

Monday, March 25, 2019  
6:30 p.m.

Brooklyn Park Council Chambers  
5200 85<sup>th</sup> Avenue North

## **SPECIAL COUNCIL MEETING – AGENDA #10**

If due to a disability, you need auxiliary aids or services during a City Council Meeting, please provide the City with 72 hours' notice by calling 763-493-8012 or faxing 763-493-8391.

***Our Vision: Brooklyn Park, a thriving community inspiring pride where opportunities exist for all.***

### ***Our Brooklyn Park 2025 Goals:***

***• A united and welcoming community, strengthened by our diversity • Beautiful spaces and quality infrastructure make Brooklyn Park a unique destination • A balanced economic environment that empowers businesses and people to thrive • People of all ages have what they need to feel healthy and safe • Partnerships that increase racial and economic equity empower residents and neighborhoods to prosper • Effective and engaging government recognized as a leader***

### **I. ORGANIZATIONAL BUSINESS**

#### **1. CALL TO ORDER/ROLL CALL**

**\*\*\* Recess to Administration Conference Room for Closed Session \*\*\***

### **II. CLOSED SESSION**

- 2.1** Close the Special Meeting Pursuant to MS Section 13D.05, Subd. 3(B) to discuss matters protected by the attorney client privilege relating to the City's Potential Participation in the Coal Tar Litigation Matter Presently Pending in U. S. District Court.

### **III. ADJOURNMENT**

# City of Brooklyn Park Request for Council Action

<b>Agenda Item:</b>	2.1	<b>Meeting Date:</b>	March 25, 2019
<b>Agenda Section:</b>	Closed Session	<b>Originating Department:</b>	Administration
<b>Resolution:</b>	N/A	<b>Prepared By:</b>	Devin Montero, City Clerk
<b>Ordinance:</b>	N/A		
<b>Attachments:</b>	N/A		
<b>Item:</b>	Close the Special Meeting Pursuant to MS Section 13D.05, Subd. 3(B) to discuss matters protected by the attorney client privilege relating to the City's Potential Participation in the Coal Tar Litigation Matter Presently Pending in U. S. District Court		

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO CLOSE THE SPECIAL MEETING PURSUANT TO MS SECTION 13D.05, SUBD. 3(B) TO DISCUSS MATTERS PROTECTED BY THE ATTORNEY CLIENT PRIVILEGE RELATING TO THE CITY'S POTENTIAL PARTICIPATION IN THE COAL TAR LITIGATION MATTER PRESENTLY PENDING IN U. S. DISTRICT COURT.

## Overview:

Seven metro cities (Bloomington, Burnsville, Eden Prairie, Golden Valley, Maple Grove, Minnetonka and White Bear Lake) have filed identical lawsuits against several companies for allegedly contaminating the storm water ponds and waterways with pollutants and potentially carcinogenic chemicals. These companies all produced coal tar sealants, which are used primarily in driveways and parking lots to seal the pavement. The coal tar sealant contains high concentrations (15 to 30 percent) of polycyclic aromatic hydrocarbons (PAHs).

PAHs are broken down into particles over time by vehicles, sunlight and weather. These particles are transported into the storm sewer system and deposited into storm water ponds. Once a certain threshold of PAHs is met, the material removed for standard maintenance of the pond needs to be landfilled.

The Minnesota Legislature passed a law in 2013 to ban the use and sale of coal tar-based sealcoats effective January 1, 2014. A Minnesota Pollution Control Agency (MPCA) study found that approximately 67% of total PAHs in the sediment of stormwater ponds were from coal tar-based sealants. In 2017, staff estimated approximately 25% of the stormwater ponds in Brooklyn Park would have sediment that would need to be landfilled. This is just an estimate and the actual number could be significantly higher but additional testing would be required. The cost to landfill the contaminated material is estimated at two to three times more expensive than reusing material on site or disposing of non-contaminated material. With 300 ponds in the City, an additional \$9 - \$12 million in 2019 dollars may be required to landfill material that could otherwise be reused if not for the elevated PAHs levels.

The City previously dredged Meadowwood Court Pond (CIP 3712-16) and plans to dredge the Sunny Lane Pond with the 2019 Street Reconstruction Project (CIP 4003-19). Additionally, the Commerce Pond near 85<sup>th</sup> Ave and Xylon was tested as part of 2016 study. All three ponds have sediment with PAHs that exceed the MPCA standards for reuse and require landfilling. Staff expects to see more ponds as we begin to dredge more in the future. Staff recommends joining the coal tar litigation with the seven other metro cities.

**Primary Issues/Alternatives to Consider:** N/A

**Budgetary/Fiscal Issues:** N/A

**Attachments:** N/A