrice Pacheco has submitted an application for new owners for the currently closed off-sale liquor for Salem Liquor at 5300 S Robert Trail. On June 12, 2017, Council approved a liquor license for Ochinera LLC dba Salem Liquor on the same premise. Lee was told by the City Clerk that the state must approve the license before he can operate the business. On the same day, the license was approved by the City, the owner, Ochinera LLC/Ochinera Lee, sold the business to Beatrice Pacheco through a Craig's list advertisement.

On July 12, 2017, the City Clerk was notified by previous owner of Salem Liquor that Lee sold the business. It was verified by the Inver Grove Heights Police Department that Lee no longer owned the business and the new owner was Beatrice Pacheco. City Attorney Tim Kuntz advised closing the business immediately until Pacheco could apply for a city and state license and provide insurance coverage.

Beatrice Pacheco has complied with all the requests. She has been informed of the city and state laws. The applicant has paid the fees, provided proof of liquor liability insurance and provided all the necessary documentation required as a new license holder. The Police Department conducted a background investigation and found no basis for denial.

Mayor Tourville asked for the address. M. Tesser responded it is 5300 South Robert Trail, Suite 600.

Motion by Piekarski Krech second by Perry to close the public hearing to consider application for new owners of the closed off-sale liquor license Salem Liquor – Pacheco LLC dba Salem Liquors.

Ayes: 5

Nays: 0 Motion carried.

Motion by Hark second by Piekarski Krech to approve the application for new owners of the closed off-sale liquor license Salem Liquor – Pacheco LLC dba Salem Liquors.

Ayes: 5

Nays: 0 Motion carried.

C. Conduct Public Hearing to Consider Application for New Owners of the Established Off-Sale Liquor License – MGM Warehouse – Just Because Liquor Too LLC (MGM Wine & Spirits)

M. Tesser stated Stacy and Curt Coleman have an application as new owners for an off-sale liquor license for Just Because Liquor Too LLC dba MGM Wine & Spirits for the premise located at 7804 Cahill Ave E. This premise has an off-sale liquor license that is not a transferable. This is considered a new application. The name of the liquor store will change to MGM Wine & Spirits. The applicant paid the fees as required by City Code and provided proof of liquor liability insurance for the premise proposed to be licensed. They provided all the fees and necessary documentation required as a new license holder. The Police Department conducted a background investigation and found no basis for denial of the application. They also have a liquor store in Roseville, MN.

Motion by Piekarski Krech second by Hark to close the public hearing to consider application for new owners of the established off-sale liquor license – MGM Warehouse – Just Because Liquor Too LLC (MGM Wine & Spirits).

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech second by Bartholomew to approve application for new owners of the established off-sale liquor license – MGM Warehouse – Just Because Liquor Too LLC (MGM Wine & Spirits).

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

I. COMMUNITY DEVELOPMENT:

A. MIHM CUSTOM HOMES; Consider a Resolution Approving the Final Plat, Final PUD Development Plan, Development Contract and Related Agreements for the Plat of Windwood 2nd Addition. Property Located west of Hwy 3 Between Future 65th and 69th Streets

A. Hunting introduced the item by showing a map of the location of the development which is approximately 80 acres. 70th Street is to the south and Robert Street is to the east. There will be approximately 44 lots for single family homes. The Council approved the preliminary plans on May 9, 2016. The final plans meet all the requirements for approval. Planning and Engineering have no issues.

The developer has agreed to pay the shortage of building permit connection fees since the approved plan was for less lots than the assumption. They did ask for a credit and it was looked at (for any open space over 25%) and it was reduced the amount by \$72,520. Their overage amount is \$395,530.

Because of the number of trees to be removed the developer will pay the difference in a cash dedication of \$99,600 into the tree fund.

The 65th Street West project assessments were updated by the City Attorney to a not to exceed amount of \$4,432 per lot.

Staff recommends approval of the final plat, final PUD development plan, development contract and all related agreements.

T. Kuntz clarified the waiver of assessment appeal for 65th Street West assessments. The document was modified on Friday which was sent to Council, that added a section 4.3 of the agreement. It provides for the developer/landowner for the 65th street improvement project waiving any assessment appeal on a per lot basis up to \$5,273 per lot - that remains in place. What was added on Friday is an agreement by the city that if project costs incurred by the city do not include right-of-way or street acquisition costs paid or credited to other landowners along 65th Street than the waived amount is \$4,432 per lot. It is not a “not to exceed” number. The agreement does not limit the city’s authority to specially assess the lots. It does provide a waiver for the landowner up to a certain dollar amount where everyone would agree there would be no waiver.

Councilmember Piekarski Krech asked when 65th Street would be done, she is concerned about adequate access for fire and safety. S. Thureen replied that the process is still being worked through. 65th Street is on hold until it is worked out at council work session for funding of collector streets. A feasibility report was done but Council did not receive it so funding could be worked out. Construction may not be until 2019. A. Hunting responded until 65th Street is built. this development including Woodwind 2nd Addition, there is one temporary connection point to 70th Street.

Mayor Tourville asked if part of 65th Street and Robert Street would be worked on next year with MnDot? S. Thureen responded the intent, we got the approval to move forward with the design for T.H. 3, is to split that off as a separate project which is fully funded using State Aid Funds and conduct that construction at the same time the roundabout is being constructed at 70th and Highway 3 then we could do the work on 65th and not have to close Highway 3 in 2019.

Tom Mihm, President of Custom Homes, 842 Ivy Lane, Eagan, said we are agreement with staff and look forward to moving on with the development.

Councilmember Piekarski Krech asked if the Fire Marshal has signed off on this. She is concerned about fire protection for the homes. A. Hunting responded the Fire Marshal has looked at this and has not raised any concerns.

T. Link stated that in the planning report the Fire Marshal stated that he has reviewed the plans and recognizes the plat only has one possible access at this time and is ok with the design, knowing access to 65th Street will occur in the near future.

Motion by Bartholomew second by Hark to approve Resolution 17-161 Approving the Final Plat, Final PUD Development Plan, Development Contract and Related Agreements for the Plat of Windwood 2nd Addition. Property Located west of Hwy 3 Between Future 65th and 69th Streets.

Bob Dolson, 6637 South Robert, lives in a house built in 1999 by Tom Mihm and has no problem with the development but does not want to be assessed for 65th Street. Mayor Tourville said he would not be assessed tonight for this project but cannot speak for future councils.

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

B. WIDSETH SMITH NOLTING (RIVER HEIGHTS VINEYARD CHURCH); Consider a Resolution Relating to a Variance to Allow a Building Addition 50 feet from the Front Property Line whereas 75 feet is Required for Property Located at 6070 Cahill Avenue

T. Link introduced the item stating the property is located on the east side of 65th Street and showed it on a map. The applicant is the River Heights Vineyard Church and they are proposing a 10,600-square foot addition to the existing church. The addition would extend out to the west towards Cahill Avenue. The property is 4.65 acres in size. It is restricted by a 95 foot wide Xcel Energy Utility easement that runs generally along the east side of the property. They are asking for a 50-foot variance from the front property line. The property is zoned P, Public/Institutional District (which requires a larger setback) and it is a required 75-foot setback. Staff finds there is a practical difficulty because of the easement on the property and limits development. It would consistent with other setbacks along Cahill. Staff recommends approval of the request. The Planning Commission also unanimously approved the request.

Discussion of the size of the easement on the property was discussed.

T. Link also reported this will also require major site plan approval. The church made application for that last week and they will come before the Council at a later date. There will also be an application for a vacation of the city easement. The only request tonight is for the front yard setback.

Motion by Piekarski Krech second by Perry to approve Resolution 17-162 approving a variance to allow a building addition 50 feet from the front property line whereas 75 feet is required for property located at 6070 Cahill Avenue.

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

C. CITY OF INVER GROVE HEIGHTS; Consider the First Reading of an Ordinance to Prohibit Transient Lodging (Short-Term Rentals) of Residential Property

T. Link stated that City Council directed staff to prepare an Ordinance prohibiting short term rentals or transient lodging. The rationale was because:

It can create conflicting land uses with commercial use being operated out of a residential neighborhood

Generates additional traffic and higher occupant turnover which may negatively impact a residential area

Provides an opportunity for gatherings of large number of people, who do not own the home or live in the neighborhood and can be disruptive to residents in the area.

May cause complaints to the public safety department regarding noise, underage drinking and other nuisances to residents and may not be occupied by the owner.

There have been several complaints of short term rentals in residential neighborhoods they were for excessive noise, underage drinking, over occupancy, and illegal parking. The code amendment would prohibit short term rentals. There are two ordinances. One pertains to the Rental Ordinance and the other to the Zoning Ordinance. Staff recommends approval of the ordinance for short term rental. The Planning Commission recommended allowing short term rentals with regulations and restrictions.

Pam Glenn, moved from 6440 Valentine Court, and said she is in transition while waiting for a townhome to be built in Inver Grove Heights. She has done short term rentals with Air B&B and has had positive experiences. There are different ways to rent from Air B&B (one room or a section of the house). She did notify her neighbors she was having people staying with her and Air B&B is a well-run organization. Guests do bring money to the community. She appreciates the ability to have discussions on this topic. The ordinance is restrictive because of one negative experience and that is reactive. If new neighbors moved in you could experience the problems listed for the reasons for creating the restrictive ordinance. I should be able to use my living space as I see fit. How would you regulate this? Is it realistic to regulate this? How do you pay for regulating the ordinance? Maybe consider a registration instead of a restriction. Maybe if they are registered and they have three strikes then you are out.

Mayor Tourville said there has been more than one complaint. He also asked what she considered short term? Ms. Glenn said she has had guests for just the weekend. Mayor Tourville said there has been more than one problem and appreciates her comments. Some legitimate organizations are doing a good job. Ms. Glenn said Air B&B does have an insurance program in case of property damage and that is why she uses them. Also, if she has an issue with a guest they do have a system in place to take care of it.

S. Formar said that when it came to the enforcement of one of the parties, all the party goers were adults. The complaint was for all the fights, parking, driving afterwards, complaints from the neighbors, and four jurisdictions were called in to get all the people out of the party. We did not have enough manpower to arrest all the people. We grabbed the ones we could. There was littering, fences down, plants knocked over and that needed to be cleaned up. This happened at a one-night rental that was advertised on social media and they were charging up to \$30 a person. There were more than 400 people there. We don't have a disorderly house ordinance to enforce against an owner who allows this to happen.

J. Lynch said there was another incident at a short-term rental where there was underage drinking. The property owner purchased the property next door and may turn that property into the same thing. A woman is concerned because she is having a wedding reception with 150 guests and was worried about the regulations. Our Convention and Visitors Bureau is urging the use of hotel regulations such as paying taxes and requiring inspections.

Councilmember Bartholomew asked about section 5, exemptions, and if bed and breakfasts are being removed from A through R-1C. T. Link responded they were being removed. Bed and breakfasts are now allowed through a conditional use and the new ordinance would prohibit them. He does not recall ever having a bed and breakfast. Under the proposed ordinance bed and breakfasts would not be allowed.

Councilmember Piekarski Krech said that with a bed and breakfast the owner would be on the premises. Where we are running into issues the owner is not present. Would they be able to homestead the home? Mayor Tourville said this is being discussed by other cities that are discussing this type of ordinance. I would be for allowing bed and breakfasts. There are a lot of different things to look at.

Councilmember Bartholomew is in favor of an ordinance that would restrict short term rentals but this needs further discussions and would like to get bed and breakfasts in there. We are on the right track.

Nancy Pone, 8336 River Road, said she has considered renting her house in the past. She leaves her house for three or four months for health reasons.

Mayor Tourville said she made good points and Council is looking for one-night rentals for a party then the person saying there is nothing the City can do about it. That is why this is being discussed. Ms. Pone said if the city has a property manager or owner listed that they could get a hold of that would help for short term rentals.

T. Link stated that Council has said that they don't want this ordinance to affect residents that leave for the winter. That is how the ordinance is structured. If a person rents a home for 30 days or less that is the definition of a short-term rental.

Ms. Pone said you usually don't get a tenant that will rent in Minnesota for three or four months during the winter. Someone may be in town for a weekend and if you rent your home like that six or seven times that makes it profitable. The ordinance would prohibit that.

Councilmember Bartholomew suggested having the first reading and have staff investigate how other communities handle bed and breakfasts. We have heard that 30 days may be too long. I would like to stay at 30 days.

Motion by Bartholomew second Piekarski Krech to have the first reading of an Ordinance to prohibit transient lodging (short-term rentals) of residential property, look at allowing bed and breakfasts and how other communities allow them.

Mayor Tourville asked for a chart showing how other communities allow bed and breakfasts.

J. Lynch recapped the issues to look at:

- 1) Impact on homesteaded property
- 2) Allowing Bed and Breakfasts
- 3) On-site versus off-site ownership
- 4) Registration
- 5) Definition of short term (compare to other cities)

Councilmember Piekarski Krech added to the list

- 6) On-site versus off-site residency/owner

T. Link said this item would come back to Council for a second reading on September 25th.

Ayes: 5

Nays: 0 Motion carried.

II. ADMINISTRATION:

D. CITY OF INVER GROVE HEIGHTS; Consider the First Reading of an Ordinance Adopting Permanent Predatory Offender Residency Restrictions

J. Lynch reported that Bridget Nason of LeVander, Gillen & Miller was present to discuss the ordinance. A temporary predator offender resident restriction expires September 26, 2017 and we are trying to establish permanent predator offender residency restrictions to avoid a gap. There were discussions with the school district and the Minnesota Department of Corrections to establish location restrictions and Ms. Nason will address that as to why we have come back to a residency restriction.

Ms. Nason said that how this ordinance differs from the temporary ordinance it is essentially the same as to the distance restrictions that it imposes. A map was handed out tonight to show what that would look like. The ordinance would adopt permanent predator offender resident restrictions with the risk level

assessment of Level III (the most likely to reoffend). The ordinance provides a 1,000-foot buffer around establishments where children congregate such as libraries, schools, day care centers, churches, public parks, religious facilities (with designated play spaces or programs) and learning centers. The ordinance would preclude a Level III predator from establishing a residence within 1,000 feet around these establishments. There are a few exemptions for example if the residency has already been established or if a property is purchased, leased, contracted with or licensed by the Minnesota Department of Corrections prior to September 25, 2017, which is the anticipated third reading date for the ordinance. A number of cities have adopted these residency restrictions. Both Hastings and Rosemount have adopted residency restrictions for Level III predatory offenders. At my last count, there were over 55 cities that have adopted ordinances. While there are some legal concerns there are no known challenges to these residency restrictions that have been adopted in Minnesota at this time.

Councilmember Hark commented that in Inver Groves Heights north of Highway 55 there are a lot more restrictions versus Inver Grove Heights south of Highway 55 does the court look at the entire boundary of the city or look at an area? Ms. Nason responded that the court would look at the zoning restriction for example there is no place in the city that has an adult use. There are parcels in both the north side and south side of Highway 55 that a Level III could move to. Councilmember Hark said because there have been no challenges, we have to guess whether this is reasonable. Ms. Nason said the court has looked at different things and nothing in Minnesota has been challenged or litigated. It is unknown at this time. Drafting the ordinance, the way we did it does provide viable places for a residency that would hopefully decrease the likelihood of any litigation exposure.

Councilmember Piekarski Krech said at one of the presentations one of the things that was said that you make it more likely for offenders to reoffend if they don't provide a stable living environment. One of my concerns is that if the parent or sibling lives in one of the exempt areas they can't move in with them and then they might not have a stable living environment. How many other cities have allowed them to move in with family in the buffer zone. My other concern is I see child care - are we only talking about child care centers or day care homes. It is my guess we have more day care homes in the southern part of the city than what is shown on the map. Ms. Nason responded that the definition of a licensed childcare center includes an in-home childcare licensed by Dakota County or the state of Minnesota. The map may now show all the licensed daycares. She is not sure when the map was made and it could be updated. She is not sure how many communities allow offenders to move in with family members. It is a fairly common carve out. We could add it in to the ordinance.

Mayor Tourville said that by quickly looking at the map it looks like $\frac{3}{4}$ of the city is off limits. The $\frac{1}{4}$ that is left - 50% of that is rural. The city of Minneapolis had some challenges because their circles overlapped their circles.

Councilmember Piekarski Krech said the City is better off knowing where they are living and having a stable living environment then there are other people watching and helping them.

Mayor Tourville asked if Hasting and Rosemount had the carve outs? Ms. Nason stated that she believes they both do.

Councilmember Perry asked if other cities did a larger buffer than the 1,000-foot buffer. Ms. Nason responded she has seen some cities that did do 2,000-feet. Councilmember Perry asked if any other cities did less than the 1,000-foot buffer. Ms. Nason believes she recalls seeing an 800 foot buffer.

J. Lynch reminded Council that one individual did reside with relatives and did not last more than a few months and the individual left the community. The individual came back and attempted to reregister and was not moving in with relatives. The interim ordinance covered that they were not going to meet that requirement of the ordinance. That individual was identified and it was difficult for the family. The situation did not work out for that individual to reregister. We did find out about another offender, by accident, that was not registered.

Mayor Tourville suggested because of the time limit we might want to look at the first reading and work on the carve out language, so that an educated decision could be made with as much information as possible. We do the best that we can until challenges are made. We may find out that there may be childcare centers that are not registered.

Councilmember Hark asked if this was taken care of as planned - when would the ordinance take effect? Would it have to be published? J. Lynch said it would take effect five days after publication. There would be a four or five day gap if the ordinance is passed on September 25th.

Mr. Kuntz said one way to deal with the gap is to have the three ordinance readings, publish the ordinance, and waive the rule saying it is effective five days after publication.

Councilmember Piekarski Krech asked if that was a state statute? Mr. Kurtz said that it is a local city ordinance.

Councilmember Hark said that was a great idea. He does not like having a gap in the code.

Mayor Tourville said the second reading would be on September 11, the third reading on September 25th, and remove the effective five days after publication language. Mr. Kuntz said he would confirm the removing of effective five days after publication rule.

Mayor Tourville asked if the map could be put on the website? M. Tesser said she would add it to the current city ordinance page on the website.

Motion by Piekarski Krech second by Perry to move the first reading of an ordinance to adopt permanent predatory offender resident restrictions and adding the moving in with an immediate family member exception (with the carve out language).

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS: Mayor Tourville said there was a work session on Wednesday, September 6th at city hall at 6:00 pm. Inver Grove Heights Days is Thursday through Sunday, September 7th, 8th, 9th, and 10th. There will be numerous activities.

M. Tesser asked if there would be any type of quorum at Inver Grove Days. Mr. Kuntz said that it is recognized as a social activity where public business is not conducted.

9. EXECUTIVE SESSION:

Executive Session Pursuant to Minn. Stat. § 13D.05, Subd. 3(c)2 & 3
 Discuss NW Area Park Property Acquisition Strategy

T. Kuntz explained the Council would be holding an executive session pursuant to Minn. Stat. § 13D.05, Subd. 3(c)2 & 3 to discuss the purchasing of property and reviewing non-public appraisals data for the Peltier property and the Fleming property in the NW Area for park property acquisition.

Motion by Piekarski-Krech second by Perry to move to executive session.

Ayes: 5

Nays: 0 Motion carried.

10. ADJOURN:

Motion by Hark second by Perry to adjourn. The meeting was adjourned by a unanimous vote at 9:20 pm.